

Report to Planning Applications Committee
Date 3 April 2014
Report of Head of Planning Services
Subject 14/00028/VC McDonalds 162 Barrett Road NR1 2RT

Item
4(5)

SUMMARY

Description:	Variation of condition 10 of previous planning permission 4/1995/0003 to allow 24 hour trading 7 days per week for both the restaurant and drive-thru
Reason for consideration at Committee:	Objections and deferred at the last committee
Recommendation:	Approve
Ward:	Lakenham
Contact Officer:	Mr John Dougan Planner 01603 212504
Valid Date:	9 January 2014
Applicant:	McDonald's Restaurants Limited
Agent:	Savills (UK) Limited

INTRODUCTION

Background

1. This application was referred to planning committee on 6 March 2014 and was deferred on the grounds that members wanted officers to consult Norfolk Constabulary regarding their concerns relating to existing anti-social behaviour associated with the site and the potential for this being intensified as a result of the extended hours.
2. Their full response is appended to this report and summarised at paragraph 15 and is assessed at paras 39-43.
3. In summary, the police concluded that an extension of hours is unlikely to have any significant impact on the levels of anti-social behaviour at the premises. They also concluded that the submitted management plan covers many of the points that the police would associate with good management of a late night venue. The police also recommended a series of improvements to the on-site CCTV system.
4. The applicant agreed to incorporate these recommendations, incorporating them within a revised management plan.
5. On the basis of the above the officer recommendation remains to approve the application subject to the conditions listed below.

The Site

Location and Context

6. This application relates to the McDonalds Restaurant and Drive-through at 162 Barrett

Road, which is immediately adjacent to a BP petrol station. There are small commercial units to the north and residential dwellings to the east of the site. The restaurant is situated close to the northern side of the Outer Ring Road junction with Hall Road.

Planning History

4/1995/0003/F - Demolition of existing PH and construction of petrol filling station and restaurant. Approved February 1995.

09/01100/F - Reconfiguration of drive through lane. Approved December 2009.

09/00731/F - Erection of extension and change to elevations including removal of light beams and dormers from roof and drive through booth and landscaping/ external lighting arrangements. Approved October 2009.

11/00936/VC - Variation of condition 10 of previous planning permission 4/1995/0003 to allow (a) restaurant opening hours between 5am and 11pm and (b) 24 hour opening of the drive through take-away facility. Refused August 2011.

13/01024/VC - Variation of condition 10 of previous planning permission 4/1995/0003 to allow 24 hour trading 7 days per week for both the restaurant and the drive-thru. Withdrawn July 2013.

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

7. Condition 10 of the original approval (4/1995/003/F) stated that the restaurant the subject of this permission shall not be open before 8am or after 11pm on any day.
8. The application proposes that this condition be varied to allow the restaurant and drive-thru to operate 24 hours per day and 7 days per week.
9. It is also proposed to replace the existing air handling and extraction units with quieter models.

Representations Received

10. Adjacent and neighbouring properties have been notified in writing. 5 letters of representation have been received citing the issues as summarised in the table below.

Issues Raised	Response
Late night noise from users of the car park and customers on foot.	See paragraphs 16-43
Would attract people leaving pubs and clubs.	See paragraphs 16-43
Pollution from idling cars.	See paragraph 45
Smell from the premises.	See paragraph 44
Increased litter.	See paragraphs 34-35
Health implications of fast food.	See paragraph 46

Additional traffic.	See paragraphs 49-52
Concern over staff parking inappropriately in the surrounding area.	See paragraph 52
Concern over cumulative impacts, with petrol station and if the proposals for ASDA on Hall Road go ahead.	See paragraphs 47-48
Why are they allowed to continue to apply.	The previous application in 2013 was withdrawn. There is nothing to prevent an applicant from resubmitting the application.
Devaluation of property.	This is not a material planning consideration.

11. In addition two letters have also been received from Simon Wright MP enclosing some of the above objections and raising concerns that McDonalds have made the application and the disturbance this could cause to nearby residents. The letters request that their concerns be taken into account and responded to.

Consultation Responses

12. Transportation – no comments to make

13. Fire officer – No objection, they make reference to a revised petroleum license and the conditions attached to it which require McDonalds co-operation and requires closure of the accesses and car parks at the site whilst a petroleum delivery takes place.

14. Environmental health - If the conditions set out in the management plan are adhered too and the recommendations set out in the noise impact assessment are implemented then I consider that the opening of McDonalds at 162 Barrett Road Norwich, should not have a detrimental impact on the amenity in term of noise nuisance.

According to Environmental Health records there has been one formal noise complaint relating to the McDonalds site in February 2007 relating to delivery noise, refuse collections, cars revving and bad language of users of the restaurant.

15. Norfolk Constabulary (police) – The police concluded that it is impossible to predict if the extension of hours will result in a significant increase in anti-social behaviour. However, on the basis of observations of a comparative site, it is unlikely that the extended hours would result in a significant increase in anti-social behaviour. Improvements to the CCTV system would assist the police and council investigate any future incidents at the venue if required (the full response is appended to this report).

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

Paragraphs 9 and 17 – Amenity

Statement 1 Building a strong a competitive economy

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

Policy 5 the economy

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

EP22 High standard of amenity for residential occupiers

EMP2 Growth of existing businesses

TRA8 – Provision in development for servicing

Other Material Considerations

Written Ministerial Statement: Planning for Growth March 2011

Emerging policies of the forthcoming new Local Plan (submission document for examination, April 2013):

Development Management Policies Development Plan Document – Pre-submission policies (April 2013).

DM2 - Ensuring satisfactory living and working conditions

DM24 – Hot food takeaways

DM30 – Access and highway safety

DM31 – Car parking and servicing

Procedural Matters Relating to the Development Plan and the NPPF

The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF), both sets of policies have been subjected to a test of compliance with the NPPF. The 2011 JCS policies are considered compliant, but some of the 2004 RLP policies are considered to be only partially compliant with the NPPF, and as such those particular policies are given lesser weight in the assessment of this application. The Council has also reached submission stage of the emerging new Local Plan policies, and considers most of these to be wholly consistent with the NPPF.

Policy DM2 is subject to a single objection raising concern over the protection of noise generating uses from new noise sensitive uses, this is not relevant here and therefore significant weight can be given to policy DM2. There are no objections to policy DM24 and therefore significant weight can be given to this policy. Policy DM30 is subject to an objection relating to the provision of accesses, it is considered that limited weight be given to this policy. Policy DM31 is also subject to objections relating to car parking provision and existing baseline provision of car parking in considering applications it is considered that limited weight should be given the car parking standards of this policy at the present time with substantive weight to the other matters.

Principle of Development

Policy Considerations

16. The site is an established fast food outlet with restrictive operating hours. There is no principle policy objection to the proposals; indeed the NPPF supports sustainable economic growth. In this case therefore the main issues to consider are neighbour amenity implications, anti-social behaviour, health implications and transport implications including the ability to safely service the petrol station.

Background to Former Applications

17. It should be noted that there was a previously refused application to increase the hours of operation (11/00936/VC), which was refused for the following reasons:
- The proposed variation of the opening hours of the restaurant and the drive through facility would have a significant detrimental impact upon the living conditions of the nearby residents by virtue of noise pollution and disturbance at anti-social hours.
 - The proposed variation of the opening hours to allow a 24 hour opening of the drive through facility would be detrimental to the safe operation of the unassisted tanker deliveries by reason of the restricted shared access and resultant site security problems.
18. On examination of that application there was insufficient supporting evidence to justify that the additional hours would not have a significant additional adverse impact on the amenities of the nearby residential properties or the safe operation of the BP service station.
19. In 2013 the applicant submitted a similar application and was advised by officers that in the absence of any further supporting material or changed circumstances the decision would likely be the same as in the 2011 case. The applicant subsequently withdrew the application.
20. Subsequent to this the applicant commissioned the services of an acoustic consultant to undertake a noise impact assessment, create a site management plan and embarked on discussions with the fire officer in developing an operations plan for petroleum deliveries to the petrol station.

Neighbour Amenity

Noise

21. The applicant has conducted a noise impact assessment (NIA) and submitted this with the application. This assesses the noise implications of the fixed roof top plant, use of the car park and use of the drive through facility.
22. The key receptors are considered to be the residential properties to the east and northeast all of which have external amenity areas next to the car parking and/or drive through areas of the site. With particular consideration given to the closest properties being no.160 Barrett Road and 32-42 Randolph Road.
23. It should be noted that the site already has consent to operate the restaurant and drive-thru and parking areas between the hours of 0800 and 2300. The additional hours occur over the night time period between 2300 and 0800 and therefore it is impact during these hours which is assessed.
24. The noise assessment has assessed the roof top plant in line with BS4142 (rating industrial noise) against background noise levels and noise from the car park and drive through against ambient noise levels.
25. In terms of development plan policy EP22 requires a good level of amenity for existing residential occupiers, emerging policy DM2 requires development to prevent noise disturbance and DM24 details that hot food takeaways will be permitted where there are

no unacceptable environmental effects which could not be overcome via condition and the proposal has safe and convenient access and would not be detrimental to highway safety. The policy details that development will be subject to conditions on hours where necessary to protect the amenities of surrounding occupants. The policy relates to applications such as this seeking the relaxation of restrictive conditions.

Noise – Roof Top Plant

26. In relation to the plant noise environmental health has advised that the plant noise should be 10dB below background noise levels over the night time period. The existing plant did not meet these criteria and therefore the application includes the replacement of the kitchen extract system and air-handling units with new quieter models to meet this requirement. Subject to the replacement of this plant it is not considered that there would be any adverse impact to neighbouring properties as a result of noise from the plant. It is recommended that the replacement of the plant form a condition of any consent.

Noise – Car Park

27. Turning to the car park, it is difficult to determine the exact level of noise emitted from the car park as every activity and occasion could generate different levels of noise. The noise consultant's observation of the site and of similar restaurants indicate that there are generally no significantly noisy activities during early morning, late evenings or overnight night periods. They are also of the opinion that a typical early morning customer is on their way to and from work and tends not to linger on the site and the majority of overnight customers are taxis, shift and emergency service workers so are similarly brief in their time on site.

28. The NIA considers normal customer use of the car park and concludes that the overall noise generated by use of the car park is predicted to be at worst 10dB less than the quietest existing ambient conditions. Maxima levels are predicted to be generally lower than current impulsive noise events. At 160 Barrett Road the slamming of car doors may be audible at certain quiet times of the night, but this is unlikely to be disturbing within the context of existing ambient conditions.

29. This considers normal use and it is acknowledged that there may be events of anti-social behaviour including bad language, revving of cars and loud music which would cause annoyance to nearby residents. It is not considered that such events can reasonably be predicted or assessed as part of the NIA and therefore to tackle these events the applicant has submitted a management plan which covers a number of matters and is discussed further under the anti-social behaviour section below.

Noise – Drive Through

30. The key noise emitters from the drive through are generated by the customer order display (COD) intercom and vehicles using the drive-thru area.

31. The conclusion of the assessment found that the noise from the use of the COD is predicted to be well below the quietest night-time ambient level at the receptor facades during 24 hour trading, not having an adverse impact on any of the receptor facades at any time. However, the noise consultant recommended that the 'night time' volume setting for the COD intercom could be switched on, reducing its noise levels and that this be automatically set to operate between midnight and 0600.

32. The assessment concluded that the level of noise emitted from cars using the drive-thru would not have an adverse impact on any identified receptors at any time.

33. In sum the NIA is considered to be appropriate and confirms that normal use of the premises should not give rise to unacceptable noise impact.

Anti-social behaviour

34. The applicant has identified anti-social behaviour as a concern of local residents and has submitted a management plan which deals with these matters. In particular this details the following:

- .34.1. Litter collection in the surrounding area at least three times a day, the first at 6am and last at 11pm;
- .34.2. Shift managers provided with conflict resolution training so that they can deal with anti-social behaviour and advised to actively engage with customers who may be creating noise or displaying anti-social behaviour, or where health and safety is an issue to engage with the police for support;
- .34.3. To keep a log of any events;
- .34.4. Taking action as a result of external complaints and looking for ways to tackle it, including liaising with the Council and police and taking witness statements where necessary;
- .34.5. Signage requesting customers be respectful;
- .34.6. Setting the intercom at a lower level at night;
- .34.7. CCTV monitoring of the car park and monitoring any anti-social behaviour;

35. It is recommended that the measures in the management plan form a condition of any consent. It is not considered that further mitigation is available and subject to the implementation of the management plan it is not considered that a reason for refusal along the lines of the proposals causing anti-social behaviour could be substantiated.

36. Police records indicate 6 incidences of anti-social behaviour in the last 12 months at the premises. On examination of each incident it is evident that 3 occurred within the restaurant, 1 outside the restaurant, 1 unconnected with McDonalds and with people sleeping rough in a van in the car park.

37. Given that 3 incidents occurred within the restaurant, it is likely that the level of noise would have been low, reducing the level of nuisance to surrounding uses in particular the nearby residential properties to the east and north-east.

38. It is acknowledged that the incident of the verbally abusive customer in the car park may have resulted in some nuisance to the nearby properties. Although, based on this evidence, a single incident cannot be considered significant in the context of the site and its surroundings. Indeed, the police concluded that staff at McDonalds had intervened and requested police assistance when required.

39. The police are of the view that it is very difficult to predict if the extension of hours would result in significantly higher levels of anti-social behaviour. However, for comparative purposes they looked at the MacDonalds on Boundary Road which operates on a 24 hour basis.

40. Since August 2013, the police observed that there were 3 incidences at that site, two of which occurred outside the restaurant. This would indicate that an extension of hours at the application site, is unlikely to have any significant impact on the levels of anti-social behaviour at the premises.

41. The police were of the view that the extension of hours would not result in significant levels

of anti-social behaviour and that the proposed management plan was acceptable for the purposes of good management of a late night venue. Nevertheless, they met the manager at the premises, making a series of recommendations relating to improvements to the CCTV coverage on the site.

42. The applicant agreed to incorporate these recommendations into a revised management plan.
43. It is also recommended that a condition be added, requiring that prior to extending the hours of operation, details of CCTV coverage be submitted to and approved by the local planning authority.

Odour

44. The proposals would extend the period for cooking on the premises and therefore extraction will be in use for a longer period. No significant odour issues have been identified with the existing operation and it is noted that the applicant is proposing to upgrade the extraction system. In the circumstances it is not expected that any significant impact on amenity would occur as a result of odour.

Air pollution

45. It is acknowledged that idling vehicles emit fumes from their exhausts which in certain environments can lead to significant pollution. The site is not in an air quality management zone and the levels of vehicle movements during the night would not be expected to generate any significant levels of pollution which could give rise to harmful levels of emissions.

Health Considerations

46. Health considerations have been found elsewhere to be a material planning consideration, for example where the proposals are close to schools and the local authority have policies in place relating to this matter. In this case the authority has no such existing or emerging policies on the matter, the proposed hours are in any case outside the hours of operation of nearby schools. It is therefore not considered that a refusal on the basis of the health implications of allowing extended fast food facilities could be upheld.

Cumulative impacts

47. The adjoining petrol station is open 24 hours per day. On examination of the representations it is evident that some of the nearby residents are of the view that some of the noise and anti-social behaviour was being emitted from the petrol station and the main road. In addition concern has been raised over the cumulative impact and possible increase in activity in the area should the proposals for ASDA at the Bally Shoe Factory site on Hall Road come forward.
48. In this regard it is acknowledged that the area to the east of the site is residential in character however it is also located on the Outer Ring Road with uses in the wider area being varied. This does result in greater activity and road traffic noise and generally higher background and ambient noise levels than might be considered elsewhere in the City and these have been factored into the above assessments. It is not considered that these other uses and approvals considered cumulative would materially alter the assessment made here.

Highways, access and servicing

49. Discussions with the Fire Officer indicate that the 24 hour operation of the site would not compromise the safe refuelling of the petrol station subject to the procedures agreed at the licensing consent.
50. Any traffic movements associated with the use of the site between the hours of 11pm and 8am cannot be considered to be significant in the context of the existing hours of operation. Movements are likely to be less compared to peak traffic during the day and therefore the access is suitable and there are no significant concerns over highway safety.
51. The management plan submitted indicates that deliveries to the restaurant will be limited to between 5am and 10pm and refuse collections limited to between 6am and 10pm. Environmental Health have recommended a restrictive condition preventing deliveries between 7pm and 7am. However given that there are no restrictions on existing delivery operations at the site under its current consent it is not considered that it would be reasonable to now impose such a condition.
52. In terms of parking, the site has sufficient capability to accommodate the reduced demand for staff and customer parking during these evening hours. Staff choosing to park their cars elsewhere is outside planning control.

Local finance considerations

53. The proposals are not considered to give rise to any particularly local finance considerations.

Conclusions

54. On the basis of the noise impact assessment submitted it is not considered that there would be any significant impact on the amenities of neighbouring residents as a result of normal use of the hot food takeaway. Subject to compliance with the management plan it is not considered that the operator has provided adequate mitigation for anti-social behaviour and it is considered that a refusal along these lines would be extremely difficult to uphold. Regard has also been given to odour, air pollution, health considerations, cumulative impacts and access and servicing of the site and the neighbouring petrol station however none of these matters are considered to give rise to significant demonstrable harm as such it is recommended that the application be approved subject to the conditions outline in the recommendation below.
55. The response from police demonstrates that there is insufficient evidence to suggest that the extension of hours would result in significant levels of anti-social behaviour between the hours of 2300 and 0800 and that the extension of hours is unlikely to result in levels of anti-social behaviour which would have a significant adverse impact on the amenities of neighbouring properties.

RECOMMENDATION

To approve application no.14/00028/VC at McDonalds, 162 Barrett Road and grant planning permission, subject to the following conditions:-

1. Standard time limit

2. In accordance with the approved plans
3. Replacement of roof top plant in accordance with the Noise Impact Assessment;
4. Compliance with the management plan in terms of litter collection, noise and disturbance management and CCTV operation.
5. Prior to commencement, details of CCTV coverage to be submitted for approval

Article 31(1)(cc) Statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, following negotiations with the applicant during the previously withdrawn application (13/01024/VC) including provision of appropriate supporting information (noise impact assessment and site management plan), the application has been approved subject to appropriate conditions and for the reasons outlined above.



NORFOLK

CONSTABULARY

Our Priority is You

Mr John Dougan
Planning Services
Norwich City Council
City Hall
Norwich
NR2 1NH

17th March 2014
Ref No: 14/00028/VC

Norfolk Constabulary

Norwich Operational Partnership Team
Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel: 01603 276087
Fax: 01603 276007
Email: davisomp@norfolk.pnn.police.uk

www.norfolk.police.uk
Non-Emergency Tel: 101

Dear Mr Dougan,

Application Number: 14/00028/VC

Location: McDonalds 162 Barrett Road Norwich NR1 2RT

Proposal: Variation of condition 10 of previous planning permission 4/1995/0003 to allow 24 hour trading 7 days per week for both the restaurant and the drive-thru.

Thank you for allowing me to comment on the above proposal, as the Architectural Liaison / Crime & ASB Reduction Officer for Norwich, I have viewed the application and associated paperwork together with the crime figures and incident reports at the location for the last 12 months. I have also spoken with colleagues on the Police Licensing Team and Inspector Jonathan Papworth who is the Local Policing Commander for Norwich South.

In the last 12 months Norfolk Constabulary have recorded the following incidents of Anti-Social behaviour as taking place at the premises:-

CR25476/13/6	Tue 11/06/13 1600 - 1630	ASB – 2 males verbally abusive to another customer inside restaurant
NC-07082013-111	Wed 07/08/13 0930 - 1000	ASB – 2 males verbally abusive and threatening to another customer inside restaurant
CR53731/13/9	Wed 20/11/13 1515 - 1535	Common Assault – Students from nearby school involved in scuffle outside restaurant (<i>unconnected to McDonalds</i>)
CR8006/14/1	Wed 20/11/13 2130 - 2135	ASB – Male verbally abusive to female on restaurant car park
NC-24012014-635	Fri 24/01/14 2240	Environmental ASB – People sleeping rough in van on restaurant car park
NC-05022014-437 CR9070/14/0 CR5863/14/9	Wed 05/02/14 2030	Common Assault – Altercation between 2 females inside restaurant, staff member intervened and also assaulted by one of the females.

Four of the above incidents involve persons under the age of 18; all appear to be a disagreement between customers (excluding the Environmental ASB on 24/01/14). In the majority of these incidents the staff at McDonalds have intervened and requested Police assistance when required.

We will answer letters within 10 working days, where information is available.
Where this is not possible, an explanation will be given for any delay.



You asked "Would the extension in hours result in significantly higher levels of anti-social behaviour?" Clearly this is very difficult to predict although the potential for an increase in Anti-Social Behaviour cannot be ruled out. As a comparison I have looked at the McDonalds Restaurant on Boundary Road, Norwich, the two restaurants are comparable in terms of location and demographic of surrounding area. The restaurant and drive thru at this location has been open 24 hours a day 7 days a week since August 2013. Since this time Police have recorded three incidents of Anti-Social behaviour between 2300 and 0800 hours:-

NC-19112013-45	Tue 19/11/13 0330 hours	ASB – Group of drunk males being abusive to staff and refusing to leave
NC-01012014-195	Wed 01/01/14 0400 hours	ASB – Group of rowdy males banging on windows of drive thru
CR12488/14/4	Sun 16/03/14 0130 hours	Criminal Damage – Male kicked glass entrance/exit door causing it to smash

Three incidents in seven months at a comparable McDonalds indicate that an extension of hours is unlikely to have any significant impact on the levels of anti-social behaviour at the premises.

The 'Management Plan' covers many of the points that we would associate with good management of a late night venue. On Friday 14th March 2014 I attended the restaurant and had a meeting with the Manager Dean Marshall in relation to CCTV. Dean kindly agreed to show me the CCTV system that is currently in operation at the restaurant and I have made a number of recommendations on how the system can be improved:-

- The CCTV coverage on the Northern side of the car park is limited; two cameras attached to the restaurant face in this general direction but are unlikely to provide any useable footage of this area (particularly during the hours of darkness). *I recommend that additional cameras should be provided to cover this area.*
- The Management Plan states that the CCTV system can be used to capture footage of vehicle registration plates, whilst this may be possible for vehicles that use the drive- thru, I do not believe this will be possible for vehicles that enter or leave the car park without using the drive-thru. *I recommend that the CCTV should be upgraded so that the registration of all vehicles entering the car park can be identified.*
- The CCTV coverage within the Restaurant is good and would allow officers investigating an offence to observe what has taken place. However the most common failings in a CCTV system is having image sizes that are too small to enable identification and recognition. A key element of most systems is the ability to identify persons entering and leaving the premises. *I recommend that an additional internal camera should be installed that is capable of recording large images (100% screen height) at the restaurant entrance i.e. clear image of face plus characteristics of clothing, items carried etc.*
- I understand that the recorded image is a noticeably lower standard than the live view. *I recommend that the recorded image should be of similar quality to that of the live view. The video should be recorded at its original size with a minimal amount of compression.*
- Recorded images are currently available for two weeks following an incident. *I recommend that the system should have sufficient storage capacity for 31 days of good quality footage (see above).*

I trust that this information is helpful and will assist the Planning Committee in making an informed decision. As stated above it is impossible to predict if the extension in hours will result in a significant increase in Anti-Social behaviour, however the recommended improvements to CCTV would assist the Police and Council investigate any future incidents at the venue if required.

Please do not hesitate to contact me should you wish to discuss the contents of this letter further.

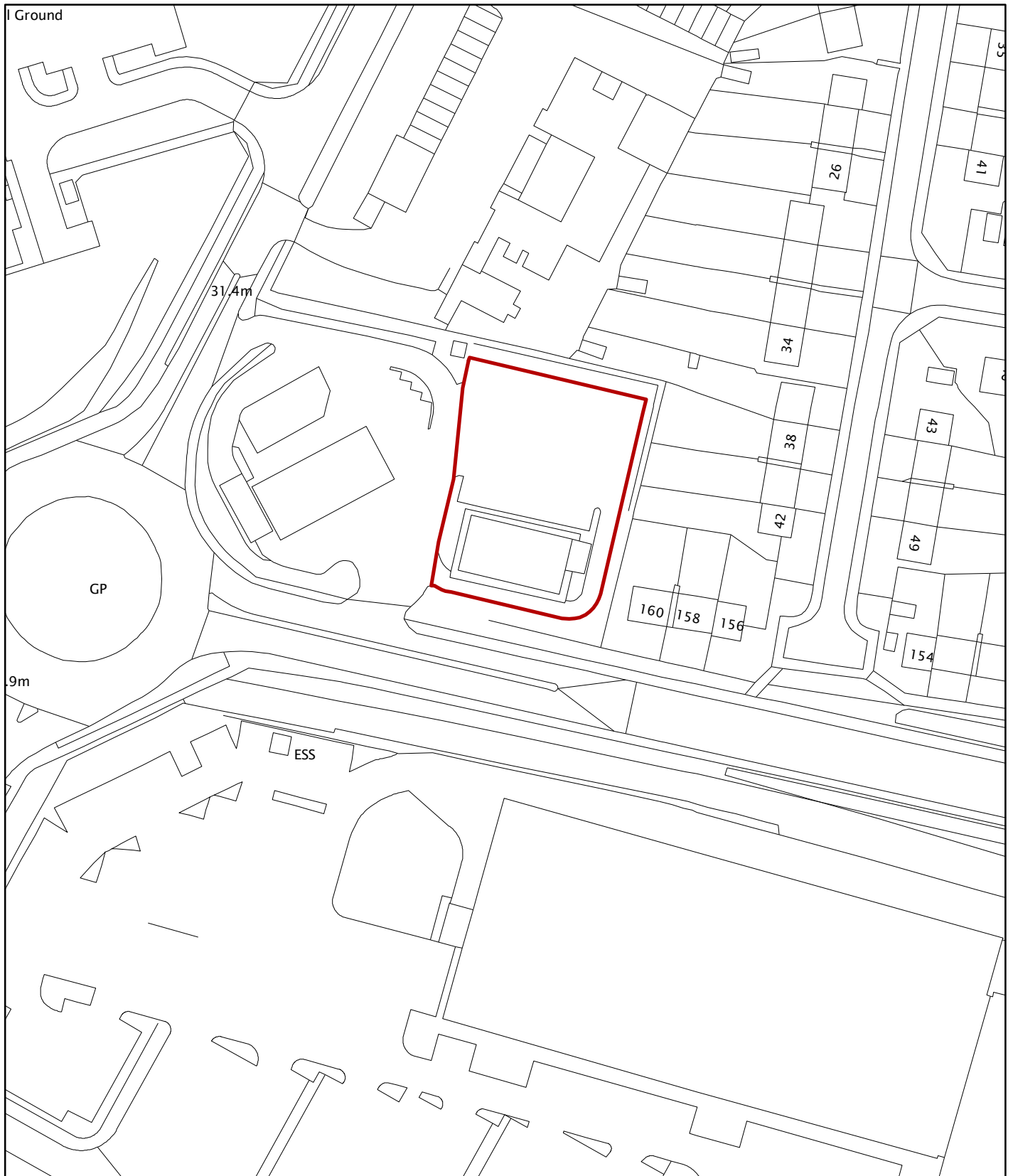
Yours sincerely



PC 313 Peter Davison
Crime & ASB Reduction Officer / Architectural Liaison Officer (Norwich)

We will answer letters within 10 working days, where information is available.
Where this is not possible, an explanation will be given for any delay.





© Crown Copyright and database right 2014. Ordnance Survey 100019747.

Planning Application No 14/00028/VC

Site Address McDonalds
Barrett Road

Scale 1:1,000



NORWICH
City Council

PLANNING SERVICES

