

<u>APPLICATION NO:</u>	24/00036/FUL	<u>CASE OFFICER:</u>	Maxine Wishart
<u>WARD:</u>	Prescot North	<u>PARISH:</u>	Prescot Town Council
<u>LOCATION:</u>	McDonalds Restaurant, Cables Retail Park, Steley Way		
<u>PROPOSAL:</u>	OPERATION OF DRIVE-THRU RESTAURANT WITHOUT COMPLIANCE WITH CONDITION 1 OF PERMISSION 09/00639/FUL TO ALLOW 24 -HOUR OPENING		

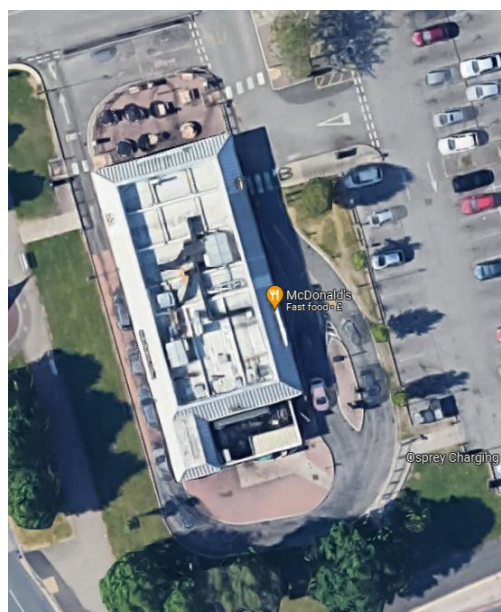
KNOWSLEY LOCAL PLAN ALLOCATION –

Existing Retail Park

Site Description

The application relates to an existing McDonalds restaurant sited within the Cables Retail Park, Prescot.

The site layout incorporates side-by-side drive-thru ordering lanes with customer ordering points (canopies with and associated customer order display with integrated screens, microphones/camera and speakers). The ordering points are located to the eastern side of the restaurant with cars entering the drive-thru pointing towards Steley Way. To the northern end of the premises there is an outside seating area with associated lighting columns and fencing.

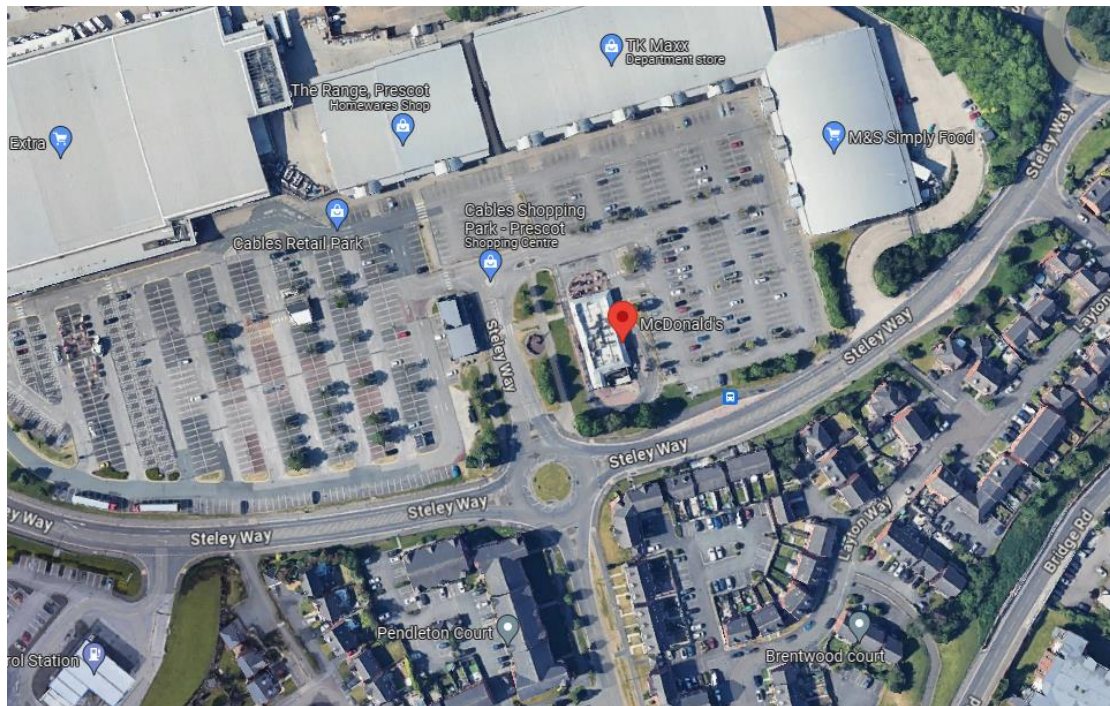


Retail units are located to the north and east of the site beyond the car park serving the Retail Park. Within the Park located approximately 130m to the north-west of the

application site there is a Tesco Extra supermarket which currently operates between the hours of 8am- 6pm on Mondays, 6am – midnight Tuesday – Saturday and 10am – 4pm on Sundays.

Immediately to the south of the site is a residential development with dwellings that face onto Steley Way, which separates the Retail Park and the residential development.

To the southwest of the site is the Tesco Petrol Filling Station accessed off Steley Way and operating on a 24hr basis.



Proposal

Planning permission is sought to operate a Drive-Thru Restaurant without compliance with Condition 1 of planning permission granted under reference 09/00639/FUL which restricts the hours of operation and to allow the premises to have 24-hour opening. The description of development indicates that the proposal seeks consent to open 24 hours each day, however, it should be noted that the applicant wishes to only extend the opening hours of the drive-thru to 24/7.

Condition 1 is worded as follows:

The use hereby permitted shall not operate or customers be served or accommodated on the premises outside the hours of 05:00 hours until 24:00 hours (midnight) on any day

Reason: To safeguard the amenities of nearby residents and to comply with saved Policies ENV1 and ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

When the restaurant was first granted planning permission in 1999 the hours of operation were restricted to the hours of 7am to midnight. These hours were

amended by planning permission granted referenced 04/01378/FUL which allowed opening hours of 6am to midnight on any day.

The hours were further extended in 2010 allowing opening hours of 5am until midnight on any day under planning reference 09/00639/FUL.

However, in 2007, 2010 and again in 2013 planning permission was refused for applications which sought to vary the hours of use to allow opening 24-hours 7 days a week, references 07/0104/FUL, 10/00593/FUL and 13/00455/FUL refer.

The premises currently therefore has permission to operate between 05:00 and 00:00 7 days a week.

Consultations

Prescot Town Council - No comments received.

Environmental Health - Raise concern relating to the increase in number of cars and people who would potentially attend the area (proposed 36 cars/hr) and the noise associated with the activity affecting the nearby residents.

Highway Authority - No objections.

Merseyside Police HQ - Object on the grounds that this location is already an anti-social behaviour hotspot location which requires significant resourcing from their teams in order to prevent and detect crime and ASB, pursue offenders and protect people. McDonalds is one of their repeat locations. Offences and ASB in last 3 years has increased in this area with calls from McDonalds doubling in 2 years. If granted would cause a further spike in demand.

Town Centre Management - No comments received.

Representations

This application has been publicised by letters sent to 40 neighbours. It has also been advertised by Site Notice.

There have been 25 letters of objection. The representations are summarised as follows:-

a) Noise Pollution

- Bedroom overlooks car park and over last 12 months have made many complaints regarding noise and anti-social behaviour.
- Too close to residential estate – patrons disturb residents.
- Customers collect food from drive-thru and park on retail car park playing loud music sing and play football.
- Congregation of up to 15 individuals kicking balls against trolley sheds which can be heard from dwellings disturbing sleep.
- Constant noise of an evening from 9pm - 12pm from cars playing loud music and screeching around the car park, this will only get worse if McDonalds is allowed to open from midnight to 5am.

- Noise from customers ordering and staff replying on the intercom.
- Noise nuisances when windows are open, especially the bedrooms.
- Work days and nights and it's already annoying and disturbing sleep when I have to be up at 4am and opening until midnight a problem.

b) Light Pollution

- Car headlights turn towards the ordering point shining across the road towards houses.
- Headlights shining into houses opposite.

c) Litter

- Issues with customers litter.
- Litter blows across into residents gardens.
- Existing pest Issues in area.
- Given up over the years complaining to their management.

d) Anti-Social Behaviour

- Congregation around the site - prior to lights being on all night youths put cars in circles to illuminate a playing area.
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- Gangs already come in their cars with lights on, play music and rev their engine, sound horns and hang around playing football until early hours in the morning.
- Cars rally around the retail park
- During the spring and summer months there is an increase in antisocial behaviour during the existing opening hours.
- Extending the opening hours would encourage anti-social behaviour to continue throughout the night leading to significant disturbance to local residents.
- Extending opening hours will encourage gangs to stay longer.
- Areas adjacent to the car park are used as a toilet even when McDonalds is open.
- McDonalds and lighting on retail park is a draw for young adults to come and cause disturbance.
- Residents have confronted anti-social behaviour culprits late at night.
- 24 hours opening will increase attraction to the retail park.

- Keeping the drive through open will only lead further anti-social behaviour and nuisance. If this application is granted it would continue throughout the night.
- The retail park is not policed throughout the night.

e) If planning permission granted will affect quality of life and that of the neighbours.

f) Police Interaction

- Merseyside police have been contacted several times regarding anti-social issues and are not interested as they are not doing anything wrong but it is disturbing our sleep and waking up our children.
- For last twelve months had no support from the police advised loud music from cars and 5 footballers were not issues for the police.
- Has had contact with local councillors and police and assured would tackle problem, that was over six months ago and nothing has changed.
- The police are useless and no longer have faith in anyone resolving it yet on 2nd May you will no doubt be asking us for our vote.

g) Traffic

- Increased traffic in the area.

h) Highway Safety

- Currently issues with congestion in car park on busy days under normal opening times it is an accident waiting to happen.

i) Need

- 24hr drive through in Huyton do not feel the need for this McDonald's to extend their hours. That unit is situated near office buildings and a bus station and is not in a housing estate and does not impact the residents.
- There is no need for them to stay open any longer than they already do.

j) Would seek legal action if this is granted to McDonalds which actually already poisons hundreds if not thousands of children in the area with their awful (food like substances).

k) Knowsley council should put their residents first on this occasion and deny the planning permission.

l) Visual Amenity

m) Community Responsibility

Applicant does not responsibly care for the community now, 24-7 would make this worse.

Relevant Planning History

APP. NO: 99/00431/APP
PROPOSAL: ERECTION OF APPROXIMATELY 318 SQ.M DRIVE THROUGH RESTAURANT AND ASSOCIATED CAR PARKING AND LANDSCAPING
DECISION: Granted
DECISION DATE: 21 September 1999

APP. NO: 04/01378/FUL
PROPOSAL: VARIATION OF CONDITION 7 OF PLANNING PERMISSION APP/99/00431 TO AMEND OPENING HOURS FROM 7.00 AM TO MIDNIGHT ON ANY DAY TO 6.00 AM TO MIDNIGHT ON ANY DAY.
DECISION: Granted
DECISION DATE: 27 January 2005

APP. NO: 07/01047/FUL
PROPOSAL: APPLICATION TO VARY CONDITION 7 ATTACHED TO PLANNING PERMISSION APP/99/00431 THAT RESTRICTED OPENING HOURS TO ALLOW THE RESTAURANT TO OPEN 24 HOURS, 7 DAYS PER WEEK.
DECISION: Refused
DECISION DATE: 20 December 2007

APP. NO: 09/00639/FUL
PROPOSAL: VARIATION OF CONDITION 1 ATTACHED TO PLANNING PERMISSION 04/01378/FUL TO ALLOW OPENING TIMES TO BE EXTENDED FROM 6 AM - MIDNIGHT ON ANY DAY TO 5 AM - MIDNIGHT ON ANY DAY.
DECISION: Granted
DECISION DATE: 15 March 2010

APP. NO: 10/00593/FUL
PROPOSAL: APPLICATION FOR VARIATION OF CONDITION NO. 7 ATTACHED TO PLANNING APPLICATION 99/00431/APP TO ALLOW THE DRIVE THRU TO OPEN 24 HOURS A DAY 7 DAYS A WEEK FOR A TEMPORARY PERIOD.
DECISION: Refused
DECISION DATE: 8 December 2010

APP. NO: 13/00455/FUL
PROPOSAL: VARIATION OF CONDITION NO.1 ATTACHED TO PLANNING PERMISSION 09/00639/FUL (VARIATION OF CONDITION 1 ATTACHED TO PLANNING PERMISSION 04/01378/FUL TO ALLOW OPENING TIMES TO BE EXTENDED FROM 6 AM - MIDNIGHT ON ANY DAY TO 5 AM - MIDNIGHT ON ANY DAY) TO ALLOW FOR THE PERMITTED USE TO OPERATE ON A 24 HOUR BASIS 7 DAYS A WEEK.
DECISION: Refused
DECISION DATE: 7 October 2013

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

NATIONAL PLANNING POLICY FRAMEWORK

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

DQ2 - Security in the Built Environment

ENV2 - Noise and Vibration

ENV3 - Light Pollution

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles

CS7 - Transport Networks

CS19 - Design Quality and Accessibility in New Development

SUPPLEMENTARY PLANNING DOCUMENTS

Ensuring a Choice of Travel SPD (2010)

The site falls within an area allocated as an existing retail park where the use is clearly an acceptable one.

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal, allowing the applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised

development.

Assessment

Background

As detailed in the relevant planning history section above when the premises were first granted planning permission in 1999 (Ref: APP/99/00431) the hours were restricted to 7am to midnight, this was amended in 2004 (Ref: 04/01378/FUL) to allow opening between 6am to midnight on any day. In March 2010 planning permission was granted to allow opening hours to be extended to 5am until midnight on any day (Ref: 09/00639/FUL. The premises currently operate to these opening hours.

However, since coming into operation there have also been three other applications relating to hours of use submitted in 2007, 2010 and 2013 all of which sought to extend the hours of operation to 24 hours 7 days a week and which were refused planning permission (Refs: 07/0104/FUL, 10/00593/FUL and 13/00455/?FUL refer).

Whilst this application seeks consent to operate without compliance with Condition 1 to allow the use of the premises on a 24 hour basis, it is noted that the supporting information indicates that it is intended for only the drive-thru element of the restaurant to operate for 24 hours.

Highways

The application does not propose any alterations to the site layout. It is noted that some objection has been made in regard to the increased traffic that would arise and existing issues with congestion in the car park on busy days. The Council's Highways Engineers have no objections to the proposal.

Whilst the proposal would inevitably increase the level of vehicular trips to the site it is not considered that the proposal would have a detrimental impact on existing levels of highway safety during the proposed extended hours, particularly given that other units on the Retail Park would be closed at this time. Parking provision would be unaffected.

The proposal would not be detrimental to highway safety and as such would not conflict with Policies CS2 and CS7 of the Local Plan: Core Strategy.

Residential Amenity

Core Strategy policies CS2 and CS19 combine to ensure that new development does not significantly injure the amenities of nearby residential property. Policy CS19 at criterion 2) specifically states:

"To maintain a good standard of amenity for all existing and future occupants of land and buildings, development proposals will be required to:

- a) Avoid unacceptable impacts on existing residents, business occupiers, and future occupiers;*
- b) Minimise crime, fear of crime and anti-social behaviour, including good levels of natural surveillance and security; and*
- c) Accommodate future maintenance and long term management requirements."*

The nearest existing dwellings are located opposite the application site at a distance of between approximately 21-25 metres from the drive-thru lanes and which directly face the drive-thru entrance and ordering points with associated elements, including customer order display units with illuminated displays, speakers and microphones. The drive-thru system requires customers cars to enter from the main Retail Car Park with side-by-side entrance lanes pointing in the direction of Steley Way, vehicles are required to drive around the southern elevation of the unit and payment and collection windows are located on the western elevation of the building.



Planning permission was granted to develop the land directly opposite the site for residential use in 2007 when, at that time, the McDonalds restaurant was established and restricted to the opening hours of 6 am to midnight on any day as granted under planning reference 04/01378/FUL.

The restaurant is located in a prominent position at the main entrance to the Cables Retail Park off Steley Way which is a through route on the edge of Prescott Town Centre. Due to its location, it is also likely that the premises attract customers from the wider area as well as local customers.

The main issues in the consideration of the proposed development would be the impacts that the removal of the planning condition would have on the amenity of nearby residents having regard to noise and disturbance. These matters are discussed below.

Noise Impacts

Saved Policy ENV2 of the Knowsley UPD seeks to ensure that new or existing developments are protected from new or existing sources and that, where necessary, the effective mitigation measures are secured.

Policy CS2, Principle 4 seeks to ensure that developments recognise environmental limits, protect and enhance environmental assets, enhance local character and promote quality of place by, amongst other things, at criterion e) mitigating potential negative impacts of traffic growth and road traffic on highway safety, air quality, noise and health...and criterion j) requires development to minimise negative impact upon...noise or vibration levels and ensuring negative impacts are mitigated.

Policy CS19 seeks to maintain a good standard of amenity for all existing and future occupier of land and buildings, development proposals are required at criterion 2 a)

inter alia to avoid unacceptable impacts on existing residents, business occupiers and future occupiers...

The application is supported by a Noise Impact Assessment (NIA) (Sustainable Acoustics 14-0167-92 R01 dated 19 Jan 2024). The NIA was carried out over 15-16 November 2023. The report has made an assessment of the potential noise impact due to the extension of operating hours which covers four principal noise sources, comprising people, vehicles, customer order displays and plant. The NIA indicates that the noise impact would not be likely to cause any observable adverse effect based on observations of restaurant patrons made on site. Paragraph 0.6 of the report state that of the four sources assessed; hypothetical noise from people is considered the primary focus at this particular site, as some anti-social behaviour was noted nearby (though it could not be linked to McDonald's operation based on observation).

People

It is noted that the majority of the objections received from local residents focus on noise currently experienced in their homes late in the evening which they attribute to activities in and around the car park adjacent to the application site.

If the entire premises were to be operational for the extended opening hours, customers eating inside the restaurant but arriving by car could increase the noise from the additional traffic and the slamming of car doors, radios playing etc. In addition, groups of people talking loudly and the coming and going outside the premises would all add to the noise resulting from customers over a prolonged period. Given these concerns it is not considered that it would be acceptable for the restaurant to open on a 24/7 basis. However, it is noted that the applicant wishes to operate the drive-thru 24/7 only. If planning permission was granted to allow operation without complying with Condition 1 relating to the hours of the use, the Local Planning Authority could still control the hours of operation of the restaurant by way of a condition.

By extending the opening hours of the drive-thru, more vehicles would be likely to be inclined to use the car park to eat their meals which would detract from the amenity of local residents. Neighbouring residents have provided commentary on the effects that they experience during the existing hours of operation of between 0500 and midnight each day. Opening the premises over the 24 hours period every day would give them no reprieve in contrast to the 5 hours that the premises are closed during night hours currently.

Vehicles

The Council's Environmental Health Officer has commented that the NIA details the noise associated with the use of the facilities between the hours of 00:00 and 0:00, comparing them to the current operational hours and the background noise levels at the proposed opening hours. Whilst Environmental Health do not dispute the NIA, they have raised concern relating to the increase in number of cars and people who would potentially attend the area (proposed 36 cars/hr) and the noise associated with the activity affecting the nearby residents. Environmental Health continue to advise that if the LPA are minded to grant permission, then it would be necessary to put the NIA recommendations into practice and for the applicant to provide documentary evidence of the works, secured by a suitable planning condition.

Notwithstanding the comments of Environmental Health Officers, it is considered that the traffic and associated activity during late night time hours would have an adverse effect on local residents to unacceptable levels.

In addition to customer vehicles, the site operates a customer delivery service. The application premises offers delivery services through 'McDelivery' utilising third party delivery services. The NIA reports that some delivery mopeds were observed and notes that it is understood that the store runs delivery through Uber Eats who use vehicles limited to an engine size of 50CC. The stores website indicates that they also use Just Eat and Deliveroo and no detail of their chosen mode of transport is reported. The NIA states that calculations have been done assuming delivery vehicles have much the same acoustic properties as customer cars, though if motorbikes with larger engines were to be used as delivery vehicles, further assessment may be required.

Having regard to the above, there would be an increase in the activity associated with the delivery drivers comings and goings throughout the night and the potential for the drivers to congregate outside the premises whilst waiting for orders resulting in increased noise and activity associated with the extended hours.

Customer Order Displays

The nature of the drive-thru attracts car born trade and as noted above ordering takes place using an intercom system. Concern has been expressed by objectors that noise generated from interaction between customers and staff whilst using the customer order intercom can be heard from residential properties. In the past there have been complaints to Environmental Health from residents relating to noise from the intercom system and this matter was thought to be resolved. However, representations received indicate that the matter is ongoing.

The use of the ordering system throughout night hours could therefore result in unacceptable impacts on residents. It is acknowledged that the noise levels can be adjusted and the applicant has indicated in a later supporting Site Management Plan that the speaker would be set to the lower night time setting which automatically reduces the speaker volume during these hours from level 10 to level 7 after 23:00. The PNMP within the NIA suggests that the intercom would be set to 10 for night time between the hours of 23:00 and 07:00 so that it is "barely audible at the closest residential properties". The change in volume level has been achieved at other similar outlets in the Borough and that this could be secured by condition if planning permission is granted and it should also be noted that other legislation is also in place to control noise.

Plant

The NIA also considers the effect of plant and concludes that plant noise specifically arising from the operation of the store are considered unlikely to cause any impact on the nearby amenity. The Council's Environmental Health Officer has not raised any concern in regard to the plant.

On balance, notwithstanding the conclusions of the NIA and the mitigation measures proffered, it is considered that the activity resulting from customers using the drive-thru lanes with associated ordering facilities and related car movements together with the additional activity likely to be generated from food delivery collections throughout the night, would generate noise and disturbance that would have greater detrimental impacts on the amenity of local residents. The proposed development conflicts with saved Policy ENV2 of the UDP and Policies CS2 and CS19 of the Local Plan: Core Strategy.

Anti-Social Behaviour

Concerns have also been expressed by local residents in relation to existing occurrences of anti-social behaviour caused by gangs congregating on the car parking area. Residents have indicated that they experience disturbance in the area from groups using the car park to play football and to rally car around the car park. This, as the objectors point out, has significant impact on their amenity due to the noise and disturbance.

In addition to the concerns raised by residents, Merseyside Police have objected to the proposal on the grounds that this location is already an anti-social behaviour hotspot which requires significant Police resourcing in order to prevent and detect crime and ASB, pursue offenders and protect people. Merseyside Police have stated that *"When looking at a date range of 01/01/2021 -3 1/12/2023 Police ASB logs recorded for this area show as a high demand between 1500 - 2100 hours, this increases in an upward trend up to 2300 hours. The busiest days for offences being committed and ASB are Monday and Thursday across the retail park. This is a consistent trend when looking at the data for just McDonalds which would indicate that McDonalds is one of our repeat locations. In the last 3 years the calls to Police from this area for crime and ASB have increased further with specific calls made from McDonalds doubling in 2 years... McDonalds to be open 24 hours would cause a further spike in demand"*. Merseyside Police have advised that in their call log data the term 'Group' was present 67 times, while the word 'Youths' featured 102 times out of 143. They advise that most calls are generated from McDonalds staff expressing feelings of intimidation or hitting the panic button. Merseyside Police have provided the Local Planning Authority with sample call logs (which have not been put in the public domain). These sample call logs indicate that on occasions for an example show 20 youths being abusive to staff and customers, customers unable to enter because of youths; 30 youths hanging around outside aged 14 – 18 years, some on pushbikes verbally abusing staff; potential hate crime from youths congregating outside; security guard being kicked and punched by youths;

Merseyside Police have, during the consideration of this application offered assistance should the franchisee wish to discuss crime prevention advice for its staff and premises signposting them to the Merseyside Police website and inviting them to discuss this further and that they hold a Business Watch group on the Retail Park. The details of which have been forwarded to the applicant's agent for information.

Whilst they are working with the businesses to reduce this problem and provide High Visibility tactics up until midnight to ensure a visible and accessible policing style, it is their opinion that a 24 hour McDonalds would add to this problem.

Merseyside Police have provided figures on ASB at Cables Retail Park between 01/01/2021 and 22/04/2024 highlight that there were a total of 143 ASB incidents within the McDonalds premises, either within the Restaurant itself or in the Car Park area.

The Police have further highlighted that they have reviewed a number of previous calls from this area and from McDonalds itself and whilst it appears that when security is on site, they are helpful and supportive of police it is not believed that this control measure by the business alone overnight would deter further ASB from taking place.

It is acknowledged that the car park does not specifically serve McDonalds and there are approx. 650 parking spaces on the retail park. The NIA comments that some

anti-social behaviour was observed nearby, *'though it could not be linked to McDonalds operation based on observation.'* It also notes that it was observed (paragraph 5.1) that *'antisocial driving within the car park which included deliberate engine noise and car horns in the car-park after 23:00 though none observed from customers of McDonalds - noise that cannot be linked to customers should not be considered to be related to noise potentially associated with the application.'*

Nevertheless, the report at the non-technical summary(para 0.6) states that *"despite appearing unrelated, it is considered necessary to continuously ensure that this be the case through the use of a bolstered, robust noise management plan which would be enforced and reviewed"*. It goes on to say that *'if the plan ever fails to prevent antisocial behaviour noise specifically linked to the site, alternative measures/hours would need to be examined.'*

In concluding, the report indicates that the PNMP would proactively minimise any potential risk of noise resulting from antisocial behaviour. An example of the PNMP is appended to the NIA which sets out the measures which would be implemented between 11pm and 7am, as part of a proactive management effort to minimise the noise impact caused to nearby residents, created by the operation of the premises, and its customers when inside or in the vicinity of the premises. This would require staff, amongst other things, encouraging drivers to switch engines off when not in use; challenging anti-social behaviour ; keeping an incident log; providing signage asking customers to leave quietly; work in partnership with Police and other authorities; the manager challenging gatherings of people in the car park; a phone number made available for residents to contact the store; and reducing the intercom speaker level to night time setting.

There are a number of mitigation measures suggested within the PNMP that would not be relevant to the extended hours, for example it states that *'customers that are seen to be disregarding the notices and or loitering outside during night-time/early morning hours making noise should be encouraged to come inside if they are eating, rather than be outside, or move on'* and signs to be prominently displayed that ask customers that come into the premises to leave quietly, albeit that signs would be proposed at the drive-thru requesting customers to keep noise to a minimum.

In addition to the PNMP, the applicant's agent has at a later point provided a Site Management Plan to support the application, this reiterates issues raised in the PNMP in relation to the Customer Order Display Units; Conflict Avoidance Training; Security Measures; Signage; Complaints Log; and Relationship with Local Police. Nevertheless, it is noted that in the Site Management Plan it is stated that the speaker volume would be reduced from level 10 to level 7 after 23:00 by comparison to the PNMP which states that it would be set at level 10 between 23:00 and 07:00.

As stated above, criterion 2) of Policy CS19 is clear that any development proposals should minimise crime, fear of crime and anti-social behaviour. The applicant's agent contends that, in relation to comments from the Police, that existing Anti-Social Behaviour (ASB) concerns *"primarily relate to the afternoon and evening period rather than the later night trade period. Whilst the comments state that there is an increasing trend towards 11pm no further information is provided. In short there is no evidence that the proposed extended operation will result in an increase in Anti-Social Behaviour during the hours proposed especially given that the drive-thru, encouraging customers to be on-site for a short period stay within their vehicles, order and collect their meals and then leave. The proposal therefore provides very little opportunity for an increase in ASB to occur at the site."*

Officers would argue to the contrary that the extended opening hours would give

opportunity for increased occurrences of anti-social behaviour and that there is no evidence to suggest that this would not be the case particularly given the comments received from the Police and local residents.

The applicant's agent has indicated that in the interests of working towards a positive solution as advocated in the NPPF, they would accept a one year temporary limit on the extended hours proposed. Officers have considered whether a 12-month temporary permission would be appropriate, however, given the nature of the objections raised by the Police and local residents in their letters of objection relating to existing impacts experienced, on balance, the opposition to the extended opening is clearly based on current experiences. As such, there is good evidence to indicate existing issues exist and despite the proffered mitigation measures indicated in the application it is not considered that there would not be any merit in adopting this approach, particularly as this would require continual monitoring of the site and raises concern in regard to enforceability.

Whilst some of the issues raised by local residents cannot be categorically attributed to the operation of McDonalds, residents submit that their amenity is diminished by the current opening hours of the premises. This is borne out and strengthened by the objection received from Merseyside Police and their evidence of issues both across the Retail Park and with specific connection to McDonalds. It is therefore considered that allowing the premises to operate 24 hours every day would be likely to attract activity around the site and through the operation which would result in a significant loss of residential amenity for nearby residents late at night and during the early hours of the morning at a time when people can reasonably expect to enjoy peace and quiet.

It is not considered that the mitigation measures suggested in the application would overcome Officers concerns. Given the scale and type of the anti-social behaviour evidenced, Officers have significant doubt as to the effectiveness of the suggested mitigation and management measures proposed to curb noise and anti-social behaviour.

Having regard to the mitigation measures which include an internal intercom system within the store which can be used to deter antisocial behaviour and internal and external CCTV cameras monitored by a third party where they can intervene via the intercom system by explaining that the offenders should leave the premises otherwise emergency services will be called. This is more likely to add to noise and disturbance issues on the site. The Conflict Avoidance Training for Managers to help them deal more efficiently with potential anti-social behaviour, whilst this would help staff navigate through such occurrences it is not considered that this would robustly tackle anti-social behaviour. Furthermore, provision of signage located around the car park, around the drive-thru and inside the restaurant, requesting that customers should be respectful of neighbours and keep noise to a minimum when leaving the premises would be unlikely to be adhered to by those committing anti-social behaviour and would do little to address this issue.

Policy CS19 is very clear that the development should minimise crime, fear of crime and anti-social behaviour, from the objections raised taken together with Police comments, there is an explicit fear of crime and anti-social behaviour that the proposal has provoked. In the absence of guaranteed effective mitigation measures and management of customer behaviour to overcome concerns raised it is considered that the proposal should not be supported and is contrary to Saved Policy ENV2 of the UDP and Policies CS2 and CS19 of the Core Strategy.

Appeal Decisions

The applicant's agent has cited a number of appeal decisions which have been allowed for McDonalds premises for variation or removal of conditions relating to operating hours.

The applicant's agent has stressed that in allowing the appeals and granting planning permission, the decisions make it explicit that greater weight must be afforded to the available technical evidence rather than placing reliance upon a perception of impact. However, in this instance it is considered that the objections raised and evidence from Merseyside Police, would suggest that on the balance of probability, there is a strong possibility that the proposal would result in detrimental impacts from noise and anti-social behaviour disturbance. It is not considered that effective mitigation / management measures could be put in place to address noise and customer behaviour as discussed above.

OTHER ISSUES

Material Changes Since Refusal of Planning Permission – Ref: 13/00455/FUL (Relating to Hours of Use)

Since refusal of planning permission (Ref: 13/00455/FUL) in 2013 which sought to use of the premises for 24 hours each day at this location, there have been some material changes as detailed below.

Adoption of Knowsley Local Plan: Core Strategy

The Knowsley Local Plan: Core Strategy was adopted in January 2016. The application has been assessed based on current Local Plan policies and saved policies of the UDP. It is not considered that there have been any significant changes in policy perspective since determination of the earlier application.

Delivery Activities

Since the Covid pandemic when home delivery and take-away services rose significantly this trend has continued and the number of customers using third party ordering and delivery services such as Uber Eats, Just Eat and Deliveroo etc has increased to cater for this demand. The application premises offers delivery services through 'McDelivery' utilising the above types of delivery services. As such, the rise in demand for these services since the last planning refusal of planning permission to vary the hours to 24hrs (13/00455/FUL) is a material consideration when considering any changes in circumstances.

The NIA reports that some delivery mopeds were observed and notes that it is understood that the store runs delivery through Uber Eats who use vehicles limited to an engine size of 50CC. The stores website indicates that they also use Just Eat and Deliveroo and no detail of their chosen mode of transport is reported. The NIA states that calculations have been done assuming delivery vehicles have much the same acoustic properties as customer cars, though if motorbikes with larger engines were to be used as delivery vehicles, further assessment may be required.

Having regard to the above, there would be an increase in the activity associated with the delivery drivers comings and goings throughout the night and the potential for the drivers to congregate outside the premises whilst waiting for orders resulting in increased noise and activity associated with the extended hours which is an additional concern since the determination of the 2013 application.

Tesco Extra Opening Hours

Again, since the pandemic, the Tesco Extra supermarket no longer operates 24 hours. At the time of the 2013 decision the superstore opened on a 24 hour basis (apart from Sundays and Bank Holidays). The covering letter supporting the application indicates that Tesco Extra on Cabled Retail Park already operates 24 hours seven days a week. However, Tesco Extra, currently operates on significantly reduced hours of between the hours of 06:00 – midnight Monday – Saturday and 10:00 – 16:00 Sunday. It is however acknowledged that Tesco could at any time revert to operating 24hrs, but at the time of considering this application the above hours are operational and considered to be a material consideration.

Having regard to the above, it is Officer's view that in these circumstances the proposal would now be likely to have more of an impact on the amenities of the area than that which existed at the time of the refusal of planning permission for 24 hour operation given there would be less activity from other units during night time hours on the Retail Park.

Anti-Social Behaviour

As discussed above, Merseyside Police have stated that this area is an ASB hotspot requiring significant policing resourcing. To reiterate, between the date range of 01/01/2021 - 31/12/2023 Police ASB logs recorded for the area show high demand between 15:00 – 21:00 hours, this increases in an upward trend up to 23:00 hours. The Police advise that this is a consistent trend when looking at the data for just McDonalds which would indicate that McDonalds is one of their repeat locations.

Furthermore, In the last 3 years the calls to Police from this area for crime and ASB have increased further with specific calls made from McDonalds doubling in 2 years. Merseyside Police are of the opinion if the application premises were to be operate 24 hours this would cause a further spike in demand for policing in this area. It is therefore noted that following refusal of application referenced 13/00455/FUL there has been a trend in increasing incidences of crime and ASB.

Visual Amenity

An objection from a local resident is raised on the grounds that the development would affect visual amenity, it is not considered that the proposal would have any direct impact on visual amenity in this case.

Light Pollution

Policy ENV3 of the UDP requires development involving lighting should satisfy certain criteria and criterion 1. e) seeks to ensure that there would be no unacceptable loss of residential amenity. Objection has been raised about the impact of car headlights shining into properties on the opposite side of Steley Way as patrons use the drive-thru lanes and customer order points which direct cars to be facing residential properties opposite.

Whilst it is acknowledged that this may cause disturbance to a limited number of properties, it is not considered that this issue over the extended period of opening would be reason to warrant refusal of planning permission.

Litter

Concerns have also been expressed by objectors to the proposal relating to litter from the premises. It is noted that commentators indicate the litter also blows across from the site into their gardens and despite complaint to the management of the site is still an issue.

Whilst there is no evidence to suggest that patrons using the site during the extending opening hours would not use the bins provided around the site or take it home with them, the extended hours would be anticipated to increase the volume of customers visiting the restaurant and as such the amount of litter likely to increase. Nevertheless, whilst it is acknowledged to be a concern for residents, this matter is an ongoing management issue. This matter would not warrant refusal of this current application in this instance.

Security Considerations

Saved Policy DQ2 of the UDP seeks to ensure that new development is designed to provide good levels of personal and property security. In their letters of objection reference has been made to significant concerns as a result of existing issues with anti-social behaviour and noise on the Prescot Retail Park late into the evening.

However, it is not considered that the proposal would result in detrimental impact on safety. It may also be considered that the use of the restaurant 24 hours a day would introduce a constant presence on site which may enhance security.

Police Interaction

Local residents submit that they have contacted the Police in relation to activity on the Retail Park and that they have not had adequate support. The interaction and outcome from contact with other agencies is a separate matter from the consideration of this application.

Notwithstanding the above, Officers have taken into account observations and comments made by local residents in regard to anti-social behaviour elsewhere in this report and their comments are substantiated in the comments provided by Merseyside Police.

Need

Objection has been raised over the need for the proposed use in this location given that there are other 24hr operated units in more appropriate locations. It is noted that the other unit cited in Huyton as already open 24hrs is located approximately 2.5 miles from the site. The submission of the application is a commercial decision of the Applicant. It is not considered that the issue raised is a material consideration within the scope of the determination of this application.

Community Responsibility

A local resident submits that the Applicant does not responsibly care for the community now and being 24-7 would make this only worse. The issue raised at this point is a management issue and not a material planning consideration in the assessment of the planning application under consideration.

Conclusion

The proposed development would be likely to result in an unacceptable increase in noise and disturbance above and beyond that which would be expected at the adjacent residential area. In the absence of robust mitigation / management potential noise and disturbance would likely arise from the proposed extended opening hours. Accordingly, the proposed development does not accord with the requirements of the National Planning Policy Framework, Saved Policy ENV2 of the Replacement UDP and Policies CS2 and CS19 of the Core Strategy. It is therefore recommended that the existing restrictive hours condition is maintained and planning permission to remove the hours of use condition refused.

Recommendation

That Planning Permission be refused for the following reason(s): -

- 1) It has been evidenced that the site currently experiences significant issues with anti-social behaviour and they are particularly prevalent around the McDonald's premises. The proposed extended opening hours, it is considered, will exacerbate the potential for further anti-social behaviour and result in an increase in noise and general disturbance during the late evening /early morning to the detriment of the amenity of nearby residential properties (particularly Steley Way and Station Road Boulevard). As such, the proposal would be contrary to the provisions of the National Planning Policy Framework (2023), Saved Policy ENV2 of the Knowsley Replacement Unitary Development Plan, adopted June 2006 and Policies CS2 and CS19 of the Knowsley Local Plan: Core Strategy, adopted January 2016.

Signed Case Officer¹: M Wishart

Signed Authorising Officer²: K Foster

Date: 25 June 2024

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed