

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/0872	Case Officer:	Andrew Horrell
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition no 11 relating to planning application GR/199/96 - to extend the restaurant's opening hours.		
Site:	McDonald's, 165 London Road, East Grinstead, West Sussex, RH19 1ET, , ,		
Validation Date	7 Apr 2026	Overall Expiry Date:	4 May 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	23 Jun 2026
Target Date:	2 Jun 2026	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	18
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Signed and Agreed By:	Steven King	Date:	23 Jun 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/0872

**McDonald's, 165 London Road, East Grinstead, West Sussex, RH19 1ET, ,
Variation of condition no 11 relating to planning application GR/199/96 - to extend the
restaurant's opening hours.**

C/O Agent

SUMMARY OF REPRESENTATIONS

19 letters of representation have been received. They object on the following grounds:

- Public nuisance/ Anti Social Behaviour
- Noise pollution
- Light pollution
- Vehicle congestion
- Out of keeping with area
- Highway safety

SUMMARY OF CONSULTEES

Environmental Health Officer: Once further information and an updated noise report was received, the plant noise mitigation was deemed acceptable as was the night time activity/ Anti-Social behaviour based on the response provided by the agent on the 21st May.

The drive thru and delivery noise is deemed acceptable subject to condition, car door slam noise is also acceptable subject to condition.

Local Highway Authority: The site is located on London Road, an A-classified road subject to a speed restriction of 30 mph.

For context, WSCC in its role as Local Highway Authority (LHA) was a consultee for permitted application DM/23/2229, raising no highway safety or capacity concerns.

The original permission stipulated the hours of operation should be between 7am and 11pm. The applicant seeks a revision to hours of operation to become a 24hours, seven days a week operation.

The proposed extended operating hours are outside of network peak times. Whilst the proposals could see an increase in movements during these new times, the trips generated would not be a significant increase over existing, and it is not anticipated to give rise to an adverse impact on the operation of the local highway network. The site is sustainably located that is well accessible on foot, by cycle or by public transport.

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 116), and that there are no transport grounds to resist the proposal.

Sussex Police: I note the applicant is seeking permission to trade 24 hours a day from the currently permitted 7am until 11pm.

My main concern with an increase in hours of trading is the additional footfall to the area both by person and vehicle and the amenity of the surrounding local community who may be adversely affected with longer opening times especially during the hours of darkness.

Should this planning application be approved - a large degree of sensitivity will be required to make sure the surrounding local community is not unduly disturbed, and it will therefore be a matter for the applicant to ensure that this is managed in the most appropriate manner

TOWN COUNCIL OBSERVATIONS

London Road was not a car park and Moat Road would at times be blocked due to traffic queuing to use McDonalds.

Whilst it was noted that at peak times a staff member would be outside to attempt traffic control, this was difficult to achieve due to the site of the restaurant. A planning condition was requested at the time of the original planning permission, and the Town Council requested that this be enforced especially at all peak times.

INTRODUCTION

The application seeks permission, under Section 73 of the Town and Country Planning Act 1990, to vary condition 11 of GR/199/96 to increase the restaurants opening hours to 24 hours seven days a week.

RELEVANT PLANNING HISTORY

There has been a number of applications approved on site, the most relevant applications towards the determination of the current proposal includes:

GR/199/96 - MINOR MODIFICATIONS TO BUILDING FABRIC INCLUDING PARTIAL DEMOLITION AT REAR, PROVISION OF DRIVE-THRU LANE AND ASSOCIATED PARKING, CONSTRUCTION OF REFUSE ENCLOSURE, REPLACEMENT OF PLANT MACHINERY. AMENDED PLANS RECEIVED 16.10.96 SHOWING MODIFIED ENTRANCE AND EXIT ARRANGEMENTS AND TRAFFIC GENERATION AND CAR PARKING ASSESSMENT REC'D 2.10.96, AND GROUND FLOOR LAYOUT PLAN REC'D 19.9.96. (approved)

GR/200/96 - MINOR MODIFICATIONS TO BUILDING FABRIC INCLUDING PARTIAL DEMOLITION AT REAR, PROVISION OF DRIVE-THRU LANE AND ASSOCIATED PARKING, CONSTRUCTION OF REFUSE ENCLOSURE, REPLACEMENT OF PLANT MACHINERY. AMENDED PLANS RECEIVED 16.10.96 SHOWING MODIFIED ENTRANCE AND EXIT ARRANGEMENTS AND TRAFFIC GENERATION AND PARKING ASSESSMENT RECEIVED 2.10.96, AND GROUND FLOOR LAYOUT PLAN REC'D 19.9.96. (approved)

SITE AND SURROUNDINGS

The application site is a chain restaurant and take-away with drive through facility located in the centre of East Grinstead.

The building has a side gabled form with front dormer windows. Walls are white rendered, with the front elevation mainly glazed with aluminium framing. Ventilation and air conditioning equipment is sited upon a flat roof element to the rear.

The building is surrounded by hardstanding for its drive through and car park. Business premises surround in all directions.

The site within the built-up area of East Grinstead.

APPLICATION DETAILS

The application seeks permission under section 73 of The Town and Country Planning Act 1990, to vary condition No.11 of planning consent GR/199/96.

Condition 11 states:

'The premises shall not be open for trade or business except between the hours of 7am - 11pm and there shall be no external illumination on the premises except between the above mentioned hours.'

Reason: To safeguard the amenities of neighbouring properties.'

This application seeks to extend the opening hours to 24 hours/seven days a week.

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and East Grinstead Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan but is an important material consideration.

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

- DP21: Transport
- DP26: Character and Design
- DP29: Noise, Air and Light Pollution

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

Relevant policies:

SA38: Air Quality

East Grinstead Neighbourhood Plan

Neighbourhood Plan (Made 2nd November 2016)

Relevant Policies:

Policy EG3 - Promoting Good Design

Other Material Considerations

Mid Sussex District Plan 2021-2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and hearings were concluded on the 19th March 2026. The District Plan remains at Examination until the Inspector has published his report, until that time only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS1 - Climate Change
DPS2 - Sustainable Design and Construction
DPN6 - Pollution
DPN7 - Noise Impacts
DPN9 - Air Quality
DPB1 - Character and Design
DPE1 - Sustainable Economic Development
DPE4 - Town and Village Centre Development
DPT4 - Parking and Electric Vehicle Charging Infrastructure

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

National Planning Policy Framework (NPPF) (December 2024)

The National Planning Policy Framework (NPPF) 2024 is a material consideration. Paragraphs 2, 8, 11, 39, 48, 110-114, 131, 135 & 139.

ASSESSMENT

This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission.

The Act states that '*On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and*

*(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.'*

Accordingly, it is not necessary to reassess all of the issues from the original planning application; it is only necessary to assess the issues that are relevant in relation to the condition that is proposed to be amended.

As this application solely seeks to vary the opening hours of the existing fast-food restaurant, the main issue deemed relevant to the consideration of this application is impact on neighbouring residential amenities and highways impact.

Impact on Residential Amenity

Policy DP26 of the District Plan refers to amenity and states that development proposals should *'not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution'*.

The threshold for the related policy within the East Grinstead neighbourhood Plan EG3 states:

'The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity'.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. Consequently, policy DP26 of the Mid Sussex District Plan is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

Policy DP29 relates to noise and light pollution stating in part that *'the environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

Noise pollution:

*o It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;
o If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.

In appropriate circumstances, the applicant will be required to provide:

*o an assessment of the impact of noise generated by a proposed development; or
o an assessment of the effect of noise by an existing noise source upon a proposed development;'*

Policy SA38 of the Mid Sussex Site Allocations DPD has superseded District Plan policy DP29 in respect of air pollution and states in part that *'the Council will require applicants to demonstrate that there is not unacceptable impact on air quality.'*

The application seeks to extend the current opening hours by eight hours to 24 hours a day.

As shown by the Noise report, this part of London Road is predominantly commercial or mixed use in nature. The mainly affected residential properties are converted offices opposite to the south-east of McDonalds with main road between.

The Noise Impact Assessment has been submitted as part of the application which concludes that there would be no observable adverse effect level in overall noise climate throughout the extended hours of use with the plant noise predicted to achieve no observable adverse effect level with mitigation. A premises Noise Management Plan was also provided.

The Mid Sussex District Plan Environmental Protection team have been consulted on the proposal.

Based on the information provided, the plant noise mitigation was accepted as the kitchen extract settings are controlled by a building management system, and an automatic speed setback has been applied for the nighttime hours after 23:00 and before 07:00, so no manual intervention from staff is required to implement the mitigation strategy.

In terms of a Premises Noise Management Plan, the Council's Environmental Health Officer commented in response that this relies on staff judgement and intervention and customer cooperation in terms of Anti Social Behaviour.

It is agreed that Anti-social behaviour (ASB) is not, in itself, a land use planning matter, but is instead controlled through separate regulatory regimes, including licensing and policing.

Sussex Police have commented on the proposal stating *'My (our) main concern with an increase in hours of trading is the additional footfall to the area both by person and vehicle and the amenity of the surrounding local community who may be adversely affected with longer opening times especially during the hours of darkness.'*

Should this planning application be approved - a large degree of sensitivity will be required to make sure the surrounding local community is not unduly disturbed, and it will therefore be a matter for the applicant to ensure that this is managed in the most appropriate manner.'

Appendices C and F of the Noise Impact Assessment outline the measures to which the applicants (McDonalds) will implement during the additional hours (11pm - 6.59am) to minimise the impact to neighbours. This will be conditioned to ensure compliance.

The agent has shown that the Planning Inspectorate has consistently found that using ASB as a reason for refusal in terms of noise is not a robust approach unless the impact is clearly shown. This was agreed by the Environmental Health team.

Nevertheless, a Noise Management Plan compliance condition was recommended by the Environmental Health Officer in response to the proposal. This condition is considered to be necessary and relevant in the interest of protecting neighbouring residential amenities.

The drive through and delivery noise is such that the comparison with the existing noise climate does suggest that significant adverse effects seem unlikely. However, they have suggested a backstop condition if noise pollution is deemed to be caused in terms of internal Lmax levels.

The car door slam noise impact will be controlled via condition with the nearest parking space to the highway shall not be used in nighttime hours.

No concerns in relation to light pollution has been raised by our environmental health consultee.

There is no evidence to suggest that the removal of the condition would result in any significant increase in air pollution.

Sussex police have raised some concern in relation to the impact of the change of hours. It is felt that given the significant change in hours of use, there is the potential for an adverse impact upon

neighbouring amenities and Anti Social Behaviour. It is therefore considered that a temporary approval for 24/7 usage to trial the impact of the extended hours on the local area would be appropriate.

Section 72 of the Town and Country Planning Act allows the LPA to grant planning permission for a specified temporary period only.

The Planning Practice Guidance makes clear that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area. This is the reason for the temporary consent in this case.

In view of these comments and subject to the conditions, the proposal is deemed to be acceptable, and the extended hours will be trialled for 12 months to allow for the impact to neighbouring amenities in terms of creating additional noise, disturbance, air or light pollution to be tested. The proposal, subject to conditions, therefore accords with Policies DP26 and DP29 of the District Plan and Policy SA38 of the Site Allocations DPD.

Highways Impact

Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Additionally, Policy DP21 of the District Plan requires development proposals to protect the safety of road users and pedestrians.

Following consultation with the Local Highway Authority (LHA), it was commented in response to the proposal that there may be a small increase in traffic over the extended period of time. However, the number of vehicle movements was not considered to be significant and not considered to exacerbate existing issues. Accordingly, no objection was raised.

Representations have been received suggesting that given the existing traffic congestion at the site, the increased hours should mean alterations to the existing highway arrangements i.e the creation of a box junction at the junction of Moat Road and London Road are noted.

The LHA have stated that any highway changes cannot be secured by the planning process. This is because any mitigation secured through the planning process needs to directly relate to the impacts of the proposals. As the impact of the proposal, as a direct result of the planning application, is going to be limited in highway terms and the queuing being experienced is more about an existing issue during peak times.

The proposal is therefore considered to not cause a severe impact on the highway network or a highway safety issue and therefore accords with Policy DP21 of the District Plan.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application is comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposed development is deemed acceptable as the extended opening hours will be given 12 months permission to allow for a trial run for the council to assess the impact of the proposal. This accords with the advice in the PPG relating to the use of planning conditions. It is not anticipated that there will be significant harm to neighbouring amenity but the trial run will allow this to be tested.

The proposal therefore, subject to the approval being a 12 month trial period, accords with policies DP21, DP26 and DP29 of the Mid Sussex District Plan, policy EG3 of the East Grinstead Neighbourhood Plan and policy SA38 of the Mid Sussex Site Allocations Development Plan Document.

Decision: Permission

Case Officer: Andrew Horrell