

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/0274	Case Officer:	Stefan Galyas
Application Type:	Removal/Variation of Condition		
Proposal:	Variation to condition 14 of BH.134.94 to extend the trading hours from 07:00-23:00, seven days a week to 06:00-00:00, seven days a week.		
Site:	Mcdonalds Drive Thru And Restaurant, Civic Way, Burgess Hill, West Sussex, RH15 9AR, , ,		
Validation Date	9 Feb 2026	Overall Expiry Date:	25 Mar 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	16 Apr 2026
Target Date:	11 May 2026	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	16
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	20 Apr 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/0274

McDonalds Drive Thru And Restaurant, Civic Way, Burgess Hill, West Sussex, RH15 9AR, , Variation to condition 14 of BH.134.94 to extend the trading hours from 07:00- 23:00, seven days a week to 06:00-00:00, seven days a week.

Co Agent

SUMMARY OF REPRESENTATIONS

There was a total of 16 letters of representation received in response to the proposal. All 16 sought to object to the proposal for the following reasons:

- The proposal resulting in an increase in noise and light pollution and anti-social behaviour.
- The application not accounting for workers arriving before the operating hours.
- An unacceptable impact on neighbouring amenities being incurred in a residential area.
- The extension to opening hours would prioritise commercial interests over the health, wellbeing and quality of life of the community.
- Further litter being generated as a result of the proposal which would give rise to an increase in vermin.
- There being pre-existing issues in terms of noise disturbance, anti-social behaviour and traffic on site.
- The proposal giving rise to an adverse odour impact, particularly in the summer months.
- The opening hours should be reduced to minimise disturbance rather than be extended.
- There being further disturbance through the number of deliveries.
- New housing developments in the area increasing the level of footfall to McDonalds.

SUMMARY OF CONSULTEES

Environmental Health Officer: *'Should the Local Planning Authority be minded to approve the application, I recommend that the Noise Management Plan at Appendix C is secured by condition, with clear wording that requires it to be followed in full. Again, I would make it clear, this cannot wholly remove the uncertainties associated with customer behaviour.'*

West Sussex County Council Highways: No objection.

TOWN/ PARISH COUNCIL OBSERVATIONS

Town Council: *'The Committee of 9th March would Recommend Refusal. The Committee shared the concerns of residents in the local vicinity and requested that West Sussex County Council Highways and the Police are consulted with regard to traffic, noise and potential anti-social behaviours as expressed by the MSDC Environmental Protection Team. Concerns were also expressed about litter.'*

If MSDC were minded to approve the application the Committee requested suitable conditions are added to restrict the operating hours of the Drive Thru and the permitted times of deliveries to outside the extended hours, to protect residential amenity.'

INTRODUCTION

The application seeks permission, under Section 73 of the Town and Country Planning Act 1990, to vary condition 14 of BH.134.94.

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:

BH/134/94 - Erection of a McDonald's 'Drive-Thru' Restaurant with Ancillary Staff, Storage and Office Accommodation Together with Local Authority Car Park Reorganisation and Extension. (Amended Site Layout Plan Received 9.8.94 Showing: Low Height Rails Adjoining Footpath Through Car Park; Service Vehicle Route; Amended Parking Layout (Space 1); Dimensions and Section of Oak Tree). Permission 12.10.1994.

BH/135/94/AP1 - Amended Plans: Erection of a McDonald's 'Drive-Thru' Restaurant with Ancillary Staff, Storage and Office Accommodation Together with Local Authority Car Park Reorganisation and Extension. Amended Plans Received Showing Addition of Draught Lobby to Main Entrance in Northern Elevation; Provision of Rear Order-Collection Booth with Window in Southern Elevation of Restaurant Eating Area Reduced From 10.4m to 9m. Permission 28.11.1994.

BH/135/94 - Duplicate Application: Erection of a McDonald's "Drive-Thru" Restaurant with Ancillary Staff, Storage and Office Accommodation Together with Local Authority Car Park Reorganisation and Extension. (Amended Site Layout Plan Received 9.8.94 Showing: Low Height Rails Adjoining Footpath Through Car Park; Service Vehicle Route; Amended Parking Layout (Space 1); Dimensions and Section of Oak Tree). Permission 12.10.1994.

BH/135/94/AP1 - Amended Plans: Erection of a McDonald's 'Drive-Thru' Restaurant with Ancillary Staff, Storage and Office Accommodation Together with Local Authority Car Park Reorganisation and Extension. Amended Plans Received Showing Addition of Draught Lobby to Main Entrance in Northern Elevation; Provision of Rear Order-Collection Booth with Window in Southern Elevation of Restaurant Eating Area Reduced From 10.4m to 9m. Permission 28.11.1994.

04/02707/FUL - Variation of Condition 14 attached to BH/134/94 to extend the opening hours from 07:00 - 23:00 to 06:00 - 00:00. Refusal 06.01.2005.

05/00849/COND - Variation of Condition 14 attached to BH/134/94 to extend the opening hours from 07:00 - 23:00 to 06:30 - 23:00. Refusal 20.05.2005.

08/03888/COND - Variation of condition 14 of BH/134/94 to extend opening hours from 07.00 - 23.00 to 06.00 to 23.00. Refusal 25.03.2009.

SITE AND SURROUNDINGS

The application relates to McDonalds, a fast-food chain restaurant set between Queen Elizabeth Avenue to the north and Station Avenue to the south. The existing unit features a crown roof form with associated lettering and branding featured throughout. There is an existing totem advertisement set to the northern side of the site and a drive thru as well as associated parking spaces set within the area immediately outside the building.

The site is located within the built-up area for Burgess Hill and there are a number of tree preservation orders on site.

APPLICATION DETAILS

The application seeks permission under section 73 of The Town and Country Planning Act 1990, to vary condition No.14 of planning consent BH.134.94.

Planning permission was granted under reference of BH.134.94. for the erection of the McDonalds drive thru, ancillary staff storage and office accommodation.

A number of planning conditions were imposed under the permission, including condition No.14 which states:

'The premises shall not be open for trade or business except between the hours of 7.00am and 11.00pm 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 from 06:00am to 00:00am 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 Burgess Hill 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

Neighbourhood Plan

Burgess Hill Neighbourhood Plan (Made January 2016)

Relevant Policies:

None relevant.

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*'.

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 1 hour at either end of the current operating hours. The proposed opening hours would therefore run from 06:00 to 00:00 seven days a week.

A Noise Impact Assessment has been submitted as part of the application which concludes that there would be no meaningful change in overall noise climate throughout the extended hours of use. However, it was noted in response to the application that there were some remaining concerns relating to customer behaviour during these extended periods of time. It was acknowledged that the previous noise related issues on site related to occasional antisocial behaviour and people lingering in the area.

In terms of a Premises Noise Management Plan, the Council's Environmental Health Officer commented in response that this relies on staff judgement and customer cooperation. Although a condition may be appended to any permission that may be granted, the management plan is difficult to enforce and cannot fully eliminate the risk of how customers behave during the extended hours.

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.

In view of these comments, the proposal is deemed to be acceptable and the extended hours are not considered to inflict significant harm to neighbouring amenities in terms of creating additional noise, disturbance, air or light pollution. The proposal 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 would be severe. Additionally, Policy DP21 of the District Plan requires development proposals to protect the safety of road users and pedestrians.

Following consultation with the Highways Engineer, 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.

The proposal is therefore considered to result in an acceptable highways impact and accord 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 in that the extended opening hours should not cause significant harm to neighbouring amenities in terms of generating additional noise and disturbance, or air or light pollution and result in an acceptable highways impact. The proposal therefore accords with policies DP21, DP26 and DP29 of the Mid Sussex District Plan and policy SA38 of the Mid Sussex Site Allocations Development Plan Document.

Decision: Permission

Case Officer: Stefan Galyas