

Item No: 5.1
Application No: 17/01852/FUL Author: Rebecca Andison
Date valid: 13 December 2017 ☎: 0191 643 6321
Target decision date: 7 February 2018 Ward: Collingwood

Application type: full planning application

Location: Car Park South of Unit 13 And 14, Collingwood Centre, Preston North Road, North Shields

Proposal: Erection of a drive thru restaurant with associated access, disabled car parking, cycle stands, and hard and soft landscaping

Applicant: Erindale Ltd and Wm Morrison Supermarkets Plc, C/o Agent

Agent: Barton Willmore, Mr Craig Barnes Tower 12 18/22 Bridge Street Spinningfields Manchester M3 3BZ

RECOMMENDATION: Application Refused

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 Main Issues

1.1 The main issues for Members to consider in this case are:

- whether the principle of the proposal is acceptable;
- the impact on public health;
- the impact upon surrounding occupiers;
- the impact on the character and appearance; and
- the impact on highway safety.

1.2 Planning law requires that application for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

2.0 Description of the Site

2.1 The application site is located within the Collingwood Centre, on Preston Road North Shields. It is located to the south of Units 13-14 and is currently used for parking. The eastern section contains public parking, and beyond a dividing wall to the west is staff parking.

2.2 To the south and west are areas of planting, which separate the site from Beach Road and residential properties on Heybrook Avenue.

2.3 The site lies within the area designated as Preston Grange Local Centre by the Local Plan.

3.0 Description of the Proposed Development

3.1 Planning permission is sought to erect a drive thru KFC restaurant with associated parking, access and landscaping.

3.2 The development has a floor area of 231.5 sq m and includes a 75 seat restaurant, which occupies approximately 1/3 of the floor area, toilets, kitchen, staff facilities and an enclosed yard. The seating area would be located at the east end of the building, where the main customer entrance is located.

3.3 The proposed building is single storey with a gently pitched roof, which slopes down from east to west. The external elevations would be finished in a mixture of timber cladding, textured brick, grey cladding and glazing.

3.4 Cars would enter the drive thru from the existing car park to the east and circulate in a clockwise direction around the building. A drive thru order window would be located on the south elevation, and a collection window on the north elevation.

3.5 The proposed opening hours are from 10:00 to 23:00 Monday to Saturday, and 11:00 to 23:00 on Sundays and Bank Holidays.

3.6 It is proposed to create a turning area for delivery vehicles on the northern boundary of the site. Access for delivery vehicles would be from the existing service road on the west side of the Collingwood Centre.

3.7 A service yard enclosed by 3.5m high walls is proposed at the west end of the building.

4.0 Relevant Planning History

17/01853/ADV - "KFC" Lettering Fascia sign to be attached to eastern and southern frontage. KFC logo Fascia sign to be attached to eastern frontage. 2no single wall mounted "Leader board" Fascia Signs to be attached to southern frontage. 4no wall mounted "Menu Board" Fascia Sign to be attached to southern frontage. "Menu Board" Fascia Sign will be orientated at an angle off the flat pain of the buildings towards vehicles using the drive through. 4no directional signage - Pending consideration

Relevant planning history for the Collingwood Centre:

Unit 11

15/02030/FUL - Change of use from shop (A1) to hot food takeaway (A5) at units 11a and 11b, 11 Collingwood Centre, North Shields. Installation of 2no high level flues to the roof of Unit 11.

Refused 26.08.2016 on grounds of harm to visual amenity and public health.

Unit 5

11/00739/FUL - Change of use from A1 (shops/retail) to A5 (hot food/takeaway) (Re-submission of 10/03184/FUL)

Refused 24.05.2011 on grounds of harm to residential amenity.

Historic Units 7 And 8

00/01352/FUL - Change of use from Wool Shop to hot food shop

Permitted 17.01.2001

Other relevant planning history:

Unit 2 Dukes Walk, Quorum Business Park

17/00898/FUL - Change of use of property from retail (Use Class A1) to takeaway (Use Class A5) – Refused 16.08.2017

Appeal upheld (APP/W4515/W/17/3184901)

5.0 Development Plan

5.1 North Tyneside Local Plan 2017

6.0 Government Policy

6.1 National Planning Policy Framework (March 2012)

6.2 Planning Practice Guidance (As amended)

6.3 Draft revised National Planning Policy Framework (March 2018)

6.4 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Main Issues

7.1 The main issues for Members to consider in this case are:

- whether the principle of the proposal is acceptable;
- the impact on public health;
- the impact upon surrounding occupiers;
- the impact on the character and appearance; and
- the impact on highway safety.

7.2 Consultations responses and representations received as a result of the publicity given to this application are set out in the appendix to this report.

8.0 Principle of Development

8.1 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Significant weight should be placed on the need to support economic growth through the planning system.

8.2 The NPPF sets out the core planning principles which, should underpin decisions and notes that planning should amongst other matters, proactively drive and support sustainable economic development to deliver the homes,

business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.

8.3 Policy S1.4 of the Local Plan states that proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of this Plan. Should the overall evidence based needs for development already be met additional proposals will be considered positively in accordance with the principles for sustainable development.

8.4 Policy DM1.3 states that the Council will work pro-actively with applicants to jointly find solutions that mean proposals can be approved wherever possible that improve the economic, social and environmental conditions in the area through the Development Management process and application of the policies of the Local Plan. Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise.

8.5 Policy S2.1 states that proposals that make an overall contribution towards sustainable economic growth, prosperity and employment in North Tyneside will be encouraged.

8.6 The proposed development would secure economic development and create additional jobs in accordance with the aims of the NPPF.

8.7 Town centre use -

8.8 The NPPF states that local planning authorities amongst other matters should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.

8.9 The NPPF, states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. Local Authorities are advised to demonstrate flexibility on issues such as format and size.

8.10 Policy DM3.4 of the Local Plan lists the criteria which proposals for main town centre uses on sites not within the town centres are required to meet.

8.11 The proposed drive thru restaurant is a main town centre use as defined by the NPPF. Paragraph 24 of the NPPF states that a sequential test must be applied to 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.

8.12 The application site lies within Preston Grange Local Centre. Paragraph 6.1 of the Local Plan advises that references in the Local Plan to town centres or centres apply to town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance.

8.13 Given that the application site is located within a designated Local Centre the principle of a town centre use is considered to be acceptable in terms of the above policies.

9.0 Impact on Public Health

9.1 The NPPF paragraph 7 explains the need for the planning system to perform a number of roles, including supporting strong, vibrant and healthy communities by, among other things, creating a high quality built environment that reflects the community's needs and supports its health, social and cultural well-being.

9.2 Paragraph 69 reiterates that the planning system can play an important role in creating healthy, inclusive communities. The PPG states that the link between planning and health has long been established. The built and natural environment are major determinants of health and well being.

9.3 It is clear that the link between planning and health has been set out in the NPPF and is integrated within the Local Plan, in particular policy DM3.7.

9.4 DM3.7 Hot Food Take-aways states "Proposals for A5 hot food take-aways will be permitted unless:

a. It would result in a clustering of A5 uses to the detriment of the character, function, vitality and viability of the defined centres or it would have an adverse impact on the standard of amenity for existing and future occupants of adjacent land and buildings.

b. There are two or more consecutive A5 uses in any one length of frontage. Where A5 uses already exist in any length of frontage, a gap of at least two non A5 use shall be required before a further A5 use will be permitted in the same length of frontage.

To promote healthier communities, the Council will:

c. Prevent the development of A5 use within a 400m radius of entry points to all middle and secondary schools, as shown on the Policies Map.

d. Prevent the development of A5 use in wards where there is more than 15% of the year 6 pupils or 10% of reception pupils classified as very overweight*.

e. Assess on an individual basis, the impact hot food take-aways have on the well-being of residents."

9.5 The written text to accompany DM3.7 states: "*NICE (2010) Guidance on prevention of cardiovascular disease outlines that food from take-aways and the 'informal eating out sector' comprises a significant part of many people's diet and indicates that local planning authorities (LPA's) have powers to control fast food outlets. It recommends that LPA's should be encouraged to restrict planning permission for take-aways and other food retail outlets in specific areas (for example, within walking distance of schools) as well as consider the concentration of fast food outlets in specific areas to address disease prevention.*

9.6 *Reducing levels of obesity is a key objective of the Council. One way this can be achieved is to encourage healthy eating. Large concentrations of hot food take-aways within our commercial centres and surrounding our local schools can have the opposite effect by encouraging unhealthy eating habits. Obesity levels have more than trebled in the last 30 years and a quarter of 4-5 year olds, over*

one third of 10-11 year olds and two thirds of adults in North Tyneside are either overweight or obese. The Council aims to reduce the proportion of children categorised as very overweight across the Borough. The aim is for a prevalence of very overweight in both reception and year 6 to be no more than 10% by 2020.

9.7 The prevalence of overweight children in reception hovers at around 10%. However, there are some wards that have more than 10% and we should aim to bring this below 10% in all wards.

9.8 By the time our young people have entered year 6 in some areas of the Borough this figure more than doubles. There are no wards in the Borough that have levels less than 10%. Therefore in terms of the policy to help work toward an overall target of 10% we are setting a threshold for year 6 pupils at 15% very overweight”.

9.9 In support of the proposal the application has provided the following:

1) KFC Good Neighbour Guide. This includes information regarding KFC’s approach to supporting local communities through training and regeneration projects; issues such as litter, noise, odour, lighting and traffic; food and nutrition and environmental impact.

2) Economic Benefit Summary outlining the benefits in terms of job creation during construction, operation and in the supply chain.

3) A letter in response to concerns raised by the Director of Public Health and the Manager of Environmental Health, and a Planning Statement has also been provided. The information relating to public health is summarised below.

a) Where it is not possible to identify a dominant Use Class then a development is Sui Generis, which in planning terms means that it has no defined Use Class. It is not possible to establish a dominant use for the proposed development and it is not expected that one element of the operations, in Use Class terms, will predominate over the other. On this basis, therefore, it is not possible to categorise the proposed development as either a Class A3 or Class A5 use. Consequently, having regard to the Use Classes Order, the proposed development can only be described as Sui Generis. Policy DM3.7 of the Local Plan applies to Use Class A5 Hot Food Takeaways only and does not therefore apply to the proposed development.

b) KFC is committed to working in partnership with Government to increase the availability of healthy diet and exercise choices. KFC has delivered on this by:

- Signing up to the Department for Health Responsibility Deal.
- Displaying calorie information in all of its circa 900 UK restaurants.
- Engaging in a programme of salt reduction across its menu.
- Not automatically salting fries and reducing salt sachet sizes.
- Removing all artificial trans fats from its menu a number of years ago.
- Working with the Food Standards Agency to improve its menu.
- Offering healthier choices such as salads, grilled chicken, vegetable sides and sugar free drinks.
- Taking a responsible approach to marketing.

c) KFC does not encourage unhealthy eating. It includes healthy menu choices, a variety of portion sizes, and continues to invest in improving the nutritional content of its menu. In order to help customers make the choices that are right for them, KFC provides nutritional information that is clear and easy to understand.

d) KFC does not directly target children with its marketing of offer toys with its kids' meals.

e) There is no objective evidence showing any link between the incidence of obesity and the proximity of hot food takeaways. Some hot food takeaways, together with restaurants, cafes, pubs and shops are clearly a source of cheap, energy dense and nutrient poor foods. However, not all hot food takeaways, restaurants, cafes, pubs and shops are, and the planning system, including Policy DM3.7 for that matter, is ineffective in distinguishing between those that are and those that are not.

f) The nature of the takeaway element being a drive through means that there is a finite capacity.

g) A drive through is only accessible to drivers of vehicles, meaning that children would not be able to access this unless accompanied by an adult.

h) The applicant is willing to impose a policy whereby employees are not permitted to serve children wearing uniforms

9.10 It is officer opinion that although a mixed use development, the proposal clearly includes an element of A5 use. The applicant has advised that they do not expect that either the A3 or A5 use would dominate over the other. The A5 element is therefore likely to represent a significant element of the business. It officer opinion Policy DM3.7 applies to this proposal.

9.11 The Director of Public Health has considered the information provided and objects to the application. She highlights the significant impact obesity has on people's health and quality of life, and advises that North Tyneside has one of the worst obesity rates in the North East.

9.12 In terms of the link between fast food outlets and obesity she disputes the applicant's claim that there is no objective evidence showing a link between the two. She refers to studies in North America and the UK which have found associations between the proximity of fast food outlets and obesity and unhealthy eating in teenagers. Exposure of adults to takeaway food outlets has been linked to a higher consumption of takeaway food and increased obesity.

9.13 In response to the information provided with regard to menu choice and nutrition the Director of Public Health advises that the KFC menu consists predominantly of high calorie fried food with high fat and salt levels, and that two thirds of the menu options exceeding the calorie limit recommend by Public Health England.

9.14 The application site is located in a Collingwood Ward which has one of the highest rates of very overweight and obese year 6 children in North Tyneside. Public Health England National Child Measurement Programme Data reports that between 2013/14 and 2015/16 22.9% of year 6 pupils in Collingwood Ward were very overweight/ obese. This figure has increased annually and during 2015/16 more one in four (28.4%) year 6 pupils in the ward were very overweight/obese. The proposal therefore clearly fails to comply with part d of Policy DM3.7, which seeks to prevent A5 use in wards where there is more than 15% of the year 6 pupils are classified as very overweight.

9.15 In addition the site is located less than 400m of John Spence High School, which has one of the highest rates of very overweight year 6 children in the borough. The proposal is also therefore contrary to part c of Policy DM3.7.

9.16 Part e of Policy DM3.7 states that the impact hot food take-aways on the well-being of residents will be assessed on an individual basis. In this case the applicant has provided information that explains the specific policies of KFC in encouraging healthy eating, providing healthier menu options, and not targeting school children.

9.17 A recent appeal decision made in respect of an application for A5 use within the Quorum Business Park (APP/W4515/W/17/3184901) is relevant to this issue. In this case the applicant advised that they intended to sell healthy food and that their customer base was not school children. The Inspector noted that it was the applicant's intention to sell healthy food but considered it unreasonable to assume that pressures on the business could not lead to a change to the nature of the food sold in the future. He also noted that the nature of the food sold could not be controlled by a planning condition. He considered that whilst it would be possible to monitor and enforce the occupancy of the premises, it would not be possible to enforce the nature or pricing of the food sold. The Inspector concluded that he had considered the individual circumstances of the proposal but did not consider that the circumstances could be ensured by an appropriate condition and that they did not outweigh the clear conflict with Policy DM3.7(d).

9.18 The applicant states that the operator is willing to impose a policy to prevent children wearing school uniforms being served and states that a drive through facility cannot be used by school children.

9.19 It would be difficult to enforce any condition restricting the sale of food to children in school uniform, and this would not prevent children being served outside school hours. The intention of policy DM7.3 is to promote the health and wellbeing of all residents in North Tyneside. The proposal would add to the supply and reach of hot food takeaways with resultant potential harm to the health of residents in the area.

9.20 The proposed use fails to comply with Policy DM3.7 and the objectives of NPPF. For this reason it is officer advice that the proposed use would result in significant harm to the health of residents in the area.

10.0 Impact on residential amenity

10.1 The NPPF states that there are three dimensions to sustainable development; economic, social and environmental. The planning system needs to perform each of these roles. The environmental role contributes to protecting and enhancing our natural, built and historic environment, and as part of this, helping minimise waste and pollution.

10.2 The NPPF outlines 12 core planning principles which should underpin decision taking. It states that local planning authorities should contribute to conserving and enhancing the natural environment and reducing pollution. It goes on to state that new and existing development should be prevented from contributing to unacceptable levels of air or noise pollution. To prevent unacceptable risks from pollution local planning authorities should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

10.3 Local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

10.4 The NPPF defines pollution as ‘anything that affects the quality of land, air, water or soils, which might lead to an adverse impact on human health, the natural environment or general amenity. Pollution can arise from a range of emissions, including smoke, fumes, gases, dust, steam, odour, noise and light.’

10.5 Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

10.6 Policy S1.4 of the Local Plan states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

10.7 DM5.19 states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development that may be sensitive (such as housing, schools and hospitals) to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

10.8 Policy DM6.1 of the Local Plan states that proposals are expected to demonstrate a positive relationship to neighbouring buildings and spaces; a safe

environment that reduces opportunities for crime and antisocial behaviour; and a good standard of amenity for existing and future residents and users of buildings and spaces.

10.9 Residential properties are located on Heybrook Avenue, approximately 23m to the north west of the application site. These properties are separated from the application site by a belt of trees/shrubs.

10.10 Objections have been raised by residents on the grounds that the proposed use will result in additional disturbance as a result of cooking odours and noise, and disturbance from customers, plant and delivery vehicles, particularly during the evening. These concerns are noted.

10.11 The service yard is located at the west end of the building and is enclosed by 3.5m high walls. The proposed opening hours are from 10:00 to 23:00 daily.

10.12 A noise report has been submitted. The report advises that day time delivery noise would not give rise to significant adverse impact. The Manager of Environmental Health advises that any planning permission should be subject to a condition to restrict delivery times to daytime only.

10.13 The applicant has stated that it is not possible to undertake a meaningful assessment of customer noise. The Manager of Environmental Health disagrees with this. She states that the proposal would result in a new noise source and additional noise from customers and vehicles using the premises after 22:00 when the Morrison's store closes. She advises that the noise assessment needs to consider noise from the use of the car park and drive thru, including customer voices, car radios and doors slamming.

10.14 The proposed drive thru is located closer to residential properties than the existing Morrison's store and would open until 23:00, an hour later than Morrison's. It would attract additional people to the area during the evening and has the potential to impact on the living conditions of local residents. Domino's pizza is permitted to until 23:00; however all customer and delivery activity takes place on the east side of the unit, away from the residential properties. It is therefore considered that the proposed drive thru has the potential to adversely affect the amenity of neighbouring residents as a result of additional noise and disturbance.

10.15 In respect of plant noise the Manager of Environmental Health has advised that a condition would be required to ensure that the noise generated by plant and equipment does not exceed existing background noise levels.

10.16 A low level extract flue, discharging into the rear yard, is proposed. The applicant has advised that the level of discharge is comparable to all new KFC drive-through restaurants that are approved and developed throughout the UK. They state that high level discharge is not necessary on account of the proposal to use a forced air system, which results in an equivalent high level discharge and dispersal. It is proposed to install a Purified Air System, which uses UV-C technology to produce ozone and hydroxyl free radicals to oxidise odours, as well as grease filters.

10.17 The Manager of Environmental Health has advised that full details of the proposed system including details of the air flows and the odour risk score are required to fully assess the suitability of the proposed odour control system.

10.18 Members must determine whether the proposal is acceptable in terms of its impact on the residential amenity of surrounding occupiers. It is officer opinion that insufficient information has been submitted to determine whether the impact of customer noise and cooking odours on the amenity of nearby residential occupiers is acceptable.

11.0 Impact on Character and Appearance

11.1 The National Planning Policy Framework states that good design is a key aspect of sustainable development and that permission should be refused for development of poor design.

11.2 Policy DM6.1 states that applications will only be permitted where they demonstrate high and consistent design standards. Designs should be specific to the place, based on a clear analysis the characteristics of the site, its wider context and the surrounding area.

11.3 LDD11 'Design Quality' applies to all planning applications that involve building works. It states that extensions must offer a high quality of design that will sustain, enhance and preserve the quality of the built and natural environment. It further states that extensions should compliment the form and character of the original building.

11.4 The Collingwood Centre contains a row of single storey brick units facing east towards the car park with the larger 2-storey Morrisons store to the north.

11.5 The proposed drive-thru would be located in the south west corner of the Collingwood Centre, on an area currently occupied by parking. A single storey building is proposed with a maximum height of 5m. The main entrance would be in the east elevation and to the rear (west) an enclosed service yard is proposed. The main east elevation would be largely glazed, and lit by down lighters. The east and west elevations would be finished in timber cladding, grey cladding, glazing and textured black brick. Further down lighters are proposed over the drive-thru service windows.

11.6 Members need to determine whether the proposed development would be acceptable in terms of its impact on the character and appearance of the site and surrounding area. It is officer advice the layout and design of the building are acceptable.

12.0 Car Parking and Access

12.1 The NPPF states that Transport policies have an important role to play in facilitating sustainable development, but also contributing to wider sustainability and health objectives.

12.2 The NPPF also states that development should only be prevented or refused on transport grounds where residual cumulative impacts of development are severe.

12.3 Policy T11 states that parking requirements will in general be kept to the operational maximum.

12.4 Development Control Policy Statement (DCPS) 4 'Car and Cycle Parking Standards' has been devised to minimise the impact on the private car by encouraging the greater use of public transport and cycling. This will be achieved by, amongst other matters, adopting a reduced requirement for car parking.

12.5 Local residents have raised concern that the proposal would result in harm to highway and pedestrian safety, highway congestion and parking problems.

12.6 A Transport Statement has been submitted in support of the application. The Statement includes a parking survey and a swept path analysis for delivery and refuse vehicles.

12.7 The development includes 2no cycle stands, an order waiting bay and 2no disabled parking spaces. It would result in the loss of 12no customer parking spaces and 16no staff parking spaces. The site is served by bus services to North Shields, Newcastle and Whitley Bay.

12.8 Cars would access the site from the existing Collingwood Centre car park, and delivery vehicles would use the existing service road to the west of the existing retail units.

12.9 The Highway Network manager has provided comments, and on balance recommends that the application should be approved with conditions. He notes that the Transport Statement demonstrates that there is currently significant capacity in the car park and predicts that it will also cope with the demand of the proposed uses when taking into account the loss of some parking spaces. He advises that the servicing details, including the swept path analysis, are acceptable. In terms of traffic generation he considers that the impact on the local highway network would not be severe.

12.10 Members need to consider whether the proposal would have a severe impact on the highway network. It is officer advice that the impact would not be severe and that, subject to the conditions recommended by the Highway Network Manager, the development is acceptable in terms of the proposed access arrangements and parking provision.

13.0 Other Issues

13.1 Ground Stability

13.2 The application site falls within a Coal Mining Development Referral Area and Coal Authority records indicate that there are coal mining features and hazards within the site and surrounding area which need to be considered in relation to the development.

13.3 It is a requirement of the National Planning Policy Framework, paragraphs 120-121 that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development.

13.4 Policy DM5.18 of the Local Plan states that where the future users or occupiers of a development would be affected by contamination or stability issues, or where contamination may present a risk to the water environment, proposals must be accompanied by a report which shows that investigations have been carried and set out detailed measures to allow the development to go ahead safely and without adverse effect.

13.5 The Coal Authority has been consulted and provided comments. They object to the application due to the failure of the applicant to provide a Coal Mining Risk Assessment Report.

13.6 No information has been submitted to assess the risk of developing this site in relation to historic coal mining activity. The proposed development is therefore contrary to the NPPF and Policy DM5.18 of the Local Plan.

13.7 Local Financial Considerations

13.8 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to local finance considerations as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local financial consideration as a grant or other financial assistance that has been, that will or could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments).

13.9 Economically there would be benefits in terms of the provision of jobs associated with the construction work and employment opportunities with the drive-thru.

14.0 Conclusion

14.1 In conclusion, Members need to consider whether the principle of the proposed development is acceptable, and whether the proposal is acceptable in terms of its impact on public health, residential amenity, the character and appearance of the area, highway safety and ground stability.

14.2 It is the opinion of officers that the impact on character and appearance and highway safety is acceptable. However it is officer advice that the proposal would have an unacceptable impact on the health of residents in the area and fails to comply with Policy DM3.7 of the Local Plan and the NPPF. It is also considered that insufficient information has been submitted to assess the impact of the proposal on the amenity of nearby residents as a result of additional noise and cooking odours. The proposal is also considered to be unacceptable due to the failure to assess the risk of historic coal mining activity. It is therefore recommended the planning permission should be refused.

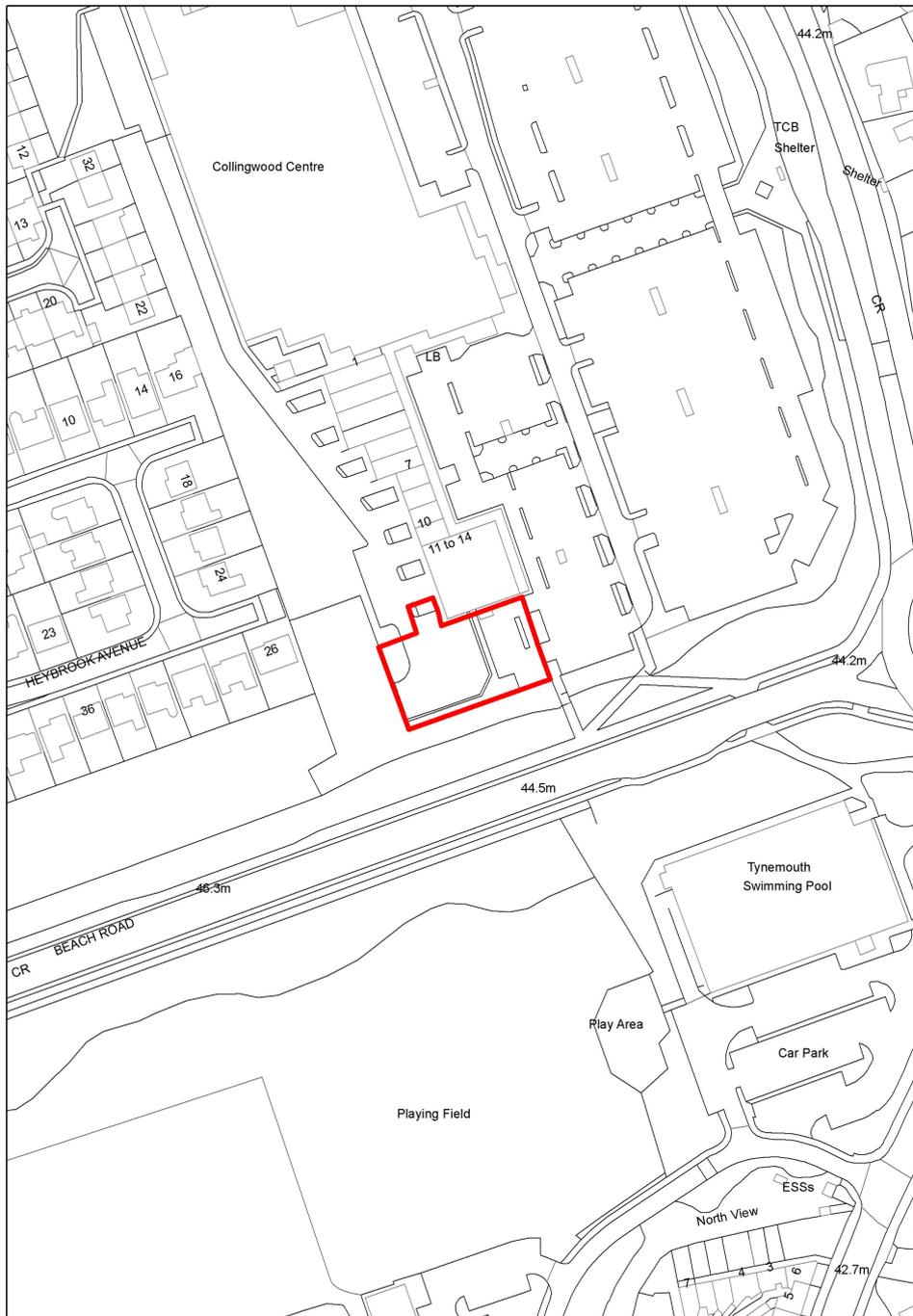
RECOMMENDATION: Application Refused

Conditions/Reasons

1. The proposed use does not meet the criteria of Policy DM3.7 of the Local Plan (2017). The site is located in a ward where more than 15% of year 6 pupils are classified as very overweight, and is within 400m of John Spence High School. As such the proposed use would cause significant harm to the health of residents in the area and is contrary to Policy DM3.7 of the Local Plan (2017) and NPPF.
2. Insufficient information has been submitted to assess the impact of cooking odours and noise from customer activity, including car doors, radio and raised voices, on the amenity of residential occupiers. The proposal therefore fails to comply with the NPPF and Policies S1.4 and DM5.19 of the North Tyneside Local Plan 2017.
3. No information has been submitted to assess the impact of coal mining legacy on the proposed development. The applicant has failed to demonstrate that the site is safe, stable and suitable for development, and that issues of land instability can be satisfactorily overcome. The development is contrary to the NPPF and Local Plan Policy DM5.18.

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

The Local Planning Authority offered solutions to the applicant in order to make the development acceptable. The applicant was however unwilling to amend the plans. Without these amendments the proposal would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. In the absence of amendments or conditions which could reasonably have been imposed to make the development acceptable it was not possible to approve the application. The Local Planning Authority has therefore implemented the requirements in Paragraphs 186-187 of the National Planning Policy Framework.

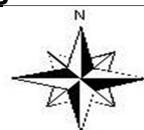


Application reference: 17/01852/FUL
Location: Car Park South of Unit 13 And 14, Collingwood Centre, Preston North Road
Proposal: Erection of a drive thru restaurant with associated access, disabled car parking, cycle stands, and hard and soft landscaping

Not to scale

Date: 21.03.2018

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**Appendix 1 – 17/01852/FUL
Item 1**

Consultations/representations

1.0 Internal Consultees

1.1 Highway Network Manager

1.2 This application is for the erection of a drive thru restaurant with associated access, disabled car parking, cycle stands, and hard and soft landscaping.

1.3 As part of the application a Transport Statement (TS) was submitted that examined the use of the existing car park during peak times as well as the impact of the proposed restaurant. The TS demonstrated that there is currently significant capacity in the car park and predicted that it will also cope with the demand of the proposed uses and taking into consideration the loss of some parking spaces. Details of servicing including swept path analysis have also been provided and are considered to be acceptable.

1.4 In terms of traffic generation it is considered that the impact on the local highway network would not be severe and for these reasons and on balance, conditional approval is recommended.

1.5 Recommendation - Conditional Approval

1.6 Conditions:

ACC25 - Turning Areas: Before Occ

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT06 - Construction Method Statement (Minor)

1.7 Informatives:

I13 - Don't obstruct Highway, Build Materials

I46 - Highway Inspection before dvlpt

1.8 Manager of Environmental Health (Land Contamination)

1.9 As the proposed development is located in a high risk development area (coal authority). The following conditions should be attached:

CON 01

GAS 06

1.10 Manager of Environmental Health (Pollution)

1.11 Initial comments 19.01.2018

1.12 I have concerns with regard to potential noise and odour from the erection of a drive thru restaurant with associated access, disabled car parking, cycle stands, and hard and soft landscaping at the car park south of Unit 13 and 14 at the Collingwood Centre.

1.13 The proposed development will give rise to potential odour and noise affecting the residential properties located to the rear of the site and for those located adjacent in Preston Wood. The proposed roof plan (0000/2017/A121)

suggests the flue to the takeaway/restaurant will be located to the rear of the site located within the service yard discharging at a low level. This will give rise to poor dispersal of cooking odours, as the flow of the discharge flue will be inhibited and result in flue emissions and cooking odours at ground level. The kitchen extraction system only refers to use of baffle grease filters for the odour control which would not be considered an adequate level of odour control system, only achieving a low level of odour control as outlined within the former DEFRA Guidance 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. This is likely to provide insufficient control when used in combination with the extraction flue located within the service yard. No system provides 100% removal of odours and additional hot food premises within the shopping parade will lead to an intensification of cooking odours affecting neighbouring residential premises to the rear.

1.14 There will also be associated noise arising from food deliveries to the unit and of takeaway deliveries. This department is already in receipt of complaints in relation to the use of the service road late at night. The noise report has considered delivery noise and determined this would not give rise to significant adverse impact based on daytime deliveries only. It would be unacceptable to permit night time deliveries as the existing 2.3m high boundary wall will provide limited screening for first floor bedrooms. HGV delivery vehicles are required to access the loading bay via the existing service road and reverse into the bay and there will be associated noise from the reversing alarms. If planning consent was to be given then a condition to restrict deliveries and collections to daytime hours only will be necessary. A restriction on the use of the rear service access road for the service yard to prevent its use late evening and early morning will also be necessary to minimise noise from vehicles to the rear of the site.

1.15 I have reviewed the noise report that has assessed the proposed plant noise. The report suggests that the 3.5m height boundary wall of the service yard will acoustically screen the plant and equipment. However, its effectiveness will be dependent on the source height of the plant. Please can the applicant confirm the source height of the plant and equipment, and if this has been considered within the noise assessment report for the determination of the cumulative specific noise level, which has been assessed as 27 dB LAeq at the nearest residential properties. It is important that the source heights have been fully taken into account to ensure the calculated noise level is correct. A validation assessment would be necessary if planning consent was to be given.

1.16 I note that the noise report has considered potential noise from customer vehicles arriving and exiting the site and also delivery noise. However, the noise report has not considered noise arising from customer voices and opening and closing of vehicle doors. The Morrisons store closes earlier at 10pm and although Dominos opens later the front shop is suitably screened by the building itself to minimise noise on residents to the rear of the shopping complex. Delivery drivers for Dominos are asked to park close to the front of the shop to minimise noise late evening. The location of the proposed drive-thru will result in a new noise source from its activities late evening and give rise to additional noise from customers and vehicle noise as the positioning of the building is closer to Heybrook Avenue where first floor habitable windows will have limited

screening from customer noise and vehicle noise and will give rise to potential disturbance for residents.

1.17 The National Planning Policy Framework guidance indicates the aim under Section 123 is "avoid noise from giving rise to significant adverse impacts on health and quality of life". The principal of the proposed drive-thru takeaway/restaurant will result in a significant change for the residents living in the Heybrook Avenue. The proposed new development will result in attracting more people to this area during the evening causing additional noise for nearby residents and this will have an adverse impact on the quality of life for the local residents.

1.18 I would therefore suggest that the proposed development would be contrary to section 123 of National Planning Policy Framework to avoid "noise giving rise to significant adverse impacts on health and quality of life". Any change to the use of the car park site for the provision of a drive-thru takeaway/restaurant would have a significant detrimental effect upon the quality of life for the nearby residential premises. I am of the opinion that the proposed hot food takeaway/restaurant, discharging to the rear of the unit will give rise to potential odours affecting neighbouring residential properties to the rear. I am also concerned that the proposed development will give rise to an intensification of use of the site resulting in additional noise during the late evening affecting the neighbouring residential properties and would be contrary to the National Planning Policy Framework and for these reasons I would therefore recommend refusal of the application.

1.19 Additional comments 16.03.2018

1.20 I have viewed the applicant's letter dated 19th February 2018 and additional information regarding the noise report. I continue to have concerns with regard to potential noise and odour from the proposed erection of a drive thru restaurant with associated access, disabled car parking, cycle stands, and hard and soft landscaping at the car park south of Unit 13 and 14 at the Collingwood Centre.

1.21 The applicant has indicated that deliveries can be restricted via a condition to minimise potential nuisance from this activity. If planning consent was to be given I would recommend a condition to restrict deliveries to 07:00 - 20:00 hours.

1.22 With regard to the noise from the plant and equipment I have reviewed the additional information relating to the source heights for the plant and equipment. I would recommend a condition to require a validation assessment if planning consent was to be given to ensure the specific noise level of plant and equipment does not exceeded the typical background noise levels as outlined in noise report ref 199/2017. This is necessary to prevent a creeping increase in the background noise levels in this area.

1.23 I disagree with the applicants view outlined within the letter from RS Acoustic Engineering Ltd that it is not possible to undertake a meaning full assessment of noise from 'customer noise'. There will be additional associated noise from customers using the premises and the car park after 22:00 hours when the Morrisons store closes. This will be a new potential noise source within the area and an assessment needs to be included within the noise report.

1.24 I note that door slams were considered within the assessment, but only in relation to the delivery assessment, which is averaged over the time period of 60 minutes. The assessment needs to consider short term noise from the Lmax noise levels from other associated noise from the car park use and the drive thru area such as slamming of car doors, car radios or loud voice from customers. The location of the proposed drive thru will bring customers and vehicles closer to the residential properties and the proposed hours of operation will be longer than the opening hours of Morrison's and therefore this new development may have a potentially detrimental effect on residential amenity and this needs to be fully considered.

1.25 I agree that it is not appropriate to consider short term impact noise in accordance to BS4142 guidance. The assessment methodology is only appropriate when considering the introduction of external plant or delivery noise and is not appropriate when considering the effects of short impact noise. However, it is not anonymous noise like passing traffic which is considered less intrusive than unfamiliar distinct noise; I therefore advise that the noise assessment must include an assessment of this type of noise to fully determine this application. As the noise report has not assessed for this potential source it has not demonstrated that the impacts from customer noise are negligible.

1.26 The applicant has clarified that additional kitchen extraction odour control will be provided in the form of a purified air system with UV-C technology. I would ask that full details of the proposed system including details on the air flows and sizes etc of the equipment are provided with the application. A copy of the odour risk score used for the assessment of the proposed odour abatement plant must also be provided to enable a full determination of the application.

1.27 Director of Public Health 05.01.2018

1.28 I am writing to object to the planning application.

1.29 My response is based on the North Tyneside Council Local Plan. The vision of the North Tyneside Local Plan is to enable all residents of North Tyneside to enjoy a healthy lifestyle and live healthier and longer lives. Reducing levels of obesity is a key objective of the Council. One way this can be achieved is to encourage a healthy diet. Developments that promote the sale of food high in fat, calories and salt within our commercial centres and in the immediate vicinity of our local schools and leisure centres have the opposite effect by encouraging unhealthy eating habits. There has been an increase in the proportion of food eaten outside the home. In 2014, 27% of adults reported eating takeaway food at least once a week and this increased to 55% in 2016. This is particularly concerning because hot food takeaways sell food that is high in fat and salt and low in fibre, fruit and vegetables. The food sold by KFC is predominantly high in calories, fat and salt. Menu items can contain more than one third of the daily calories, more than half the daily salt and around half the daily fat intake for an 11- 14 year old child.

1.30 It is my opinion that this application should be for combined A3/A5 use in order to include the hot food takeaway component of the proposal. The application as it stands is solely for Class A3 use which is defined as restaurants

and cafes, “for the sale of food and drink for consumption on the premises”. The applicant has provided no evidence to support their business case that the takeaway element of this unit is simply ancillary to the primary use, such as expected mix of restaurant/ takeaway and drive through sales. Furthermore, the Transport Statement makes clear that ‘Given that the proposed development is a drive-thru, there will be minimal parking required, as the main function will be take-away food’. Therefore the proposed drive through quite clearly constitutes A5 use “for the sale of food and drink for consumption off the premises”. The hot food takeaway element is clearly described by the applicant, paragraphs 4.8 - 4.13 of the Planning statement stating that:

- i) the drive through facility is a takeaway and
- ii) customers purchasing meals in the restaurant may eat these away from the premises.

1.31 Planning applications for similar KFC drive-through premises in different local authority areas, by the same applicants have included combined A3/A5 use. Drive through facilities are explicitly A5 use.

1.32 I believe that this application has been constructed in such a way to ignore the A5 usage because the Council’s Development Management Policy 3.7 in the Local Plan which covers Hot Food Takeaways, would mean that an application for A5 use in this location would be denied. There is a growing concern by other local authorities by what is being termed “A5 by the back door” whereby planning permission is only sought for A3 use (in the light of many local authorities having developed policies to control fast food outlets) but where premises are quite clearly operating predominantly as an A5 use⁶.

1.33 The proposed premises are located within 400m of John Spence Community High School in Collingwood Ward which has one of the highest rates of very overweight and obese year 6 children in North Tyneside. On this basis A5 use would not be permitted in the light of policy DM 3.7. A previous planning application 15/02030/FUL in the Collingwood Centre for the change of use from shop (A1) to hot food takeaway (A5) was refused on these grounds.

1.34 In addition the North Tyneside Local Plan does not permit applications for hot food takeaways (A5 use) in wards where more than 15% of year 6 pupils are very overweight. Public Health England National Child Measurement Programme Data reports that between 2013/14 and 2015/16 22.9% of year 6 pupils in Collingwood Ward were very overweight/ obese. This figure has increased annually and during 2015/16 more one in four (28.4%) Year 6 pupils in this ward were very overweight/obese.

1.35 The applicant is wrong to state that the intention of Policy DM3.7 is simply “to limit the access of children of a schooling age in accessing takeaway foods during school hours”. The intention of DM 3.7 is promote the health and wellbeing of all residents of North Tyneside. There is evidence that the most popular time for school children to purchase food from shops is after school. In addition, a recent Food Standards Agency survey found that takeaways were more frequently eaten in households with children aged under 16 years. The applicant states that the operator is willing to impose a policy to prevent children wearing

school uniforms being served and would engage with the local school to ensure this is implemented effectively. In practice, this would be impossible to enforce, particularly after school hours and would not effectively encourage healthy eating at other times.

1.36 The applicant also states that a drive through facility cannot be used by school children, ensuring that access to food is controlled by an adult driver. There are many young people in North Tyneside under the age of 18 years who are car drivers and attend school in the Borough. They are not required to wear school uniform if attending sixth form and there is clearly potential for young people from schools in the surrounding area to access the proposed drive through by car.

1.37 This proposal undermines work that is being done to promote healthy eating and lifestyles among young people across North Tyneside. All schools in the borough participate in the North Tyneside Council Healthy Schools Award scheme. A healthy lifestyle and physical fitness is central to the ethos of John Spence Community High School. Research conducted by Northumbria University with young people in North Tyneside showed that young people felt they had insufficient knowledge about a healthy diet. Students from John Spence Community High School produced a video to support this and national resources are being developed to help young people increase their knowledge and eat a healthy diet.

1.38 In conclusion, I object to this application because of the negative impact that it will have on the well-being of residents. This planning application is considered as A5 use and under the current Local Plan policy DM 3.7 the application should be refused. More than 15% of Year 6 children are overweight in all wards adjacent to the proposed premises. The site is less than 400m from John Spence High School, less than 20 minutes walk from another two secondary schools and a sixth form college and is opposite the busy Tynemouth Pool and leisure centre. The Collingwood Centre is already well-served with food outlets including Domino's Pizza (A5 use) and Subway.

1.39 I am also very concerned that this proposal will result in traffic congestion associated with additional journeys to the drive through, both on the busy adjacent roads and within the Collingwood Centre car park which will also increase air pollution. An increase in pedestrian journeys to this site from nearby schools and Tynemouth Pool will reduce road safety, particularly for young people. In addition, hot food takeaways can generate substantial litter and discarded food, both around the premises and also well beyond the immediate vicinity.

1.40 Director of Public Health additional comments 13.03.2018

1.41 I remain firmly of the opinion that this application should be for combined A3/A5 use in order to include the hot food takeaway component of the proposal. The agent's response is dismissive of the Local Plan and the Council's Development Management Policy DM3.7 which aims to promote the health and wellbeing of *all* residents of North Tyneside. In my initial consultation response on 5 January 2018, I referred to what has been termed "A5 by the back door" and stated that the initial application for A3 usage had been constructed in such a

way to ignore the A5 component of the proposal. A new application for A5 use would not be permitted in this location under DM3.7 due to the proximity to John Spence Community High School and the high rates of childhood overweight and obesity in Collingwood Ward.

1.42 I do not accept the agent's amended view that the "proposed development can only be described as *Sui Generis*", suggesting it cannot be categorised as combined A3/A5 use. There are numerous examples of combined A3/A5 use for drive through facilities, including recent applications by KFC and my understanding is that this would be an inappropriate application of Sui Generis. The agent has simply proposed an alternative use class in a further attempt to circumvent the Local Plan and DM3.7 and implement A5 use through the back door.

1.43 It is important to consider the Local Plan within the wider context of what Public Health England (PHE) has described as a national obesity epidemic. Children who are overweight or obese can suffer from bullying, stigmatisation and low self-esteem and are much more likely to become overweight adults. Overweight and obesity is associated with numerous health effects in adults including heart disease, diabetes and certain cancers and is set to overtake smoking as the most important preventable cause of ill-health. This comes with a significant economic and personal cost. Obesity deprives affected people of around 9 years of life, meaning that some people will not live to see retirement.

1.44 North Tyneside has one of the worst rates of obesity in the whole of the North East with more than 1 in 3 Year 6 children and 2 in 3 adults being overweight or obese. In turn, the North East is one of the most overweight regions in England and this is one of the biggest preventable causes of health inequalities. As I have stated previously, Collingwood Ward has one of the highest rates of obesity for Year 6 children in the Borough and once established this is incredibly difficult to treat.

1.45 The agent's assertion that "*the* fundamental issue in tackling obesity...is the lack of knowledge in young people about a healthy diet and the importance of exercise" is a gross misunderstanding and oversimplification of the problem. The 2007 Foresight report² described the complex web of societal and biological factors that have, in recent decades, exposed our inherent human vulnerability to weight gain". Although achieving and maintaining calorie balance is a consequence of individual decisions about diet and activity, our environment, and particularly the availability of calorie-rich food, makes it much harder for individuals to maintain a healthy diet. This has become even harder with the huge increase in the number of takeaways and other food outlets over recent years. The use of planning, including supplementary policies such as DM3.7 is supported by PHE and is one way in which North Tyneside Council can influence the local environment and restrict the concentration of hot food takeaways, particularly around our schools.

1.46 The statement that "there is no objective evidence showing any link between the incidence of obesity and the proximity of hot food takeaways" is incorrect. A number of studies, particularly from North America have described associations between the proximity of fast food outlets and both obesity and unhealthy diet in teenagers. Proximity to schools is important because this is an environment

where teenagers make food decisions away from the influence of their family and parents.

1.47 There is an increasing body of evidence from the UK with similar findings. Studies from different areas of the UK have shown that takeaway and fast food environments make a significant contribution to the diet of teenagers, and that most food and drink items purchased by teenagers between their home and school were obtained within 800 metres of school.

1.48 In Cambridge, exposure of adults to takeaway food outlets at home, work or during their commute to work was associated with higher consumption of takeaway food, higher body mass index (BMI) and an increased risk of obesity. More recently, a large study of middle aged adults from different areas in the UK has shown an association between proximity to fast-food outlets at home and adiposity (measured by increased BMI, waist circumference and body fat percentage). The authors of this study acknowledged that this association may be an underestimate due to limitations in measuring the food environment.

1.49 Additional information provided by the agent states that KFC does not encourage unhealthy eating but offers a menu with a choice of meal options, including healthy choices and information relating to nutritional content. The provision of nutritional information for customers is important and this should be easily understandable and available at the point of sale. However, despite the agent's protestations, the KFC menu predominantly consists of high calorie fried food with high fat and salt content and few fresh vegetables.

1.50 Current daily recommendations for total calorie intake for people aged 11 years and over are 2500 calories for males and 2000 calories for females. Public Health England estimates that across the whole population, adults regularly exceed their daily requirements by at least 200 calories and a similar pattern is seen in children and young people. As a result, recommendations issued by PHE in March 2018 advise people to aim for 400 calories from breakfast and 600 each from lunch and dinner, to allow for other snacks and drinks between meals.

1.51 The current nutritional information published on the KFC UK website for menu choices for one person has been analysed and reviewed against current UK dietary recommendations. The remaining menu items include sides, such as individual portions of fries, drinks and desserts and have not been included. The current national daily recommendations for other nutrients are; *less than 97 grams of fat for men and less than 78 grams of fat for women, less than 33 grams of free sugars for men and less than 27 grams for women and less than 6 grams of salt for men and women.*

1.52 Our analysis has shown that two thirds of current KFC menu choices for one person exceed the 600 calories recommended by PHE. More than one quarter of the menu choices for one person exceed 1000 calories, providing more than half of the daily energy requirements for an adult female. The highest calorie option, "The Big Daddy" provides 1450 calories. This is more than double the recommended amount for a single meal and provides nearly 75% of the daily calorie intake for an adult female and nearly 60% of that for an adult male.

1.53 The main menu choices are high in fat with more than 35% providing 39 grams or more of fat, equivalent to at least half of the maximum daily recommended intake for an adult female. The main menu choices are also high in salt; 77% provide at least 2 grams of salt which is at least one third of the recommended maximum adult daily intake. Nearly 50% of the main menu choices contain at least 3 grams of salt, providing more than half of the maximum daily recommendation.

1.54 In conclusion the agent has not provided any additional credible public health evidence. I remain firmly of the opinion that the proposed application should be considered as A3/A5 use and I object to this planning application on the grounds that it contravenes DM3.7 of the North Tyneside Local Plan.

2.0 Representations

2.1 89no letters of objection have been received. The concerns raised are summarised below.

- Nuisance – disturbance, dust/dirt, fumes, noise.
- Out of keeping with surroundings.
- Inappropriate materials.
- Loss of privacy.
- Precedent will be set.
- Poor traffic/pedestrian safety.
- Poor/unsuitable vehicular access.
- Traffic congestion.
- Loss of residential amenity.
- Loss of visual amenity.
- Will result in visual intrusion.
- Not in accordance with development plan.
- None compliance with approved policy.
- Affect Site of Special Scientific Interest.
- Adverse effect on wildlife.
- Pollution of watercourse.
- Loss of/damage to trees.
- Impact on landscape.
- Inadequate parking.
- Additional traffic.
- Loss of car parking.
- Car park and highway are already very busy.
- Will increase pedestrians using crossing at busy road junctions.
- Adverse impact on pedestrian safety.
- Traffic already make it dangerous to cross roads in the area – would add to these problems.
- Impact on public footpaths.
- The drive-thru will be the main facility.
- Impact of traffic on the fire station.
- Adverse impact on local shops.
- Should be encouraging local businesses.
- Could be located in an existing vacant unit, or the town centre.
- Are enough fast food outlets in the area.
- Encourages unhealthy eating.

- Students from John Spence High School already but unhealthy foods from Morrisons.
- Proximity to three schools and the leisure centre.
- Contrary to Public Health England's aims.
- Food sold is high in saturated fat and salt.
- Harm to children's health.
- There is a known link between ease of access to fast food restaurants and obesity/poor health.
- Two existing fast food outlets within the centre.
- Difficult to enforce the applicant's claim that school children will not be served.
- Within residential area.
- Will be closer to houses.
- Vegetation to the rear is not thick or evergreen – doesn't screen from noise or visual impact.
- Existing problems of noise from commercial activity.
- Noise from deliveries, traffic noise and car radios.
- Removal of boundary wall will lead to increased anti-social behaviour/security breaches.
- Litter, rats.
- Litter will attract seagulls.
- Additional traffic will lead to increased pollution.
- Increased noise – cumulative impact.
- Inappropriate opening hours.
- Noise from plant and machinery.
- Cooking odours.
- Impact on views from adjacent properties.
- Impact of lighting – visually intrusive.
- Inadequate information provided in respect of ventilation/odour control.
- Inadequate public consultation.
- Will make the area less desirable.
- No benefit to the area.
- Will not create good jobs.
- The company lacks morals.
- Environmental pollution from food packaging.
- Discarded bones are harmful to animals.
- Newcastle Council has set a precedent by refusing a McDonalds near Kenton High School.
- Is a mixed A3/A5 use not A3.
- Contrary to Local Plan and NPPF.
- Applicant attempts to circumvent Local Plan policy.
- No reference is made to the Coal Authority's objection.

2.2 A petition containing 112 signatures has been submitted against the development. The ground of objections are loss of residential amenity, public health, accident risks, cooking smells, vehicle noise, loss of visual amenity, litter, vermin and security of property.

2.3 13 no letters of support have been received. The letters are summarised below.

- Good for the economy.
- Will create jobs.

- Great idea.
- People should be able to choose where they eat.
- Would be good to have a KFC in the area.
- Will ease traffic to the Silverlink.
- If the impacts are managed properly it will fit into the existing scheme.
- There are already takeaways and a pub/restaurant in the area creating noise and selling friend food.

3.0 Ward Councillor Comments

3.1 A letter of objection has been received from Cllr Debbie Cox, Cllr Steve Cox and Cllr Martin Rankin

3.2 I wish to request that this matter is examined by the Planning Committee and to register my objection to this application on the following grounds:

3.3 The NPPF states that Local Planning Authorities should 'Recognise town centres as the heart of their communities and pursue policies to support their vitality and viability' and 'promote competitive town centres that provide customer choice, and a diverse retail offer and which reflect the individuality of town centres'.

3.4 The NPPF classifies drive through restaurants as '*Main Town Centre Uses*' and requires local authorities to adopt a 'Centres First' approach in determining proposals for main town centre uses, with a preference for these to be located in existing centres as defined in policy.

3.5 North Tyneside Council operates a 'Hierarchy of Centres' based on the *Town Centres* of North Shields, Wallsend, Whitley Bay and Killingworth; *District Centres* of Forest Hall, Monkseaton, Tynemouth and Northumberland Park ; and *Local Centres* at Battle Hill, Howdon, Longbenton, Preston Grange and Whitley Lodge.

3.6 Sequential Assessments are required for applications which propose a main town centre use on sites which are located outside of town centres. The applicant states that the site is located within a '*District Centre*' and so the development therefore accords with the 'centres first' approach of local and national planning policy and as a result of this no sequential assessment is required.

3.7 However, my own understanding is that Preston Grange is a 'Local Centre' - thus requiring Sequential Assessments – which have not been provided as part of this application.

3.8 Added to this, existing drive through restaurant sites in North Tyneside are located only in Town Centres (Wallsend and Killingworth) plus the strategic retail centre at Silverlink. Development of such a unit at Preston Grange is not within the applicable existing planning policies.

3.9 Paragraph 4.8 of the Applicants Planning Assessment Document states that '*The application site is noted to fall within an A5 Exclusion Zone as imposed though Policy DM3.7 of the North Tyneside Local Plan, and defined on the Councils Proposals Map. As set out within the submitted application form the use*

class of the floor space, as proposed within the development, is A3, with the development delivering a new restaurant, where people can order meals and eat in. There is a takeaway element but this is considered to be ancillary to the primary use’.

3.10 Further to this, Paragraph 4.9 states ‘*The use class of this development proposal has been previously acknowledged by the Council as A3, as set out within the Council’s pre-application advice dated 21st December 2016. Whilst this advice pre-dates the adoption of the North Tyneside Local Plan, reference was made to Policy DM3.7 as an emerging policy, and the scale and form of the proposed development (and its description) has remained unchanged since this pre-application advice was sought’.*

3.11 I do not believe that the proposed use of the site is simply A3 (restaurant).

3.12 The KFC operating model is based on a fundamental mix of restaurant and takeaway sales (at point of order inside the restaurant you are specifically asked if you will be eating in or taking away) and this restaurant is specifically designed to facilitate takeaway sales via the drive through process.

3.13 The applicant has provided no evidence to support their business case that the takeaway element of this unit is simply ‘ancillary’ to the primary use (such as expected mix of restaurant/ takeaway and drive through sales). Further to this, the Transport Statement makes clear that ‘Given that the proposed development is a drive-thru, there will be minimal parking required, as the main function will be take-away food’.

3.14 In any event (and through only very general internet searches) I have identified numerous other Local Authorities which regard the development of a drive-thru restaurant to be a mixed use development based on Use Class A3 (*restaurants and cafes – for the sale of food and drink for consumption on the premises – restaurants, snack bars and cafes*) AND Use Class A5 (*hot food takeaway – for sale of hot food for consumption off the premises*).

3.15 I have listed a brief selection below for information;

Test Valley BC – 12/00416/FUL – drive through McDonalds – Use Class A3/A5.
Stockton BC – 12/2877/FUL – drive through McDonalds – Use Class A3/A5
Lewisham BC – DC/13/82855 - drive through McDonalds – Use Class A3/A5
Luton BC – 14/00764/FUL – drive through KFC – Use Class A3/A5
Bexley BC - 15/02319/FUL – drive through Costa – Use Class A1/A3/A5
Havant BC – App/ 16/00875 – drive through KFC – Use Class A3/A5
Leeds City Council – 16/01105/FUL – two drive through units (KFC and Costa) – Use Class A3/A5

3.16 I have also identified two Appeal Cases for drive through restaurants where the Use Classification was quoted by The Planning Inspectorate as being mixed use/ A3 & A5 as follows:

Newcastle MBC – 15/00011/REF – erection of two story drive through McDonalds – (Use Class A3/ A5).

Basildon BC APP/V1505/A/14/222733 – Hearing Date 10th February 2015 by Diane Flemming BA (Hons) MRTPI – the appeal related to an initial rejection of consent for a KFC drive through (various reasons quoted) – but A3 & A5 mixed use was confirmed in the Appeal Decision.

3.17 I have also identified a very recent case involving the Applicants Agent for this case, Barton Willmore LLP – where they themselves initiated a planning application for a drive through KFC as follows:

Manchester City Council 109947/FO/2015/N1 – drive through KFC on land at Moston Lane, Harpurhey – Use Class Applied for A3/ A5.
This is confirmed in Barton Willmore LLP's own submission letter to Manchester City Council Planning Department dated 2nd September 2015 (letter reference 24622/A5/LD) – which is available on the Manchester City Council Planning Portal.

248.6 sq.m (gross internal floor area)
73 covers.

3.18 The proposed restaurant at Preston Grange is as follows:

231.5 sq.m (gross internal floor area)
75 covers

3.19 On the basis of the above – it is clear that drive through restaurant Class Uses are considered by other Local Authorities (and even by the applicants agents themselves) to be mixed use A3/ A5 developments given there is no ability to predict/ control/ restrict take-away purchases.

3.20 I therefore fundamentally believe that the proposal is a mixed use A3/A5 application and NOT the Class A3 use as stated by the applicant (and apparently by North Tyneside Planning Officers according to the applicants Planning Statement).

3.21 Accepting that this is, in reality, a mixed use A3/ A5 Classification, the proposed unit does not meet the criteria of Policy DM3.7. This is specifically acknowledged by Barton Willmore LLP in Paragraph 4.8 of their Planning Statement as above '*The application site is noted to fall within an A5 Exclusion Zone as imposed though Policy DM3.7 of the North Tyneside Local Plan, and defined on the Councils Proposals Map*'.

3.22 The reasons for the introduction of Policy DM3.7 are well documented both locally and nationally and so I have not repeated them here – the simple fact is that this A3/ A5 development is too close to a major North Tyneside High School. M On this basis – I believe that this planning application should be rejected.

3.23 I am fully aware that residents will be submitting objections on the basis of the detrimental effect they will suffer through noise, litter, disturbance and odour issues (I have calculated that some properties in Heybrook Avenue will be only c. 30 ft from the unit when operational and where the intervening trees/ shrubbery have in the past been used for drug taking and under-age drinking).

3.24 As I have no doubt that these concerns will be fully considered by Committee then I will not repeat them here for sake of brevity. I have also noted the consultation exercise undertaken by the Applicants agents in the case of the Manchester restaurant above – where meetings were held with the local residents association in order to understand/ allay concerns.

3.25 This is in direct contrast to the very unhelpful timing of this North Tyneside application, which was lodged just before the Christmas holidays and with no forward warning or dialogue (the school itself has been closed for almost the entire notification period and is not due back until the date of closure of the statutory consultation).

3.26 Cllr Ian Grayson has objected as the Cabinet Member responsible for Children, Young People and Learning and requested that the application is determined by Planning Committee.

3.27 I object to this application because I believe that it clearly contravenes the Development Management Policy (DM3.7) in the North Tyneside Local Plan. Policy 3.28 DM3.7 is designed to promote healthier communities and does not permit proposals for hot food takeaways (A5 use) within a 400m radius of entry points to all secondary and middle schools, or in wards where more than 15% of years 6 pupils are classified as very overweight. This proposed drive thru is clearly within 400m of the entrance to John Spence Community High School and is within Collingwood Ward, where more than 22% of year 6 pupils are very overweight.

3.29 I am aware that the application is for restaurant (A3 use) and that the applicant argues that takeaway sales are ancillary to this use and that Policy DM7.3 is therefore not relevant. However I do not agree that this proposal is solely for A3 use as it includes a significant takeaway service and should therefore include A5 use. This is made clear in the Transport Statement which states “there will be minimal parking required, as the main function will be take-away food”.

3.30 I am very concerned about the negative impact that this proposal would have on the local community and especially on the health of our young people. We know that rates of childhood obesity in North Tyneside are unacceptably high and continue to increase, which poses a real risk to the health of our young people in the future. Our young people are eating increasing amounts of takeaway foods, like KFC that are high in calories, fat and salt, and this is contributing to the high levels of obesity. There are already takeaway food outlets in the Collingwood Centre, including a Domino’s Pizza and Subway sandwich shop. This proposal would put another takeaway facility next to the school with clear access for pupils, including after school. This is also likely to mean that young people will eat more takeaways at home.

3.31 The Collingwood centre is also opposite the busy Tynemouth Pool Leisure Centre and within walking distance of several schools and colleges. There is an active and vibrant Healthy Schools Programme in North Tyneside in order to support the health and wellbeing of all young people in the borough. I am also aware that students from John Spence Community High School have been involved in a really innovative project about healthy eating. I believe that an

additional takeaway in this area would have a negative effect on the work that the Council and our schools are currently doing to support children and young people in healthy eating.

3.32 This is a very busy junction with heavy traffic. The proposed KFC would encourage more children and young people to walk to the Collingwood Centre from local schools and the leisure centre. This would involve crossing busy stretches of road including the Coast Road and A192, and I am very concerned about the impact this may have on the safety of young people. In spite of what the applicant says, I believe that this will increase traffic congestion and car journeys in the area. This will also make the roads less safe for pedestrians and worsen air pollution in the local area. Any increase in air pollution will have a negative effect on the health of our children and young people as it is clearly linked with lung diseases including asthma.

3.33 In summary I am registering my objection to this proposal because I believe that it is not permitted by the North Tyneside Local Plan and will have a negative impact on the health and well-being of children and young people in North Tyneside.

3.34 Alan Campbell MP

3.35 I am concerned about the short consultation period over Christmas at a time when planning officers were not available for nearly 2 weeks to discuss the application with interested parties. I would request that the consultation period is extended to allow residents to have their views taken into account.

3.36 I would also request that in light of issues of public health, that this application goes before full planning committee.

4.0 External Consultees

4.1 Tyne and Wear County Archaeologist

4.2 There used to be ridge and furrow earthworks on the site, but these have long since been destroyed by development. No archaeological work is required.

4.3 Coal Authority

4.4 I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

4.5 The Coal Authority records indicate that the site is underlain by recorded shallow coal workings and probable unrecorded underground shallow coal workings.

The Coal Authority objects to this planning application, as the required Coal Mining Risk Assessment Report, or equivalent, has not been submitted as part of the application.

4.6 It is a requirement of the National Planning Policy Framework, paragraphs 120-121 that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development. In addition the National Planning Practice Guidance in section 45 makes it clear that planning

applications in the defined Development High Risk Area must be accompanied by a Coal Mining Risk Assessment.

4.7 In accordance with the agreed risk-based approach to development management in Development High Risk Areas, the applicant should be informed that they need to submit a Coal Mining Risk Assessment Report as part of this application.

4.8 Without such an assessment of any risks to the development proposal posed by past coal mining activity, based on up-to-date coal mining information, the Coal Authority does not consider that the LPA has sufficient information to determine this planning application and therefore objects to this proposal.

4.9 If the applicant ultimately fails to demonstrate to the LPA that the application site is safe and stable to accommodate the proposed development then the LPA may refuse planning permission, in accordance with the National Planning Policy Framework, paragraphs 120- 121.