Development Management - Delegated Officer Report

Application Number: **AWDM/0347/13** **Recommendation –** Approve

Site: **McDonalds, Eastern Avenue, Shoreham-By-Sea, BN43 6PW**

Proposal: **Variation of Condition 13 of SU/269/01 and condition 1 of AWDM/0255/12 to allow restaurant and drive-through to trade from 5am-12 midnight Monday to Thursday and continuous trading from 5am Friday to 12 midnight on Sunday (permanent permission sought)**

Date of site visit: 29 April 2013

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to a single storey restaurant building located on the eastern side of Eastern Avenue at its corner, south of the level crossing. The premises are situated between Brighton Road to the south and the railway line to the north in a predominantly commercial and industrial area. However, to the north side of the railway there are flats and houses in Dolphin Road and Eastern Avenue.

Permission for this drive-through restaurant was granted in 2002 subject to conditions including condition 13 which restricted opening times to 7am-11pm with an additional half hour for all activity to cease (SU/269/01).

Temporary permission was granted in January 2005 for the variation of condition 13 to enable opening 6am-12 midnight but was not implemented (SU/252/04). Then in February 2006, permanent permission was granted for opening 6.30am-11pm with all activity required to cease by 11.30pm (SU/3/06).

In July 2009, temporary permission was granted to relax the condition to enable opening hours of 5am-12 midnight 7 days week, the applicants having agreed to delete a request for opening until 2am on Saturday and Sunday (ADC/0224/09). This was renewed permanently in August 2010 (ADC/0242/10 refers).

In November 2010, temporary permission was granted for the variation of condition 1 of ADC/0242/10 to enable the restaurant and drive-through to open 5am to 12 midnight Sunday to Thursday; 5am Friday to 2am Saturday and 5am Saturday to 2am Sunday (ADC/0365/10). This was renewed permanently in January 2012 (AWDM/1019/11 refers)

Temporary permission was then granted in 2012 to vary condition 13 of ADC/0242/10 to allow the restaurant and drive-through to open continuously

from 5am Friday to 12 Midnight on Sunday for a temporary 12 month period. This did not alter the previous Monday to Thursday approved hours (5am to 12 midnight). Permanent permission is now sought for this same variation.

Consultations
Adur & Worthing Councils: the Environmental Health Officer raises no objection to the continued hours of use and confirms that Environmental Health has not received any complaints regarding the property.

Representations
Two representations have been received from Lancing residents objecting to the application on the following grounds:

- Litter discarded on A259 – extended hours would mean more rubbish
- Excessive hours in close proximity to residential area
- Activity is contrary to government aims of reducing obesity am pressure on NHS
- More unsocial traffic noise
- Could set an unwelcome precedent

Relevant Planning Policies
Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AE16
National Planning Policy Framework (CLG 2012)

Planning Assessment

The premises are situated between a busy road and the railway (next to a level crossing) in a commercial and industrial area. However, there are flats and houses on the opposite (north) side of the railway, 35m away at their closest (Dolphin Mews flats and house at No.2 Dolphin Rd). During the normal working day and in the evening, background noise levels from road and rail traffic, and the frequent operation of the level crossing, are high resulting in the restaurant premises having no significant effect on residential amenity. Later, however, such traffic diminishes markedly and, particularly after midnight, background noise is low.

The permanent opening hours approved in 2012 (AWDM/1019/11 refers), allows the restaurant and drive-through to open 5am to 12 midnight Sunday to Thursday; 5am Friday to 2am Saturday and 5am Saturday to 2am Sunday. The temporary approval granted in 2012 effectively plugged the gap between 2am and 5am on Saturday and Sunday mornings.

Opening continuously though the night on Friday and Saturday nights on a permanent basis, as the current application would allow, when the background noise is very low could give rise to concerns about customer noise causing sleep disturbance to local residents. However, the nearest of these is 35 metres away, on the north side of the railway, and the northern/western part of the car park is cordoned off by the applicants to prevent customers parking there during extended hours.

The Environmental Health Officer has not raised any objection to allowing the extended hours on a permanent permission. The applicant has confirmed that the extended hours have been in operation for a year.

The comments raised in the representation are noted, however it is considered the continuation of the extended hours on Friday and Saturday nights would not have a significant impact on litter and traffic noise in the wider area or on obesity levels particularly as this is an existing use and the extended hours relates to a 6 hour period in total which is a relatively small proportion of the total operating hours.

Given that the approved opening hours have not given rise to any noise complaints during the temporary period, and having regard to the restricted use of the car park, and the proximity to residential properties, in the absence of any objection from the Environmental Health Officer, the permanent variation is considered acceptable.

Recommendation

APPROVE for the reason:
The extended opening hours do not result in unacceptable detriment to the residential amenities of the dwellings to the north by reason of the cordoning off of the northern part of the customer car park and it would consequently not conflict with the saved policies of the Adur District Local Plan (AG1, AE16) or the policies of the National Planning Policy Framework.

Subject to Conditions:-

1. Standard time limit
2. The premises shall not be open for trade or business other than between the hours of 5am and 12 midnight Monday to Thursday and continuous trading from 5am Friday to 12 midnight on Sunday.
3. The northern part of the car park (west of the restaurant building) shall be cordoned off at 12 midnight daily to prevent access by cars to that parking area during the additional late night trading hours hereby permitted.

The following conditions of SU/269/01 still apply (as amended):

4. This permission relates to amended plans approved as part of planning permission SU/269/01 drawing numbers 100/01 received on 25 April 2002 and 101 and 102 received on 11 March 2002.
5. The car and cycle parking and access and turning facilities approved and detailed in pursuance of conditions 4, 5 and 6 of planning permission SU/269/01 shall not be used for any purpose other than access and turning and parking of vehicles and cycles incidental to the use of the premises.
6. No external illumination is permitted on the premises outside of the approved opening hours.
7. The approved means of ventilation for the extraction, filtration and disposal of cooking odours (including sound attenuation measures) submitted in pursuance of condition 14 of planning permission

SU/269/01, shall be retained in effective working order and operated at all times when cooking is taking place.

8. The sound level attributable to all equipment installed on the premises (corrected in accordance with BS4142) shall not exceed the background noise level as measured at the nearest dwelling.
9. The approved 2.4m by 70m visibility splay on the north side of the existing access at its junction with Eastern Avenue, detailed in pursuance of condition 18 of planning permission SU/269/01, shall be kept free from any obstruction over 0.6 metres above the level of the carriageway of the highway.
10. The approved scheme for collection and disposal of litter submitted in pursuance of condition 19 of planning permission SU/269/01 shall be operated in accordance with the approved details.

Informative

- The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Is recommendation contrary to letter(s) of representation? Y

Case Officer: Rebekah Smith Date: 13 May 2013

Authorised by: Peter Barnett Date: 14 May 2013