



Appeal Decision

Site visit made on 10 March 2025

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2025

Appeal Ref: APP/D0650/W/24/3354344

Land at Green Oaks Centre, Green Oaks Way, Widnes WA8 6UD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by AIM Land Limited against the decision of Halton Borough Council.
 - The application Ref is 24/00097/FUL.
 - The development proposed is erection of two drive-thru units with 'drive-thru' facilities together with associated car parking, servicing and landscaped areas.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two drive-thru units with 'drive-thru' facilities together with associated car parking, servicing and landscaped areas at Land at Green Oaks Centre, Widnes WA8 6UD, in accordance with the terms of the application, Ref 24/00097/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the Council issued its decision, a revised version of the National Planning Policy Framework (the Framework) has been published. Both parties have provided comments on the implications of changes to the Framework for this appeal, particularly in relation to sustainable transport and healthy communities. I have taken these responses into account in coming to my decision.

Main Issue

3. The main issue is whether the site access and servicing arrangements would be suitable and safe.

Reasons

4. The proposed development is for two 'drive-thru' units, to be sited on part of a town centre car park. Unit A would be occupied by Starbucks which, as a coffee shop with drive-thru, would fall within Class E (town centre uses) under the terms of the Town and Country Planning (Use Classes) Order 1987 as amended. Unit B, which would be occupied by Burger King, would operate as a hot food takeaway and restaurant, and would be a 'sui generis' use. In this town centre location, such uses are acceptable in principle.
5. Outline planning permission has previously been granted for one drive-thru unit on part of the same site (application ref 22/00488/OUT).

Site access

6. The appeal site is located within a wider area of town centre parking. Immediately adjacent to the site is the car park for Morrisons supermarket, which shares the same access from Green Oaks Way. A further car park to the north, which serves the town centre and market, has a separate access. Parking charges operate at the appeal site and market car park, whereas in the Morrisons car park, customers can park for free for up to two hours.
7. As for the previously approved scheme, access to the proposed drive-thru units would be via the existing internal access from Green Oaks Way. I saw when visiting that the area can get busy, and the Council has expressed concerns that additional traffic generated by the development could result in queues of cars stacking back to the highway.
8. It is likely that a proportion of customers to the proposed drive-thru units would be making linked trips to the town centre, so would already be in the area. The appellant has suggested this could be around 80%, although such a figure is very difficult to predict and could be lower. Whatever the proportion, there would be additional traffic associated with the proposed units, from customers, staff and service vehicles. The drive-thru nature of the proposals means that, even where trips were linked, it is likely that there would be an increase in the number of internal traffic movements.
9. The appellant has calculated potential trip numbers for the proposed development, based on fast food trip generation data from existing outlets elsewhere. Using this information, they have predicted that in the afternoon peak, there could be a small queue of 2 vehicles waiting to leave the site, via the left turn onto Green Oaks Way. No queues of vehicles leaving the appeal site are predicted at other times, and it is not anticipated that the development would result in queues turning into the site from Green Oaks Way either.
10. I note the Highways Officer's initial concerns about the use of weekday rather than weekend data, and the appellant's explanation that the traffic prediction assumed that all the trips were new, so represents a worst-case scenario. Based on the evidence provided, I am satisfied that, even if the situation was worse than suggested at busy times during the weekend, the proposal would be unlikely to generate significant delays, either on the internal access road or wider highway network. As any queuing vehicles would be stationary or moving very slowly, they would be unlikely to cause a risk to pedestrian safety.
11. Traffic entering from Green Oaks Way would need to decide whether to turn left, into Morrisons car park, or right into the appeal site. This could result in short delays, but such a decision must be made under the current arrangements, with different parking arrangements operating in the two car parks. For those unfamiliar with the area, there is already the potential for confusion about which car park to use. Whilst there would likely be some additional traffic movements associated with the proposal, there is no particular reason to suppose that this problem would be any worse with the development in place. The proposed units would be visible from the internal access road, so drivers would anticipate needing to turn right to reach them. Clear signage on the internal access road could further assist with this matter.

12. Furthermore, the proposed site access would be moved slightly further along the internal access road, so that it would not be immediately opposite the entrance to the Morrisons car park as is currently the case. By staggering the accesses, the potential for delays or confusion associated with drivers completing opposing manoeuvres would be reduced.
13. The exit from the internal access road onto Green Oaks Way has an informal left only turn. Signage encourages drivers to turn left for faster exit, but the Council has noted that some people do occasionally turn right in an unsafe manner. Some drivers of traffic associated with the proposal may also ignore the sign and try and turn right, as such a manoeuvre is not precluded by the existing layout. If such activity is a particular problem that is causing a highway safety issue, it could be addressed through changes to the junction layout and signage, to make it left turn only.
14. Taking all these matters into account, I am satisfied that additional traffic associated with the proposed drive-thru's would be capable of being accommodated on the highway network without causing significant problems or delays.

Servicing arrangements

15. The appellant has explained that the proposed drive-thru units would be serviced by 2 or 3 deliveries per day. Unlike in the previously approved scheme, a dedicated space for service vehicles to park would be provided, which would serve both units. This would reduce the potential for conflict between delivery and customer parking on the site.
16. The submitted tracking information suggests that there could be places where the service vehicle movements could be very close to car parking spaces. Whilst the drawings suggest that any infringement would be minimal, potential for conflict between service vehicles and parked cars could be minimised by restricting deliveries to times when the wider car park is quiet. This could be achieved through a service management plan for the site, to be agreed by the Council.
17. By restricting deliveries to quiet times, any potential for conflict between service vehicles and pedestrians would also be minimised, and delays on the internal access road caused by delivery vehicles manoeuvring avoided.
18. I conclude that, subject to conditions requiring agreement and adherence to a servicing management plan, the proposed access and servicing arrangements would be suitable and safe. I have identified no conflict with Policy C1 of the Halton Delivery and Allocations Local Plan 2022 (Local Plan), which supports development where it would not have an unacceptable impact on highway safety, and where the residual cumulative impacts on the road network would not be severe.

Other Matters

Parking

19. When I visited the site, the adjacent Morrisons car park was busy, but there were very few cars in the central car park where the proposed drive-thru units would be sited. My observations reflect number plate recognition data provided by the car

park operator, which indicates that between 1 May and 1 August 2024, the car parks subject to charging were only 30% occupied at the busiest time.

20. Under-occupation of the car park may be due to car parking charges, which according to the Council were introduced in 2021. Whilst the imposition of parking charges may have shifted demand elsewhere, there is nothing to suggest that the charges will be lifted in the near future, so it seems likely that the central car park will continue to have significant spare capacity.
21. The proposal would result in a loss of parking spaces, but given the current level of usage of the central car park, that the proposal would not result in a shortfall of town centre parking. The appellant has confirmed that the parking spaces which would be provided adjacent to the drive thru's, would remain available for wider town centre use, albeit subject to charges. Furthermore, by providing complementary uses, the proposal has the potential to support the viability of the wider town centre, through linked trips to other shops and services.
22. The proposed scheme does not incorporate sufficient cycle parking to meet the Council's standard, but this could be overcome through a suitable condition.

Public health

23. The Director of Public Health has expressed concerns that the proposed development would provide poorly balanced food options and support reduced levels of physical activity. In their letter of objection, they noted that this is an area where there are already severe problems with obesity and high levels of people unemployed due to illness.
24. I have carefully considered the Director of Public Health's comments, but also note that the proposal complies with Local Plan Policy HC8, which is specifically concerned with the location of food outlets. The Local Plan was adopted recently, and the Council has advised that its preparation took account of evidence about the health of the local population. Furthermore, Policy HC8 is also consistent with more recent policy on hot food takeaways in Framework paragraph 97. As it complies with recently adopted local and national planning policy, the proposal is acceptable in this regard.
25. The Director of Public Health has also expressed concerns about the effect of traffic movements and idling car engines on air quality and carbon emissions. I acknowledge that the proposal could result in some increased emissions and pollution, but the proposal is not close to residential areas and the Environmental Protection officer did not raise any concerns in relation to air quality. Furthermore, it is likely that a significant proportion of visitors would be making linked trips to other destinations within the town centre, so would already be using the car park. On the basis of the evidence provided, this matter does not warrant dismissing the appeal.
26. Concerns have been raised about litter which might arise as a result of operation of the proposed units. The appellant has provided copies of Litter Management Policies for drive-thru's establishments operated by both Starbucks and Burger King. These set out expectations for keeping the sites tidy, including the removal of rubbish generated by the outlets. Adherence to these policies would ensure that the proposal does not result in unacceptable littering of the surrounding area.

Conditions

27. In addition to the standard implementation condition, a condition specifying plans is necessary to provide certainty.
28. The Council has suggested a condition requiring that the areas shown on the site plan be surfaced, drained and permanently marked out, before the development is brought into use. I agree that this is necessary in the interests of highway safety and visual amenity, and have imposed the condition with minor wording changes to assist with precision.
29. In the interests of highway safety, it is necessary to ensure that service vehicles avoid visiting the site at busy times. The appellant has suggested that this matter could be addressed through a servicing management plan, to be approved by the local planning authority. I agree that this would be an acceptable way forward which would allow the Council to exercise control over servicing arrangements, and have imposed a condition accordingly.
30. In the interests of promoting sustainable transport and to meet the requirements of Local Plan Policy C2, conditions requiring details of electric vehicle charging points and cycle parking provision are necessary. I have imposed the conditions suggested by the Council.
31. The consultation response from the Council's contaminated land team notes that the Green Oaks Shopping Centre was developed in the 1990s on the site of a former chemical works, and remediation work was undertaken at the time. To safeguard human health and the quality of the local environment, I agree that the suggested pre-commencement condition, which requires site investigation details to be undertaken, is reasonable and necessary. I have imposed the condition with minor wording changes, to make clear that a remediation strategy would only be required if found to be necessary.
32. In light of comments from the Local Lead Flood Authority, I agree that a condition requiring an submission and implementation of an updated drainage strategy is needed to prevent flooding and protect the quality of nearby watercourses. For similar reasons, a condition is needed to verify that the Sustainable Urban Drainage System (SuDs) has been constructed in accordance with the approved design and to the required standard.
33. Conditions requiring implementation of the approved landscaping scheme, and approval of external materials, are needed in the interests of visual amenity. To prevent light pollution and protect biodiversity, a condition requiring a scheme of external lighting is also necessary.
34. I have imposed the suggested condition restricting the times of construction works, which is reasonable to protect the living conditions of nearby residents.
35. The Council has suggested a pre-commencement condition requiring the submission of a carbon emissions reduction scheme. I agree that this is reasonable and necessary to meet the requirements of Local Plan Policy CS(R)19: Sustainable Development and Climate Change. I have imposed the condition with minor wording changes to improve clarity and to ensure that the agreed scheme is implemented.

Conclusion

36. Whilst I acknowledge the concerns raised in relation to access and public health, I have found that the proposed development would comply with the adopted development plan and the Framework. The appeal is therefore allowed, subject to the conditions set out below.

R Morgan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Site Location and Existing Site Plan - P23-029-02-02-001
 - Proposed Site Plan - P23-029-02-02-002G
 - Proposed Ground Floor Unit A - P23-029-02-03-001
 - Proposed Ground Floor Unit B - P23-029-02-03-002B
 - Proposed Roof Plan Unit A - P23-029-02-03-003
 - Proposed Roof Plan Unit B - P23-029-02-03-004B
 - Proposed Context Sections - P23-029-02-04-001A (except in respect of the signage, which would require separate consent)
 - Proposed Elevations Unit A - P23-029-02-05-001B
 - Proposed Elevations Unit B - P23-029-02-05-002C
 - Soft Landscape Specification - MR23-146/101 Rev A
- 3) The development shall not be brought into use until the parking, servicing and circulation areas shown on the approved site plan P23-029-02-02-002G have been surfaced, drained and demarcated in accordance with the details and specifications shown. The parking and servicing areas shall be retained as such thereafter.
- 4) Prior to the first occupation of the development hereby permitted, a servicing management plan shall be submitted to and agreed in writing by the local planning authority. Servicing shall be carried out in accordance with the approved management plan throughout the lifetime of the development.
- 5) No above ground works shall take place until a scheme detailing Electric Vehicle Charging Points has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in

accordance with the agreed details prior to the first occupation of the proposed development, and shall be maintained as such thereafter.

- 6) Notwithstanding the submitted details, no above ground works shall take place until a scheme detailing covered, cycle parking provision for both staff and customers has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the agreed details prior to the first occupation of the proposed development and so maintained thereafter.
- 7) No development shall take place until the following has been undertaken:
 - i) A site investigation and assessment, carried out by an appropriately qualified and experienced person or persons. This shall determine the status of contamination, including chemical / flammable or toxic gas / asbestos/ physical hazards / other contamination at the site and exact ground conditions. The investigations and assessment shall be in accordance with current Government and Environment Agency recommendations and guidance, and shall identify the nature and concentration of any contaminants present, the potential for migration and risks associated with them and solutions to the potential ground stability. This is to include a risk assessment with regard to controlled waters. Results of the investigation shall subsequently be submitted to and agreed in writing by the local planning authority.
 - ii) If found to be required during the site investigation and assessment works, a remediation strategy shall be formulated that includes a timetable for implementation, monitoring proposals and remediation validation methodology. This shall be submitted to and approved in writing by the local planning authority.
 - iii) Before the proposed use commences, the agreed remediation strategy shall be demonstrably and successfully completed in accordance with the details agreed above. A Site Verification/Completion Report, completed by a suitably qualified professional, shall be submitted to and approved in writing by the local planning authority within 4 weeks of the completion of the implementation of the agreed strategy. This shall include details of the remediation works undertaken; validation testing of the adequacy of the remediation; certificates of the suitability of the imported cover materials from a suitably qualified independent person; the fate of any excavated material; and any necessary verification-monitoring programme including details of any installed post-completion monitoring devices, together with measures to be undertaken should action limits be exceeded.
- 8) No development shall take place until an updated drainage strategy report and associated general arrangement drawings and calculations have been submitted to and approved by the local planning authority. The drainage strategy update should include the following:
 - i) evidence from a CCTV survey of the existing drainage on site to confirm:
 - There are separate foul and surface water systems.
 - The structural condition of the existing systems to be retained.
 - Hydraulic assessment of the capacity of the existing systems.

- Confirmation of the outfall of both systems.
- ii) If the existing drainage system is shown to be combined then evidence should be provided as to why a new surface water discharge into Bowers Brook is not viable.
- iii) Survey information to confirm the depth and alignment of the culverted watercourse Bowers Brook to demonstrate that no buildings are constructed within the easement.
- iv) Hydraulic model outputs of the entire proposed surface water drainage system including the proposed attenuation to show that no flooding occurs during the 1:100yr +CC return period.
- v) A plan showing the exceedance routes should the drainage system fail or become overwhelmed in extreme events.
- vi) Confirmation of who will be responsible for the future management and maintenance of the proposed drainage system and a clear maintenance plan outlining maintenance tasks and frequency.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved drainage strategy.

- 9) No part of the development hereby approved shall be occupied until a SuDS verification report has been submitted to and approved by the local planning authority. The verification report shall include:
- i) confirmation that the SuDS system has been constructed in accordance with the approved design drawings (including off site alterations), and in accordance with best practice,
 - ii) Evidence that the SuDS have been signed off by an appropriate, qualified, indemnified engineer and are explained to prospective owners and maintainers, with confirmation that SuDS are entered into the land deeds of the property.
 - iii) An agreement that maintenance is in place over the lifetime of the development in accordance with the agreed maintenance plan; and/or evidence that the SuDS will be adopted by a third party.
 - iv) Submission of 'As-built' drawings and specification sheets for materials used in the construction, plus a copy of a Final Completion Certificate.
- 10) No part of the development hereby approved shall be brought into operational use until the landscaping works as detailed in the approved drawing (MR23-146/101 Rev A) have been carried out in full and in accordance with the agreed details. Any planting, which within a period of 5 years of implementation, dies, is removed or becomes seriously damaged or diseased, shall be replaced during the next planting season at the same place with others of a similar size or species.
- 11) No above ground works shall commence until full details of the external facing materials for the buildings hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details.
- 12) Prior to the commencement of the development hereby approved, a carbon emission reduction scheme shall be submitted to and approved in writing by

the local planning authority. The scheme shall demonstrate adaptation measures in response to proposed changes in climatic conditions. The development shall be carried out in accordance with the approved scheme.

- 13) Construction works and associated deliveries shall not take place outside of the following hours: Mondays to Fridays 07:30 to 19:00 hours; and Saturdays 07:30 to 1300 hours. There shall be no construction work on Sundays, Public Holidays or Bank Holidays.
- 14) No above ground works shall take place until a scheme of external lighting for the development hereby approved has been submitted to and approved in writing by the local planning authority. Such scheme shall demonstrate how it has had regard to the 'Bats and Artificial Lighting at Night' guidance which has been produced by the Institute of Lighting Professionals in conjunction with the Bat Conservation Trust and in accordance with the Institution of Lighting Professionals Guidance Notes (01/20) for the Reduction of Obtrusive Light (or any superseding guidance). The scheme shall be implemented in accordance with the approved details and be maintained thereafter.