

<u>APPLICATION NO:</u>	24/00542/FUL	<u>CASE OFFICER:</u>	Miss Kim Vo
<u>WARD:</u>	Prescot North	<u>PARISH:</u>	Prescot Town Council
<u>LOCATION:</u>	McDonalds Restaurant, Cables Retail Park, Steley Way		
<u>PROPOSAL:</u>	APPLICATION FOR THE OPERATION OF DRIVE-THRU RESTAURANT WITHOUT COMPLIANCE WITH CONDITION 1 OF PERMISSION: 09/00639/FUL TO ALLOW 24-HOUR OPENING		

Site Description

The application relates to a McDonalds drive-thru restaurant within the Cables Retail Park, which comprises of existing retail units to the north and east. These include a Tesco Extra supermarket currently operating from 06:00 to 00:00 on Mondays to Saturdays and 10:00 to 16:00 on Sundays. There are residential dwellings to the south that includes properties facing onto Steley Way, which separates the retail park and the residential development. To the southwest, there is a Tesco Petrol Filling Station operating 24hrs that is accessed off Steley Way.

The application site is identified as an Existing Retail Park as defined by Policy CS13 of the Knowsley Local Plan: Core Strategy (January 2016).

This application is a resubmission of the previous refused application ref: 24/00036/FUL, which sought for the operation of the drive-thru restaurant without compliance with condition 1 of permission 09/00639/FUL to allow 24-hour opening. The reason for refusal related to issues of anti-social behaviour and noise and disturbance impacts.

Proposal

The proposal seeks permission for the continued use of the drive-thru restaurant, without compliance with Condition no.1 of planning permission ref: 09/00639/FUL, to enable the drive-thru service to operate 24 hours a day, seven days a week.

Condition no.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 drive-thru restaurant was first granted planning permission under application ref: 99/00431/APP, the hours of operation were restricted from 07:00 to 00:00. These hours were amended by planning permission ref: 04/01378/FUL, which allowed opening hours of 06:00 to 00:00 on any day. The hours were further extended under planning permission ref: 09/00639/FUL to 05:00 to 00:00 on any day.

Further applications (ref: 07/01047/FUL, 10/00593/FUL and 13/00455/FUL) were

then applied, seeking to vary the hours to 24-hours, 7 days a week. However, these were all refused.

Therefore, the drive-thru restaurant currently has permission to operate between 05:00 and 00:00, seven days a week.

Since submission, additional supporting information has been received from the applicant's agent in response to objections raised by consultees.

Consultations

Merseyside Police HQ (28.11.2024 and 30.01.2025): Stands by previous objection comments made for application ref: 24/00036/FUL. The site remains as an anti-social behaviour hotspot which already requires significant resources to respond to. Data of anti-social behaviour incidences from 01.01.2021 to 25.11.2024 have also been provided, as well as a Walkabout summary of the Cables Retail Park from a member of the Safer Communities team on 29.10.2024. Data also highlights a direct link between the opening hours and anti-social behaviour which Merseyside Police have no evidence to counteract.

Safer Communities (22.11.2024 and 19.02.2025): Objects to the proposal as an extension to the existing trading hours would lead to increased reports of anti-social behaviour throughout the evening and overnight. Historically, the McDonald's site on Cables Retail Park has been a hotspot location for anti-social behaviour reported to Safer Communities, particularly during post school hours and during school holidays. Since the temporary closure of the drive-thru restaurant, there has been a reduction in anti-social behaviour offences in and around Cables Retail Park.

Prescot Town Council (04.12.2024): At the Prescot Town Council meeting on 28.11.2024, Members unanimously resolved to object to the proposal. Cables Retail Park experiences significant levels of anti-social behaviour and other criminal activity, which the proposal is likely to increase. Merseyside Police provided crime statistics, demonstrating that the problem is real and not simply perceived. Several local residents at the meeting also voiced their concerns about the level of crime at this location. Whilst McDonalds have employed security staff to stop ASB, the problem has simply moved to other businesses and open spaces on the retail park itself.

Highway Authority (22.11.2024): No objections.

Environmental Health (08.11.2024): Does not dispute the findings of the Noise Impact Assessment. However, there are concerns for the time period of the assessment, the increase in number of cars and people who would potentially attend the area (proposed 36 cars/hr), as well as the noise associated with the activity affecting nearby residents. If the application is to be granted, then a proposed noise mitigation condition would be required.

Public Health (31.10.2024): Objects to the proposal as it contravenes with Strategic Objective 9 of the Local Plan which seeks to encourage healthy lifestyles and a health promoting environment. McDonalds does not provide a healthy food option and an extension of opening hours would not provide material benefit to the area or people. The nearby 24 hrs Tesco petrol filling station already provides convenience food and drinks. Increasing the opening hours of the drive thru may also increase air pollution and noise associated with vehicles. The submitted Noise Impact Assessment is also not representative of the site and surrounding area and the proposal will likely have an impact in terms of anti-social behaviour.

Town Centre Management: No comments received.

Representations

This application has been publicised by letters sent to 33no. neighbours. It has also been advertised by a Site Notice.

There have been 16no. letters of objection and the material planning considerations can be summarised as follows:

- Since the closure of the site for refurbishment, there has been a significant reduction in noise pollution, littering and anti-social behaviour;
- The proposal will exacerbate existing crime and anti-social behaviour issues;
- Concerns regarding increased littering and McDonald's failing to recycle;
- Concerns regarding increased light pollution and noise and disturbance during early morning hours;
- A 24/7 McDonald's already exists nearby in Huyton;
- The proposal will have a negative impact upon local character, the community and on nearby resident's quality of life, mental wellbeing and sense of safety;
- Lack of police and McDonald's management action for dealing with existing anti-social behaviour issues;
- Concerns regarding highway safety, increased traffic, congestion and nuisance and illegal parking;
- The proposal does not encourage healthy eating or lifestyles;
- McDonald's has poor and exploitative employment and advertisement practices;
- Request for several conditions to be attached.

Councillor Frances Wynn has also objected to the proposal, raising concerns of anti-social behaviour.

Planning History

The application site and building have numerous previous planning applications and the most relevant to this application are:

24/00036/FUL - Operation of drive-thru restaurant without compliance with condition 1 of permission 09/00639/FUL to allow 24 -hour opening. Refused, 25.06.2024.

13/00455/FUL - 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. Refused, 07.10.2013.

10/00593/FUL - 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. Refused, 08.12.2010.

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. Granted, 15.03.2010.

07/01047/FUL - 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. Refused, 20.12.2007.

04/01378/FUL - 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. Granted, 27.01.2005.

99/00431/APP - Erection of approximately 318 sq.m drive through restaurant and associated car parking and landscaping. Granted, 21.09.1999.

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 UDP, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

Knowsley Local Plan Core Strategy (January 2016)

Policy CS2: Development Principles

Policy CS7: Transport Networks

Policy CS13: Principal Regeneration Area – South Prescot

Saved Policies - Knowsley Replacement UDP (June 2006)

Policy DQ2: Security in the Built Environment

Policy ENV2: Noise and Vibration

Policy ENV3: Light Pollution

Supplementary Planning Documents (SPDs)

Ensuring a Choice of Travel (2010)

National Policies

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

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 discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason for the refusal, approval has not been possible.

Assessment

The main considerations for this application are:

- Principle of Development;
- Neighbouring Amenities;

- Crime and Community Safety;
- Parking and Highway Safety;
- Other Matters Raised in Neighbouring Representations.

Principle of Development

The principle of the drive-thru restaurant use has already been established under planning permission ref: 99/00431/APP and remains acceptable.

Neighbouring Amenities

Policy CS2 of the Local Plan seeks to, amongst others, minimise negative impact upon noise or vibration levels and ensure any negative impacts are appropriately mitigated. Policy CS19 of the Local Plan and Paragraph 135 of the NPPF seeks to maintain a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy ENV2 of the Knowsley Replacement UDP states that development that will either cause an unacceptable increase in noise or vibration levels or itself be subject to unacceptable noise or vibration from an existing source will not be permitted.

Amenities of Neighbouring Properties

There are existing dwellings located to the south along Steley Way, which are distanced over 21m away from the drive-thru lanes and have principal elevations facing the drive-thru entrance, ordering points with associated elements, including illuminated Customer Order Display (COD) units, speakers and microphones. The existing drive-thru system requires customer vehicles to first enter the main retail park, where vehicles arrive at the site via the north access and drive around the perimeter of the building from east to west. The restaurant is 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 Prescot Town Centre. Due to its location, it is likely that the premises attracts customers from the wider area, as well as local customers.

Objections have been received raising concerns regarding the proposal increasing noise and disturbance during early morning hours. The main issues will therefore be the impacts of the removal of the planning condition and how the proposed extended hours would affect the amenity of nearby residents.

The submitted Covering Letter states that no evidence has been produced to suggest that the proposed late-night opening would result in an increase in noise at the restaurant, especially given that the trade will be confined to the drive-thru, where customers will be within their vehicles and on the premises for a short period of time. The applicant therefore considers that the reason for refusal of the previous application (ref: 24/00036/FUL) is not justified, as there will be little opportunity for an increase in Anti-Social Behaviour (ASB) or any associated noise.

The application is supported by a Noise Impact Assessment (NIA), prepared by Sustainable Acoustics, dated 19th January 2024. The NIA was carried out over 15th - 16th November 2023. The report assessed the potential noise impact of the proposal and covered four principal noise sources: people, vehicles, customer order displays and plant. The report indicates that the noise impact would 'not be likely to cause any observable adverse' effect based on observations of patrons made on site. Paragraph 0.6 of the NIA states that of the four sources assessed; hypothetical noise from people is considered the primary focus at this particular site, as some antisocial behaviour was noted nearby (though it could not be linked to McDonald's operation based on observation).

Environmental Health have reviewed the NIA and note that they do not dispute the report and that if the application was to be granted, a noise mitigation condition would

be required. Whilst such details could be conditioned, the Local Planning Authority remains of the view that the proposed extended opening hours would result in harm to residential amenities, as any conditions for noise mitigation measures would not fully lesson the proposal's detrimental impact in terms of disturbance, and of other uncontrollable noise sources. Such noise and disturbances will likely stem from the increased comings and goings, and activities associated with people and additional vehicles visiting the site during early morning hours (00:00 – 05:00). As such, the Local Planning Authority disagrees with the submitted Covering Letter's statement that there would be little opportunity for increases in noise.

By extending the opening hours of the drive-thru, more vehicles would be likely inclined to use the car park to eat their meals. This would prolong their staying time close to existing residential dwellings during early morning hours, which would detract from the amenity of local residents. Additionally, the site offers a customer delivery service and works have recently been completed to create a new 'McDelivery' area to the store (as approved under application ref: 23/01441/FUL). This will likely result in an increase in the activity associated with delivery driver's comings and goings throughout the night, and drivers congregating outside the premises whilst waiting for orders, resulting in increased noise and activity associated with the proposed extended hours.

The nature of the drive-thru also attracts car born trade and ordering takes place using an intercom system. The use of the ordering system throughout night hours could therefore result in unacceptable impacts on residents. It is acknowledged that the noise levels of the intercom can be adjusted, and the submitted Site Management Plan (SMP) outlines that the speaker's volume would be automatically reduced from level 10 to level 7 after 23:00. The change in volume level has been achieved at other similar outlets in the Borough and could be secured by condition if planning permission is granted. Notwithstanding this, whilst a planning condition could be attached to control the volume of the intercom system, it cannot control other factors such as the speaking volumes of customers.

Furthermore, the NIA provides a hypothetical worst case customer count of up to 36no. visitors every hour between 00:00 and 05:00. This was raised as a concern by Environmental Health. The types of noise associated with a worst-case scenario of 36no. customers every hour will be a significant increase in contrast to the current activity levels, where the drive thru restaurant is presently closed for five hours. Additionally, and on a purely commercial basis, it would be in the interests of the business to increase levels of use within all opening hours. Therefore, the number of visitors per hour has the potential to be higher than 36no. Opening the drive-thru for 24 hours every day would increase the period within which occupiers of nearby dwellings would be subject to noise and disturbance. This would harm their living conditions, where they will have no reprieve, particularly during the summer months when residents will most likely have their windows open. It is reasonable for residents to expect peace and quiet, particularly during the nighttime, when more people are asleep and when noise and disturbance becomes more noticeable.

It is acknowledged that the 'Premises Noise Management Plan' (PNMP) at Appendix C of the NIA and the submitted SMP includes control measures to minimise the noise impact caused to nearby residents. Whilst these control measures are a positive starting point, the Local Planning Authority notes that many of these involve monitoring or the reporting of incidents - after they have happened. These measures are also mostly 'reactive' and are reliant on the visitors/customers being compliant with the management team's request for any disruptive customers to adjust their behaviours and minimise noise. Such control measures may not always be successful, and it would only take just one or two disorderly customers to cause a

disturbance. It is also noted that Environmental Health have raised a concern regarding the time period of the assessment. As such, whilst the NIA is a valid report, there is some uncertainty regarding it being truly representative, due to the limited number of survey days (2) which were undertaken during a colder month (November).

With regards to the existing plant equipment, the NIA concludes that plant noise specifically arising from the operation of the store is unlikely to cause any impact on the nearby amenity. Environmental Health have also not raised any concern regarding the plant.

On balance, notwithstanding the conclusions of the NIA and the mitigation measures proffered, it is considered that the activities and increased comings and goings associated with people and additional vehicles visiting the site during early morning hours (00:00 – 05:00), would generate noise and disturbance that would have an unacceptable, harmful and detrimental impact upon the residential amenities of local residents. The proposed development therefore conflicts with Policy CS2 and CS19 of the Local Plan, Saved Policy ENV2 of the Knowsley Replacement UDP and the NPPF.

The submitted Covering Letter had referred to an allowed appeal decision in Liverpool (Appeal Ref: APP/Z4310/W/24/3337065) for the use of upper floors as a 17-bedroom hotel (Use Class C1), ground floor to restaurant (Use Class E) and basement to bar (Sui Generis). The Inspector noted that the location of the appeal site within a mixed commercial area would not lead to an overt increase in noise or disturbance beyond that which is already generally experienced in the locality. However, upon review of this appeal, the Local Planning Authority considers that it is not directly comparable to this proposal, especially given the different uses involved. Each application is also considered on its own individual merits.

Crime and Community Safety

Policy CS19 of the Local Plan seeks to, amongst others, minimise crime, fear of crime and anti-social behaviour. Saved Policy ENV2 of the Knowsley Replacement UDP states that development that will either cause an unacceptable increase in noise or vibration levels or itself be subject to unacceptable noise or vibration from an existing source will not be permitted. Paragraph 135 of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Objections have been received stating that the proposal will exacerbate existing crime and ASB issues and there is a lack of police action for dealing with these. Several neighbour representations have also commented that since the closure of the site for refurbishment, there has been a significant reduction in noise pollution, littering and ASB. Neighbouring representations note that the proposal will have a negative impact upon local character, the community and on nearby resident's quality of life, mental wellbeing and sense of safety.

The submitted Covering Letter states that there is no evidence of a connection between increasing the operational hours of the restaurant, and the potential for ASB to result in adverse impacts upon residential amenity. It is also asserted that the potential occurrences of ASB is primarily a licensing matter which falls outside of the planning process, and whilst crime and/or the perception of crime is a planning consideration, this relates predominantly to the design and layout of buildings.

The Local Planning Authority would disagree with the above statement as incidents of ASB can contribute to fears of crime. The fear of crime is therefore a material planning consideration which does not fall outside of the planning process, nor is it restricted to licensing, or to the design and layout of buildings. Notwithstanding this, case law indicates that the weight that can be given to fear of crime is often limited unless there is significant evidence to show that the increased fear of crime would actually occur (*Smith v First Secretary of State & Mid-Bedfordshire District Council* [2005] and *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions* [1997]). The Courts held that any fear and concern must have a reasonable basis, and the object of fear and concern must be the use, in planning terms, of the land, rather than assumptions unsupported by evidence, as to the character of the occupiers.

Merseyside Police have objected to the proposal, stating that they stand by their previous comments made for application ref: 24/00036/FUL. Their previous comments noted that from 01.01.2021 to 31.12.2023, police ASB logs recorded for this area show as a high demand between 15:00 to 20:00. The busiest days for offences being committed and ASB are Monday and Thursday across the retail park. This was a consistent trend when looking at the data for just McDonalds, which indicated that McDonalds is one of the police's repeat locations. In the last 3 years, calls to police from this area for crime and ASB have increased further, with specific calls made from McDonalds doubling in 2 years. As such, if the McDonalds is to be open 24 hours, this would cause a further spike in demand. Merseyside Police's previous comments advised that most calls were generated from McDonalds staff expressing feelings of intimidation or hitting the panic button. Merseyside Police had provided the Local Planning Authority with sample call logs (which were not put in the public domain). These sample call logs indicated that on occasions, for example: 20 youths were being abusive to staff and customers; customers were unable to enter because of youths; 30 youths were hanging around outside aged 14 to 18 years, some on pushbikes verbally abusing staff; potential hate crime from youths congregating outside; and the security guard being kicked and punched by youths.

In response to this application, Merseyside Police have reiterated that the site remains as an ASB hotspot, which already requires significant resources to respond to. Updated data of crime and ASB incidences have also been provided from 01.01.2021 to 25.11.2024, which highlight that there has been a total of 177 incidences within the McDonalds site, with 64 of these being 'nuisance' incidents. Notably, the site has since been closed for refurbishment from 23.09.2024 and was reopened recently, around 22.11.2024. Since its temporary closure, Merseyside Police have confirmed that only one call relating to ASB was made during this period and this was unrelated to the McDonalds site. Several objections have also commented that since the closure of the site for refurbishment, there has been a significant reduction in noise pollution, littering and ASB.

Additionally, the Council's Safer Communities team have objected to the proposal, noting that they have also seen a reduction in ASB offences in and around Cables Retail Park for the duration of the McDonald's site being closed. The Safer Communities team therefore considers that the proposal would lead to increased reports of ASB through the evening and overnight. They have advised that historically, the site has been a hotspot location for ASB reported to Safer Communities, particularly during post school hours and school holidays. Moreover, a 'Walkabout' summary was provided from a member of the Safer Communities team, who attended the Cables Retail Park on 29th October 2024, which Merseyside Police have confirmed is a "*peak ASB time*". During this Walkabout, the team engaged with all the shops on the retail park. They spoke to the shops around reporting ASB and

asked if they are having any issues. The Area Officer detailed that *“The shops collective response was that there have been almost no incidents of ASB in the retail park since the McDonalds was closed for refurbishment.”*

Data and comments provided by Merseyside Police, statements from the Safer Communities team and responses provided by objectors therefore highlights that the application site is a hotspot for ASB issues. However, following its temporary closure for refurbishment, there was a notable reduction in ASB offences at the site. Consequently, there is a reasonable basis for fears and concerns relating to ASB, as well as a strong link between the McDonalds site and reported incidences for ASB since at least 2021.

The submitted Covering Letter contends that the existing problems with ASB are during hours where trading is already permitted. As such, the applicant considers that no evidence has been provided to suggest that the late-night opening would result in ASB. Upon review of Merseyside Police’s data, whilst a ‘high spike in ASB’ is shown for the site between 17:00 - 20:00 (from 01.01.2021 - 25.11.2024), incidents still occurred from 21:00 up until McDonald’s closure at 00:00 (midnight). A total of 5 incidents occurred at 21:00, with 2 incidents occurring at 22:00, 5 incidents occurring at 23:00 and 1 incident at 00:00. The data then shows zero ASB incidents from 01:00 to 14:00. This presents a relationship between the opening hours of the site, with incidences of ASB, as during the closed hours, no ASB incidents were reported. When the site was temporarily closed for refurbishment, a notable reduction in ASB was also reported (as detailed above), which further establishes the relationship of the site with ASB issues. The Local Planning Authority therefore considers that by increasing the period of the site’s operations, this would, in turn, increase the opportunities and probability of ASB occurring. There is also no evidence to suggest that this would not be the case, particularly given the data provided by Merseyside Police and comments received from the Safer Communities team and local residents, who have all detailed the site’s previous history and experiences with ASB.

The submitted Covering Letter further states that the PNMP at Appendix C of the NIA and the submitted Site Management Plan (SMP) will assist with minimising the fear of crime.

The PNMP will be implemented from 23:00 to 07:00 and includes control measures which seeks to minimise noise impacts. These measures involve amongst other things: staff encouraging drivers to switch engines off when not in use; management challenging ASB and gatherings of people; keeping an incident log; displaying signage asking customers to keep noise to a minimum; working in partnership with Police and other authorities; encouraging outside loiters to eat within the building or move on; providing a phone number for residents to contact the store; and reducing the intercom speaker level to a lower nighttime setting.

The submitted SMP measures include reducing the COD unit’s speaker volumes after 23:00; a requirement for managers to complete conflict avoidance training; providing on-call 24hr security; setting external lighting on a timer to improve surveillance; displaying of signage to remind customers to be respectful of neighbours; recording incidents via a logbook; and working closely with local police. Moreover, an internal intercom system and internal/external CCTV recording for 24 hours will be in place. The restaurant is also in the process of installing the McDonald’s ‘StaffSafe’ system. This is an audio-visual system which will be linked to the full CCTV and to a remote monitoring station. It will assist in managing any ASB incidents and where necessary, it can contact the police.

The above control measures outlined within the PNMP and the SMP are a positive starting point, and the Local Planning Authority does not dispute that these measures would be proactively implemented by the staff and management. However, as previously mentioned, many of these measures are 'reactive' and are in response to incidences after they have happened. Whilst the management team will be trained in dealing with ASB, any positive outcomes are reliant on the visitors/customers being compliant with the management's request for any disruptive customers to adjust their behaviours. Such control measures may not always be successful and has the potential to quickly escalate to ASB. The use of an internal intercom monitored by a third party who can utilise this system to warn offenders is also likely to contribute to noise and disturbance issues on site. Furthermore, the display of signage requesting customers to be respectful of neighbours and keep noise to a minimum would be unlikely adhered to by those committing ASB and would do little to address this issue. The 'StaffSafe' system also relies on remote monitoring and the making of announcements to manage ASB. Whilst this system may be helpful, it ultimately relies on contacting the police if a situation was to escalate, beyond the management and 'StaffSafe' capabilities. Moreover, whilst on-call 24hr security is available, it is not believed that this control measure by the business alone would deter or actively prevent further ASB from taking place.

Based on the evidence provided by Merseyside Police and comments from Safer Communities and local residents, there is a reasonable basis for fears and concerns relating to ASB. There is also a strong evidential link between the use of the land as a McDonalds drive-thru restaurant and reported incidences for ASB since 2021. As such, allowing the premises to operate 24 hours would likely attract increased activity around the site during a period (00:00 to 05:00) when people can reasonably expect to enjoy peace and quiet. Given the scale of the ASB evidenced, the Local Planning Authority would have significant doubt as to the effectiveness of the suggested mitigation and management measures proposed to curb noise and ASB. 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 fails to comply with Policy CS19 of the Local Plan, Saved Policy ENV2 of the Knowsley Replacement UDP and the NPPF.

The applicant has referred to an appeal allowed in 2017 for a McDonald's site in Feltham (Appeal Ref: APP/L5810/W/16/3166075), which sought for a variation of conditions relating to operating hours. The Inspector noted within this appeal that there was limited evidence of a causal link between the restaurant and the antisocial behaviour identified by residents, and that the submitted management plans could alleviate the problems being experienced. Upon review of this appeal, the Local Planning Authority considers that it is not wholly comparable to this application, given the objections and the evidence provided by Merseyside Police. As such, on the balance of probability, there is a strong possibility that the proposal would result in detrimental impacts from noise and ASB disturbance.

Response to Merseyside Police Comments

Data and the concerns raised from Merseyside Police were put forward to the applicant's agent, who has since provided an additional cover letter in response. Within this letter, it is stated that correspondence from Merseyside Police suggests that planning permission should be refused on the basis that the site already requires significant police resourcing, which would increase if the application were granted permission. They note that this is not a valid reason for refusal. However, the Local Planning Authority would assert that the application is not being refused solely on these grounds, and that this comment was made to highlight Merseyside Police's overall concerns with this McDonald's premises being an ASB hotspot and the impact of it on police resources. The letter goes on to consider that the concerns

raised by Merseyside Police are matters best addressed through the premises licensing process. However, as set out previously, fear of crime is deemed to be a material planning consideration and is not a matter restricted to licensing.

Following a review of Merseyside Police's data, the applicant's agent state that less than 10% of incidents were identified as 'nuisance' (which they understand to be ASB). Of these, it is unclear how many relate to the site. They conclude that majority of incidents cannot be directly attributed to ASB resulting from the operation of the McDonald's. Moreover, they state that the existing ASB issue is most prevalent between the hours of 17:00 – 20:00, well before the existing closing time of the restaurant, which highlights that there is no evidence that the extended operating hours would directly result in increased antisocial behaviour. As such, the applicant's agent does not consider that the evidence provided by Merseyside Police presents a compelling case to suggest that the increased opening times will have any significant impact on residential amenity. Whilst there is evidence of ASB occurring at the site currently, they contend that this is limited to the early evening trade period and there is no evidence to suggest that the extended opening hours would cause this to worsen.

The above comments were put forward to Merseyside Police, who state that the point made regarding there being no evidence of the proposal increasing ASB is contradictory, given that the cover letter acknowledges that this issue occurs within the site's opening hours. The absence of it outside of the opening hours would seemingly support the link between the premises and ASB. Merseyside Police can only comment on reality and facts, and currently, there is ASB at the location. With regards to the data, Merseyside Police clarifies that 'nuisance' is a category of incident utilised within recording, it is not the sole category used for recording incidents of ASB, with others including 'environmental', 'nuisance' and 'personal'. This would also not capture incidents that have been recorded under other crime types at the location. As such, the Local Planning Authority considers that the number of ASB incidents at the site may be higher. However, identifying ASB via the 'nuisance' incident type is being used as a starting point to promptly understand the extent of the issue.

Furthermore, the data provided has been separated by locations, with figures showing incidents from the wider Cables Retail Park and then specifically, at the application site. From 01.01.2024 to 25.11.2024, a grand total of all various incidents for the Cables Retail Park was 961, with the McDonald's site having a total of 177 incidents. Of these 177 incidents, 64 of these related to 'nuisance' within the McDonald's site. Therefore, it is considered that the data does show figures specific to the application site. The Local Planning Authority would also disagree with the applicant agent's view that ASB is limited to the early evening trade period, which highlights that there is no evidence that the proposal would directly result in increased ASB. This has already been discussed previously, where the data demonstrates that incidents have occurred up until the site's closing time at 00:00. A clear link is therefore shown between the opening hours of the McDonald's site and ASB, with Merseyside Police stating that there is no evidence presented to counter this link. The Council's Safer Communities team have also reviewed the additional information and remains unsupportive of the proposal, noting that the location has been, and remains, a hot spot for ASB. Moreover, reports received by the Council's Safer Communities team reflect the patterns reported to Merseyside Police.

The additional cover letter refers to the premises management processes in place to mitigate the potential for the occurrence of ASB. The letter goes on to state that the applicant is amenable to a condition of approval, requiring that operations at the site are conducted in accordance with the submitted Site Management Plan. However,

the Local Planning Authority has already discussed the proposed management processes earlier in the report and it is not considered that the suggested condition would wholly address existing issues relating to ASB, or other uncontrollable noise and disturbances. It is acknowledged that McDonald's is in the process of achieving their Silver Certificate by working alongside the national designing out crime office. However, this appears to still be an ongoing process and the ASB issues at the site are still present, with no evidence provided to demonstrate that achieving this certificate has effectively reduced and limited ASB.

The additional cover letter goes on to suggest a condition restricting the proposed extended opening hours to an 18-month temporary permission. This would test the efficacy of the measures contained in the SMP and the PNMP submitted as part of this application. However, for the reasons set out above, the Local Planning Authority would have fundamental concerns over extending the proposed opening hours. As such, it is not considered that a temporary permission would make the development acceptable, especially given the concerns and data received by Merseyside Police and the Safer Communities team. If the applicant does seek to test the efficacy of the measures contained in the SMP and the PNMP in reducing ASB, then this should be implemented within the existing site's opening times as a starting point, to address the current ASB issues experienced. Consequently, it is not considered that the additional information received has fully addressed and overcome the concerns raised. The proposed extended opening hours is therefore considered to exacerbate the potential for further anti-social behaviour and result in an increase in noise and general disturbance, to the detriment of the amenity of nearby residential properties.

Parking and Highway Safety

Policy CS7 of the Local Plan states that new development will be required to be, amongst others, located and designed to prioritise accessibility and sustainable modes of travel through a choice of walking, cycling, public transport, and incorporate access for private vehicles. The Ensuring a Choice of Travel SPD provides the parking standards for each land use type. Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application does not propose any alterations to the site layout. It is noted that some objections have raised concerns relating to highway safety, increased traffic, congestion and nuisance parking. However, Highways have raised no objections and whilst the proposal would inevitably increase the level of vehicular trips to the site, it is not considered that the proposed extended hours would have a detrimental impact on existing levels of highway safety or parking provision, particularly given that other units within the Cables Retail Park would be closed during these times. Any nuisance or illegal parking which takes place is also reportable to the police and the Council's parking enforcement team, who have statutory powers to deal with such matters. As such, on balance, it is considered that the proposed extended opening hours would have an acceptable impact upon access, parking and highway safety, in accordance with the policies listed above.

Other Matters Raised in Neighbouring Representations

Neighbouring representations have been received raising concerns regarding increased littering and McDonald's failing to recycle. However, the application site features several bins which allows waste to be properly disposed of and objectors have detailed that staff have been seen picking up litter around the site. The implementation of any recycling schemes within the premises is also a separate management matter. Notwithstanding this, if any future problems occur with excessive littering, then the Council's Environmental Health section can be contacted

to take action, if necessary.

Objectors have raised a concern in relation to light pollution. However, the submitted Site Management Plan details that the restaurant's external lighting fixtures are set on a timer during the evening to late-night hours. Lighting hoods/shields are also proposed for high level lighting which would reduce further risk of light spillage from the site. As such, it is not considered that the impact in terms of light pollution is significant enough to warrant a refusal of the application and the proposal accords with Saved Policy ENV3 of the Knowsley Replacement UDP.

Objections have expressed that a 24/7 McDonald's site already exists nearby. However, the submission of this application is a commercial decision of the applicant and given that the nearest 24hrs McDonalds is sited approximately 3km away in Huyton, it is not considered that there is an over-concentration of this particular business. Concern was raised about the proposal not encouraging healthy lifestyles. The Council's Public Health section has also objected, stating that McDonald's does not provide a healthy food option. However, the application site has an existing established use as a drive-thru restaurant and is located within the Cables Retail Park, which includes other food outlets.

An objector has stated that McDonald's has poor and exploitative employment and advertising practices. However, this is not a material planning consideration. A request was also made for several conditions to be attached in relation to recycling; restricting ASB; employment and union right protections; restricting child-targeted marketing; partnerships with local businesses; and vetting of information regarding health and environment. The Local Planning Authority does not consider the attachment of these conditions to meet the six tests as outlined at Paragraph 57 of the NPPF and in any case, the application is being recommended for refusal.

Conclusion

The proposed development would likely generate noise and disturbance that would have an unacceptable, harmful and detrimental impact upon residential amenities. There is also a reasonable basis for fears and concerns relating to ASB, with an evidential link between the use of the land as a drive-thru restaurant and reported incidences for ASB since 2021. Given the scale of the ASB evidenced, the Local Planning Authority would have significant doubt as to the effectiveness of the suggested mitigation and management measures. Accordingly, the proposed development does not accord with Policy CS2 and CS19 of the Local Plan, Saved Policy ENV2 of the Knowsley Replacement UDP and the NPPF. It is therefore recommended that the existing restrictive hours condition is maintained, and planning permission be refused for the proposed non-compliance with Condition no.1 of planning permission ref: 09/00639/FUL, to enable the drive-thru service to operate 24 hours.

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 at 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: **Kim Vo**

**Signed Authorising
Officer²:** **K Foster**

Date: **20 February 2025**

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