

COMMITTEE DATE: [07/07/2015](#)

Application Reference: **15/0242**

WARD: Clifton
DATE REGISTERED: 20/04/15
LOCAL PLAN ALLOCATION: No Specific Allocation

APPLICATION TYPE: Removal / Variation of Conditions
APPLICANT: McDonald's Restaurants Ltd

PROPOSAL: Temporary removal of condition 8 attached to planning permission ref 89/1909 to allow the restaurant and associated takeaway to trade 24 hours per day, seven days a week.

LOCATION: MCDONALDS RESTAURANTS LTD, CHERRY TREE ROAD NORTH, BLACKPOOL, FY4 4NY

Summary of Recommendation: Grant Permission

CASE OFFICER

Ms P Greenway

INTRODUCTION

On 22 November 1990, planning permission was granted following an appeal for the erection of a McDonald's Restaurant (Ref: T/APP/Q2310/A/89/143282/P5). Condition 8 restricted the operating hours of the restaurant and stated:

"The restaurant and associated take-away facility shall not operate before 07.00 hours or after 23.00 hours on any day".

Following the grant of the original planning permission, the operating hours of the restaurant have been extended by the grant of planning permission on a number of occasions. The most recent planning permission which controls the operating hours on a permanent basis was 14/0509. Condition 1 states: "The premises shall not be open to customers outside the following times: 0500 hours to 2300 hours Sundays to Thursdays; and 0500 hours to 2330 hours Fridays and Saturdays (with only the drive through open between 2300 hours and 2330 hours on Fridays and Saturdays).

SITE DESCRIPTION

McDonalds is one of a number of hot food uses clustered at the junction of Cherry Tree Road North with Preston New Road, the main route into town. Pizza Hut, KFC and a Morrison's local shop are located on Cornelian Way, directly across Cherry Tree Road North. Across the vehicular access to McDonalds and Dove Tree Court (a residential block of flats) is a Subway. Immediately adjacent to this on both sides of Cherry Tree Road North is a Local Centre, which includes an Indian takeaway and a Chinese takeaway. The area surrounding the Local Centre is one of densely residential development, mainly houses.

DETAILS OF PROPOSAL

This application seeks permission to remove Condition 1 of Planning Permission: 14/0509 to enable the restaurant to trade 24 hours a day, seven days a week. The applicant's justification for the proposed extension to the operating hours, is that it is required in order to enable the restaurant to better meet the needs of its customer base and enhance the overall viability and efficiency of the restaurant. Based on experiences of other restaurants within the group, McDonalds anticipate that the bulk of the custom during the extended hours will be drawn from passing trade. They also state that a high proportion of customers who use the restaurant during night time hours are emergency service staff, taxi drivers, shift workers or delivery/haulage drivers; they consider that these customer groups do not trigger issues relating to amenity or anti-social behaviour.

With regard to site management, the restaurant intends to adopt a series of proposed measures that ensure the impact of the operation of the restaurant is minimised at all times. These measures of good practice include:

The restaurant management team work closely with Lancashire Constabulary on all crime and disorder, anti-social behaviour and premises licensing issues (there have not been any issues which have needed to be raised so far);

Signs asking customers to be respectful to neighbours are currently in place around the site, particularly in the area closest to the residential properties;

Staff Safe – The restaurant operates a Staff Safe system which is installed on the premises. This is an audio visual system and is linked to a remote monitoring station. It assists in managing any incidents relating to anti-social behaviour and where necessary, it has the ability to contact the police. The system is designed to reduce anti-social behaviour and other crime and disorder affecting both staff and customers;

The store has a strict litter collection protocol which includes dedicated litter patrols. The litter patrol covers the whole site and the adjoining residential streets (extending a minimum of 150m from the restaurant). The restaurant is proposing to extend the litter picking route if the application is approved to ensure that any additional litter generated is controlled; and

The restaurant also offers by way of a letter to collect litter from local residents' gardens.

The agent states that the proposed development will have a series of positive impacts that contribute towards meeting the local and national policy objectives relating to economic growth and job creation. The agent also states that the increased operating hours will create 40 additional employment positions at the site (15 FTE positions), which they say will help to reduce unemployment and increase earnings in the Borough.

The application is accompanied by:

- a Planning Statement
- a letter of support from Cllr Luke Taylor, subject to no objections from the community and Planning

MAIN PLANNING ISSUES

The main planning issue is considered to be:

- the impact on residential amenity of 24 hour operation

CONSULTATIONS

Head of Transportation: I have no objection to this proposal. The extended opening times will not have a significant impact on the highway network.

Head of Environmental Services: Although we have not had any complaints about this business it may well be due to the restricted hours they currently operate. Environmental Protection would propose that if granted the permission is allowed on a temporary basis initially and if no complaints are received within this time that full permission is granted.

Architectural Liaison Officer (Police): I have looked at the recorded crime and incidents at this location from 1 January 2014 to 6 May 2015, crime relates to theft of unattended property and damage. Whilst anti-social behaviour appears not to be an issue at this moment this may be due to the restricted hours. I have reservations that the increased 24 hour opening hours may contribute towards anti-social behaviour in the area. In order to ascertain if this will be a factor in the future I would ask that that if the application were to be granted it is for an initial period of twelve months subject of a review at the end of that period.

PUBLICITY AND REPRESENTATIONS

Site notice displayed: 6 May 2015

Neighbours notified: 5 May 2015

Objections received from the Director of Dove Tree Court Management Company, 3, 19 Dove Tree Court, 22 Devona Avenue, 209 Newhouse Road and 192 Reads Avenue. The main objections relate to:

- noise
- rubbish
- anti-social behaviour

The occupier of 3 Dove Tree Court states that although the flats are well insulated and double glazed, he lies awake due to cars revving engines and speeding down the take-away lane at the side of his property. He says that McDonalds have no control, even though the cars are on their land. The noise currently ceases when the take-away shuts and doesn't start up in the morning due to a different sort of customer. He feels that he will not be able to sleep if it is in 24 hour operation. Other concerns relate to delivery and wagon drivers park in their residential courtyard to eat or turn their vehicles around.

See assessment section of the report for a response on noise and the fear of crime. Litter is not a planning issue, although as indicated in the details of the proposal, McDonalds has a responsible litter-picking policy.

NATIONAL PLANNING POLICY FRAMEWORK

Paragraph 17 of the NPPF refers to core planning principles and includes:

- proactively drive and support sustainable economic development
- always seek to secure good standard of amenity for all existing and future occupants of land and buildings

Chapter 1 relates to building a strong, competitive economy and confirms the Government's commitment to securing economic growth in order to create jobs and prosperity and ensuring that the planning system does everything it can to support sustainable economic growth.

Both chapter 7 "Requiring good design" and Chapter 8 "Promoting healthy communities" seek to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Decisions should ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

Chapter 11 "Conserving and enhancing the environment" at paragraph 123 says that decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

SAVED POLICIES: BLACKPOOL LOCAL PLAN 2001-2016

The Blackpool Local Plan was adopted in June 2006 and the majority of its policies saved by direction in June 2009. The following policies are most relevant to this application:

- BH3 Residential and visitor amenity
BH17 Restaurants, cafes, public houses and hot food take-aways

EMERGING PLANNING POLICY

The Core Strategy Proposed Submission was agreed for consultation by the Council's Executive on 16 June 2014 and by the full Council on 25 June 2014. The document was published for public consultation on 4 July 2014 for a period of eight weeks. After the consultation ended, the document was updated and was submitted to the Planning Inspectorate in December 2014 for examination in May 2015. The examination took place between 11 and 15 May and we are now awaiting the response from the Inspector.

Paragraph 216 of the NPPF allows relevant policies to be given weight in decision-taking according to the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF. Overall, a limited number of representations were received to the Proposed Submission document. Of those representations made expressing concern with the proposed policies, it is not considered that the issues raised justify the need for modifications to be made to the policies prior to submission (other than minor modifications to improve clarity for example). Therefore, the Council considers that, due to the advanced stage of the Core Strategy all relevant policies to this development should be given considerable weight in decision making.

Emerging policies in the Core Strategy Submission version that are most relevant to this application are:

- CS3 Economic Development and Employment
- CS7 Quality of Design

These policies do not conflict with or outweigh the provisions of the adopted Local Plan policies listed above.

ASSESSMENT

Amenity

With regard to the neighbours' objections on noise grounds, the Head of Environmental Protection comments that he has not had a single complaint of any sort of nuisance from McDonalds to date, so it is difficult to say that the additional hours of opening will cause any additional problems. He states that most of the complaints raised as a result of consultation on the current proposal are incidents which occur during the day when he would expect McDonalds to be busiest, when the car park is fuller etc. and they have not mentioned if these problems still occur at night when it would be quieter. He reiterates the point that the Council could grant them a trial period where they can open 24hrs for say the next 12 months; then if he received complaints of noise or other nuisance within this timescale, the situation could be reviewed then and the Council could refuse to extend the planning permission. He also doubts that there would be an increase in HGV vehicles calling in the middle of the night and suggests that servicing deliveries should be restricted to between 07:00 and 23:00 on Monday to Saturday, with reduced hours of 08:30 to 18:00 on Sundays in order not to cause noise nuisance.

The restaurant franchisee has commented that the issue in respect of HGVs is that they park on the road which leads up to Dove Tree Court (and indeed the McDonalds restaurant). McDonalds' vehicles do not park on this road and they understand from local residents that it is primarily vehicles serving the Subway (a company called 321 Distribution). The road is part of the adopted highway and therefore only the Council is in a position to take action against the vehicles but McDonalds would be happy to support where it can in this regard, as it impacts on the flow of traffic. In terms of the noise generated by vehicles speeding through the vehicular lane between the take-away and the boundary with Dove Tree Court, the restaurant has suggested that they install "sleeping policemen" within the lane, which would reduce speed. The Council could impose this as a condition.

With regard to anti-social behaviour, the police liaison officer states that there appears not to be a problem at the present, but this could be due to the restricted hours. He makes the same recommendation as the Head of Environmental Protection i.e. that McDonalds could be given a trial period of 12 months in order to ascertain whether it would become an issue.

Other Issues

The proposal is not considered to raise any issues relating to car parking or any other issues.

CONCLUSION

When the Council allowed the restaurant to open earlier than previously (i.e. 5am rather than 6am), it granted a temporary one year permission, in order to gauge the impact on the immediate residential neighbours, prior to granting a full permission. Whilst I have sympathies with the immediate neighbours in Dove Tree Court, I feel that the suggestion made by consultees with regard

to a trial period is reasonable. Also, the extended use would provide 40 additional part-time jobs (15 FTE), which would add to the economy and is one of the core principles of the NPPF. Subject to conditions requiring the extended use to cease in 12 months time (unless a permanent planning permission is granted at the end of that period) and restricting delivery times, I consider that the proposal is acceptable.

HUMAN RIGHTS ACT

Under Article eight and Article one of the first protocol to the Convention on Human Rights, a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedoms of others. It is not considered that the application raises any human rights issues.

CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the Council's general duty, in all its functions, to have regard to community safety issues as required by section 17 of the Crime and Disorder Act 1998.

Recommended Decision: Grant Permission

Conditions and 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).

2. Notwithstanding condition 1 above at least one month before premises are first opened to the public for 24 hours a day, the applicant shall notify the Local Planning Authority of the date of that first opening, and at the end of twelve months from that date, the opening times shall revert to those approved under application 14/0509.

Reason: To enable the Local Planning Authority to assess the impact of 24 hour opening on the amenities of residents in the area in accordance with Policies BH3 and BH17 of the Blackpool Local Plan 2001-2016.

3. All servicing and deliveries shall be carried out at the premises between the hours of 07:00 and 23:00 on Monday to Saturday and between the hours of 08:30 and 18:00 on Sundays; and not outside these times.

Reason: In the interests of residential amenity and in accordance with Policy BH3 of the Blackpool Local Plan 2001 - 2016.

4. Prior to the restaurant/take-away first opening for 24 hours, "sleeping policemen" shall be installed in the vehicular lane along the side of the building which contains the take-away window, in such a manner as to reduce/control the speed of traffic using that lane.

Reason: In the interests of residential amenity and in accordance with Policy BH3 of the Blackpool Local Plan 2001 - 2016.

Advice Notes to Developer

1. Please note this approval relates specifically to the details indicated on the approved plans and documents, and to the requirement to satisfy all conditions of the approval. Any variation from this approval need to be agreed in writing by the Local Planning Authority prior to works commencing and may require the submission of a revised application. Any works carried out without such written agreement or approval would render the development as unauthorised and liable to legal proceedings.