

Erection of Drive - Through Unit (Class 3/Sui Generis), Associated Access, Car Parking, Landscaping and Infrastructure (amendment to 21/00830/FULL)

KEY INFORMATION

Ward West End

Address

Land South of
Riverside Avenue
Dundee

Applicant

McDonald's Restaurants
Limited

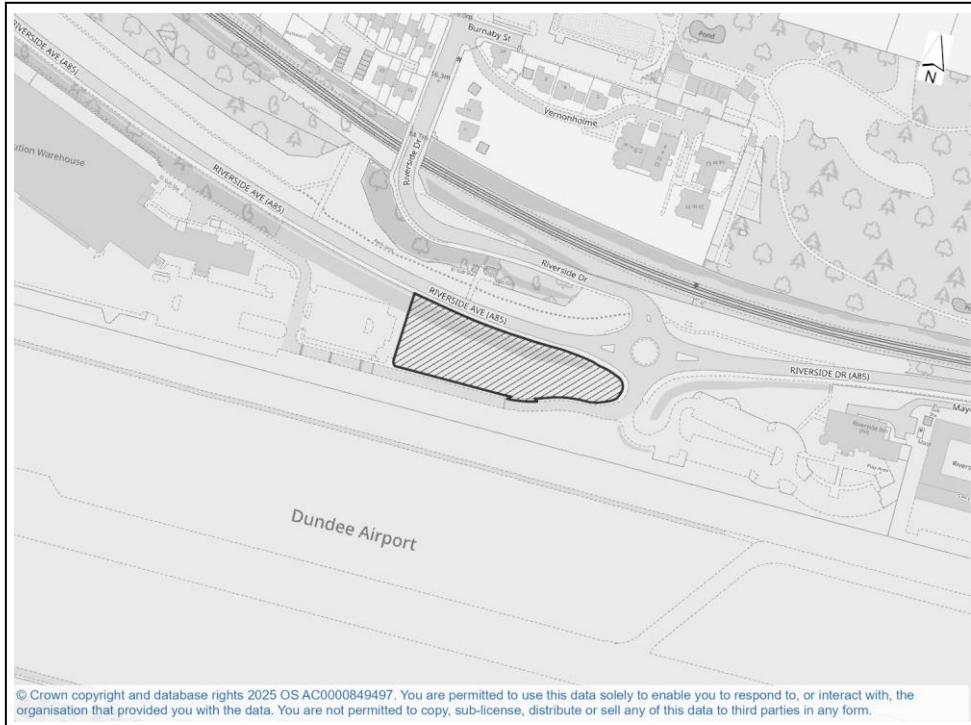
Agent

Rachel Affleck
Lichfields

Validated: 20 May 2025

**Report by Head of
Planning & Economic
Development**

Contact: Sharon Dorward



SUMMARY OF REPORT

- Planning permission is sought for the erection of a drive through restaurant, with associated access, parking and landscaping details.
- The application site measures 0.46 hectares and is located on the south side of Riverside Avenue and to the north of Dundee airport, approximately 3.5km from the city centre.
- The application is not in accordance with the requirements of the Development Plan.
- Planning permission 21/00830/FULL for the erection of two Class 3 drive-through restaurants with parking was approved in March 2022. This permission has been implemented and remains extant.
- In total, 28 objections were received in relation to the proposal. The letters of objection raise concerns in relation to impact on Perth Road District Centre, traffic congestion, sustainable transport, noise, environmental impacts, visual amenity, air quality and contravention of planning policy.
- In total, 14 letters of support have been received. These welcome the development for its job creation opportunities, boost to the local economy, suitable location, accessibility, and EV charging provision.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as more than six objections have been received and at the request of an Elected Member.
- More details can be found at: [25/00268/FULL | Erection of drive-through unit \(Class 3 / Sui Generis\), associated access, car parking, landscaping and infrastructure \(amendment to 21/00830/FULL\) | Land South Of Riverside Avenue Dundee](#).

RECOMMENDATION

The proposal does not comply with the Development Plan. There are material considerations of sufficient weight to support approval of planning permission. Therefore, the application is recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks planning permission for the erection of a drive-through restaurant, with associated access, parking, servicing and landscape details.
- 1.2 The site is currently vacant unkempt grassland bound by immature trees to the north. The access to the site is from Loverose Way to the south.
- 1.3 The applicant has provided a site layout with detailed floor plans and elevations. The restaurant/drive-thru would have a footprint measuring 309 square metres and an internal floor area of 286 square metres. The building would be constructed to a maximum height of 5.5 metres. A bin store on the west elevation would have an enclosure height of 3 metres. External finishes for the building are proposed as dark grey and timber effect cladding panels, with a dark grey brick basecourse. Canopies and columns would be finished in white; windows and doors would have jet black frames and service points would be highlighted with illuminated yellow panels. The restaurant would operate 24 hours, 7 days a week.
- 1.4 The vehicular site access from the south on Loverose Way has been constructed and the existing footpath on Loverose Way would extend into the application site. Additional pedestrian access would be from the north and east of the site boundary. A total of 35 car parking spaces would be provided. These would include three accessible spaces and two grill (waiting) bays. Of these 35 spaces, three would be Electric Vehicle (EV) charging spaces and three will have capacity for future EV charging. 15 cycle storage spaces are also proposed, with 12 for customers and three for staff.
- 1.5 The applicant has submitted the following in support of the application:
 - Planning Statement;
 - Transport Statement;
 - Travel Plan;
 - Drainage Statement and Plans;
 - Remediation Strategy and Verification;
 - Tree Survey Report;
 - Ecological Appraisal Survey;
 - Landscape Scheme and Management Plan;
 - Sustainability Statement;
 - Lighting Impact Assessment;
 - Economic Statement;
 - Community Consultation Statement; and
 - King's Counsel Legal Opinion.

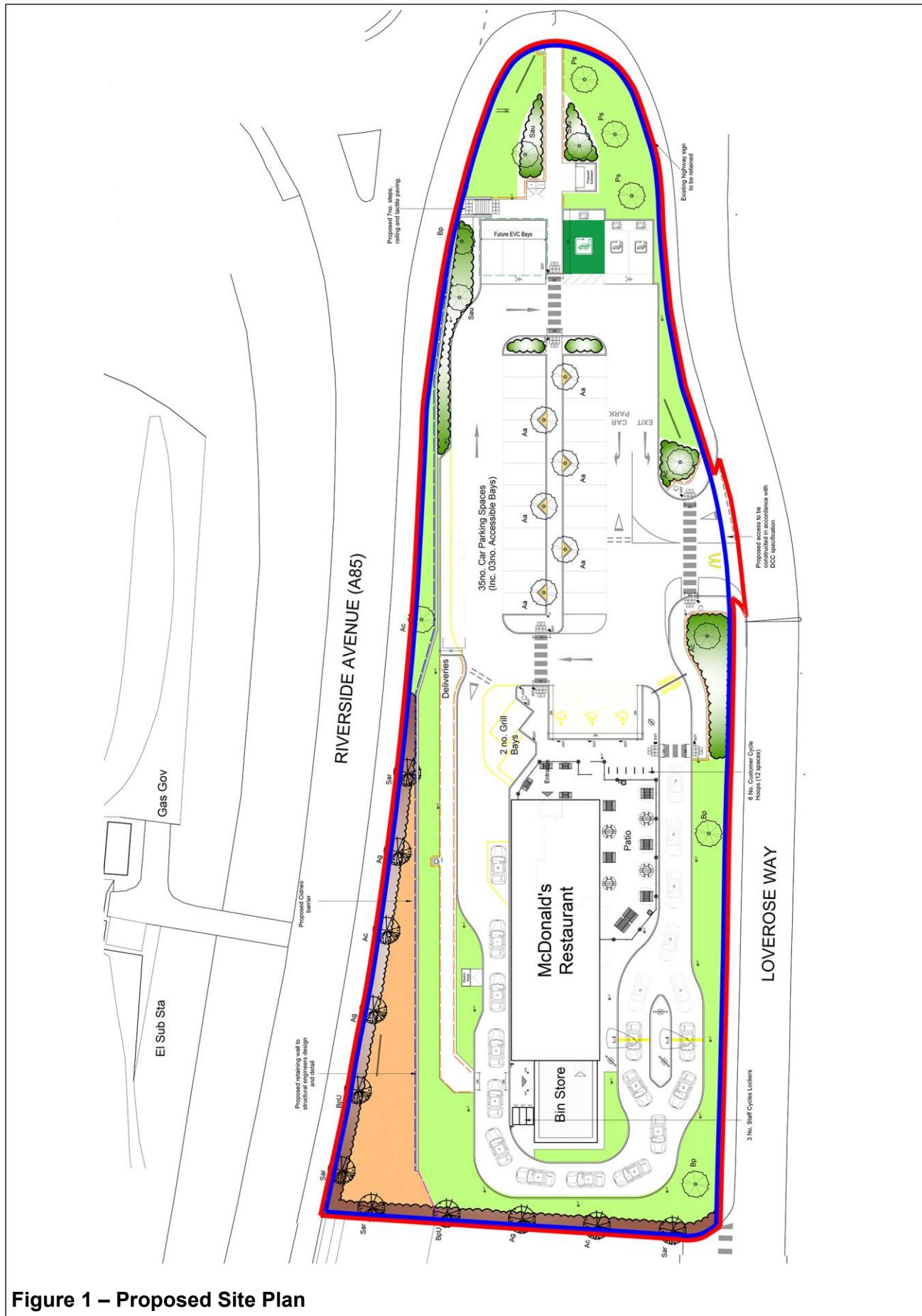
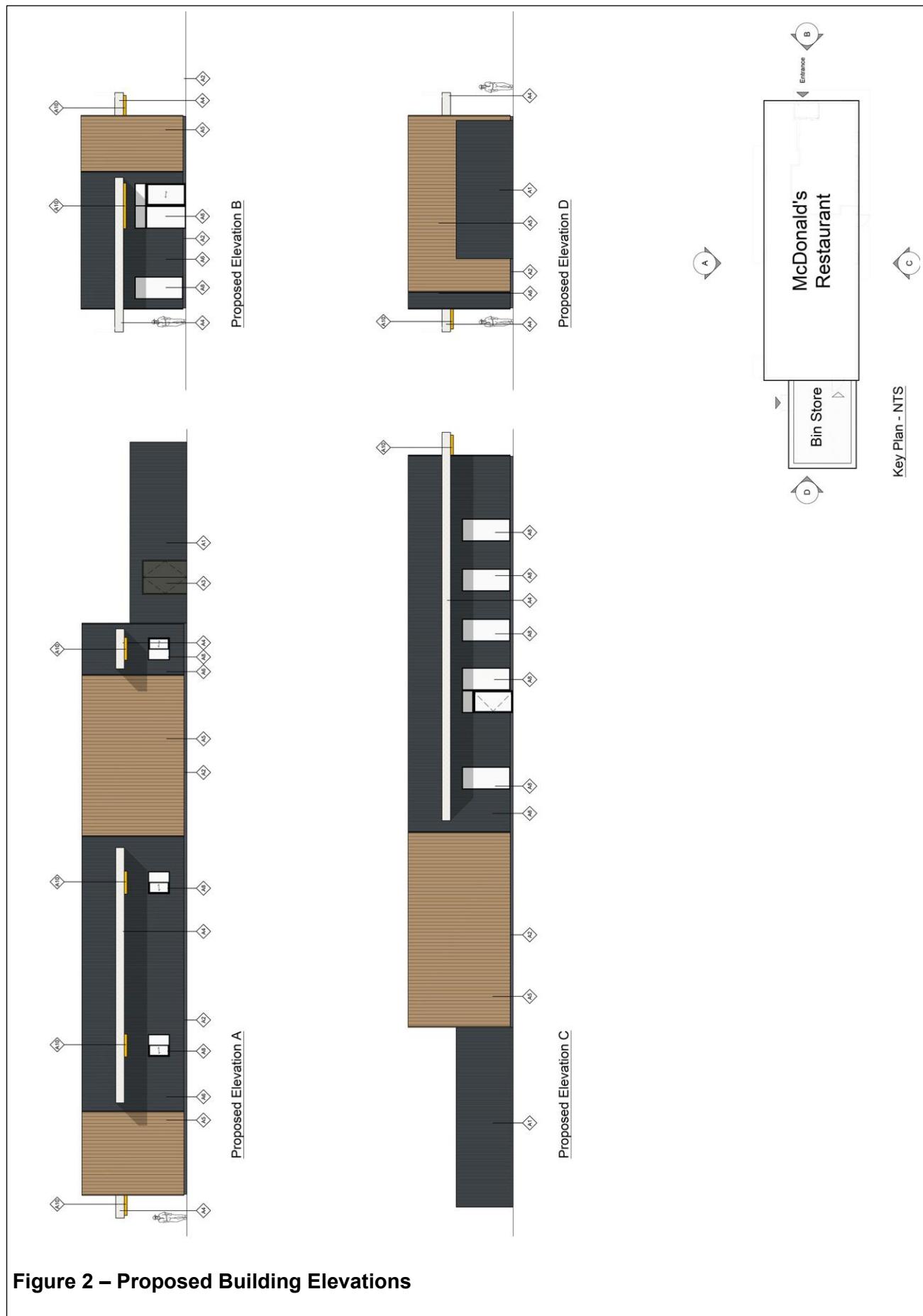


Figure 1 – Proposed Site Plan



2 SITE DESCRIPTION

- 2.1 The application site relates to an area of land measuring 0.46 ha and is located to the west of Dundee City Centre on Riverside Avenue. The site is gently sloping north to south and is grassed, with shrubs interspersed throughout the site and a small number of young trees to the northern site boundary.
- 2.2 The site is oblong in shape and is positioned to the south of the A85 Riverside Avenue and to the north of Dundee Airport. The site is accessed from the roundabout at the junction with Riverside Drive and Loverose Way.
- 2.3 The Green Circular core path network runs along the northern site boundary, crossing Loverose Way to the immediate south of the roundabout. The Riverside - Ninewells link adjoins the Green Circular on Riverside Avenue. The Riverside Drive (West) wildlife corridor runs directly to the north of the site on the northern side of Riverside Avenue which is also designated open space.
- 2.4 The vehicle access to the site has been created on the southern site boundary, from Loverose Way. A stepped pedestrian access is proposed at the north of the site on Riverside Avenue and an additional pedestrian access to the east. A distribution warehouse is located to the west of the site, and the Riverside Inn is located to the east, both accessed from Loverose Way. Dundee Airport's runway is located on the area to the south of the application site. Riverside Drive leads on to Perth Road to the north of the application site. Other nearby land uses include Dundee University's Botanic Gardens and Riverside Nature Park.



Figure 3 – View of Site From the West at the Riverside Avenue Roundabout



Figure 4 – View of Site from Loverose Way to the South

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

NATIONAL PLANNING FRAMEWORK 4

- Policy 1: Tackling the climate and nature crises
- Policy 2: Climate mitigation and adaption
- Policy 3: Biodiversity
- Policy 6: Forestry, woodland and trees
- Policy 9: Brownfield, vacant and derelict land and empty buildings
- Policy 12: Zero waste
- Policy 13: Sustainable transport
- Policy 14: Design, quality and place
- Policy 22: Flood risk and water management
- Policy 23: Health and safety
- Policy 26: Business and Industry
- Policy 27: City, town, local and commercial centres

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- Policy 1: High Quality Design and Placemaking
- Policy 3: Principal Economic Development Areas
- Policy 6: Ancillary Services within Economic Development Areas
- Policy 21: Town Centre First Principle
- Policy 27: Public Houses, Restaurants and Hot Food Takeaways
- Policy 35: Trees and Urban Woodland
- Policy 37: Sustainable Drainage Systems
- Policy 39: Environmental Protection
- Policy 41: Land Contamination
- Policy 44: Waste Management Requirements for Development
- Policy 48: Low and Zero Carbon Technology in New Development
- Policy 54: Safe and Sustainable Transport
- Policy 56: Parking

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 Planning application ref: 06/01086/FUL for the erection of a 60-bed hotel with restaurant and car park was approved by planning committee in March 2007. An appeal to the DPEA against conditions imposed was allowed in September 2007.
- 4.2 Planning application ref: 10/00332/FULL for the erection of a 102-bed hotel with restaurant, car park and landscaping was refused by planning committee in December 2010. An appeal to the DPEA was dismissed in May 2011.
- 4.3 Planning application ref: 11/00552/FULL for a variation of condition 1 of planning permission 06/01086/FUL, to allow a further 3 years for development to begin, was refused under delegated powers in November 2011, but allowed at appeal by the Local Review Body in March 2012.

- 4.4 Planning application ref: 20/00031/FULL was refused under delegated powers in July 2020, for the erection of two Class 3 drive-through restaurants with parking. An appeal was allowed by the Local Review Body in February 2021.
- 4.5 Planning application 21/00830/FULL for the erection of two Class 3 drive-through restaurants with parking (amendment to 20/00031/FULL) was approved under delegated powers in March 2022.
- 4.6 Planning application 24/00509/FULL for the erection of one drive-through restaurant with associated access, parking, landscaping and infrastructure was withdrawn in October 2024.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 In total 28 letters of objection were received, raising the following material considerations:
 - impact on local and independent business located on Perth Road within the district centre;
 - traffic congestion, impact at Swallow Roundabout, potentially queuing cars on Loverose Way, route along Riverside Avenue used by emergency vehicles;
 - no bus stop within 400 metres and no pedestrian crossing;
 - hindrance to green network users, cycle route passes the entrance to the site;
 - noise from deliveries, vehicles and customers;
 - anti-social behaviour and litter, impact for birds scavenging and potential bird strike at airport;
 - environmental impacts from removal of green space, impact on nature reserve, proximity to conservation area and botanic gardens;
 - visual amenity, affecting character of Ambassador Route, impacted on listed railway bridge, unsightly building;
 - the development contravenes the provisions of National Planning Framework 4 (NPF4) as it would not reduce the reliance on the private car, and NPF4 does not support drive-through development unless identified in a local development plan (LDP);
 - the development would be contrary to adopted LDP policies 17, 23, 40 and 54; and
 - impact on air quality.
- 5.3 Objections were also submitted in relation to healthy eating, an over-provision of McDonald's restaurants, low paid jobs, and McDonald's business ethics. These are not material planning considerations.
- 5.4 A total of 14 support comments were received which gave the following valid reasons:
 - job creation;

- boost to the local economy;
- appropriate location;
- accessibility; and
- EV charging provision.

5.5 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

6.1 **NATS Safeguarding** – has no objection.

6.2 **HIAL** – has no objection subject to conditions, to include a Wildlife Hazard Management Plan and landscaping scheme.

6.3 **Civil Aviation Authority** – no comments have been received.

6.4 **The Head of Environment** – has no comments to make but observes that a greater biodiversity gain is illustrated than in the previous applications.

6.5 **The Head of Sustainable Transport and Roads** – is unable to support the application as the proposal goes against sustainable travel requirements. As the application is being recommended for approval conditions are recommended.

6.6 **West End Community Council** – has objected to the application, stating that planning policy does not support the development of a drive-through development at this location, and also in terms of traffic congestion, sustainable transport and an increase in litter.

7 DETERMINING ISSUES

7.1 Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

THE DEVELOPMENT PLAN

The development plan consists of the National Planning Framework 4 (NPF4) and the adopted Dundee Local Development Plan 2019 (LDP). The provisions of these Plans relevant to the determination of this application are specified in the Policy Background section above.

Principle of Development

7.2 **NPF4 Policy 27: City, town, local and commercial centres** - seeks to encourage, promote and facilitate development in city and town centres, by applying the Town Centre First approach, to help centres adapt positively to long-term economic, environmental and societal changes.

7.3 **NPF4 Policy 27b:** requires all development to be consistent with the town centre first approach, proposals outside the network of centres will not be supported unless a town centre first assessment can demonstrate that:

- all centre and edge of centre options have been discounted;
- the scale of the development cannot be reduced in order that it can be accommodated in a centre; and
- there would be no significant adverse effect on the vitality and viability of the centres.

7.4 The application is for a Class 3 restaurant and drive-through takeaway development. It is approximately 3.5km from the City Centre and 1.8km from Perth Road District Centre. The Planning Statement submitted with the application documents includes a Town Centre First Assessment.

7.5 The Planning Statement outlines the applicant's commercial site requirements, centred largely around the desire for a site in the west of Dundee. A number of sites within existing centres were discounted as they would be unable to accommodate a drive-through facility, are too big or too small, or are too close to an existing franchise.

7.6 **NPF4 Policy 27d:** states that drive-through developments will only be supported where they are specifically supported in an adopted LDP. The development of the site for a drive through is not supported within the Dundee LDP policies, or Proposals Map.

7.7 A Town Centre First Assessment has been undertaken, which firstly considers the commercial need of the applicant. The site chosen and forming this application site is considered by the applicant to be an ideal location, at the western gateway into the city. Other potential sites have been discounted as unsuitable in terms of location and physical capability. Discounted sites include:

- 1 the former Armold Clark site on East Dock Street, which was considered too small;
- 2 132-134 Seagate which was again considered too small and constrained in terms of a drive through provision, and also located in a Conservation Area;
- 3 Meadowside, on the corner of Constitution Road, which was considered too big and constrained in that it cannot accommodate a drive through lane;
- 4 land at Barrack Street, which would not accommodate a drive through lane and is also situated with the Central Conservation Area;
- 5 land at South Ward Road which was considered too small and a drive through could not be accommodated within the surrounding road infrastructure;
- 6 North Lindsay Street, which was larger than the site required but does not have sufficient scope for car parking or a drive through lane;
- 7 West Marketgait, a previous petrol station, which is too small;
- 8 49-65 Trades Lane, which is also too small;
- 9 19-21 South Ward Road, again too small and within the Central Conservation Area;

- 10 Dundee Central Waterfront, a drive through restaurant would not comply with the strategy for the area and is unlikely to be supported; and
- 11 Albert Street District Centre and Perth Road District Centre, where no suitable sites were identified. The sites at other District Centres were discounted as they do not meet the requirement for an additional restaurant on the western side of Dundee and did not provide a site large enough to accommodate the proposal.

7.8 As a drive through development, it would not be practical to reduce the size of the development to fit a smaller site, given the requirement for a drive through lane and parking.

7.9 The applicant has not provided an assessment to demonstrate that there would be no significant adverse effect on the vitality and viability of the network of centres. The introduction of a drive through facility may result in fewer people visiting the existing network of centres, lessening footfall to the other centres to the detriment of their vitality and viability.

7.10 While it has been demonstrated that there are no suitable sequentially preferable development sites available within any of the centres, it remains the case that there is no support within the adopted Dundee LDP for the development of a drive-through restaurant and takeaway at this location.

7.11 **The proposal does not comply with NPF4 Policies 27b or 27d.**

7.12 **LDP Policy 21: Town Centre First Principle** - states that all new or expanded uses that will generate significant footfall should be located in the City Centre or a District Centre. Proposals for such uses in other locations will only be acceptable where it can be established that:

- 1 no suitable site is available, in the first instance, within the City Centre or District Centres then, edge of town centre and then, Commercial Centres identified in the Local Development Plan, and then out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes;
- 2 individually or cumulatively the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres or Commercial Centres; and
- 3 the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres.

7.13 As discussed above, it has been demonstrated that there are no sequentially preferable development opportunities for the proposal within the network of centres or at the edge of these centres. However, the applicant has failed to demonstrate that the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres, or Commercial Centres.

7.14 **The proposal does not comply with LDP Policy 21.**

7.15 **LDP Policy 27: Public Houses, Restaurants and Hot Food Takeaways** - supports the development of restaurants and hot food takeaways within a District Centre subject to opening hours restrictions. Outside a District Centre, proposals with a gross floor area in excess of 150m² will only be supported where they would be more than 45 metres from existing or proposed housing.

7.16 The proposed floor area is 286 square metres, and the curtilage of the application site is more than 100 metres from the façade of the nearest residential property. There is no proposed new housing within vicinity to the site.

7.17 **The proposal complies with LDP Policy 27.**

7.18 **NPF4 Policy 26: Business and industry** - seeks to encourage, promote and facilitate business and industry uses, and ensure that there is a suitable range of available sites that meet current market demand, location, size and quality in terms of accessibility and services.

7.19 **NPF4 Policy 26a:** states that development proposals for business and industry uses on sites allocated for those uses in the Local Development Plan will be supported.

7.20 **NPF4 Policy 26c:** states that proposals for business and industry uses will be supported where they are compatible with the primary business function of the area. Other employment uses will be supported where they will not prejudice the primary function of the area and are compatible with the business/industrial character of the area.

7.21 **LDP Policy 3: Principal Economic Development Areas** - safeguards land for Class 4 (Business), Class 5 (General Industry) and Class 6 (Storage and Distribution) uses. It states that other uses will be resisted.

7.22 The proposal is for a drive-through restaurant which would be located within the Dundee Airport Principal Economic Development Area. The Class 3 and *sui generis* use is not supported within the Principal Economic Development Area, and the drive-through restaurant use would not be compatible with the industrial character of the area.

7.23 **LDP Policy 6: Ancillary Services within Economic Development Areas** - supports small scale ancillary services which can be demonstrated to meet the needs of employees and complement existing businesses.

7.24 The proposed drive-through restaurant would not be ancillary to the Airport Principal Economic Development Area.

7.25 The proposed drive-through unit would be situated adjacent to Riverside Drive to maximise visibility to passing traffic. The nature of the drive-through use and the scale of the proposal indicates that the development is aimed at attracting visiting members of the public and not for the purpose of supporting local employees from within the Principal Economic Development Area.

7.26 **The proposal does not comply with NPF4 Policies 26a or 26c, or with LDP Policies 3 or 6.**

Sustainable Transport

7.27 **NPF4 Policy 13: Sustainable transport** - seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport.

7.28 **NPF4 Policy 13b:** supports development proposals where it can be demonstrated that the transport requirements generated have been considered in line with sustainable travel and investment hierarchies and where appropriate they should:

- i provide direct, easy segregated and safe links to local facilities via walking and cycling networks;
- ii be accessible by public transport;
- iii integrate transport modes;

- iv provide low or zero emission charging points in convenient locations;
- v supply safe, secure and convenient cycle parking;
- vi be designed to incorporate safety measures, including safe crossings, while reducing the number and speed of vehicles;
- vii take into account the transport needs of diverse groups to ensure safety, ease and the needs of all users; and
- viii adequately mitigate any impact on local public access routes.

7.29 In respect of NPF4 Policy 13b criteria:

- i the site is immediately adjacent to the Green Circular core path network.
- ii the site is more than 400 metres from a bus stop and is not readily accessible by public transport.
- iii the integration of transport modes is relevant to larger scale applications. However, the applicant proposes secure cycle parking to support active travel alongside access by private car.
- iv three EV charging spaces are proposed within the curtilage of the site, with additional capacity for another three.
- v cycle parking is proposed within the curtilage of the site for up to 15 bikes.
- vi it is proposed to incorporate safety measures with the provision of a pedestrian access into the site from the existing road network, and the provision of zebra crossings within the site across the vehicle access.
- vii accessible parking spaces are proposed.
- viii the proposal will not have a detrimental impact on local access routes.

7.30 **NPF4 Policy 13f:** states that development proposals for significant travel generating uses, or smaller scale uses where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a travel plan. A condition is recommended to secure this.

7.31 **LDP Policy 54: Safe and Sustainable Transport** - seeks that all development proposals which generate travel should be designed and well served by all modes of transport, and will be required to:

- 1 minimise the need to travel by private car;
- 2 provide on-site facilities and links for walking and cycling;
- 3 have access to public transport networks within 400 metres;
- 4 have no detrimental impact on the existing road or rail network;
- 5 ensure safe provision for freight and waste access and loading;

- 6 comply with national and Dundee City Council's road design standards; and
- 7 be supported by a travel plan where significant travel would be generated.

7.32 For similar reasons to NPF4 Policy 13b, the proposal does not fully comply with Dundee LDP Policy 54 because the proposal does not minimise the need to travel by private car as required by Criterion 1.

7.33 The development does not comply with LDP Policy 54 as the proposed development is not located within 400 metres of a bus stop. The closest bus stops are located on Perth Road (travelling east and west) and are 560 metres from the pedestrian site access. As such, the application is contrary to Policy 54 of the LDP. Should the planning application be approved, it is recommended that a condition is attached to ensure that a Travel Plan is submitted within one year of opening, to ensure sustainable travel options are implemented and monitored and to ensure car use is reduced as far as practicably possible.

7.34 With regard to criterion 5 and provision for freight and waste access and loading, the Transport Statement includes a swept path analysis which demonstrates that there is sufficient space both within the site and on Loverose Way for HGVs to access and egress without having a detrimental impact on the local road network.

7.35 **LDP Policy 56: Parking** – requires that outside the City Centre, all new developments shall be required to comply with the Council's adopted guidance on road standards, and national standards. All new development should include cycle parking facilities in accordance with adopted guidance. All parking facilities at commercial developments should include changing facilities for employees and the provision of EV charging stations.

7.36 A total of 35 car parking spaces would be provided, including three disabled access spaces and three EV charging spaces, with capacity for a further three. Fifteen secure cycle storage spaces are proposed, with twelve for customers and three for staff.

7.37 The proposed parking layout complies with the required parking standards. A planning condition is proposed to ensure that the spaces and the parking layout are retained in perpetuity.

7.38 **The proposal would comply with NPF4 Policy 13f and LDP Policy 56 subject to condition but does not comply with NPF4 Policy 13b or LDP Policy 54.**

Drainage

7.39 **NPF4 Policy 22: Flood Risk and Water Management** - is intended to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.

7.40 **NPF4 Policy 22c:** relates to surface water drainage and seeks to ensure that development proposals:

- i do not increase the risk of surface water flooding;
- ii manage all rain and surface water flooding through SUDS design, without presuming a surface water connection to the combined sewer; and
- iii seek to minimise the area of impermeable surface.

7.41 **NPF4 Policy 22d:** states that development proposals will be supported if they can be connected to the public water mains. If this is not feasible then a demonstration is required that drinking water can be sourced from a sustainable water source.

7.42 **LDP Policy 37: Sustainable Drainage Systems** - requires that surface water discharging to the water environment from new development must be treated by a Sustainable Drainage System (SUDS), designed so that water levels remain 600mm below finished floor levels during a 1:200-year rainstorm event with allowance for climate change and future urban expansion. Proposals are encouraged to adopt an ecological approach.

7.43 A Drainage Statement and Drainage Maintenance Plan have been submitted with the application. The site is not within an identified flood risk area. The proposed surface water drainage strategy includes cellular infiltration attenuation tanks prior to run off via the existing sewers in Loverose Way.

7.44 The principles of the surface water drainage proposals in the Drainage Statement are acceptable, with the site being able to provide necessary surface water storage and treatment, and a surface water connection point. The applicant requires to obtain separate permission from the owner of the private surface water pipe prior to connecting any surface water generated from the development site to the pipe. Foul water would be pumped to the public drainage system at a rate and location to be agreed with Scottish Water through their separate application process. A connection is proposed to the public water supply network.

7.45 **The proposal complies with NPF4 Policies 22c and 22d and with LDP Policy 37 subject to conditions.**

Contaminated Land

7.46 **NPF4 Policy 9c: Brownfield, Vacant and Derelict Land and Empty Buildings** - requires that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land can be made safe and suitable for the proposed new use.

7.47 **LDP Policy 41: Land Contamination** - states that the development of potentially contaminated or statutorily identified contaminated land will be considered where:

- a site investigation has been submitted and establishes the nature and extent of the contamination, and where the Council is satisfied that proposed remediation would adequately address contamination risks to all receptors and be suitable for the planned use; and
- proposals for an alternative use to that identified in the Local Development Plan will be considered where the above criteria are satisfied, and it is established that the site cannot be economically developed for the allocated use, and the proposed use would meet the requirements of other relevant Local Development Plan policies.

7.48 A Phase I Desk Study, Phase II Site Investigation and Risk Assessment Report, and a Remediation Strategy and Verification Plan have been submitted with the application. The documents conclude that no significant contamination has been identified, and a piled foundation is proposed for the new building.

7.49 The recommendations for a capping layer and gas protection measures are accepted, including full radon protection as proposed. It is recommended that a condition is applied to ensure that the remediation scheme is fully implemented and that a verification report is submitted for the prior approval of the planning authority.

7.50 There has been no appraisal to establish that the site cannot be economically developed for the allocated Class 4, 5 or 6 use due to the level or type of contamination, or that the proposed Class 3/sui generis use would meet the requirements of other relevant Local Development Plan policies as required by LDP Policy 41-part b.

7.51 **Subject to a condition, the proposal complies with NPF4 Policy 9c. The proposal does not fully comply with LDP Policy 41.**

Residential Amenity

7.52 **NPF4 Policy 23: Health and safety** - is intended to protect people and places from environmental harm, mitigate risks from safety hazards and promote development that improves wellbeing.

7.53 **NPF4 Policy 23e:** states that development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

7.54 **LDP Policy 39: Environmental Protection** - requires that all new development that would generate noise, vibration, odour, emissions to air, dust or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New development near existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on the viability of existing businesses or uses.

7.55 The proposal has the potential to impact on the amenity of residents to the north of the application site as it would introduce additional noise and odour sources. Appropriate mitigation measures proposed includes the installation of high-level ventilation and a restriction on servicing and delivery times to protect the amenity of residential properties located within just over 100 metres of the application site, to the north of the A85, Riverside Avenue.

7.56 It is recommended that planning conditions are attached to any planning permission to secure further details of a high-level ventilation system; restrict deliveries to between 07:00 and 21:00 hours Monday to Saturday and 09:00 to 18:00 hours on a Sunday; and to restrict noise from mechanical and electrical plant/services.

7.57 **The proposal complies with NPF4 Policy 23e and LDP Policy 39 subject to conditions.**

Visual Amenity and Design

7.58 In relation to design, NPF4 Policy 14 Design, quality and place, and Dundee LDP Policy 1, High Quality Design and Placemaking, seek to encourage, promote and facilitate well designed development to deliver quality sustainable places and environments.

7.59 **NPF4 Policy 14a: Design, Quality and Place** - requires that development proposals will be designed to improve the quality of an area, regardless of scale.

7.60 **NPF4 Policy 14b:** supports development proposals where they are consistent with the six qualities of successful places, which are: healthy; pleasant; connected; distinctive; sustainable; and adaptable.

7.61 **NPF4 Policy 14c:** states that development proposals which are poorly designed, detrimental to amenity or inconsistent with the six qualities of successful places will not be supported.

7.62 **LDP Policy 1: High Quality Design and Placemaking** - requires all development proposals to follow a design-led approach to sustainable and high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, creating a sense of community and identity, and enhancing connectivity, with creative approaches to urban design, landscaping and green infrastructure. New development is required to meet the six qualities of successful place, in accordance with Appendix 1 of the Dundee LDP creating development which would be distinctive, safe and pleasant, easy to move around and beyond, welcoming, adaptable, and resource efficient.

7.63 The site is located adjacent to one of the main gateway approaches into the city. Existing buildings along Riverside Avenue are, due to the nature of their use, of a predominantly industrial form and design and are generally screened from view or set back from the road. In contrast, the publicly accessible buildings such as The Riverside Inn opposite the application site and the Bridgeview Station restaurant and sports hub buildings further to the east are of a more traditional and less industrial design.

7.64 The drive through restaurant would be a corporate design and will be highly visible from Riverside Avenue when approaching from the east and west. The proposed building would be similar in terms of design to the two drive throughs which were approved on the proposed site under the permission which has been implemented on the site under 21/00830/FULL. The design is of a similar scale and design to those found elsewhere in Dundee. The number of buildings would be reduced from two to one, which would be less impactful on approach to the site from each direction on Riverside Drive as those which can currently be built on site under the permission which has been implemented on the site under 21/00830/FULL. The proposal could comply with the six qualities of successful places with a building designed to be distinctive, safe and pleasant, easy to access, welcoming, adaptable, and resource efficient. Any signage associated with the proposed development would be subject to a future application for advertisement consent and will require to respect the visual amenity of this important ambassador route into the city.

7.65 **The proposal complies with NPF4 Policies 14a, 14b and 14c and with LDP Policy 1.**

Biodiversity and Trees

7.66 **NPF4 Policy 3: Biodiversity** - seeks to protect biodiversity, reverse any biodiversity loss, encourage biodiversity through development and strengthen nature networks.

7.67 **NPF4 Policy 3c:** requires that proposals will include appropriate measures to conserve, restore, and enhance biodiversity, in accordance with national and local guidance.

7.68 **NPF4 Policy 3d:** requires that any potential adverse effects on biodiversity through development proposals are minimised through careful planning and design.

7.69 The application site is unkempt, grassed with some shrubbery and young trees to the north. There are no natural heritage designations within the site boundary. The landscape plan submitted with the application proposes new native hedgerow and trees adjacent to the boundary with Riverside Avenue to the northwest of the site. To the east of the site and at the site entrance, new low growing ornamental shrub beds are proposed with specimen feature tree planting. Species rich grass verges are also proposed with wildflowers for ecological enhancement.

7.70 The Inner Tay Estuary Local Nature Reserve and Riverside Nature Park lie to the west of the site, and the Riverside Drive (West) Wildlife Corridor lies to the north of the site. These

designated areas are at a considerable distance from the application site and separated by Riverside Drive and Dundee Airport's runway and would not be compromised by the proposed development.

7.71 A planning condition is proposed to secure the submission of further details for landscaping, including soft and water landscaping works. These require to be agreed by Highland and Islands Airport (HIAL) prior to implementation. A Wildlife Hazard Management Plan is also required, to minimise the attractiveness of the site to birds. This is to ensure aircraft safety by preventing an increase in the bird hazard risk of the application site. The landscaping plan will also be required to show biodiversity net gain, in compliance with NPF4 Policy 3. Appropriate planning conditions are proposed.

7.72 **NPF4 Policy 6: Forestry, woodland and trees** - seeks to protect and expand forests, woodland and trees, ensuring that woodland and trees on development sites are sustainably managed.

7.73 **NPF4 Policy 6a:** supports development proposals that enhance, expand and improve woodland and tree cover.

7.74 **NPF4 Policy 6b:** states that development proposals will not be supported where they will result in any loss of or damage to ancient woodlands, ancient and veteran trees, have an adverse impact on native woodlands and hedgerows and any protected individual trees of high biodiversity value, fragmenting woodland habitats, or conflict with any remediation or restocking.

7.75 **LDP Policy 35: Trees and Urban Woodland** - requires that new development must ensure the survival of existing healthy mature trees through sensitive site layout both during and after construction, unless removal has been agreed in advance by the council. Where appropriate, development proposals must be accompanied by a tree planting and landscape scheme.

7.76 The new planting would be adequate compensation for the loss of trees on the site. A pre-commencement breeding bird survey would be required prior to the removal of any vegetation during the bird breeding season (March to September inclusive). A condition is proposed to require this.

7.77 **The proposal complies with NPF4 Policies 3c, 3d, 6a and 6b and with LDP Policy 35 subject to conditions.**

Climate and Nature Crises

7.78 **NPF4 Policy 1: Tackling the climate and nature crisis** - encourages and promotes development that will address the climate emergency and nature crisis, to achieve zero carbon and nature positive places. When considering development proposals, sufficient weight will be given to the global climate and nature crisis.

7.79 **NPF4 Policy 2: Climate mitigation and adaption** - seeks to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

7.80 By their very nature, drive-through developments do not encourage or promote addressing the climate emergency or nature crisis; nor do they seek to encourage, promote or facilitate development that minimises emissions. Largely, they result in increased vehicle trips and reliance on the private car. As such, the proposed drive-through is not designed to tackle the climate and nature crisis, or promote climate mitigation and adaption.

7.81 **The proposal does not comply with NPF4 Policies 1 and 2.**

7.82 **LDP Policy 48: Low and Zero Carbon Technology in New Development** - states that proposals for all new buildings will be required to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies.

7.83 A Sustainability Statement has been submitted which includes a low carbon report. This demonstrates the proposals would comply with Scottish Building Standards.

7.84 **The proposal complies with LDP Policy 48.**

Waste Management

7.85 **NPF4 Policy 12: Zero Waste** - encourages and promotes development that is consistent with the waste hierarchy to facilitate the reduction and reuse of materials and create an infrastructure for zero waste.

7.86 **NPF4 Policy 12a:** states development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.

7.87 **NPF4 Policy 12c:** states development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed including:

- i provision to maximise waste reduction and waste separation at source, and
- ii measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.

7.88 **LDP Policy 44: Waste Management Requirements for Development** - states development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012. The policy also requires site waste management plans be prepared and used during the construction of major developments.

7.89 The Planning Statement submitted with the application includes a section which highlights waste and the use of recycled material in construction. A high proportion of recycled materials are proposed for the finishes to the building, combined with durability to ensure that repair and replacement would be kept to a minimum.

7.90 The proposed site layout illustrates a suitably sized bin store area. A planning condition seeks the submission of details for a waste management strategy for prior approval.

7.91 **The proposal complies with NPF4 Policies 12a and 12c and with LDP Policy 44, subject to conditions.**

7.92 **It is concluded that the proposal does not fully accord with the Development Plan.**

MATERIAL CONSIDERATIONS

7.93 The material considerations to be taken into account are as follows:

A – APPLICANT'S CASE

7.94 The applicant has submitted a legal opinion for the application which contends that the implemented permission, 21/00830/FULL, is a 'very material consideration'.

7.95 Planning permission 21/00830/FULL could be implemented further, and the more fully implemented it becomes, the more weight would be given to it.

7.96 It was reiterated that the planning statement informs that the applicant could operate two drive through units from the site, and that there is no reason to doubt that this is the case.

7.97 The applicant concludes that there are no material differences between the approved development and the proposed development which should prejudice against the grant of planning permission for this application.

B – JUSTIFICATION FOR DEPARTURE FROM PLANNING POLICY

7.98 Planning application reference 20/00031/FULL for the development of two drive-through units was granted by Dundee City Council's Local Review Body. Planning permission 21/00830/FULL sought minor changes to this approved development and was approved in March 2022. This permission has been implemented and remains extant.

7.99 The principle of a drive-through development at the site was established under planning permission 20/00031/FULL, thereafter amended by 21/00830/FULL. The planning history on site must be given considerable weight as a material consideration in the assessment of this current application. Planning permission 21/00830/FULL has been implemented through the formation of the site access, as shown in the photographs above. Planning permission for two drive through units therefore remains extant in perpetuity.

7.100 The applicant contends that the single drive-through restaurant now proposed would in effect be an amendment to the existing planning permission for two units. The characteristics of the development would be the same. However, the provision of one unit would result in a scaled down proposal in terms of building footprint, parking and traffic.

7.101 The current proposal for one drive-through unit represents an improvement to the extant permission as it could generate less traffic and less footfall. One unit instead of two would have a lesser impact on visual amenity, and more biodiversity enhancement can be delivered within the site. The principle of the use of the site as a drive through facility is established by the extant permission which has lawfully commenced and can be built and made operational any time.

7.102 The above matters are of a sufficient weight to justify a departure from NPF4 Policies 1, 2, 13, 26 and 27 and LDP Policies 3, 6, 41 part b and 54. In order to secure the betterment relating to one drive-through instead of two, it is proposed to attach conditions to prevent a second drive-though being constructed at the site, should this application be approved and implemented.

7.103 **It is concluded that there are material considerations of sufficient weight to justify approval of planning permission.**

C - WEST END COMMUNITY COUNCIL COMMENTS

7.104 The objection raised the following material planning considerations, which are summarised and responded to as follows:

7.105 **Objection** – planning policy does not support the development of a new drive-through development and there would be an impact on the existing provision of drive through facilities, of which there is considered to be an over provision.

7.106 **Response** – the provision of the drive through restaurant has been assessed in detail within the main body of this report. The development is not in accordance with the development plan.

7.107 **Objection** – traffic congestion, lack of a transport assessment and sustainable transport in terms of proximity to bus stop.

7.108 **Response** - there is capacity within the surrounding road network to accommodate the proposal. A transport statement and an interim travel plan have been submitted with the application documents and accepted. While the proposal would be located more than 400m from a bus stop, there is an extant permission on site for two drive throughs which can be built. In addition, provision of one drive through instead of two would have a lesser impact on traffic generation.

7.109 **Objection** - increase in litter.

7.110 **Response** - a planning condition is recommended to secure a waste management strategy.

D – REPRESENTATIONS

7.111 A total of 28 letters were received objecting to the proposal in addition to the objections raised by the West End Community Council. 14 letters of support were received. The representations raised the following valid material grounds:

7.112 **Objection** - impact on local and independent business located on Perth Road within the district centre.

7.113 **Response** – the application site is located almost 2km from the Perth Road District Centre. There has been no demonstration that the development would not affect the vitality and viability of the district centre.

7.114 **Objection** - traffic congestion, impact at Swallow Roundabout, potentially queuing cars on Loverose Way, route along Riverside Avenue used by emergency vehicles.

7.115 **Response** – there is capacity within the surrounding road network to accommodate the proposal.

7.116 **Objection** - no bus stop within 400 metres and no pedestrian crossing.

7.117 **Response** – as assessed within the report, the development does not meet sustainable transport requirements as it would be located more than 400 metres from a bus stop.

7.118 **Objection** - hindrance to green network users, cycle route passes the entrance to the site.

7.119 **Response** - there will be an increase in pedestrians across the Green Circular core path route however the development will not impact access to this. Vehicular access is remote from the

Green Circular, taken from the south, and Loverose Way. There will be no significant impact on network users.

- 7.120 **Objection** - noise from deliveries, vehicles and customers.
- 7.121 **Response** - planning conditions are proposed to restrict delivery hours. Behavioural noise cannot be controlled through the planning system.
- 7.122 **Objection** - anti-social behaviour and litter, impact for birds scavenging and potential bird strike at airport.
- 7.123 **Response** – a planning condition is recommended to secure a waste management strategy. Anti-social behaviour cannot be controlled through the planning system. Appropriate landscaping and wildlife management would be secured by condition to ensure the safe movement of aircraft.
- 7.124 **Objection** - environmental impacts from removal of green space, impact on nature reserve, proximity to conservation area and botanic gardens
- 7.125 **Response** - the existing greenspace is of little ecological value and landscape plans illustrate an overall biodiversity gain. There is suitable separation distance from the Wildlife Corridor to the north, botanic gardens and the Riverside Nature Reserve.
- 7.126 **Objection** - visual amenity, affecting character of Ambassador Route (Green Circular), impact on listed railway bridge, unsightly building.
- 7.127 **Response** - as addressed within the assessment above, the building would be a standard corporate design, positioned in a highly visible location. The design presents a less impactful development to the two drive-through units which could now be lawfully constructed at the site.
- 7.128 **Objection** - the development contravenes the provisions of National Planning Framework 4 as it would not reduce the reliance on the private car, and NPF4 does not support drive-through development unless identified in a Local Development Plan.
- 7.129 **Response** – the proposal is not supported by NPF4 Policy 27d as the site is not identified in the LDP for the development of a drive-through restaurant.
- 7.130 **Objection** - the development would be contrary to adopted LDP policies 17, 23, 40 and 54.
- 7.131 **Response** - Policies 17 and 23 relate to commercial uses within residential areas and district centre retail frontages and are not relevant to this proposal. Policy 40 relates to air quality and development which could significantly increase air pollution. The scale and location of the proposed development would not have a significant adverse effect on local air quality. Policy 54 relates to transport, which has been addressed earlier in the report.
- 7.132 **Objection** – impact on air quality.
- 7.133 **Response** – a high-level ventilation system would be sought by planning condition. The increase in traffic as a result of the development would not result in a significant impact in terms of air pollution.
- 7.134 **Support Comment** – job creation.

7.135 **Response** – the creation of additional jobs would be welcome. However, there is no detail on jobs creation or any assessment of displacement from elsewhere in the city.

7.136 **Support Comment** – boost to the local economy.

7.137 **Response** – there is potential for additional jobs to be created which is welcome.

7.138 **Support Comment** – appropriate location.

7.139 **Response** – while the location may be seen as accessible and convenient, it is not supported by the development plan.

7.140 **Support Comment** – accessibility.

7.141 **Response** – the application site is accessible by private car and is adjacent to the Green Circular pedestrian and cycle route but is not readily accessible by public transport.

7.142 **Support Comment** - EV charging provision.

7.143 **Response** – EV charging points are a requirement for development proposals, as appropriate, in support of sustainable travel and low carbon.

7.144 **The matters raised in the representations are not in themselves of sufficient weight to justify approval of the application contrary to the development plan.**

7.145 **However, there are material considerations of sufficient weight to justify approval of the application. Specifically, there is an extant planning permission for two drive-throughs on the site.**

8 CONCLUSION

8.1 The application fails to fully comply with the requirements of the Development Plan. However, there are material considerations of sufficient weight that justify approval of planning permission. It is therefore recommended that planning permission be granted, subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that planning permission be GRANTED subject to the following condition(s):

- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.
Reason - to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
- 2 **Condition** – prior to the commencement of any works on site, a Wildlife Hazard Management Plan shall be submitted to and approved in writing by the Planning Authority with the agreement of the Highlands and Islands Airport (HIAL). The submitted plan shall include details of:
 - monitoring of any standing water within the site temporary or permanent;

- sustainable urban drainage schemes (SUDS) – Such schemes shall comply with Advice Note 3 'Wildlife Hazards' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>);
- management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards';
- reinstatement of grass areas;
- maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow;
- which waste materials can be brought on to the site/what if any exceptions e.g. green waste;
- monitoring of waste imports (although this may be covered by the site licence);
- physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste; and
- signs deterring people from feeding the birds.

The Wildlife Hazard Management Plan shall thereafter be implemented as approved, on completion of the development, and shall remain in force for the lifetime of the building. No subsequent alterations to the plan shall take place unless first submitted to and approved in writing by HIAL.

Reason – in order to manage the development; to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of the airport.

3 **Condition** – prior to the first use of the development, the parking spaces and layout as hereby approved shall be formed. The parking spaces shall thereafter be maintained as per the approved layout in perpetuity, unless otherwise agreed in writing by the planning authority.

Reason – to comply with parking standards and in the interests of promoting sustainable transport.

4 **Condition** - a Travel Plan shall be submitted for the prior approval of the planning authority, and in place within one year of the development opening.

Reason - in the interests of promoting sustainable transport.

5 **Condition** - the hard surface within the site shall be made of porous materials or provision shall be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason - to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

6 **Condition** - prior to the commencement of any works on site, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in Section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted for the prior approval of the planning authority. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason - in the interests of flood protection.

7 **Condition** - prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction shall be submitted for the prior approval of the planning authority. Thereafter, all works approved by virtue of this condition shall be carried out prior to construction works commencing on any part of the development hereby approved.

Reason - in the interests of flood protection.

8 **Condition** – prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted for the prior approval of the planning authority. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason - in the interests of flood protection.

9 **Condition** - before the unit is occupied the land contamination remediation scheme shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation scheme have been achieved shall be submitted to and approved by the planning authority.

Reason - in the interests of providing a site suitable for development.

10 **Condition** – prior to the commencement of any work on site, details of the proposed extraction and ventilation system discharging at a high level and a maintenance schedule for the proposed ventilation and extraction system shall be submitted for the prior approval of the Planning Authority. Thereafter, the approved extraction and ventilation system shall be installed prior to the kitchen becoming operational and maintained in accordance with the details approved by this condition. Thereafter, the kitchen extraction and ventilation system shall operate whenever food is being cooked within the application premises.

Reason – in the interests of residential amenity.

11 **Condition** – the total noise from mechanical and electrical plant/services shall not exceed NR45 during the day and shall not exceed NR35 during night-time, as measured 1 metre external to the facade of adjacent residential property. For the avoidance of doubt night time shall be 2300 to 0700 hours.

Reason - in the interests of residential amenity.

12 **Condition** – all servicing and deliveries, including loading, unloading or lay-up shall be between 07:00 to 21:00 hours Monday to Saturday and 09:00 to 18:00 hours Sunday.

Reason - in the interests of residential amenity.

13 **Condition** – prior to occupation of the development, a waste management strategy shall be developed for the prior approval of the planning authority.

Reason – in the interests of environmental protection.

14 **Condition** – prior to the commencement of any works on site, full details of soft and water landscaping shall be submitted to and approved in writing by the planning authority with the agreement of Highlands and Islands Airport (HIAL). These details shall include:

- any earthworks;
- grassed areas;
- the species, number and spacing of trees and shrubs;
- details of any water features; and
- drainage details including SUDS.

The scheme shall be thereafter implemented as approved. No subsequent alterations to the approved landscaping scheme shall take place unless submitted to and approved in writing by HIAL and the planning authority.

Reason - to enhance biodiversity, in accordance with national and local guidance, while avoiding endangering the safe movement of aircraft and the operation of the airport through the attraction of birds and an increase in the bird hazard risk of the application site, and to ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

15 **Condition** - there shall be no removal of vegetation within the breeding bird season (March to Sept inclusive in any given year) unless a breeding bird survey is carried out by an appropriately qualified professional. The survey shall be submitted to and approved in writing by the Planning Authority prior to any site clearance/vegetation removal taking place. Thereafter, the development shall progress in accordance with the approved details.

Reason – to comply with the Wildlife and Countryside Act 1981.

16 **Condition** – only one Class 3 restaurant/drive-through unit shall be implemented on the application site hereby approved.

Reason – in order that the planning authority retains effective control over the use and development of the site.

Informative(s)

Any damage caused to the existing adopted footway or carriageway ex aduerso the site as a result of development work shall be made good by the applicant at their expense. Where damage is extensive, resurfacing/reconstruction will be necessary. All related works must be to Dundee City Council standards and specifications.

A Minor Footway Works (MW) application (found via the following link on DCC website: <http://www.dundeeicity.gov.uk/citydevelopment/vehicularaccess>) shall be submitted to Dundee City Council as Roads Authority for work on the adjacent public road or footway and consent for this must be obtained prior to the commencement of any work on the public road or footway. For further details please contact 01382 433341 or developmentroads@dundeeicity.gov.uk.