
SEQUENTIAL TEST

Proposed
McDonald's
Restaurant.

Leek

Planware Ltd

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Version 2

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1. Introduction

- 1.1 This report is submitted in support of the planning application for a new freestanding McDonald's restaurant. The site and surrounding area are properly described in Planning Statement submitted with the application. It supports the planning statement that cover planning policy and provides background details to the application.
- 1.2 McDonald's have been looking for a suitable site for a restaurant with drive-thru for many years. Our involvement dates back to 2012, with the submission of an application in 2016 at the Morrison's supermarket. Since that application was refused, my clients have continued to find a suitable site, but to no avail. We have undertaken this sequential test with the current status of the town centre in mind (early 2022), however the time taken in searching for a site is also material to the sequential test and to this application.
- 1.3 The proposal comprises of a freestanding McDonald's restaurant, sui generis use for the sale of food and drink for consumption both on the premises and off the premises.
- 1.4 In the light of national guidance, but with the above in mind, this report is submitted as a Sequential Test analysis considering Leek town centre for the erection of restaurant with Drive-Thru and associated works. The basis of the sequential test was considered at pre-application stage, and this assessment reflects discussions.

2. The Proposed Development

- 2.1 Before assessing the proposals against relevant planning policy, it is important to first understand the McDonald's operation and proposal.
- 2.2 The McDonald's brand is globally recognised and, in the UK, the Company trades from approximately 1,250 restaurants and employs 110,000 people. Over 70% of restaurants are operated as local businesses by franchisees. The restaurants are either located in high streets or town centres; on retail parks (whether in standalone units or in food courts); and standalone 'roadside locations'.
- 2.3 McDonald's has been trading in the UK since 1974. Expansion of the portfolio was rapid during the 1980's and 90's in particular and McDonald's is now represented in most major cities and towns in all of their differing formats. This will be McDonald's first representation in Leek.
- 2.4 Based on this experience, the amount of development proposed at Leek relates directly to the operational requirements of McDonald's and is the minimum necessary to deliver the proposed operation. McDonald's have committed to the site and will progress to construction following the grant of planning permission.
- 2.5 Further details of McDonald's operation are included within the planning statement which accompany this application.

3. Planning Policy Background

- 3.1 This section considers the Sequential Test policy background for the proposal, starting with National Policy, and then referring to Local Policy.

National Planning Policy Framework

- 3.2 The Framework advises in para 86 that planning policy should generally promote competitive town centres, and that in drawing up local plans local authorities should, amongst other issues, allocate a range of sites to meet the scale and type of retail developments needed in town centres. It states at d) *“allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;”*
- 3.3 The Framework further confirms that LPAs should *“allocate appropriate edge of centre sites for main town centre use”* where *“suitable and viable town centre sites are not available.”* It further states that if edge-of-centre sites are not available, policies should consider other accessible locations that are well connected with the town centre.
- 3.4 Para 87 sets out the requirement for the sequential test where proposals are not in accordance with an up-to-date development plan, focusing location on Town Centre, then edge-of-centre and then out-of-centre. The guidance confirms that when edge and out of centre proposals are considered; preference should be given to accessible sites.
- 3.5 Para 88 confirms that both LPAs and applicants should be flexible when considering format and scale.
- 3.6 Para 90 of the Framework requires impact assessments to be completed on retail proposals over 2,500sqm if there is no locally set threshold.
- 3.7 Para 91 further confirms that where permissions are to be refused it should be demonstrated that ‘significant adverse impact’ will occur.
- 3.8 Flexibility in the size of the restaurant proposed can be considered, but intrinsic to this proposal is the drive-thru facility which provides an appropriate format of restaurant for the demand which is identified in Leek. This section is expanded on further, specifically in respect of relevant case law below.

- 3.9 Indeed, various appeal decisions for McDonald's have supported the view that the scope for flexibility is extremely limited due to the nature of the business. The Treloggan Road appeal cited below is the most relevant. McDonald's flexibility can only extend to sites capable of accommodating the development.

Relevant Case Law

- 3.10 It's important to give regard to relevant case law relating to sequential tests. In 2006, the courts held that it is not for the applicant to reduce or segregate their proposal so that it could be made to fit elsewhere stating:

The question is whether the alternative town centre site, in this case the existing Lidl site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit into the alternative site [Lidl UK GmbH v Scottish Ministers (2006)]

- 3.11 It is therefore not for the applicant to adapt their proposal to fit a site, rather to consider other sites that are of a suitable size that fit the proposal.
- 3.12 In 2012, the courts confirmed that directing applicants to smaller town centre sites is inappropriate. The suitability is directed at the developer's proposal, not some alternative scheme:

To refuse an out-of-centre planning consent on the grounds that an admittedly smaller site is available within the town may be to take an entirely inappropriate business decision on behalf of the developer [Tesco Stores Ltd v Dundee City Council (2012)]

- 3.13 This case also established that if a site is not suitable for the commercial requirements of the developer, then it is not suitable for the purposes of the sequential test.
- 3.14 The Rushden Lakes SoS decision (APP/G2815/V/12/2190175) references the Dundee case. In agreeing with the Inspector, the Secretary of State confirms that the Dundee case established the principal that if a site is not suitable for the commercial requirements of the developer in question, then it is not a suitable site for the purposes of the sequential test. Thus, it is for the proposed development to be considered (not an alternative development), when looking at alternative sequential site. The Inspector states:

"There is no suggestion here that the sequential test means to refer to anything other than the application proposal."

- 3.15 In light of the above, the proposal needs to be considered in context as a whole and cannot be segregated. The proposal is for a drive-thru restaurant and the elements of eating in or driving thru cannot be segregated. To segregate elements of the scheme would represent "an inappropriate business decision on behalf of the developer".
- 3.16 To support the format of operation of freestanding drive through units we refer to an appeal against a refusal of planning permission for a drive-thru restaurant at Treloggan Road, Newquay (APP/Q0830/A/051182303). The Inspector stated that:

"it is difficult to envisage how a developer could be flexible in respect of the format of a drive through restaurant. Unlike a conventional restaurant, which could easily be accommodated on any of the identified sites, a drive-through by definition requires vehicular access and circulation through or around the building."

4. The Sequential Test

Introduction

- 4.1 In accordance with the Framework, there is a requirement to undertake a sequential assessment to determine whether there are any sequentially preferable sites to the site which has been selected to accommodate the proposed development. The order of priority is set out in the Framework and comprises of the Town Centre, Edge of Centre, and accessible location out of centre.
- 4.2 The last town centre study undertaken by the council was in October 2013, and is somewhat dated, and superseded by more recent retail development. Limited information therein is therefore useful in this assessment.

Methodology

- 4.3 This statement has been written in accordance with both Chapter 7 of the NPPF, "*Ensuring the vitality of town centres*".
- 4.4 This assessment has been based in accordance with both adopted local and national planning policy.
- 4.5 Given the policy considerations above the sequential hierarchy of Town Centre, Edge of Centre and Out of Centre has been applied within this assessment. The proposal is considered out of centre.
- 4.6 McDonald's typically require at least 0.3ha of available space to viably support an independent freestanding proposed restaurant, drive-thru lane, and associated parking. Any assessment of alternative sites needs to consider the operation of the proposed restaurant and the space required to successfully operate including sufficient parking to meet the operational needs of the proposal. This assessment is therefore in accordance with the requirement of 0.3ha. Such an approach complies with case law regarding the suitability of alternative sites. Some sites of this size will not support the proposed use and will depend on shape and potential layout.

Area of Search for Alternative sites

- 4.7 The site is located out of Leek Town Centre boundary therefore this sequential assessment considers the whole of Leek as the potential search area. The proposal is for a drive-thru

restaurant, benefiting from a number of joint and linked trips and is not a destination in its own right.

Suitable, Available and Viable

4.8 Paragraphs 86-91 of the NPPF (2021) require that where sequentially preferable sites are available, they should be considered for development. It should be demonstrated, and sound reasoning given, that such sites are either not suitable, not available or are not viable.

- i. **Suitability** – *The suitability of each site to accommodate the development proposal.*

In accordance with Practice Guidance on Need, Impact and the Sequential Approach, consideration is given to policy restrictions, physical limitations, potential impacts and environmental conditions experienced by potential users of the proposal.

- ii. **Availability** – *Whether the site is available or is likely to become available within a reasonable period of time, with specific reference to the potential for acquisition.*

- iii. **Viability** – *The extent to which the site would provide a genuine and viable trading location for McDonald's.*

Generally speaking, a drive-thru requires 20,000 passing traffic movements for a roadside location or other 'attractors'. The subject site will provide a significant amount of passing trade supported by a mix of operators in the immediate area.

Scale

4.9 The scale of the development is of course a consideration in assessing sites suitability in terms of size. The proposal amounts to 371m² (Gross Internal Area). The building footprint has been developed to optimise space. Alternative sites to accommodate the proposal are required to be at least 0.3ha.

Leek

- 4.10 McDonald's have not previously had an outlet in Leek, although we believe the council are aware, they have been planning on opening a store for some time.
- 4.11 Leek is in a unique retail position where much of its retail trade is constrained to the town, allowing a strong and independent retail base to flourish including a number of markets on various days of the week.
- 4.12 The proposal is for a drive-thru style restaurant with around 97 seats, offering both eat in and takeaway facilities. The number of seats does not dictate how busy the store will be.
- 4.13 We have visited the site and the surrounding area and have not been able to find any sequentially preferable sites. We did identify a number of sites for consideration, and detail these in the following section. The proposal is for a restaurant with drive thru facility, and thus almost all traditional town centre units are unlikely to provide for all purchase streams. Typically, we would consider sites such as public houses, private car parks, filling stations, tire stores and similar sized properties. Following this, McDonald's work closely with most of the national supermarkets, and this would typically be our second port of call when considering town centre, edge of centre and out of centre sites.
- 4.14 McDonald's submitted a planning application in 2016 and have been actively seeking a site in Leek since that time. This assessment considers the current circumstance in the town centre; however, the length of consideration centre is also material to this application.
- 4.15 We assess each of the above sites in the following section.

5. Site Assessments

Car Parks

- 5.1 Leek town centre includes a number of smaller sized car parks, located in and around the town centre. We have not check each of them for size as it is likely a freestanding restaurant as most are too small to accommodate the development (for example Silk Street cap park or Market Street East). In addition, we do not believe any of the car parks is available for either freehold or leasehold purchase. The historic town centre is a compact tight historic matrix of roads means that each car park almost supports its own central need, depending on either what or where drivers are going within the centre. For a town the size of Leek it is important for a McDonald's to be viable, with the store needing to be accessible to the whole population, from both directions, and relatively easy to manoeuvre into. Locating within the centre, where the street pattern is as it is, would not viably support a town centre McDonald's.

Suitable

- 5.2 In terms of pure size, few if any of the town centre car parks are likely to be suitable physically fit a drive thru restaurant.

Available

- 5.3 When visiting the sites, it is clear that all of the town centre car parks are well used and are not available for redevelopment.

Viable

- 5.4 For the reasons given above, it is unlikely that any one of the car parks would provide for a passing trade of around 20,000 vehicles per day, or provide simple and direct access for the towns population. None provide good visibility for those travelling though, but are rather accessible by following the blue "P" signs.

Conclusion

- 5.5 The town centre car parks may physically provide for the quantum of development; however, none are available, and all are likely to be unviable.

Public Houses, tyre centres, of filling stations

- 5.6 We found no suitably large town centre, edge of centre or out of centre sites in this category to consider as part of the sequential test.

Supermarkets

- 5.7 There are a number of supermarkets in and on the edge of the existing town centre. As stated above, McDonald's works alongside and with all of the UK supermarket brands. We have reviewed all of the existing supermarkets, including the previous application site out of centre at Morrison's, and comment as follows:
- 5.8 Aldi – The supermarket is accessed from Haywood Street, located within the town centre, and part in the primary frontage. The supermarket currently provides approximately 95 parking spaces. A McDonald's restaurant would require almost all of this parking area, which would prejudice both uses and likely have highways implications. This site is not suitable to accommodate the proposed development.
- 5.9 Lidl, Buxton Road is out of centre. As with Aldi above, there are limited car parking spaces at the existing store (around 60), but on this occasion, they are split into two smaller areas, either side of the entrance. Neither side is large enough to accommodate the proposed development. If one side or the other were developed, the remaining parking would be insufficient for both uses.
- 5.10 Asda - A small Asda is located on Springfield Road. This has exceptional limited parking and no space for additional development. A hand car wash is located immediately south of the Asda but is not large enough to accommodate the proposal. We do not consider with of these two sites would accommodate the volumes required to make a proposed McDonald viable.
- 5.11 Morrison – We have previously explored this opportunity and it was considered not acceptable by members.

Conclusion

- 5.12 We have assessed the remaining supermarket sites for space on their car parks or land adjacent. None of the town centre, edge of centre or out of centre supermarkets have available space. We have not assessed suitability or viability as we consider none would be available due to the impact on the existing business.

Other sites

- 5.13 Three other sites have been identified, and each of these will be considered below.

Car Wash site, Ashbourne Road

Suitable

- 5.14 We have considered the car wash site, but the size of the site is too small. Measuring 0.1ha this site is not large enough to provide the quantum of development proposed. In the light of this, we have not checked its availability or viability.

Former Save Filling station, Broad Street

- 5.15 We have considered the historic petrol station site but the size of the site is too small. Measuring 0.13ha this site is not large enough to provide the quantum of development proposed. In the light of this, we have not checked its availability or viability.
- 5.16 We note that the site has an expired consent for retail use, but the quantum of development does not correlate with the proposed.

Compton Mill

Suitable

The site is suitable in size to accommodate the proposed development. Indeed, it is over twice the size required for the proposal and may be considered too large. The site is subject to a current planning application, and historic permissions for assisted living accommodation. It is unlikely to be considered suitable for a freestanding restaurant.

Available

- 5.17 The site is not currently available.

Viable

- 5.18 Given the sites is not available and no purchase prices can be generated, viability has not been tested.

Conclusion

- 5.19 There are no other suitable sites either in, on the edge of or out of centre suitable for the proposed development.

Conclusions of sequential test

- 5.20 We have considered all potential sites within and on the edge of the town centre. No alternative site is available.
- 5.21 Should the council require further sites testing, we are of course willing to work with them, and McDonald's to make informed judgements and update this report.
- 5.42 In summary, there are no sequentially preferable sites suitable for the proposed development, and the application site is the most accessible out of centre site available, suitable, and viable for the proposed development.

6 Conclusion

- 6.1 In accordance with the advice contained within the Framework and the National Guidance, we have carried out an assessment of alternative sites in and around Leek.
- 6.2 The proposal is for a freestanding drive-thru restaurant of 371m² (GIA) and associated parking to meet the operational requirements of the store.
- 6.3 Paragraph 87 of the Framework sets out the sequential test where proposed sites for the proposed use are outside of a town centre. The requirement is to undertake a sequential assessment of the proposal to determine whether there are any sequentially preferable sites.
- 6.4 In the absence of any alternative sites, the application site continues to be the sequentially preferred location for the development of a McDonald's restaurant with a 'Drive-Thru'.
- 6.5 The location of the proposed development is not only sequentially the most appropriate, but also the optimum location for the proposed use. It also provides an opportunity to take advantage of passing traffic and linked trips with Sainsbury. It accords with the National Planning Policy Guidance, in that the proposal is locationally specific, providing a drive-thru facility to Leek.
- 6.6 The proposal will have no significant adverse effect on any town centre, therefore accords with the Framework. We trust in light of the sites considered in this assessment; officers will look favourably on the proposal for approval.