

MCDONALDS RESTAURANT, DIMSDALE PARADE WEST
MCDONALD'S RESTAURANT'S LTD

17/00856/FUL

The application is for the variation of condition 4 of planning permission 99/00330/FUL to allow revised opening hours for the main restaurant from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be 24 hours a day seven days a week (opening hours are currently 0700 and 2300 hours).

The site is located within the urban area of Newcastle as defined by the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors due to resident's concerns.

The 8 week period for the determination of this application expires on the 14th December 2017.

RECOMMENDATION

Permit with the following conditions;

1. Revised opening/ operating hours for the main restaurant to be from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be unrestricted,
2. Submission and approval of the updated arrangements to control onsite and offsite litter,
3. All other conditions of the previous permission, application no. 99/00330/FUL, that are still required and relevant.

Reason for Recommendation

The application has demonstrated through the submission of an amended noise impact assessment that the revised opening/ operating hours of the existing restaurant would not result in a significant harmful impact to the residential amenity and quality of life of neighbouring residents, subject to conditions. The proposal is therefore compliant with the guidance and requirements of the National Planning Policy Framework.

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application

Since the previous refusal the applicant has carried out work to the premises and had further discussions with the Environmental Health Division prior to an application being submitted and the information submitted to support the application addresses concerns and demonstrates that the proposed revised hours are acceptable. The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

The application is a resubmission following a refusal of planning permission (planning application reference 16/00726/FUL) for the same variation to condition 4 of 99/00330/FUL to allow revised opening hours for the main restaurant to be from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be 24 hours a day seven days a week.

The previous planning application, 16/00726/FUL, was refused for the following reason;

"The proposed additional opening hours of the restaurant and drive-thru facility would result in

an unacceptable and harmful impact to the living conditions and quality of life of the occupiers of no. 279 Dimsdale Parade West and the amenity of the area in general by virtue of unacceptable levels of noise and disturbance which would be contrary to the guidance and requirements of the National Planning Policy Framework 2012.”

Since that decision ventilation plant has been replaced at the restaurant in accordance with the recommendations in the Noise Report submitted with the previous application. The current application is supported by an amended noise report, along with a further justification for the extended opening hours.

The application is also supported by a Community Consultation Statement (dated June 2017) which sets out the community consultation processes that have taken place to engage with the local community, elected members, the police and council officers in order to address any concerns. Meetings and letters have been the main methods of consultation with the community.

The original planning permission, ref 99/00330/FUL, allowed under condition 4 the following;

“The hours of opening of the development hereby permitted shall be restricted to between 0700 and 2300 on any day of the week.

Reason: To protect amenity.”

The drive-thru restaurant is located on a busy roundabout at the junction of Dimsdale Parade West and the A34 with a residential property adjoining the site and further residential properties in the immediate locality.

As with the previously refused application the Authority, in the determination of this application, cannot reconsider the principle of the use of the building or whether the hours of opening should be restricted more than is currently the case, but it does have the following options:-

- If it considers that any additional hours of opening would result in an adverse impact on the living conditions of nearby residents, the original condition should remain and the application refused,
- If it considers that the condition should be varied then it should approve the application subject to the reworded condition or subject to a different condition as it considers appropriate.

The effect of a grant of permission upon an application to vary a condition is to create a new planning permission. Accordingly, unless there have been other material changes, such permission should also make reference to the other conditions of the original planning permission where they remain relevant.

Whether the extended opening hours would cause an unacceptable loss of amenity to neighbouring properties from noise and disturbance?

The National Planning Policy Framework seeks to protect living conditions and quality of life of an area (paragraph 123).

As discussed the previous application to extend the hours was refused due to the unacceptable and harmful impact to the living conditions and quality of life of the occupiers of no. 279 Dimsdale Parade West and the amenity of the area in general by virtue of unacceptable levels of noise and disturbance.

As indicated above, since the previous refusal new plant has been installed at the premises replacing that which was in place at that time. Following the installation and operation of the new plant a further noise assessment has been conducted and submitted. The new report indicates that there would be no noise impact from the new plant on the occupiers of the neighbouring properties. The new report also considers vehicle noise and anti-social

behaviour and sets out that mitigation measures are in place to minimise noise and disturbance levels.

The owners/ occupiers of no. 279 Dimsdale Parade West maintain their objections on a number of grounds and whilst improvements have been made in regards to extractor fan noise levels they still consider that the proposed increased opening hours will have a further detrimental impact on their living conditions and quality of life.

The Environmental Health Division has raised no objections to the application and no conditions to control noise and disturbance are advised.

Furthermore, the applicant has submitted further mitigation measures, specifically aimed at addressing issues of anti-social behaviour, which include a noise management plan that sets out additional measures that can be taken such as staff recording incidents, CCTV, increased signage and intercoms decibel levels being turned down. As these are matters that are addressed through the premises license it would not be appropriate to impose a condition that requires compliance with such a plan, but the indications are that the operator of the restaurant would comply the management plan and provide assurance that ant-social behaviour won't be an ongoing issue.

The Police have also raised no objections to the application and they would also be further consulted as part of the premises licence application.

Objections have been received indicating that there would be no benefits of the scheme but the applicant has indicated that the extension of the operating hours for the restaurant will create additional employment positions and additional working hours for existing employees at the site. In any event there is no policy requirement setting out that planning permission can only be granted if benefits are identified.

In consideration of the above it has been demonstrated that the proposed hours are unlikely to result in a significant harmful impact to the residential amenity levels and quality of life of neighbouring properties subject to the condition advised. The proposal therefore complies with the guidance and requirements of the NPPF and should be approved.

APPENDIX

Policies and Proposals in the Approved Development Plan relevant to the decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026

None relevant

Newcastle-under-Lyme Local Plan (NLP) 2011

None relevant

Other Material Considerations

National Planning Policy

National Planning Policy Framework (March 2012) as amended

National Planning Practice Guidance (March 2014) as amended

Relevant Planning History

99/00330/FUL Demolition of existing public house, construction of restaurant, revision of parking area, alterations to existing access arrangements and landscaping Permit

09/00212/FUL Refurbishment of restaurant and patio area to include removal of one drive through booth and associated elevational alteration. Installation of customer order display unit and height restrictor Permit

13/00780/FUL The reconfiguration of the drive thru lane with a new island for signage and reconfigured kerb lines including associated works to the site. The relocation of the booth windows to accommodate the new drive thru layout. The reconfiguration of the existing corral and the construction of new remote corral. The installation of 2 x Customer Order Displays (COD) with associated canopies Permit

16/00726/FUL Application for the variation of condition 4 of planning permission 99/00330/FUL to allow revised opening hours for the main restaurant to be from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be 24 hours a day seven days a week Refused

Views of Consultees

The **Highways Authority** raises no objections

The **Environmental Health Division** raises no objections to the planning application. They advise that a number of complaints have been received from residents since the previous decision which have been brought to the attention of the Franchise Holder and the store management and action has been taken. In addition the Local Policing Team have been contacted regarding incidents of anti-social behaviour at the store and have been advised that no reports have been received of this nature for this store.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objections to the applications following consultation with the Neighbourhood Policing Sergeant and noise mitigating measures being undertaken by the applicant.

Cadent (National Grid) advises that searches have identified that there is apparatus in the vicinity of the site which may be affected by the activities specified. They therefore provide a number of advisory notes/ recommendations prior to works commencing on site.

Representations

Twelve letters of objection have been received from the adjoining neighbouring property raising the following matters;

- The additional noise survey was carried out on a quiet Tuesday afternoon and not at when residents have indicated are the noisiest and busiest times.
- If customers causing problems within the boundary of the premises are removed as part of the management plan this would move the problem onto Dimsdale Parade West.
- The increase in hours of opening would increase noise impact, increase litter and increase traffic problems including those associated with the incorrect use of the entrance/exit to the site.
- The proposal would also increase light pollution, odour and anti-social behaviour;
- Double yellow lines would not be supported and would prevent residents from parking outside their houses, bollards would be more appropriate.
- The property is in a residential area and apart from McDonalds there is no retail, business, employment or industrial uses within half a mile.
- It is recommended that the entrance and exit to the restaurant is rearranged as the current arrangement causes dangerous manoeuvres at both the entrance and the exit.
- The proposal will put greater demand on the council to enforce and maintain the area, as complaints will go up.
- The application has not been considered in line with the Newcastle-under-Lyme Stronger and Safer Communities Strategy 2012-2017.
- There are no benefits for residents.
- The petition of support should not be accepted as evidence in favour of these proposals.
- Intercom noise is a problem and the noise report does not consider this.
- Increased vehicle headlights shining into neighbouring windows.
- No details on deliveries during the extended hours.
- The delivery bay still causes noise and disturbance and this will be increase as a result of the extended hours of opening.
- The whole character of the area would be changed by increased opening hours.

Applicants/ Agents submission

The application documents are available at the Guildhall and on the Council's website via the following link. These documents are available for inspection at the Guildhall or via this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00856/FUL>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

21st November 2017