

Agenda Item	A11
Application Number	25/00677/VCN
Proposal	Variation of condition 7 on approved application 95/00530/FUL to extend the opening hours of restaurant
Application site	Former Frankie And Benny's Hilmore Way Morecambe Lancashire
Applicant	McDonald's Restaurants Ltd
Agent	Mr Henry Mackenzie
Case Officer	Mr Patrick Hopwood
Departure	No
Summary of Recommendation	Approval, subject to conditions

(i) Procedural Matters

This form of development would normally be dealt with under the Scheme of Delegation. However, as the landowner is Lancaster City Council, the application must be determined by the Planning Regulatory Committee.

1.0 Application Site and Setting

- 1.1 The site to which this application relates is the former Frankie & Benny's building off Central Drive, Morecambe. The building was originally constructed in the mid-1990s as a drive through Burger King takeaway, until Frankie & Benny's took over the site in 2008, removing the drive through and extending into the former drive through lanes. Frankie and Benny's vacated the site in 2020, and it has remained disused since then. The building is located on the corner of Hilmore Way and Central Drive, and shares an access point on Hilmore Way and car park with a gym and pizza takeaway which co-habit the former Blockbuster video shop. Hilmore Way also leads to Morrisons, Morrisons Petrol Station, B&M, The Range and Next and their associated car parks, coach parking, and service areas.
- 1.2 The site is located within the Morecambe Area Action Plan (MAAP) and a Regeneration Priority Area. The cycle path to the west and south forms part of National Cycle Routes 69, 700, and the Way of the Roses, and is also designated as an existing cycle route under Policy T2.
- 1.3 Condition 7 of the operative planning permission (95/00530/FUL) controls the business hours of the restaurant unit to 07:00 to midnight daily.

2.0 Proposal

- 2.1 This Section 73 application seeks to vary Condition 7 on approved planning application

95/00530/FUL to extend the opening hours by one additional hour in the morning, so that the opening hours are 06:00am to midnight. The submitted covering letter sets out that the Applicant wishes to extend trading hours to meet its operational requirements and reflect its other stores.

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
95/00530/FUL	Erection of a drive through takeaway restaurant and video shop	Approved
08/00836/FUL	Alterations and extensions to existing Burger King restaurant to form Frankie & Benny's restaurant with ancillary bar	Approved
22/01452/FUL	Change of use of existing restaurant (Class E) to mixed use unit comprising of restaurant and drive thru takeaway (sui generis), demolition of existing single storey extensions to side and rear, installation of external cladding and panelling and 2 new windows to the side, reconfiguration of car park to create drive-thru lane and associated landscaping	Withdrawn
23/00502/FUL	Change of use of existing restaurant (Class E) to mixed use unit comprising of restaurant and drive thru takeaway (sui generis), demolition of existing single storey extensions to side and rear, installation of external cladding and panelling and 2 new windows to the side, reconfiguration of car park to create drive-thru lane and associated landscaping	Approved
25/00314/FUL	External alterations including replacement doors and glazing, installation of plant and equipment, demolition of existing bin store, creation of bin store corral area, erection of fencing, changes to car parking layout, landscaping, and associated works	Approved
25/00316/FUL	Erection of single storey extensions, external alterations including replacement doors and glazing, installation of plant and equipment, demolition of existing bin store, creation of bin store corral area, erection of fencing, changes to car parking layout, landscaping, and associated works	Approved
25/00390/ADV	Advertisement application for 4 internally illuminated signs and 2 non-illuminated banner frame signs	Approved
25/00392/ADV	Advertisement application for 4 internally illuminated signs and 2 non-illuminated banner frame signs	Approved
25/00391/ADV	Advertisement application for an internally illuminated totem sign	Approved

4.0 Consultation Responses

4.1 At the time of writing this report, the following responses have been received from statutory and internal consultees:

Consultee	Response
Morecambe Town Council	No response received.
County Highways	No objection.
Network Rail	No objection.

Environmental Health	Comments. In general agreement with the recommendations of the report. Recommends that the proposed mitigation measures are conditioned. Recommends that deliveries are restricted between the hours of 07:00 and 21:00 to avoid adverse impacts at the nearest residential property.
Property Services	No response received.

4.2 At the time of writing this report, no responses have been received from members of the public.

5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Noise and Residential Amenity

5.2 **Noise and Residential Amenity** (NPPF Chapters 12 (Achieving well-designed places) and 15 (Conserving and enhancing the natural environment); Policy DM29 (Key Design Principles))

5.2.1 The reason given on planning permission 95/00530/FUL for imposing the opening hours condition is “in the interest of the amenity of nearby residents”. The nearest residential property is on Aldingham Walk, with a distance of approx. 40m between building facades, or approx. 20m between site boundaries. The residential properties are separated from the application site by a railway siding and the Lancaster-Morecambe Greenway cycle path.

5.2.2 The application has been submitted with a noise report, which includes a survey of background noise levels, and assessment of plant, patron and delivery vehicle noise from the restaurant use. The report concludes that with the recommended mitigation for the plant equipment, there would be no adverse impact on residential neighbours from plant and patrons from an additional hour of trading at 6am. In terms of logistical and supplier deliveries, in order to prevent any adverse impacts from delivery vehicles and movements, the report recommends that delivery hours should be limited to 07:00 to 23:00.

5.2.3 The Council’s Environmental Health Officer is in general agreement with the report, and recommends that the proposed mitigation measures are conditioned to prevent adverse noise impacts. However, having had regard to the relatively quiet background noise levels post-9pm and louder nature of the delivery activities, the Environmental Health Officer recommends that delivery hours are further restricted to between the hours of 07:00 and 21:00 to avoid adverse impacts at the nearest residential property.

5.2.4 Based on the findings of the submitted noise report and the comments from the Environmental Health Officer, the opening hours can be extended by an additional hour in the morning, to be 06:00 to midnight daily, without causing harm to the nearest noise sensitive receptors. Whilst the previous condition did not specifically reference delivery hours, it was a more general hours condition, and it is reasonable to specify particular opening and delivery hours through the amended planning condition having had regard to the noise survey and planning policy requirements to secure a high level of amenity and living conditions for neighbouring occupiers.

6.0 **Conclusion and Planning Balance**

6.1 For the reasons set out above, the amended opening hours of 06:00 to midnight and delivery hours of 07:00 to 21:00 are acceptable in terms of noise impacts on residential amenity, and compliant with local and national planning policy requirements.

6.2 As the original development has been completed, conditions controlling the development timescale, and requiring the provision of car parking before first occupation, can be removed. The condition for the original five-year landscaping plan can also be removed as this time period has now lapsed and the condition is no longer enforceable. The ventilation/plant details condition can be updated to reference the latest plans and recommended mitigation scheme. Other conditions can be retained.

Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

Condition no.	Description	Type
1	Amended Plans and Details (retained from 95/00530/FUL)	Control
2	Approved Materials (retained from 95/00530/FUL)	Control
3	Separate Drainage Systems (retained from 95/00530/FUL)	Control
4	No Building Within 3m of Public Sewers (retained from 95/00530/FUL)	Control
5	Restaurant Opening Hours (06:00 to Midnight) and Delivery Hours (07:00 to 21:00)	Control
6	Ventilation/Plant Details	Control
7	Site Levels (retained from 95/00530/FUL)	Control

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/Guidance.

Background Papers

None