

**GLOUCESTER CITY COUNCIL**

**COMMITTEE** : **PLANNING**

**DATE** : **6<sup>TH</sup> AUGUST 2013**

**ADDRESS/LOCATION** : **LAND AT ST OSWALDS PARK**

**APPLICATION NO. & WARD** : **13/00345/FUL & 13/00344/ADV  
WESTGATE**

**EXPIRY DATE** : **13/00345/FUL - 30<sup>TH</sup> JULY 2013  
13/00344/ADV - 31<sup>ST</sup> MAY 2013**

**APPLICANT** : **GRANTCHESTER PROPERTIES  
(GLOUCESTER) LTD**

**PROPOSAL** : **ERECTION OF RESTAURANT WITH 'DRIVE  
THRU' LANE, CAR PARKING,  
LANDSCAPING AND ASSOCIATED  
STRUCTURES**

**ERECTION OF ADVERTISEMENTS  
COMPRISING 6 NO. INTERNALLY  
ILLUMINATED WALL MOUNTED SIGNS**

**REPORT BY** : **ADAM SMITH**

**NO. OF APPENDICES/  
OBJECTIONS** : **SITE PLAN**

**1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The application site is currently part of the St Oswalds Park car park and landscaping, between the Frankie and Benny's restaurant and the southern access to the retail park.
- 1.2 The proposal is for a drive-through restaurant. This would include a drive through lane wrapping around the building to the south. To the west side of the building there would be a new landscaped area and external seating, with two parking spaces at the north west corner. Further external seating is proposed immediately to the north of the building. To the east side the application proposes the re-arrangement of some of the existing parking, including two disabled spaces and provision for a delivery lorry to stop across parking spaces. To the south east a replacement pedestrian path is proposed from Gavel Way into the car park.
- 1.3 The design of the building has been amended so as to now include a barrel roof. The facing materials to the walls are proposed as a combination of

natural stone, Trespa 'wood décor' wall cladding, and Trespa Meteon anthracite grey wall cladding. The pedestrian entrance is on the north side with the drive-through collection on the west side.

- 1.4 The advertisement proposals have been amended to tie in with the new design, comprising four internally illuminated 'McDonald's' lettering signs, and two internally illuminated 'M' signs, all on the upper level of cladding.
- 1.5 The planning application is referred to the Planning Committee at the Development Control Manager's discretion. The advertisement application is intrinsically linked to the consideration of the building itself and so it is proposed to determine it alongside that application.

## **2.0 RELEVANT PLANNING HISTORY**

### 00/00208/OUT

- 2.1 This was the original application for mixed use development of this site comprising retail, leisure, residential, business and associated parking. It was granted conditional outline planning permission by the Secretary of State on 7<sup>th</sup> October 2003.
- 2.2 There have been several variations to conditions of this outline permission, most notably to the retail floorspace and goods that can be sold.

### **Retail park development**

#### 04/00130/REM

- 2.3 This was an application for reserved matters for the DIY warehouse and associated garden centre and builder's yard and a building comprising 2 retail units and a leisure unit with enclosed service yard. Provision of associated parking and landscaping – Phase 1A. It was granted on 4<sup>th</sup> May 2004.

#### 04/01179/REM

- 2.4 This was an application for reserved matters for the erection of 3 buildings for food and drink (A3) uses – Phase 1B. It was granted on 30<sup>th</sup> November 2004.

#### 04/01180/FUL

- 2.5 This was an application for the erection of a public house/restaurant with associated parking and landscaping works. It was granted subject to conditions on 17<sup>th</sup> November 2004.

#### 06/00680/REM

- 2.6 This was an application for reserved matters for the erection of 2 buildings for Class A2 (financial and professional services) and Class A3 (restaurants) (revised proposals for Phase 1B). It was granted 1<sup>st</sup> August 2006.

#### 07/00393/REM

- 2.7 This was an application for reserved matters for the erection of a building for the sale of books, music and entertainment goods – Phase 1D. It was granted 20<sup>th</sup> June 2007.

- 10/00423/COU
- 2.8 This was an application for the change of use from restaurant/café to hot food take away for Dominos pizza. It was granted subject to conditions on 2<sup>nd</sup> June 2010.

### **Land to south**

- 11/00873/FUL
- 2.9 This was the application comprising the demolition of existing buildings and their replacement with a new Class A1 foodstore for Tesco and Class A1 non-food retail store(s); relocated petrol filling station; car wash; new access arrangements; car parking and landscaping. It was granted permission subject to conditions and a s106 agreement on 1<sup>st</sup> June 2012.

## **3.0 PLANNING POLICIES**

- 3.1 The following planning guidance and policies are relevant to the consideration of this application:

### **Central Government Guidance - National Planning Policy Framework**

The NPPF is a material consideration in determining this application. The NPPF does not alter the requirement for applications to be determined in accordance with the development plan unless material considerations indicate otherwise. It is underpinned by a presumption in favour of sustainable development.

The NPPF core planning principles include the encouragement to enhance and improve places; proactively drive and support sustainable economic development; conserve heritage assets; and actively manage patterns of growth to make fullest use of public transport, walking and cycling.

#### *Building a strong, competitive economy*

The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth.

The NPPF retains a recognition of town centres as the heart of communities and encourages the pursuit of policies to support their vitality and viability.

The sequential and impact tests for planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan.

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more the 'impact' factors, it should be refused.

#### *Promoting sustainable transport*

Seeks to ensure development generating significant movement are located where the need to travel will be minimised and the use of sustainable

transport modes can be maximised. Decisions should take account of whether;

- The opportunities for sustainable transport modes have been taken up;
- Safe and suitable access to the site can be achieved for all people;
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented on transport grounds whether the residual cumulative impacts of development are severe.

#### *Requiring good design*

Emphasis is retained on good design, seeking to ensure that development will function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history while not discouraging innovation, ensure safe and accessible environments, and are visually attractive as a result of good architecture and appropriate landscaping. Permission should be refused for development of poor design that fails to take opportunities for improving areas.

#### *Promoting healthy communities*

Encourages the involvement of all sections of the community. Decisions should aim to achieve places which promote;

- Opportunities for meetings between members of the community who might not otherwise come into contact;
- Safe and accessible environments;
- Safe and accessible developments.

#### *Meeting the challenge of climate change, flooding and coastal change*

Seeks to secure reductions in greenhouse gas emissions, supporting the delivery of renewable and low carbon energy and associated infrastructure.

In terms of flooding, authorities should direct development away from high flood risk areas, but where development is necessary, make it safe without increasing flood risk elsewhere.

The sequential and exception test principles are maintained. The aim of sequential test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available site appropriate for the proposed development in areas with a lower probability of flooding. For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test.

#### *Conserving and enhancing the natural environment*

The aims of contributing to and enhancing the natural and local environment remain. Impacts on biodiversity should be minimised. Developments should be prevented from contributing to or being put at unacceptable risk from soil, silt, water or noise pollution, and remediate and mitigate land where appropriate.

### The Development Plan

3.2 Section 38 of the Planning and Compulsory Purchase Act 2004 has established that - "The development plan is

(a) The regional spatial strategy for the region in which the area is situated, and

(b) The development plan documents (taken as a whole) which have been adopted or approved in relation to that area.

If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy that is contained in the last document to be adopted, approved or published (as the case may be). If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

### Local Plan

3.3 The statutory development plan for Gloucester remains the City of Gloucester Local Plan (Adopted 1983 and partially saved until the Local Development Framework is adopted).

- Subsequent to the 1983 plan there has also been the City of Gloucester (Pre-1991 Boundary Extension) Interim Adoption Copy October 1996), and City of Gloucester First Stage Deposit Local Plan (June 2001).

- Regard must also be had to the 2002 Second Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. This cannot be saved as it is not a formally adopted plan, however with it being adopted for development control purposes it is still judged to be a material consideration. Appeal reference APP/U1620/A/07/2046996 dated 18<sup>th</sup> March 2008 confirms the degree of weight that may be afforded to the 2002 Revised Deposit Draft Local Plan. It is considered that particular weight may be afforded to those policies that attracted a limited number of, or no objections during the consultation stages. In his decision the Inspector stated the following;

"Although the local plan is not part of the development plan it has been adopted for development control purposes and I give considerable weight to it having regard to the amount of public consultation that it underwent...."

### 2002 Plan allocations

3.4 The site is within the 'Western Waterfront' regeneration area. Allocation MU2 refers to Policy S.5 for the former cattle market site, which refers to granting planning permission for restricted retail uses.

### 2002 Plan Policies

The aims of the following additional policies from the City of Gloucester Second Deposit Local Plan (2002) are relevant in considering this application:

FRP.1a – Flood risk

FRP.6 – Surface water run-off

FRP.10 – Noise

FRP.11 – Pollution

FRP.15 – Contaminated land

BE.1 – Scale, massing and height  
BE.4 – Criteria for the layout, circulation and landscape of new development  
BE.5 – Community safety  
BE.7 – Architectural design  
BE.11 – Shopfronts, shutters and signs  
BE.12 – Landscape schemes  
BE.21 – Safeguarding of amenity  
TR.9 – Parking standards  
TR.12 – Cycle parking standards  
TR.31 – Road safety  
S.4a – New retail development outside designated centres

3.5 In terms of the emerging local plan, the Council is preparing a Joint Core Strategy with Cheltenham and Tewkesbury Councils. To date the “Developing the Preferred Options” document was subject to consultation between December 2011 and February 2012. A preferred options consultation will be published later in 2013. In addition to the Joint Core Strategy the Council is preparing a its local City Plan which is taking forward the policy framework contained within the City Council’s Local Development Framework Documents which reached Preferred Options stage in 2006.

3.6 All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – [www.gloucester.gov.uk/planning](http://www.gloucester.gov.uk/planning); Gloucestershire Structure Plan policies – [www.gloucestershire.gov.uk/index.cfm?articleid=2112](http://www.gloucestershire.gov.uk/index.cfm?articleid=2112) and Department of Community and Local Government planning policies - [www.communities.gov.uk/planningandbuilding/planning/](http://www.communities.gov.uk/planningandbuilding/planning/).

#### **4.0 CONSULTATIONS**

##### 13/00345/FUL

4.1 The Highway Authority raises no objection based on the various revised details, subject to conditions to secure the anti-ram bollards and fence; and the provision of the parking, turning and loading facilities.

4.2 The Environment Agency refers to its standing advice on flood risk matters – it does not wish to offer any specific comments. The Environment Agency is currently considering contaminated land matters and Members will be updated on any comments at the Committee meeting.

4.3 The Urban Design Officer raises no objection based on the revised design, subject to a condition to secure details of external facing materials.

4.4 The Drainage Engineer advises that the proposal would reduce the existing volume of flood attenuation by removing part of the existing volume of flood attenuation (under car park storage) and would increase the run-off rate (increasing the impermeable area), and seeks flood risk betterment from the scheme.

4.5 The Senior Planning Policy Officer raises no objection.

- 4.6 The Contaminated Land Officer is satisfied that remediation and gas protection measures can be dealt with pursuant to a condition.
- 4.7 The Environmental Protection Officer raises no objection subject to conditions to control hours of work during construction, and to prevent burning.

## **5.0 PUBLICITY AND REPRESENTATIONS**

### 13/00345/FUL

- 5.1 A site notice was published and 14 neighbouring properties were individually notified. No representations have been received.
- 5.2 The full content of all correspondence on applications can be inspected at Herbert Warehouse, The Docks, Gloucester, prior to the Committee meeting.

## **6.0 OFFICER OPINION**

- 6.1 It is considered that the main issues with regard to these proposals are as follows:
- Economic development
  - Traffic and transport
  - Residential amenity
  - Design
  - Flooding
  - Other environmental matters
  - Landscaping
  - Advertisements

### Economic development

- 6.2 A restaurant is a town centre use, and the NPPF sets out sequential and impact tests for these uses.

### *Sequential test*

- 6.3 Given the location of the site relative to the town centre the sequential test is relevant.
- 6.4 The applicants set out that McDonalds has two restaurant formats – the town centre format and the drive-through format. A drive-through restaurant by definition requires certain layout characteristics and good access to the highway network.
- 6.5 McDonalds already has a presence in the city centre on Westgate Street, off Bristol Road to the south of the city and at Eastern Avenue to the east. It is proposed that the city centre would not support an additional store but the wider area would.
- 6.6 The site is just off the relief road and the development would provide for passing motorists. It would be likely to attract a significant number of joint and linked trips.

- 6.7 The site has already been redeveloped including restaurants. Notwithstanding the above factors, the applicants have in fact identified and considered several other sites, all of which have been dismissed due to their unavailability, the proximity to and trading effect on the city centre store, inability to accommodate the trading format, or lack of viability. Furthermore, several are out of centre and not preferable in terms of accessibility to warrant raising in-principle objections in this respect.
- 6.8 Officers consider it a reasonable assumption that the primary catchment for the proposal would be to the northern part of the city when considering directly comparable outlets. The drive-through format clearly requires good access to the highway network. It is not considered appropriate for this particular proposal to be based in the city centre, and there are no allocated sites for this type of use that are located in a more accessible location.
- 6.9 No objection is raised in terms of the sequential test.

*Impact*

- 6.10 Impact assessments are required for retail, leisure and office development outside of town centres and not in accordance with an up to date local plan, and above the default threshold of 2500sq metres. At around 450sq metres the proposal is well below that threshold anyway. It is not considered an impact assessment is necessary.

*Other economic issues*

- 6.11 The applicants note that these restaurants usually employ a minimum of 65 full and part time staff (equating to 45 FTEs). It would appear that there will be a modest benefit to employment opportunities in the city.
- 6.12 The proposal would also have a small positive impact on the continued regeneration of the wider site which is largely complete.
- 6.13 No objection is raised on economic grounds.

Traffic and Transport

- 6.14 The scheme has been amended to address comments from the Highway Authority, including the introduction of a fence and anti-ram bollards to protect pedestrians from the potential conflict with delivery lorries manoeuvring at the north end of the path at the east of the site.
- 6.15 I am advised that deliveries take place approximately 3 times a week, lasting 15 to 45 minutes and can take place during opening hours. As the lorry is shown to traverse across 10 parking spaces that are in close proximity to the existing Frankie and Benny's restaurant and this drive-through restaurant, it seems a realistic prospect that customers may block this arrangement if not carefully managed. Equally, if this happened and the lorry could not get into the proposed set down area, it would block the surrounding area of parking given the limited circulation space. I recommend a condition to secure a Management Strategy for this to ensure that the spaces are empty before the delivery lorry arrives.



- 6.16 The Highway Authority raises no objection to the net loss of 67 car parking spaces (6% of total provision).
- 6.17 The drive through lane would accommodate up to 20 vehicles, with the maximum predicted customer queue being 12 – indicating that there would be no effect on the operation of the car park.
- 6.18 The impact on the highway network would be acceptable. The net number of trips to the restaurant are small; the majority would be ‘pass-by’ or diverted trips.
- 6.19 No severe residual impact on highway safety would arise, and no highway objection is raised.

#### Residential Amenity

- 6.20 The site is approximately 180 metres from the residential properties beyond the B&Q building to the west, also 180 metres from the residential properties on Deans Way beyond St Oswalds Road to the east, and approximately 230 metres from the residential properties to the north beyond the row of retail units.
- 6.21 No objection is raised by the Environmental Protection Officer. McDonalds seeks to operate these outlets 24 hours a day, 7 days a week except where specific amenity issues dictate otherwise. The separation distance from the nearest residential properties is such that the Environmental Protection Officer has no concerns about the 24 hour operation. It is of note that hours of opening for such outlets after 11pm are generally dealt with by Licensing for the Council. Similarly, the separation distance coupled with the arrangement of plant to the roof of the building is such that the Environmental Protection Officer has no concerns about noise disturbance from plant.
- 6.22 A condition is recommended for the construction phase as this can otherwise lead to noisy operations at unsociable hours.

#### Design

- 6.23 The building design has been amended, most notably to include a barrel roof. This fairly simple change is most welcome in my view and resolves my earlier concerns that the original building design would appear incongruous with the surrounding buildings. The design now reflects the general form of the neighbouring buildings, but with individual characteristics in the elevation treatment – I consider it would fit in acceptably here, subject to approving the external facing materials.
- 6.24 The siting of the building is not ideal relative to surrounding buildings but the size of the site and the drive-through arrangement that has to be accommodated constrains the ability to site the building to better address the road. With the improved building design and some improved soft landscaping to the edge, I do not think this siting issue is of so much concern as to consider refusing permission.

- 6.25 The proposal removes the existing pathway link from Gavel Way into the car park. The replacement path further to the east and the pedestrian crossings to the north edge of the site should retain a satisfactory degree of pedestrian permeability through the site.
- 6.26 Several close boarded timber fences are proposed around the site. I am concerned that these would look rather unattractive and out of place in this context and suggest a more suitable style is secured by condition. This is of particular concern at the site perimeter where the limited landscaping also requires improvement in my view.
- 6.27 Subject to certain conditions, no objection is raised on design grounds.

#### Flood risk

- 6.28 The consideration of flood risk and drainage is influenced by several factors, not least that the site has already been considered suitable for extensive redevelopment, and the refinement that has been undertaken of the Environment Agency's indicative flood zoning that shows the site as within flood zone 3.
- 6.29 The Strategic Flood Risk Assessment (SFRA) for the area is a more accurate assessment and supported by the Environment Agency. This shows the majority of the site in flood zone 1, with part of the site at the north in flood zone 2, and on the edge of flood zone 3 to south. The site did not flood in July 2007.

#### *Sequential test*

- 6.30 In terms of the sequential test, this is not required for allocated sites that have been considered sequentially for development already. Furthermore the site has obviously previously been considered an acceptable site given the extensive redevelopment over the last decade.
- 6.31 As the SFRA shows the site predominantly in flood zone 1, given the principle of the sequential test being to guide development to flood zone 1, flood zone 1 development would not require other sites to be considered.
- 6.32 On face value this is a new application in the Environment Agency's flood zone 3 and the sequential test would be required. However I consider there are other material considerations that alter this view as set out above. Given the particular scenario for this site, I consider the Authority would be on weak ground pursuing a rigid view of the sequential test for this new application, particularly where encouraged by the NPPF to take a positive view on applications. Based on the SFRA zoning, this proposal also follows the principle of siting buildings in the less vulnerable parts of the wider site as advocated in the NPPF technical guidance. A 'less vulnerable' use is acceptable in zones 1 and 2 in accordance with the NPPF technical guidance.

#### *Site specific issues*

- 6.33 The proposal appears to result in a reduction in the existing volume of flood attenuation (by removing part of the under car park storage). It would also increase the run off rate by creating an increase in impermeable area). The applicant is currently in discussions with the Council's Drainage Engineer about the implications of this and whether any mitigation measure can be proposed. It has been suggested that the drainage capacity of the existing scheme was specifically oversized and could accommodate the implications of this new proposal, coupled with the output control for the wider site meaning there would be no increase in runoff to land beyond St Oswalds Park. Members will be updated on these discussions at the Committee meeting.
- 6.34 The applicant's flood risk consultants recommend that internal finished floor levels of the building should be set above existing site levels to reduce the risk of localised surface water flooding. The Environment Agency's standing advice recommends floor levels no lower than 600mm above the 1% river flood level plus climate change. I recommend this is resolved by condition. The applicant's flood risk consultants also recommend that a flood evacuation response plan is prepared and that they register with the Environment Agency to received flood warnings. This would assist in the safety of the site in a flood event and I recommend it is secured by condition.

#### Other environmental matters

- 6.35 In terms of land remediation, the Contaminated Land Officer is satisfied that there is provisional agreement between parties on the characterisation of the site and the likely measures that will need to be incorporated into the development to deal with gas. A condition has been drawn up to cover this matter.
- 6.36 Waste provisions are considered acceptable. McDonalds conduct 3 daily litter patrols in the vicinity of a restaurant and bins are proposed outside.
- 6.37 The Environmental Protection Officer is satisfied with the proposed extraction system – and it is suggested that its implementation is secured by condition.

#### Landscaping

- 6.38 It is disappointing to lose the bank of landscaping alongside the road that provides an attractive edge to the retail park. However the applicants have added in additional tree planting which is welcome given the loss of the existing specimens.
- 6.39 I recommend that improvements are sought to the current indicated landscaping by condition. The submitted scheme fails to provide an appropriate solution to the southern edge of the site, where no planting is proposed and a close boarded fence is indicated close to the pedestrian footway. In Officers' view some additional planting here, coupled with a more appropriate boundary treatment (e.g. a railing) would provide a more attractive edge to the development that would make this acceptable. There are further improvements that could be made that the Landscape Architect has identified.

### Advertisements

- 6.40 Advertisements are considered in terms of public safety and amenity.
- 6.41 I do not consider there to be any reasons to refuse consent due to public safety concerns.
- 6.42 I consider the advertisements would sit comfortably on this building. In this retail park location they are considered acceptable in terms of visual amenity.

### Human Rights

- 6.43 In compiling this recommendation we have given full consideration to all aspects of the Human Rights Act 1998 in relation to the applicant and/or the occupiers of any affected properties. In particular, regard has been had to Article 8 of the ECHR (Right to respect for private and family life, home and correspondence) and the requirement to ensure that any interference with the right in this Article is both in accordance with the law and proportionate. A balance needs to be drawn between the right to develop land in accordance with planning permission and the rights under Article 8 of adjacent occupiers. On assessing the issues raised by the application no particular matters, other than those referred to in this report, warrant any different action to that recommended.

## **7.0 CONCLUSION**

- 7.1 This is considered an acceptable site to be developed for this use and the initial design, highways and land remediation concerns have been overcome, subject to certain conditions. The associated advertisements are considered acceptable.

## **8.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER**

- 8.1 That authority be delegated to the Development Control Manager to grant planning permission for application ref. 13/00345/FUL subject to the resolution of the drainage issues set out at paragraph 6.33 above and there being no objection from the Environment Agency on contaminated land grounds, and subject to the following conditions:

### Condition 1

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

### Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans/documents referenced;

H7753-04 Rev. F Proposed site layout received 16<sup>th</sup> July 2013  
H7753-05 Rev. B Proposed elevations received 10<sup>th</sup> July 2013  
COD DT CANOPY received 4<sup>th</sup> April 2013  
COD DT ORDER POST received 4<sup>th</sup> April 2013  
TA315 T Buton table received 4<sup>th</sup> April 2013  
TA317 T Buton table received 4<sup>th</sup> April 2013  
TA314 T Buton table received 4<sup>th</sup> April 2013  
ST312 T Buton table received 4<sup>th</sup> April 2013  
ST310 T Buton table received 4<sup>th</sup> April 2013  
BC310 T Buton table received 4<sup>th</sup> April 2013  
PF303 T refuse bin received 4<sup>th</sup> April 2013  
JA302 T IND C planter refuse bin received 4<sup>th</sup> April 2013  
JA303 B planter received 4<sup>th</sup> April 2013  
CE302 T received 4<sup>th</sup> April 2013  
ENSEMBLE CLOTURE received 4<sup>th</sup> April 2013  
SB99 received 4<sup>th</sup> April 2013

except where otherwise required by conditions of this permission.

#### Reason

To ensure the development is constructed in accordance with the approved plans.

#### Condition 3

No construction shall commence of the restaurant building hereby approved until samples of the external facing materials to the walls and the roof of the building and the hard surfacing have been submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken only in accordance with the approved details.

#### Reason

In the interests of the visual amenities of the area in accordance with Policy BE.7 of the 2002 City of Gloucester Second Deposit Local Plan and Paragraph 58 of the National Planning Policy Framework.

#### Condition 4

No development shall commence, other than any approved scheme of remediation or below-ground-level works, until precise details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken only in accordance with the approved details.

#### Reason

In the interests of the visual amenities of the area in accordance with Policy BE.7 of the 2002 City of Gloucester Second Deposit Local Plan and Paragraph 58 of the National Planning Policy Framework.

#### Condition 5

No development shall commence, other than an approved scheme of remediation or below ground works, until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted design shall include scaled drawings and a written specification clearly describing the species, sizes, densities and planting numbers. Drawings must include accurate details of all existing trees with their location, species, size, condition, any proposed tree surgery and an indication of which are to be retained and which are to be removed.

#### Reason

To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, in accordance with Policy B.12 of the City of Gloucester Second Deposit Local Plan 2002 and Paragraph 58 of the National Planning Policy Framework.

#### Condition 6

The landscaping scheme approved under Condition 5 of this permission shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The planting shall be maintained for a minimum period of five years. During this time any trees, shrubs or other plants which are removed, die, or are seriously damaged or diseased shall be replaced during the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the five year maintenance period.

#### Reason

To ensure a satisfactory and well-planned development and to preserve and enhance the quality of the environment in accordance with Policies BE.4 and BE.12 of the City of Gloucester Second Deposit Local Plan 2002 and Paragraph 58 of the National Planning Policy Framework.

#### Condition 7

Unless otherwise agreed to in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 3 of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part 3 has been complied with in relation to that contamination.

##### *1. Submission of Remediation Scheme*

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and

other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

### *2. Implementation of Approved Remediation Scheme*

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (elsewhere known as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

### *3. Reporting of Unexpected Contamination*

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part 1 of this condition, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

### *4. Long Term Monitoring and Maintenance*

A monitoring and maintenance scheme, and the provision of reports on the same must be prepared prior to occupation, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority for approval prior to occupation.

#### **Reason**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy FRP.15 of the Second Deposit City of Gloucester Local Plan (2002).

*\* Plus any alteration or addition to this contaminated land condition necessary as a result of receiving comments from the Environment Agency*

#### Condition 8

<<A condition to secure details of the drainage system, subject to the further negotiations on these matters set out in the report>>

#### Condition 9

No construction shall commence of the restaurant building hereby approved until details of the internal finished floor levels of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented only in accordance with the approved details.

#### Reason

To reduce the risk of localised surface water flooding in accordance with the recommendations of the submitted Flood Risk Assessment and to assist in site safety, in accordance with Policy FRP.1a of the Second Deposit City of Gloucester Local Plan (2002) and the National Planning Policy Framework and accompanying Technical Guidance.

#### Condition 10

The buildings hereby permitted shall not be occupied until flood warning measures in accordance with section 6.3 of the Hyder Consulting Flood Risk Assessment (May 2013) (received by the Local Planning Authority on 23<sup>rd</sup> May 2013) have been implemented, and they shall be maintained for the duration of the development.

#### Reason

To ensure the means of making the site access and egress safe as proposed by the applicants are implemented, in accordance with Policy FRP.1a of the Second Deposit City of Gloucester Local Plan (2002) and the National Planning Policy Framework and accompanying Technical Guidance.

#### Condition 11

The development hereby approved shall not be opened to members of the public until an extraction system has been installed to full working order to the specification set out at paragraph 4.17 of the submitted Planning Statement (received by the Local Planning Authority on 4<sup>th</sup> April 2013) and shall be retained for the duration of the use, unless otherwise agreed in writing by the Local Planning Authority in advance of any change or cessation of use.

#### Reason

To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties in



accordance with Policies FRP.11 and BE.21 of the Second Deposit City of Gloucester Local Plan (2002) and Paragraph 109 of the National Planning Policy Framework.

#### Condition 12

The drive through restaurant hereby approved shall not be opened to members of the public nor shall any foodstuffs or other consumable goods be delivered to the site until the anti ram bollards and fence between the path and delivery area (as indicated on plan ref. H7753-04 Rev. F and approved pursuant to Condition 4) have been installed in full.

#### Reason

To protect pedestrians using the pathway in accordance with Policy TR.31 of the Second Deposit City of Gloucester Local Plan (2002)

#### Condition 13

The development hereby permitted shall not be occupied until the vehicular parking and turning and loading/unloading facilities have been provided in accordance with the submitted plans drawing no.2673-05 Rev A (received by the Local Planning Authority on 17<sup>th</sup> July 2013) and H7753-04 Rev F (received by the Local Planning Authority on 16<sup>th</sup> July 2013), and those facilities shall be maintained available for those purposes for the duration of the development.

#### Reason

To ensuring that adequate parking and manoeuvring facilities are available within the site in the interests of highway safety in accordance with Policy TR.31 of the 2002 City of Gloucester Second Deposit Local Plan and Paragraph 32 of the National Planning Policy Framework.

#### Condition 14

The development hereby approved shall not be opened to members of the public until the cycle parking facilities shown on plan ref. H7753 04 Rev. F (received by the Local Planning Authority on 16<sup>th</sup> July 2013) have been installed in full, and they shall be maintained as such for the duration of the use.

#### Reason

To provide for non car-borne travel to the site in accordance with the 2002 City of Gloucester Second Deposit Local Plan and Paragraph 32 of the National Planning Policy Framework

#### Condition 15

No development shall commence until a Deliveries Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall demonstrate how the car park is to be managed in such a way that cars are kept clear of the loading/unloading area in advance of and during

deliveries. Deliveries shall only be made to the unit in accordance with the approved Deliveries Management Plan.

Reason

The delivery arrangements propose that the delivery vehicle traverses across ten car parking spaces in close proximity to the proposed restaurant and an adjacent restaurant. In order to ensure the efficient working of the car park and prevent blocking in of customers and the delivery lorry, a methodology is needed to ensure the ten spaces are empty prior to the delivery, in the interests of highway safety in accordance with Policy TR.31 of the City of Gloucester Second Deposit Local Plan 2002.

Condition 16

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times – Monday to Friday 0800hours to 1800hours, Saturday 0800hours to 1300hours, and for the avoidance of doubt not at any time on Sundays or bank holidays.

Reason

To protect the amenities of local residents in accordance with Policy BE.21 of the Second Deposit City of Gloucester Local Plan 2002.

**REASON FOR APPROVAL**

The proposal has been carefully considered in terms of the principle of the use being located at the application site, highways impacts, design, residential amenity, flood risk, and other environmental matters. Subject to conditions it is considered that the application is acceptable in these respects and complies with Policies FRP.1a, FRP.6, FRP.10, FRP.11, FRP.15, BE.1, BE.4, BE.5, BE.7, BE.12, BE.21, TR.9, TR.12, TR.31 and S.4a of the City of Gloucester Second Deposit Local Plan 2002 and the National Planning Policy Framework.

In accordance with the requirements of the National Planning Policy Framework the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

8.2 That advertisement consent is granted for application ref. 13/00344/ADV subject to the following condition:

Condition

The advertisements shall be installed in accordance with the drawings on the amended plan ref. H7753-09 Rev. A received by the Local Planning Authority on 10<sup>th</sup> July 2013.

Reason

To ensure that the advertisement is installed in accordance with the approved plan.

**REASON FOR APPROVAL**

The visual amenity and public safety implications of these advertisements have been assessed and they are considered to be acceptable, taking into account Paragraphs 67 and 131 of the National Planning Policy Framework and the aims of Policies BE.11 and TR.31 of the City of Gloucester Second Deposit Local Plan 2002.

In accordance with the requirements of the National Planning Policy Framework the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

Decision: .....

Notes: .....

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Person to contact: Adam Smith  
(Tel: 396702)

# APPLICATION MAP

APPLICATION NUMBER: 13/00345/FUL

ADDRESS: Land Situated On West Side Of  
St Oswalds Road  
Gloucester

TARGET DATE: 30.07.2013

