

## DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

23/01230/FUL

CASE OFFICER

Tom Hiles

DETERMINATION DATE 19.03.2024 EXT OF TIME 19.05.2024

**Address:** Land At The Junction Of Sir Isaac Newton Way /Michael Faraday Avenue, Kingsway, Rochdale

**Proposal:** The erection of a Petrol Filling Station inclusive of 4 Jet Wash Bays, 1 Roll Over Car Wash and 12 EV charging bays, the erection of 2no. Drive-Thru units (Class E) with circulatory routes and associated car parking, landscaping, installation of sub station and other works.

|               |                            |   |                       |   |
|---------------|----------------------------|---|-----------------------|---|
| PUBLICIT<br>Y | Weekly list expired?       | Y | Site notice expired?  | Y |
|               | Neighbour letters expired? | Y | Press Notice expired? | Y |

|            |                                                             |   |                                        |   |
|------------|-------------------------------------------------------------|---|----------------------------------------|---|
| DELEGATION | Significant departure from local plan?                      | N | Contrary to national policy?           | Y |
|            | Applicant a Council Member or officer?                      | N | Contrary to previous decision?         | N |
|            | Major with 10 or more objections and recommending approval? | N | Called in or Planning Panel objection? | N |

|          |                                   |   |
|----------|-----------------------------------|---|
| COMMENTS | Planning Panel comments received? | N |
|          | Neighbour comments received?      | Y |

|     |                                                  |   |
|-----|--------------------------------------------------|---|
| EIA | Screening opinion completed and saved to Onbase? | N |
|-----|--------------------------------------------------|---|

|            |                                                                      |   |
|------------|----------------------------------------------------------------------|---|
| CONDITIONS | Pre-commencement conditions proposed?                                | N |
|            | Pre-commencement conditions agreed (or notification period expired)? | N |

|                |        |
|----------------|--------|
| RECOMMENDATION | Refuse |
|----------------|--------|

CHECKED AND SIGNED OFF BY: RG

DATE: 05 December 2024

## **SITE**

The approximately 1.5ha site comprises undeveloped land within the Kingsway Business Park in Rochdale, to the immediate north of Sir Isaac Newton Way and near to that road's junction with Kingsway/Rochdale Bypass A664 to the west.

The site is designated as plot U2 in the KBP masterplan, as updated in permission ref 18/00943/VRCON. The site is within the urban area defined by saved UDP policy G/D/1 and within the Kingsway Business Park area as defined by saved UDP policy EC/7.

Surrounding development includes elements of the Kingsway development, including a residential area extending to the immediate north along Stanley Way and Michael Faraday Avenue, and a large distribution centre operated by JD Sports to the east. The site is otherwise surrounded by a pub-restaurant, The Hornet, at the immediate west, and to the south by Kingsway Park High School, on the far side of Sir Isaac Newton Way.

Nearby uses and allocations otherwise comprise the undeveloped KBP Plot V to the south, existing light industrial/storage and distribution units at the south-east and north-west, a garden centre on the far side of the pub-restaurant, a disused public house, St Peter's COE Primary School, and residential areas along either side of the A664.

## **PROPOSAL**

The application proposes to develop the site to provide a 24-hour filling and EV charging station with convenience retail, together with two drive-thru restaurant units, described in the application as falling within Use Class E.

The drive-thru units would comprise two separate buildings on either side of 45 customer parking bays, arranged at the west side of the site, with drive-thru services outwardly facing towards the north and south.

The filling station would comprise fuelling pumps set under a canopy, 12 EV charging bays, car wash bays, and a fuel sales / convenience retail building, served by parking spaces and cycle stands, and a parking bay for delivery vehicles.

The premises would be set within existing and proposed soft landscaping (including tree and bush planting) surrounding the built elements. Two-meter noise barrier fences would enclose areas of the site, off-set from the northern perimeter of the site, to the immediate rear of the retail building and the northern drive-thru unit.

Vehicle access would be taken from Wallis Avenue at the north side of the site, opposite the junction with Stanley Way. New footpaths would cross the site from Sir Isaac Newton Way to Michael Faraday Avenue, providing access to and between the premises.

The application indicates operating hours of 00:00-23:59 on all days for the filling station and drive-thru units, effectively 24-hour operation.

## **RELEVANT PLANNING POLICY**

### **Sub-Regional**

#### **Places for Everyone Joint Development Plan (PfE)**

The Places for Everyone Joint Development Plan was adopted and became part of the statutory development plan for each of the nine authorities covered by the plan on 21st March 2024. The following policies are relevant:

|           |                                                    |
|-----------|----------------------------------------------------|
| JP-Strat7 | North-East Growth Corridor                         |
| JP-S1     | Sustainable Development                            |
| JP-S2     | Carbon and Energy                                  |
| JP-S4     | Flood Risk and The Water Environment               |
| JP-S5     | Clean Air                                          |
| JP-G7     | Trees and Woodland                                 |
| JP-G8     | A Net Enhancement of Biodiversity and Geodiversity |
| JP-P1     | Sustainable Places                                 |
| JP-P4     | New Retail and Leisure Uses in Town Centres        |
| JP-P6     | Health                                             |
| JP-C6     | Walking and Cycling                                |
| JP-C8     | Transport Requirements of New Development          |

### **Local**

#### **Adopted Rochdale Core Strategy (CS):**

|            |                                                                      |
|------------|----------------------------------------------------------------------|
| <b>SD1</b> | <b>Delivering sustainable development</b>                            |
| <b>SP2</b> | <b>The Spatial Strategy for the borough</b>                          |
| SP3        | The Spatial Strategy for the townships                               |
| SP3/R      | The Strategy for Rochdale                                            |
| <b>SO1</b> | <b>To deliver a more prosperous economy</b>                          |
| E1         | Establishing thriving town, district and local centres               |
| E2         | Increasing jobs and prosperity                                       |
| E3         | Focusing on economic growth corridors and areas                      |
| <b>SO2</b> | <b>To create successful and healthy communities</b>                  |
| C6         | Improving health and well being                                      |
| <b>SO3</b> | <b>Improving design, image and quality of place</b>                  |
| P1         | Improving image                                                      |
| P2         | Protecting and enhancing character, Landscape and heritage           |
| P3         | Improving design of new development                                  |
| <b>SO4</b> | <b>Promoting a greener environment</b>                               |
| G6         | Enhancing Green Infrastructure                                       |
| G7         | Increasing the value of biodiversity and geodiversity                |
| G8         | Managing water resources and flood risk                              |
| G9         | Reducing the impact of pollution, contamination and land instability |
| <b>SO5</b> | <b>Improving accessibility and delivering sustainable transport</b>  |

|    |                                  |
|----|----------------------------------|
| T1 | Delivering sustainable transport |
| T2 | Improving accessibility          |

**DM1            General development requirements**

Rochdale Unitary Development Plan (UDP) 2006:

|       |                                                            |
|-------|------------------------------------------------------------|
| G/D/1 | Defined Urban Area                                         |
| EC/7  | Kingsway Business Park                                     |
| S/6   | District Centre, Local Centres and Linear Commercial Areas |
| G/S/1 | Hierarchy and Role of Centres                              |
| EM/7  | Development and flood risk                                 |
| EM/8  | Protection of ground and surface water                     |

Supplementary Planning Documents (SPD):

Climate Change Adaptation SPD (June 2012)  
Biodiversity and Development SPD (updated 2017)

Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

Guidelines and Standards for Hot Food Takeaway Uses SPD (February 2017)

**RELEVANT SITE HISTORY**

18/00943/VRCON - Removal of condition 45 (requirement for BREEAM rating) of outline planning permission 16/01085/VRCON - Approved 05/12/2018

16/01085/VRCON Variation of condition 12 (maximum floorspace thresholds) on planning permission 14/00542/OUT to remove the references to Use Classes B1(c)/B2 and B8 and the associated floorspace figures - Approved 06/12/2016

14/00542/OUT - Outline application, with all matters reserved, for a mixed use business park comprising buildings within development plots as shown on the site location plan for General and Light Industrial Uses (Classes B1 and B2), Offices in the Use Class B1, Distribution and Storage Uses (Class B8), Research and Development Uses in Use Class B1, Car Showrooms (Sui Generis Use), Hotels in Use Class C1, Ancillary Retail and Leisure in Use Classes A1 - A5 and D2, and Residential in Use Class C3 - Approved 21/08/2014

09/D52264 - Outline Application With All Matters Reserved For A Proposed Business Park Comprising Buildings Within Development Plots C To X Inclusive As Shown On The Master Plan For : General And Light Industrial Use Classes B1 & B2, Offices In Use Class B1, Distribution And Storage In Use Class B8, Research And Development Facilities In Use Class B1, Hotels In Use Class C1 , Ancillary Retail And Leisure In Use Class A1-A5 & D2, Housing In Use Class C3 - Approved 08/10/2009

## **CONSULTATION RESPONSES**

### *Highways*

#### RBC Highways And Engineering

No objections, including in terms of access, traffic generation, parking and servicing

#### RBC Rights Of Way Officer

No issues – PROW previously crossing the site has been diverted.

#### Transport For Greater Manchester

The Transport Assessment should be updated to reflect road accident data for the whole of 2022 as a minimum. No trip generation has been carried out for weekend peak. Issues raised at pre-app and not addressed. Advice on design measures to promote cycling and walking, production of a staff travel plan.

### *Public health*

#### RBC Environmental Health - Noise/Odours

Concerned that calculations for delivery noise have assumed that engine of trucks and chiller unit to trailer will be turned off, this is not considered a realistic assumption given typical operator requirements. Would expect modelling with engines being left on to demonstrate issues.

#### RBC Environmental Health - Air Quality

No objections – dust management plan required.

#### RBC Land Contamination

The submitted reports are acceptable, completion of the recommended measures are required via condition.

### *Drainage and Flood Risk*

#### RBC Lead Local Flood Authority/Drainage

No objection – drainage flow control design should be amended, can be resolved by condition

#### United Utilities

No objections, recommend condition for drainage implementation and approval of sustainable drainage management and maintenance details. Advice to applicant on UU assets and infrastructure.

## *Ecology and Natural Environment*

### Environment Agency

14/02/24:

Object - the risks to groundwater from the development are unacceptable. This location is sensitive due as the proposed development is located on secondary aquifers. The proposal may cause an unacceptable risk of detriment to groundwater quality because of the intention to use infiltration SuDS from pavements and because of the requirement to install underground fuel storage tanks as part of the filling station. The applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed. We recommend that planning permission should be refused on this basis in line with paragraph 180 of the National Planning Policy Framework.

07/08/24:

The submitted Fuel Storage Risk Assessment indicates that the proposed fuel store tanks are to be installed within a concrete monolith. This is not in line with best practice and may increase the risk of cracking and failure, making it much more difficult to complete maintenance in the tanks. We, therefore, maintain our objection to the planning application as the proposed development would pose an unacceptable risk of pollution to groundwater.

### Greater Manchester Ecology Unit

No objections – further clearance work should not be undertaken during bird nesting season. Proposed replacement tree planting is acceptable.

### *Design*

### Greater Manchester Police - Design For Security

It is essential that the recommendations made in the Crime Impact Statement are implemented in full and the scheme should achieve Secured by Design.

### RBC Urban Design

In urban design terms the proposed PFS would be an incompatible land use with the residential development to the north-west, in particular the access point into the development off a residential street cannot be considered an acceptable arrangement given the scale and nature of the proposal. The scheme lacks design-led SuDS features and robust vegetative and tree planting. Pedestrian routes across the site should be further considered. Delivery drivers including cycle riders don't appear to be well-catered for in the layout. Pedestrian route to the south-west drive thru unit across the car park is unacceptable. A segregated heavy engineered cycle route across the site would be encouraged. The 2m high acoustic fence surrounding the site to the northwest would be an unattractive feature – dense woodland planting should be considered instead in this part of the site.

### *Other matters*

### Coal Authority

No comments – applicant should refer to standing advice for coal development risk

## GM Fire Service

No comments received to date

## **REPRESENTATIONS**

Notification letters were issued to neighbouring properties, a site notice was placed in the vicinity of the site, and a press notice was published.

17 letters of support and 198 letters of objection were received.

Objections noted concerns relating to the following themes, which are addressed in the relevant sections of the assessment.

### Principle of development / use of site / location of proposal

- Contradicts intention to build a community and nurture families with childcare, doctors and small convenience store
- Worst use of the land
- Would be better suited to other plots on KBP including closer to the motorway
- Better uses of the site would include housing, warehousing, ecology and biodiversity improvements, allotments, play area or community centre

### Neighbour impacts

- The proposal would be harmful to residents' health, mental health and well-being, due to factors including air pollution from traffic (in part due to cars queuing for the drive-thrus), cooking and petrol odours, noise pollution, litter, traffic, light pollution, . Objections also noted that residents experience problems in relation to noise and light pollution due to existing nearby development including the JD Sports warehouse.
- Amenity harm arising from loss of privacy and sunlight.
- The proposal would be very close to nearby residences.
- Other available sites, including closer to the motorway would be less impactful.
- The site entrance is next to houses.

### Need for the proposal

- There are already motorway services nearby at Birch
- There are already multiple drive-thrus nearby
- Filling station is unnecessary as there is an existing one nearby at Morrisons
- EV charging station at Morrisons is rarely used
- Will provide no benefit to people living nearby

### Traffic and highways safety

- Will worsen existing traffic problems associated with JD Sports
- Drive-thrus will cause traffic queues
- HGVs deliveries are a safety concern
- Junction 21 has horrendous congestion, proposal could cause traffic queuing to the roundabout serving the site
- Will endanger safety due to extra traffic; children on estate won't be able to play outside, it's currently a peaceful quiet place
- Will worsen existing on-street parking problems
- Would be better for the petrol station to be located on the roadside so that traffic doesn't come past the estate

### Crime and safety

- Will cause and worsen anti-social behaviour and crime on the estate including opportunistic theft, due to higher footfall and bringing more people to the area
- Safety concerns with petrol trucks

#### Environment and ecology

- Will worsen air pollution from traffic, and won't support Council's air quality improvement objectives
- Petrol station and car wash waxes and washing chemicals will cause ground contamination
- Drive-thrus will cause littering which won't be cleared up through the day
- Wildlife at the canal will be harmed by littering and presence of people
- Littering will encourage pests which will outcompete local wildlife
- Additional traffic will increase wildlife deaths
- Will hinder nature reserve at rear of estate

#### Character and design

- Will add to industrial feel of estate
- Will be an eyesore and will diminish aesthetic appeal of our home

#### Climate change

- No more fossil-fuel stations should be permitted
- Will discourage travelling by walking due to worsened road safety, causing more travel by car, increasing carbon emissions

Objectors also raised concerns related to the impact of the proposal on property values within the residential estate, and increased home insurance due to risk associated with the proposed petrol filling station. These matters do not relate to material planning considerations.

Supporting comments noted that

- The proposal would be a good use of the land and would bring employment opportunities to the area.
- That a petrol station and convenience store is needed and would be useful for the motorway, residents and workers at the JD Sports warehouse.

## **ANALYSIS**

Paragraph 11 of the NPPF identifies a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay. The application is supported by a Planning Statement, an addendum to which was submitted in response to issues raised during determination.

### **Principle of Development**

#### **Kingsway Business Park Masterplan**

The site falls within the Kingsway Business Park masterplan area which has been subject to a number of permissions with 18/00943/VRCON being the most recent relevant permission. This was a variation of the masterplan consented through 14/00542/OUT. Whilst largely built out, a number of plots remain undeveloped, with the opportunity to submit any remaining reserved matters having now expired in August 2024. Notwithstanding this, the previous consent provided a parameters plan and illustrative masterplan which have informed how the wider site has been brought forward and which has since been reflected through local policy.

The proposal would introduce food and beverage uses which is consistent with the parameters of the previous consent in terms of use classes. The proposed filling station would not however have complied with the parameters. The previously approved parameters plan considered this plot to be suitable for mixed development including retail, leisure, hotel, residential, and office uses. The proposed buildings would have complied with the height parameters set out in the previously approved parameters.

#### **Economic growth**

NPPF paragraph 85 notes that:

*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.*

CS Strategic Objective 1 is to deliver a more prosperous economy.

CS policy E2 notes that the Council will focus most employment development (comprising use classes B1 to B8 and other employment-generating uses) in the south of the borough, including in economic growth areas including the Kingsway corridor.

CS policy E3 notes that the Council will seek to maximise economic growth in, and linkages between, Kingsway Business Park and Rochdale town centre, including through the co-ordinated development key sites including the KBP, to delivery B1, B2, B8 and other employment uses.

The Core Strategy policy seeks to deliver high quality jobs at Kingsway Business Park and the uses proposed would not represent primary employment uses in policy terms. The masterplan area is however expected to deliver some ancillary uses, with other commercial uses also providing employment benefits. In broad terms it is considered that the proposal would support the objectives of paragraph 85 and CS

policies E1 and E3, by contributing to economic growth in the borough and in the KBP.

### Town centre uses

Policy E1 establishes that retail and leisure facilities should be focussed in town and local centres in order to promote the vitality and viability of these centres. Paragraph 91 of the National Planning Policy Framework also establishes that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan, and that where an application fails to satisfy the sequential test, or have significant impacts, that it should be refused.

The development would include town-centres uses (the drive-thru restaurants and the convenience retail element of the filling station) and the site is not in any of the borough's existing town, district or local centres.

However, it is noted that, in broad accordance with the provisions of CS policy E1 and saved UDP policy EC/7 the previous outline permission for Kingsway Business Park required the delivery of a total of up to 3062m<sup>2</sup> commercial development (in the former uses classes A1-A5) within the KBP, expected to be delivered either on plot U2 (the application site) or the nearby plot V, in the form of a local centre. Policy E1 confirmed the intention for the Allocations DPD to allocate a new local centre within Kingsway.

Whilst the Allocations DPD was not progressed it is considered that a clear expectation has been set for the provision of a local centre at Kingsway. If the application was proposing uses comprising a new local centre the council would consider that the sequential test would not be strictly necessary, provided it was of a scale consistent with the policy context and previous consents. The applicant has however made it clear in their submissions that the proposal is tailored to serve motorists on the nearby highway network and have stated the proposal could be separate to and not preclude the delivery of a local centre on the adjacent plot referred to as Plot V of the previous consent.

Given the clear indication that the proposal is to be considered in addition to any potential local centre, the applicant has undertaken a sequential assessment. A key tension however is the application of the sequential test, given the proposed local centre within Kingsway Business Park has not been defined. If the new local centre boundary was defined as the site known as Plot V then the application proposals would be capable of being met within the defined new centre and would therefore fail the sequential test on account of the entirety of that new local centre being suitable and available. Given the lack of a defined boundary for the local centre, the applicant has assessed the existing defined centres and found no suitable sites that meet the operational requirements of this proposal and its location specific requirements.

Notwithstanding the tension as to whether the sequential assessment can take account of the proposed local centre at Kingsway, in determining the application it is necessary to consider whether the proposal would also have any significant adverse impact on the vitality or viability of any defined centres, either directly and/or through impacts on investment in centres.

NPPF paragraph 94 notes that LPAs should require an impact assessment for out-of-centre retail, leisure and office uses where a proposal exceeds specific locational floorspace thresholds. The applicant has identified that CS policy E1 sets a threshold for Rochdale of 2000 square metres or more and on that basis has not carried out any form of impact assessment. However, the proposed development lies closer to a

number of local and district centres and due to its car focused clientele would have a wide catchment area. Policy E1 sets the impact assessment threshold for district/local centres at 500sqm. The proposals include drive-thru restaurants which would total approximately 435sqm whilst the PFS building includes a large retail and food to go area with a gross floorspace of over 505sqm. Whilst the PFS would fall within a sui-generis use the retail element is clearly of a significant scale in the context of the site which provides a combined gross floorspace of over 940sqm. In the context of the local/district centre threshold, the proposals are clearly of a critical mass which has the potential for notable impacts and should therefore be assessed.

No assessment of impact has been provided with the application proposals. Given the indication of the proposals being in addition to the proposed new local centre, the assessment of existing centres would need to consider the cumulative impacts of such delivery.

Additionally, whilst the applicant has advised the proposals would not preclude the delivery of the proposed local centre, no evidence has been provided as to the impact on investment on the planned new local centre. Officers consider there to be clear potential for impact on the viability of delivering the new local centre if the application proposals were delivered and included such a significant amount of retail and leisure floorspace. The viability of delivering a new local centre which needs to compete with large development such as this with drive-thru functions and significant parking would appear to be seriously compromised. As such without sufficient evidence to demonstrate acceptability, the proposed development could result in a significant adverse impact on the planned investment in a new local centre at Kingsway Business Park as aspired to in Policy E1. Additionally, no evidence is provided to demonstrate a lack of significant cumulative impact on other local/district centres if both the application and the new local centre was to come forward.

Saved UDP policy S/6 seeks to support the development of shops, financial and professional services, food and drink outlets, offices, community and cultural facilities and other uses appropriate to a district or local centre. S/6 notes that such development will be permitted provided that it will be of a scale and character appropriate to the size, role and function of the centre or area, and it will be compatible with surrounding land uses and will not harm local residential amenity.

It is not considered that any elements of the proposed development, individually or taken together, would be of a scale and character appropriate to the size, role and function of the prospective centre for KBP and as noted in the relevant section later in this assessment, it is considered that the proposed scheme as a whole would be harmful to local residential amenity. As such, it is not considered that the proposal would accord with saved policy S/6.

#### Need for the scheme

The planning statement notes that *'The provision of new modern roadside facilities must be attributed significant planning weight'* and that *'The current proposals are geared explicitly towards seeking custom from users of the surrounding road network, A664 (Rochdale Bypass), A6193 and the M62 (junction 21 is within 5 minutes' drive time)'*.

However the statement is based on an incorrect and incomplete assessment which argues the proposals would fill a strategic gap in motorist fuel, food and beverage and rest provision.

The applicant states that the closest services westbound from junction 21 are at Birch services and that these are 24 miles away. For traffic westbound from junction 21, Birch services is in reality less than 6 miles away.

The statement notes that the closest services eastbound are at Hartshead Moor and that these are also 24 miles away, however the eastbound side of the services at Hartshead Moor is in fact less than 19 miles away from junction 21.

The applicant states that the immediate area is not well-served by filling stations, especially those within reasonable distance of the M62. However, Morrisons Kingsway is only 0.4 miles further from J21, whilst Shell is just 0.7 miles further, with both of these being located on the A664 which the application also seeks to serve. ASDA Milnrow also operates 24 hours, and is a maximum of 1.7 miles from junction 21 in either direction.

Given that the proposals are not a Motorway Service Station, the assessment should also have considered similar service provisions closely off motorway junctions. With respect of eastbound traffic on the M62, similar PFS services are provided in close proximity off J23 and J24 at Esso and Co-op services which are approximately 13 and 14 miles respectively from J2. In light of the above, it is clear that the 'strategic gap' referred to in the application is greatly exaggerated.

Similarly, the application notes that there is a significant lack of EV-chargers in the locality, with the closest being located at the Morrisons store. Again, given the proximity of this existing provision (around 0.8m from the application site), it is not considered that the proposed additional provision would be particularly beneficial in terms of the provision of services or in terms of encouraging electric vehicle uptake.

Overall the assessment misrepresents the current provision on the highway network and it is not considered that the proposals would be a meaningful improvement for road users. As such this benefit is given very limited weight in the planning balance.

## **Public Health**

Core Strategy policy C6 *Improving health and well being* notes that the Council will improve people's health and well-being and reduce health inequalities through measures including creating an economic, physical and social environment which promotes and supports healthy lifestyles. Measures to achieve this includes preventing the over concentration of takeaway food premises where they may impact adversely on the amenity of residents and/or encourage unhealthy eating habits.

NPPF paragraph 96 notes that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support health lifestyles, especially where this would address identified local health and well-being needs.

The adopted Rochdale Guidelines and Standards for Hot Food Takeaway Uses SPD (2017) notes that:

*"...the Chartered Institute for Environmental Health and the Department for Health advise that local authorities should limit the opening of new outlets, particularly in sensitive areas such as around schools. It is important to support and establish healthy eating habits from an early age.*

*Research indicates that the most popular time for purchasing food from shops is after school and many secondary school children may also leave school premises at lunchtime. Furthermore, fast food outlets in close proximity to, and surrounding*

*schools, have been found to be an obstacle to secondary school children eating healthily*

*In an effort to establish healthy eating habits and reduce the rate of childhood obesity in the local population, then the establishment of new hot food takeaways around secondary schools will not normally be supported. A 400m restriction buffer is considered to be a reasonable distance given that it broadly represents a 10 minute walk, taking into account physical barriers on any route. The buffer will be measured from the boundary of the grounds of each school."*

The applicant's supporting statement notes that the units would fall under use class E(b) - for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises, rather than hot food takeaways (now a sui generis use). The statement notes that, on this basis, the proposal is not a use to which the requirements of the SPD apply. The statement also suggests that the use of the unit could be limited by condition to Class E(b).

It is considered likely, given the layout of the proposals and the proposed floorspace splits, that the larger of the two units would be occupied by an operator which would cook and sell fast food items to members of the public, and this is likely to be a significant portion of the trade of the larger unit.

On this matter, the planning statement and the addendum refer to both units as having small back of house areas, and in relation to the larger unit that this reflects the intended occupant, *'which would be a retailer of food and drink options and not an operation that cooks food from raw ingredients. Kitchens in these units have little space for storing raw ingredients, unlike a restaurant or HFT, which requires raw ingredients to be stored on-site in a suitably sized store/refrigeration unit.'*

This is not reflected by the floor plan for the larger unit, which indicates a large back of house area of around 160m<sup>2</sup> with a very limited front of house area of around 76m<sup>2</sup>. This would suggest sufficient space for extensive food storage and preparation areas, and more limited seating opportunities for customers consuming food on the premises. It is noted that existing drive-thrus of a broadly similar scale selling fast food prepared on-site have similarly sized, if not smaller, back of house areas.

The Planning Statement addendum states the food provided would involve limited cooking, hence the lack of external ventilation equipment. However, the Noise Impact Assessment submitted in support of the application makes assumptions that external mechanical and electrical elements will be installed at each drive-thru unit, to be further considered in noise impact terms at a later stage. Such a phased design of extraction equipment is not untypical of such uses.

Given the fundamental nature of both units trading as drive-thru restaurants, the operation of which involves a substantial element of food sales for consumption off the premises, it would appear that a condition as suggested by the applicant would potentially be contrary to the basic nature of the proposal which appear likely to fall within sui generis or mixed Class E/Sui Generis uses. As such it is not considered that such a condition would satisfy the requirement for planning conditions to be proportionate. Given that compliance with such a condition would depend on detailed monitoring of sales for on and off-site consumption, it is also not considered that such a condition could be realistically enforceable. As such, it is not considered that such a condition could be relied on to ensure that the proposal would be acceptable in terms of the relevant policies.

For these reasons, it is considered that the objectives of policy C6 and the SPD are a material consideration to the assessment of the proposed development.

The drive-thru units would be in the vicinity of Kingsway Park High School, the entrance to which is located around 10 minutes walking distance from the site. In terms of the parameters of the SPD, the larger unit would be well within the 400m restriction buffer from the school. The site is situated between the school and residential areas to the north and north-west, near to a major road junction. In this vicinity to the school and on walking routes from the school to pupils' homes, it is considered likely that the drive-thru would attract custom from pupils at the school, including when they are making journeys between the school and their homes.

It is acknowledged that the previous consent for the wider masterplan allowed for some formerly use class A5 elements within a new local centre. However on the basis of the applicant's submission that the proposal be considered as additional to the local centre this also raises potential for a clustering and over provision of hot food takeaway uses. It is therefore considered that the proposal would therefore not create an environment which encourages healthy lifestyles. Approval would therefore be contrary to policy C6, and NPPF paragraph 96.

### **Noise, Air, and Light Pollution**

Core Strategy policy G9 sets out the Council's requirements approach to all forms of pollution as they relate to new development.

The application is supported by a Noise Impact Assessment, an Air Quality Assessment, and Phase 1 and Phase 2 Geo-Environmental Assessments. The planning statement notes that the proposed acoustic barrier to the north of the proposed buildings would mitigate noise from the development.

The application has been reviewed by the Council's Environmental Health (noise), Air Quality and Contaminated Land officers and their consultation responses are summarised above.

The Noise Impact Assessment considers sources of noise expected to arise from the proposal, comprising servicing arrangements (including HGV and petrol tanker deliveries), car parking, visitation to the drive-thru and filling station, fixed plant and EV chargers, and the car washes. The assessment concludes that with proposed noise reflective barriers within and at the northern perimeter of the site, noise arising from these sources associated with the proposal would be mitigated to below the National Policy Statement for England lowest observed adverse effect level (LOAEL), the level above which adverse effects on health and quality of life can be observed.

The noise officer noted concern that the NIA assumes as part of its noise modelling that HGVs delivering to the premises will switch off their engines and chiller units whilst on-site, noting that this is unlikely to be a realistic assumption, and that noise arising from these sources is likely to be problematic.

An amended NIA incorporating a Noise Management Plan was submitted in response but the concern was not addressed by the updated assessment, with the NMP details reiterating that chiller units fitted to delivery vehicles would be turned off during operations on-site, as well as noting that deliveries would be restricted to the 'daytime period' of 0700-2300.

As such, it is considered that the application is not supported by a satisfactorily robust assessment of potential noise impacts on nearby occupants, and as such it has not demonstrated that the proposed development would not result in an unacceptable level of harm arising from noise nuisance. As such it is considered likely that the development would be contrary to the requirements of policy G9.

### **Residential Amenity**

NPPF paragraph 135 f) advises that planning should always seek to secure a good standard of amenity for all existing and future occupants of land or buildings. Locally, Core Strategy policy DM1 and PfE policy JP-P6 set out planning expectations for the protection of residential amenity.

In particular, DM1 notes that development proposals will be expected to demonstrate that they are compatible with surrounding land uses in terms of its impact upon those areas, do not adversely affect the amenity of residents through visual intrusion, and mitigate against impacts due to noise, light and odour pollution, traffic generation or inadequate access, where such mitigation is identified as being necessary. The “Guidelines & Standards for Residential Development” SPD also sets out guidelines for reducing or omitting the impact of new development on the amenities of residential occupiers.

The proposed development would result in changes to the environment in the vicinity of residential occupants located near to the site, in particular to its immediate north.

Noise impacts of the development, and the identified limitations of the submitted NIA, are addressed in the above section. Further to concerns raised by the Environmental Health officer, it is considered that the proposal would result in harm to residential amenity arising from noise associated with vehicle movements outside the site along Wallis Avenue and Michael Faraday Avenue. Vehicle movements would also likely result in light nuisance of occupants of dwellings adjacent to the junctions onto these roads, as vehicle lights would sweep across the fronts of these dwellings and they turn across the junctions.

It is considered that these impacts would be significantly more acute due to the intended 24-hour operation of the site. This consideration was raised with the applicant’s agents and no proposal to amend the proposed hours of operation has been made.

It is also considered that the proposal to erect a two-metre noise barrier fence across sections of the north part of the site, as well as the appearance of the development more generally, would result in a relatively poor outlook for residents facing onto Wallis Avenue, although this would be mitigated somewhat by the minimum separation distance of around 35m and proposed landscape planting. Public comments on these matters are noted.

For the above reasons it is considered that the proposed development would result in unacceptable impacts to the residential amenity of nearby residents and would therefore fail to satisfy the relevant expectations of CS policy DM1 and the NPPF.

### **Land Contamination and Water Contamination**

CS policy G9 also addresses land contamination. CS policy G8 *Managing water resources and flood risk* requires that development does not directly or indirectly lead to pollution of existing water resources such as watercourses and groundwater. NPPF paragraph 180 notes that planning decisions should preventing new development from contributing to unacceptable levels of water pollution.

The Environment Agency have confirmed that the proposal could give rise to unacceptable risks to groundwater, due to the presence of aquifers below the site and due to the intended use of infiltration SuDS and installation of below-ground fuel storage tanks at the filling station. The applicant submitted a fuel storage risk assessment in response to the EA's initial comments however the provided details were not found to be satisfactory by the EA. The applicant declined to provide any further response or amended details to address this matter.

As such, and on the basis of the EA's advice, it is considered that the application has not demonstrated that the proposal would avoid an unacceptable risk of pollution to groundwater quality, and it is therefore considered that the proposal has not been demonstrated to be acceptable in terms of the requirements of CS policy G8 and NPPF paragraph 180.

### **Building and Urban Design**

NPPF paragraph 135 notes that planning decisions should ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and establish or maintain a strong sense of place.

CS policy P3 states that high standards of design will be required of new development, including associated landscaping, regardless of location in the borough.

CS policy DM1 states that all development proposals will be expected to demonstrate that they are of high quality design and take the opportunity to enhance the quality of the area.

Places for Everyone policy JP-P1 'Sustainable Places' notes that all development should be consistent with certain key sustainable design attributes, including being distinctive with a clear identity, being visually stimulating, and being socially inclusive.

The application is supported by a Planning, Design and Access Statement and a Crime Impact Statement. The application has been reviewed by the Council's Urban Design officer and Design for Security, and their comments on design matters are summarised above.

The Urban Design officer notes that the proposal is incompatible with surrounding development in urban design terms, and notes that the layout of the scheme raises several concerns in terms of layout and access.

Whilst it is acknowledged that certain aspects of the design are driven by the nature of the proposed uses, it is considered that a higher standard of design could have been achieved in terms of supporting sustainable modes of transport through site design and a high-quality integrated approach to landscaping. In broader urban design terms it is agreed that a predominantly vehicle-oriented development is not appropriate in such close proximity to a residential area, particularly where access into the site is taken directly adjacent to existing dwellinghouses. As such it is considered that the proposal would fail to achieve a high standard of urban design, and would not enhance the quality of the area or be visually attractive.

For the above reasons it is considered that the proposed development would not comply with paragraphs 131 and 135 of the NPPF, CS policies P3 and DM1, or PfE policy JP-P1.

These matters were raised with the applicant during determination and no further response or design justification was received prior to completion of this report.

## **Highways and Access**

NPPF paragraph 115 notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Local requirements for highways safety, transport and access matters are set out in Core Strategy policies DM1, T2, and PfE policy JP-C7.

The application is supported by Transport Assessment, Travel Plan and Planning Design and Access Statement.

The Highway Authority was consulted and has raised no objections to the proposed development, advising that the scheme would be acceptable in terms of access arrangements, parking provision, and servicing.

However officers note that the proposed level of car parking for the drive-thru elements would only comply with the CS maximum standards if classed as fast food drive-thru proposals. The applicant has stated that the proposals would not be for fast-food preparation and would fall within use class E(b) for food and drink uses, more likely as drive-thru coffee shop and food retailers with limited preparation, formerly falling in use classes A1/A3. However, applying the maximum parking standards for uses within these classes the maximum parking provision would allow for between 17 and 29 spaces across both units. The level of parking provision, combined with the limited floorspace available to the public, further brings into question the realistic end use of the buildings for food and drink consumed on the premises. Whilst the overprovision of car parking is not likely to result in a severe highway capacity impact or an unacceptable impact on highway safety, it does demonstrate a design which fails to respond to the sustainable transport hierarchy.

Transport for Greater Manchester were also consulted and their advice is summarised above, which notes that additional work should be undertaken to the submitted Transport Assessment. The RBC Highways Officer has reviewed the points made by TfGM and has reiterated their earlier advice that they do not consider there to be any highways capacity and operation reasons to refuse the application.

Whilst public comments on matters relating to additional traffic are noted, insofar as these comments relate to congestion and matters of highways safety, it is considered that the development would be acceptable in terms of the requirements of NPPF paragraph 115.

## **Surface Water Management and Flood Risk**

NPPF paragraph 169 notes that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Local requirements relating to managing surface water, flood risk and protecting water resources are set out in Core Strategy policies G8 and saved UPD policy EM/8.

The application is supported by a Flood Risk Assessment and Drainage Strategy Report, which have been reviewed by the Drainage Officer and by United Utilities, whose comments are noted above. Neither consultee has objected to the scheme

in terms of surface water management or flood risk, subject to detailed matters which, in the event of approval, could be resolved by condition.

On this basis it is considered that the proposal would be acceptable in terms of surface water and foul water management and flood risk, and would be in accordance with policies G8 and EM/8.

### **Ecology, Biodiversity and Trees**

Section 15 of the NPPF sets out requirements relating to the conservation and enhancement of the natural environment. This includes a requirement, set out in Paragraph 180, for development to minimise impacts on and provide net gains for biodiversity. Core Strategy Policies G6 and G7 set out the Council's expectations in relation to green infrastructure, ecology and biodiversity. PfE policy JP-G8 sets out similar expectations including for improving habitats.

For the avoidance of doubt, the application was received in December 2024, prior to national requirements for mandatory biodiversity net gain coming into force.

The application is supported by an extended Phase 2 Habitat Survey, Arboricultural Survey and Biodiversity Impact Assessment, which have been reviewed by GMEU, whose consultation response is summarised above, raising no objections in terms of ecology and biodiversity.

Public comments on matters relating to ecology and wildlife are noted. The existing site has little ecological value and in the event of approval, the proposed development could have provided some opportunities for improvement through considered landscaping and biodiversity enhancements, to be secured by condition.

Accordingly, on the basis of the advice from GMEU, it is considered that the proposed development would be acceptable in terms of the requirements of the NPPF and relevant local and sub-regional policies for ecology and biodiversity.

### **Carbon and Energy**

Places for Everyone policy JP-S2 sets out expectations for developments to minimise carbon emissions, following the energy hierarchy, and incorporating renewable energy and EV charging. JP-S2 has replaced existing policies within the Rochdale Core Strategy which related to these considerations.

The proposal would include provision of new publicly available EV charging facilities. The application is supported by an Energy and Climate Change Statement which works through the energy hierarchy and recommends the installation of solar PV panels and an air source heat pump system to the development. However it is noted that the proposed scheme would be car-centric in nature and it is considered that it would be likely to encourage additional travel by private car instead of more sustainable methods of transport.

For the avoidance of doubt, the site does not lie within a Heat and Energy Network Opportunity Area as identified by Places for Everyone, and as such the requirements of PfE policy JP-S3: Heat and Energy Networks as it relates to industrial development do not apply in this case.

### **CONCLUSIONS**

The proposed development has failed to demonstrate that the delivery of the extent of retail and leisure floorspace to be created would not have a significant adverse impact on any defined centres or planned investment in the creation of the Kingsway Business Park Local Centre. The proposal would be unacceptably harmful to the amenity of nearby residents, in particular due to the intended 24-hour operation of the proposed petrol filling station and drive-thru units. Due to the inclusion of drive-thru units in proximity to Kingsway Park High School would be contrary to the objectives of policy CS policy C6. The proposal is not considered to achieve an acceptable standard of urban design, failing to respond positively to surrounding land uses, and encouraging through design, a car dominated development. The application has not satisfactorily demonstrated that the proposed filling station would not present an unacceptable risk to groundwater contamination.

The proposed development is considered to be acceptable in terms of highways safety, ecology, surface water management and flood risk.

The proposal would support national and local policies for economic development, and would provide some benefits in terms of the provision of roadside services for users of the surrounding highway network, and provision of public EV charging infrastructure. However, the weight to be afforded to these benefits is very limited and does not outweigh the unacceptable impacts in terms of neighbour amenity, effects on public health, design, and pollution risk to groundwater.

For the above reasons it is considered that the proposed development would be contrary to the relevant policies of the development plan, and it is therefore recommended that planning permission should be refused.

### **RECOMMENDATION**

**Refuse** for the following reasons:

1. The extent of the proposed main town centre uses in this location would be significant and insufficient assessment has been provided as to the impacts of these uses on any defined centre or planned investment in the creation of a new local centre at Kingsway Business Park. The proposal is therefore contrary to the NPPF and Core Strategy Policy E1.
2. The development of drive-thru restaurant units in the vicinity of Kingsway Park High School would fail to support healthy lifestyles and would therefore be contrary to policy C6 of the Rochdale Core Strategy 2016 and to the objectives of the adopted Rochdale Guidelines and Standards for Hot Food Takeaway Uses SPD (2017).
3. The proposed development of drive-thru café/restaurant and petrol filling station and associated retail store operating on a 24-hour basis would result in an unacceptable level of harm to the amenity of neighbouring residents arising from traffic noise and disruption, delivery vehicles, site operation, and loss of outlook. The proposal would therefore be contrary to policy JP-P6 of the Places for Everyone joint planning document and policies DM1 and G9 of the Rochdale Core Strategy 2016.
4. The application is not supported by sufficient information to demonstrate that the proposed petrol filling station would not create an unacceptable risk of pollution to groundwater. Approval of the application would therefore be contrary to policy G8 of the Rochdale Core Strategy 2016.

5. The proposed development is not considered to achieve a high quality of urban design, failing to respond positively to the site context and neighbouring uses, and through the car dominated design failing to consider accessibility in the line with the sustainable transport hierarchy. The proposal would therefore be contrary to the NPPF, policies P3 and DM1 of the Rochdale Core Strategy 2016 and policy JP-P1 of the Places for Everyone joint planning document.

### **Informative**

This decision has been made in reference to the following submitted plans and drawings:

- 1 – Site Location Plan
- 8e – Proposed Site Layout
- 9 – PFS Plans & Elevations
- 10a – Drive Thru Unit Plans & Elevations
- 11a – Drive Through Unit Plans & Elevations
- 12 – Petrol Canopy Typical Building Information
- 13 – Car Wash And Wash Bay Details
- 14 – Substation Details
- 15 – Electric Meter Kiosk ET14 Type
- 16 – Proposed Site Elevations
  
- 01 – Planting Plan
  
- 06 J7/04172 – Section Through Acoustic Fencing System
- J7/01043 – Sales and Acoustic Drawing Acoustic Fencing System