

# PLANNING, HEALTH AND RETAIL STATEMENT BURGER KING, BARNESLEY

07 APRIL 2025

# DOCUMENT CONTROL

<b>Project Title</b>	Burger King, Barnsley
<b>Client Name</b>	BKUK Group Ltd and Tesco Stores Limited
<b>Site Address</b>	Land At Tesco Extra Wombwell Lane, Stairfoot, Barnsley S70 3NS
<b>Report Title</b>	Planning, Health and Retail Statement
<b>Firstplan Ref</b>	23279
<b>Prepared by</b>	Chris Piris-Jones and Tom Roberts
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# SECTION 1 | INTRODUCTION

1.1 This Planning and Retail Statement has been prepared by Firstplan, on behalf of BKUK Group Ltd and Tesco Stores Limited, in support of a planning application at land at Tesco Extra, Wombwell Lane, Stairfoot, Barnsley, S70 3NS for the following:

*“Erection of Class E (b) restaurant / Sui Generis (takeaway) Drive-Thru pod with associated car parking, refuse area and landscaping”.*

1.2 The proposals will create a new restaurant pod with a drive-thru facility on an underused area of car parking at the Tesco Extra, Barnsley. The proposal will provide a new leisure offering and attract new footfall to the site. The scheme follows the approval of planning reference 2024/0741, which sought the ‘erection of restaurant pod (Use Class E(b)) with associated car parking, refuse area and landscaping’ to be occupied by Burger King. As before, this scheme will generate 35 local job opportunities and would comprise a highly sustainable form of development, as set out within this Statement. The proposals simply seek the inclusion of a drive-thru collection lane to the consented development, which secured the principle of a Burger King restaurant at the site.

1.3 This is consistent with planning policy objectives across the Development Plan as a whole. This Statement demonstrates the acceptability of the scheme in relation to the principle, design matters, residential amenity, flood risk, landscaping and highways.

1.4 This Statement should be read in conjunction with the architectural drawings prepared by Urban Edge. It takes the following format:

- **Section 2** sets out the relevant background information, including a description of the site and relevant planning history
- **Section 3** provides a description of the application proposals
- **Section 4** outlines the national and local planning policies relevant to the application
- **Section 5** provides a Sequential Assessment
- **Section 6** provides a Health Impact Assessment
- **Section 7** assesses the proposed works in the context of the above policy
- **Section 8** provides conclusions

1.5 The application is supported by the following documents:

- Completed Application Forms
- Architectural drawings prepared by Urban Edge
- Transport Assessment by i-Transport
- Drainage Feasibility Proposal prepared by JNP
- Noise Impact Assessment prepared by Noise Solutions Limited
- Odour details prepared by Chapman Ventilation
- Landscaping details prepared by Urban Edge

# SECTION 2 | SITE INFORMATION & BACKGROUND

## a) Application Site Description

- 2.1 The application site relates to an area to the northern end of the existing Tesco Extra car park off Wombwell Lane, Stairfoot. The site being taken by Burger King comprises an irregular shape located to the south side of Wombwell Lane, adjacent to the Petrol Filling Station. It is currently comprised of car parking and has recently been in use as a temporary NHS facility.
- 2.2 The application area is 0.229ha, and the red line area is 0.4ha, which encompasses an access route to the public highway. The Tesco Extra superstore opens from 6am – midnight on Monday to Saturday, and 10am – 4pm on Sundays. The wider Tesco site is immediately adjacent to the Wombwell Lane Retail Park to the east. The application site fronts onto Wombwell Lane. Immediately west is a pedestrian footpath leading to the store and beyond this is a terrace of residential dwellings. A substation and plant room are also located immediately north of the site, adjacent to the Wombwell Lane frontage. Immediately east is a bus-only entry and exit route to the foodstore.
- 2.3 The application site and its immediate context are demonstrated in Figure 1.

**Figure 1.** Aerial View of Site and Photographs



View from Wombwell Lane (NHS Facility before removal)



View from within Car Park

- 2.4 The Barnsley Local Plan has not specifically allocated the application site. It is, however, situated within the “Settlement Boundary” of Barnsley, a wider retail park designation and it is within a “Nature Improvement Area”.
- 2.5 Furthermore, there are no listed buildings on or immediately adjacent to the site, nor is the site within, or in the vicinity of a conservation area. There are a number of trees and soft landscaping features adjacent to the site, but the site itself is entirely hardstanding. The site is not within an area at high risk of flooding and is understood to not be within a Coal Mining Risk Area.

2.6 The scheme follows approval of planning reference 2024/0741, which sought the ‘erection of restaurant pod (Use Class E(b)) with associated car parking, refuse area and landscaping’. It is with this approved scheme, the application site now seeks the incorporation of a drive-thru lane around the approved restaurant. More broadly, the site’s wider planning history relates to an application for the relocation of the Click and Collect facility at the wider Tesco site (ref: 2023/0660), which was approved on 30 August 2023. Furthermore, it is also noted that there is an application (ref: 2020/1336) for the redevelopment of the Black Bull pub for a drive-thru restaurant, which indicates that the occupation would be by Burger King. It is confirmed that Burger King is no longer progressing with that site.

## b) Pre-Application Engagement

2.7 Paragraph 40 of the National Planning Policy Framework (NPPF, 2024) recognises that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.

2.8 The application has been subject to formal pre-application discussions assessed via a written response to the application proposals under Barnsley Metropolitan Borough Council reference 2023/ENQ/00436, which was submitted in September 2023, and final formal written advice was provided on 19 December 2023.

2.9 The pre-application advice request comprised a new Class E(b) / Sui Generis Drive-Thru restaurant on the site. The proposals were considered unacceptable as the inclusion of the Sui Generis element (Hot Food Take Away use) was considered to be against Barnsley’s Hot Food Takeaway Supplementary Planning Document and Planning Advice Note.

2.10 Table 1 provides a summary of the written feedback:

Subject	Summary of Pre-application Advice	Application Response to Comments
<b>Retail Policy</b>	<p>Confirms that as the proposal is for a main town centre use, a sequential approach will be required. Confirms that an impact assessment will not be required, but an assessment of the impact of the proposal on the role, character and function of the retail park will be required.</p> <p>Officer’s concluded that:</p> <p><i>“I am of the opinion that the proposed development will be unlikely to adversely affect the role, character and function of the retail park, taking into account the fact that the enquiry site could not accommodate a policy compliant retail warehouse”.</i></p>	<p>The application should remain acceptable in this regard, as set out in Section 5 of this statement.</p>
<b>Health Policy</b>	<p>Outlines that the pre-application proposal was for mixed use as a restaurant and a hot food takeaway (Sui Generis) and in consideration of Barnsley’s Hot Food Takeaway SPD and PAN responded with the following assessment of the four tests:</p> <p><b>Over proliferation:</b> there is no over-proliferation of hot food takeaway uses in</p>	<p>Following receipt of the advice, the Applicant has addressed this in Section 6 and considers the proposal against the assessment found in both the Hot Food Takeaway SPD and PAN.</p>

	<p>the locality however further assessment of the ward is required.</p> <p><b><u>Proximity to secondary school or advanced learning centre:</u></b> there is no such establishment within 400m of the site.</p> <p><b><u>Location where there are high levels of obesity:</u></b> Suggested that this test has not been addressed and outlined proposals for hot food takeaways in wards where more than 32% of 20-22 year-old pupils are classed as having excess weight would be contrary to the NPPF.</p> <p><b><u>Health Impact Assessment:</u></b> Confirmed applications for hot food takeaways will be required to include a Health Impact Assessment.</p>	
<b>Highways</b>	Requested additional information, amendments and clarification including in relation to the swept path analysis of the refuse collection vehicles that will service the site, of the clearance from all parking bays and of the parking provision required on the busiest days will be required to be submitted with any future planning application.	A transport assessment and swept path analysis is submitted, which accompanies the application. The assessment is summarised in Section 7 of this statement.
<b>Drainage</b>	Confirmed Yorkshire Water had been consulted and that a surface water management plan following sustainable drainage principles is needed.	A surface water management plan has been undertaken by JNP, which accompanies this application.
<b>Landscaping</b>	Confirmed that a proposed landscaping scheme would be welcome as part of a full submission. It noted that this area is almost entirely unrelieved by planting.	A proposed landscaping scheme has been undertaken which accompanies this application, which enhances landscaping on site.
<b>Noise / residential amenity / pollution</b>	Welcomes the intention to submit a Noise Impact Assessment as part of a full submission, as well as odour report.	The application is accompanied by a Noise Impact Assessment and odour details.
<b>Ecology</b>	Confirmed that an ecological assessment will not be needed but encouraged measures to enhance ecology.	The application includes a landscaping scheme, which has selected species suitable to the growing environment, but also to enhance ecology on site.
<b>Design</b>	<p>Noted that the proposed pod would be contemporary in design and consistent with other developments in the surrounding area.</p> <p>Considered the layout, form and scale as acceptable in principle.</p> <p>Flagged comments received from South Yorkshire Police in relation to design</p>	Full details of the proposed restaurant pod are submitted with the application. The key change to the design and layout that preceded this application but was considered in the pre-application is the inclusion of the drive-thru lane.

	principles to enhance the security of the development.	
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**Table 1.** Summary of Pre-application Advice

- 2.11 In summary, it was concluded that while the proposal appears capable of complying with many of the policies of the development plan, the proposal required further consideration of both national and local planning policy in relation to health as a hot food takeaway use was proposed.
- 2.12 Following this pre-app, the Applicant secured planning permission for a drive-to restaurant at the site (ref: 2023/0660). This follow-up application now seeks permission for a drive-thru restaurant and addresses the earlier concerns raised regarding the Hot Food Takeaway SPD and PAN, given the drive-thru is Burger King's preferred development for this site.

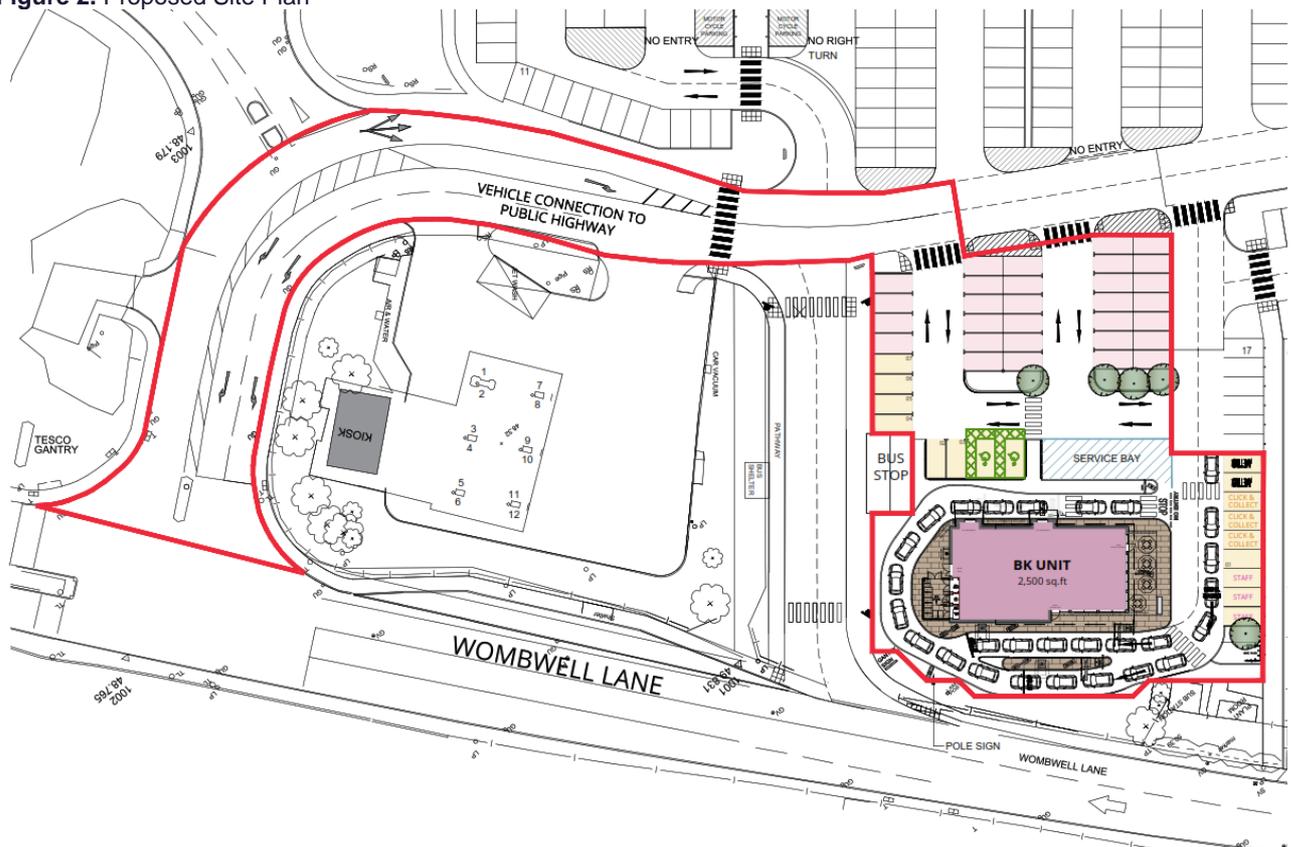
# SECTION 3 | APPLICATION PROPOSALS

3.1 This application seeks planning permission for:

*“Erection of Class E (b) restaurant / Sui Generis (takeaway) Drive-Thru pod with associated car parking, refuse area and landscaping”.*

3.2 The proposals include construction of a new restaurant and drive-thru pod on an underused area of car parking at the Tesco Extra located in Barnsley. The proposal will provide a new leisure and food offering and attract new footfall at the site. Extracts of the proposed site plan and elevations are provided in Figure 2 and 4 below.

**Figure 2.** Proposed Site Plan



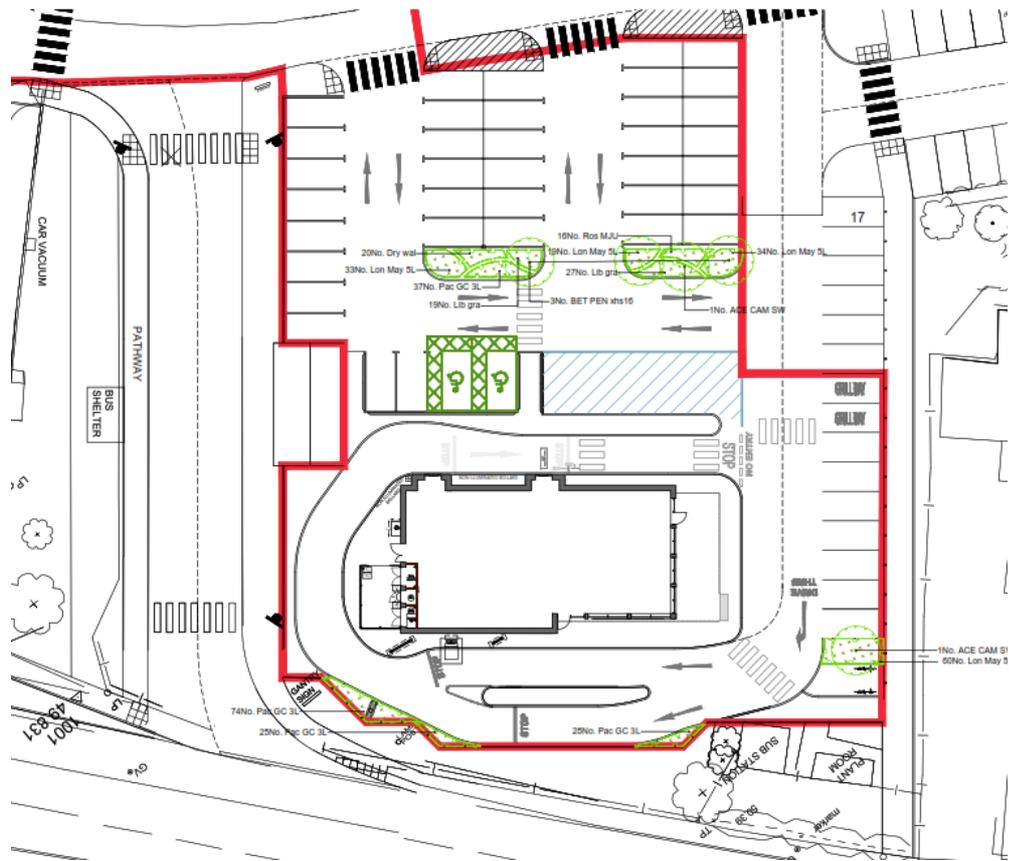
3.3 The restaurant will extend to 232sqm with an external dining terrace and will generate approx. 35 local job opportunities and would comprise a highly sustainable form of development. The proposed hours of use would be between 8am-11pm daily.

3.4 The application area is in an area that currently provides 102 car parking spaces with survey data evidencing this is not required to service the Tesco superstore. In total, 47 spaces, are proposed within the site demise, comprised of 37 standard car parking spaces, 2 disabled parking spaces, 3 dedicated staff parking spaces, 3 click and collect bays and 2 'grill bays'. Accommodation for 7 cycle parking spaces is also provided, together with a dedicated servicing bay.

3.5 No loss of landscaping is proposed as there is currently none within the red line area. An indicative landscaping scheme is also proposed, which is shown on the accompanying application drawings by Urban Edge and an extract provided in Figure 3.

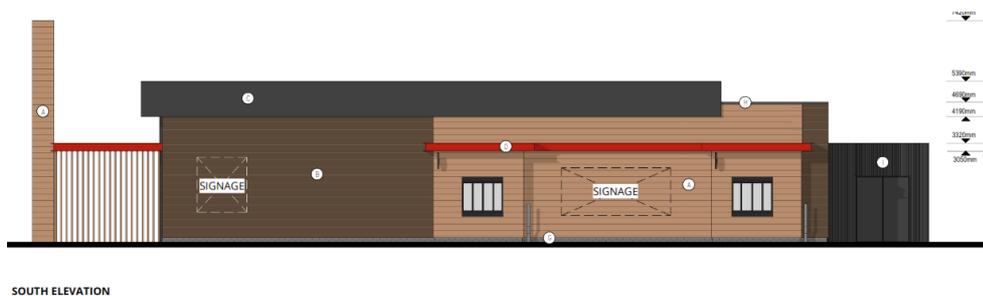
3.6 The scheme includes 5 new trees and a variety of hedge mixes, shrubs and herbaceous plants.

Figure 3. Proposed Landscape Plan

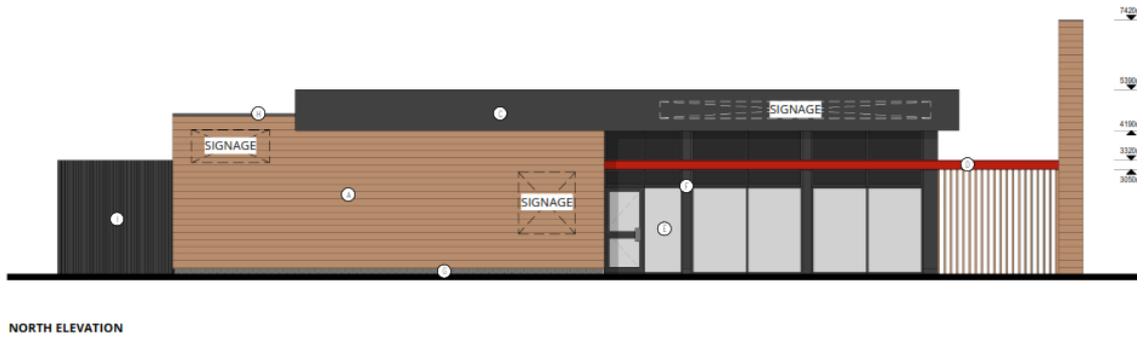


- 3.7 The building has been designed to be visually attractive and consistent with Burger King’s current brand standard. The building will be finished in a wood effect cement board/composite cladding to provide an attractive, yet durable finish. Metal cladding will be provided to the bin store and restaurant fascia and to a decorative red ban/canopy to provide further visual interest. The building will be attractive in views from Wombwell Lane and from within the car park with the external dining area providing additional vitality and vibrancy to the Wombwell Lane frontage. Extracts of the elevations are provided in Figure 4.
- 3.8 The proposed elevations do not differ from those consented under 2024/0741, albeit they now include an additional two service windows for the function of the drive-thru, which are not harmful to the overall design.

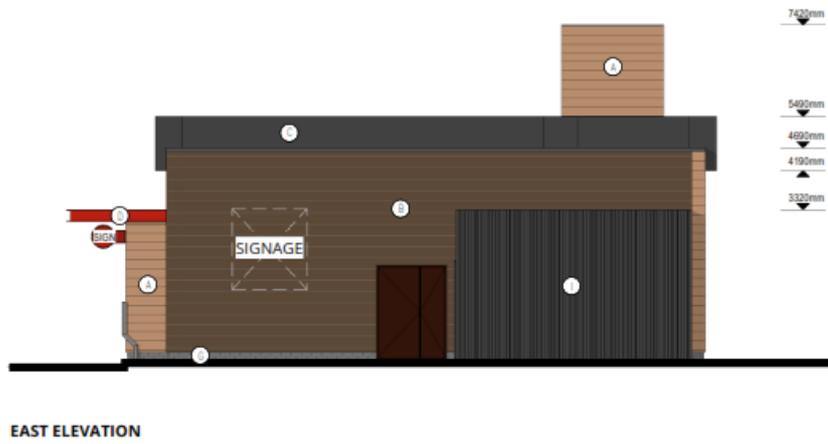
Figure 4. Extract of Proposed Elevations



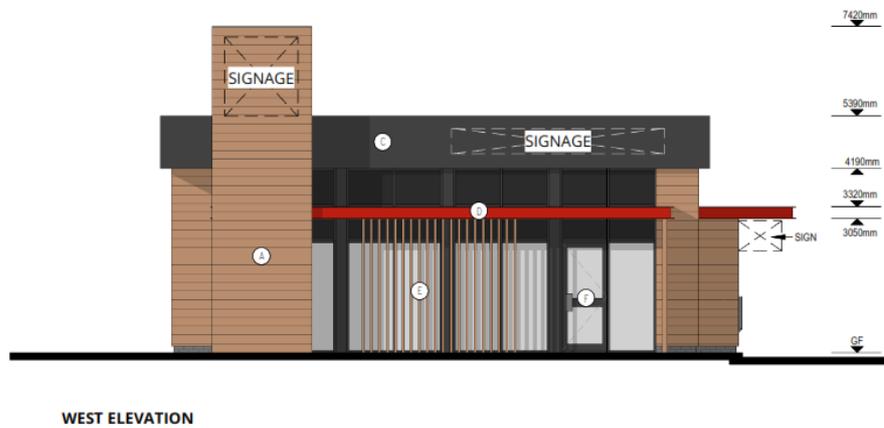
Proposed South Elevation



Proposed North Elevation



Proposed East Elevation



Proposed West Elevation

# SECTION 4 | PLANNING POLICY SUMMARY

4.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

4.2 The statutory development plan for the Barnsley Metropolitan Borough Council and in turn, the proposed development consists of:

- National Planning Policy Framework; and
- Barnsley Local Plan.

4.3 The relevant policies are listed as follows.

## a) National Planning Policy Framework

4.4 The NPPF was published in December 2024 and provides overarching planning policy guidance for development across England. Paragraph 7 states that:

*“The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*

4.5 Paragraph 10 sets out at the heart of the framework is a presumption in favour of sustainable development and Paragraph 11 notes that for decision-taking, sustainable development means approving development proposals that accord with an up-to-date development plan without delay.

4.6 In terms of decision making, Paragraph 39 sets out that Local Planning Authorities should approach decisions on proposed development in a positive and creative way. It states that decision-makers at every level should seek to approve applications for sustainable development where possible.

4.7 Paragraph 48 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

4.8 Paragraph 91 of the NPPF states that a sequential assessment is required for planning applications for ‘main town centre uses’ that are not in an existing centre and are not in accordance with an up-to-date Local Plan. In order to satisfy the requirements of Paragraph 91 of the NPPF, we undertake a proportionate sequential assessment in Section 5 of this report.

4.9 Paragraph 94 of the NPPF requires an impact assessment to be undertaken for planning applications for retail and leisure development over 2,500 sq.m gross (or any alternative lower threshold defined in a development plan), which is not within an existing centre and not in accordance with an up-to-date Local Plan.

## b) Barnsley Local Plan

4.10 Appropriate consideration has been given to the following policies:

- GD1 – General Development
- D1 – High-Quality Design and Place Making
- T3 – New Development and Sustainable Travel

- T4 – New development and Transport Safety
- D1 – High Quality Design and Place Making
- TC1 – Town Centres
- TC3 – Thresholds for Impact Assessments
- TC4 – Retail Parks
- BIO1 – Biodiversity and Geodiversity
- CC1 – Climate Change
- CC3 – Flood Risk
- CC4 – Sustainable Drainage Systems
- RE1 – Low Carbon and Renewable Energy
- Poll1 – Pollution Control and Protection
- AQ1 – Development in Air Quality Management Areas

### **c) Supplementary Planning Guidance and Planning Advice Notes**

- Biodiversity and Geodiversity SPD
- Parking SPD
- Hot Food Takeaways PAN
- Hot Food Takeaways SPD

# SECTION 5 | RETAIL POLICY CONSIDERATIONS

5.1 The National Planning Policy Framework (NPPF) (as amended, 2024) requires applications for development which do not fall within a policy-defined centre to demonstrate compliance with the 'sequential test', in order to establish whether there are any sequentially preferable sites that could accommodate the proposed development.

## a) Confirmation of the Sequential Status of the Site

5.2 According to the adopted Planning Policy Map, the application site is located outside of any designated town, district or local centre. The Retail Park centre designation (in which the site is located) sits outside of the hierarchy of centres.

5.3 As confirmed within the pre-application written response, it was acknowledged that in accordance with the provisions of **Policy TC3 Thresholds for Impact Assessments**, an impact assessment will not be required. In accordance with the provision of **Policy TC4 Retail Parks** an assessment of the impact of the proposal on the role, character and function of retail park will be required.

5.4 In relation to this point, it was confirmed in the pre-application written response that *"Your submission includes a brief assessment of the impact of the proposal, and I am of the opinion that the proposed development will be unlikely to adversely affect the role, character and function of the retail park, taking into account the fact that the enquiry site could not accommodate a policy compliant retail warehouse."* Subsequent sequential analysis was carried out and considered through planning reference 2024/0741, however, further discussion of the site's compliance with a drive-thru restaurant is set out within Section 7.

5.5 This section will address the sequential approach to site selection. This impact assessment will adopt the methodology (i.e. identifying and assessing vacant sites, opportunity sites and LDP allocations) previously undertaken in application 2024/0741 but also as found in the sequential site assessment undertaken in the previous Costa Coffee application (ref: 2019/1159) at the Wombwell Lane Retail Park in order to ensure consistency in approach.

## b) The Requirements of the NPPF

5.6 Paragraph 91 of the NPPF (2024) states that: *'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. 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.'*

5.7 The sequential test is applicable to all 'main town centre uses'. The NPPF defines these as: *'Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, **restaurants**, **drive-through restaurants**, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).'* The application falls within the 'main town centre use' category.

## c) Planning Practice Guidance 'Town Centres and Retail'

5.8 The Planning Practice Guidance 'Town Centres and Retail' (as revised 2020) (paragraphs 9-12) provides further details on the application of the sequential test and notes that a sequential assessment should be *'proportionate*

*and appropriate for the given proposal*'. This is an important consideration for the submitted application, given the principle of use for the type of development proposed by the application has been firmly established by historical planning approvals. The sequential assessment has been proportionately prepared on this basis and is in line with the Government's Planning Practice Guidance 'Town Centres and Retail', which confirms that the sequential approach requires a thorough assessment of the suitability, viability and availability of locations for main town centre uses.

- 5.9 The NPPG sets out a 'checklist' of considerations which should be taken into account when determining whether a proposal complies with the sequential test, as follows:

*"With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal. If there are no suitable sequentially preferable locations, the sequential test is passed".*

- 5.10 In the consideration of alternative sites, paragraph 91 of the NPPF requires consideration of sites which may become available '*within a reasonable period*'. The PPG states that '*when considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account*'. In the case of the application scheme, the application responds to an active requirement by an established national operator with an identified commercial demand for representation in the Barnsley, Stairfoot area to trade from a vacant unit which is currently available for occupation and, therefore, any alternative sites are considered to be required to be 'available' at the time of the application submission, rather than at an indeterminate point in the future.

- 5.11 The PPG also confirms that: '*use of the sequential test should also recognise that certain main town centre uses have particular market and locational requirements which means that they may only be accommodated in specific locations*'. This is of particular relevance in the case of the application proposals, which are specifically seeking a drive-thru restaurant with adequate parking facilities and good roadside visibility in order to meet an identified need by the operator for a facility of this nature to serve residents in the Barnsley area. Burger King would not consider a site that cannot accommodate adequate parking to support its restaurant dine in facility, as this is a fundamental commercial requirement for the operation to be commercially viable. Additionally, the drive thru function is required to ensure the operation of the unit would remain viable but indeed be usable in the planning use classification as within both the Sui Generis (takeaway) and restaurant pod which would serve Class E (b) restaurant.

#### **d) Development Plan Requirements in Respect to the Sequential Test**

- 5.12 Policy TC4 'Retail Parks' of the adopted Barnsley Local Plan requires developments located within retail parks identified on the Policies Map, that an assessment of the impact of the proposal on the role, character and function of retail park will be required.

#### **e) Review of Case Law**

- 5.13 After the publication of the original iteration of the NPPF (in 2012), a number of appeals and 'called in' decisions have provided further clarity to the interpretation of the requirements of the NPPF in respect of the sequential test, and these decisions have informed our approach to undertaking the sequential assessment.

- 5.14 The Supreme Court Case involving Tesco and Dundee Council (2012) concluded that the application of the sequential approach requires flexibility and realism from developers and retailers as well as planning authorities. Whilst not dismissing the requirement for developer/retailer flexibility, the commercial requirements of a 'business model' is acknowledged in the judgement. Paragraph 28 of this decision states that: *'if a planning authority were to refuse an out-of-centre scheme on the ground that an admittedly smaller site is available within the town centre may be to take an entirely inappropriate business decision on behalf of the developer.'* (our emphasis, underlined)
- 5.15 This view was endorsed in the High Court judgement case Zurich Assurance Limited/Threadneedle Property Investment v North Lincolnshire Council (2012). It affirmed that: *'it is also important to mark that developers, and planning authorities work in the real world'*. On account of these matters, there is no requirement under case law to require an operator to locate in a more sequentially preferable location if this is against their business model / commercial interests.

## f) Demonstration of Flexibility

- 5.16 As set out above, the NPPF requires applicants to demonstrate flexibility (in terms of altering the format and scale of development) in considering alternative sites.
- 5.17 The application seeks to provide a drive-thru restaurant to facilitate the proposed occupancy by Burger King. For the purposes of the sequential test, consideration has been given to the plot size required to deliver a drive thru restaurant with adequate parking, transport connections, accessibility and prominence.
- 5.18 Any alternative site would need to be able to deliver upon the principal objectives of the planning application (i.e., deliver a new Burger King restaurant unit with adequate drive thru and parking provision in an accessible and prominent location) to be met, reflecting the considerations in respect of business models as set out above.
- 5.19 On this basis, we have considered sites that could accommodate the quantum of site area (ha) shown in Table 2, applying a flexibility of +/- 20% (site area) to sequential sites. This shows that in the case of the application proposals, it is appropriate to consider a site within a minimum site area of 0.17ha and a maximum site area of 0.26ha, although there is more flexibility in the 'upper' limit as any additional site area would likely be used to accommodate additional customer parking provision.

	Site area (ha)	Commercial unit size (sq.m)
Application proposal	0.217	232
Flexibility consideration	+/- 20%	+/- 20%
Application proposal with flexibility	Between 0.17ha and 0.26ha	Between 186 and 278 sq.m

**Table 2.** Site parameters for sequential assessment

- 5.20 Notwithstanding the requirement to demonstrate flexibility, there are a number of fixed requirements that Burger King requires for their restaurants (i.e. that for which the planning application seeks consent):
- An area of land greater than 0.2 hectares to provide sufficient space for vehicle parking;
  - There is a sufficient critical mass with other retail and leisure units in close proximity;
  - No immediate boundaries with residential development to assist with negating effects on amenity;
  - Good access to the local highway network;
  - A site with high levels of visibility to passing trade;
  - A site which would allow for the facilitation of a drive-thru;
  - Ready access to utilities and services; and
  - Readily available for development within a 6-month window from the grant of planning permission.

5.21 On the basis that there are no sites of a significant size allocated for development in the site search area, as was the case in application reference 2024/0741 and indeed the previously accepted sequential assessment for the Costa Coffee application (ref: 2019/1159) at the Wombwell Lane Retail Park, it is anticipated that the same methodology will be adopted (i.e. identifying and assessing vacant sites, opportunity sites and LDP allocations) in order to ensure consistency in approach. This approach has also been considered acceptable via pre-application discussions.

### g) Area of Search

5.22 Similar to the approach taken within the previous Planning, Retail, Design and Access statement which was submitted as part of planning application reference 2024/0741 and that of the Costa Coffee application (ref: 2019/1159), internet searches have been undertaken for properties and land for sale/to let in the local area, in addition to the current adopted and emerging local development plan. The sites and premises identified are being actively marketed or promoted for development and were identified and considered as potentially suitable in the search for sequentially preferable locations for development. The following site assessment has been updated to consider the now-required drive-thru element.

5.23 Searches were made for retail and suitable buildings on Rightmove, Completely Retail, Carver Commercial and Johnson Fellows for units of a similar size with the above flexibility parameters considered. Floor areas above ground floor level only have not been considered as these would be unsuitable given the fixed requirements set out in paragraph 5.20. The search included sites for sale and to let.

### h) Site Assessment

#### 5.24 Site 1 – Unit 4A Stairfoot Business Park, Bleachcroft Way, Barnsley, S70 3PA

Location	Edge of Centre
Site	
Description	<ul style="list-style-type: none"> <li>• Business park unit on existing Business park</li> <li>• Significant hardstanding area</li> </ul>
Availability	<ul style="list-style-type: none"> <li>• Available as a whole. The site is marketed for sale only and as a B2 or B8 use and not any other use such as restaurant space.</li> <li>• Site area available: <ul style="list-style-type: none"> <li>• Ground Floor: 1,211 sq m/13,031 sq ft</li> </ul> </li> </ul>

Suitability	<ul style="list-style-type: none"> <li>The site area footprint is too large for the proposed restaurant and drive-thru.</li> <li>The location whilst similar to that as the proposed does not have the high visibility.</li> <li>The site does not have planning for a restaurant use.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>The building is purpose built and fitted out for light industry use and would require significant development to be suitable for a drive-thru restaurant. This is unlikely to be feasible given the size of the plot.</li> </ul>
Conclusion	For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site. It has been assessed as unsuitable and unviable.

## 5.25 Site 2 - Land and Buildings, to South Side of Birk Avenue, Barnsley, South Yorkshire

Location	Edge of Centre
Site	
Description	<ul style="list-style-type: none"> <li>Commercial building located in suburban residential area.</li> <li>Derelict building in need of refurbishment.</li> </ul>
Availability	<ul style="list-style-type: none"> <li>Available as a whole. The site is marketed for sale only and has planning for 3 apartments (2024/0688)</li> </ul>
Suitability	<ul style="list-style-type: none"> <li>The site area footprint is too small for the proposed restaurant and drive-thru.</li> <li>The location would be unsuitable for the proposed use.</li> <li>The site requires significant works in order to bring it to a useable location.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>The building has planning consent for housing as such it is considered not a suitable location for a drive-thru restaurant.</li> </ul>
Conclusion	For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site. It has been assessed as unsuitable and unviable.

5.26 Site 3 – Wellington House, Market Street, Barnsley, S70 1WA

Location	Town Centre
Site	
Description	<ul style="list-style-type: none"> <li>• Office floorspace within a Grade II-listed property.</li> <li>• 40+ car parking spaces shared across premises.</li> </ul>
Availability	<ul style="list-style-type: none"> <li>• Available as a whole or in smaller suites on individual floors. The site is marketed for office use and not any other use such as restaurant space.</li> <li>• Suites available: <ul style="list-style-type: none"> <li>• Ground Floor: 1,109 sq m/11,937 sq ft</li> <li>• Suite 5 on first floor: 160 sq m/1,722 sq ft</li> </ul> </li> </ul>
Suitability	<ul style="list-style-type: none"> <li>• The ground floor footprint is too large for the proposed restaurant.</li> <li>• Car parking would not be guaranteed to be dedicated to the ground floor.</li> <li>• The car park and building would not serve the function of a drive thru.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>• The building is purpose built and fitted out for office use and would require significant refurbishment work to be suitable for a restaurant. This is unlikely to be feasible given the building is statutorily listed.</li> </ul>
Conclusion	<p>For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site. It has been assessed as unsuitable and unviable.</p>

5.25 Site 4 – Queens Court, Regent Street, Barnsley, S70 2EG

Location	Town Centre
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Site	
Description	<ul style="list-style-type: none"> <li>• Queens Court Business Centre is located within a restored Victorian hotel in Barnsley's busy town centre.</li> <li>• Offers 12 office suites with accommodation ranging from 39 sq m (428 sq ft) to 1,517 sq m (16,330 sq ft)</li> </ul>
Availability	<ul style="list-style-type: none"> <li>• 3 office suites currently available to let across first and second floor levels. There is no ground floor space available.</li> </ul>
Suitability	<ul style="list-style-type: none"> <li>• The available floorspace is not suitable for a restaurant use as there is no ground floorspace available to provide direct access and a shopfront to the street.</li> <li>• No dedicated car parking.</li> <li>• The building would not serve the function of a drive thru.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>• The upper floors of the property do not provide the necessary visibility and prominence for a restaurant use to attract passing trade.</li> </ul>
Conclusion	<p>For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site. It has been assessed as unviable and unsuitable.</p>

5.26 **Site 5 – Unit 1 To 3, 20-22 Peel Street, Barnsley, S70 2QX**

Location	Town Centre
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Site	
Description	<ul style="list-style-type: none"> <li>• Located on Peel Street, the main retailing thoroughfare immediately to the west of Barnsley Town Centre. The premises form part of a parade of terraced retail units.</li> </ul>
Availability	<ul style="list-style-type: none"> <li>• Unit 1 - Ground floor 40.9sqm</li> <li>• Unit 3 – Ground floor 109sqm</li> </ul>
Suitability	<ul style="list-style-type: none"> <li>• Neither unit is large enough to accommodate the proposed restaurant.</li> <li>• No dedicated parking available as such car park and building would not serve the function of a drive thru.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>• Operating a restaurant from such a small space would not be viable.</li> </ul>
Conclusion	For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site.

5.27 **Site 6 – Units 2&8 Barnsley Interchange, Midland Street, Barnsley S70 1SE**

Location	Town Centre
Site	

Description	<ul style="list-style-type: none"> <li>The property available to let comprises a prominent ground floor retail unit extending to 42 sq m/461 sq.ft. together with first floor ancillary accommodation extending to 61 sq m/652 sq.ft.</li> <li>The property is situated within Barnsley Interchange, the central bus and rail transport hub located in the heart of Barnsley town centre.</li> </ul>
Availability	<ul style="list-style-type: none"> <li>The property is being actively marketed and therefore is considered to be available.</li> </ul>
Suitability	<ul style="list-style-type: none"> <li>The available floor area is too small to accommodate the proposed restaurant even when accounting for flexibility in format.</li> <li>The car park and building would not serve the function of a drive thru.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>The unit is divided over two floors with only 40% of the floor area on the ground floor. This would not be viable to operate as a restaurant.</li> </ul>
Conclusion	For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site.

#### 5.28 Site 7 – 17 Market Street, Barnsley, S70 1SL

Location	Town Centre
Site	
Description	<ul style="list-style-type: none"> <li>Mid terrace retail unit available on a busy pedestrianised shopping parade</li> </ul>
Availability	<ul style="list-style-type: none"> <li>The property is understood to be available immediately and comprises ground floor area extending to 112.8sqm and first floor area of 70 sq m.</li> </ul>
Suitability	<ul style="list-style-type: none"> <li>Even when applying flexibility, the combined floorspace area is too small to accommodate the proposed restaurant.</li> <li>No dedicated parking available for the floorspace to support operator need.</li> <li>The building would not serve the function of a drive thru.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>The unit is too small and constrained for a restaurant use.</li> </ul>
Conclusion	For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site. It has been assessed as unviable and unsuitable.

#### 5.29 Site 8 – Mclintocks Business Centre, Summer Lane Barnsley S70 2NZ

Location	Edge of Centre
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Site	
Description	<ul style="list-style-type: none"> <li>• Multi let premises.</li> <li>• Property is prominently located on the West side of Summer Lane in Barnsley, on the edge of the centre opposite the new Gateway Plaza development comprising a mix of retail, bars, restaurants, apartments and office space.</li> <li>• First, second, third and fourth floors available only.</li> </ul>
Availability	<ul style="list-style-type: none"> <li>• The floorspace is being actively marketed and is therefore considered to be available.</li> </ul>
Suitability	<ul style="list-style-type: none"> <li>• Ground floor is not available for let. The upper floors would be unsuitable for a restaurant use with no dedicated access and shopfront to the ground floor.</li> <li>• The car park and building would not serve the function of a drive thru.</li> </ul>
Viability	<ul style="list-style-type: none"> <li>• The upper floors of the property do not provide the necessary visibility and prominence for a restaurant use to attract passing trade.</li> </ul>
Conclusion	For the reasons as set out the site is not considered to be a sequentially preferable alternative to the application site. It has been assessed as unviable and unsuitable.

## i) Barnsley Local Plan Development Sites

### Heelis Street/New Street/Gala Bingo/Burleigh Court

5.27 The site is allocated for a mix of retail, residential and office development in the Local Plan. This site contains a number of industrial and commercial buildings, some of which have been cleared, and an area of surface level car parking. Given the size of the site and the mix of uses envisaged, the site would need to be comprehensively redeveloped rather than developed in a piecemeal fashion. The proposed drive thru restaurant use would need to form part of a scheme as it would not be viable to come forward as a standalone development. We understand that there are no current development proposals for the site and therefore this site is not considered to be available for the proposed restaurant within the required timeframe.

### Courthouse Campus

5.28 This allocation does not incorporate retail or leisure uses as a primary use. Accordingly, the proposed use is not supported by the policy allocation on the site. Furthermore, as per the above, a restaurant use would need to form part of a development scheme for the redevelopment of the site. We understand that there are no current development proposals for the site and therefore this site is not considered to be available for the proposed drive thru restaurant within the required timeframe.

Land between the Transport Interchange and Harborough Hill Road

5.29 This allocation allows ancillary retail uses, but at the time of writing it is understood that no planning permission has been obtained for the redevelopment of the site. As per the above, a restaurant use would need to form part of a development scheme for the redevelopment of the site. The site is therefore not considered to be available as a planning permission will not come forward within a timescale suitable for the intended operator.

**j) Conclusion**

5.30 Overall, the above analysis demonstrates that none of the vacant units which are currently being marketed or promoted through the Local Plan are of sufficient size or have the physical ability to accommodate a standalone restaurant with adequate customer parking and good highway links, which, as this report has set out, is a fundamental component of the overall application scheme which cannot be removed.

5.31 This is further supported by the acceptance of the planning reference of 2024/0741, which found a restaurant pod to be acceptable in the application site location.

# SECTION 6 | HEALTH IMPACT ASSESSMENT

6.1 This section of the Statement demonstrates the acceptability of the application proposals in the context of the relevant planning policy and guidance outlined in Section 4. The principal planning considerations in respect of Health are the proposals' acceptability with regard to the NPPF and Barnsley's 'Hot Food Takeaway Supplementary Planning Document 2019' ("SPD") and a 'Hot Food Takeaways Planning Advisory Note 2019' ("PAN"), which are material considerations as 'supplementary' planning guidance.

## a) Application of the SPD and PAN

6.2 Both documents are focussed on Class A5 uses (now sui generis), which is confirmed in paragraph 2.3 of the PAN, which defines A5 uses as:

*"Establishments whose primary business is for the sale of hot food for consumption off the premises". (Our underlining)*

6.3 The SPD and PAN makes it clear that the guidance is to apply for Class A5 (now Sui Generis) uses only and is not intended to apply to Class A3 (now Class E(b)) uses. In considering whether this guidance applies, Paragraph 2.3 sets out that consideration will be given to:

- *The proportion of space designated for hot food preparation and other servicing in relation to designated customer circulation space; and/or*
- *The number of tables and chairs to be provided for customer use;*
- *The percentage of the use to the overall turnover of the business.*

6.4 In this regard, the proposals comprise a Class E(b) restaurant use with a drive-thru facility (Sui Generis), as there would likely be a similar mix of dine-in and takeaway from the site. Accordingly, the proposal is not for solely hot food takeaway use, and it certainly would not be the "*primary*" part of the site's trade, as referenced in the PAN as the trigger for its application.

6.5 In light of the above, only part of the proposed operation triggers the requirement to consider the SPD and PAN. As a result, its requirements should be applied with proportionate weighting, considering other material considerations and the benefits delivered by the development, including local job creation.

6.6 When considering the three bullets noted in PAN Paragraph 2.3, the following points are made:

- Layouts of the site are provided, demonstrating that there is generous front-of-house space for customers, including dine-in areas and customer toilet facilities. It is clearly not the typical hot food takeaway, where customers are met with a counter and minimal internal seating where the clear purpose of the business is primarily for takeaway. The split between front-of-house and back-of-house is broadly 50/50, as shown in Figure 5.
- The site provides an internal dining area of 50 seats, plus an additional 16 seats on an external dining terrace, providing a total of 66 seats for customers. This is identified in Figure 5.
- The above arrangement is as per the previous application (ref: 2024/0741) at the site, which was accepted by the Council as a Class E(b) restaurant and granted planning permission.
- This application seeks to simply add a supplementary collection lane to this consented restaurant. It is projected that the drive-thru lane would only comprise 25-36% of the trade of the site. Accordingly, it is clear this is not the "*primary*" part of the business.

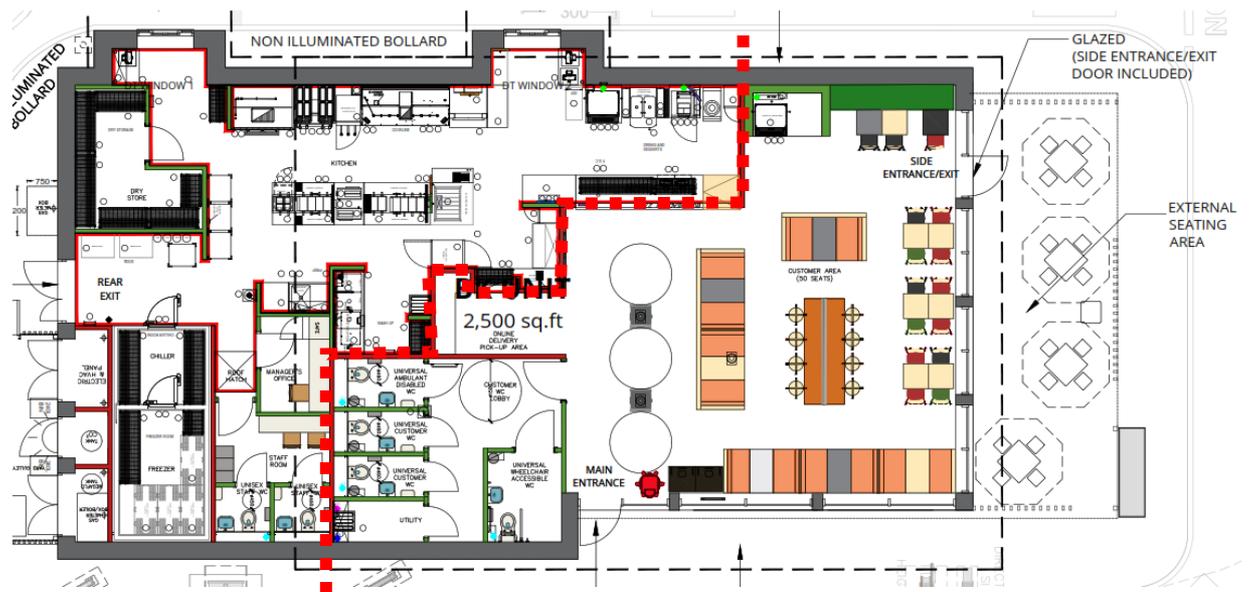


Figure 5. Restaurant and Seating Layout

- 6.7 It is also a material consideration that planning permission (ref: 2024/0741) has already been granted by the Council for a Class E(b) restaurant for occupation by Burger King at the site. Accordingly, the principle of Burger King occupying the site and the sale of its food and drink offering have already been accepted by the Council and can take place. This proposal simply seeks the addition of a drive-thru lane, which enables customers to collect that food and drink by motorcar. Accordingly, there can be no objection to the food and drink being sold from the premises.
- 6.8 All of the above demonstrates that a fair and balanced assessment of the SPD and PAN must be undertaken, and that there can be no objection to the principle of the occupation of the site by Burger King or the sale of its food and drink offer, given this has already been established by the grant of planning permission ref: 2024/0741. This existing consent also enables a sizeable level of takeaway, as afforded by Class E(b), which only requires that food and drink is consumed “*mostly*” on the premises. Mostly is taken to mean the greater component of, which would therefore be 51% of food and drink consumption. Accordingly, this enables a less than “*mostly*” level of consumption (49%) to take place off-site.
- 6.9 Given the layout of the site and projected trade from the proposed drive-thru lane, it is clear that the “*primary*” purpose of the business is not for hot food takeaway and, therefore, a fair and balanced assessment of the scheme must be made, taking into account other material considerations.

## b) Assessment of Guidance and Health Impact Assessment

- 6.10 The above demonstrates that proportionate consideration and appropriate weighing should be given to the identified guidance documents, given the occupation of the site by Burger King has been established and given the primary purpose of the site is not as a hot food takeaway.
- 6.11 At the national level, Paragraph 97 of the NPPF states:

*“Local planning authorities should refuse applications for hot food takeaways and fast food outlets:*

*a) within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or*

*b) in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour”.*

6.12 In respect of Test a) the site is not within walking distance of any schools or and other places where children and young people congregate, which has been accepted by the Council. In respect of Test b), the immediate locality of the site is almost entirely commercial, and it is not considered to be at the heart of a residential community. Indeed, the site is a long distance away from any large residential areas, which are not readily accessible. Accordingly, there is no evidence to suggest that the proposed use in this location would have any significant harmful impact on local health, pollution or anti-social-behaviour conditions.

6.13 A similar principle was considered by a Planning Inspector in respect of Appeal (ref: APP/A0665/W/22/3296284), which is enclosed in Appendix 1. This decision assesses the need for a “*longer walking route along busy roads*” and given there were “*existing food outlets closer to this residential area*”, and considered that:

*“I do not consider that it is likely the appeal site would be regularly accessed by pedestrians from Blacon”.*

6.14 There is a similar situation at the application site, given the long distances to travel to the site by foot and given the existence of the McDonald's at the junction of Wombwell Lane and Doncaster Road, which is closer to residential areas within Stairfoot. A similar conclusion should, therefore, be drawn.

#### **i) SPD and PAN**

6.15 The application has been subject to formal pre-application discussions with Barnsley Council reference 2023/ENQ/00436, which was submitted in September 2023, and final formal written advice was provided on 19 December 2023.

6.16 This includes the Council's assessment of the four tests set out within the PAN, with concerns raised regarding compliance with Test 3. The PAN tests, including previous Council comments, are addressed in turn below:

#### Test 1. Over Proliferation

6.17 The Council's pre-application advice set out that:

*“you indicate that you consider there is no over proliferation of hot food takeaway uses in this location and I agree with this assessment. However, the test is whether there is an over proliferation of hot food takeaways in the ward and the figures quoted in the PAN for the ward (Stairfoot) is 10 outlets at 2018. Even if there had been a small increase in the number of hot food takeaways since then, I would conclude that there was not an over proliferation in the ward. However, I would advise you to submit up to date evidence about this in support of the application”*

6.18 Accordingly, officers confirmed that there was no “over proliferation” of A5 uses within this area. However, it was advised that this be reviewed on submission with up-to-date evidence, which is outlined in Table 3 below.

**Table 3:** Sui Generis takeaway units within the ward of Stairfoot

Site number	Site address
1	Domino's Pizza, 522a Doncaster Rd, Stairfoot, Barnsley, S70 3PE
2	McDonalds, Wombwell Ln, Stairfoot, Barnsley, S70 3NT

3	Five Double-O Café, Chinese Takeaway, 500 Doncaster Rd, Stairfoot, Barnsley S70 3PH
4	Chicos Pizza, 506 Doncaster Rd, Stairfoot, Barnsley S70 3PY
5	Town Kebab and Pizza, 496 Doncaster Rd, Stairfoot, Barnsley S70 3PH
6	Yummys Restaurant and Takeaway, 504 Doncaster Rd, Stairfoot, Barnsley S70 3PY
7	Divino Pizza, 490 Doncaster Rd, Stairfoot, Barnsley S70 3PW
8	Bobby's Chippy, 504 Doncaster Rd, Stairfoot, Barnsley S70 3PH
9	China Palace, Barnsley Rd, Wombwell, Barnsley S73 8DZ
10	Chowna Thai Street Food, Barnsley Rd, Wombwell, Barnsley S73 8EB

6.19 The proliferation of hot food takeaways in the ward remains unchanged and as such, the Council's assessment of the scheme satisfying this test should remain unchanged. Accordingly, the proposal satisfies this first test.

Test 2. Proximity to secondary school or advanced learning centre

6.20 The Council sets a 400m 'circular buffer' from a secondary school or Advanced Learning Centre (ALC). In this regard, the Council's pre-application advice set out that:

*"you indicate that there is no such establishment within 400m and I agree with this"*

6.21 The Applicant has reviewed the position and can confirm that there is no change in circumstances which would amend this conclusion. Accordingly, the proposal satisfies this second test.

Test 3. Location where there are high levels of obesity

6.22 This test sets out that:

*"In assessing applications for an A5 use, consideration will be given to levels of excess weight of 10-11 year old pupils"*

6.23 It goes on to state that:

*"Proposals for hot food takeaways within a ward where more than 32% of 10-11 year old pupils are classed as having excess weight are therefore more likely to be in conflict with this part of the NPPF"*

6.24 The Council's pre-application advice sets out that:

*"Table 1 indicates that the figure for excess weight in 10-11 year olds in Stairfoot ward was 36.9% which exceeds the threshold set in this advice note"*

6.25 The Council's data is taken from the 2011 Census and Public Health England's (PHE) Child Excess Weight Data from 2018. Whilst this state's overweight (including obese) levels were 36.9% in 2018, it is noted that this should be 36.1%, as set out in PHE's data and the Stairfoot Ward Profile 2019.

6.26 Figure 6 provides a map of the Stairfoot ward, which demonstrates that this covers a large geographical area with a population of over 11,000 people.

**Figure 6.** Ward map of Stairfoot with application site marked



6.27 In this regard, the NPPG sets out that in implementing policies and proposals, regard should be had to: (*amongst other things*)

*“proximity to locations where children and young people congregate such as schools, community centres and playgrounds*

*evidence indicating high levels of obesity, deprivation, health inequalities and general poor health in specific locations*

*over-concentration of certain uses within a specified area”*

6.28 It is necessary to consider these points in the round. Whilst the Stairfoot ward may have Age 10-11 excess weight levels that are marginally above the 32% guidance, it is material that the site is not located in an area where children and young people congregate. The site is located some 700m from Oakhill Primary Academy and in excess of 900m from Hunningley Primary School.

6.29 Furthermore, the PAN focuses on proximity to secondary schools, not primary schools. Paragraph 5.6 sets out that:

*“Children may find it more difficult to make healthier choices when exposed to so many fast food options, whether on their way to and from school or out with friends”*

6.30 Paragraph 5.7 goes on to state that:

*“Restricting the development of hot food takeaways within a ten minute walking distance of the school (i.e. a 400m radius) will limit children’s exposure”*

6.31 In this regard, the site is over 1.1km from the Barnsley Academy or approximately 1.8km walking distance, which is the nearest secondary school. As a result, it is not situated in a location that is accessible to school children on their way to or from school or in other places where they would generally gather.

6.32 The site is also a sizeable distance from the residential areas within the Stairfoot Ward with other hot food takeaway uses much closer to these locations. As a result, it is considered that the proposed use in this location would not result in any tangible, harmful health outcomes for the Stairfoot Ward, following the principles set out in Appeal Decision (ref: APP/A0665/W/22/3296284), given the significant distances to nearby schools and the existence of similar offerings in closer proximity to those areas, including those listed in Table 3, which would be any children's first point of call. A similar conclusion was drawn in Appeal Decision (ref: APP/F5540/W/20/3263879), enclosed at Appendix 2, which confirmed that:

*“the appeal site is located within a commercial area which contains a number of other hot food takeaways, some which are closer to one of the identified schools. I have been provided with no compelling evidence to suggest that the proposed hot food takeaway would offer a more persuasive or unhealthy choice for school children than any of the existing takeaways. Though the proposal would add an additional hot food takeaway in this location, given the context, I do not consider that this would cause harm to public health”.* (Our underlining)

6.33 Furthermore, the Council has also previously accepted that there is no harmful concentration of similar uses.

6.34 Given the significant focus in the PAN on childhood obesity and children purchasing food on their way to and from school, it is also pertinent to flag that this proposal simply adds a drive-through lane to a restaurant and operation that already has planning permission. As such, the principle of Burger King's occupation at the site and the sale of its food and drink offerings is established and will not change. Notwithstanding this, it is noted that Children would not be using the drive-through lane without the presence of a responsible adult by the nature that this must be visited in a motorcar. Thus, there is greater control over their eating habits, and it would be reasonable to expect that they would have a child's health in mind when selecting meal choices. The emphasis on facilities near secondary school or places where secondary school age children gather, suggests the concern is children making uninformed decisions without a responsible adult present. This would simply not be the case in this proposal.

6.45 Thus, there can be no objection to the food or drink to be sold from the premises, and it would be difficult to argue that the addition of the lane would have any significant adverse impacts on the local area. Indeed, the lawful Class E use of a site was considered a material consideration in Appeal Decision (ref: APP/U5930/W/22/3299945), enclosed at Appendix 3, which stated that:

*“Nevertheless, given the Class E use of the site, it could be used as a shop, café or restaurant without the need for planning permission. This is a material consideration. Such uses could sell food deemed as unhealthy as that of a hot food takeaway. This includes confectionary, sugary drinks, snacks of limited nutritional value and similar hot food choices to that of the proposal.*

*These may be more attractive and accessible to schoolchildren, particularly given the likely lower price point when compared with a hot food takeaway. As such, there is no substantive evidence that the type of food sold at the proposal would be any more harmful to the health of schoolchildren than that which could be purchased if the site reopened as another Class E use”.* (Our underlining)

6.35 Again, the addition of the collection lane to the Burger King approved operation, which is only envisaged to be between 25%-36% of the site's trade, but would not change the produce being sold from the site and would not cause harm to public health.

6.36 It is also noted that the proposals provide a roadside facility along a busy arterial route (the A633) and a supplementary offering to the existing Tesco Extra Superstore, which is accessed principally by car users and includes a catchment area that is well beyond the Stairfoot Ward. Accordingly, it is envisaged that customers are more likely to be from outside of this immediate area, and thus, a focus on local demographics is potentially misguided.

6.37 Overall and on balance, while existing excess weight levels are marginally above those permissible in the PAN, there are material considerations which are considered to outweigh the conflict with this single test.

Test 4. Health Impact Assessment

6.38 The final test relates to the requirement for a Health Impact Assessment, which is provided below at Table 4, in line with the guidance within the PAN.

6.39 This should be read in conjunction with the Burger King - Environmental, Social & Economic Statement for Planning, enclosed in Appendix 4.

6.40 Burger King has developed a strategy with five key pillars to address the wider social, environmental, and economic impacts of its business. This statement outlines the key commitments that BK has made, the progress to date and the benefits that Burger King can bring to an area through the development of a new restaurant. An update of this policy is expected shortly and will be provided to the Council.

6.41 Burger King has a comprehensive set of company policies and procedures that detail its position and policy requirements for each pillar. These have been developed in consultation with external stakeholders to ensure they reflect current thinking and address the external risks and headwinds that face the company and the wider food industry. The policies and procedures are underpinned by Burger King’s due diligence system to ensure legal compliance as a bare minimum and also inform its approach to risk management.

6.42 These pillars include:

- Pillar 1. Good for the Planet
- Pillar 2. Animal Welfare
- Pillar 3. Good for our People
- Pillar 4. Good for our Guests
- Pillar 5. Good for Communities

6.43 Many of these pillars are referenced in the table below.

**Table 4:** Health Impact Assessment

Issue	Describe any impacts	Recommendation – How will negative impacts be mitigated?	Recommendation – How will positive impacts be maximised?
<b>Noise</b>	Noise from the operation	<p>A noise assessment has been undertaken to accompany this application. The report considers noise from the proposed plant.</p> <p>The use of the plant has previously been considered acceptable, and no objection was raised by the Environmental Health officers.</p> <p>Notices will also be displayed within the restaurant and premises to request that patrons respect the needs of local residents and leave the area quietly, which will be overseen by restaurant staff.</p> <p>Burger King’s standard practice is to use adjustable speaker points, which</p>	<p>The restaurant plant would be installed and operated in line with the set noise limitations and maintained in accordance with the manufacturers' requirements.</p> <p>Patron noise will also be managed by on-site management staff. Contact details for the restaurant manager will be provided to local residents, which will include a complaints logging, investigation and resolution procedure.</p> <p>The opening hours are consistent with those already deemed acceptable and would likely be conditioned, ensuring noise levels are no more harmful.</p>

		enables noise levels to be set in agreement with the Council to avoid harmful impacts.	These measures are outlined further in Pillar 5. Good for Communities.
<b>Odour</b>	Odour from extraction equipment.	<p>An odour assessment has been undertaken to accompany this application.</p> <p>The restaurant plant would be appropriately attenuated and mitigated in line with Burger King's standard practices to ensure there are no harmful odours emanating from the site; however, given the spatial separation to the nearest dwelling, there would be no harmful impact in this regard, and this was confirmed in the previous application.</p>	<p>The restaurant plant would be tested and maintained in line with Burger King's standard practices and in accordance with manufacturers' recommendations.</p> <p>These measures are outlined further in Pillar 5. Good for Communities.</p>
<b>Contaminated land e.g. disposal of oil</b>	Ground contamination	<p>A phase 1 and 2 ground survey assessment has been undertaken to accompany this application.</p> <p>The report confirms that there is no risk to human health or controlled waters.</p>	<p>Good practices will be in place during the construction stage and the operational stage, with all waste oil safely collected and recycled by Burger King's commercial waste provider.</p> <p>This is outlined in Pillar 1. Good for the Planet.</p>
<b>Air Quality</b>	The use of plant and customer cars.	<p>The vehicles visiting the site are anticipated to already be on the local highway network or visiting the Tesco Extra Superstore. Thus, there is considered to be no harmful air quality implications in the local area.</p> <p>Customers would be requested to switch off their engines whilst idling in the car park or drive-through lane.</p>	Burger King's standard practices will ensure the plant is running effectively and that signage will be posted to reduce the risk of pollution from vehicles.
<b>Litter</b>	Littering from customers.	Burger King's standard practices include the necessary measures for the prevention of disturbance and litter, which includes the provision of external bins, site signage and regular litter patrols by staff, including a rota.	<p>Burger King understands that litter can be a blight on society and is committed to tackling it in as many ways as it can.</p> <p>It is its policy that every restaurant should carry out a minimum of one litter pick per day when Burger King's team members pick up not just Burger King packaging but also any other litter that may have been discarded in the vicinity of the restaurant.</p> <p>Burger King will implement anti-littering signage within its restaurants and car parks, as well as working with others in local communities to find ways to encourage customers to dispose of their litter responsibly. Burger King have previously conducted a piece of research in collaboration with Hubbub and Coca-Cola Europacific Partners to investigate attitudes and behaviours around littering.</p> <p>The final report has been published externally to help drive better</p>

			<p>engagement and communications with this audience.</p> <p>Burger King has been working very hard to mitigate the impact on the environment by improving the recyclability and compostability of its packaging. Burger King's aim is for 100% of its packaging to be reusable, recyclable or compostable.</p> <p>These measures are outlined further in Pillar 5. Good for Communities.</p>
<b>Anti-social behaviour</b>	Anti-social behaviour from customers.	<p>Burger King's standard practices include the necessary measures for the prevention of crime, disorder and anti-social behaviour, including the provision of CCTV, its operation and the handling of an incident log. Notices will also be displayed within the restaurant and premises to request that patrons respect the needs of local residents and leave the area quietly, which will be overseen by restaurant staff.</p> <p>The hours of opening for any restaurant will be carefully considered and will typically be consistent with other surrounding uses or hours deemed to be appropriate to the specific location. The restaurant will operate within the hours already deemed acceptable by the Council.</p> <p>Burger King will work with the wider site owner to ensure there is coordination in preventing events of anti-social behaviour.</p>	<p>Burger King seeks to deter and control any anti-social behaviour with bespoke policies for any site. CCTV is installed at all restaurants and has been upgraded at most sites so Burger King can easily access footage as required.</p> <p>Incident reports are constantly monitored to understand whether any restaurants require further help.</p> <p>Where anti-social behaviour is not under control, Burger King will place guards and liaise with local police and youth workers.</p> <p>Conflict management training is provided for all staff, and pitched differently depending on level (i.e. crew vs manager).</p> <p>StaffSafe is a safety device fitted into sites to offer support to staff and customers within the premises. The device connects to the StaffSafe control room, where experienced operators field assistance calls 24/7, 365 days a year to deter anti-social behaviour, verbal and physical abuse, and threat of harm involving the use of weapons.</p> <p>Burger King's team do an assessment on all new restaurants to understand crime statistics for the area, with StaffSafe then installed where the CAP Score is over 400 (i.e. 4x the national average). The team will also take a steer from the local Operations Managers if they know that an area is particularly bad for anti-social behaviour.</p> <p>These measures are outlined further in Pillar 5. Good for Communities.</p>
<b>Healthy Eating</b>	Food and drink menu	<p>BK take pride in offering customers the very best product quality when they visit whilst continuing to focus on delivering great customer service and value for money.</p> <p>With the millions of guests served each year, BK recognise the part that they can play in helping those</p>	<p>These measures are outlined further in Pillar 4. Good for our Guests. Burger King is soon to release an updated nutritional strategy with further commitments to ensure these positive impacts are maximised.</p>

		<p>customers who want to make healthier lifestyle choices.</p> <p>Commitments have included:</p> <ul style="list-style-type: none"> <li>• Offering a balanced choice, including meal options below 600 calories and childrens menus below 300 calories, together with drinks with no added sugar and bottled water.</li> <li>• Undertaking Menu Development, including government sugar, salt and calorie reduction targets, together with a clean label policy</li> <li>• Enhancements to the Children’s Menu, including the addition of apple slices and juices to the menu</li> <li>• Providing Customer Information</li> <li>• Allergen Management</li> <li>• Advancement of Meat-Free options</li> </ul>	
<b>Working Conditions</b>	Working at Burger King	<p>Burger King’s people are its priority, and it is committed to helping everyone who joins go further, faster, and bigger in their careers. It’s why Burger King regularly review the development and support opportunities it offers. Staff will be offered a development plan, which will depend on your role and your own goals and ambitions, but as a minimum it will include individual career conversations, bespoke 360s, and team builds.</p>	<p>Commitments include:</p> <ul style="list-style-type: none"> <li>• 6 monthly performance and career development conversations. Not only will they help you grow, but they’ll also help us shape the support and development that Burger King give to all of its Managers.</li> <li>• Burger King also run a fantastic ‘Feed it forward’ initiative, which gives everyone the opportunity to share the love with feedback that can help their colleagues grow in their roles.</li> <li>• Monthly Training calendar that Managers at all levels can access.</li> <li>• Restaurant Managers also take on extra responsibility in Regional Training support roles as Certified Restaurant Trainers (CRTs).</li> </ul> <p>Burger King has recently launched a careers platform, which includes details on its: its Story; Diversity, Equity &amp; Inclusion policies; Benefits; Talent Development; Burger King for Good charter; and Our Roles. Full details are here:</p>

			<p><a href="https://careers.burgerking.co.uk/">https://careers.burgerking.co.uk/</a></p> <p>Any new restaurant would create new job opportunities on site, in the supply chain and during the construction stage. It creates a wide range of new opportunities for the areas Burger King looks to locate, which includes starter / apprenticeship roles, flexible roles and through to full career development opportunities with full support throughout, as outlined on the career's website. Accordingly, any planning application would generate a diverse range of quality job and training opportunities for the local area.</p> <p>These points are set out in Pillar 3. Good for our People</p>
<b>Accidental injury &amp; public safety</b>	Management of health and safety on site	As part of Burger King's standard practices, accident logs will be kept and training of staff will be undertaken regularly.	New staff members will have the opportunity to train in health and safety with refresher sessions provided. .
<b>Other issues</b>	Climate action	<p>Burger King understands that tackling climate change involves it managing its direct and indirect environmental impacts. Burger King is focused on delivering green and sustainable growth, with ambitious goals in place to reduce</p> <p>Burger King's carbon footprint. Its carbon reduction targets have been approved by the Science-Based Targets</p> <p>Over the last few years, Burger King have installed energy saving equipment for their restaurants such as cooking</p> <p>equipment, LED internal and external lighting, and light timers. In addition, team members are supported with energy saving guidelines so they can play their part in helping to reduce energy usage in restaurants.</p> <p>Burger King recognises that investment in innovation will be key to it achieving its climate-related targets. An example of this innovation is the commitment to offering plant-based meat free options on its menu. Harnessing new technology and investing in product innovation, meat free products have been developed using ingredients that are sustainably sourced, produced with lower environmental impacts and still meet</p>	<p>Commitment by 2030:</p> <ul style="list-style-type: none"> <li>• Reduce absolute scope 1 &amp; 2 emissions by 100% (vs 2019 base year)</li> <li>• Reduce scope 3 emissions by 41% per restaurant (includes purchased goods and services, waste, franchises and transport) (vs 2019 base year)</li> <li>• Have a 50% meat-free menu</li> <li>• 100% packaging to be from renewable, recycled or certified sources</li> <li>• Eliminate single use plastics</li> <li>• 30% reduction in food waste</li> </ul> <p>These points are set out in Pillar 1. Good for the Planet.</p>

		<p>Burger King guests' expectations for great quality and taste.</p> <p>All proposals will be designed to meet the relevant Local Planning Authorities standards with regard to environmental sustainability.</p>	
<b>Other issues</b>	Waste management	<p>Burger King are committed to reducing waste and are working with suppliers to reduce waste both within supply chain and restaurants. Burger King believes that the best way to reduce waste is not to create it in the first place and it is working hard with its suppliers to reduce waste both within its supply chain and its restaurants.</p> <p>All proposals for new restaurants will be supported by delivery and servicing management procedures bespoke to any site and any individual Local Planning Authority's requirements. The ambition is for all waste and recycling to be removed safely and considerately without negatively impacting the local environment and highway around the site.</p>	<p>As outlined above, commitments include:</p> <ul style="list-style-type: none"> <li>• 100% packaging will come from renewable, recycled or certified sources</li> <li>• Eliminate use of single use plastics wherever possible and remaining plastic to be at least 30% recycled materials</li> <li>• 30% reduction in food waste</li> </ul>

### c) Conclusions

- 6.45 As outlined within this section, the application site already benefits from planning permission for Burger King to operate a restaurant at the site. Accordingly, occupation by Burger King in this location and the sale of its food and drink offering is therefore established and acceptable in principle.
- 6.46 This proposal simply seeks to add a supplementary collection (drive-thru) lane to allow customers to collect orders by motorcar. The operation retains a large internal dine-in area and external dining terrace and retains the restaurant function, albeit with the addition of the drive-thru lane.
- 6.47 As evidenced, the Council's Hot Food Takeaway SPD and PAN seek to control Class A5 (now Sui Generis) where a business's "primary" function is a hot food takeaway, which is not the case at this site. The drive-thru lane is only envisaged to account for approx. 25%-36% of visitor trips. Accordingly, application of these supplementary guidance documents in the context of this only being part of the operation and the existing planning permission, which are both material considerations weighing in favour of the proposals.
- 6.48 Notwithstanding this, it has been demonstrated that the site does not conflict with the aims of the documents or NPPF Paragraph 97 for the following reasons:
- The site is not within walking distance of any schools or other places where children and young people congregate.
  - The site is located long distances from both educational institutions and residential areas and other hot food operations are situated much closer to these locations and thus, this proposal would not have any harmful health implications on those areas or children using those facilities.
  - There is no harmful overconcentration of hot food takeaway uses, as accepted by the Council.

- Whilst excess weight levels are marginally above the PAN targets, it has been demonstrated through the above points that there would be no material harm to health levels for children in the Ward given the distances to educational institutions and residential areas, and the existence of other, closer offerings. These principles have been established by the Appeal Case Law provided. Similarly, the drive-thru provides a roadside facility for visitors by car and thus, would serve a larger catchment than the immediate area.
- Burger King's operation from the site has been established and the proposal simply seeks to provide a supplementary drive-thru lane. Users of the lane would have to be accompanied by a responsible adult. The facility would not be used by unaccompanied children on the way to and from school. Thus, there is greater control over their eating habits, and it would be reasonable to expect that they would have a child's health in mind when selecting meal choices.
- A detailed health impact assessment has been provided detailing all the measures to be implemented by Burger King to minimise harmful impacts on the environment and communities and maximise benefits to those, including good quality, local job creation. This includes key pillars for the business, including commitments across the entire operation.

6.49 Overall, given the points above, it is considered that the addition of the drive-thru lane to the consented restaurant development should be acceptable on balance and is not in conflict with the NPPF and the Development Plan with regard to health.

# SECTION 7 | PLANNING ASSESSMENT

7.1 This section of the Statement demonstrates the acceptability of the application proposals in the context of the relevant planning policy and guidance outlined in Section 4. The principal planning considerations in this case are as follows:

- Principle of the Development
- Transport and Highway Considerations
- Design and Landscaping Considerations
- Amenity Considerations
- Flood Risk and Drainage

7.2 These points are addressed in turn below:

## a) Principle of the Development

7.3 The proposals will facilitate Burger King's occupation of this underused part of the site as well as provide a complimentary food offering and attract additional customer footfall to the area and provide an active frontage onto Wombwell Lane, which should be supported. The proposals will also result in the creation of up to 35 local jobs.

7.4 The application site forms part of the "Wombwell Lane, Stairfoot" retail park designation under Policy TC4, which identifies the site as being suitable for "retail warehouses". The Policy goes on to state that:

*"Uses other than retail warehouses will be allowed where the role, character and function of the retail park will not be adversely affected".*

7.5 In terms of **role**, the proposals will provide a complementary food offering to the existing retail park and its customers. It is considered to preserve and enhance the role of the Wombwell Lane Retail Park and would make it more desirable for customers. Furthermore, owing to the relationship with the retail park and the situation on the roadside, it is not considered that this would further affect the role of any nearby centres.

7.6 In respect of the **function** of the retail park, this would also be unchanged, and it would remain a retail and foodstore shopping destination. The proposals would provide a complementary offering to customers who would already be visiting the site by car to purchase bulky goods and food shopping or visiting the Petrol Filling Station. The development is further limited to a redundant part of the customer car park, which would not affect the wider operation of the retail park.

7.7 The proposals would further cause no harm to the predominantly retail **character** of the park and would again, provide a complimentary offering to customers which would be wholly ancillary in scale.

7.8 Overall, it is considered that the role, character and function of the retail park will not be adversely affected. Indeed, this was the view agreed by Officers during planning application 2024/0741 with the officer report confirming:

*"The introduction of an additional food outlet is not considered to detrimentally harm the character or function of the retail park. The restaurant development will likely increase shopping time at the park and therefore further support the wider retail uses."*

- 7.9 The proposals relate to an erection of Class E (b) restaurant / Sui Generis (takeaway) Drive-Thru pod and the engagement of the Hot Food Takeaway SPD and PAN has been considered in Section 6. As such, the principle of the development should, therefore, be supported on grounds of health, retail and economic impacts.

## b) Transport and Highways Considerations

- 7.10 Policy T3 'New Development and Sustainable Travel' requires new developments to be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cyclists as well as provide a transport statement or assessment in line with guidance set out in the National Planning Policy Framework.
- 7.11 Policy T4 'New development and Transport Safety' requires that new development be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.
- 7.12 The accompanying Transport Assessment considers the policy context, existing conditions, site layout, trip assessment and parking demand, as well as the viability of the proposal. The report demonstrates the acceptability of the proposals with regard to access/circulation, traffic generation, parking and servicing.
- 7.13 The previous proposals were supported by a Transport Technical Note, which demonstrated that there would be no negative transport impacts. This application does not differ from the arrangement found acceptable here, the proposal now seeks the provision of a drive-thru.
- 7.14 Servicing and delivery will take place within the site (red-line) where a dedicated space will be located as shown on the submitted site layout plan. Swept path analysis has also been undertaken to demonstrate that an HGV can be accommodated within the site and enter and exit the site via the existing access points.
- 7.15 The loss of 55 parking spaces will be largely offset through the reprovision of 47 parking spaces, comprised of 37 standard car parking spaces, 2 disabled parking spaces, 3 dedicated staff parking spaces, 3 click and collect bays and 2 'grill bays'. The unit will also be provided with a dedicated servicing and loading bay within the car park area. This position was deemed acceptable as the below extract highlights from the officer's report.

*"The application proposal includes altering the existing supermarket car park to create a new parking arrangement around the proposed restaurant building. The development will result in the loss of 49 parking spaces. However, given the spare capacity within the wider car park, the Highways DC Officer considers that this is acceptable. The submitted highways information adequately demonstrates that the existing car park can facilitate the restaurant, and the associated additional parking demand, without impinging upon visitors to the supermarket or adjacent gym."*

- 7.16 With regard trip generation, a survey of another similar Burger King restaurant was undertaken. Across both a weekday and weekend day, 20% of all vehicle trips were recorded as being a linked trip with the adjacent Tesco store. Applying this to the anticipated vehicle demand, circa one additional vehicle every four minutes can be expected to be 'new' to the local highway network as a result of the proposal. Outside these daily peaks, demand for visiting the site is forecast to be lower. Accordingly, this level of change is unlikely to result in material impacts on the local highway network.

- 7.17 The application submission is supported by a Transport Assessment by i-Transport, which concludes:

*"On the basis of the above, it is concluded the proposal will not result in a material impact on the surrounding local highway network or its safe operation.*

*Accordingly, the development is acceptable in transport terms."*

7.18 The application should be considered acceptable in this regard.

### **c) Design and Landscaping Considerations**

7.19 Policy D1 'High Quality Design and Place Making' requires development to be of a high quality and expects development to respect, take advantage of and reinforce the distinctive local character and features of Barnsley.

7.20 As demonstrated in the supporting plans and drawings by Urban Edge, the proposed building has been designed to a high quality with robust and durable materials selected, which will enhance the aesthetic appearance of the wider site. The combination of wood effect cladding and rendered panels provide a contemporary and sleek appearance across the proposed building. The aluminium roof will be powder coated with a light grey finish to match the windows and doors. Overall, the proposed building has been designed to be a modern and attractive addition to the street scene, which is complimentary to and in keeping with the character of the wider context.

7.21 The proposals will efficiently use the land by developing this currently underused part of the existing car park. The positioning and orientation of the building have been considered to ensure that there are no impacts on the use of the wider Tesco car park and retail park overall. The proposed location on the northern side of the existing car park will complement the existing layout and provide a new active and attractive frontage onto Wombwell Lane.

7.22 The proposals will provide visual interest and activity in an area of the car park that is empty and doesn't provide an active frontage onto Wombwell Lane.

7.23 The officer confirmed this in their officer report stating:

*"The proposed appearance is considered to be acceptable, utilising natural tones and materials, together with the company branding. The mix of wood cladding, with aluminium cladding and panels provides an interesting but contemporary façade. The overall scale of the building is suitable for its location and will not dominate the appearance of the wider retail park."*

7.24 The proposals are supported by a detailed landscaping scheme, which proposes five new trees, and a variety of hedge mixes, shrubs and herbaceous plants. These have been selected for their suitability for the growing environment and to support local wildlife. This will significantly increase the level of landscaping within a site that current is entirely tarmac.

7.25 In accordance with the adopted policy, the proposals should, therefore, be acceptable with regard to design.

### **d) Amenity Considerations**

7.26 Policy GD1 'General Development' states that developments will be approved if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

7.27 The application site is located within an area comprising commercial uses. The closest residential properties are located to the north of the site at 96 Wombwell Lane, beyond the pedestrian footway. As a result, there is some spatial separation, and no harmful impacts are envisaged with regard outlook or general disturbance.

7.28 A noise assessment has been undertaken to accompany this application. The report concludes that noise from the proposals should not be a reason for refusal of planning permission.

7.29 Regarding odour, specialist odour mitigation is proposed to tackle any odours at the source and ensure neighbours' amenities are protected. An odour assessment accompanies this application which recommends a

high level of odour control. The proposed installation includes both ESP and UV filtration by Purified Air, which would be installed and maintained in line with the manufacturer's recommendations.

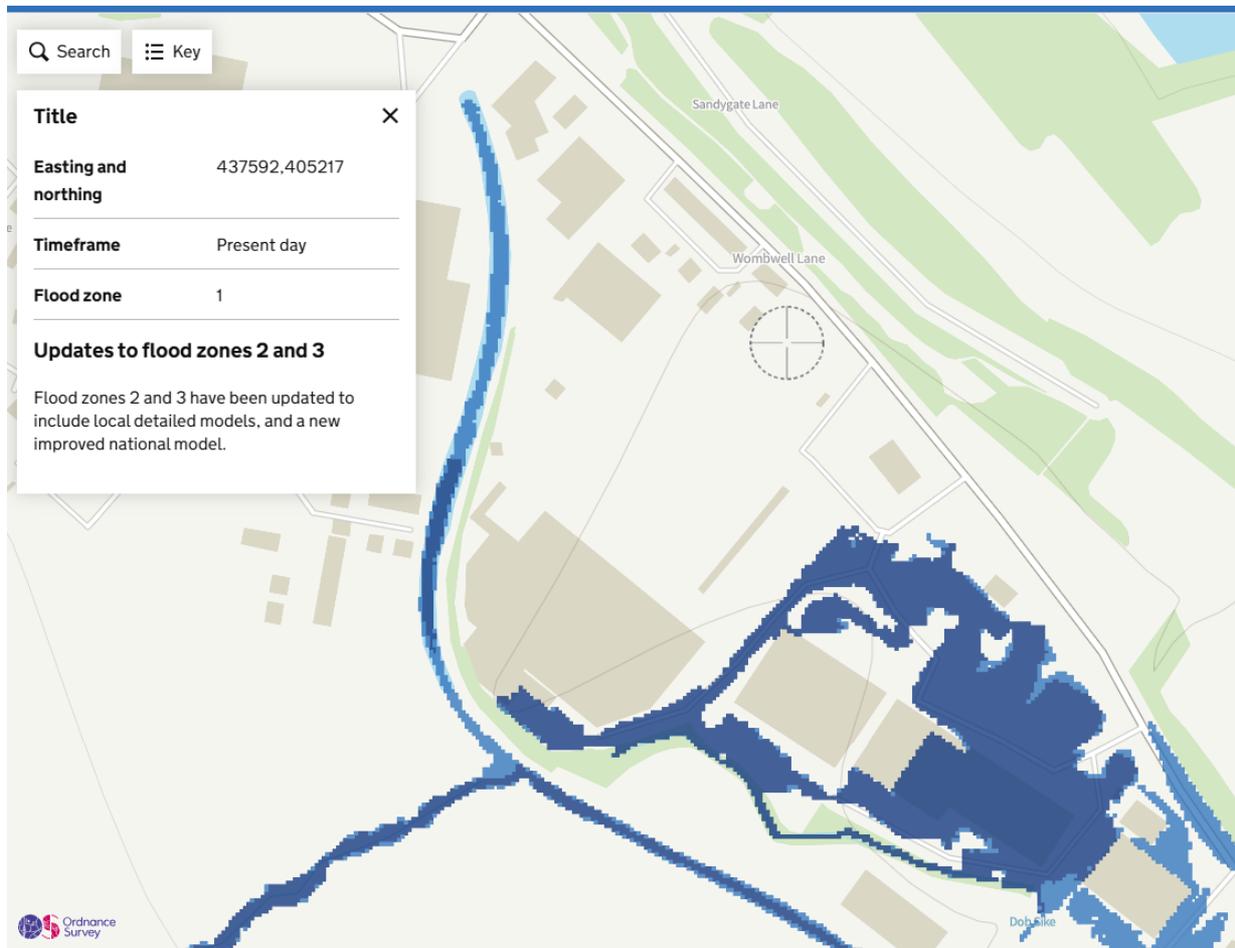
- 7.30 Overall, the restaurant plant would be appropriately attenuated and mitigated in line with Burger King's standard practices to ensure there are no harmful odours or noise emanating from the site; however, given the spatial separation to the nearest dwelling, there would be no harmful impact in this regard.
- 7.31 Suitable measures would also be put in place for car park and litter management to ensure no harmful impacts regarding anti-social behaviour or litter. The speaker post for the ordering point would be set at a level agreed with the Council and directed away from the nearby dwellings, to ensure that no harmful noise disturbance occurs, and signage would be placed at the site to request that customers keep noise to a minimum. Accordingly, there are not considered to be any harmful impacts from the proposed operation
- 7.32 In addition, given the scale and location of the building, it would further have no harmful impact with regard to daylight, outlook, dust, fumes or light pollution.
- 7.33 The proposals are therefore not considered to have any harmful impact on the amenity of local residents, neighbours or users of the site. Likewise, the scheme would not harm the characteristics of the locality through increased activity, disturbance, noise, dust, fumes, litter, drainage or light pollution. The development is, therefore, considered to be in accordance with Policy GD1. No material change is proposed to impact the view held through the previous planning application.

*"The siting of the restaurant has been positioned to the south, away from the residential dwelling, with the parking along the adjoining boundary to be retained as existing. Given the separation distance between the restaurant building and the dwelling, together with the proposed scale, no harmful overshadowing or encroachment upon privacy will occur. The application proposal has been supported by an odour assessment and a noise impact assessment, which the Environmental Health Officer has raised no objection to."*

- 7.34 In accordance with the adopted policy, the proposals should therefore be acceptable.

## **e) Flood Risk and Drainage**

- 7.35 The Government's Flood Risk Map for Planning identifies the site as entirely situated within Flood Zone 1 considered to have a low-level risk of flooding. An extract of the Government's Flood Risk Map is in Figure 7 below.



**Figure 7.** Extract of Flood Risk Map for Planning for application site

7.36 Notwithstanding, a drainage strategy statement has been undertaken to accompany this application which confirms the new building and associated external works will discharge surface water into the existing underground surface water sewerage system. Due to the existing underground utilities, it is not possible to provide SUDs features such as permeable paving/tarmac. However, it concludes that:

*“The proposed drainage solution for the new development will not increase surface water runoff from the site or increase flood risk onsite or offsite”.*

7.37 Overall, the proposed drainage solution for the new development will not increase surface water runoff from the site or increase flood risk onsite or offsite and should be acceptable in this regard.

## **f) Other considerations**

7.38 Given there are no impacts to any existing habitats on site and the nature of the proposals, there would be no biodiversity or climate change impacts as a result of the application, which is consistent with the NPPF guidance.

7.39 The development should also be exempt from mandatory Biodiversity Net Gain as it falls within the de minimis threshold. Notwithstanding this, a new scheme of landscaping is proposed to provide both visual and biodiversity enhancement.

7.40 The proposed building is situated well away from street trees and would have no impact on their health or longevity.

7.41 In addition, there will be no harmful impacts with regard to air quality.

## g) Design and Access Statement

7.42 This Design and Access Statement is prepared in accordance with the guidance set out within the National Policy and is proportionate to the complexity and nature of the application, which is very minor.

### i) Use

7.43 The proposals seek the erection of a Class E (b) restaurant / Sui Generis (takeaway) drive-thru unit to meet Burger King's operational requirements. The proposed restaurant with a drive-thru facility will complement the existing range of uses found at the site.

### ii) Scale and Amount

7.44 The proposals relate to a new building, which will extend to 232 m<sup>2</sup> internally. In terms of the drive-thru lane is considered to be entirely suitable in terms of its positioning, orientation and scale and will be sited comfortably within the site's boundary and the wider Tesco car park without any harmful loss of parking or land.

### iii) Layout

7.45 As part of the proposals, the existing layout of the car park is to receive a minor reconfiguration to accommodate the proposed development. The proposed layout has been considered to ensure that the site remains entirely accessible for both pedestrians and vehicles.

### iv) Appearance

7.46 The proposed development comprises a high-quality, contemporary design with a mixture of finishes that are considered complementary and in keeping with the appearance and character of the surrounding town centre area.

### v) Access

7.47 No changes are proposed in regard to access to and from the Tesco car park. The provision of the drive-thru restaurant and the required reconfiguration of the existing car park will not impact vehicular or pedestrian movements within or around the site, as evidenced within the submitted Transport Assessment.

# SECTION 7 | CONCLUSIONS

7.1 This Planning and Retail Statement has been prepared by Firstplan, on behalf of BKUK Group and Tesco Stores Limited in support of a planning application at Tesco Extra Wombwell Lane, Stairfoot, Barnsley S70 3NS for the following:

*“Erection of Class E (b) restaurant / Sui Generis (takeaway) Drive-Thru pod with associated car parking, refuse area and landscaping”.*

7.2 The proposals will allow for the creation of a new drive-thru restaurant pod on an underused area of car parking at the Tesco Extra, to provide a new leisure offering and attract new footfall. The scheme will generate 35 local job opportunities and would comprise a highly sustainable form of development, as set out within this Statement.

7.3 This is consistent with planning policy objectives across the Development Plan. This Statement demonstrates the acceptability of the scheme in relation to the principle, design matters, residential amenities, flood risk, landscaping, and highways.

- The proposals will create a new drive-thru restaurant facility in an underutilised area on the retail park site.
- The development site is in a sustainable location and will not result in a material impact on the surrounding local highway network or its safe operation.
- The proposals are not in conflict with the Council's objections with regard to hot food takeaway uses and would not have any harmful impact on local health levels.
- The proposals are demonstrated to result in no negative impacts on the Town Centre and Local Centres in the Barnsley area and the schemes passes the sequential assessment.
- The proposals will make efficient use of the site, creating a high-quality, modern and attractive development which will complement the local area.
- The proposals are not considered to have any harmful impact on the amenity of local residents, neighbours or users of the site.
- The proposals will enhance onsite landscaping and ecology and would not harm any trees off-site.
- There will be no increase in flood risk or surface water runoff.

7.4 In light of the above, the application proposals are consistent with the relevant planning policies and guidance at the national and local levels.

7.5 This application should, therefore be considered acceptable by the Council, and we respectfully request that planning permission be granted.



# APPENDIX 1 | APP/A0665/W/22/3296284



## Appeal Decision

Site visit made on 10 January 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2023

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Appeal Ref: APP/A0665/W/22/3296284

Greyhound Retail Park, Greyhound Park Road, Chester CH1 4QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Philip Ross (Chester Greyhound Retail Park Limited) against the decision of Cheshire West and Chester Council.
  - The application Ref 20/03892/FUL, dated 15 October 2020, was refused by notice dated 7 October 2021.
  - The development proposed is the erection of a single storey drive through restaurant.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey drive through restaurant at Greyhound Retail Park, Greyhound Park Road, Chester CH1 4QG in accordance with the terms of the application, Ref 20/03892/FUL, dated 15 October 2020, subject to the conditions in the attached schedule.

### Preliminary Matter

2. Amended plans were submitted to the Council during the course of the planning application and it was evident these were considered by them in making its decision. I have assessed the appeal on the same basis.

### Main Issues

3. The main issues are:
  - the effect of the proposal on public health; and,
  - the effect of the proposal on highway safety.

### Reasons

#### *Health*

4. The appeal site forms part of a large retail complex which contains a number of units of varying sizes. The proposed drive-through restaurant would be located within an existing car park off Greyhound Park Road. In addition to Greyhound Retail Park, Deva and Chester Retail Parks are two further retail areas that adjoin it.
5. There are a wide range of food and drink outlets on these retail parks, many of which are a short walking distance from the appeal site. These include fast food restaurants, cafés and coffee outlets, many of which the Council has identified

- as being unhealthy as they have a large proportion of items on the menus that are high in fat, salt and/or sugar.
6. The Council has referenced the health challenges in the Blacon Ward, including excess weight in children, links between deprivation and obesity, and the poor health in a greater percentage of the population than the average across the Council area and the Country. Whilst the Planning Practice Guidance (the PPG) states that planning can help create environments that support and encourage healthy lifestyles, the Council also acknowledge that the causes of obesity are complex and multifaceted. I also note the Council has signed up to the Local Authority Declaration on Healthy Weight, but I have not been made aware of any supplementary guidance that has been produced which is set out in the commitments in this declaration.
  7. In terms of its location, the appeal site is situated away from the residential areas of Blacon, and to access the retail park for pedestrians would involve walking along Clifton Drive which does not have a footway or would entail a longer walking route along busy roads. I have also not been made aware of any schools that are close to the appeal site. As such, and given there are existing food outlets closer to this residential area, I do not consider that it is likely the appeal site would be regularly accessed by pedestrians from Blacon.
  8. In any event, anyone accessing the retail park, such as those in vehicles would already have the choice of a number of food and drink outlets in the immediate vicinity of the appeal site. In this context, whilst the proposal would add a further restaurant, I do not agree that it would significantly increase access to unhealthy food and compound existing health issues in Blacon. It would also not lead to an over-proliferation of such uses in the local area given the various food and drink outlets are dispersed through the three retail parks.
  9. I therefore conclude that the appeal proposal would not have a significant adverse impact on public health. As such, it would not conflict with Policy SOC 5 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (Local Plan Part 1) and Policy DM 29 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (Local Plan Part 2), which seek, amongst other matters, to avoid significant adverse impacts on health and quality of life. It would also not conflict with the National Planning Policy Framework (Framework) or the PPG, which require development to have regard to health and well-being.

#### *Highway Safety*

10. The proposed drive-through restaurant would be situated to the northern side of the access road that provides access to the car parking and service areas of the nearby retail units and other uses. Following concerns raised during the consideration of the application, which related to queuing back on the access road from the drive through lane, amendments were made to the existing car park so vehicles would utilise the circulation areas within the car park to access the proposed drive-through facility.
11. The Council has however raised concerns on the wider operation of the car park including reference to the introduction of standing traffic alongside existing parking spaces, and by restricting movements of other vehicles in the car park that are not using the proposed drive-through restaurant. The appellant has

- undertaken queue length surveys **at the nearby McDonald's**<sup>1</sup> which have been applied to the appeal proposal having regard to its smaller gross floor area.
12. This demonstrates that other than for a 1-hour period on a Saturday, the maximum queue would not exceed the 14 space capacity being provided in the drive-through lane. The appellant has set out that this survey period in the early-mid afternoon coincided with a local football match which had above average attendance. Even so, the layout proposed allows for a number of further vehicles to queue within the proposed separate lane within the car park if the drive-through lane around the restaurant was full. Based on the evidence provided, including the **more prominent location of the surveyed McDonald's** and that TRICs data **showing McDonald's** generate higher trips than other restaurants, I consider the forecasted maximum queue to be robust and queuing back beyond the separate stacking lane would be unlikely. As such I do not consider it would interfere with the parking and circulation areas in the car park through which vehicles would access the drive-through restaurant.
  13. Concerns have been expressed in relation to the layout of the car park being contrived and convoluted. The proposal would require vehicles to utilise the circulation area within the car park, but I do not consider this to be unusual, as other drive-through units have similar arrangements with signage and lining providing directions. A pedestrian crossing point would be provided across the service road that would enable safe and convenient access to the proposal from the car parking areas and to the nearby retail and other uses.
  14. The proposal would provide a central island as well as signage on the access road to prevent a right turn into the drive-through lane. Whilst this may not deter all drivers who may attempt to turn right, it would be rare, based on the evidence before me, for all 14 spaces within the drive-through lane to be occupied. I therefore consider it unlikely that there would be lengthy queues along the access road towards Greyhound Park Road.
  15. I note concerns relating to the reduction in the number of parking spaces, but this existing car park operates with spare capacity. There is further provision on nearby car parks that serve these retail parks and given that many of those that will utilise the drive-through element of the proposal will not require parking, I consider the reduced parking provision resulting from the proposal would not be unacceptable.
  16. The proposal would see minor changes to the existing access, but the extent of the realignment would be small and it would not have a significant impact on queue lengths on Greyhound Park Road. The height of any boundary treatment can be limited to ensure visibility. I note reference to accident data, but I am satisfied given the aforementioned factors, that there would not be an unacceptable impact on highway safety.
  17. I therefore conclude that the proposed development would not have an unacceptable adverse impact on highway safety. As such, there would be no conflict with Policy STRAT 10 of the Local Plan Part 1 which requires, amongst other matters, for new development to accommodate additional traffic safely. It would also not conflict with the Framework, which seeks at paragraph 110, to ensure that safe and suitable access to the site can be achieved for all users.

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<sup>1</sup> Situated in this same group of retail parks that the appeal site forms part of.

18. Reference has been made to Policy T 5 of the Local Plan Part 2, but the details of the policy that have been provided relates to rail corridors and it is not relevant to the appeal before me.

#### Other Matters

19. The Council has stated that they have, in making reference to another appeal<sup>2</sup> within the area, applied the development plan consistently. I have no reason to doubt this, but as the Council has acknowledged, each proposal should be considered on its own merits, and I have found the appeal development to be acceptable for the reasons set out.

#### Conditions

20. I have considered the conditions suggested by the Council and consultees, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of some of the suggested conditions as appropriate.

21. A construction management and highway management plan is required given the site forms part of a car park on an existing retail park and a condition is required to ensure adequate drainage of the site. It is essential for both of these to be pre-commencement conditions to ensure there is no adverse impact on highway safety and for the reason of flood prevention respectively.

22. A further condition is required to address risks from flooding which includes securing flood mitigation and flood emergency response measures, and I consider a condition is necessary in the interests of highway safety requiring details of any structure, walls, fences or means of enclosure to be agreed with the LPA. In the interests of character and appearance, a condition is necessary requiring the submission and agreement of materials.

#### Conclusion

23. I conclude that the proposed development would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.

*F Rafiq*

INSPECTOR

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<sup>2</sup> Ref: APP/A0665/W/22/3295847

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Dwg No: P AL-00-001), Block Plan (Dwg No: P AL-00-002), Existing Site Plan (Dwg No: P AL-00-003), Car Park Plan (Dwg No: P AL-00-101 Rev A), Floor Plan – As Proposed (Dwg No: P AL-20-002), Proposed Roof Plans (Dwg No: P AL-20-003), Elevations – As Proposed (Dwg No: P AE-20-001), Site Plan – As Proposed (Dwg No: P AL-20-100 Rev L) and Complete Site Plan – As Proposed (Dwg No: P AL-20-102 Rev D).
- 3) No development shall commence until details of a drainage scheme has been submitted to and approved in writing by the Local Planning Authority (LPA). 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. The development shall be implemented in full in accordance with the approved details prior to the first occupation of the development hereby permitted and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
- 4) Prior to the commencement of development, a construction management and highway management plan shall be submitted to and approved in writing by the LPA. The plan shall set out all works within the highway, include a timetable of works and details of construction compounds and signage. The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period.
- 5) No above ground works shall take place until details and samples of all proposed external facing materials have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 6) The development shall not be brought into use until the surface water drainage scheme has been implemented in accordance with the approved Drainage Strategy (Drawing Reference BKG-SUT-ZZ-XX-DR-C-0002 P01) and the flood mitigation and flood emergency response has been implemented in accordance with the Flood Warning and Evacuation Plan (Document Reference: UK14-21120).
- 7) No structures, walls, fences or other means of enclosure shall be erected on the site unless their size, materials and location have been submitted to and approved in writing by the LPA. The development shall thereafter be carried out in accordance with the approved details.

End of Conditions

# APPENDIX 2 | APP/F5540/W/20/3263879



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# Appeal Decision

Site visit made on 15 February 2022

by **L J O'Brien BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 23 June 2022**

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**Appeal Ref: APP/F5540/W/20/3263879**

**341 Vicarage Farm Road, HOUNSLOW, TW5 0DZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Vijay Laxmi Kumar against the decision of London Borough of Hounslow.
  - The application Ref 01151/341/P3, dated 30 July 2020, was refused by notice dated 24 September 2020.
  - The development proposed is Change of use from retail shop (A1) to Hot food take away (A5) and installation of extraction flue at rear elevation.
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## Decision

1. The appeal is allowed and planning permission is granted for Change of use from retail shop (A1) to Hot food take away (A5) and installation of extraction flue at rear elevation at 341 Vicarage Farm Road, HOUNSLOW, TW5 0DZ in accordance with the terms of the application, Ref 01151/341/P3, dated 30 July 2020 subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (30/07/2020), Existing/proposed floor plans No. – 01 (30/07/2020), Existing/proposed elevation No. -02 (30/07/2020), Existing/proposed elevations No. -03 (30/07/2020).
  - 3) The cumulative measured or calculated rating level of noise emitted from the mechanical services plant including heating, ventilation and air conditioning (HVAC) shall be 10dB(A) below the existing background noise level, at all times that the mechanical system etc. operates. The measured or calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or one metre from the facade of the nearest first floor (or higher) noise sensitive premises, and in accordance to the latest British Standard 4142. An alternative position for assessment /measurement may be used to allow ease of access, this must be shown on a map and noise propagation calculations detailed to show how the design criteria is achieved.
  - 4) The plant shall be isolated on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

- 5) Following installation of any mechanical services plant including heating, ventilation and air conditioning (HVAC) a post completion noise assessment shall be submitted to and approved in writing by the local planning authority which demonstrates the actual measured rating level of plant operating under normal conditions. All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. The post completion report shall be both completed and submitted to the local authority within 28 days of completion of the installation. The development shall be carried out in accordance with the approved details and retained as such permanently thereafter.

### **Main Issue**

2. The main issue is the effect of the proposal on public health.

### **Reasons**

3. The appeal site comprises a two-storey mixed-use property with a ground floor retail unit and residential accommodation above. The property is located within a busy neighbourhood centre and surrounded by a variety of commercial shops, businesses and hot food takeaways.
4. Policy E9 of The London Plan 2021 (The London Plan) states that development containing A5 hot food takeaway uses should not be permitted within 400 metres walking distance from the entrances and exits of an existing or proposed primary or secondary school. In this instance the Council state that numerous schools are within 400 metres of the site. Whilst I note that the appellant disputes this, during my site visit I noted several schools within easy walking distance of the site, including one located on the same road, and, as such, I consider that the proposal would fail to accord with Policy E9 of The London Plan in this regard.
5. However, the appeal site is located within a commercial area which contains a number of other hot food takeaways, some which are closer to one of the identified schools. I have been provided with no compelling evidence to suggest that the proposed hot food takeaway would offer a more persuasive or unhealthy choice for school children than any of the existing takeaways. Though the proposal would add an additional hot food takeaway in this location, given the context, I do not consider that this would cause harm to public health.
6. Consequently, the proposal would not be at odds with Policy C13 of the London Borough of Hounslow Local Plan 2015 – 2030 which seeks to make the borough an environment which encourages healthy living.
7. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that 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. In this case, though I have found conflict with Policy E9 of The London Plan, I consider that the specific material considerations with regard to the appeal site are such that they indicate that planning permission should be granted.

### **Conditions**

8. In the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions proposed by the Council. Alongside the standard time limit condition, I have imposed a condition specifying the relevant plans as this provides certainty. In order to ensure that the development does not have an adverse effect on the living conditions of neighbouring residents I have imposed conditions in respect of plant and mechanical services to the development.

### **Conclusion**

9. For the reasons given above I conclude that the appeal is allowed.

*L J O'Brien*

INSPECTOR

# APPENDIX 3 | APP/F5540/W/20/3263879



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## Appeal Decision

Site visit made on 6 December 2022

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023

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**Appeal Ref: APP/U5930/W/22/3299945**

**306 High Road, Leyton E10 5PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Carltonmoore Limited against the decision of the Council of the London Borough of Waltham Forest.
  - The application Ref 214047, dated 22 December 2021, was refused by notice dated 25 February 2022.
  - The development proposed is the change of use from Estate Agent (Use Class E(c)(iii)) to hot food takeaway (Use Class Sui Generis) with demolition of existing garage and erection of single storey side extension, new shopfront, boundary fencing, new access to residential unit at first and second floor (Use Class C3) and installation of extract and ventilation equipment to rear. Proposed opening hours Monday to Sunday 11.00 to 23.00 including Bank Holidays
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application form described the proposal as the change of use from vacant estate agent (Class E) to hot food takeaway (sui generis) with demolition of existing garage and erection of single-storey side extension and replacement shopfront and installation of extract and ventilation equipment. The main parties agreed to change the description to that in the Decision Notice, which I have used.
3. Reference has been made to the emerging London Borough of Waltham Forest Draft Local Plan. However, this is at the examination stage and does not form part of the development plan. I therefore attach limited weight to its emerging policies.
4. The appellant has submitted updated drawings amending the shopfront design. These show changes to the placement and size of fenestration and to the external materials, colouring and decorative detailing. Together I consider that these changes amount to a materially different external design to that considered by the Council and consultees. The appeal process should not be used to evolve a scheme. Having regard to the Wheatcroft principles<sup>1</sup> and guidance<sup>2</sup>, I have considered the appeal on the plans which formed the basis of the Council's decision.

### Main Issues

5. The main issues are whether: (i) the proposed development would preserve or enhance the character and appearance of the Leyton Town Conservation Area; (ii)

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<sup>1</sup> Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

<sup>2</sup> 'Procedural Guide Planning Appeals – England'

the appeal site is a suitable location for a hot food takeaway; and (iii) the proposal would make adequate provision for cycle parking.

## **Reasons**

### *Conservation Area*

6. The site is the ground floor of No. 306 High Road at the junction with Huxley Road. It sits in the Leyton Town Conservation Area (the CA), at its northern boundary as part of a terrace of eight properties. This part of the CA is defined by ground floor commercial units with residential uses above. Its special interest derives from the Victorian architecture, with certain traditional detailing retained at street level.
7. The shopfront at the site is a later addition, with the red brick juxtaposing with the traditional floors above. However, it retains proportions and detailing reflective of the historic character. In addition, the positioning of fenestration relative to the entrance creates a legible design that assimilates with the other frontages in the immediate terrace. Overall, it contributes positively to this section of the CA.
8. The proposal would incorporate traditional features. It would be constructed from yellow brick to reflect the upper floors of the property, with a timber fascia finished in a Traffic Grey. While shopfronts in the immediate terrace are predominantly lighter, certain units feature darker signage. The limited use of Traffic Grey in the overall context of the site frontage, positioned primarily at the top of the shopfront, would not therefore appear incongruous.
9. An extract duct would be installed on the Huxley Road elevation, visible on the approach to the CA. However, there are other hot food takeaways in the immediate area and this elevation features a prominent, modern advertisement. In this context, the modest extract duct would not appear out of place or detract from the overall character of the building or area.
10. However, the proposal would create an imbalance in the immediate terrace. It would add a notable element of bulk, reducing the consistent proportions of the units and resulting in an incongruous expanse of brick on the front elevation, creating an unduly dominant shopfront. While it would be experienced alongside the large shopfront of No. 308, it would nevertheless upset the overall composition of the terrace within the CA. In addition, although the fenestration position would be retained, its setback from the entrance would reduce the legibility of the site. Even when occupied, the unit's solid brick expanse would be at odds with the active frontage of the terrace.
11. As such, the proposal would cause visual harm to the site and its contribution to the surrounding character and appearance. It would therefore neither preserve nor enhance the character or appearance of the CA. Its effect would be localised at the edge of the CA, in an area of varied design, such that overall the harm would be 'less than substantial'. The Framework makes it clear that great weight should be given to the conservation of heritage assets. Paragraph 202 specifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal.
12. I acknowledge the benefits put forward by the appellant. The proposal would contribute to the vitality of the area by bringing the site back into use. It would create jobs and have the possibility for linked trips with surrounding uses. However, given its single unit nature these benefits are limited. In

addition, I consider such benefits could be achieved by an alternative scheme that does not result in visual harm to the surrounds. As such, I find that these public benefits do not outweigh the less than substantial harm identified.

13. For the reasons given, the proposal would neither preserve nor enhance the character or appearance of the CA. As such, it would fail to comply with Policies CS12, CS14 and CS15 of the Waltham Forest Local Plan - Core Strategy 2012 (the CS), Policies DM25, DM28 and DM29 of the Waltham Forest Local Plan - Development Management Policies 2013 (the DMD), the Supplementary Planning Document - Urban Design 2013 and the Supplementary Planning Document - Shopfront Design Guide 2016, which together seek to ensure good design and to protect heritage assets.

#### *Suitable Location*

14. Policy DM25 of the DMD seeks to maintain A1 uses at street level, and Section B states that development should not lead to a proliferation of non-retail uses of more than 50% of the length of the frontage. More than 50% of the immediate frontage of the site, and the wider Leyton District Centre Secondary Frontage, is currently in non-retail use.
15. However, even acknowledging the Class E use of the site, the proposal would not replace a current retail unit given the former use of the site as an estate agent. As such it would not lead to a proliferation of non-retail units but would retain the current situation. I therefore consider the change of use to a hot food takeaway would not in itself conflict with Section B of Policy DM25.
16. Policy DM23 of the DMD resists hot food takeaways where, among other things, they are within 400m of the boundary of a school, youth centre or park. This policy seeks to address rising levels of obesity, particularly among young people, and supporting text is clear that 400m is a more practical equivalent than a 10 minute walk for the purposes of this policy. Numerous schools are in the area but are over 400m walking distance from the site, which I consider to be the intention of the policy rather than a distance taken as the crow flies. Similarly, the policy makes no reference to nearby nurseries.
17. However, Sidmouth Park and Coronation Gardens are within 400m of the site. While local and national policies promote vitality of communities by an appropriate mix of uses, they also seek to support healthy lifestyles. Given the likelihood for young people to visit parks, an exclusion zone for takeaways near such spaces complies with wider policy aims. While it is alleged the current exclusion would cover most of the town centre, no substantive evidence shows this to be case. Furthermore, although Policy 54 of the emerging local plan does not include reference to parks, as set out above I can give very limited weight to this. As such, I give full weight to Policy DM23, with which the proposal would conflict due to its proximity to parks.
18. Nevertheless, given the Class E use of the site, it could be used as a shop, café or restaurant without the need for planning permission. This is a material consideration. Such uses could sell food deemed as unhealthy as that of a hot food takeaway. This includes confectionary, sugary drinks, snacks of limited nutritional value and similar hot food choices to that of the proposal.
19. These may be more attractive and accessible to schoolchildren, particularly given the likely lower price point when compared with a hot food takeaway. As

such, there is no substantive evidence that the type of food sold at the proposal would be any more harmful to the health of schoolchildren than that which could be purchased if the site reopened as another Class E use.

20. For the reasons given, although the proposal would not comply with the provisions of Policy DM23 of the DMD, this is outweighed by the lack of substantive evidence that it would cause greater harm to the health and well-being of local school children when compared with the lawful use of the site under Class E. Furthermore, the proposal would comply with the provisions of Policy DMD25 of the DMD, Policy E9 of the London Plan 2021 and Policy CS13 of the CS, which together seek to promote health and wellbeing and ensure hot food takeaways are not permitted within 400 metres walking distance of schools. Overall, the site would be a suitable location for a hot food takeaway.

#### *Cycle Parking*

21. Policy DM16 of the DMD requires minimum cycle parking standards as set out in Appendix 4 of the DMD. As a result, the proposal would be required to deliver 4 cycle parking spaces. No such cycle parking is shown on the plans submitted with the application.
22. However, had the proposal been acceptable in all other aspects, I am satisfied that a suitably worded condition could have been attached requiring submission of a plan for the Council's approval, demonstrating the position and type of any such cycle parking facilities.
23. Subject to the imposition of the condition referred to above, the proposal would provide adequate cycle parking facilities. As such, it would comply with Policies CS7 of the CS and Policies DM14 and DM16 of the DMD, which relate to sustainable transport.

#### **Other Matters**

24. The appellant has referred to numerous appeal decisions which have granted planning permission for hot food takeaways. However, each case must be decided on its own site specific merits and reference to development elsewhere therefore carries little weight.
25. The appellant's frustrations with the Council's approach to pre-application discussions are noted. However, this does not impact the consideration of the planning merits of the case.

#### **Conclusion**

26. For the reasons given, while I have found in favour of the appellant on the second and third main issues, this does not justify the harm identified on the first main issue. As such, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

*C Rafferty*

INSPECTOR

# APPENDIX 4 | ESG Statement April 2025

# Burger King - Environmental, Social & Economic Statement for Planning

Burger King (BK) have developed a strategy with five key pillars to address the wider social, environmental, and economic impacts of its business. This statement outlines the key commitments that BK has made, progress to date and outlines the benefits that BK can bring to an area through the development of a new restaurant.

BK have a comprehensive set of company policies and procedures that detail its position and policy requirements for each pillar. These have been developed in consultation with external stakeholders to ensure they reflect current thinking and address the external risks and headwinds that face the company and the wider food industry. The policies and procedures are underpinned by BK’s due diligence system to ensure legal compliance as a bare minimum and also inform its approach to risk management.

A summary of these key pillars is provided below.

## **Pillar 1. Good for the Planet**

### Climate Action

BK understands that tackling climate change involves it managing its direct and indirect environmental impacts. BK is focused on delivering green and sustainable growth, with ambitious goals in place to reduce BK’s carbon footprint. Its carbon reduction targets have been approved by the Science-Based Targets

Over the last few years, BK have installed energy saving equipment for their restaurants such as cooking equipment, LED internal and external lighting, and light timers. In addition, team members are supported with energy saving guidelines so they can play their part in helping to reduce energy usage in restaurants.

BK recognises that investment in innovation will be key to it achieving its climate-related targets. An example of this innovation is the commitment to offering plant-based meat free options on its menu. Harnessing new technology and investing in product innovation, meat free products have been developed using ingredients that are sustainably sourced, produced with lower environmental impacts and still meet BK guests’ expectations for great quality and taste.

All proposals will be designed to meet the relevant Local Planning Authorities standards with regard to environmental sustainability.

### **Commitment by 2030:**

- Reduce absolute scope 1 & 2 emissions by 100% (vs 2019 base year)
- Reduce scope 3 emissions by 41% per restaurant (includes purchased goods and services, waste, franchises and transport) (vs 2019 base year)
- Have a 50% meat-free menu

## Progress to date

- All owned restaurants transitioned to 100% renewable energy tariffs in August 2021 meaning our market-based scope 2 emissions were 0 in FY2022
- Hourly energy reporting is in place for restaurant teams, with training and campaigns developed to encourage energy reduction
- Specific energy reduction initiatives include:
  - A review, upgrade and cyclical maintenance plan for our heating, ventilation & air conditioning (HVAC) systems and hot water boiler systems
  - A retrofit of LED lighting to over 30 recently acquired restaurants
  - Providing energy efficiency welcome packs to all newly opened restaurants
- Multiple plant-based items now on the menu including the Vegan Royale. By 2030, 50% of our menu will be plant based
- Learnings and customer insight from trials of fully plant-based restaurants in 2022, will be applied for future restaurants.

## Waste Management

BK are committed to reducing waste and are working with suppliers to reduce waste both within supply chain and restaurants. BK believe that the best way to reduce waste is not to create it in the first place and it is working hard with its suppliers to reduce waste both within its supply chain and its restaurants.

All proposals for new restaurants will be supported by delivery and servicing management procedures bespoke to any site and any individual Local Planning Authority's requirements. The ambition is for all waste and recycling to be removed safely and considerately without negatively impacting the local environment and highway around the site.

## Commitment by 2025:

- 100% packaging will come from renewable, recycled or certified sources
- Eliminate use of single use plastics wherever possible and remaining plastic to be at least 30% recycled materials
- 30% reduction in food waste

## Progress to date

- Plastic toys were removed from children's meals in September 2019, reducing annual single-use plastic in our restaurants by c.320 tonnes.
- All waste frying oil is recycled and converted into biofuel. In 2021, the carbon saved from our oil recycling was equivalent to taking 947 cars off the road.
- Ongoing restaurant initiatives are taking place to reduce waste. For example, the introduction of single napkin dispensers reduced the number of napkins used by 30%. Plastic lids were removed for dine-in transactions in October 2022, saving over 30 tonnes of plastic a year. A

food waste trial is also currently being set up with WRAP to enable us to support WRAP's Target, Measure Act roadmap with a target of reducing food waste by 30% by 2025

## Certified sustainable sourcing

Sustainable sourcing is fundamental to the ability of providing reassurance to customers on where products come from and how they are made. BK have policies on key commodities including palm oil, soy, beef, tea, coffee, sugar, cocoa, and paper as it is acknowledged the way in which they are sourced can have major social and environmental impacts.

Suppliers who source these commodities must be able to demonstrate that they have done so sustainably through compliance with BK policies and independent certification by the commodity specific internationally recognised independent certification bodies, such as Roundtable on Sustainable Palm Oil, Forestry Stewardship Council and the Rainforest Alliance. This independent verification ensures that BK can confidently provide products to its customers that are economically, socially and environmentally sustainable and fully traceable.

BK will continue to review these policies with its suppliers on an annual basis, and as new legislation or regulatory frameworks are developed, to ensure that all parts of its supply chain source with integrity.

### **Commitment by 2023:**

- 100% certified sustainable sourcing on all key commodities
- Continuous improvement towards segregated certified sustainable commodities

### **Progress to date**

- Clear policy requirements for forest-risk commodities: beef, palm oil, soy, tea, coffee, cocoa, timber and paper. Suppliers of these commodities are required to provide third party certification of sustainable sourcing or a roadmap to achieve this.
- Sustainable sourcing criteria is now embedded into tender processes for beef

## **Pillar 2. Animal Welfare**

BK care deeply about the health and welfare of animals and understand their responsibility to ensure that high standards of animal welfare are maintained at all times.

BK have developed an animal welfare policy to cover all meat species, dairy and eggs and including requirements for responsible antibiotics management and this supports the animal welfare requirements of its parent company, Restaurant Brands International. BK have made a good start on its journey of promoting responsible animal welfare throughout its meat supply chain, with over a third of its total meat purchases being produced on farms that have been subject to third party audits on farm animal welfare. An example of this is all BK's eggs, either whole shell or used as ingredients in powder or liquid form, are produced to free range standards.

## Commitments:

- By 2025, all animal proteins must be sourced from farms that have been independently audited to farm animal welfare standards.
- BK will work towards the standards of the Better Chicken Commitment 2026.

## Progress to date

- 100% of our eggs as whole shell egg and as an ingredient are produced to free range standards
- All beef is British and Irish, reared and produced to the British Quality Beef standard and Irish Beef Standard

## Pillar 3. Good for our People

Burger King is all about people; from restaurant team members through to everyone who works in supply chains. The commitment to them is that they will be treated fairly and with respect and wherever possible BK will make a positive impact on their lives.

Burger King's 6,600 employees all contribute to the successful business and are focused on building the business for the future. BK believes in them as individuals with their own needs and wishes and wants to inspire them to do the best job they can, by living up to the principles of equality, diversity and inclusion, treating people fairly and genuinely engaging with them.

Restaurant operations teams are vital to the success of the business and BK hold regular sessions with Regional Operations Managers on the importance of effective leadership and team engagement. In 2022, BK people engagement workshops have supported in the turnover of assistant managers reducing by 8% and team members by 5%.

BK also have comprehensive diversity and inclusion training programmes for restaurant and support centre managers, including recruitment workshops.

## Commitments:

- Work towards minimum 70% of internal management appointments by end 2023
- Increase connectivity between our Whopper Support and Operational teams as measured through our regular surveys
- Work towards a positive shift in 2022 in responses to the statement: "My Manager creates an environment where everyone feels included"
- Ensure the management gender balance reflects the gender balance of the total regional workforce
- Using the results of the supplier risk mapping, work on risk mitigation and managed risk programmes to ensure compliance with our ethical standards
- Undertake regular human rights training for our supply chain and restaurants

## Progress to date

- Following detailed analysis of people-related data and team member interviews, a comprehensive approach to Diversity & Inclusion has been developed with clear KPIs that are monitored and measured.
- There are dedicated training and development strategies created for restaurant and support centre employees
- A robust physical and mental wellbeing agenda is in place, including employee assistance programme and winter wellbeing initiatives

## Career Development

BK's people are its priority, and it is committed to helping everyone who joins go further, faster, and bigger in their careers. It's why BK regularly review the development and support opportunities it offers. Staff will be offered a development plan, which will depend on your role and your own goals and ambitions, but as a minimum it will include individual career conversations, bespoke 360s, and team builds. This will include:

- 6 monthly performance and career development conversations. Not only will they help you grow, but they'll also help us shape the support and development that BK give to all of its Managers.
- BK also run a fantastic 'Feed it forward' initiative, which gives everyone the opportunity to share the love with feedback that can help their colleagues grow in their roles.
- Monthly Training calendar that Managers at all levels can access.
- Restaurant Managers also take on extra responsibility in Regional Training support roles as Certified Restaurant Trainers (CRTs).

BK has recently launched a careers platform, which includes details on its: its Story; Diversity, Equity & Inclusion policies; Benefits; Talent Development; BK for Good charter; and Our Roles. Full details are here: <https://careers.burgerking.co.uk/>

Any new restaurant would create new job opportunities on site, in the supply chain and during the construction stage. It creates a wide range of new opportunities for the areas BK looks to locate, which includes starter/apprenticeship roles, flexible roles and through to full career development opportunities with full support throughout, as outlined on the career's website. Accordingly, any planning application would generate a diverse range of quality job and training opportunities for the local area.

## **Pillar 4. Good for our Guests**

BK prides itself on offering customers the very best product quality when they visit whilst continuing to focus on delivering great customer service and value for money. With the millions of guests they serve each year, it recognises the part that it can play in helping those customers who want to make healthier lifestyle choices.

### Balanced choice

BK believe that its menus should offer a balanced range of products from healthier options to the more indulgent products. BK has a number of products that are less than 600 calories including its bestselling items, the Whopper, Chicken Royale and plant-based options with children's meals containing less

than 300 calories. In addition, BK offer a number of no added sugar drinks such as juices, sugar-free cola, coffees and bottled water which make up over 50% of total drinks sales.

## Menu development

Burger King UK supports the UK Government's position to tackle childhood obesity and BK have used sugar, salt and calorie reduction targets to inform its menu development particularly on bestselling items while ensuring BK do not compromise on food quality and taste.

BK have adopted a 'clean label' policy across the whole of its menu including kids' menu where no product contains artificial colours, flavours or other additives.

## Children's Menu

BK continue to ensure that levels of salt, sugar, saturated fat and calories of all children's products are kept to a minimum, while ensuring that the products still taste delicious and appeal to children. BK support the "5 a day" message wherever possible with apple slices and the addition of Innocent Juicy Water which is made up of 70% real fruit and counts as one portion of the 5 a day and is school lunchbox compliant.

## Customer information

BK is committed to providing clear, easy to understand and readily accessible nutritional information for all our meals. Since 2017, BK have provided calorie labelling on all its restaurant menu boards and full nutritional and allergen information on our website. Customers can also have a bespoke calorie calculation online for any customised meal they may wish to have.

## Allergen Management

Burger King's priority is to ensure customers with food allergies and intolerances have accurate information to make safe choices from our menu. BK declare where any of the 14 specified allergens are present both in its restaurants and online. When one of BK's suppliers reports they have identified a risk of cross contamination in their production line, BK state the product may contain an allergen.

In common with other catering operations, Burger King UK restaurants are open environments and there is always a risk of cross contamination. However, BK has strict controls in place to reduce this risk in its own kitchens, such as separate storage areas, separate utensils and cleaning equipment for products contain allergens.

### **Commitments working towards the Office of Health Inequality & Disparities targets:**

- Sugar reduction of 20% in milk-based categories by 2021 (awaiting revised target)
- Sugar reduction of 20% in ice cream by 2020 (awaiting revised target)
- Salt reduction in line with the relevant category-based targets by 2024
- Calorie reduction of 20% by 2024

## Progress to date

- BK have adopted a clean label policy to our food menu with a ban on all artificial colours, flavours and preservatives
- Clear, easily understood nutritional information including calorie labelling has been available on our menus since 2017
- Over two-thirds of our menu is classified as non-HFSS
- Reformulation completed on our ice cream and shakes, reducing sugar by 20% and 12% respectively. Fat content also reduced in our mayonnaise to 50%, resulting in a 6% reduction in kcals for the Whopper and 7% reduction for the Chicken Royale

## Pillar 5. Good for Communities

BK strives to be a good neighbour in supporting and helping the communities in which they serve. BK will do this through creating jobs and driving skills development; reducing carbon impact and protecting the environment; improving wellbeing and quality of life; and supporting local good causes.

### Litter and Packaging

BK understand that litter can be a blight on society and are committed to tackling it in as many ways as it can. It is its policy that every restaurant should carry out a minimum of one litter pick per day when BK's team members pick up not just Burger King packaging but also any other litter that may have been discarded in the vicinity of the restaurant. BK are also looking to increase anti-littering signage within its restaurants and car parks, as well as working with others in local communities to find ways to encourage customers to dispose of their litter responsibly. BK conducted a piece of research in collaboration with Hubbub and Coca-Cola Europacific Partners to investigate men's attitudes and behaviours around littering. The final report has been published externally to help drive better engagement and communications with this audience.

It is difficult to control how people ultimately dispose of their packaging. BK are aware there are some people who despite anti-littering measures will continue to litter, so it is working very hard to mitigate the impact on the environment by improving the recyclability and compostability of its packaging. BK's aim is for 100% of its packaging to be reusable, recyclable or compostable by 2025.

### Noise and Odour

Over half of the sites that BK own and operate are out of town drive thru or retail park operations where residential occupancy is low. However, BK recognises the potential impact that noise and cooking odours can have on the local environment and so as a minimum, Burger King UK adheres to all Government guidance relating to noise and odour reviewing each site on a case-by-case basis.

To reduce odour emissions, ESP filtration energy efficient equipment is included in all BK ventilation systems that eliminates up to 98% of oil, grease and smoke particles. This is complemented by UV technology to reduce cooking odours by up to 90%. All extract ventilation equipment is turned off at night and condensers are on timers to reduce any night-time noise.

Any planning application for external plant would be supported by an acoustic assessment and odour mitigation details, prepared by BK's expert consultants, which will demonstrate the restaurant will operate within the relevant Local Planning Authority's guidelines.

## Disturbance and Anti-Social Behaviour

BK seeks to deter and control any anti-social behaviour with bespoke policies for any site. CCTV is installed at all restaurants and has been upgraded at most sites so BK can easily access footage as required.

Incident reports are constantly monitored to understand whether any restaurants require further help. Where anti-social behaviour is not under control, BK will place guards and liaise with local police and youth workers.

Conflict management training is provided for all staff, and pitched differently depending on level (i.e. crew vs manager).

StaffSafe is a safety device fitted into sites to offer support to staff and customers within the premises. The device connects to the StaffSafe control room, where experienced operators field assistance calls 24/7, 365 days a year to deter anti-social behaviour, verbal and physical abuse, and threat of harm involving the use of weapons.

BK's team do an assessment on all new restaurants to understand crime statistics for the area, with StaffSafe then installed where the CAP Score is over 400 (i.e. 4x the national average). The team will also take a steer from the local Operations Managers if they know that an area is particularly bad for anti-social behaviour.

The hours of opening for any restaurant will be carefully considered and will typically be consistent with other surrounding uses or hours deemed to be appropriate to the specific location.

### **Commitments:**

- Work with long-term charity partner, UK Youth, to drive sustainable change in local communities
- Develop a community investment strategy that supports our teams to make a positive difference in their local communities
- Ensure food surplus is donated to charitable causes
- Enhancing the environments around our restaurants by addressing litter, noise and odour

### **Progress to date**

- Burger King UK co-funded research into understanding the attitudes and behaviours around littering to drive more effective litter reduction communications
- Long-term charity partnership established in 2022 with UK Youth, plus donations made to multiple charities including Hospitality Action, Trees for Cities and the Disasters Emergency Committee
- Supported Business in the Community's National Business Response Network in the Covid-19 pandemic, for example by providing 20,000 takeaway bags to Surrey County Council to support food distribution to vulnerable residents

## **Policy Implementation and Reporting**

BK is not just committed to delivering this strategy, but BK will also drive continuous improvements across a much broader range of issues that, for it, constitute 'business as usual' such as food safety, health and safety, employee training and development and supply chain relationships.

BK has established policies for implementation and reporting, including internal engagement and stakeholder engagement.

This Statement is an evolving document and is submitted in support of a planning application. It has been compiled by Chris Jones, Emma Conwell and Tom Roberts of Firstplan using information provided by Burger King. It will be updated periodically and is accurate at the time of writing.

