

2.4 REFERENCE NO - 23/504375/FULL		
PROPOSAL: Demolition of vacant hotel and the erection of a freestanding restaurant with drive thru facility, car parking, landscaping and associated works, including customer order display (COD)		
SITE LOCATION: Former Travelodge Canterbury West, London Road, Dunkirk, Faversham, Kent, ME13 9LL		
RECOMMENDATION: Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE: Minor		
REASON FOR REFERRAL TO COMMITTEE: The application was originally reported to the Planning Committee meeting on 22 May 2025 as the recommendation was contrary to Dunkirk Parish Council's objection to the application, and the Parish Council requested that the application be presented to the planning committee. On the day of the committee meeting further highway related information was submitted, which only came to the attention of Officers after the meeting. As such, the application is being reported back to the Planning Committee to ensure that this, and any other material considerations raised can be considered.		
Case Officer: Paul Gregory		
WARD: Boughton and Courtenay	PARISH/TOWN COUNCIL: Dunkirk	APPLICANT: McDonald's Restaurants Limited AGENT: Planware Ltd
DATE REGISTERED: 22/09/2023		TARGET DATE: 15/03/2024
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted pursuant to the above application are available via the link below: - <u>23/504375/FULL Demolition of vacant hotel and the erection of a freestanding Restaurant with drive thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD). Former Travelodge Canterbury West London Road Dunkirk Faversham Kent ME13 9LL</u>		

1. INTRODUCTION

- 1.1 This application was originally reported to Planning Committee on 22 May 2025, with a recommendation that planning permission be granted. The original committee report is attached at Appendix A. This includes sections related to a description of the site, details of the proposal and relevant policies. These details are not repeated here in the interests of brevity.
- 1.2 At the Planning Committee meeting Members resolved to grant planning permission as follows:

“Resolved: That application 23/504375/FULL be granted as per the recommendation in the report and the amendments to conditions (8), (11) and (21) and the alterations to the trigger point of conditions (12), (13), (17) and (19) to ‘prior to any further development being carried out’, rather than ‘prior to the commencement of development’.”
- 1.3 During the Planning Committee meeting, reference was made by a speaking member of the public to a third party highway review submitted in relation to the application. Members queried this with Officers during the meeting, as referenced in the Planning Committee Minutes (attached as Appendix 2). Officers confirmed that they were not aware of, and had not seen the highway review. As a result, on this basis the Chairman confirmed that Members could not consider the comments.
- 1.4 Subsequent to the Planning Committee meeting, it has come to light that the third party highway comments referred to were sent to the Council on the afternoon of 22 May 2025 (the day of the Planning Committee meeting). They were sent to an email address managed by Mid Kent Planning Services, who provide the Council’s Planning administrative services. Noting that Officers and in turn the Planning Committee were not aware of the submissions that were referred to by the speaker, in these very specific circumstances, it is considered appropriate for the Planning Committee to be given opportunity to consider the application in light of that additional information. As a result, this report will firstly set out the points contained within this highway review. The report will then detail the applicant’s highway consultant’s response, further consultee comments that have been obtained as a result and a conclusion. The report will also deal with other matters that have been raised since the original reporting of the application to the Planning Committee.
- 1.5 The third party highway comments raised the following points:
 - The Transport Assessment could have underestimated the amount of trips caused by the development that would be new to the network. This is because existing trips in the Assessment could be new to the local network, having diverted from elsewhere. This could mean an additional 79% of trips on Fridays and 68% on Saturdays could be new to this section of the A2;

- The above scenario suggests that decisions made by KCC Highways and National Highways not to object and SBC's Environmental Health Team not to require an air quality assessment may be because of a misinterpretation of the data;
- The proximity of the Dunkirk and Upper Harbledown junctions east and west of the site make it easy for drivers to divert to the facility and return the way they came;
- Servicing arrangements require car parking spaces to be kept free. The majority of staff would need parking spaces and the parking provision is 4 short of standards. Therefore, it has not been demonstrated that deliveries can be made without disrupting access. It has also not been demonstrated how refuse collection and the removal of waste cooking fat can be safely achieved;
- The site has extremely poor access by sustainable modes and would not be possible by bus or cyclists.
- A single lane on the A2 provides both the westbound on-slip from the services and the westbound off-slip for the Dunkirk junction. This arrangement does not comply with standard Design Manual for Roads and Bridges in that merging and diverging movements are combined over a short distance. A significant increase in the use of the on-slip could as a result lead to adverse highway safety impacts. This issue is related to the point regarding how many of the trips would be new to the local highway network.

1.6 In response to the above, the applicant's highway consultant has provided comments as follows:

- The proposed restaurant is located on land which forms part of an existing roadside facility serving motorists travelling westbound on the A2 (dual carriageway). If a vehicle was travelling eastbound and diverted at Upper Harbledown, and then on exiting the site travelled via Dunkirk to head back eastbound it would incur a 6.98km roundtrip. It is highly unlikely that motorists would do this. If motorists travelling eastbound required food then facilities in Canterbury would incur either a shorter or similar journeys whilst continuing in the direction of intended travel;
- On the basis of the above National Highways interpretation of the data is correct;

- The servicing of restaurants run by the applicant whilst they are open is common practice. There are typically three deliveries per week scheduled for quieter trading periods. In this location overnight deliveries could be undertaken. The proposed parking provision of 42 spaces is sufficient to accommodate peak levels of demand. 12 spaces would be coned off prior to the arrival of the delivery vehicle. Once the vehicle is in place 2 spaces can be released. The impact on parking would be that 30-32 spaces would be available, which is sufficient for off peak periods;
- Refuse collection is undertaken 3 times per week using a 9.6m refuse vehicle. Tracking information is provided to demonstrate this vehicle can access the site and not overrun any spaces;
- As previously outlined, the delivery vehicle takes away waste oil for recycling, the waste oil container is taken to the vehicle and pumped on board;
- A delivery management plan could be secured by condition if required;
- Council parking standards are advisory rather than mandatory and the proposed provision is only slightly below advisory standards. As previously demonstrated, based on surveys with a comparable facility the proposed parking spaces would be sufficient. There is no justification to provide more parking and KCC Highways are satisfied with the parking proposals;
- The majority of trips would be existing on the A2 westbound. There would be an uplift of traffic exiting the Services but a decrease in through traffic on the A2 westbound from the pass by trips and some trips would be shared with the Petrol Filling Station. The overall net effect at the Services egress slip road is 10 vehicles during the AM/PM peaks and 34 vehicles during the Saturday peak. This does not represent a 'significant' impact.

2.0 CONSULTATIONS

- 2.1 As a result of the above, National Highways, KCC Highways and SBC Environmental Health have been re-consulted on the application. Their latest comments are as follows:
- 2.2 **National Highways** – No Objection - Commented that they are content to rely on their response of 29 December 2023 (uploaded on 2 January 2024) which recommended a condition (Construction Traffic Management Plan) be attached to any planning permission that may be granted.
- 2.3 **KCC Highways** – No objection - The applicant's response to the third party highway review is considered to be reasonable and proportionate. The likelihood

of vehicles diverting to the facility in the way suggested is unlikely. This supports the applicants position that the likelihood of significant new trips being generated in this way is low. Deliveries will be outside of peak operational hours, which is standard practice. The parking provision is based upon a parking survey from a comparable facility. To ensure this is managed appropriately a delivery management plan is recommended to be secured by condition.

- 2.4 **SBC Environmental Health** – No objection – The response received by the applicant's highway consultant in respect of the likelihood of trips seems appropriate. The development would not generate the level of traffic to require an air quality assessment.

3.0 APPRAISAL

- 3.1 The original committee report attached at Appendix A deals with 'Transport and Highways' at paragraphs 7.5.1 – 7.5.10 and concluded that subject to conditions, the proposal would be in accordance with Policies CP2, DM6, DM7 and DM14 of the Local Plan, Policies T1, T2 and T3 of the Boughton and Dunkirk Neighbourhood Plan as well as the Council's Parking SPD and the NPPF.
- 3.2 As set out earlier in this report, a third party highway review was submitted after the previous report had been drafted and without the knowledge of Officers when the application was previously reported to the Planning Committee. As such, the assessment that is required to be undertaken is whether the most recently submitted information alters the above conclusions on 'Transport and Highways' matters.
- 3.3 To summarise the above, concern has been raised by the third party highway review that the amount of new trips on the local highway network may have been underestimated; that deliveries / servicing arrangements may not be adequate; there is an under provision of car parking spaces; it has not been demonstrated that waste collection can be safely achieved; access by sustainable transport modes is poor; an air quality assessment should be provided; and that increase usage of the slip road could lead to highway safety concerns.
- 3.4 The applicant's highway consultant has provided a response to these points as set out above. In addition, National Highways, KCC Highways and SBC Environmental Health have been consulted on the most up to date information received. In summary, based upon the updated consultee comments, it is not considered that driver behaviour as suggested by the third party highway review is likely to occur, due to the distance of the diversion that would be involved and the amount of alternative facilities that are available. The parking provision is based upon satisfactory evidence from a comparable facility and deliveries as outlined are standard practice that can be appropriately managed by a Delivery Management Plan secured through a condition.
- 3.5 Both National Highways and KCC Highways continue to raise no objection to the proposals subject to conditions which have been recommended. As such, based upon the information received and the updated consultee comments, the

conclusions, in that the scheme complies with the highway and transport related policies as set out above, remains the case.

- 3.6 The third party highway review also raised concern that as in their view the number of new traffic movements on the local highway network had been underestimated, that the assessment as to not request an Air Quality Assessment could be flawed. However, based upon the views of National Highways and KCC Highways, the evidence does not suggest that traffic movements would be likely to be different than was originally assessed. On this basis, as confirmed by SBC Environmental Health, the application does not meet the threshold for requiring an Air Quality Assessment and therefore as per their previous advice, one is not necessary.

Other Matters

- 3.7 Since the 22 May 2025 Planning Committee a further neighbour objection has also been received from a member of the public regarding the lack of capacity at the Faversham Wastewater Treatment Works. The objection requests that foul flow calculations are provided and that Southern Water provides details of infrastructure upgrades to improve sewage capacity.
- 3.8 The matter of foul drainage was dealt with in section 7.9 of the original committee report (attached at Appendix A). This sets out that foul sewage will be discharged via a sewerage pipe that runs through the service area. The original committee report concluded that the application complied with Policy DM21 of the Local Plan and the NPPF. In terms of these matters, the issue of capacity and infrastructure upgrades is something that Southern Water are required to address under separate legislation. Furthermore, ensuring that the development can adequately deal with foul sewerage will be required to be dealt with under Building Regulations, which falls outside of the planning process.
- 3.9 In addition to the above, points have been raised via a solicitor acting on behalf of a local resident that the guidance in the Councils' Statement of Community Involvement (SCI) has not been followed by the applicant in respect of involving the community prior to determining the application. This letter also refers to this being a relevant matter as the site is sensitive due to the adjacent ancient woodland and traffic impacts.
- 3.10 The Council's SCI refers to both processes that must be adhered to when submitting and determining a planning application, i.e. legislation, and also provides a series of guidance regarding what applicants can do to involve the community in their proposals. The SCI was adopted in 2018 and the document sets out that it is part of Swale's Development Plan. The Local Plan in referencing the SCI states *"The Council also has an adopted Statement of Community Involvement (SCI). The SCI is a statement about our policy on the involvement of people who have an interest in matters relating to development in their area."*
- 3.11 In this case, as this is a minor development, the SCI states the following in respect of what applicants need to do:

- *“Consider the need for pre-submission community consultation depending on the nature, scale, and location of the proposed development;*
- *May need to provide a statement with the application describing the actions taken to involve the community and what their views were.”*

3.12 A response to the above points has been requested from the applicant's agent. They have commented that no pre-submission consultation was carried out for this application and they understand there is no statutory requirement to do so for minor applications. They have commented that the site is in an existing service area off the A2, not in close proximity to any sensitive community neighbours, such as residents or community uses which would warrant pre-submission consultation. The agent goes on to state that matters relating to the adjacent woodland and traffic have been assessed via consultation with statutory consultees and the proximity to ancient woodland is not a reason to carry out a pre application consultation. In addition, the agent states that the public have had the opportunity to comment during the planning application process and at the Planning Committee meeting. Finally, the agent does not believe that any pre-application consultation was undertaken in respect of the previous application on the site under ref. 20/501601/FULL for a coffee shop / drive-through.

3.13 In respect of the above, it is firstly noted that the SCI requires applicants to consider the need for pre-submission community consultation. The applicant's agent has set out that they do not believe pre-submission community consultation to have been necessary in this case. This is primarily due to the specific location of the site, in terms of being in a roadside service area and not in close proximity to sensitive neighbours. This is considered to be an accurate assessment of the context of the site. Overall, the applicant in considering but deciding against pre-application consultation is reasonable in this case and their actions are not contrary to the guidance in the SCI.

3.14 Secondly, the SCI states that applicants may need to provide a statement. Due to the above reasons set out by the agent, which are considered to be accurate and reasonable points a statement was not provided with the application.

3.15 In assessing this matter, the SCI requires the applicant to consider the need for pre application consultation and may need to provide a statement. Neither of these matters are unequivocally required in all scenarios and the applicant's reasons for not doing so does not render the proposals unacceptable. In addition, the Council has fulfilled its statutory duty in advertising the application in accordance with the relevant legislation and therefore interested parties have had the opportunity to view and comment on the application, including at the Planning Committee Meeting.

Conclusion

3.16 Having considered the further highway related information received, along with the applicant's highway consultant's response to this and responses from technical consultees, it is concluded that the application remains acceptable and

in accordance with the relevant related transport, highway and air quality related policies. In addition, the points raised regarding the Council's SCI do not result in matters that could be considered to make the proposals unacceptable. The points raised regarding foul drainage have also been satisfactorily dealt with.

- 3.17 As per the resolution of the 22 May 2025 Planning Committee meeting the conditions below have been amended accordingly, and an additional condition has been added relating to a Delivery Management Plan, as per the recommendation of KCC Highways. Accordingly, it is recommended that planning permission should be granted for the proposed development subject to the conditions below and the completion of a legal agreement to secure off-site BNG units as discussed in the original committee report.

CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

Block Plan (8516-SA-2139-P002 D),
Site Layout Plan as Proposed (8516-SA-2139-P004 C),
Biodiversity Enhancement Plan V6 (A6100.01J),
Landscaping Scheme (A6100 01 J),
Proposed Elevations and Section (8516-SA-2139-P005),
Ground Floor and Roof Plans (8516-SA-2139-P006),
Proposed Lighting Layout (DWG 01),
LIAS Design Notes & Luminaire Schedule (DWG 00)

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

- 3) The development hereby approved shall not commence above slab level until details of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 4) The approved details of the parking/turning, loading and unloading areas as detailed on drawing 8516-SA-2139-P004 C shall be completed before the

commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- 5) No external lighting other than that approved by this permission shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

- 6) No construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sundays or Public Holidays.

Reason: In the interests of residential amenity.

- 7) The development hereby approved shall be carried out in accordance with the recommendations set out within Section 6.0 of the Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan, produced by Hayden's Arboricultural Consultants (dated 10.05.32023).

Reason: In the interest of landscape, visual impact and the amenity of the area.

- 8) Prior to the development first being brought into use, the landscape scheme shall be implemented as per the Landscape Scheme, 01 Rev J, Encon Nov 2023 and Biodiversity Enhancement Plan V6, Practical Ecology, Nov 2024. The landscaping shall thereafter be managed in accordance with the Landscape Management Plan reference number A6100 Revision E, dated 12 November 2024.

Reason: In the interests of enhancing biodiversity

- 9) Any tree planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season.

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

- 10) From commencement of development (including site clearance) and for the duration of works through to the first use, to avoid impacts to protected and priority species, the precautionary working measures detailed in the Enhancements and recommendations section of the Bat Survey Letter and the recommendations section of the Dormouse Survey Report (both carried out by Practical Ecology), associated with the planning application shall be adhered to.

Reason: In order to protect protected species.

- 11) Prior to the development first being brought into use, biodiversity enhancement shall be implemented as per the Biodiversity Enhancement Plan V6, Practical Ecology, Nov 24 or later versions, approved by submission pursuant to this condition to the Local Planning Authority. The approved measures shall be implemented and retained thereafter.

Reason: In the interests of enhancing biodiversity

- 12) Prior to any further development being carried out a biodiversity gain plan (which demonstrates a biodiversity net gain of a minimum 10% against the baseline) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain.

- 13) Prior to any further development being carried out a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved on-site biodiversity gain plan and including:

- a) a non-technical summary;
- b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority,

shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure the development delivers a biodiversity net gain.

- 14) Monitoring reports shall be submitted to Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain.

- 15) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.
- Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
 - Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
 - Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

If no contamination has been discovered during the construction phase then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To reduce risk to controlled waters.

- 16) The development hereby approved shall not commence above slab level until, details of hard landscape works (including materials) have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first use of the building(s) or land. The new areas of hard surfacing shall be constructed from either permeable materials or incorporate drainage channels to prevent surface water runoff onto the highway.

Reason: To ensure a satisfactory appearance to the development, in the interests of highways convenience and to prevent surface water runoff.

- 17) Prior to any further development being carried out a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A2, including the Boughton Bypass). The plan shall include as a minimum:

- Construction phasing;
- Construction routing plans;
- Permitted construction traffic arrival and departure times.

Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details.

Reason: To mitigate any adverse impact from the development on the A2 (including the Boughton Bypass) in accordance with the Department for Transport (DfT) Circular 01/2022. This is required prior to the commencement of development to ensure that a programme and method of works are agreed that will not cause an obstruction to the safe functioning of the highway network.

- 18) The development hereby approved shall not be brought into use until a management plan for the collection of litter within the site has been submitted to and approved in writing by the Local Planning Authority. Once approved the management plan shall be adhered to throughout the lifetime of the development.

Reason: In the interest of public health and the visual amenities of the area.

- 19) Prior to any further development being carried out the applicant, or their agents, or successor in title, shall have secured the implementation of a programme of archaeological works in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 20) The building hereby approved shall be constructed to achieve a minimum of BREEAM 'Good' rating and prior to the use of the building commencing the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

Reason: In the interest of promoting energy efficiency and sustainable development.

- 21) Prior to the first use of the development hereby approved details, including the number and specific locations of publicly accessible electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points as approved shall be installed prior to the development coming into operational use, and shall thereafter be retained and maintained in accordance with the approved details.

Reason: In the interest of promoting energy efficiency and sustainable development.

- 22) The recommendations contained in the document entitled Odour Control Assessment shall be adhered to throughout the use of the premises hereby approved.

Reason: In the interest of residential amenities.

- 23) Prior to the first use of the development hereby approved, a Delivery Management Plan, which shall include details of the frequency and timings of deliveries, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall operate in accordance with the approved details.

Reason: In the interests of highway safety and convenience.

