



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 27th August 2009

Subject: Application 09/02530/FU – Variation of condition no.25 of planning permission 99/21/10/95/FU to extend the opening hours to 05.00hrs – 24.00hrs Sunday to Wednesday and 05.00 – 01.00 hrs Thursday to Saturday at McDonalds, Low Road, Hunslet, LS10 1QR.

APPLICANT

McDonalds Restaurants Ltd

DATE VALID

10th June 2009

TARGET DATE

5th August 2009

Electoral Wards Affected:

City & Hunslet

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

GRANT PERMISSION subject to the following condition:

Conditions

25. The opening hours of the premises shall be restricted to 05.00 hours to 24.00 hours Sunday to Wednesday and 05.00 hours to 01.00 hours on Thursdays to Sundays.

(all other conditions would be re-applied from application 99/21/10/95/FU)

1.0 INTRODUCTION:

1.1 This application is reported to Plans Panel at the request of Ward Councillor Elizabeth Nash, who has raised concern over the impact the proposed hours may have on local residential amenity (noise) grounds.

1.2 A previous application for the extension of the opening hours was also put before the Plans Panel in July 2008 (see planning history below – para 4.4).

2.0 PROPOSAL:

- 2.1 The proposal is to vary the hours of opening to McDonalds. The existing approved opening hours are as follows (further to the approval of application 21/360/04/FU which previously varied the original permitted hours in 2005):

06.00 – 24.00 Monday to Sunday

It is now proposed to extend these opening hours as follows:

05.00 hours to 24.00 hours Sunday to Wednesday and 05.00 hours to 01.00 hours on Thursdays to Saturdays

- 2.2 As an application to vary one condition of the original 1995 permission, all conditions have been re-applied as appropriate.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is situated fronting Low Road, which forms the main A61 Leeds to Wakefield dual carriageway main road. The restaurant itself consists of approximately 220m² of floor space and contains a car park situated to the rear (north east/east). It also has a drive-through facility as well. Its entrance is on the north western side elevation and this faces towards a business unit.

- 3.2 The north eastern side of Low Road is generally commercial with a variety of other retail premises and industrial works buildings surrounding the site. To the western side of the A61, the site faces the grounds of St. Joseph's RC Church and diagonally opposite to the south west are residential dwellings at Whitfield Way. However, these properties are screened somewhat from the main road by a notable belt of landscaping.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 99/21/10/95/FU: Drive through restaurant with car park and landscaping. Approved - 27.10.1995

The hours of opening under this above original approved application, was conditioned as follows:

0800 hours to 2330 hours Monday to Saturday, and 1200 hours to 2300 hours on Sundays.

- 4.2 99/21/22/95/FU: Amendment to condition no 11 of application no 99-21/10/95/FU (hours of opening). Approved - 06.12.1995

The hours of opening of the premises were then shortly after amended and instead were restricted to:

08.00 hours to 2400 hours Monday to Sunday.

- 4.3 21/360/04/FU: Variation of condition no 25 permission 99-21/10/95/FU (opening hours). Approved - 25.01.2005

This 2004 application was then proposed to vary the hours further to:
06.00 to 24.00 hours Monday to Sunday.

4.4 08/02108/FU: Variation of condition no. 25 (hours of opening) of planning permission 99/21/10/95/FU. Refused - 20.08.2008

Last year, application 08/02108/FU was proposed for the further variation of the opening hours as follows:

05.00 hours to 24.00 hours Sunday to Wednesday and 05.00 hours to 03.00 hours on Thursdays to Sundays.

This application was refused by Plans Panel on the following ground:

The proposed hours of opening would lead to an additional number of comings and goings from patrons using the premises in the late hours/early hours of each day. The associated noise and disturbance from such use, particularly in the early hours, would be significantly detrimental to residential amenity in the residential locality surrounding these premises. The application is therefore contrary to policy GP5 of the Unitary Development Plan (Review) 2006 and guidance contained in Planning Policy Statement 1 - Delivering Sustainable Development (2005).

5.0 HISTORY OF NEGOTIATIONS:

5.1 Following the last relevant refusal in 2008 for the then proposed extension of the opening hours, the applicants have instead offered a new set of proposed opening hours, which notably change the proposed closing time to 01.00, rather than 03.00 during Thursday to Saturday and thus only extending the current legal closing time on these days by another hour only past midnight.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The applications were all advertised by site notices, dated 3rd July 2009.

6.2 Councillor Nash has opposed this latest application and states:

“There may be a main road separating the premises and residential properties, but at that time of the night the road is quiet. This McDonalds is clearly for people to drive there and residents have a right to peace and quiet during the night.”

6.3 In respect of the application, no objection letters have been received.

6.4 The concerns raised are addressed in the appraisal section below.

7.0 CONSULTATIONS RESPONSES:

Statutory:

7.1 None.

Non-statutory:

7.2 Neighbourhoods & Housing
No objections.

8.0 PLANNING POLICIES:

Development Plan

8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP). The RSS was issued in May 2008 and includes a broad development strategy for the region,

setting out regional priorities in terms of location and scale of development. In view of the relatively small scale of this proposal, it is not considered that there are any particular policies which are relevant to the assessment of this application.

- 8.2 The site is not specifically designated for any particular purpose in the Unitary Development Plan (UDP) other than the wider area within which it is situated is allocated as a Regeneration Area under policy R2. The following UDP policies are relevant to the consideration of the application:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

E4: Outlines provision for employment development to provide scope for job opportunities and an appropriate balance between homes and jobs.

T2: Development proposals should not create new, or exacerbate existing, highway problems.

Government Planning Policy Guidance/Statements

- 8.3 Planning Policy Statement 1: Delivering Sustainable Development (2005).
Planning Policy Guidance 24: Planning and Noise (1994).

9.0 MAIN ISSUES

1. Amenity Considerations.
2. Highway Safety Matters.
3. Employment

10.0 APPRAISAL

Amenity Considerations.

- 10.1 The proposal now aims to just extend the night-time opening by an extra hour but only on Thursdays to Saturdays and early morning opening again by just an extra hour at 5.00 am as opposed to the current permitted 6.00 am time (every day).
- 10.2 The Environmental Health consultation has commented as follows:
- “The application site is situated in an area of mixed use commercial properties with residential properties to the South West. The proposed application is unlikely to create any significant additional disturbance to nearby occupants. Therefore, this Department has no adverse comments with regard to this application.”*
- 10.3 Given the significant separation between the restaurant and the nearest residential properties at 60m away (on Whitfield Way), as separated also by the main A61 carriageway and extensive landscaping fronting this road itself, it is not considered that the extra hour in the morning and late at night should raise cause for any residential amenity concern. It is also considered that at the times requested for additional opening, passing traffic will still be relatively frequent where the background noise levels will be mainly affected by this noise source as opposed to comings and goings and patron use of the car park/access/drive-through facilities.
- 10.4 Indeed, the restaurant itself has operated without any noise related complaints made to either the Neighbourhoods and Housing section or Planning Department since opening in the 1990s.

10.5 Overall, the proposed amended hours are not considered to be detrimental to residential amenity and policy guidance outlined in GP5, PPS1 and PPG24.

Highway Safety

10.6 From a highway perspective, the proposal is not considered to represent any highway safety concerns. There will obviously be some additional traffic generated from comings and goings but at the additional times specified this should not cause any concerns for the local network. The proposal is considered acceptable to policy T2.

Employment

10.7 The proposal will assist the creation/stability of employment opportunities at the Restaurant and help to strengthen the site's recognition as a designated employment site under policy E4.

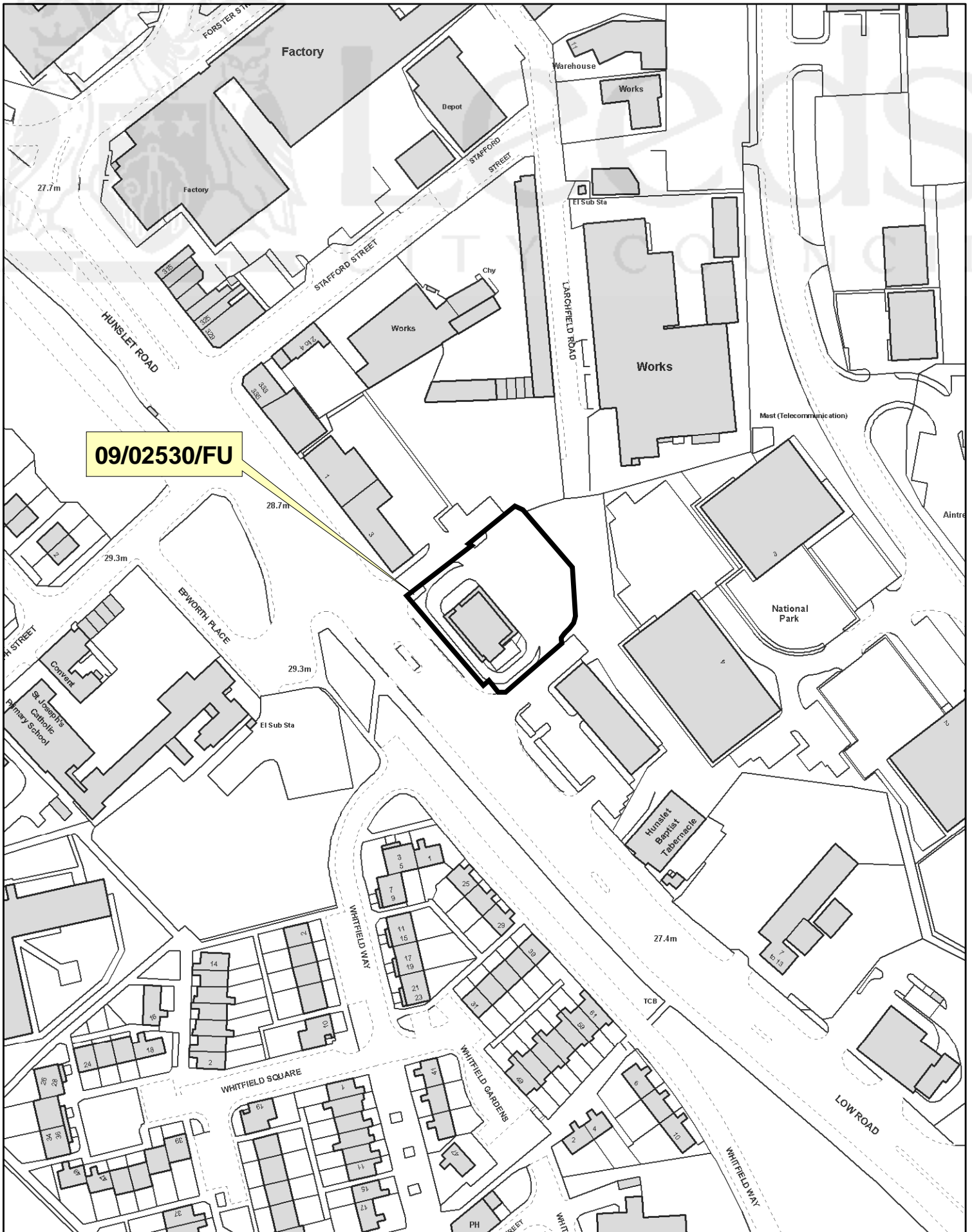
11.0 CONCLUSION

11.1 The application is considered appropriate on grounds of amenity and highway safety considerations given the additional times applied for, the site location and the surrounding context of the area. The application is also considered to help support local employment opportunities. The application is considered to comply with UDP policies GP5, E4 and T2 and national guidance set out in PPS1 and PPG24.

Background Papers:

Application 09/02530/FU.

Certificate of Ownership: Signed by applicant.



09/02530/FU

EAST PLANS PANEL I

Scale 1 / 1500

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