

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/16/01202/FPA Refurbishment and reconfiguration of the restaurant drive thru lane and patio area to include extensions totalling 24.8sqm, incorporating associated works to the site.
FULL APPLICATION DESCRIPTION:	Alterations to elevations which include the installation of an additional booth to accommodate the new fast forward lane. Existing booths to be replaced with new. Relocated fascia signage.
NAME OF APPLICANT:	McDonalds Restaurants Ltd McDonalds Restaurants Unit L
ADDRESS:	Arnison Retail Centre Pity Me Durham DH1 5GB
ELECTORAL DIVISION:	Framwellgate and Newton Hall Jennifer Jennings Planning Officer
CASE OFFICER:	Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to McDonalds Restaurant located at the Arnison Retail Centre Pity Me. The site consists of a detached building incorporating a restaurant area, drive through, parking area and a detached storage building. Surrounding the application site other commercial properties are located, with the distributor road, Rotary Way located to the north. The nearest residential developments of Hag House and 1-5 Harvest View are also located to the North, approximately 70m away. The distributor road also represents the boundary of the North Durham Green Belt.

The Proposal

2. The proposal seeks to provide a front of house extension on the east elevation, equating to a 24.8 metres square increase. The extension would match the existing building in terms of design and materials and would be the same height as the main building. Other alterations consist of the addition of a booth window on the north elevation intended to allow improved circulation through the drive through section of the site. On the north elevation, existing drive through booths would be replaced with new booths and additional timber cladding would be added. Patio furniture would be removed from the front of the building and new block paving installed. Three car parking spaces would be lost.

3. The application is presented to Committee at the request of the local Member because of concerns about litter and parking. These issues are considered below.

PLANNING HISTORY

4. Permission granted in 1997 for the erection of single storey extension to the side of existing restaurant building to provide managers office. In 2001 permission was granted for a single storey building to accommodate an automatic teller cash machine within the grounds of McDonalds.
5. Permission was granted in 2005 and 2009 for further extensions and alterations to the existing restaurant building. In 2012 a further permission was granted for the refurbishment of the existing restaurant including the addition of cladding, alterations to roof and erection of single storey extension and erection of replacement detached storage building.
6. Various advertisement consents were approved in 2009 and 2012, although two advert applications for totem signage were refused in 2009. Advert consent has recently been granted for the relocation of 3 no. existing fascia signs.

PLANNING POLICY

NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
8. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The following elements of the NPPF are considered relevant to this proposal;

9. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government’s commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – ‘significant weight’ is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
10. *NPPF Part 4 – Promoting Sustainable Transport*. Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.

11. *NPPF Part 7 – Requiring Good Design*. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
13. *NPPF Part 9 – Protecting Green Belt Land* - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

NATIONAL PLANNING PRACTICE GUIDANCE:

14. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
15. *Design* - The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

LOCAL PLAN POLICY:

16. The following are those saved policies in the City of Durham District Local Plan relevant to the consideration of this application:
17. *Policy E14 – Trees and Hedgerows* – sets out that development proposals should retain important trees and hedgerows wherever possible
18. *Policy T1 – General Transport Policy* – requires all developments to protect highway safety and/or not have a significant effect on the amenity of occupiers of neighbouring properties.
19. *Policy T10 – Parking Provision* – sets out that off street car parking should not exceed 1.5 spaces per dwelling to promote sustainable transport choices.
20. *Policy S9A – Arnison Centre* – sets out that development which consolidate the role of the Arnison Centre to meet the needs of residents on the western side of the City will be encouraged providing it does not undermine the role of the City centre and would be acceptable in terms of road safety and highway capacity.

21. *Policy S10 – Food and Drink* - sets out that within settlement boundaries development for A3 food and drink uses will be permitted where there are no adverse effects on the amenities of neighbouring occupiers, achieve satisfactory access arrangements and is in scale with the character of the area.
22. *Policy Q5 – Landscaping* – requires that development proposals provide a high standard of landscaping on site.
23. *Policy U5 – Pollution Prevention – General* – sets out that permission would not be granted for development that would generate pollution if it would have an unacceptable adverse impact upon the quality of the local environment, or the amenity of nearby adjoining land and property.

RELEVANT EMERGING POLICY:

24. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. Northumbrian Water have no comments to make.
26. *Highways* – County Highways Engineer considers that the minor extension proposed would not warrant a request for additional parking to be provided, and that the minor loss of parking is acceptable in the context of the scheme as a whole. The adjacent Arnison Centre car park has a substantial amount of parking provision and can be easily accessed by patrons of the McDonalds Restaurant if required. The amendments proposed for the drive through are intended to assist in serving and thus moving vehicles more efficiently through the site. This would help towards alleviating any issues of queuing vehicles waiting on the main access road to turn into the site, when demand for the drive through is high which would be beneficial in highway safety terms.
27. *Environmental Health* – The Environmental Health Officer assessed the environmental impacts of the application and considered that the proposals would not cause any environmental issues to nearby premises. They offer no adverse comments in terms of the potential of the development to cause a statutory nuisance, as defined by the Environmental Protection Act 1990.

PUBLIC RESPONSES:

28. Fourteen neighbouring premises and properties were consulted by direct mail and a site notice posted on site. No letters of objection or comment have been received from the general public. However, correspondence from the local ward member was received expressing an objection to the proposals and calling the application to Committee. The objection raises the following issues:
- The proposals would see a further increase in overall drive through usage, however despite increase in turnover, McDonalds have done nothing to address car thrown litter on Country Lanes around the area, specifically but not exclusively Chester Low Road and Potterhouse Lane, which have become a dumping ground for thousands of pieces of McDonald's rubbish. One customer may throw out a dozen or more individual items of litter on each trip.
 - If McDonalds wishes to increase customers at the site, they must take heed of the overwhelming disgust that so many residents have when observing mess strewn across a wide area of the County.
 - McDonalds is asked to provide resources to educate those who seek to litter. They should provide funding towards the cost of clean-up instead of expecting the taxpayer of County Durham to foot the bill.
 - The objection is on the grounds that the proposals would increase usage of the drive through with no measures to mitigate the negative effects on the environment and it is requested that educational and litter pick funding is provided direct to the Council to address the issue on the country lanes.
 - Concerns raised with regards loss of car parking space rather than an increase in parking space that would be necessary due to increased turnover. Some customers choose to eat in the car park in their cars and at busy times the car park is full, so without additional car parking space, increased problems may occur with queues building up getting into the site.

APPLICANTS STATEMENT:

29. The existing McDonald's Restaurant operates with both a restaurant and drive thru facility. Current trading levels are; 45% within the restaurant and 55% from the drive thru. The proposed works under this current planning application relate to the improvement of the existing operation of the restaurant and are not intended or predicted to increase the footfall of the restaurant.
30. The proposed additional drive thru booth will improve waiting times within the drive thru lane and will contribute to an overall improvement in the restaurants overall efficiency. Whilst the dining area will marginally enlarge, this will be outweighed by the reduction in size of the external seating area at the front of the store. As a result, more customers will dine inside of the restaurant, reducing the risk of any litter being blown away by the wind.
31. McDonalds Restaurants Ltd are committed to contributing to and engaging with local communities. McDonald's staff currently undertake daily litter patrols within the wider retail park and surrounding area. The staff pick up both McDonald's litter and all other forms of litter dropped by customers of all other retailers within the wider retail park. To ease any concerns of local residents, McDonalds have proposed to install 4 no. additional bins within the car park to ensure every customer has the opportunity to dispose of their waste in a proper manner.
32. In conclusion, the proposal is for the refurbishment of the existing restaurant and is not expected to result in the increase in trade of the premises. The works are intended to improve the operation of the restaurant and will have a negligible impact upon litter. The Environmental Health Officer has raised no objections to this application. McDonald's Restaurants Ltd have positively engaged with the local authority to outline their existing litter precautions and are putting in additional measures to further reduce litter concerns.

PLANNING CONSIDERATIONS AND ASSESSMENT

33. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, the potential impact upon the visual amenity of the surrounding area, including relating to the environmental issue of litter, and the impact of the proposal on car parking.

Principle of Development

34. The application site is located within the defined limits of the Arnison/Mercia Retail Centre as set out on the Local Plan Proposals Map. The written justification relating to policy S9A of the Local Plan identifies that extensions to existing units may be appropriate to enable the district centre to sustain its function as a location for convenience retailers serving the needs of residents of this part of Durham City.

35. The proposals seek to erect a relatively small extension to the front of the premises on the eastern elevation, as well as create an additional drive through booth on the north elevation, whilst refurbishing existing booths in order to improve the general operations on site. All works would be well contained within the site, and would add no more than eight per cent to the overall footprint of the building. In this respect the proposals are considered to accord with the requirements set out in policy S9A and are considered acceptable subject to other considerations detailed below.

Visual amenity of the surrounding area

36. Policy S10 requires that developments for A3 use should be in scale and character with their surroundings. In consideration of the details submitted and sample materials received, the proposed alterations and extension are deemed to reflect the character of the existing building in terms of design and proposed materials. The proposed extension would be located on an existing forecourt entrance to the building which currently has outdoor seating in place. Part of this would be lost to the extension but this would not negatively impact on the general appearance of the building or the immediate surroundings, or create negative visual impacts when viewed from the access road running through the Arnison Centre complex. In addition a substantial landscape buffer exists along the northern boundary of the site and views into the site from this side would be sufficiently screened, helping to ensure the visual amenity of the adjacent Green Belt is not impacted by the proposals.

37. Policy S10 further requires that proposals should not have any adverse effects on the amenities of nearby occupiers. Policy U5 requires that where development may generate pollution, it must not have an unacceptable adverse impact upon the quality of the environment. The applicant states that the proposals are not intended to accommodate an increase in capacity but rather better align operations on site. In terms of the general functionality on site, given that it is a well-established business, it is not expected that the proposals would create any new or negative impacts on neighbouring occupiers.

38. Issues regarding litter emanating from the restaurant chain, however, have been brought up as a matter of concern, not just in the immediate surroundings of the site or its perimeter, but also along country lanes at a distance from the site. As recompense for this problem, it has been suggested by the local member that McDonalds should pay funding direct to the Council to provide for litter picking and education to alleviate and prevent continued problems of littering.
39. In response McDonalds have clarified that they have a 'Trash Walk' strategy in place which involves an early morning walk around the immediate vicinity picking up litter, and additional walks around a wider area every 30 minutes, including a section of the Rotary Way distributor road to the north of the site. It is also proposed to include four additional bins within the car park area as part of the proposals.
40. The proposed extension is relatively modest in size and according to the applicants is not intended as an expansion of the business in terms of visiting members of the public, whilst the additional booth is claimed to allow smoother running of the drive through facility. Although this would presumably improve the efficiency of the drive through facility, it is difficult to conclude that the proposals would directly result in an increase in litter in the immediate or wider area. In any case there is no scope to condition any permission granted to require a regular itinerary of litter pick up, particularly where this would involve areas well beyond the perimeter of the site. Such a condition would not meet all of the six tests for planning conditions as stated within paragraph 206 of the National Planning Policy Framework. Specifically, it would not be considered reasonable as the applicants cannot be expected to control the behaviour of customers away from the premises; and it would not be enforceable as it would not be possible to prove that the litter emanated from these specific premises. Additionally, the proposals are not expected to result in an increase in litter, over and above what may already exist. In this case a condition seeking to deal with litter would not be considered appropriate. It is intended however to apply a condition requiring the provision of additional litter bins as part of the proposal on site. For the same reasons, it would not be appropriate to require the Applicant to make a financial payment to the Council to provide for litter picking and education. The mechanism for a financial payment to the Council in connection with a planning application is by way of a Section 106 Obligation. However, the Community Infrastructure Levy Regulations 2010 impose a threefold test for imposition of such obligations, namely that they are 1) necessary to make the development acceptable in planning terms, 2) directly related to the development and 3) fairly and reasonably related in scale and kind to the development. It is not considered that such an obligation would pass any of these 3 tests. The wider issue of litter in country lanes is not for the planning system to address. It is a social issue.
41. Overall the proposed scheme is considered to relate acceptably to its surroundings in accordance with the requirements set out in policy S10, aided by the existing mature landscape buffer ensuring it would not create any new impacts on the adjacent Green Belt area. In addition, the proposals are not expected to directly result in an increase in litter in the immediate and wider area and as such would not have an unacceptable adverse impact upon the quality of the local environment or upon the amenity of nearby adjoining land and property. Environmental Health officers have assessed the application in relation to all environmental impacts and do not consider that the proposals would cause any environmental issues to nearby premises. Subject to the imposition of a condition requiring the provision of additional litter bins, the proposals accord with the requirements set out in policies S10 and U5 of the District Local Plan.

42. The proposals would result in the loss of three car parking spaces in order to provide additional waiting areas for cars associated with the drive through facility. In general the new layout is intended to improve operations on site, which in turn would ensure that traffic build-up of cars entering the site would be prevented from causing obstruction on the main access road through the Arnison Centre. The County Highways Engineer has assessed the proposal and is satisfied that the setup is beneficial to the overall traffic management on the site and considers that the loss of car parking spaces is negligible given the availability of car parking across the whole of the Arnison Centre retail site. In this respect the proposals are considered to accord with the requirements set out in policies S9A and T1 of the District Local Plan.

CONCLUSION

43. The proposed scheme has been considered against the policies identified in paragraphs 7-23 listed above. The proposals intend to marginally increase the size of the restaurant and as such, would have a limited and therefore acceptable impact on the character and appearance of the surrounding area, including the visual amenity of the adjacent Green Belt. It is not expected that the proposals would result in a direct or significant increase in customers attending the site nor would it directly result in an increase in litter in the vicinity or wider area. In this respect the proposals would not have an adverse effect on the surrounding area or on the amenities of neighbouring land users. In addition, it is considered that the proposals do not raise any issues in terms of highway safety.
44. Overall there is not considered to be any material considerations, which indicate a decision should be otherwise than in accordance with the Development Plan and therefore the application is recommended for approval.

RECOMMENDATION

45. That the application be **APPROVED** subject to the following conditions/reasons:
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
 2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan Reference No. Location Plan received 14 April 2016; 6511_AEW_0479_0004 rev A Proposed site plan received 14 April 2016; 6511_AEW_0479_0050 rev A Proposed general arrangement received 14 April 2016; 6511_AEW_0479_0005 rev A Existing and Proposed elevations received 14 April 2016; 6511_AEW_0479_0002 Block Plan received 14 April 2016; Design and Access Statement dated April 2016; Sample of timber cladding 'Trespa meteon Italian Walnut' received 27 June 2016.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy S10 of the City of Durham Local Plan 2004.

3. Prior to the commencement of the development details of the design and locations of additional litter bins to be provided outside the premises shall be submitted to and approved in writing by the Local Planning Authority. The litter bins shall be provided in accordance with the approved details prior to the development hereby approved being brought into use.

Reason: In the interests of the amenity of the area in accordance with Policy S10 and U5 of the City of Durham Local Plan 2004.

4. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building in terms of colour, texture and size, apart from the proposed area of timber cladding identified on plan reference 6511_AEW_0479_0005 rev A Existing and proposed elevations.

Reason: In the interests of the appearance of the area and to comply with S10 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

46. The Local Planning Authority in arriving at the decision to approve the application has actively engaged with the applicant to secure a positive outcome in accordance with the Local Plan and the NPPF.

BACKGROUND PAPERS

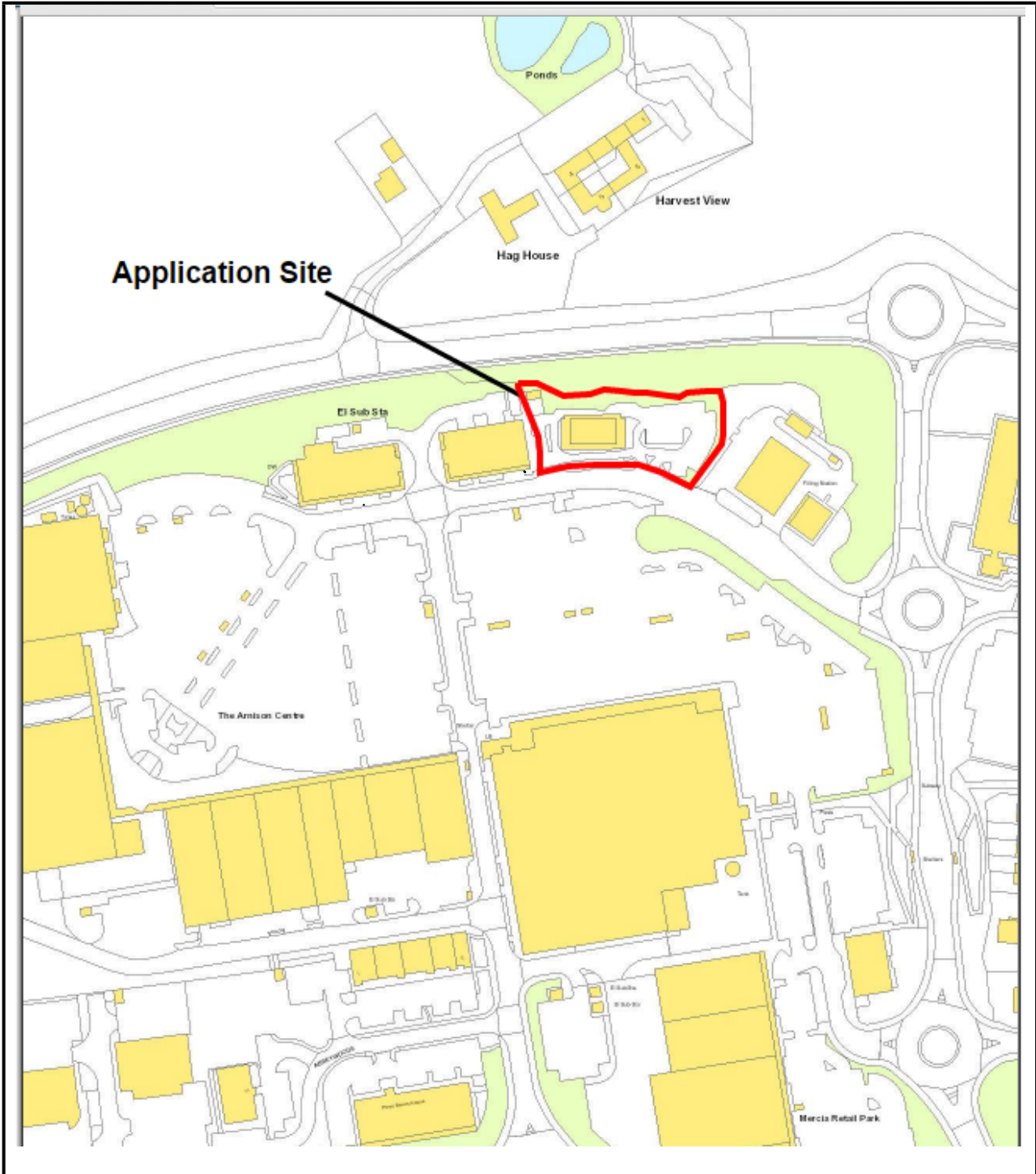
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Durham City District Local Plan 2004 (saved policies 2009)

Statutory and public consultation responses



Planning Services

McDonalds Restaurants Ltd, Arnison Retail Centre, Pity Me, Durham

Application Number DM/16/01202/FPA

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Date

12 July 2016