Development Management - Delegated Officer Report

Application Number: **Recommendation – Approve**
AWDM/0104/14

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

Proposal: **Removal of condition 13 of SU/269/01 and condition 2 of AWDM/0347/13 to allow restaurant to operate 24 hours a day 7 days a week**

Date of site visit: N/A

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to a single storey restaurant building located at the southern end of Eastern Avenue 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 (AWDM/0255/12). This did not alter the previous Monday to Thursday

approved hours (5am to 12 midnight). Permanent permission was granted for these hours in 2013 (AWDM/0347/13).

This application seeks to remove Condition 2 of planning permission AWDM/0347/13 to allow the restaurant to open 24 hours a day for 7 days a week, i.e. without restriction on hours of operation.

Consultations

Adur & Worthing Councils: The Environmental Health Officer states that there have been no reported complaints since McDonald's extended its operating hours and therefore he has no objection to these extended hours being made permanent

Representations

1 letter of objection received from the occupier of 1 Dolphin Mews. Noise and litter constitutes annoyance and extended opening hours would increase this annoyance.

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 2013 (AWDM/0347/13 refers) allows the restaurant and drive-through to open between 5am and 12 midnight Monday to Thursday and to continuously trade between 5am Friday to 12 midnight on Sunday. The current application effectively seeks to 'plug the gap' between 12 midnight on Sunday and 5am on Monday and between 12 midnight on Thursday and 5am on Friday.

Opening continuously though the night 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 basis.

The comments raised in the representation are noted, however it is considered the continuation of the extended hours would not have a significant impact on litter and noise in the wider area as this is an existing use and the extended hours relates to a 10 hour period in total which is a relatively small proportion of the total operating hours.

Given that the previously 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 distance to residential properties, in the absence of any objection from the Environmental Health Officer, the proposed variation to allow 24 hours use of the premises 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. 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):

2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

7. 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.

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: Peter Barnett Date: 28 February 2014

Authorised by: Gary Peck Date: 3 Match 2014