

MC/20/0028

Date Received: 6 January 2020

Location: Land South of Multi Storey Car Park Hempstead Valley Shopping Centre Hempstead Valley Drive Hempstead

Proposal: Construction of a drive-thru restaurant, reconfiguration of car park and closure of multi-storey car park exit ramp

Applicant BAPT LTD

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Ward: Hempstead And Wigmore Ward

Case Officer: Wendy Simpson

Contact Number: 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 24th June 2020.**

**Recommendation - Approval with Conditions**

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers 19142 E 200 P1 and BMD.19.055.DR.P301 received 6 January 2020; 003 rev 01, 008 rev 02 and 009 rev 02 received 13 January 2020; BMD.19.055.DR.P201 rev C received 17 April 2020; and 004 rev 08, 006 rev 02, 007 rev 02 and 010 rev 03 received 7 May 2020

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 All materials used externally shall be as detailed on approved elevation drawing numbers 006 rev 02, 007 rev 02 and 008 rev 02.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 Prior to the first use of the unit herein approved, an acoustic assessment shall be undertaken to determine the impact of noise arising from mechanical plant. The cumulative noise rating level (L<sub>Ar</sub>,T<sub>r</sub>) of mechanical plant shall be at least 10dB below the background noise level (L<sub>A90</sub>,T) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. The results of the assessment and details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is brought into use and thereafter be maintained in accordance with the approved details.

Reason: To ensure the protection of residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 Prior to the first use of the unit herein approved, the area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the first use of the development and be maintained as such thereafter. Thereafter the vehicle parking and manoeuvring area shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to these reserved parking spaces.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking and in accordance with Policy T13 of the Medway Local Plan 2003

- 6 Deliveries and the servicing associated with the unit herein approved shall be carried out only in accordance with the Delivery Service Management Plan as set out in Appendix B of the Transport Statement (dated December 2019).

Reason: To ensure that the development does not prejudice conditions of amenity and highway safety in accordance with Policies BNE2 and T1 of the Medway Local Plan 2003.

- 7 Prior to the first use of the unit herein approved details of the location and appearance of litter bins have been submitted to and approved in writing with the Local Planning Authority. The litter bins shall be implemented in accordance with the approved details prior to the first use of the unit herein approved and the management of litter shall be implemented in accordance with the 'Litter Strategy' received on 1 April 2020.

Reason: To mitigate issues related to litter in connection with the development to accord with Policy BNE2 of the Medway Local Plan 2003.

- 8 Within six months of works commencing, details of how the development will enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement measures shall be implemented in accordance with the approved details prior to the first use of the unit herein approved and shall thereafter be retained.

Reason: To protect wildlife in accordance with Policy BNE39 of the Medway Local Plan 2003.

- 9 Prior to the first use of the unit herein approved, all hard landscaping detailed in the approved drawings shall be completed and all planting detailed in the approved scheme of landscaping, as detailed in drawing numbers BMD.19.055.DR.P201 rev C (Planting Plan) and BMD.19.055.DR.P301 (Tree Pit Details) shall be implemented by the latest of the first planting season following first use of the development hereby approved. The landscaping shall be managed and maintained in accordance with the document "Green Infrastructure : 5 year Landscape Management and Maintenance Plan (BMD.19.055.SPP002, dated 09.10.19)" and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: Pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 10 The works shall be carried out in accordance with the tree protection measures detailed in the document Arboricultural Impact Assessment (Wharton, reference 191025 0944 AIA V2, dated 25 October 2019).

Reason: Pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 11 No vegetation clearance or development shall take place during the bird nesting season (March to September inclusive) unless a suitably qualified ecologist has

first confirmed that no nests or dependent young are present (nesting bird checks within 24 hours of work commencing).

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 12 No works shall take place including site clearance until all precautionary mitigation measures and/or works for hedgehogs has been carried out in accordance with the details contained in section 1.1.38 of the BMD Ecological Constraints Review reference BMD.19.055.RPE/TN.801.EcoConstriants (dated October 2019).

Reason: To protect wildlife in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 13 If, during development, contamination not previously identified is found to be present at the site, no further development shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with. The development shall thereafter be implemented in accordance with the approved Method Statement.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 14 The use hereby permitted shall only operate between the hours of 07:00 to 23:00 hours Mondays to Saturdays inclusive and between the hours of 09:00 and 22:00 hours on Sundays and Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbours in the vicinity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 15 No commercial goods shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours 07:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturday or at any time on Sunday or Public Holidays.

Reason: To protect residential amenity in the vicinity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be

carried out within Schedule 2, Part 3 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of retail provisions in accordance with Policy R7 of the Medway Local Plan 2003.

- 17 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order amending, revoking and re-enacting that Order with or without modification) no change of use shall occur outside of use classes A3/A5 as hereby permitted.

Reason: To enable the Local Planning Authority to control such development in the interests of retail provisions in accordance with Policy R7 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application seeks planning permission for the construction of a single-storey drive-through restaurant (A5 hot-food takeaway use), which would also offer ancillary internal seating. The development would be located on an area that is currently used as two areas of car parking (36 spaces total), separated by an access road and landscaping. The proposal would also result in the closing off of one of the access points and an access road to the shopping centre from Hempstead Valley Road.

The floor area of the restaurant would be approx. 255.48sqm and the building would measure approx. 23.25m length by approx. 11.5m width and approx. 5.25m height. The building would consist of a basic single storey, flat roof form with the footprint stepping in. The building would be broken up with brick feature blocks projecting significantly above the roof height over the entrances and with horizontal projecting canopy features over in the active frontage areas of the building. The materials palette would consist of wood effect cladding, Kingspan plain cladding panels ('mushroom' colour finish) and areas of Ibstock Bexhill Red brickwork.

In support of the proposed drive-through restaurant 16 car parking spaces would be re-provided, including two 'grill' spaces and two disabled parking spaces. The remaining landscaping areas will be redesigned in part under this proposal.

The proposed hours of opening are Monday to Saturday 07:00 hours to 23:00 hours and Sundays and Public Holidays 09:00 hours to 22:00 hours. No staff numbers have been provided.

## Relevant Planning History

There are a large number of applications relating to Hempstead Valley Shopping Centre. Listed below are those relating to extensions to the shopping centre itself or the car parking areas.

MC/19/2281	Installation of plant deck, replacement staircase, access doors and additional palisade fencing. Approved with conditions, 25 October 2019
MC/17/3484	Redevelopment of existing surface level car parks to provide for retail or retail and leisure development, construction of a car park deck, amendments to access routes, servicing and internal pedestrian and vehicular routes, public realm works and landscaping. Approved with conditions, 12 April 2018
MC/16/4395	Application for non-material amendment to planning permission MC/14/3706 for Unit N6 to accommodate a 5m clear height internally to rear extension Approval with conditions, 24 November 2016
MC/15/1915	Application for non-material amendment to planning permission MC/14/3706 - for the reduction in size of unit N08 to accommodate tenants requirements for external covered space together with removal of one parking bay to allow for easier access to unit Approval with conditions, 18 June 2015
MC/14/3706	Variation of condition 2 to allow a minor material to planning permission MC/12/1873 - as previously varied by MC/13/1491 - to provide amended units sizes. Approval with conditions, 23 February 2015
MC/12/1873	Part demolition of, and alteration to the existing southern mall of the Hempstead Valley Shopping Centre and the adjacent building, and redevelopment for mixed use scheme comprising Use Class A1, A2 and A3 (shops; financial and professional services; food and drink establishments) D1 and/or D2 (non residential institutions; assembly and leisure). Improvements to and development of new public realm and landscaping and reconfigured car parking and provision of new public transport and taxi waiting facilities. Approval with conditions, 15 April 2013

MC/10/2971	<p>Outline application for part demolition of, and alterations to existing southern and eastern malls and the adjacent freestanding building, and redevelopment for mixed use scheme comprising use classes A1, A2, A3 and/or A5 (Shops; Financial and Professional Services; Food establishments), D1 and/or D2 (Non-residential institutions; assembly and leisure); and car parking facilities. Improvements to and development of new public realm and landscaping and alterations to vehicular access points and provision of new public transport and taxi waiting facilities</p> <p>Approval with conditions, 4 January 2011</p>
MC/10/0150	<p>Application for a new planning permission to replace an extant planning permission (MC2006/1481 - Extension to existing shopping centre to provide 3 additional retail units (class A1 - A4), reconfigured main entrance and internal mall, reconfigured car parking together with associated pedestrian access and landscaping)</p> <p>Approval with conditions, 10 March 2010</p>
MC2006/1481	<p>Extension to existing shopping centre to provide 3 additional retail units (class A1 - A4), reconfigured main entrance and internal mall, reconfigured car parking together with associated pedestrian access and landscaping</p> <p>Approval with condition, 1 Feb 2007</p>
MC2006/1192	<p>Town and Country Planning (EIA) Regulations 1999 for a screening opinion to determine the need for an environmental statement to accompany a planning application for an extension to provide 3 new retail units.</p> <p>EIA not required, 14 July 2006</p>
GL/95/0368/71/0129	<p>Proposed extension and refurbishment of existing Food Court area</p> <p>Approval, 25 July 1995</p>
GL/93/0476/71/0129	<p>Proposed alteration to service area access road and the infilling of an existing bus lay-by</p> <p>Approval, 27 August 1993</p>
GL/91/0633/71/0129	<p>Proposed extension to Savacentre Unit, with re-arrangement of shop units and dry cleaners</p> <p>Approval, 11 October 1991</p>

GL/71/129/91/461	Proposed extension to Savacentre Unit, including mezzanine floor, rearrangement of shop units and dry cleaners. Approval, 30 August 1991
GL/71/129T	Extension to existing shopping centre incorporating a large retail unit, link mall with shops and a multi-level car park Approval, 05 April 1990
GL/71/129N(I)	Renewal of outline permission GL/71/129N dated 25/7/85 for 8,250 square metres gross shopping floorspace, health centre, cinema complex pedestrian malls and car parking, part of Hempstead Valley Shopping Site. Approval, 20 January 1989
GL/71/129H(6)	Extension and alterations to existing Savacentre store Approval, 20 August 1984
GL/71/129H(5)	Internal refurbishment including installation of new mezzanine floors for retail use. Approval, 21 July 1983
GL/71/129N	Approx. 8,250 sq.metres net increase in gross shopping, health clinic, cinema complex, garden centre, pedestrian malls and roof car parking. Refusal, 09 April 1981
GL/71/129M	Staff and coach park to be used in association with adj. Hempstead Valley Shopping Centre. Approval, 17 April 1979
GL/71/129G(1)	Additional Car Park (approx. 520 cars). Approval, 27 July 1978
GL/71/129H(1)	Submission of amended details - covered mall scheme, following planning permission GL/71/129A dated 16/1/73. and GL/71/129B dated 6/1/76. Approval, 14 April 1978
GL/71/129F	New showrooms with service road and car parking. Approval, 10 August 1976
GL/71/129H	Single storey and multi-storey buildings for use as retail, public house and office premises including associated roads, footpaths and car parking. Approval, 30 July 1976

GL/71/129G	Use of land as car park ancillary to the Hempstead District Shopping Centre. Approval, 30 July 1976
GL/71/129B	The construction of a single carriageway of orbital road connecting with Hoath Way and the erection of a shopping centre comprising 250,000 sq.ft. of retail floor area together with ancillary provisions. Approval, 19 July 1976
NK3/71/129A	Development of land at Hempstead - construction of a single carriageway of orbital road connecting with Hoath Way and a shopping centre comprising 150,000 sq.ft. of gross retail floor area public house, health centre, library, petrol filling station and garage, surface and multi-level car parks and assembly facilities, referred to in your application for permission dated 4.2.72., as modified by the revised application form and drawing no. 33B1 accompanying the agents letter dated 13.10.72. Approval, 05 February 1973

## Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. Maidstone Borough Council, Southern Water, KCC Biodiversity, KCC Archaeology have also been consulted.

**18 letters** have been received raising the following objections:

- Loss of parking to serve shopping centre
- Surrounding road already under pressure from existing traffic
- Surrounding streets increasingly under pressure from people parking and walking to the shopping centre
- Increased litter in area
- Increased noise in the area
- Increased anti-social behaviour
- Increased traffic noise in the late hours
- Increased obesity
- Destruction of trees and harm to wildlife
- Loss of plant life
- Detrimental to climate
- Impede access to the M&S multi-storey parking area
- Littering of food will encourage rodents
- Increased air pollution
- Smell for local residents

**1 letter** of support has been received stating it will create jobs.

**Hempstead Residents Association** object to the proposal as it will result in a net loss of parking across the site but will increase visitors and staffing at the shopping centre. The proposal is relying on parking for the proposed drive-through restaurant to be within the wider centre car parking and will increase parking pressure on the centre as a whole and surrounding streets. It may result in cars queuing back out onto the highway network – Hempstead Valley Drive. The deliveries starting at 6am will harm neighbours amenities through noise and disturbance. These hours are different to those of the wider shopping centre. The hours of opening are different to the food court and other food/drink premises at the centre. The loss of trees and mature planting is not adequately compensated through the closure of the access road.

**Southern Water** provide plans of their infrastructure, which shows a water main running through the centre of the site and advise of clearance distances they require or diversion of mains. They request a condition in respect to how the avoidance of harm to their infrastructure will be achieved.

**KCC Biodiversity** advise that there is limited potential for significant ecological impacts to occur from the proposed development and suggest conditions and informatives related to mitigation measures in relation to hedgehogs, breeding birds and ecological enhancement measures.

**KCC Archaeology** have advised that no archaeological measures are required.

**Maidstone Borough Council** have not provided formal comments.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 and are considered to conform.

## **Planning Appraisal**

### *Background*

Within the last number of years at the Hempstead Valley Shopping Centre (HVSC) a number of planning permissions have been granted. Application MC/17/3484 approved development of 7,522 sqm GIA of new, quality retail and leisure floorspace; consolidation and enhancement of the existing Sainsburys car park, Green car park and Northern car parks (Blue and overflow car park) to provide 709 parking spaces replacing 759 existing spaces currently provided by the existing car parks; new car park entrance and circulation building; creation of new high quality public realm landscaping.

The submission documentation of that application described how the units of the original district centre, which was built to meet retailers requirements of the 1970's, no longer meet modern retailer requirements and customer expectations in respect of quality of finishes and space standards.

In considering that proposal, Policy S1 of the Local Plan was relevant in recognising the importance of economic growth, the need for sustainable development and amongst other things a focus on investment in the urban area with particular attention on specific identified town centres (Chatham, Gillingham, Strood, Rochester and Rainham). HVSC is not mentioned in Policy S1 because it is a healthy centre, not warranting intervention. The retail strategy identifies Chatham Centre as the main retail centre and is identified as the location for large scale comparison retail growth to emphasise its role within the retail hierarchy. Policy R7 of the Local Plan restricts the amount of retail growth directed to HVSC based on its role and function and position in the retail hierarchy. It also reflects the need to manage growth at HVSC to enable other centres to grow successful economies where recognised as struggling. It has however acknowledged that this Policy in isolation from the strategy is not wholly compliant with national policy, but the reasoning behind it, i.e. the strategy, is still considered relevant.

In considering and determining the application, MC/17/3484, the Council recognised that HVSC provides high quality retail and leisure floor space. The value that the centre adds to the Medway area was therefore noted and supported, which was considered to be reflected by the permissions granted for expansion historically.

Whilst the resulting amount of floorspace within that proposal was considered to sit below that identified in Chatham, the amount of floorspace alone was not considered to determine where a centre sits within the retail hierarchy or help to determine the impact. The qualitative impact and the resulting turnover was considered to have more of a bearing and HVSC's turnover was already considered to be above that of any of the other centres including Chatham.

However, the success of HVSC was recognised and that retail is a fast paced economy, which the Council needs to respond to. At the time of MC/17/3484 being considered it was recognised that Chatham is improving and that improvement is being supported by regeneration development and strategy. Chatham was considered to have resilience to withstand the expected 2% trade being drawn away. National Policy was also noted to support competitive centres and the growth of HVSC with that proposal would retain spend within the Medway area as a whole, which it was considered could bring in further investment into the Medway. On balance, it was concluded that the proposal was in accordance with the NPPF and Policies R7 and R13 of the Local Plan.

### *Principle*

The current application site is within the south western part of the HVSC site, at its boundary with Hempstead Valley Road. There is woodland on the opposite side of

Hempstead Valley Road to the application site. The closest residential property in the area is about 168m from the application site.

Paragraph 85 of the NPPF requires a network and hierarchy of centres, which is a principal criterion in the formation of a retail strategy. The Local Plan sets out the retail strategy including a hierarchy of centres. In this case, the Local Plan identifies HVSC as a 'District Centre' in the hierarchy of centres

The glossary of the NPPF, at Annex 2, includes 'drive-through restaurants' as a 'Main Town Centre Use' and as such it would be expected to be delivered within the main retail centres as identified within the Local Plan. With HVSC being a 'district centre' the proposed use is an appropriate use at this centre.

Policy R7 of the Local Plan states that 'development will be limited to minor extensions not resulting in a net increase in retail floorspace, and improvements to existing facilities'. The term 'retail floorspace' within Policy R7 is understood to refer to Class A1 floorspace.

In this case, the scale of the proposal is considered only to be a 'minor extension' to the shopping centre and is not for retail floorspace but Class A5/A3 floorspace. With the recent loss of the foodcourt at the shopping centre the provision of a food-outlet, which does provide some sit-in space is considered to support the function of the shopping centre as a whole. Planning conditions can be used to prevent a later change of use of space to retail floorspace.

Policy R18 of the Local Plan relates to hot food facilities including restaurants and take-aways. The policy requires that no harm occur in terms of neighbours' amenities, highway safety, waste management and noise mitigation. These matters are discussed in the report below.

With conditions to control any future change of use at a later date, the proposal is considered to comply with Policies R7 and R18 of the Local Plan and the proposal is acceptable in principle, subject to consideration of more detailed matters below.

### *Design*

Paragraph 127 is key to the achieving well designed places and requires that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting. In accordance with the NPPF, Local Plan Policy BNE1 requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment. Policy BNE6 of the Local Plan relates to landscape design.

The design of the building now proposed is simple and generic. A single storey building of a mixed palette of materials: wood effect cladding, Kingspan plain cladding panels

('mushroom' colour finish) and areas of Ibstock Bexhill Red brickwork. There have been a number of other retail/supporting services buildings approved around the main shopping centre building. As such, the detached nature of this building is not out of character to the evolving pattern of floorspace across this site. Notwithstanding the generic and simple design of the proposed building it is not considered to be unacceptable in visual terms. The building and the associated re-landscaped site, including customer vehicles and associated structures, will be easily seen Hempstead Valley Road and against the backdrop of the large brick built building of the main shopping centre. The design and location of the building within the shopping centre site is considered to be acceptable.

A landscaping plan has been submitted which involves the removal of the majority of existing shrub vegetation, whilst retaining mature tree planting. There will also be some re-profiling of the land. The proposed landscaping scheme looks to provide a native planted edge along the western boundary through the planting of understory shrubs. This approach is similar to the landscape treatment of application MC/19/0172 (parking deck). A display approach to planting is presented along the southern edge (to the entrance of the Shopping Centre) through a mix of ornamental herbaceous and shrub planting. The planting theme presents a colourful display, with species suited to a shaded environment and is considered to be acceptable for this development. A 5 year management and maintenance strategy has also been provided and again is considered appropriate in its details. The implementation of the landscaping and its maintenance can be secured by the use of planning conditions.

Subject to these conditions, no objection is raised by the Council in terms of design and appearance under Policies BNE1 and BNE6 of the Local Plan and paragraph 127 of the NPPF.

### *Amenity*

The site is located away from residential areas and within the boundary of the existing shopping centre.

The proposed hours of opening are Monday to Saturday 07:00 hours to 23:00 hours and Sundays and Public Holidays 09:00 hours to 22:00 hours.

The applicant has also submitted an acoustic assessment in support of the application.

Overall the conclusion of the acoustic assessment that vehicle related activity noise from the drive through restaurant is unlikely to cause noise issues at the closest neighbouring property is accepted within the proposed hours of operation.

The report does not account for plant noise and as such a condition should be used in relation to plant noise to control this at an acceptable noise level.

It is appreciated that there are noise related to hot food takeaways that are outside of the control of the operator – such are slamming doors, car radios and loud voices. In this case

the closest dwellings to the site are in The Rise to the southeast, which are a considerable distance from the site and separated from the side by a large carpark area, tree planting and a busy roundabout. No harmful levels of noise and disturbance from the proposal would be experienced from residential properties in the vicinity.

A condition is there required to restrict the hours to those proposed for opening and deliveries to ensure neighbours' living conditions are not detrimentally impacted. .

Subject to the use of suitably worded planning conditions the proposal is considered to comply with Policies BNE2 and R18 of the Local Plan and paragraph 127 of the NPPF.

### *Highways*

The application site currently comprises 36 parking spaces and the southern section of an access road that provides a secondary point of egress and facilitates movements from the adjacent multi-storey car park back into main parking area. In terms of access to the proposal, the vehicular access into the proposed site itself is via a priority junction located to the west of the site. The junction connects to an access road running north towards the enclosed Marks and Spencer (M&S) multi-storey car park and the shopping centre delivery yard and refuse area.

### Access, Trip Generation and Impact

In relation to impact to the public highway, the applicants have carried out an assessment. The level of trips have been calculated using the TRICS database using the 'Fast Food – Drive Through' for the proposed use. In order to establish representative trip rates, sites within Greater London, Wales, Scotland and Ireland have been excluded from the TRICS dataset. The assessment outlines that during the morning AM peak, 43 trips would be created, in the afternoon PM peak, 46 and during the weekend peak (Saturday 13:00 to 14:00) 124 trips could be created. The applicants outline that due to the location of the development site, not all of these trips would be new and many would either be pass by, diverted or linked trips. The original assessment outlined that only 10% trips would be new. However, after concerns raised by the Local Highway Authority (LHA), the applicant amended this total to 30% new trips. This gives a forecast of trips to be:

	Weekday AM			Weekday PM			Saturday		
	Arrive	Depart	Two-way	Arrive	Depart	Two-way	Arrive	Depart	Two-way
<b>Existing district centre movements</b>	463	164	627	744	765	1509	811	914	1725
<b>New trips</b>	6	7	13	7	8	14	18	19	37
<b>Proportional increase</b>	1.4%	4.0%	2.1%	0.9%	1.0%	0.9%	2.3%	2.1%	2.2%

It is noted that due to the development, vehicles exiting the multi storey would have to use the existing exit onto Hempstead Valley Drive. Within the Transport Statement, a survey was undertaken to understand the level of trips this could affect, the highest level of trips was 12 on Friday pm. It is not considered that this would significantly impact the highway network.

It is considered that given the level of trips already visiting the site, the proportional increase due to this development would not result in a severe or significant impact on the public highway.

### On-site Layout and Car Parking

The internal layout has been amended following concerns raised by the Council. The proposal provides a circular route for drive-through traffic and parking bays for sit-in trade customers. In relation to customers parking on the site, ordinarily a circular path would be created to help the flow of this traffic through the car park. However, given the space constraints of the development, this is not achievable. The applicants have instead provided, to the north of the site, a turning head to allow parked vehicles to safely exit the site in a forward gear. Whilst this proposal is not ideal, given the low speeds, it would not be considered to result in a severe impact that would warrant refusal of the application.

In terms of the amount of on-site parking provision, it is noted that there is a significant under-provision than would normally be expected for fast food restaurant, with only 13 spaces provided (with two being allocated to the drive through service). However, given the siting of the development, the applicant has carried out a parking survey across HVSC. The survey demonstrates that there is parking capacity across the site. It is therefore considered that the loss of parking and subsequent increase in demand could be accommodated within the parking availability on site and therefore no objection would be raised. The applicant has taken into account the growing third party service of delivery drivers (just eat/uber eats) and the proposed layout makes provision for motorcycle/moped drivers to serve these users.

### Deliveries and Servicing

The applicant has provided a Delivery and Servicing Management Plan (DSMP), which states that from first occupation all deliveries and refuse/recycling collections associated with the restaurant will be undertaken via the loading bay located on the eastern perimeter of the development. The largest goods vehicle expected to access the servicing area on a regular basis is a 10.2 metre rigid vehicle. The frequency of deliveries are expected to be around three per week with refuse collection occurring between 05:00 to 06:00 outside the restaurant hours.

Overall, it is considered that whilst the parking provision is minimal and the layout is constrained, on balance it is considered that the development would not significantly impact the public highway network or highway safety that would warrant refusal of the

application. The proposal is considered to comply with Policies T1, T13 and R18 of the Local Plan and paragraph 109 of the NPPF.

### *Health and Well Being*

Paragraph 91 of the NPPF and Planning Practice Guidance 'Healthy and Safe Communities' which states that Local Planning Authorities should ensure that health and wellbeing and health infrastructure are considered in local strategies to improve health, social and cultural wellbeing for all. Medway Council's also has issued a Guidance Note "Hot food take-aways in Medway" (July 2014).

The proposed use is within an established shopping centre perimeter and more than 400m from the closest school. Therefore, no hours restriction to account for school times is required.

### *Litter*

Hot food take-aways have the potential to generate litter. The applicant has submitted a 'Litter Strategy' in support of the application which explains that it is company policy to conduct a minimum of three daily litter patrols, whereby employees pick up not only their own packaging, but also any other litter that may have been discarded within a 100m vicinity of the restaurant.

As the site is within the confines of HVSC, it has also been agreed with the Shopping Centre Estate Management that the end user will be responsible for litter picking within their demise (basically the area bounded by the internal roads and Hempstead Valley Drive) but also including litter generated by the use within 100m, whilst the Centre as a whole undertakes litter picking and maintenance within the wider site including the red car park.

Control of litter and organisation of litter picking will be a responsibility of the duty manager. Litter picks are expected to take place 3 times per day including a litter pick and bin empty at the end of trading each day within 100 metres of the Drive Thru.

Whilst not detailed on the layout drawing the strategy advises that litter bins are provided outside all of the end user's restaurants, and packaging carries anti-littering symbols to encourage customers to dispose of litter responsibly. Anti-littering signage is displayed within restaurants and car parks, and support is given to Keep Britain Tidy.

Therefore, subject to a condition requiring details of the location of litter bins and adherence to the Litter Strategy no objection is raised by the Council in terms of litter and the policy is considered in accordance with Policy BNE2 of the Local Plan and paragraph 127 of the NPPF.

### *Contamination*

If planning permission is granted it is appropriate that a condition is used in respect to dealing with any unexpected contamination that may be found during construction.

Subject to such a condition no objection is raised in relation to Policy BNE23 of the Local Plan and paragraph 178 of the NPPF.

### **Conclusions and Reasons for Approval**

The principle of the proposed development is considered to be acceptable and in accordance with Policies R7 and R18 of the Medway Local Plan 2003. Subject to appropriate conditions, no objection is raised in terms of design and appearance, traffic generation, access, parking, neighbour amenity, health and wellbeing, litter or contamination and therefore the development would comply with Policies BNE1, BNE2, BNE6, BNE23, T1 and T13 of the Medway Local Plan 2003 and paragraphs 109, 127, 178 of the NPPF. The application is recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here

<http://publicaccess1.medway.gov.uk/online-applications/>