

<u>No:</u>	BH2025/00019	<u>Ward:</u>	Hangleton & Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	267 Old Shoreham Road Hove BN3 7ED		
<u>Proposal:</u>	Erection of a freestanding drive-thru restaurant, landscaping, car parking and associated works, including Customer Order Displays (COD) and demolition of existing buildings.		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	31.01.2025
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02.05.2025
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	13.05.2026
<u>Agent:</u>	Planware Ltd St Andrews Castle 33 St Andrews Street South Bury St Edmunds IP33 3PH		
<u>Applicant:</u>	McDonald's Restaurants Limited 11 - 59 High Road East Finchley London N2 8AW United Kingdom		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following reasons:

Conditions:

1. The proposed Sui Generis use would lead to the loss of safeguarded employment floorspace, whilst the employment provided would not be qualitatively comparable to the existing or compatible with policies CP3 of City Plan Part One and DM11 of City Plan Part Two Part Two, which seek to protect the site for business, manufacturing and warehouse uses. As such the proposal is contrary to the Development Plan.
2. The proposed Sui Generis use would increase the amount of fast food outlets in this location and the City, promoting unhealthy lifestyles and increasing the availability in an area which is out of the town centre and in proximity (walking distance) to schools and parks used by young adults, in conflict with policies SS1, SA6 and CP18 and Strategic Objective SO22 of the Brighton and Hove City Plan Part One, the NPPF paragraph 97, and contrary to the aims of the Brighton and Hove Food Strategy Action Plan 2025-30.
3. The proposed Sui Generis use would lead to an overprovision of onsite parking and prioritisation of unsustainable methods of travel, and insufficient information has been provided to satisfactorily demonstrate that the proposal would not result in significant adverse impacts on the operation of the public highway or compromise the safety of users of the public highway. The proposal would therefore be in conflict with policies DM33, DM35 and DM36 of the Brighton and

Hove City Plan Part Two and Policy CP9 of City Plan Part One, and paras 115, 116 and 117 of the NPPF.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision is based on the drawings and documents received listed below:

Plan Type	Reference	Version	Date Received
Location Plan	8913-SA-2596-AL01	A	07-Jan-25
Block Plan	8913-SA-2596-P002		07-Jan-25
Proposed Drawing	8913-SA-2596-P004		07-Jan-25
Proposed Drawing	8913-SA-2596-P005		07-Jan-25
Proposed Drawing	8913-SA-2596-P006		07-Jan-25
Proposed Drawing	21555 SFW XX XX DR L 1001		07-Jan-25
Report/Statement	TRANSPORT ASSESSMENT (FEB 2026) PART 1		24-Feb-26
Report/Statement	TRANSPORT ASSESSMENT (FEB 2026) PART 2		24-Feb-26
Report/Statement	DELIVERY MANAGEMENT PLAN	ADL/CC/ 6083/24A	24-Feb-26
Report/Statement	LIGHTING IMPACT ASSESSMENT		23-Feb-26
Report/Statement	VERTICAL LIGHT SPILL		23-Feb-26
Report/Statement	SIGNIFY LIGHTING PLOT		23-Feb-26
Report/Statement	ENVIRONMENTAL NOISE ASSESSMENT		17-Nov-25
Report/Statement	ODOUR CONTROL REV A		17-Nov-25
Proposed Drawing	PROPOSED LIGHTING LAYOUT AND CONTOUR MAP		29-Oct-25
Report/Statement	STORE TRAVEL PLAN		25-Sep-25

2. SITE LOCATION

- 2.1. The application site is an industrial estate located on the northern side of Old Shoreham Road opposite the locally listed Hove Cemetery. The wider area contains a mix of uses, and there are residential properties beyond the site, to the north, east and south. There are a number of schools in the area, including Hove Park School located approximately 740 metres away, Goldstone Primary

approximately 761 metres away, Blatchington Mill school, approximately 876 metres away and Aldrington Primary school approximately 1130 metres away.

- 2.2. The site is allocated within the adopted City Plan Part 1 as part of one of 13 safeguarded primary industrial estates and business parks across the city, which are protected by policy for business, manufacturing and warehouse uses. The site falls within the English Close Industrial Area, Old Shoreham Road. Currently this part of the industrial area is in use as a tools, hire, fixing, sales and repair trade counter, 'PR Industrial', plus a vehicle battery depot 'Pavilion Batteries' and is considered a sui generis use.

3. RELEVANT HISTORY

Relevant Pre Application advice

- 3.1. PRE2024/00092 - A freestanding drive-thru restaurant (Sui Generis), car park and associated works. Advice issued:

Summary: The proposed changes of use would not be acceptable in principle as it would be contrary to policies CP3 of City Plan Part One and DM11 of City Plan Part Two, as industrial floor space (E(g) (iii), B2 and B8 Use Classes) across the City is highly constrained with low vacancy rates, so the loss of floor space that currently meets these needs would be resisted.

The proposed use as a freestanding drive-through restaurant is defined as a main town centre use in the National Planning Policy Framework. This site is considered as out of town. The use as a drive thru restaurant would not accord with policy CP3 and DM11 in this location and would undermine other protected industrial sites, setting a negative precedent.

Relevant history

- 3.2. BH2025/00928 - Display of various site signage including 4no internally illuminated freestanding signs, 1no banner sign, 19no dot signs comprising 3no accessible bays, 2no parked order bays, 3no litter, 1no no entry, 2no give way, 3no pedestrian crossing, 1no look left, 3no look right and 1no speed limit 10MPH sign. Pending consideration.
- 3.3. BH2025/00927 - Display of 3no internally illuminated fascia signs, 3no internally illuminated booth lettering signs and 1no internally illuminated digital booth screen. Pending consideration.
- 3.4. BH2016/01310 - Demolition of existing vehicle battery depot building at number 269 and change of use of site to car display and parking associated with car showroom at number 267 (Sui Generis). Installation of new shopfront and cladding to number 267, with rear extension to create new vehicle battery depot and staff canteen. Change of use of rear building at number 269 from car/van hire business (Sui Generis) to car showroom (Sui Generis), with removal of existing front extension, new shopfront and cladding. Approved.

- 3.5. BH2004/01689/FP - Change of use of existing industrial unit to showroom, servicing and MOT centre and parts store (Sui Generis). External alterations to elevations. Approved
- 3.6. BH2002/02748/FP - Change of use to motor vehicle servicing and MOT centre. Approved
- 3.7. There are other previous applications on the site however they are not relevant to this application.

4. APPLICATION DESCRIPTION

- 4.1. Planning approval is sought for the erection of a freestanding drive-thru restaurant, with landscaping, car parking and associated works, including Customer Order Displays (COD) and demolition of existing buildings onsite. The proposed house of operation as detailed in the Delivery Service Management Plan are 06:00 - 00:00 Monday to Sunday.
- 4.2. The application is made on behalf of McDonald's Restaurants Limited but could be occupied by any operator.
- 4.3. During the course of the application the agent has submitted significant additional supporting information and plans in relation to comments from internal consultees (Environmental Health, Policy, Public Health and Sustainable Transport) and these have been considered in their respective responses and determination of the application.

5. REPRESENTATIONS

- 5.1. **Three hundred and thirty six (336)** representations have been received, including from the following groups, Aldrington Primary School, Cardinal Newman Catholic School, Hove Park School, Blatchington Mill School, Goldstone Primary School, Hove Civic Society and The Regency Society, objecting to the scheme on the following grounds:

Traffic and Highways

- Increased congestion/ not enough highway capacity
- Displaced traffic to minor roads
- Highway safety concerns over existing junctions / traffic black spot
- Impacts on pedestrian and cyclist getting to and from school
- Dangerous right turn from opposite side of the road
- Impacts on children accessing the site
- Concerns relating to loading/ unloading
- Delivery trip generation
- Impact on neighbouring fire station access and emergency responses
- Impact on local traffic calming measures
- Inadequate / inaccurate data and claims within the Transport Assessment

- Lack of parking on site
- Reliance on HGVs unsuitable for network

Design

- Poor outlook and view for neighbouring residents
- Corporate Design / commercialisation of the area
- Intrusive signage
- Excessive illumination
- Overdevelopment of the site
- Inappropriate Height
- Too close to site boundaries
- Impact on Conservation Area. Note: the site is not in or adjacent to a conservation area
- Impact on Listed Building. Note: the site is not a listed building or in proximity of one

Residential amenity

- Increase noise and disturbance through traffic
- 24 hr opening is excessive and out of character with residential area and local business opening hours
- Air pollution including from idling vehicles
- Pollution and disturbance from cooking smells and odour
- Light pollution from building and from vehicles /cars
- Antisocial behaviour and crime
- Visually intrusive
- Overshadowing
- Noise from operations including customers loitering/ delivery collections/ cars/ plant and machinery

Environmental concerns

- Impact from litter on visual environment/ increased demands on council services in relation to litter
- Impact from litter on wildlife and habitats
- Vermin and environmental health concern
- Increased emissions against net zero targets
- The drive-thru provision encourages car use
- Discourages healthy practices such as walking and cycling
- Company is associated with cruelty to animals
- Packaging is not all recyclable - contributing to climate crisis
- CO2/ methane/ nitrous oxide from meat production
- Conflicts with Council's NetZero and Climate strategies
- Litter would impact South Downs National Park

Location / Community concerns

- Too close to local schools/ direct marketing to children
- Direct conflict with NPPF para 97 in regard to citing near to schools
- Public Health concerns around diet, obesity, diabetes, cancer, heart conditions and mental health from Ultra Processed Foods (UPFs)

- Would cause clusters of older children, may create threatening environment for younger pupils
- Inappropriate / insensitive location opposite Hove cemetery
- Too many similar outlets in the locality
- Use is unsuitable in this out-of-town location
- Should be a housing site
- The site should be amenity space to serve nearby flats

Economic considerations

- Profits to multinational rather than in the local area
- Impacts on local independent food outlets
- Too many similar outlets in the local
- No workforce near the site - so children main targets
- Conflicts with City's Food Strategy Action Plan
- Employment figures overstated/ most will be parttime/ zero hours contracts
- Conflict with CP3 - Use not suitable for an employment site

Other matters

- Criticism of the applicant in terms of global impacts, politics, environmental protection, working conditions, unethical practices in terms of market dominance,
- Lack of public consultation
- concerns over the accuracies/ claims detailed in supporting statements including noise reports, traffic and accident data

5.2. Support from **one hundred and eleven (111)** individuals has been received raising the following issues:

- Vacant site needs development. Note: the site is not vacant
- It will be well-used and meet local demand
- Prevent longer trip journey to McDonalds drive-thru in Shoreham therefore reducing congestion and emissions
- Employment is welcome
- Generates increased tax/business rates
- Negative aspects in relation to traffic and health overstated
- Good Design / in keeping with listed building. Note: the site is not a listed building or in proximity too
- Community Infrastructure Levy can be spent on new cycle lane

5.3. **Councillor Hewitt, Councillor Allen and Councillor Baghoth** Object to the development. A copy of their representations have been appended to the report.

6. CONSULTATIONS

Internal:

6.1. **Environmental Health:** No Objection - subject to conditions
Lighting - now acceptable post further information submitted, subject to conditions.

- 6.2. Odour - independent verification and dispersion report needed prior to first use.
- 6.3. Noise - acceptable subject to noise output, attenuation, noise management and delivery restriction conditions.
- 6.4. Delivery and Service Management Plan - revised/updated plan needed prior to first use.
- 6.5. **Food Policy: Objection**
Existing over-concentration of fast-food outlets in the city, combined with concerns regarding school proximity, child health, neighbourhood health and wellbeing leading to an increasing unhealthy population and obesogenic environment.
- 6.6. Does not align with the recently adopted Brighton and Hove Food Strategy Action Plan. In particular aims 1, 5 and 6.
- 6.7. **Planning Policy: Objection**
The site is situated within the English Close Industrial Area allocation which continues to be required to meet the identified employment floorspace needs and market demand for employment land over the Plan period and beyond to 2041 and there is a strong prospect of the site continuing to be required for the uses set out in Policy CP3.3 use in accordance with paragraph 126 of the NPPF.
- 6.8. It is not considered that the employment provided would be qualitatively comparable employment to the existing or compatible with CP3.3 which seeks to protect the site for business, manufacturing and warehouse uses. Use as a sui generis drive-thru restaurant would set unwelcome precedent in relation to CP3 and other protected sites.
- 6.9. A sequential assessment has been submitted which demonstrates that there are no sequentially preferable sites for this 'drive thru' restaurant proposal in neighbouring centres. Since approval and operation of (BH2025/00387) 182 Old Shoreham Road has now commenced (Aldi retail unit) it is considered that the applicant has appropriately demonstrated that there are no sequentially preferable, suitable and available sites within the area. As such the proposal does not conflict with CP4 Retail Provision or the NPPF.
- 6.10. It is noted that marketing of the site was undertaken, but this was not for the whole site, and confidential and targeted, so not on the open market. The length of any marketing has not been given. It is considered that no conclusion can be made that the site is no longer required for the uses set out in policy CP3.3.
- 6.11. Strategic Objective 22 and policies SA6 and CP18 of the City Plan seek to facilitate sustainable neighbourhoods and healthier lifestyles. Public Health have produced detailed data of the young people's behaviour in relation to takeaways in Brighton and Hove and recommend that 800m is a relevant walking radius for users of takeaways. As the application is for a drive thru restaurant in proximity to schools and areas where young persons congregate the application should be refused in accordance with policy and NPPF paragraph 97.

- 6.12. The case officer should assess whether the nature of this proposal would have a negative impact on local amenity. Comments should be sought from the Environmental Health Team.
- 6.13. **Public Health: Objection**
The Public Health Team objects to the proposed drive through fast food outlet.
- 6.14. There are concerns around the high levels of population that are overweight and obesity in the city, the density of fast food outlets (above average for population), proximity to schools and areas where young people congregate, potential impact on air quality, and the commitment through planning and health policies to improve access to healthy eating, support health and wellbeing, and address health inequalities in Brighton & Hove.
- 6.15. The proposal is also in conflict with the National Planning Policy Framework, December 2024, and Brighton & Hove City Plan.
- 6.16. In December 2024 the latest version of the National Planning Policy Framework makes the case for taking planning decisions around hot food takeaways to protect the public's health, in paragraph 97.
- '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.'*
- 6.17. Brighton and Hove's City plan part 1 states 'Across the city apply the principles of healthy urban planning' and under CP 18 Healthy City that 'Planning will support programmes and strategies which aim to reduce health inequalities and promote healthier lifestyles.'
- 6.18. The recommendation to refuse planning permission for the drive through McDonald's on Old Shoreham Road is in line with the following key council plans and approaches:
- The Brighton & Hove Health and Wellbeing strategy states that 'A whole city approach to food and wellbeing will be adopted, prioritising those with the poorest diets or least access to healthy food'
 - The Brighton & Hove City Council plan 2023 to 2027 'A better Brighton & Hove for all' has as its vision 'Our vision is for Brighton & Hove to be a city to be proud of, a healthy, fair and inclusive city where everyone thrives.'⁶ Commitments include: 'ensure that council strategies, policies and services promote better health and wellbeing for all and reduce unfair differences between the most and least healthy' and to 'work with local partners to develop plans to help people to be physically active and maintain a healthy weight'

- A Whole City approach to Healthy weight, developed with partners across the city and the subject of the forthcoming Director of Public Health annual report.

6.19. **Sustainable Transport:** Objection

Initial Comments:

- 6.20. Regarding the principle of development and City Plan site allocation. The Sui Generis use for a restaurant is understood to not be included under city plan part 1 CP3 - Employment Land, which sets out acceptance for uses B1-B8. We view this application as seeking to diverge from that policy.
- 6.21. The proposed restaurant is within walking distance of at least 3 if not 4 local schools and would be expected to generate demand from these school children and families.
- 6.22. Insufficient information has been supplied to allow us to determine the transport and safety impacts on the Old Shoreham Road (refusal may be made under grounds of NPPF p116).
- 6.23. Request for above policy levels of parking (39 proposed, 10 allowed) which are set out as maximum allowances. The applicant has not set out compelling grounds for why policy limits should be relaxed.
- 6.24. A reduction down to the policy limit of 10 parking spaces would increase the highway safety risk to the Old Shoreham Road, so we cannot see a way to balance the highway safety needs and policy requirements for this application.
- 6.25. The highway safety risks relate to the introduction of a new priority junction and pedestrian crossing in close proximity to an existing signalised junction on the Old Shoreham Road, an important route for the city with notable accidents in the vicinity including 3 fatalities in the last 5 years within 2.5 miles of the application frontage.

Updated comments (following receipt of further information and video outputs):

- 6.26. The LHA considers that substantive concerns remain unresolved. These relate to:
- the absence of a Local Model Validation Report to support the microsimulation evidence
 - the credibility and safety of operational behaviours shown in the modelling outputs, including turning movements, lane-changing and pedestrian interactions
 - the persistence of severe residual impacts in the future year with-development scenario notwithstanding the proposed mitigation
 - the safety case for the proposed uncontrolled pedestrian crossing
 - the level of car parking proposed relative to adopted policy standards
- 6.27. For these reasons, the LHA remains unable to verify that the development would provide safe and suitable access for all users or that the residual impacts would be acceptable and is therefore unable to lift its objection to the application.

External Consultee

6.28. **Sussex Police** – No comment

The development scale is below the level where they would provide a comment on the application.

7. MATERIAL CONSIDERATIONS

7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.

7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013; revised October 2024);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour JAAP (adopted October 2019).

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

Strategic Objective SO22

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP4	Retail provision
CP8	Sustainable Buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP18	Healthy city

Brighton & Hove City Plan Part Two

DM11	New Business Floorspace
DM12	Regional, Town, District and Local Shopping Centres
DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscaping

DM33	Safe, Sustainable and Active Travel
DM35	Travel Plans and Transport Assessments
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

Other documents

Brighton and Hove Food Strategy Action Plan 2025-30
Brighton & Hove Employment Land Study 2024

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the loss of the employment site, principle of the restaurant development, impact on the character and appearance of the existing site, streetscene and surrounding area, impact on public health, neighbouring property and amenity, transport issues and sustainability.
- 9.2. An officer site visit has been undertaken, and the impacts of the proposal can also be clearly assessed from the plans, photographs and from recently taken aerial imagery of the site.
- 9.3. It is noted that pre application advice was provided for this site in June 2024 (PRE2024/00092) as noted in the history section above. As stated previously, the conclusion of this advice was that the site was not suitable for drive thru restaurant use due to the location out of town, the form of use and loss of employment, and the partial loss of a safeguarded industrial estate. The principle was considered unacceptable to the LPA.
- 9.4. Development policies are a key consideration, as are material considerations such as government guidance in the NPPF, supplementary planning guidance and the council's corporate strategies.

Principle of development:

- 9.5. The proposal is for a drive thru/dine in restaurant and takeaway facility, approximately 356 sqm in size which is identified as a 'main town centre use' within the NPPF glossary. The existing Sui Generis business use buildings onsite would be demolished, and this would lead to a total loss of 984 sqm of employment floorspace, with a net loss of 628 sqm.
- 9.6. The use as a restaurant would fall within Use Class E, the hot food takeaway and drive through element would be a Sui Generis use. The proposal is therefore

considered overall to be Sui Generis use due to the blending of the differing Use Class classification.

Safeguarded employment site:

- 9.7. The site is allocated within the adopted City Plan Part 1, Policy CP3 Employment Land, as part of one of 13 safeguarded primary industrial estates and business parks across the city and protected for business, manufacturing and warehouse uses. The site falls within the English Close Industrial Area, Old Shoreham Road.
- 9.8. Given the City's role as an economic base for the wider economic area (a regional economic centre) it is important that safeguarded primary industrial estates and business parks are protected for business, manufacturing and warehouse uses to support local business. This is in accordance with Para 86 b), of the NPPF.
- 9.9. There is an overall shortfall of employment sites against forecast demand as set out in the City Plan Part 1 and in particular sites suitable for industrial, storage and warehousing use. This has been confirmed by the 2024 Employment Land Study that has been published as a background evidence document to inform the City Plan Part 1 review.
- 9.10. The study highlights that industrial space (E(g) (iii), B2 and B8 Use Classes) is highly constrained with very low vacancy rates. There is a significant, positive forecast demand for industrial floorspace over the plan period to 2041. The 2024 Employment Land Study also highlights the strong market demand for industrial, storage and warehousing uses from a range of sectors including the creative industries.
- 9.11. The study considered that the English Close Industrial Estate is in average condition, with no sign of vacancy and has good accessibility indicating its functionality for its mix of industrial and office uses. The study found overall that it was important to continue to protect these employment sites and encourage intensification and re-provision of industrial uses on safeguarded sites. In terms of meeting future demand for industrial floorspace, the study recommends that safeguarded sites such as English Close should remain the focus for new industrial development in keeping with their location segregated from sensitive uses and having good access to strategic roads.
- 9.12. It is noted that marketing of the site was undertaken, but this was not for the whole site, and was confidential and targeted, so not on the open market. The length of any marketing has not been given. It is considered that no conclusion can be made that the site is no longer required for the uses set out in policy CP3.3. In addition, the significant net loss of 628 sqm of employment floorspace is not supported generally as part of the application under CP3.
- 9.13. The applicant has stated that the development would provide a mixture of 30 full time and 90 part time staff, giving 62 full time equivalent roles. No information has been provided on the existing staffing of the current business which are operating onsite. In any event it is not considered that the employment provided would be qualitatively comparable employment to the existing or compatible with

CP3.3 which seeks to protect the site for business, manufacturing and warehouse uses. Use as a sui generis drive - thru restaurant would set unwelcome precedent in relation to CP3 and other protected sites.

- 9.14. The site, as part of the English Close Industrial Area allocation continues to be required to meet the identified employment floorspace needs and market demand for employment land over the Plan period and beyond to 2041 and there is a strong prospect of the site continuing to be required for the uses set out in Policy CP3.3 use in accordance with paragraph 126 of the NPPF.

Sequential test and proposed use

- 9.15. The NPPF glossary defines drive-through restaurants as a main town centre use. 267 Old Shoreham Road is an out-of-town location. Paragraph 94 of the NPPF states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are not in an existing centre, nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, rather than 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. The purpose of the sequential test is to support the viability and vitality of town centres. This is reflected in City Plan Part 1 Policy CP4 Retail Provision.
- 9.16. The applicant has provided an assessment of the available sites (December 2024), but they excluded the nearer 'Homebase' site to the east on Old Shoreham Road as a site for consideration. However, as the 'Homebase' site has now received planning approval since this application was submitted, and is currently occupied by an Aldi retail operation, the omission of this site is not considered to undermine the sequential test as no longer available for consideration.
- 9.17. It is therefore considered that the application has addressed the sequential test, in line with para 95 of the NPPF and policy CP4. This does not however outweigh the concerns outlined in this report regarding the principle of introducing such a use on this site and location.

Healthy City

- 9.18. A strategic objective (SO22) of the City Plan is to apply the principles of healthy urban planning. City Plan Part One Policies SA6 Sustainable Neighbourhoods and CP18 Healthy City seek facilitate sustainable neighbourhoods and encourage healthier lifestyles. Recent changes to the NPPF (December 2024) at paragraph 97 guides LPAs to refuse applications for hot food takeaways and fast-food outlets within walking distance of schools and other places where children and young people congregate or 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.
- 9.19. Qualitative research (Hot-food takeaways near schools; An impact study on takeaways near secondary schools In Brighton and Hove, BHCC and NHS, 2011) carried out by the Council, observing young people's behaviour in the streets and shopping parades around the City's secondary schools, showed that

the 800m radius was a relevant walking distance and in some cases pupils travelled further. In addition to this many young people will buy food on the way to and from school.

- 9.20. Public Health and Food Policy Officers have commented that the existing prevalence of fast-food outlets in the City, which has a higher than average proportion of fast food outlets per capita (OHID 140.2 per 100,000 population – average is 116), is contributing to an obesogenic environment, which is increasing the general weight of the resident population and highlights children in particular. The Council has recognised this and has recently endorsed the Brighton and Hove Food Strategy Action Plan 2025-30. The overall vision of this plan is a city where everyone has the opportunity to eat healthy food from sustainable sources which treats those who produce it fairly. The degree of health inequalities is also increasing. Public Health Food Policy Officers consider that taking this into account the application should be refused as it is located within 800m of schools (Blatchington Mill, Goldstone, Hove Park, and West Hove). Other schools are on the periphery and their children's food purchases may also be influenced by the proposal. They also have concerns regarding the air quality and highway safety impacts from the number of movements which could be associated with the development.
- 9.21. The proposal is also in proximity to Knoll recreation grounds which is an area of congregation for young people.
- 9.22. The Public Health Team and individual objections raise concerns that the McDonald's menus mainly consist of food items which are high-calorie, relatively cheap, highly processed products, consisting of unfavourable nutritional content and thus unhealthy food choices. Concerns are also raised regarding the marketing associated with the menu such as Happy Meals and Meal Deals which are aimed at young people, and that customers are encouraged towards large portions and prompted to add items to orders. In response, the applicant has advised that 90% of the core food and drink menu is under 500 calories and 54% of the menu is not high in fat, salt and sugar (non-HFSS), according to the UK Government's Nutrient Profiling Models.
- 9.23. The links between obesity and unhealthy food choices is well understood, and food from takeaways is more likely to have an unfavourable nutritional content. Being located within proximity to schools and places where young people congregate, there is a strong likelihood that the development site would become a popular destination for young people.
- 9.24. Considering the location of the proposal, which is not in a town centre, and would be within walking distance of numerous schools and areas that young person's potentially congregate, the drive thru restaurant is considered to be contrary to policies CP18, SA6 and SO22, as it would not promote healthier lifestyles and would increase health inequalities. In addition, as required by paragraph 97 of the NPPF, for the identified reasons above, the LPA is guided to refuse the application.

Design and Appearance:

- 9.25. The existing buildings onsite would be demolished and proposed restaurant and hot food takeaway/delivery would incorporate a drive thru facility. It would be a tall single storey building with a flat roof, with a high parapet around it to obscure the view of the proposed HVAC plant in the wider public realm which is required for the outlet. The maximum height would be 5.5m with an overall gross internal floor area of 356sqm.
- 9.26. The building would be finished with cladding panels in a dark grey and brown colour, with areas of white canopies. Significant parts of the front (southern) elevation and side elevations (west) would have high glazed panels, which would surround the customer/public area. The elevations to the side and rear (north) would be predominantly cladded with limited, if any fenestration.
- 9.27. The development building would be located to the east of the site with the remainder allocated for service road and car parking/delivery areas predominantly. The 'drive thru' element would circulate around the rear, front and east sides of the building, with outdoor seating proposed to the front west area.
- 9.28. The layout shows 39 car parking spaces provided to the west of the building. Delivery lorry parking and unloading would be located within the proposed customer parking area. 3 Sheffield cycle stands are proposed adjacent to the outdoor seating area and two cycle lockers.
- 9.29. Policy DM18 of City Plan Part Two requires these key design aspects to be taken into consideration;
- The local context, including responding positively to the urban grain;
 - The scale and shape of buildings.
 - The spaces between and around buildings taking into account:
 - purpose and function;
 - access and linkages;
 - uses and activities; and
 - comfort, image and sociability
- 9.30. The siting and scale of the proposed building into the open car park area would create a dominant building but would not appear out of place in the existing context, and other buildings that would remain to the east and west. The design, materials and scale are somewhat functional but are appropriate, and taking into the existing buildings onsite, would be comparative when viewed in the public realm.
- 9.31. However, the service areas and large car park/drive thru are not considered to improve the appearance of the site, and due to the location would be very visible in the public realm.
- 9.32. The proposed building and car park, through its siting, design, scale and massing, is not considered to overall improve the Old Shoreham Road streetscene or wider, but in isolation the appearance is not considered to warrant refusal, considering the current context and appearance of the site. If the

proposal were otherwise acceptable, appropriate materials and landscaping could be controlled via condition.

Impact on Amenity:

- 9.33. Policy DM20: Protection of Amenity, states:
"Planning permission for development including change of use will be granted where it would not cause unacceptable loss of amenity to the proposed, existing and / or adjacent users, residents, occupiers or where it is not liable to be detrimental to human health. Policy DM40 seeks to protect amenity from pollution.
- 9.34. The agent has submitted details of how the site will operate. Sussex Police have raised no comment. The LPA consider that a use of this type would bring an increase in noise and potential group loitering (and has potential for anti-social behaviour from users, although this would be a police matter, rather than planning matter). The proposal would also bring increased vehicular movements, deliveries and takeaway traffic, and pedestrian traffic and as the proposed use is to operate for 18 hours a day, the effects could be significant and extended in time. The proposals also have the potential for increased litter in the general vicinity.
- 9.35. The proposed development would be sited within the existing industrial park and opposite the Hove Cemetery, therefore no residential properties would be in close proximity, but it would be adjacent to one of the main pedestrian and cycle access points into of the City, and as detailed earlier within walking distance of schools and areas that young person's congregate. The combination of potential group loitering increased vehicular movements, noise and litter is considered to have some detrimental effects on the amenity of residents and users of the area, but are not considered so significant that refusal would be warranted on these elements alone, as the potential effects could be mitigated by various conditions (eg regarding management), and restrictions on operating hours etc.
- 9.36. The agent has submitted lighting noise and odour reports which detail the potential impacts and mitigation, and these have been assessed by Environmental Health Officers. They have commented to the effect that they believe a scheme could be acceptable subject to numerous conditions which could mitigate amenity impacts to such an extent that any adverse harm could be reduced to an acceptable degree.
- 9.37. The footprint and scale of the proposed development is comparable to the current building onsite and would have greater separation from the east and northern boundaries to allow the drive thru car access road. Therefore, any overbearing or overshadowing impacts from the development are likely to be comparative or less then the current situation. For the same reasons the degree of outlook from surrounding buildings is not expected to be reduced to any significant degree and would not impact surrounding residential dwellings. As noted above, the site shares boundaries with commercial premises, the nearest residential properties are then located to the north of these adjacent commercial properties in Maple Road.

- 9.38. However, the lack of significant harm to amenity does not outweigh the other elements identified in this report which contribute to the reason for refusal.

Sustainable Transport:

- 9.39. The Local Highway Authority (LHA) Transport Officer has raised a number of concerns regarding the operation of the food outlet that have not been satisfactorily addressed by the applicant, and the scheme is considered unacceptable on highways grounds.
- 9.40. Insufficient information has been provided to fully assess the impacts of the development on the Old Shoreham Road and Transport Officers cannot be satisfied that the development would not affect the operation of the road network and the safety of users to a severe extent. It has not been sufficiently proven that any mitigation proposed would satisfactorily overcome the concerns that have been raised. They therefore recommend refusal on this basis alone.
- 9.41. The LHA Transport Officer has raised concerns in relation to the access to the site and potential for queuing as the site is on the Old Shoreham Road (OSR), an important East / West throughfare for the city of Brighton & Hove carrying up to 28,000 vehicle a day.
- 9.42. There is a risk from the proposals that queues for the drive-thru could tail back on to the Old Shoreham Road and impact traffic flows on this adjacent road. Whilst for the left turn in, the proposed drive-thru lane is of a length that offers comfort peak demand would be accommodated, the right turn in proposes a new priority junction with a filter lane that has a capacity of 4 vehicles. There is a high bar for evidence that this will not cause queuing back on to the Old Shoreham Road, and the details provided in the Transport Assessment do not clear that bar. It has not been demonstrated that the proposal will result in an highway safety risk for users of the highway in close proximity to the proposed development.
- 9.43. In addition, a new uncontrolled pedestrian crossing is proposed in close proximity to an existing signalised crossing with a cluster of accidents in the 5-year study period submitted. A wider search of accidents on the OSR shows 3 fatalities within 2.5 miles of the site frontage, so any significant changes to the road must be subject to the highest level of evidence.
- 9.44. In addition to the above, the proposed levels of onsite car parking is considered to be significantly in excess of policy and SPD14 (39 spaces against a policy requirement of 10), with no compelling evidence or reasoning why this should be allowed. LHA Officers have also noted that a reduction in onsite provision to a more compliant level, would likely increase the highway safety risk, and in the LPAs opinion this highlights that the proposed use in this location is not suitable, from a transport perspective alone.
- 9.45. The LHA also notes that the proposed use is divergent from the local plan use for employment use and a safeguard site. And would not be a sustainable development, due to a reliance on car use and an overprovision of onsite parking.

- 9.46. The LHA recognise that the agent has supplied significant extra information to support the application, but the issues highlighted have not been resolved.
- 9.47. Taking the above into account the proposal would not provide policy compliant vehicle parking and would result in unacceptably increased traffic generation, with potential adverse impacts on the existing highway network and safety of users. The supplied information is not considered sufficient to enable the development to be fully or robustly assessed by the LHA or LPA. Therefore, the scheme is considered contrary to CP9 of City Plan Part One and DM33, DM35 and DM36 of City Plan Part Two and the NPPF in this regard.

Biodiversity including Net Gain

- 9.48. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.
- 9.49. If the proposal were otherwise acceptable conditions could satisfactorily secure biodiversity mitigation and enhancement, as per policies CP10 and DM37.

Other Matters

- 9.50. It is noted that comments have raised concerns that the development would affect a listed building or conservation area, and that the site is vacant and would be bought back into use. The site is not listed (Grade or Local Listing) or in a conservation area, and it is not currently vacant.
- 9.51. Comments have also raised that the site should be used for housing or amenity space for other residential dwellings. The site is allocated and protected for employment use in the City Plan and those uses would not be considered suitable. In any event the LPA has to consider the application before them for determination.
- 9.52. Objections have raised the global and political operating practises of the applicant, as reasons for refusal. These are not considered material to the determination of this application as the LPA is considering the change of use to fast food drive thru operation, and the general operation and impacts of this type of use. If permission was approved, then it would not be restricted to any specific operator or company.
- 9.53. Objectors have also raised concerns regarding the potential for antisocial behaviour and increases to rubbish / litter generation. These are matters covered by other regimes separate to planning, such as criminal law, civil law, building regulations, or environmental health regulations and again do not hold weight in the determination of this application.
- 9.54. If the application were otherwise acceptable, the LPA would impose conditions in respect of, but not limited to, sustainability, water use, drainage, contamination, noise, odour, lighting, Delivery and Service Management Plan, Travel Plan, and a Construction Environmental Management Plan.

10. CONCLUSION

- 10.1. The proposed works and drive-thru restaurant are considered unacceptable due to a non-conforming use on a safeguarded industrial estate and would result in the loss of important protected employment floorspace, contrary to CP3 and DM11; Non-conformance with local and national public health policies promoting healthy living, and the location of fast food outlets as required by CP18 and the NPPF. Insufficient evidence has been submitted to demonstrate that impacts on highway operation and highway safety would be acceptable as required by DM33, DM35, DM36 and the NPPF, with an over provision of car parking and under provision of sustainable modes of transport.
- 10.2. There are no public benefits of the scheme that would override the clear objections to the scheme set out above.
- 10.3. In conclusion, the scheme does not accord with the local development plan or national planning policy as set out in the NPPF, refusal is recommended.

11. EQUALITIES

- 11.1. Section 149(1) of the Equality Act 2010 provides:
 - 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.
- 11.3. The development would provide level access to the building proposed and 3 disabled parking spaces are proposed.

