

SOUTH DERBYSHIRE DISTRICT COUNCIL

DEVELOPMENT CONTROL SUB-COMMITTEE – 26TH JUNE 2001

Planning Services Manager

I N D E X

PART 1 Planning Applications
PART 2 Appeals

In accordance with the provisions of
Section 100D of the Local Government Act 1972,
BACKGROUND PAPERS are the contents of the files
whose registration numbers are quoted at the
head of each report, but this does not include
material which is confidential or exempt
(as defined in Sections 100A and D of that Act, respectively).

PLANNING SERVICES MANAGER

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26/06/2001

Item **A1****Reg. No.** **9 2000 0277 D****Applicant:**

Redrow Homes Midlands Limited
 Redrow House
 Kinsall Green
 Wilnecote
 Staffordshire
 B77 5PX

Agent:

Stephen Lowe
 Stephen Lowe Associates
 The Smithy
 Deep Lane
 Nether Whitacre
 North Warwickshire
 B46 2HT

Proposal: **The proposed residential development comprising of the
 erection of 33 dwellings (Phase 4) on Land At Hospital Lane
 Mickleover Derby**

Ward: **Etwall**

Valid Date: **30/03/2000**

Joint with 9/2000/0290

Site Description

The site, the subject of this application, is located within the former Pastures Hospital site. It forms the most south western portion of the site and slopes, generally, from west to east. There is a recently constructed landscape bund just beyond the south western boundary of the site. This was put in place in the early stages of the Pastures development to ensure that a screen for this land was in place prior to the commencement of development on this land. The south eastern boundary to the open countryside is formed by a hedge that has also received additional planting in advance of this development.

Proposal

The applicant seeks consent to erect 33 dwellings on the site which forms the final phase of the development at The Pastures site. A condition attached to the outline permission prevents development commencing on this land prior to the start of 2002.

The layout has been amended on three occasions to take account of the new levels, the presence of trees on the land and the need to delete a further plot from the proposed layout as it was originally proposed within the designated landscaped area on the edge of the site.

Five of the proposed dwellings have a three-storey element to them. These are located in the middle of the site where there is a significant change in ground levels.

The applicants have confirmed that the protected trees will be fenced off prior to development commencing. The number of dwellings has been reduced from 40 to 33 in part to reflect the need to retain trees on the site.

Planning History

Outline planning permission was granted for the site in the mid 1990's. A grant of permission for the erection of dwellings followed shortly after. Several amendments to the layout have been approved in the interim period and the approved part of the development is now approaching completion.

Responses to Consultations

Burnaston Parish Council has no objection to the development as originally submitted save for the retention of the poplar trees to provide a screen and the Authority being satisfied that the regrading scheme is satisfactorily resolved.

The County Highway Authority's comments on the latest amended layout will be reported at the meeting.

Severn Trent Water has no objection subject to the submission of details of foul and surface water disposal.

The Environment Agency has no objection subject to approval of surface water drainage details and highway drainage. The Environment Agency has also included a list of informatives relating to the conservation of water.

Structure/Local Plan Policies

The relevant policies are:

Planning Policy Guidance Note 3

Local Plan: Community Facilities Policy 3

Planning Considerations

The main issues central to the determination of this application are:

- Compliance with the policies of the development plan
- The acceptability of the layout and design of the dwellings
- The impact on the trees

Planning Assessment

The site comprises part of the formally developed hospital site at Pastures. Provision for the redevelopment of the site is made in Community Facilities Policy 3 of the Local Plan. Therefore, the principle of housing development on the site is acceptable.

However, Planning Policy Guidance Note 3 "Housing" (PPG3) requires a minimum density on formerly developed land of 30 units per hectare. The proposed development would result in a density of only 15/hectare. Whilst this is less than the minimum set out in PPG3 there are

circumstances that dictate that a lesser density would be acceptable in this instance. Prime amongst these is the protected trees that lie within the site area. The location of these trees is such that the number of dwellings has had to be reduced from that originally put forward by the developers. In these circumstances, it is appropriate to relax the density requirements of the PPG.

The layout of the housing is generally acceptable. Notwithstanding this, the central area of the site, the area that includes the three storey dwellings, is currently being re-considered by the applicants in terms of its layout and design particularly as one plot has its rear and side elevation prominent from the road. Any amended design will be reported verbally at the meeting.

The layout has been examined in relation to the impact on the trees. Subject to the recommended conditions, the layout should not adversely impact on the protected trees that occupy the site.

The road layout has been considered by the highway authority. Subject to any comments to be made on the latest revised details the road system proposed is acceptable.

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

2. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

3. No dwellings shall be occupied until the proposed estate street has been laid out in accordance with the application drawings (as amended), to conform with the County Council's Roads in Housing design guide, and constructed to at least base course level, drained and lit in accordance with the County Council's Specification for Housing Development Roads.

Reason: In the interests of highway safety.

4. Prior to the first occupation to which it relates, private driveways shall be laid out and constructed and surfaced with a solid bound material in order to avoid the transfer of loose material on the highway.

Reason: In the interests of highway safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking/garaging provision is available.

6. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

7. The tree protection fencing indicated on drawing no SK9 B accompany the letter from Redrow Homes dated 17 May 2001 shall be implemented prior to any development being commenced on the site. The fencing once erected, shall be maintained in place until the plots adjacent to which the fencing is located is occupied or some other time that may be agreed in writing with the Local Planning Authority.

Reason: In order to protect trees that are subject to South Derbyshire District Council TPO 132 from harm during the development.

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping for the site.

Reason: In the interests of the appearance of the area.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

10. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed by the Local Planning Authority in accordance with its published standards. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

Reason: To ensure that adequate parking/garaging provision is available.

11. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

Informatives:

The developer must ensure that surface water runoff from private land, particularly driveways and forecourts is not allowed to flow onto the highway. Suitable measures such as a dished channel with outfall to the private surface water drain must be provided to the satisfaction of the Highway Authority.

The structural design of retaining walls adjacent to or supporting the highway must be submitted to the Highway Authority for approval. Walls supporting the highway will become part of the maintainable highway and are subject to a commuted sum to cover the cost of future maintenance. They also require an easement for working space within adjacent land. You are reminded of the water conservation methods mentioned in the letter from the Environment Agency dated 14 April 2000 that was copied to you by the Agency at that time.

26/06/2001

Item **A2****Reg. No.** **9 2000 0290 D****Applicant:**

Redrow Homes (Midlands) Ltd
 Redrow House
 Kinsall Green
 Wilnecote
 Staffs
 B77 5PX

Agent:

Stephen Lowe
 Stephen Lowe Associates
 The Smithy
 Deep Lane
 Nether Whitacre
 North Warwickshire
 B46 2HT

Proposal: **Proposed residential development comprising of 40 new dwelling houses known as Phase 4 Land At Hospital Lane Mickleover Derby**

Ward: **Etwall**

Valid Date: **30/03/2000**

This report raises the same issues that appear in 9/2000/0277 and relates to the same site.

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

2. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

3. No dwellings shall be occupied until the proposed estate street has been laid out in accordance with the application drawings (as amended), to conform with the County Council's Roads in Housing design guide, and constructed to at least base course level, drained and lit in accordance with the County Council's Specification for Housing Development Roads.

Reason: In the interests of highway safety.

4. Prior to the first occupation to which it relates, private driveways shall be laid out and constructed and surfaced with a solid bound material in order to avoid the transfer of loose material on the highway.

Reason: In the interests of highway safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking/garaging provision is available.

6. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

7. The tree protection fencing indicated on drawing no SK9 B accompany the letter from Redrow Homes dated 17 May 2001 shall be implemented prior to any development being commenced on the site. The fencing once erected, shall be maintained in place until the plots adjacent to which the fencing is located is occupied or some other time that may be agreed in writing with the Local Planning Authority.

Reason: In order to protect trees that are subject to South Derbyshire District Council TPO 132 from harm during the development

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping for the site.

Reason: In the interests of the appearance of the area.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

10. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed by the Local Planning Authority in accordance with its published standards. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

Reason: To ensure that adequate parking/garaging provision is available.

11. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

Informatives:

The developer must ensure that surface water runoff from private land, particularly driveways and forecourts is not allowed to flow onto the highway. Suitable measures such as a dished channel with outfall to the private surface water drain must be provided to the satisfaction of the Highway Authority.

The structural design of retaining walls adjacent to or supporting the highway must be submitted to the Highway Authority for approval. Walls supporting the highway will become part of the maintainable highway and are subject to a commuted sum to cover the cost of future maintenance. They also require an easement for working space within adjacent land. You are reminded of the water conservation methods mentioned in the letter from the Environment Agency dated 14 April 2000 that was copied to you by the Agency at that time.

26/06/2001

Item **A3****Reg. No.** **9 2001 0015 F****Applicant:**

McDonalds Restaurants Ltd
 Golden Arches House
 6 Victoria Road
 Sutton Coldfield
 B72 1SY

Agent:

N Brindley
 Hephher Dixon
 100 Temple Chambers
 Temple Avenue
 London
 EC4Y0HP

Proposal: **The demolition of existing buildings and the erection of a drive-thru restaurant (Class A3) on the site of the former Coal & Coke & Brick Company Belmont Street Swadlincote**

Ward: **Swadlincote**

Valid Date: **08/01/2001**

Site Description

The site is located on the edge of the town centre (about 200 metres walk from the High Street) separated from it by Civic Way. Currently the site forms part of a larger transport depot. This use has occupied the land for many years.

Opposite the site on the Belmont Street frontage stands a row of late nineteenth century houses. These occupy positions set close to the rear edge of the footway.

To the east of the site are rear gardens to two dwellings which are accessed off Belmont Street. To the west is the recently erected Lidl foodstore.

Proposal

The applicant seeks consent to erect a drive thru' take away hot food facility. The scheme incorporates an area of car parking with access to it from the access road recently constructed to serve the foodstore to the west and a route for a drive thru' facility from the car park running alongside the eastern and southern boundaries. The main entrance to the restaurant is shown facing west towards the junction of Belmont Street and Civic Way.

A landscaping scheme shows planting all around the site. Part of the application site extends to land on the opposite side of the access to the adjoining foodstore where it is proposed to lift the crowns of a row of holly trees within South Derbyshire Tree Preservation Order 103. This is proposed so as to make the site more visible and allow for the erection of a sign on Civic Way (see following agenda item).

The building itself is shown as a unit typical of the applicant company's national identity but detailed using brick, large glazed areas and some tiling around the roof. It would provide seating for approximately 85.

The scheme originally submitted showed the felling of some of the protected holly trees but this element of the scheme has now been omitted. An amended scheme has been submitted which shows the store separated from its Belmont Street frontage by a 2.4 metre high boundary structure of brick walling and fencing reducing to a height of 1.5 alongside the car park. The applicant company has also agreed to extend a 2.4 metre high fence to the boundary with residential gardens on the north east side of the site. A separate pedestrian access direct from Belmont Street to the main entrance of the store has been deleted.

Applicants' supporting information

The Applicant Company has submitted detailed reports (by relevant consultants) as follows:

- a. Noise assessment
- b. Traffic Report
- c. Transport Report
- d. Air Quality Report
- e. General planning assessment.

All reports are available in the department but can be summarised as follows:

- a. **Noise:** The assessment includes a baseline noise survey and an assessment of the effects of noise from customer vehicles, deliveries and customer behaviour. The assessment has demonstrated that, based on a BS 4142 assessment, which overestimates any impact, the noise from the operation from use of the restaurant indicates less than marginal significance and any noise change is predicted to be insignificant. The assessment has considered a worse case. The location of the base line noise survey was slightly 'protected' from the road traffic noise and the noise levels at the two closest residential properties are likely to be higher than those measured. The assessment has not taken into account any attenuation benefits of boundary treatments which could be significant. The findings of the assessment indicate that residential amenity in the area should not be compromised by noise from the development, there should be no reason for a refusal of planning permission on noise grounds.
- b. **Traffic:** Capacity testing at the Civic Way and Belmont Street junction has indicated that the junction would operate satisfactorily during the Friday and Saturday peak periods, with the proposed development. Accident reports have confirmed that there is not a safety problem currently associated with the site or the immediate surrounding area. The proposed level of car parking would be sufficient to cater for the peak period demand of the restaurant. The service vehicle swept path analysis has confirmed that a 16.5m articulated vehicle could satisfactorily service the site.
- c. **Transport:** The provision of a restaurant adjacent to the town centre, residential and commercial uses is consistent with the aims of PPG 13. The site is ideally located for shared trips with other users in the area.

The site is accessible by local public transport services and also has adequate facilities for pedestrians and cyclists.

- d. **Air Quality:** Local air quality data, Review and Assessment reports and data collected at national network sites have been reviewed to evaluate existing air quality in the area. An assessment of the potential air quality impacts of the proposed restaurant development has been carried out, including those that arise from queuing at the drive thru' facility. The analysis suggests that the effects on air quality would be insignificant. It is unlikely that it would be possible to detect the calculated differences between existing air quality and changes due to the development of the site.
- e. **General Planning Assessment:** The site is not specifically identified in the Local Plan and is considered appropriate in principle for a restaurant. An appeal decision has been provided to demonstrate that, in the view of an Inspector in an appeal heard into the development of a similar restaurant elsewhere, the sequential test analysis set out in PPG 6 is not warranted. McDonald's have successfully developed several hundred free standing restaurants in a variety of locations since the latest revision to PPG 6 in June 1996. The facility would provide for the opportunity of linked trips to the town centre and the Lidl store adjoining, and will obviate the need for local people to travel to McDonald's restaurants outside the area. The plans show a single storey high quality modern building with landscaping and well laid out and accessible car park. The restaurants allow for access for disabled customers.

The development represents a significant investment of almost £1m (excluding land costs). The existing buildings on the site are extremely poor and the development would represent a considerable visual improvement. Although the landscaping of the site is an important element of the company's free standing restaurants, the visibility of the store from the road network is of paramount importance. As such the removal of some of the trees on Civic Way is a pre-requisite to the development. (Subsequently, the applicants have amended this aspect of the proposal), McDonald's core trading hours are 7am to 11pm daily. The noise impact study demonstrates that there would be no detrimental impact upon residential amenity during these hours. The scheme also includes boundary structures to protect nearby residents further. Servicing and deliveries are normally restricted to 3 times per week and the company would accept a condition to restrict servicing to normal hours.

It is estimated that the restaurant would create employment for 50-60 staff (60% of which would be part time) with good career opportunities. With regard to litter, the company recognises the problems that litter can create. As a result it provides litter bins in and around the site and staff undertake litter patrols in the vicinity of the restaurant. The company works in close partnership with the Tidy Britain Group, which involve staff working with youth groups and school children to encourage good litter behaviour. A number of appeal decisions have also been submitted which demonstrate that permissions have been granted elsewhere where residential amenity has been one of the main issues.

Planning History

The site has been in use as part of a larger transport yard for many years. The detached building on the site frontage has also been used previously for retailing.

Responses to Consultations

Severn Trent Water Limited has no objection subject to conditions.

The Environment Agency has no objections but recommends that a full site investigation is carried out to determine the nature and extent of any contamination on the site and any risks they pose with respect to groundwaters.

The County Highway Authority considers that the principle of the proposed development is acceptable subject to conditions covering the construction of the access, provision for construction traffic, laying out of parking and manoeuvring space etc. It is acknowledged that the access arrangement is not ideal but is satisfactory. There remains an area of the access road that may fall outside the application site and is not public highway but it is assumed that the applicants have rights of access. It states that it cannot support the suggestion that Belmont Street should be closed since there would be the potential for vehicles needing to be turned or reversed within the street to introduce a significant hazard. This response also involved a consultation with the police.

The Head of Environmental Health comments as follows:

The application relates to the use by McDonalds of a drive-thru' restaurant on a site that has had a history of commercial and industrial uses and is close to some residential properties. There are a number of concerns, from an Environmental Health viewpoint, in relation to the development, in particular noise, odour, air quality, amenity disturbance and contaminated land.

Contaminated Land

The site has had many previous uses. These include its use as railway sidings and more recently a haulage yard. There is a potential that the site has been subject to possible contamination from these uses. It will, therefore, be necessary to ensure that the extent of any contamination is adequately determined by site investigation and, where necessary, a remedial statement drawn up to ensure the site is adequately remedied to a standard suitable for its intended use. In order to ensure this it is recommended that an appropriate condition be attached to any permission.

Odour

The main concern in relation to odour is from the cooking fumes from within the kitchen. As the majority of the odours are from frying units this has the potential for creating smells that will give rise to complaints unless adequately controlled. This is particularly the case due to the close proximity of residential properties and the prevailing wind direction across the site towards them.

In order to address this issue a number of McDonalds sites have been visited in Nottingham, Burton and Coventry to determine the potential for odour problems. At all of these sites, except for Coventry, odours were detected beyond the boundaries of the site and would have the potential for creating problems. In relation to the McDonald's site at Coventry, this had a full odour control system installed including pre-filters, labyrinth filters, mixed media electrostatic filters and an odour neutraliser. At the time of the visit, only slight odours could be detected at the exit of the extraction unit. If a similar system were installed and adequately maintained at the proposed site then odours would be minimised and significant complaints would not be likely. In order to ensure this it is recommended that an appropriate condition be attached to any permission.

Noise

The main concerns in relation to noise are: traffic to and from the site; equipment used at the site; customer activity; and the use of the drive-thru' facility. The submitted assessment identifies existing noise levels for the site and compares these to demonstrable predicted noise levels from potential sources. These are then used to predict the impact on the nearest residential properties. The methodology used within the report has been undertaken to the satisfaction of this department. The conclusions were that noise from the site should not create any significant impact on adjacent residential properties and should not cause an increase in noise levels. Whilst there is general agreement with this, it is very difficult to control customer activity to a level where there would not be a problem. It is recommended therefore that appropriate conditions be attached to any permission in order to minimise any noise impact. Such conditions should include: measures to be taken in order to control noise from customers using the drive-thru' and car park; notices and instruction to staff etc.; restrictions in relation to deliveries on and off the site; keeping windows closed to the drive-thru' booths when not in use.

Litter

The applicant has confirmed that they would undertake litter patrols within the vicinity of the site. It is recommended that in order to ensure this, a condition is attached to the permission, if granted, that will require them to undertake litter patrols.

General Amenity Disturbance

There is also concern over the potential amenity disturbance that may be caused as a result of the proposed restaurant. This is in relation to the possible problems from the congregation of people on or around the site, the comings and goings to and from the site and general increased activity. However, this is difficult to quantify and demonstrate without evidence and any such opinion would be purely subjective. The submitted evidence suggests that there would be unlikely to be any such disturbance in this case.

Conclusion

The applicant has submitted sufficient information and assessments to the satisfaction of this department in relation to the main issues of concern outlined above. All of these have reported that there should be no significant impact over and above the existing use of the site and surrounding area. However, in order to minimise the impact the conditions recommended above should be attached to any subsequent permission.

The evidence submitted indicates that there should not be a significant impact as a result of the development. However, members should be aware that there is still concern in relation to the potential loss of amenity due to more intangible issues such as customers congregating at and coming and going to the site. However, it is not possible to support this opinion with substantive evidence and without this a recommendation of refusal on these grounds would be difficult to sustain in this case.

Responses to Publicity

A petition, containing 107 signatures, has been received objecting to the scheme on the following grounds (contained in a covering letter):

- a. Siting near a school
- b. Traffic hazard as it is already a confused junction
- c. Safety of elderly and young children from the nearby school and OAP flats
- d. Late night noise
- e. Litter and vermin
- f. Extra traffic on a restricted access only road
- g. Wrong type of development in a mainly residential area
- h. Wrong to remove protected trees just to site a huge sign
- i. Constant noise 7 days a week on a site that is normally only active twice a day 6 days a week
- j. Too near to houses
- k. Better sites in Swadlincote
- l. Not in the town centre
- m. Light pollution from site and signage
- n. Encouraging extra traffic into a traffic calmed area
- o. Constant smell
- p. Encouraging undesirables to congregate at night in a quiet area.

The letter also states that there they do not object to a McDonalds in Swadlincote only to the siting of it in a mainly residential area.

31 individual letters of objection have been received in response to the original and amended scheme (some from the same households) making the following points:

- a. The restaurant would be close to houses and would be an invasion of privacy for the local residents some of whom would be opposite on a narrow street. There are probably no other McDonalds so close to residential properties, they are usually sited in retail areas of town centres or on retail parks.
- b. There would be noise from the cars visiting the site, waiting to collect meals, car radios and music systems, doors slamming, cars revving, customers shouting and from the building of the restaurant itself.
- c. There would be light pollution until very late at night
- d. There would be the smell from the restaurant all day, every day from early morning to late at night. There would be air pollution from idling engines and the extract system. The measurements of air quality are based on maximum acceptable levels and not what is currently suffered up to 2300 hrs.
- e. There would be litter and the site would attract rats (as the Lidl store has)
- f. There would be a danger for pedestrians from extra traffic when crossing the road at the junction of Belmont Street and Civic Way
- g. Even more cars would be encouraged to use Belmont Street illegally. Consideration should be given to blocking of Belmont Street next to the school.
- h. There would be danger from the extra traffic for the children at nearby Belmont Primary School where children cross the road throughout the day with classrooms on both sides. The development compromises the 'Safe Routes to School' element of the Council's cycling strategy
- i. The Council should not allow the removal of any trees for purely commercial reasons especially those which are highly valued locally, form a substantial windbreak to houses on Belmont Street, are home to several birds, animals and insects and are the subject of a tree preservation order and in the National Forest.
- j. After closing the car park would be very secluded and open to abuse which could be remedied with the use of a lockable barrier
- k. The boundary fence should be eight feet high and painted green to blend with the existing conifers
- l. The attraction of further cars to Belmont Street would make it even more difficult for residents to park and the junction of Belmont Street and Civic Way more dangerous and confusing with constant traffic movements. Recently McDonalds had a promotion at Branston resulting in people queuing for up to an hour to get out of Morrison's car park because the area became so congested. This could never be tolerated at the Civic Way junction.
- m. It is not clear who would be responsible for the increased noise at night and increased litter. McDonalds may be responsible for their own premises but what about the streets and the park? The Council would need extra resources for street cleaning in the Belmont Street area.
- n. The suggested opening hours of 7am to 11pm would be too late in a residential area (especially with a further period of time for customers to finish their meals. Hours of opening should be limited from 8am to 10pm. The noise level readings taken to support the application only relate to the maximum levels and take no account of what levels are at 2200hrs to midnight - the time most residents are concerned about. Noise levels have been taken measured at a distance of 30 metres from a property whereas many are only 12 metres away. The restaurant

would result in youths gathering which is currently happening on occasions at the Lidl car park at night causing a nuisance. Local residents do not want to feel threatened or frightened to go out on their own.

- o. The development is out of character with the residential area and the site has never had a retail use. The intrusion of the Lidl site should not be used as a precedent to encourage further retail use of the site.
- p. There are more suitable sites in Swadlincote (for example the Council Depot opposite Sainsburys, Hepworth's site or William Nadin's Way) which would be more suited and benefit from better access. The store could be located at the back of the remaining transport site. Planning guidelines indicate that such a store should be in the town centre as it seeks to encourage town centre trading and the use of local facilities. The proposed site could draw people away from the town centre and undermine its regeneration. It is likely that most visits would be to the restaurant only with no benefit to town centre traders. The town centre cafes would be severely affected by the restaurant offering the facility of being able to drive to the door. The site should be developed for housing only.
- q. There is no mention of lighting for the site which could shine into properties nearby.
- r. The traffic surveys do not take account that Parkers would continue to use the rear of the site and possibly with a view to expanding their fleet of lorries. The development would allow less room for lorries to manoeuvre around the junction.
- s. The development discourages more environmentally friendly forms of personal transport increasing traffic volumes close to the town centre. The car park encourages vehicles to be used for short journeys.
- t. Encouragement of more traffic to this part of the town would undermine improvements made to the town centre in recent years.
- u. The jobs generated would be part time with skill levels of a low grade.

The Headteacher of Belmont Primary School has written to state that although many of them are delighted with the prospect of a McDonalds in the town, it should be located elsewhere. She states that more than half of the school's pupils walk across the junction every week and that traffic calming was only introduced after a child was knocked down. She feels that the existing junction is already extremely difficult to negotiate and the increase in traffic would make the situation worse.

Councillor Roy Bell (Hartshorne Ward) feels that all of the permitted McDonald's drivethru restaurants in neighbouring districts are out of town, adjacent to major routes, or on, or adjacent to, large industrial/commercial developments. Belmont Street which is residential, restricted access and next to a small supermarket has none of these features. He considers that the developer is seeking to attract both pedestrian customers from the town centre as well as drive thru' customers at the expense of the quality of life of the residents of Belmont Street.

A petition containing 264 signatures has been received supporting the scheme stating that the "young people of Swadlincote and surrounding area" believe that the restaurant would bring benefits such as employment, economic development, a place to eat and meet as well as a form of regeneration to the town.

Structure/Local Plan Policies

The relevant policies are:

Derby and Derbyshire Joint Structure Plan: Town Centre and Shopping Policy 3.

South Derbyshire Local Plan: Shopping Policy 1.

Planning Policy Guidance Note 6 (PPG 6) "Town Centres and Retail Developments"

Planning Policy Guidance Note 24 (PPG 24) "Planning and Noise"

Planning Considerations

The main issues central to the determination of this application are:

- 1 Whether the development is appropriate for its location having regard to the policies of the development plan and national guidance
- 2 Whether the proposal would materially harm the residential amenities of the occupiers of adjacent and nearby properties
- 3 Whether the proposal would be materially detrimental to highway safety

Planning Assessment

1. Both the development plan and PPG 6 seek to ensure that key town centre uses such as retail developments that are of a size or type that could harm the vitality and viability of town centres are located within the existing centre. This protective policy is achieved through the implementation of a sequential test as set out in PPG 6.

However, the guidance does not intend to govern to the same extent individual small scale developments such as that proposed in the current application. Recently, an appeal Inspector commented that unless it is demonstrated that such a small scale single restaurant or fast food outlet would be likely to be of such a significant scale to attract large numbers of people, the sequential test is not warranted. As such none has been submitted and none was requested. (Nevertheless, the company has investigated the possibility of developing other sites around the town but none have been found to be suitable).

Policy also seeks to ensure that locations are sustainable and accessible by alternative methods of transport. The applicant's agent contends that the site is well served by public transport, has established pedestrian and cycle links (including cycle parking for staff and customers) encouraging linked trips to the town centre. Similar evidence was presented and accepted when the Lidl proposal was granted permission last year.

Policy also seeks to ensure that the development is of an appropriate scale and character and is sympathetic in design to its location. The existing yard currently suffers from a poor appearance and as such a brick and tile single storey building on the site would represent a marked improvement to the Belmont Street frontage and the area generally.

In conclusion the proposal is considered in accord with planning policy and, therefore, in principle, acceptable.

2. Residential amenity is clearly an important issue about which many local residents are very concerned.

PPG 24 recognises that fast food restaurants can pose particular difficulties. It urges Local Planning Authorities to bear in mind not only the noise that is generated within the premises but

also the attendant problem of noise that may be caused by customers in the vicinity and that caused by traffic and car parking.

Appeal decisions relating to such cases in the past reveals that Inspectors have often been faced with two main arguments. Firstly, the technical evidence relating to odour control, air quality and noise; and secondly, the wider and less scientific issue of general disturbance.

The Head of Environmental Health clearly sets out the potential problems in his comments as set out above. In this case all of the technical evidence submitted suggests that there would not be any undue environmental impact on nearby residents (within the usually agreed parameters).

This view is acknowledged by Environmental Health who takes the view that there is no evidence to suggest that sustainable complaints regarding these issues would be likely to arise. However, it also makes it clear that general disturbance is a more intangible impact and as such one that is difficult to prove.

Another consideration is the “fall back” position of the site. The site is currently used as a haulage depot. Although presently operating at a low level, the site has a long established use as a haulage yard. As such, it could be used much more intensively in the future, without the need for a further planning permission, with the resulting additional disturbance to residential neighbours which would be very difficult to control.

With regard to litter, McDonalds have stated that the Company has a policy, which involves their staff in regular litter patrols to take in an area 100 metres from the store. Theoretically this could form part of a scheme in response to a condition requiring details to be submitted to counter potential litter problems (as far as is enforceable and reasonable). With regard to air quality and odour control, given the views of Environmental Health the scheme and remedial measures proposed would not create undue harm to public amenity.

In terms of the protected trees, the work proposed would be likely to be beneficial to their longer term health and could enhance their contribution to the visual amenity of the area.

In conclusion, whilst noting that residential amenity is an important issue, on balance, particularly in view of the information put forward by the applicants and their consultants and the sites current authorised use, the application would not have an adverse impact on residential amenity.

3. Local residents and the local primary school have raised concerns about the potential danger to school children and the danger that could materialise from an increase in local traffic at the junction of Belmont Street with Civic Way. However, given the views of the County Highway Authority and the evidence submitted by the applicant’s consultants, a refusal on these grounds would be difficult to sustain.

Conclusion:

In conclusion, the issues raised by the objectors to the scheme have been noted. Whilst, the new facility would have an impact on the area, it would not adversely impact upon residential amenity, highway safety or be contrary to development plan policies. As such, on balance, with the use of carefully considered conditions, the application is acceptable.

Recommendation

GRANT permission subject to conditions.

Given the late termination of negotiations in this case it has not been possible to formulate a full set of conditions before the expiry of the time given to formulate this report. However, a list of recommended conditions will be circulated before the meeting and will address the general issues of visual amenity, residential amenity and highway safety.

26/06/2001

Item **A4****Reg. No.** **9 2001 0037 A****Applicant:**

Mc Donalds Restaurants Ltd
Golden Arches House
6 Victoria Road
Sutton Coldfield
B721SY

Agent:

Hepher Dixon
100 Temple Chambers
Temple Avenue
London
EC4Y 0HP

Proposal: **The display of corporate illuminated and non-illuminated signage to serve the proposed drive through restaurant at the site of the former Central Coal Coke & Brick Co Ltd Belmont Street Swadlincote**

Ward: **Swadlincote**

Valid Date: **16/01/2001**

This application is submitted in conjunction with that seeking consent for the erection of the hot food restaurant. This forms the preceding item to this application.

Site Description

The site, the subject of this application, is the same as for the application seeking consent to erect the restaurant. The free standing sign is located on an area of open land off Civic Way. That portion of the site is bounded by a number of trees the subject of a Tree Preservation Order.

Proposal

The application involves the erection of signage on the building, in the car park and a freestanding sign on Civic Way. The application has been amended to show the freestanding sign reduced to a height of around 5 metres (previously 7 metres), the design altered to incorporate the corporate 'golden arches' into the main body of the structure and resited to avoid the felling of any of the protected trees.

Applicants' supporting information

The applicant's agent states that the freestanding sign on Civic Way is required due to the significant importance of the visibility of the store from the road network. It suggests that all of the signage would be sensitively located to ensure no loss of visual amenity to residents in the vicinity.

Responses to Consultations

The County Highway Authority has no objection subject to a condition to control the intensity of the illumination.