

29 November 2024
L241129 SAV Cover Letter



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SUBMITTED VIA PLANNING PORTAL REF: PP-13598199

Dear Sir/ Madam,

**SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
APPLICATION TO DEVELOP LAND WITHOUT COMPLIANCE WITH CONDITION 9 OF PLANNING
PERMISSION: 2020/62/90450/E AS ALLOWED BY APPEAL REFERENCE: APP/Z4718/W/21/3285518
MCDONALD'S RESTAURANT, OWL LANE, SHAW CROSS, DEWSBURY, WF12 7RQ
MCDONALD'S RESTAURANTS LIMITED**

We write on behalf of our client, McDonald's Restaurants Ltd, to apply for permission to operate the drive-thru restaurant without compliance with Condition 9 of Permission: 2020/62/90450/E (as allowed by Appeal Reference: APP/Z4718/W/21/3285518) at Owl Lane in Dewsbury (the 'Site'), to enable the restaurant to operate 24 hours a day, seven days a Week

In accordance with the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), we enclose the following documents which comprise the application:

- This covering letter;
- The completed application forms;
- Noise Impact Assessment, prepared by Sustainable Acoustics; and
- Appeal Permission: APP/Z4718/W/21/3285518

As the application has been submitted electronically via the Planning Portal website (**PP-13598199**), payment for the application fee of £293.00 has been made electronically.

Relevant Planning History

On 22 March 2022, planning permission was granted on appeal for the "erection of a freestanding restaurant with drive-thru facility, car parking, landscaping, play frame, including Customer order Displays (COD) and associated works" (Appeal Ref: APP/Z4718/W/21/3285518) (the '2022 Permission').

The 2022 Permission was granted subject to 19 conditions. Condition 9 of the 2022 Permission controls the operational hours of the site and states that:

"The use hereby permitted shall not be open to customers outside of the hours of between 05.00 and 00.00 on any day"

The application seeks the removal of Condition 9 to enable 24 hour operation of the restaurant, seven days a week.

The Proposal

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This application seeks planning permission (under Section 73 of the Act) for the continued use of the above site, without compliance with Condition 9 of Permission: 2020/62/90450/E (as allowed by Appeal Reference: APP/Z4718/W/21/3285518), in order to enable the restaurant to operate 24 hours, seven days a week. There are no changes to the established servicing hours at the restaurant as a result of this application.

The proposal therefore seeks permission for an additional four hours of trade when compared to the current operational hours. The changes are required to ensure that the restaurant is better able to meet the needs of its customer base and enhance the overall operational efficiency.

Justification for the Proposal

The proposed extension to the operating hours of the drive-thru lane is not considered to result in any unacceptable impact on the existing levels of amenity. The Site is located on Owl Lane, and the northern and western boundaries of the site adjoin the road network of Leeds Road and John Ormsby VC Way, both major arterial routes on the local highway network which are the primary contributors to the noise climate around the site.

The immediate locality is characterised by a range of land uses. Directly to the east of the Site lie residential dwellings which are separated from the restaurant with a high-rise acoustic fence. The south of the site is characterised by a strong existing commercial presence to the south of the site.

Based on experiences of other restaurants within the group, the bulk of the custom during the extended hours will be drawn from passing trade, rather than drawing people into the area. On the basis that these vehicles will already be on the local highway network, the proposal will not increase vehicular traffic or noise associated with movements.

In addition, a high proportion of customers who use the restaurant during night time hours are often taxis, shift workers, delivery vehicles and emergency service crews, none of whom are prone to causing anti-social behaviour or significant noise. In this regard, the proposed development is self-regulating and therefore the restaurant does not anticipate any unacceptable impacts as a result of the extended hours.

It follows that the proposed extension is unlikely to cause any unacceptable impact on amenity levels as a result of an increase in noise and/or disturbance from additional traffic generation.

Noise Impact Assessment

As the closest residential properties are located approximately 25 from the restaurant to the east of the Site, on Owl Lane, the application is supported by a Noise Impact Assessment ('NIA'). The NIA outlines that a noise survey was carried out at the site between 16th – 17th April 2024. The report concludes that, even without mitigation, the proposed extension to operating hours will result in 'no observable adverse effect' ('NOAEL') upon nearby residential amenity.

In a recent appeal decision in Liverpool where the Inspector allowed 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) (Appeal Reference: APP/Z4310/W/24/3337065). The Inspector stated that:

*"I find 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 Breck Road locality.** The proposal would not therefore give rise to unacceptable harm to the living conditions of neighbouring residents with regard to noise and disturbance. As such, it would not conflict with Policies SP2, UD2 and UD7 of the Liverpool Local Plan 2022 (LLP). It would also not conflict with the guidance found within the SPG regarding the effects of new development on the living conditions of neighbours."*

The Inspector concluded that the proposed development at the appeal site was considered acceptable as there was no significant adverse impact on residential amenity and were considered to accord with policies and guidance.

The technical evidence produced confirms that there will be no adverse impact on nearby residential amenity as a result of the proposed development. In addition, proactive mitigation measures will be implemented to minimise and prevent the risk of noise and anti-social behaviour at the Site.

Although the NIA concludes there will be no adverse impacts as a result of the proposed development, any remaining potential for impacts to occur would be further minimised by a robust Premises Noise Management Plan ('**PNMP**') found at Appendix C of the NIA.

As the LPA will be aware, the National Planning Policy Framework ('**NPPF**') states that planning permission should only be refused on noise grounds where adverse impacts are categorised as 'significant'. The quantitative evidence submitted as part of this application demonstrates that there will be no adverse impacts. It follows that impacts upon residential amenity should not provide any impediment to the grant of planning permission for this proposal.

Economic Benefits

The proposed development will have a series of positive impacts that contribute towards meeting the local and national policy objectives relating to economic growth and job creation. The extension of operating hours for the restaurant will create additional employment positions and additional working hours for existing employees at the site. These positions help to reduce unemployment and increase earnings and disposable income which benefit other businesses.

Further, the increased hours will enable the restaurant to better meet the demands of customers, and allow more opportunities to generate sales leading to increased revenue, which will contribute to Dewsbury's local economy.

Public Health

We understand that the reason for refusal stated on the 2022 decision notice issued by the Council was

Summary and Conclusion

This application seeks permission to operate the drive-thru restaurant without compliance with Condition 9 of Permission: 2020/62/90450/E (as allowed by Appeal Reference: APP/Z4718/W/21/3285518). This is to enable the restaurant to trade 24 hours a day, seven days a week.

The proposed extension is required to ensure that the restaurant is better able to meet the demands of its established customer base and enhance its overall efficiency.

As there are no unacceptable impacts, we respectfully request that this application will be approved and that planning permission is granted.

We trust that the information provided above is sufficient for the Council to register and consider this application. We will endeavour to contact you within the next few days to establish your timetable for decision making.

In the meantime, should you require any clarification or additional information, please do not hesitate to contact Francesca Opoku-Gyamfi or Brad Wiseman at these offices.

Yours faithfully,



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