

Report to Planning applications committee
Date 6 March 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
Recommendation:	Approve
Ward:	Lakenham
Contact Officer:	Mr John Dougan Planner 01603 212504
Valid Date:	9 th January 2014
Applicant:	McDonald's Restaurants Limited
Agent:	Savills (UK) Limited

INTRODUCTION

The Site

Location and Context

1. 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 Withdrawn July 2013.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

2. 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.
3. 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.
4. It is also proposed to replace the existing air handling and extraction units with quieter models.

Representations Received

5. 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 15-29
Would attract people leaving pubs and clubs.	See paragraphs 15-29
Pollution from idling cars.	See paragraph 31
Smell from the premises.	See paragraph 30
Increased litter.	See paragraphs 28 and 29
Health implications of fast food.	See paragraph 32
Additional traffic.	See paragraphs 35-37
Concern over staff parking inappropriately in the surrounding area.	See paragraph 38
Concern over cumulative impacts, with petrol station and if the proposals for ASDA on Hall Road go ahead.	See paragraphs 33-34
Why can 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.

6. In addition two letters have also been received from Simon Wright MP enclosing some of the above objections and raising concerns that McDonalds has 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

7. Transportation – no comments to make
8. 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.
9. 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.

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

10. 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

11. 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.
12. 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.
13. 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.

14. 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

15. 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.
16. 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.
17. 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.
18. 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.
19. 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

20. In relation to the plant noise environmental health had 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

21. 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.

22. 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.
23. 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

24. The key noise emitters from the drive through are generated by the customer order display (COD) intercom and vehicles using the drive-thru area.
25. 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.
26. 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.
27. 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

28. 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:
 - (a) Litter collection in the surrounding area at least three times a day, the first at 6am and last at 11pm;
 - (b) 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;
 - (c) To keep a log of any events;
 - (d) 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;
 - (e) Signage requesting customers be respectful;
 - (f) Setting the intercom at a lower level at night time;
 - (g) CCTV monitoring of the car park and monitoring any anti-social behaviour;
29. 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.

Odour

30. 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

31. 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

32. 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

33. 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.
34. 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

35. 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.
36. 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.
37. 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 has 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.
38. 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

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

Conclusions

40. 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.

RECOMMENDATION

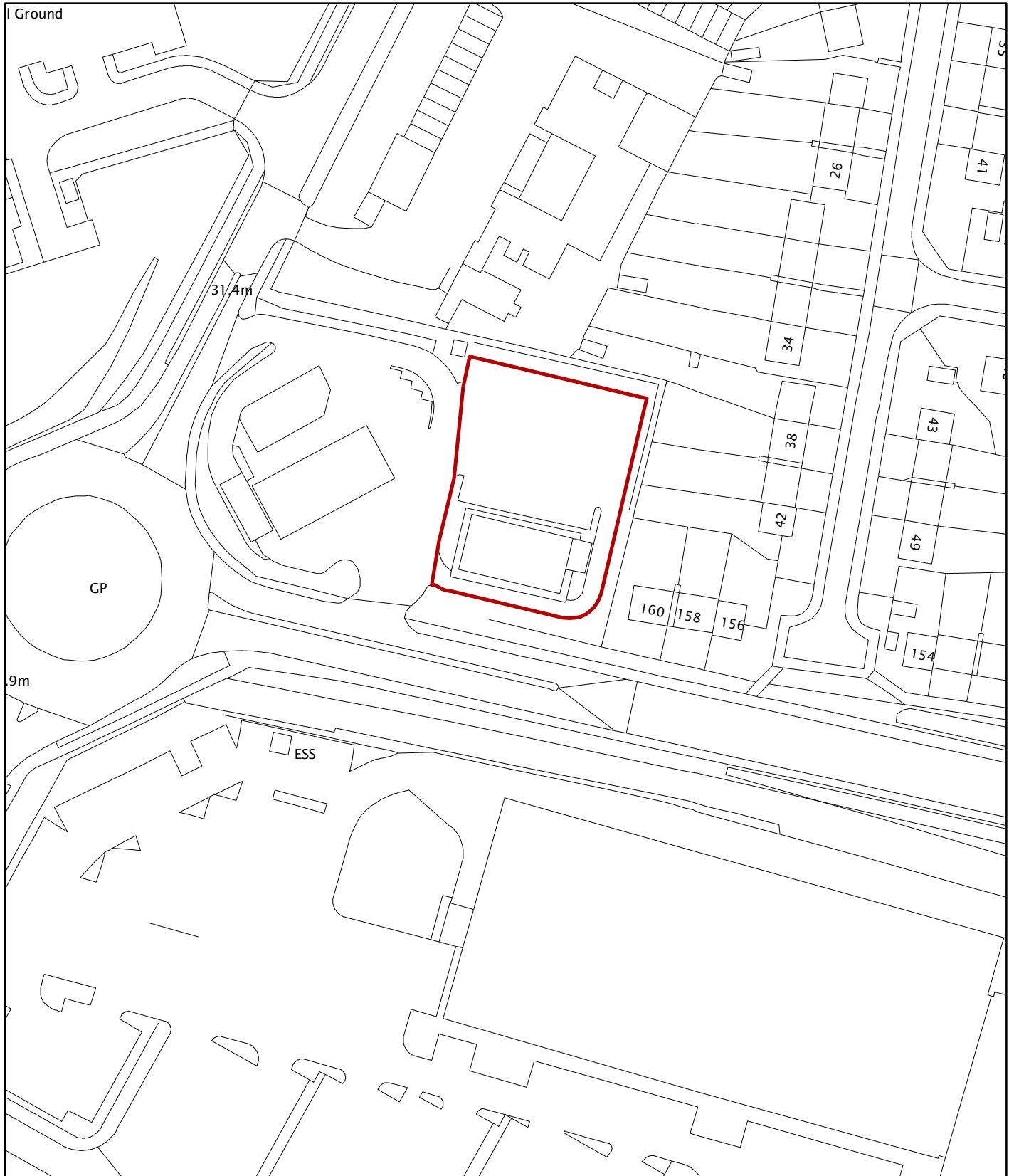
To approve application no.14/00028/VC at McDonalds, 162 Barrett Road and grant planning permission, subject to the following conditions:-

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.

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.



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Planning Application No 14/00028/VC

Site Address McDonalds
Barrett Road

Scale 1:1,000



NORWICH
City Council

PLANNING SERVICES

