

Name of Applicant  
Type of Certificate

**Proposal**

Map/Plan Policy  
Plan Ref. Expiry Date

<b>Mr J Peach</b>  "B"	Demolition of existing public house (use class A4) and erection of 'drive-thru' restaurant (use class A3/A5) with associated parking and landscaping.	RES	12/0701
	The Sugarbrook, Charford Road, Bromsgrove		11/10/12

**Councillor S Shannon has requested that this application be considered by the Committee, rather than being determined under delegated powers.**

**RECOMMENDATION:** that permission is **GRANTED**

Consultations

WH Response received 30.08.12:

No objection raised subject to conditions relating to:

- Access, turning and parking
- Disabled parking need
- Cycle parking

WRS Response received 15.10.12:

Concerns regarding the impact of:

- Noise
- Odour

Recommends a further noise survey accompanies the application

Retail Consultant  
Comments received 06.09.12

"The key issue from a centres policy perspective is the sequential test, which Savills address in Appendix 2. I agree with Savills' approach that the specific requirement is for a drive through restaurant, i.e. alternative sites must be capable of incorporating a drive through function. I consider that some of the sites considered, e.g. TC 8, TC 15 and TC 17, may be capable of accommodating a drive through restaurant, but only as part of a comprehensive scheme of which such a facility would not be a leading or anchor element. It is unrealistic to think that the redevelopment of these sites could be led by the current proposal. The site mentioned at 1.4.6 of Appendix 2 may also be capable of accommodating a drive through, but I note the planning permission granted here for a petrol station. On this basis, from my local knowledge and Savills' analysis, I consider that the proposal is compliant with the sequential test."

Strategic  
Planning

Comments received 13.09.12:

“From reading the sequential test, it is clear that the majority of units assessed would be impractical either due to their size or location for a drive-thru format restaurant. However, the assessment of the potential development sites in the Town Centre AAP would benefit from further clarification. For example, the historic market site (TC8) could arguably incorporate a drive-thru as part of a larger scale mixed use proposal. The same could also be applied for TC13 and TC15, although the AAP states larger uses are preferred in TC13 and office led development at TC14, this would not necessarily rule out A3 use as part of a larger scheme.”

Bromsgrove  
Health  
Authority

Consulted 23.08.12 – no comments received to date

Drainage  
Officer

Comments received 03.09.12: No objection subject to conditions

Economic  
Development  
Officer

Consulted 23.08.12 - no comments received to date

West Mercia  
Constabulary

Consulted 17.10.12 – no comments received to date

Publicity

67 neighbour notification letters sent 23.08.12 expire 13.09.12

Site notice posted 31.08.12 expires 21.09.12

Ten objections received from local residents, South Bromsgrove High School, and members of CAMRA (Campaign for Real Ale) – concerns raised over increased traffic and highway safety, health issues and the site's proximity to schools, the loss of the pub which is considered to be an important community facility, noise and disturbances to residents.

One representation received offering support, one received offering no objection

Letter received from Bromsgrove Partnership 19/10/12:

- Highlights obesity statistics for Charford - 32% of adults are categorised as obese compared to 28.4% in Worcestershire. A quarter of children in Charford start primary school obese, with 30.4% obese by the time they start secondary school.
- Notes growing evidence that takeaway restaurants contribute towards unhealthy behaviours

- Important to support Charford residents to adopt a healthy lifestyle
- Concerns over proximity to school
- Important that takeaways are located an appropriate distance away from schools so they are not an easily accessible option for children and young people.

### The site and its surroundings

The application site is located at the junction of Charford Road and the A38. It is currently occupied by The Sugarbrook public house. The site contains the public house building, external drinking areas and ancillary car parking. The site contains six mature red oak trees on its north-eastern boundary with Charford Road and a number of mature crab apple trees along its southern and western boundaries.

The site is bounded by public highway to its southern, northern and eastern boundaries. Residential development adjoins the western boundary of the site. Charford First School is located on the opposite side of Charford Road to the south of the site. The surrounding area is predominately residential although industrial uses exist to the east side of the A38. South Bromsgrove High School is located approximately 160 metres to the north west of the site.

The existing premises falls within Class A4 (drinking establishments) of the Town and Country Planning (Use Classes) Order 1987 (as amended). The site is located within a Residential Area as defined in the Bromsgrove District Local Plan 2004 (BDLP).

### The proposed development

The application proposes to redevelop the site for a purpose built Kentucky Fried Chicken (KFC) drive through restaurant. The proposal will involve the demolition of the existing public house building and the construction of a new single storey 245m<sup>2</sup> restaurant building. The new building would be located on roughly the same site as the existing building although its front elevation would be some 9 metres closer to the A38 highway boundary. New hardstanding would be provided in the area surrounding the new building to accommodate a customer car park, a drive through lane moving in a clockwise direction around the building, pedestrian walkways and an external eating area.

The proposal would utilise the existing vehicular access from Charford Road. Customers visiting by motor vehicle would either park and enter the restaurant through the entrance in its front elevation, or carry on through the drive through lane to collect orders from the service window in the side (south) elevation. Vehicular access and egress would be provided from the same point at Charford Road. Pedestrian access to the site would be from two existing points on Charford Road.

The proposed use of the site would be a mixed A3 (restaurant) and A5 (hot food takeaway) use. The proposed hours of opening for the premises are 06:00am to 23:30pm Monday to Sunday including Bank Holidays. The premises will employ 41 people (13 full time and 28 part time).

### Relevant Policies

WMSS	QE3
WCSP	SD.9, CTC.1, CTC.5, CTC.8, D.33, D.43, T.1
BDLP	DS13, S19, S21, S29, C17, C19, TR11, ES1, ES14A
Draft CS2	CP3, CP23
Others	NPPF

### Relevant Planning History

B/1999/0944 – Change of Use from taxi office to public house and minor external alterations – PPG 29/11/99

### Assessment of proposal

The main issues for consideration are as follows:

1. The principle of the development
2. The impact of the development on residential amenity
3. Highways issues
4. Healthy eating issues
5. The loss of the public house
6. Design/visual amenity issues

I will consider each issue under a separate heading below.

#### *1. The principle of the development*

The proposal would involve the development of a mixed A3/A5 use building (a quasi retail use) within a designated Residential Area. The proposal would not however introduce a new non-conforming use to the site given its existing use as a public house. The A4 use of the site means that the existing building could be used for any use with use classes A1 to A3 (includes shops, banks and restaurants) without the need for planning permission. It is therefore considered that the commercial use of the site is well established and the site has potential for alternative retail related uses.

The site falls outside of a town centre and it is not considered to represent an edge of centre location. Policies SD.9 and D.33 of the Worcestershire County Structure Plan 2001 (WCSP) and Policy S21 of the BDLP essentially require that Town Centres are the first preference for retail uses and other uses which attract a lot of people. These policies require that a sequential approach is taken to the consideration of sites for retail uses.

Proposals for retail development in out-of-centre locations will be refused unless it can be demonstrated that no suitable site is available in a town centre or edge-of-centre location. Out-of-centre sites considered to be acceptable should be accessible by a choice of means of transport and the proposal should not adversely affect the vitality and viability of nearby town centres.

Members will be aware that the National Planning Policy Framework 2012 (NPPF) is now a significant material consideration in planning decisions. Due weight will be given to the relevant Development Plan policies according to their degree of consistency with the framework set out in the NPPF (the closer the Policies in the Plan to the policies in the Framework, the greater the weight that may be given).

In this instance policies SD.9 and D.33 of the WCSP and Policy S21 of the BDLP are found to be consistent within the NPPF as they require a sequential test to be applied to planning applications for main town centre uses (including drive through restaurants) not in an existing centre, and that when considering out of centre proposals preference should be given to accessible sites that are well connected to the town centre. It should however be noted that the NPPF only requires an application to provide an assessment of the impact of the development on the vitality and viability of town centres if the proposed floorspace exceeds 2500 sq m. This application does not therefore provide a detailed town centre impact assessment.

The application includes a sequential assessment which considers sites in and around Bromsgrove Town Centre as defined in the Council's Draft Town Centre Area Action Plan (TCAAP). The assessment involved a survey of the Town Centre carried out on 27 June 2012. This identified 15 vacant units within the town centre. Each unit was assessed in terms of its availability, suitability and viability. The survey results indicate that none of the 15 units satisfy all three assessment criteria. A survey of edge of centre sites was also carried out. Having regard to the NPPF sites within 300 metres of the town centre boundary were considered. The survey considers ten sites identified in the TCAAP (TC8-17) in addition to a site located on Birmingham Road (to the north of Bromsgrove Retail Park, formerly occupied by a car showroom). In relation to the TCAAP sites, the assessment identifies that the sites would either not be suitable for the proposed use, or not be or consistent with the Council's aspirations for the site as set out in the TCAAP. The Birmingham Road site has recently been granted planning permission (11/0740) for a petrol filling station. The assessment therefore concludes that there are no available, suitable or viable sequentially preferable sites for the proposed development.

Advice on the applicant's sequential assessment has been received from the Council's Retail Consultant and the Council's Strategic Planning Department. The Retail Consultant considers that some of the sites considered, e.g. TC 8, TC 15 and TC 17, may be capable of accommodating a drive through restaurant, but only as part of a comprehensive scheme of which such a facility would not be a leading or anchor element. It is considered to be unrealistic to think that the redevelopment of these sites could be led by the application proposal. The Birmingham Road site may also be capable of accommodating a drive through, but the extant planning permission for a petrol station is noted. On this basis, the Retail Consultant considers that the proposal is compliant with the sequential test.

The Council's Strategic Planning Department consider that the majority of units assessed would be impractical either due to their size or location for a drive-thru format restaurant. It is considered however that the historic market site (TC8) could arguably incorporate a drive-thru as part of a larger scale mixed use proposal. The same could also be applied for TC13 and TC15, although the AAP states larger uses are preferred in TC13 and office led development at TC14, this would not necessarily rule out A3 use as part of a larger scheme.

In light of the Strategic Planning comments the applicant has provided more detailed consideration of the identified sites. This comments as follows:

TC8	The TCAAP identifies it for a retail led scheme including a major anchor store and additional leisure facilities. This, combined with the Council's aspirations on design and scale of new development, given the context of the adjoining conservation area, make the site unsuitable for a drive-thru restaurant.
TC13	TCAAP identifies the opportunity as retail led to provide large units of around 1,000sqm. The proposed drive-thru would not achieve these aspirations and the site is not currently available.
TC14	Planning permission has been approved for a major redevelopment (09/0365).
TC15	The TCAAP states a preference for an office led-development to be delivered in the longer term dependent upon land assembly. The site is not therefore available or suitable at this time.

Your officer accepts the applicant's comment in relation to TC8. This site is immediately adjacent to Bromsgrove Town Centre Conservation Area and any development in this location will affect the setting of this heritage asset. It is considered that the concept of a drive through restaurant at this site would have inherent problems in terms of its design and layout. It is not therefore considered to be a suitable use for this site. Furthermore it is noted that this site is allocated within the TCAAP for retail led mixed use development with café's, restaurants and a cinema being identified as acceptable secondary uses. Whilst the application proposal would be akin to a restaurant it is not considered that the car parking and drive through elements would represent an efficient use of this prime town centre site. It is considered that developing TC8 for a drive through restaurant would undermine the aspirations of the TCAAP for this site.

Members should note that the TCAAP represents emerging policy which should only be given limited weight in decision making. It is nonetheless considered that any actions that would compromise the implementation of the TCAAP would harm the Council's strategic and corporate objective to regenerate Bromsgrove Town Centre.

The comments made in relation to TC13 and TC14 are accepted. The development of TC13 for a 245 sq m drive through restaurant would undermine the aspiration within the TCAAP to provide units with a minimum floor space of 1000 sq m. Planning permission exists (09/0365) for the redevelopment of TC14 to provide a new supermarket and retail units. It is appreciated that there is no guarantee that

this permission will be implemented. It is however considered that in the event of non-implementation of 09/0365, the development of a drive through restaurant at TC14 would only occupy small proportion of a large site. The proposal could be part of a mixed use development package but I note the view of the Retail Consultant that it is unrealistic to think that a drive through restaurant could lead a mixed use development. It is not therefore considered that the proposal could realistically be delivered at this site in the short term. It is noted that TC14 currently contains a vacant unit (formerly Focus DIY) but this is not considered to be suitable for re-use or redevelopment as a drive through restaurant for design and/or layout reasons.

The applicant's comments in relation to TC15 are noted. Furthermore it is considered that due to the prominent nature of this site, its proximity to the Bromsgrove Town Centre Conservation Area and the Grade II Listed former Parkside School building, its redevelopment for a drive through restaurant would not be appropriate. This site is not therefore considered to be suitable for the proposed development.

On the above basis and having regard to the applicant's sequential assessment, the views of the Retail Consultant and the views of the Council's Strategic Planning department it is accepted that there are no sequentially preferable sites.

It is noted that the site is within walking distance of bus stops providing connections to the Town Centre, Bromsgrove Bus Station and Bromsgrove Rail Station. It is also noted that walking distance to the site from the Town Centre is approximately one mile taking around 20 minutes. It is therefore considered that the application site is accessible and reasonably well connected to the town centre.

With regard to the impact of the proposal on the vitality and viability of the town centre, it is noted from the sequential assessment that the town centre has a relatively low level of vacancy providing a variety of shopping, restaurant and takeaway uses. No specific concerns are raised in relation to the health of the town centre by the Council's Strategic Planning department or the Retail Consultant. Furthermore it is noted that no comment has been made on the application by the Council's Economic Development Officer. Due to the specific nature of the proposed development it is considered that it would complement the retail and leisure offer of the town centre rather than affecting its vitality and viability.

Taking the above matters into consideration the proposal is found to be in accordance with Policies SD.9 and D.33 of the WCSP and Policy S21 of the BDLP and consistent with the town centre provisions of the NPPF. The application site is therefore considered to be acceptable for the proposed development in principle.

## *2. The impact of the development on residential amenity*

The nearest residential properties to the site are the flats (69 to 87 Charford Road) located approximately 11 metres beyond its rear (west) site boundary. It is considered that the proposed development would generate noise from vehicle use

and customer/staff activity. The proposal may also generate noise and odours from plant and machinery and extraction/ventilation equipment.

Policy S19 of the BDLP provides that, in areas where residential uses predominate, the District Council will not allow employment or other land uses which would adversely affect residential amenity whether through noise, smell, safety, traffic or health reasons. This policy is consistent with the Core Planning Principle within the NPPF to secure a good standard of amenity for all existing and future occupants of land and buildings, and the requirement set out at paragraph 123 of the NPPF to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. The advice at paragraph 123 also states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

I note the concerns raised by WRS in relation to odours, noise from plant and machinery, and noise from traffic and customer activity. The concerns made in relation to anti-social behaviour are also noted.

In relation to cooking odours and the proposed ventilation and extraction system, your officer has requested that the applicant finds a more efficient alternative. The precise details of the system will be secured by a condition attached to any planning permission granted.

In relation to noise from plant and machinery, it is noted from the application that no external plant and machinery would be provided and all apparatus would be housed in an acoustically treated room. It is considered that this would avoid any significant noise being heard outside the building. Further details of this can be requested by condition. It is also recommended that a condition is attached to any planning permission granted preventing the installation of any external plant and machinery in future.

It is considered that noise from extraction systems can normally be mitigated against through its appropriate design and installation. More specific details of noise insulation and anti vibration mounts for ventilation systems can be secured by condition.

With regard to noise from motor vehicles at the site, this would inevitably increase as a result of the development. It is important to note however that traffic noise would generally be concentrated around peak business times which are during the earlier part of the evening (6-7pm) and throughout the day on Saturday and to a lesser extent Sunday. It is considered that during these times there would be a relatively high level of background traffic noise given the proximity of the A38 and the busy Charford Road junction. It is considered unlikely therefore that any increased noise from customers vehicles would be significantly over and above existing levels during these times. It is also considered that increased traffic noise during these times would not cause an unacceptable impact on the amenity of the nearby residents. It is noted however that the application proposes opening times of between 06:00am to 23:30pm Monday to Sunday including Bank Holidays. There may therefore be times where background noise is low and any increased noise will cause an unacceptable

disturbance to nearby residents (i.e. early morning and late evening). This is not considered to be acceptable and thus if Members are minded to approve planning permission for this application it is recommended that reduced operation times of between 8am and 11pm Monday to Thursday, 8am and 11:30pm on Fridays and Saturdays, and 10am and 11pm on Sundays and Bank Holidays are secured by condition. The condition will also be worded to ensure that no deliveries take place outside of these hours. It is considered that increased noise during these times is unlikely to cause an unacceptable disturbance to adjoining residents. These opening hours are comparable to KFC Worcester which poses similar residential constraints to this site.

In relation to anti-social behaviour I am mindful of the issues associated with the present use and consider that such activity is not unprecedented at the site. I am generally of the view that the proposed use would improve antisocial behaviour in the area. The views of West Mercia Police have been sought on this matter but no response has been received to date. I will update Members on this matter prior to their meeting. It is considered that the proposed use may attract people loitering in vehicles which may cause residential amenity issues (i.e. due to music from cars). It is however considered that KFC have a management responsibility to prevent such actions. Any more serious forms anti-social behaviour issues and the responsibility of the police.

I note the WRS Officer's concerns in relation to litter, it is however noted in the Planning Statement that KFC will provide litter bins on the site and carry out daily litter picking operations in the site and immediate surroundings. It is considered that the applicant will take reasonable measures to avoid litter problems in the area.

With regard to the visual impact of the proposal on nearby residents it is noted that the application involves additional tree planting to the west boundary. This, in addition to the existing 1.8m high fence, would screen the site and the effect of the proposed building (which would be of a low profile at 4.5 metres above ground level). Further details of external lighting at the site including lux levels and light spill will be requested by condition so to ensure that no adverse impact on neighbouring residents occurs.

I note the concerns raised by the occupiers of 81 Charford Road in relation to the development causing them a loss of privacy. However, given the existing boundary treatment between the site and this property and the proposal to increase boundary planting in this location I do not consider this to be an issue.

On the above basis it is considered that the proposal would have no adverse effect on residential amenity in accordance with Policy S19 and associated provisions within the NPPF.

### 3. *Highways issues*

The majority of the objections raised to this application are based on concerns in relation to increased traffic. Concerns are raised by South Bromsgrove High School and a number of local residents in relation to the volume and flow of traffic at the

Charford Road/A38 junction, particularly in the 45 minute period around the start and of the school day. There are concerns that the proposal would generate more traffic than the current establishment which would compound what is already a very unsatisfactory situation and affect the safety of pedestrians and pupils.

Policy T.1 of the WCSP requires that any additional traffic generated by development proposals will need to be shown to be capable of accommodation safely on the road system without undue environmental consequences. Development proposals should include transport assessments and should be designed to maximise access by pedestrians, cyclists and public transport providers. Policy TR11 of the BDLP requires that development incorporates a safe means of access and egress appropriate to the nature of the local highway network and includes sufficient off-street parking in accordance with the Council's parking standards. These policies are consistent with the sustainable transport provisions within the NPPF.

The Transport Assessment (TA) submitted with the application provides information on the traffic generation attributed to the proposed development compared to the existing public house. The TA sets out the highway impact of the development at Section 6 identifying that the proposal would result in the following net traffic generation (i.e. traffic generated by the proposed use over and above the existing use) during given times:

Morning peak hour (8-9am)	0 arrive	0 depart	0 two-way
Evening peak hour (5-6pm)	2 arrive	1 depart	3 two-way
School peak hour (3-4pm)	-2 arrive	-5 depart	-7 two way
Weekend peak hour (1-2pm)	57 arrive	64 depart	121 two way

The TA shows that there would be little change to the vehicle movements in and out of the site as a result of the proposal during the morning, evening and school peak hours. The TA shows however that there would be a significant net increase in vehicle movements associated with the site during the weekend peak hour.

When considering these figures it is important to take the following points into account. Firstly, it should be noted that existing pub traffic figures used in the TA are based on TRICS database figures for pubs of a similar size to the Sugarbrook. It is considered that these figures may be higher than actual traffic generation currently associated with the Sugarbrook given its relatively low levels of trade in recent times. This more generic approach is considered to be appropriate as it is representative of the potential traffic generation of the existing pub which would account for any future improvements to the business (i.e. as a result of a refurbishment, a change of ownership or a greater emphasis on dining). This accounts for the low amount of difference between pub traffic and KFC traffic (net generation) during morning, evening and school peak hours.

Secondly, the TA advises that a large proportion of the trips to the proposed KFC will be pass by trips made by people already travelling on the highway network. Therefore the additional visits to the site set out above would not necessarily result in

new traffic flows on the highway network. Your officer considers this to be a realistic scenario

The TA identifies that there are good opportunities for pedestrian, cycle and bus travel to and from the site and that no further infrastructure is required to accommodate the forecast level of person trips generated by the proposed development. It is noted that the application provides two safe pedestrian access points and secure covered cycle parking on site. It is considered that these provisions would help to facilitate the use of walking and cycling as modes of transport to the site.

Members will note from the submitted Site Plan the customer parking provisions and the vehicle circulation and queuing system for drive through customers. The parking provision would be consistent with the Council's parking standards and it is considered that the queuing system would manage vehicle flows in and out of the site and avoid queuing on the highway.

It is noted that the County Highways Authority have raised no objection to the application subject to conditions. On this basis and having regard to the findings of the TA it is not considered that the proposed KFC would have any adverse impact on highway safety through either increased traffic or obstructions to the highway. In particular it is noted that the proposal would have no real effect on traffic during peak school hours and it is not considered that it would affect the safety of pupils. Furthermore it is considered that the proposal would facilitate sustainable modes of transport and provide a safe means of access and egress. It is therefore found to be in accordance with Policy T.1 of the WCSP, Policy TR11 of the BDLP and associated advice within the NPPF.

#### *4. Healthy eating issues*

Concerns are raised by South Bromsgrove High School, the Bromsgrove Partnership and a number of nearby residents in relation to the proximity of the proposal to the schools. There are concerns that the proposal; a fast food restaurant/takeaway, would send the wrong message to children and promote unhealthy eating after school and at lunchtimes. It is understood that South Bromsgrove High School operates a healthy eating policy.

It is also noted by your Officer in general terms that fast food is commonly associated with obesity and other health problems. Members will note that 32% of adults in the Charford Ward in which the site is located are categorised as obese compared to 28.4% in Worcestershire.

Consideration will therefore be given to the proximity of the KFC outlet to the schools and to the effect of this on the health of pupils. Consideration will also be given to the wider effects of the proposal on the health of the District's residents.

It has been established on appeal that the proximity of a hot food takeaway to a school is a material planning consideration, particularly where the school has a healthy eating policy.

However it has also been established on appeal that refusal of planning permission would be unjustified where there is no planning policy which would prohibit the creation of a hot food takeaway close to the school on the grounds of the impact on healthy eating amongst school children.

Examples of appeal decisions that have established this precedent are as follows:

a) Appeal ref. APP/A5270/A/11/2150976 (Hanger Lane, London 09/11/11)

In this appeal the Inspector stated that the refusal of planning permission on the ground of proximity to a school without a specific policy based on well researched information and which has undergone public consultation is unjustified. The appeal was allowed

b) Appeal ref. APP/A5270/A/11/2159886 (Southall, London 21/11/11)

In the appeal at 74 King Street, Southall the Planning Inspector gave the proximity of the takeaway to the school considerable weight in the decision. He noted that there were high levels of obesity in Southall and that the High School has a healthy eating policy. He also acknowledged that the proposed hot food takeaway could have significant consequences for children's health. However as the Council had no policy prohibiting the creation of hot food takeaways close to schools judged that the proposal was compliant with the development plan. The appeal was allowed.

Members will note that there is no specific policy within the BDLP on the proximity of hot food takeaway uses to schools, or the promotion of healthy eating through the planning system.

Broad planning policy advocating social wellbeing is set out at Policy DS13 of the BDLP which states that all development must reflect the need to safeguard and improve the quality of life of residents.

It is noted that emerging policy on health and wellbeing exists within the Draft Core Strategy 2 (Policy CP23). This states that the Council will support opportunities for healthy and active lifestyles through (inter alia) seeking to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles. When adopted, this policy could allow the Council to refuse planning permission for a hot food takeaway where an over-concentration exists and where it can be proven that the proposal would reduce the public's ability to lead a healthy lifestyle. Members will note however that Policy CP23 relates to a draft policy and it can only therefore be given limited weight in decision making.

In any event, it should be noted in relation to this policy that there is not an over-concentration of A5 uses within the vicinity of the site. It would also be difficult to prove that the existence of a particular fast food restaurant would detract from people's ability to adopt a healthy lifestyle. It is appreciated that there is a correlation between fast food and obesity, but eating fast food relates to a consumer choice and obesity is often the result of wider social issues such as low income and a poor education on diet and a healthy lifestyle. Such matters are clearly outside of the control of the planning system. It is also noted in this instance that South Bromsgrove High School holds healthy schools status and the food offered on site is commensurate with the expectations conferred through that award. Correct diet and healthy lifestyle are integral components of their curriculum. The proposed would not remove the availability of healthy food at the school or undo the education received by pupils. It would be difficult to prove that pupils would choose to eat at the proposed KFC rather than eat healthier options. It would also be difficult to prove that pupils would eat excessive amounts of fast food from the establishment that would raise the likelihood of obesity. It is noted from the submitted Planning Statement that KFC has made significant steps in improving the range and choice of healthier options on its menu. On this basis it is considered that refusing the application in relation to Policy CP23 would not only be unsound due to its draft status, but also unjustified for the reasons set out above.

It is evident that there is a lack of adopted planning policy that would provide a clear basis for refusing this application due to its effect on healthy eating and its proximity to the school.

Other material considerations in relation to health and well being include the NPPF which requires that Planning should take account of and support local strategies to improve health, social and cultural wellbeing for all. In this instance the single countywide Sustainable Community Strategy (SCS) for Worcestershire, which includes a chapter specifically relating to Bromsgrove Partnership and its priorities, is of relevance. This refers to encouraging a healthy diet as part of its priorities for achieving balanced communities.

The advice within the NPPF and the SCS are material considerations but Members will note the proposal's accordance with the relevant Development Plan policies discussed in the earlier parts of this report, and the economic merits of the case in terms of job creation. It is considered that only limited weight should be given to the SCS relative to the weight given to these matters.

It is considered that in light of the appeal decisions set out above, and in the absence of a specific policy, it would be difficult to substantiate the proposal's proximity to the school as a reason for refusing the application that would stand up in the event of an appeal. With regard to refusing the application for more generalised public health reasons, any such decision could only be based on Policy DS13 and the advice within the NPPF which do not provide any clear basis for refusing the application.

## 5. *The loss of the public house*

Paragraph 70 of the NPPF advises that planning decisions should, inter-alia guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day-to-day needs.

In response to this policy advice, the application advises that through their pre-application consultation, they wrote to some 60 local residents close to the site and who would be most likely to consider the pub their "local". Of the 19 responses received, only one raised the issue of the loss of the pub. The applicant does not consider that this demonstrates the pub as being a vibrant facility essential to the local community.

The applicant also points out that the LPA cannot prevent the closure of a facility and thereby its loss. In almost all cases, loss of pubs is a result of them not being viable or sustaining sufficient trade. The LPA could only restrict the change of use of a property where planning permission is required. In this instance a change of use that would result in the loss of the pub can be undertaken without the grant of permission.

There are other pubs within a 10 minute walk of the site (The Golden Lion on Austin Road and The Ladybird Inn on Stoke Road). Your officer also notes the recent opening of the Hungry Horse pub/restaurant on Worcester Road which is also within a short walk of the site. The community will therefore continue to have local pub provision without the need to venture further into the town centre. The loss of the pub would not adversely affect the facilities available to the local community.

It is also noted that a pub in an urban location does not provide for "day-to-day" needs in the same manner as a local community shop or post-office.

A number of objections have been received from CAMRA (Campaign for Real Ale) in response to the Council's statutory publicity procedure. CAMRA believes that the public house is an important facility in any community and is something that should be preserved at all costs. They believe that allowing this pub to be demolished to be replaced by a fast food establishment goes against the NPPF. They point out that pubs such as the Sugarbrook may not be universally popular but all pubs can be improved. They also point out that the country is currently losing 12 pubs a week.

I note the concerns raised by CAMRA and it is considered that the loss of a pub is unfortunate. The loss of the pub can only however be substantiated into a reason for refusing the application if it can be proven that it is a valued facility that provides for the community's day-to-day needs. I note the applicant's comments in relation to this matter and it is not considered that the Sugarbrook would represent such a facility.

## 7. *Design/visual amenity issues*

The site occupies a fairly prominent position at the junction of two busy roads. Any new buildings and signage will therefore have a relatively significant effect on the visual amenity of the area. The street scene along this side of Stoke Road (A38) is generally void of any development and predominately characterised by trees. There are a number of buildings visible namely the public house (to which this application relates) and the adjacent school although both of these are set back from the road. It is considered that the siting of the proposed building would be consistent with this established development pattern.

The building entrance would face towards the A38 providing an active frontage to the road although its set back would avoid it being over prominent in the street scene. The building would be single storey and flat roofed, rising to a maximum of 6.5 metres although the majority of the building would be 4.5 metres in height. Existing buildings in the remainder of the wider area vary between the school building to the south and the flats to the west. It is however considered that the proposal achieves a sufficient visual separation from these buildings for it to not have any adverse effect on their setting.

The proposed scale and massing of the building is considered to sit comfortably with the scale of surrounding development. The existing landscaped areas around the site would be retained including the mature boundary trees which are subject to a pending TPO. The application involves additional tree planting to the west boundary which would act as a further visual screen from the residential development to the west.

The appearance and materials of the proposed development would be contemporary and informed by the function of the building. Where not glazed, walls would be powder coated insulated steel panels in red and white to reflect the identity of the operator. The company's logo would feature at points around the exterior of the building. Indicative details of this are provided with the application however Members should note that a separate application for Advertisement Consent will be required for the proposed signage.

It is considered that the design, siting and overall appearance of the building would be appropriate for the site and its surroundings.

### Other matters

When considering the merits of this case Members should be mindful of the potential fallback position that exists at this site. The existing A4 use of the pub means that it could be converted for use as an A3 restaurant, snack bar or cafe without the need for planning permission. A fast food restaurant could therefore be established at the site although any takeaway facility could only be ancillary and the primary use would be for the sale of food and drink for consumption on the premises. Such a use would present similar issues to the proposal however the Council could not exercise any control over the matter (i.e. ventilation systems and hours of use).

## Conclusion

The applicant has demonstrated through an acceptable sequential assessment that no suitable sites are available for the proposed drive through restaurant within or around Bromsgrove Town Centre. The site is currently in A4 use and commercial and customer activity is well established at the site. The proposal is therefore considered to be acceptable in principle. It is considered that subject to suitable conditions the proposal would have no adverse effect on the amenity of nearby residential occupiers. Traffic generated by development is capable of being accommodated safely on the road system. The development would provide sufficient parking and a safe means of access and egress and the site would be accessible by a choice of means of transport. Concerns in relation to healthy eating and the site's proximity to the school are noted but it is not considered that there is a clear policy basis for refusing the application for such reasons. Furthermore, it would be difficult to quantify and substantiate such issues into clear material planning objections. Members will also note the fallback position and the possible A3 use of the site without the need for planning permission. The Sugarbrook is not considered to represent a valued facility that provides for the community's day-to-day needs and its loss would not therefore represent an issue. It is considered that the design, siting and overall appearance of the building would be appropriate for the site and its surroundings.

Members will note the proposed job creation and the economic benefits associated with the proposal. There are clear merits of the proposal and taking the above matters into consideration the proposal is found to be in accordance with the relevant policies of the Development Plan. Healthy eating concerns and the SCS are noted, but these matters would not outweigh the benefits of the proposal and its accordance with the Development Plan. On this basis it is recommended that planning permission is granted.

**RECOMMENDATION:** that permission is **GRANTED**

### **Conditions:**

1. C001 (three year time limit for commencement of works).
2. C001A (development must be carried out in accordance with the approved plans).
3. C003 (details of external materials and finishes to be submitted)
4. C010 (Landscaping Scheme)
5. C007 (Details of storm and foul water drainage)
6. C026 (demolition of existing buildings)

7. The development hereby permitted shall not be commenced until a scheme for ventilation and for the control and extraction of fumes, gases, odours and other effuvia from the site has been submitted to and approved in writing by the local planning authority. All elements of the approved scheme including noise attenuation of the extraction system shall be installed, implemented and in full working order prior to the use commencing and shall thereafter be properly maintained. Such equipment must be used at all times when cooking activities are undertaken at the premises.
8. This permission excludes the installation of any external plant or machinery for which planning permission is required.
9. Prior to the commencement of the development hereby approved further details of noise attenuation measures for the plant room featured on approved Drawing Number 2143/A201 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
10. The use hereby permitted shall operate between the hours of 08:00 and 23:00 on Monday to Thursday, 08:00 and 23:30 on Friday and Saturday, and 10:00 and 23:00 on Sundays and Bank Holidays. The premises shall not be open to the public and no deliveries shall take place outside of these times.
11. During the construction works hereby approved no operations including deliveries to and from the site shall be carried out on the site other than between the hours of 08:00 and 19:00 on Monday to Friday, 08:00 to 14:00 on Saturdays and at no time on Sundays and Bank Holidays.
12. Prior to the commencement of the development hereby approved, further details of the proposed external lighting scheme including the height, appearance and positions of installations on site along with information relating to lux levels and light spill shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
13. The premises shall not be brought into use until details of measures to be undertaken for the collection of litter have been submitted to and approved by the local planning authority. Such details shall include the method, extent and frequency. The approved measures shall remain in force at the site during the operation of the use hereby approved.
14. HC11 (existing vehicular access onto Charford Road (to the south of the site) shall be permanently closed).
15. HC25 (access, turning area and parking facilities shown on the approved plans to be consolidated, surfaced, drained in accordance with details to be approved by LPA.)
16. HC30 (Disabled parking)

## 17. HC35 (cycle parking)

### **Notes:**

1. This permission does not authorise the display or signage or adverts. The proposals shown on Drawing Numbers 2134-A100 and 2134-A110 are indicative only. A separate application for Advertisement Consent will be required for the display of signage and advertisements.
2. HN4 (Private Apparatus within the Highway)
3. HN5 (Alteration of highway to provide new or amend vehicle crossover)

### **Informatives**

This decision has been taken having regard to the policies within the West Midlands Spatial Strategy, the Worcestershire County Structure Plan (WCSP) June 2001, the Bromsgrove District Local Plan January 2004 (BDLP) and other material considerations as summarised below:

WMSS	QE3
WCSP	SD.9, CTC.1, CTC.5, CTC.8, D.33, D.43, T.1
BDLP	DS13, S19, S21, S29, C17, C19, TR11, ES1, ES14A
Draft CS2	CP3, CP23
Others	NPPF

It is the Council's view that the proposed development complies with the provisions of the Development Plan and the National Planning Policy Framework 2012 and that, on balance, there are no justifiable reasons to refuse planning permission.