

# Land Adjacent to Esso Station Baynards Green, OX27 7SG

15/00758/F

**Ward:** Caversfield

**District Councillor:** Cllr Corkin

**Case Officer:** Aitchison Raffety

**Recommendation:** Refusal

**Applicant:** Adalta Real PLC & McDonald's Restaurant Ltd

**Application Description:** Freestanding single storey restaurant with associated drive-thru, car parking and landscaping; installation of customer order display and canopy

**Committee Referral:** Potential departure from Development Plan

**Committee Date:** 26.11.15

## 1. Site Description and Proposed Development

- 1.1 The site is located within the open countryside, to the north of the junction with the A43 and B4100, and close to Junction 10 of the M40, which lies approximately 1.0 km to the south. The site is bounded to the south by an existing Esso petrol filling station and to the north-west by the existing access track serving the Baynards Green Trading Estate. This access track also becomes a bridleway (beyond the north western corner of the site). The northern boundary of the site is demarcated by landscaping and semi-mature trees. The eastern boundary abuts the A43 and is demarcated by a post and rail fence. This aspect of the site is open, exposed and very prominent from the public domain.
- 1.2 A Grade II Listed Building, a barn, lies approximately 100 metres to the north of the site, situated within the Baynards Green Trading Estate. Intervening vegetation screens this building from the application site.
- 1.3 Planning permission is sought for the erection of a single storey restaurant with associated drive-thru, plus car parking, landscaping and installation of a customer order display and canopy. Access is to be taken off the highway leading to the Baynard Green Trading Estate to the west of the site.
- 1.4 Advisement consent has been sought via three separate applications for various illuminated and non-illuminated signage across the site and on the main building, which are pending consideration (15/00751/ADV, 15/00755/ADV and 15/00756/ADV) subject to the outcome of this application..
- 1.5 This application is a re-submission of a previously refused scheme (14/00900/F), whilst a similar planning application was also withdrawn at the site (13/01754/F).

## **2. Application Publicity**

2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was 11 June 2015.

Two letters have been received. The following issues were raised:-

Material planning comments:

- Need for additional facility
- Location – who is it designed to serve? If it is for passing traffic, then should be at M40 Services. If it for local residents, then must be better locations closer to Bicester?
- Highway issues
- Out of keeping with rural area (including advertising signs)
- Additional Litter Issues

## **3. Consultations**

3.1 **Stoke Lyne Parish Council:** Object on the following reasons:-

- Out of character for the surrounding area and poses an ecological threat to its surroundings
- Cherwell Valley Service Station is a major outlet for takeaway food and any additional franchises should be located there
- No need for the facility as existing units meet need
- Litter issues
- Visual impact due to light pollution
- Transport Statement fundamentally flawed

**Ardley with Fewcott Parish Council:** Object for the following reasons:-

- Out of character for the surrounding area and poses an ecological threat to its surroundings
- Cherwell Valley Service Station is a major outlet for takeaway food and any additional franchises should be located there
- Litter issues
- Sequential issues if to serve local need

- Visual impact

### **Cherwell District Council Consultees**

- 3.2 **Planning Policy Officer:** Saved Policy TR8 of the adopted Local Plan (1996) provides for commercial facilities to serve the motorist beyond the built up limits of settlements where the need for such facilities can be demonstrated. The application and relevance of Policy TR8 should be considered in the context of more up to date guidance in Chapter 2 of the NPPF.

Policy SLE2 of the Local Plan (2011-2031) states that retail development will be directed towards the District's town centres and the Council will require a sequential test and an impact assessment in accordance with requirements in the NPPF and policy SLE2. The policy requires that proposals not in town centres should be in edge of centre locations. Only if suitable sites are not available in edge of centre locations should out of centre sites be considered and that when considering edge of centre and out of centre proposals, preference will be given to accessible sites that are well connected to the town centre.

The application site is in an out of town location and therefore proposals are inconsistent with the NPPF and the policy approach in the Local Plan 2011-2031 in this regard. The applicant explains why the proposal is proposed in this location at Baynards Green and how nationally current restaurants are located in roadside locations as well as in town centres. This application and the sequential test should be considered in the context of the market and the particular locational requirements of these proposals. This proposal would operate as a drive-thru restaurant and therefore cater for a particular market (mainly those using the M40 and A43).

The applicant explains that the impact on planned investment in Bicester, where there is a separate requirement, will not be affected. Thus, the limited scale of the proposals and the distance from Bicester are relevant.

It is not completely open countryside free from development in this location at Baynards Green, there is already small scale built development including the petrol station. Landscape and visual impact and impact on amenity should be considered carefully for this planning application particularly in relation to nearby villages. The proposal is inconsistent with saved 1996 adopted Local Plan policy C8 but must be carefully considered against adopted policy ESD13 of the new Local Plan which is consistent with the NPPF. Policy TR37 of the Non-Statutory Local Plan 2011 states that development should not extend beyond the existing site boundary at the motorway service area. This policy however is a permissive policy in general terms, allowing for retail to serve the motorist outside the towns in the vicinity of the motorway junction.

Proposals should comply with policy SLE4 which states that all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. The policy explains that

development which has a severe traffic impact will not be supported. The proposal is of a scale which is unlikely to cause significant transport impacts and is only a short distance from the motorway junction and the existing motorway services. Most journeys are pass-by trips that are already on the network.

The proposals would lead to the creation of jobs and contribute towards economic growth which is key focus for the Local Plan and the NPPF.

Overall Policy Observations: This application is inconsistent with the town centre first approach and represents development in the countryside. However, subject to no significant impacts including on the landscape, settlements and no other significant environmental impacts being identified; taking into account the market, locational requirements, the limited scale of the proposals and other matters set out above there is no planning policy objection to these proposals.

3.3 **Conservation Officer:** No response

3.4 **Economic Development Officer:** I accept the principle of this development and no further consideration of other sites in Bicester has been made in relation to very specific locational factors with the commitment given to also open a site in Bicester if a 'suitable' one becomes available in the future.

McDonalds are urged to demonstrate its stated corporate commitment to the environment by relating this development to the nearby national exemplar 'Eco-Bicester' programme.

3.5 **Landscape Officer:** With consideration of the Proposed Planting Plan (MK MCD BG SIN 01) there are only minor revisions required, thus:

- Swap round the 4 Betula with the Pinus on the southeast corner. This will allow more space for the larger Scots Pine to develop.
- Substitute Carpinus betulus in favour of Corylus avellana (Hazel) because the Carpinus has the potential to grow into large trees if not regularly trimmed as a hedge (the wide width and limited accessibility by landscape maintenance personnel on the western corner will prevent maintenance).
- Replace the deciduous trees with evergreen Ilex aquifolium for all year round cover/screening. Similar sizes as to those shown on the plant schedule are required.
- The regularity of Ilex, Betula, Ilex trees should be made more irregular and less formal by arranging tree species in groups of three alternating with and one single tree species (in a random species pattern with a contrast in foliage texture/dark and dappled shade).

All other landscape details are acceptable, including the tree pit proposals (MK MCD BG SIN 02).

3.6 **Anti-Social Behaviour Officer:** No response

**Oxfordshire County Council Consultees**

- 3.7 **Highways:** Having considered the proposal and the supporting information it is evident that car borne journeys are prevalent as a result of development, however, it has been demonstrated through surveys and assessment work that the majority of drivers/customers (some 59% to 75% Friday and Saturday respectively) are diverted and pass by trips that are already on the highway network at peak development times. Assessments at the nearby junctions also conclude that the additional traffic as a result of development (some 2% increase on the network traffic) will have a negligible impact on the nearby junctions.

In conclusion given the function of the site, the associated drive thru, adequate car parking facilities and the fact that the proposal will provide a roadside facility it is considered that there is no detrimental impact on the highway and as such the County Council has no objections to the proposal from a traffic and highway safety point of view subject to the following condition:

That prior to the first occupation of the proposed development the access works between the land and the highway shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and shall be undertaken within a Section 278 Agreement under the Highway Act 1980.

#### **Other Consultees**

- 3.8 **Highways England:** The proposal is very similar to earlier applications submitted in 2013. Any potential adverse impacts of these related to headlight scatter were deemed to be able to be mitigated by suitable boundary fence design and a condition was directed accordingly. The same condition would be appropriate in this case:

*Prior to the occupation of the development hereby permitted, details of the boundary treatment to be erected along the common boundary of the A43 Trunk Road shall be submitted to and approved by the Local Planning Authority in consultation with Highways England.*

*Reason: To ensure the safe operation of the A43 Trunk Road by avoiding headlight dazzle by users of the proposed restaurant car park and drive through facility.*

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

Adopted Cherwell Local Plan 2011 – 2031 Part 1

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20 July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was

published on 12 June 2015 and the recommended main modifications required to make the Plan sound have been included in the Adopted Plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the Statutory Development Plan, and provides the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the Development Plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Relevant policies are as follows

SLE2	Securing dynamic town centres
SLE4	Improved transport and connections
ESD1	Mitigating and adapting to climate change
ESD2	Energy hierarchy and allowable solutions
ESD3	Sustainable construction
ESD5	Renewable energy
ESD7	Sustainable drainage systems
ESD8	Water resources
ESD13	Local landscape protection and enhancement
ESD15	The character of the built and historic environment

#### Adopted Cherwell Local Plan 1996 (Saved Policies)

The Secretary of State's Direction saved policies from the Local Plan beyond the statutory period of the Plan. The saved policies are still therefore part of the Development Plan and form a key part in determining planning applications. This list has been updated following adoption of the 2011–2031 Local Plan, with Appendix 7 of the new Local Plan, indicating which policies from the 1996 Local Plan are still 'saved'. Relevant policies are

C8	Sporadic development within the countryside
C28	Layout, design and external appearance of new development
ENV12	Development on contaminated land
TR1	Transportation funding
TR8	Commercial facilities for the motorist

## 4.2 Other Material Policy and Guidance

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Department for Transport Circular 02/2013

## Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this Plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

TR37: Motorway Service Area

### 5. Appraisal

5.1 The key issues for consideration in this application are:-

- Relevant Planning History
- Principle of Development
- Character and Appearance of the Rural Landscape
- Transport Impact
- Other matters

#### Relevant Planning History

5.2 13/01754/F: Freestanding two storey restaurant with associated drive-thru, car parking and landscaping, installation of customer order display and canopy. Application Withdrawn.

5.3 14/00900/F: Freestanding single storey restaurant with drive-thru, car parking and landscaping, installation of customer order display and canopy – resubmission of 13/01754/F. This application was refused on 18 August 2014 for the following reason:

*“The sequential approach fails to satisfactorily demonstrate that there are no sequentially preferable sites or that a flexible approach has been adopted in relation to format and therefore fails to support the vitality and viability of local town centres. Furthermore, the applicants have failed to demonstrate a clear need for further roadside restaurant provision in the area resulting in harm to the character and appearance of the rural area which is within an Area of High Landscape Value. The proposal is therefore contrary to Policies C7, C13 and TR8 of the Adopted Cherwell Local Plan, Policies ESD13, ESD16 and SLE2 of the Submission Local Plan and central Government guidance contained within the National Planning Policy Framework”.*

#### Principle of Development

5.4 Paragraph 6 of the NPPF states that ‘*The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in*

*paragraphs 18 to 219, taken as a whole constitute what the Government's view of sustainable development in England means in practice for the planning system.'*

- 5.5 NPPF Paragraph 23 highlights a need for Local Plans to allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, tourism, cultural, community and residential development needed in town centres. These uses should be met in full and not compromised by limited site availability. This should include provision of appropriate edge of centre sites for main town centres where suitable and viable town centre sites are not available.
- 5.6 Paragraph 24 of the NPPF provides for '*applications for main town centre uses to be located in town centres, then in edge of centre locations*'. Only if 'suitable' sites 'are not available should out of centre sites be considered.' It goes on to state that '*applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.*'
- 5.7 Paragraph 27 of the NPPF indicates that an application should be refused where it '*fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors.*'
- 5.8 Annex 2 of the NPPF provides a definition of 'main town centre uses'. This is taken to include drive-thru restaurants.
- 5.9 In paragraph 110 of the NPPF, it states that '*In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this framework.*'
- 5.10 Policy SLE2 of the Local Plan 2031 Part 1 reiterates the position stated in the NPPF, highlighting the need for a sequential assessment with all proposals, plus an impact assessment on retail proposals above 1500 sq m (gross) in Bicester. In this instance, given the NPPF definition of drive-thru restaurants to be a town centre location, a sequential assessment is required but not an impact assessment.
- 5.11 The assessment undertaken in support of this application has been expanded following the previous refusal in 2014. The proposal is seeking a restaurant and drive-thru facility. The trade from both elements are required to enable a viable enterprise and meet the aspirations of the operator. The requirement to segregate the two uses is acknowledged as extending beyond the flexibility that needs to be shown as part of a proposal, a position clarified by way of reference to an appeal decision from Newquay in the Retail Assessment accompanying the proposal – reference APP/Q0830/A/05/1182303.
- 5.12 The retail assessment considers and discounts various sites within Bicester Town Centre, the surrounding retail parks and vacant commercial units on the key transport routes into Bicester. This follows the approach set out in policy and complies with this aspect of the sequential assessment approach. However, the Retail Assessment acknowledges that the primary function of the



proposed application facility is for the passing motorists and not to serve local needs.

- 5.13 The sequential approach to development in respect of Bicester is therefore not directly relevant in this case. Consideration of the balance of need versus impact on sustainability, location and the countryside is required.

#### **Need for additional Trunk Road Facilities**

- 5.14 Previous national planning guidance provided detailed information on the requirements for such facilities, but the NPPF/NPPG are largely silent. However, the Department for Transport Circular 02/2013 provides information on roadside facilities on motorways and all-purpose trunk roads.
- 5.15 Circular 02/2013 acknowledges that *'Motorway service areas and other roadside facilities perform an important road safety function by providing opportunities for the travelling public to stop and take a break in the course of their journey...The network of service areas on the strategic road network has been developed on the premise that opportunities to stop are provided at intervals of approximately half an hour...The Highways Agency therefore recommends that the maximum distance between motorway service areas should be no more than 28 miles. The distance between services can be shorter, but to protect the safety and operation of the network, the access/egress arrangements of facilities must comply with the requirements of the Design Manual for Roads and Bridges 14 including its provisions in respect of junction separation'* (paragraphs B4 – B6).
- 5.16 Paragraph B8 continues indicating that *'the distances set out above are considered appropriate for all parts of the strategic road network and to be in the interests and for the benefit of all road users regardless of traffic flows or route choice. In determining applications for new or improved sites, local planning authorities should not need to consider the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons. Nor should they seek to prevent competition between operators; rather they should determine applications on their specific planning merits.'*
- 5.17 Policy TR8 of the Adopted Local Plan 1996 states that existing provision of petrol filling stations, roadside restaurants and rest areas are sufficient to meet the needs of motorists for the foreseeable future. However, it recognises that there may occasionally be circumstances in which a need can be clearly demonstrated for further provision. This policy is seeking to ensure facilities only where necessary are approved, with consideration of other policies as appropriate in the determination of planning applications. This policy is therefore considered in line with this national guidance on the provision of trunk road facilities and paragraph 23 of the NPPF, which sets out a requirement for Local Planning Authorities to meet the need for retail/commercial facilities. This saved Local Plan policy was most recently considered as part of the adoption of Local Plan 2011 – 2031 Part 1 examination, where it was considered an appropriate policy to continue to save. This saved Local Plan policy should therefore be considered consistent with national policy and afforded weight in the determination of planning applications.

- 5.18 Additionally, Policy TR37 of the Non-Statutory Local Plan indicates that provision of additional facilities at the Cherwell Valley Services would be acceptable within the curtilage of the existing service area, subject to protecting highway safety and not having an additional adverse impact upon the open countryside. This policy, whilst allowing additional facilities, does not support the expansion of the service site into the surrounding countryside.
- 5.19 There are three existing Trunk Road service areas on the A43. These are:
- at the intersection with the M40 near Bicester (Cherwell Valley Services – M40 Junction 10);
  - on the junction to the west of Towcester; and
  - at the intersection with the M1 near Northampton (Northampton Services – M1 Junction 15A).
- 5.20 All three incorporate a range of facilities, including at least two options for food and drink, fuel and toilet facilities. There is approximately 10.3 km (6.4 miles) between the M1 and Towcester services, 26.6 km (16.5 miles) between the Towcester and M40 services and 39.3 km (22.9 miles) between the M1 and M40 services. The spacing of the facilities along this stretch of highway therefore complies with the maximum separation distances between service facilities, with the Towcester services effectively acting as an additional facility between the two motorway service stations. The need for additional facilities does not exist in terms of spacing and drive time between these service areas, with additional petrol stations with convenience stores and takeaway coffee facilities also available at Brackley and Baynards Green (adjacent to the application site).
- 5.21 No information in respect of the need for an additional facility to offset the impact upon the countryside has been provided in support of this application, other than a generic statement that the M40 services is frequently busy at key times and parking can be an issue. This is not considered sufficient justification to support the need for a new trunk road restaurant on the A43. Additionally, the application site is less than 1.0 km north of the M40 Cherwell Services, illustrating that the facility would not be logically spaced between existing service areas to justify its provision. The proposal is therefore contrary to saved Local Plan Policy H18.

### **Consideration of Alternative Sites along the A43**

- 5.22 As noted above, there is no formal sequential assessment for considering the location of a trunk road service facility. However, following discussion with the applicant during the application, additional consideration of site options along the A43 have been undertaken to illustrate whether alternative locations are available. These sites would also need to be considered in respect of their visual setting and sustainability for any development. The applicant's submissions have included brief assessment of three alternative locations:
- The M40 Cherwell Services
  - Mercedes Petronas, Brackley
  - BP Filling Station, Brackley

- 5.23 Provision of an additional restaurant to enlarge an existing service area is a logical approach. However, it appears that there is insufficient space to accommodate a restaurant and drive-thru at Cherwell Services and thus provision would need to be considered against landscape impact, as noted in Policy TR37 of the Non-Statutory Local Plan. Additionally, this service centre is operated by MOTO and contains a rival fast food chain. It is indicated that due to the end user, the site would not be available even if there was land within the existing service area.
- 5.24 The two Brackley sites have been discounted on the basis that they are not available, but it is unclear exactly which land has been considered. No plans have been provided to illustrate their locations. Additionally, no paperwork has been provided to prove that these sites are not available. Further information is required before it can be ascertained that these sites are unavailable. Due to the position of these sites roughly at a mid-way point between the existing service areas, and the proximity to existing built development of Brackley, it appears to be a logical location where a trunk road facility could be located, particularly if it is adjacent to the existing BP station facilities.
- 5.25 It is therefore considered that alternative sites may be available which would be better located to cater for a restaurant and drive-thru, due to the distribution of existing facilities along the A43.

#### **Character and Appearance of the Rural Landscape**

- 5.26 The application site is located within the countryside. The land was formally designated as part of an Area of High Landscape Value, a designation that has now been replaced by a character-based approach. The previous approach however, does signify that the landscape quality is high.
- 5.27 The land forms a relatively level parcel of grassland with established trees truncating views to the north and west of the site. The land however is open to views from the south and east, in particular from the A43, the B4100 east of its intersection with the A43, and from the junction itself. The provision of a building on this land will therefore reduce the overall open and undeveloped character and appearance of the site, contrary to the protection of the countryside (NPPF paragraph 109).
- 5.28 In terms of its wider setting, it is acknowledged that the proposed development would not be viewed as an isolated structure, with the petrol station and associated retail unit to the south seen within the same view. This reduces its potential overall visual impact, whilst proposed vegetative planting will soften this further. The single storey design of the building keeps its height below 5.0 metres, whilst the use of timber slats on part of the roof attempts to reduce its visual impact.
- 5.29 Whilst the direct impact of the development can be mitigated by a comprehensive landscaping scheme, there is a conflict between the desire to screen the building so that it does not undermine the open appearance of the countryside and having a visual presence so that customers are aware it is there. As a result, the building will inevitably undermine the open and

- undeveloped appearance of the countryside, contrary to Policy ESD13 of the Adopted Cherwell Local Plan 2031 Part 1 and the NPPF.
- 5.30 The proposed building is the same as that refused through application 14/00900/F. Whilst the Local Plan policy has changed since the determination of the previous application, the key aim to protect the character and appearance of the countryside is still retained through the NPPF and policies in the now Adopted Cherwell Local Plan 2031 Part 1. Consequently, the same view in respect of the impact of the development upon the countryside is reached, even though the Area of High Landscape Value designation is now defunct.
- 5.31 Additionally, as part of any such proposal, there will be a degree of light pollution that results from the development. Directional lights can seek to minimise this light spill but it is impossible to completely remove it. The adjacent petrol filling station and A43/B4100 junction's street lighting illustrates the visibility of the site during the evening and at night, with the location clearly visible from a number of points on the B4100 and the road connecting the B4100 and Hardwick to the east of the application site. Additional facilities would exacerbate this situation.
- 5.32 The applicant has indicated that the proposed 24 hour operations could be reduced to 0800 to 1800 hours to reduce the night time illumination from this proposal. Whilst this would improve matters, cleaning and preparation would occur outside these hours such that some lighting would still be operational on the site either side of the opening hours. Restriction to these hours is also likely to cause significant impact upon the turnover of the unit, providing pressure to extend the opening hours in the future. This reduction in opening hours is not therefore considered realistic.
- 5.33 As noted above, there are potential alternative locations where a facility could be located. Notably, this includes on the edge of Brackley. Whilst this is beyond the administrative boundary of Cherwell, such facilities should be considered on a wider basis to fit with locational requirements of travellers along the A43. Provision in a suitable edge of town location would minimise the visual impact, with it viewed as part of the expanding town. This would also reduce the lighting impact. Drive-thru restaurants are capable of operating close to residential developments, and as such locations such as adjacent to the BP filling station are realistic options, particularly if opening hours are limited to more sociable hours.
- 5.34 Until the availability of all such sites around Brackley have been fully explored and rejected as being unavailable, unviable and unsuitable, and a need for the facility has been established, it has to be concluded that this proposal undermines the character and appearance of the open countryside. It is therefore contrary to Policy ESD 13 of the Cherwell Local Plan 2011 – 2031 Part 1, Policy C8 of the Cherwell Local Plan C8 and the NPPF.

## **Ecology**

- 5.35 Concern has been raised in respect of the impact of the development upon ecology, including proposed artificial lighting. Natural grassland will be lost from the site but no harm to protected species has been identified. Consequently, no ecological objection is raised. The provision of new planting of native and appropriate species will offset this harm, but quantifiable ecological benefits cannot be accommodated due to the limited space proposed for incidental landscaping.

### **Transport Impact**

- 5.36 OCC have considered the Transport Statement submitted with the application and consider that it provides a fair and appropriate appraisal of the traffic impact associated with the proposal. Given its intended use, the majority of customers would either be diverted or passer-by trips and thus the additional traffic would have a negligible impact upon nearby junction capacity and safety.
- 5.37 Similarly, the Highways Agency raises no objection to the proposal. Both simply seek conditions to be attached to secure boundary treatment details to ensure headlight scatter occurs to prevent blinding of drivers by other vehicle headlights, and to ensure public highway works necessary to support the development are undertaken appropriately.
- 5.38 The concerns of the Parish Councils are noted, but in the absence of any objection from OCC or the Highways Agency, a refusal based on detrimental highway safety would be very difficult to sustain.

### **Building Sustainability**

- 5.39 Information pertaining to sustainability during construction and operational phases of the development has been provided by the applicant to illustrate the various installations proposed to reduce the buildings carbon footprint. This includes the use of appropriate materials and techniques in the build, to low-energy installations, reduced water usage and the use of recyclable materials both on site and as by-products. No on-site renewable installations are proposed, but Policy PSD5 does not require such installation on non-domestic developments below 1000 sq m floor space. Therefore subject to the imposition of appropriate conditions to ensure compliance with proposed measures, the build and daily operation of the building are considered to comply with the building sustainability credentials set out in planning policy.

### **Heritage Impact**

- 5.40 The site is located approximately 100 metres from a Listed Building. Intervening vegetation screens views between the two sites and as such the proposal will have a neutral impact upon the setting of this heritage asset, ensuring compliance with Policy ESD15 of the Adopted Cherwell Local Plan 2031 Part 1 and the NPPF.

### **Sustainability**

5.41 The NPPF outlines three dimensions to sustainable development, which need to be considered together. These are economic, social and environmental roles (paragraph 7). In respect of the balance of benefit versus harm for this application, the following is noted:

- The proposal will generate a number of employment positions, although most will be lower paid unskilled/semi-skilled positions.
- The facility will create additional revenue for the area.
- It is isolated from existing settlements so added value to the local area will be greatly restricted.
- It is only realistically accessibly by car.
- The building is designed to be low energy for daily operation, but no innovative features or technologies are included to elevate it above other new commercial buildings.
- No need for the facility has been established.
- The development results in the loss of open countryside.
- Visual harm to the open countryside generated through the construction of an additional building and illumination of the night air.
- New native landscaping is proposed, but insufficient space on site is available to generate any recognisable ecological benefits.

5.42 All elements need to be considered holistically, with some aspects carrying greater weight. In this instance, given the lack of an identified need for additional Trunk Road Services, the potential availability of more appropriate sites, that would have less visual impact upon the open countryside, and the added benefits that would occur as a result of provision of such a facility immediately adjacent to an existing settlement (i.e. Brackley), this application is considered to not comply with the sustainability principles of the NPPF.

### **Other Matters**

5.43 The Parish Councils have raised concerns about the potential for littering, as a result of the proposal. The Planning Statement submitted with the application outlines the measures currently employed at McDonald's to tackle littering. These include three daily litter patrols within the vicinity of the restaurant, anti-littering signage across the site and regular company 'clean-up' events in local communities.

5.44 The Anti-Social Behaviour Manager has not raised any objection to the proposal and in light of the information provided with the application and the opportunity to impose planning conditions relating to the provision of appropriate waste containers, it is considered that it would be unreasonable to refuse planning permission on this basis alone.

## **Consultation with Applicant**

- 5.45 Discussion with the agent has been on going throughout the planning application seeking additional information and clarification as necessary on certain points. However, as there is still an 'in principle' objection to the proposal and its impact upon the sustainability principles of the NPPF, the application is still being recommended for refusal.

## **Conclusion**

- 5.46 The proposal is for a restaurant and drive-thru to serve the through traffic on the A43. The application site is located within the countryside, and the need for the proposed facility does not, in the opinion of your officers, outweigh the harm caused. Without an overriding justification for this new facility, the proposal will result in a loss of open countryside and be contrary to the Development Plan and NPPF.
- 5.47 The applicability of the 'town centre first' sequential approach to the location of a site is questionable in terms of its relevance to this proposal, given that it is designed to serve passing traffic on the A43. However, insufficient information has been provided to indicate that this is the best location along the A43 for a new restaurant and drive-thru, should there be a need for an additional facility. Other sites which are more sustainably located through proximity to existing towns, which consequently would also have less impact upon the setting of the open countryside, may be available. As a result the proposal constitutes unnecessary harm on the setting of the countryside.
- 5.48 The proposal is therefore considered contrary to Policy ESD13 of the Adopted Cherwell Local Plan 2011 – 2031 Part 1, Policies C8 and TR8 of the Adopted Local Plan 1996 and relevant sections of the National Planning Policy Framework.

## **6. Recommendation**

**Refusal**, for the following reason:-

1. The applicants have failed to demonstrate a clear need for further roadside catering facilities on the A43, resulting in unnecessary harm to the character and appearance of the countryside. The proposal is therefore contrary to Policy ESD13 of the Adopted Cherwell Local Plan 2031 Part 1, Policies C8 and TR8 of the Adopted Local Plan 1996 and central Government guidance contained within the National Planning Policy Framework.
2. Insufficient robust assessment of alternative locations along the A43 have been undertaken to establish that should a further roadside catering facility be required, that the application site represents the most appropriate location in terms of serving this need, maximising locational sustainability benefits and minimising visual impact upon the open countryside. The proposal is therefore contrary to Policy ESD13 of the Adopted Cherwell Local Plan 2031 Part 1, Policy C8 of the Adopted Local Plan 1996 and central Government guidance contained within the National Planning Policy Framework.

**Statement of Engagement**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.