

DELEGATED OFFICER REPORT

PROPOSAL	Variation of condition 1
LOCATION:	McDonalds Restaurant, Larchwood Avenue, Havant, PO9 3BF
REFERENCE NO:	APP/26/00151
APPLICANT:	Savills
APPLICATION TYPE:	Variation of condition
CONSULTATION EXPIRY DATE:	
APPLICATION EXPIRY DATE:	10/06/26
WARD:	
Bedhamptom	
SUMMARY RECOMMENDATION:	Approve with Conditions

1. Site Description

The site relates to a freestanding restaurant with landscaping and car parking on an unused area of overflow car park, between the Asda superstore and the associated petrol filling station.

2. Planning History

Application Number: APP/11/00993 Site Address: ASDA, Purbrook Way, Havant, PO9 3QW
Proposal: Construction of freestanding restaurant with drive-through, car parking and associated landscaping.

APP/24/00557 - Variation of Condition 9 of Planning Permission APP/11/00993 relating to hours of operation.

On 15 October 2012, Planning Permission was granted for the 'construction of freestanding restaurant with drive-through, car parking and associated landscaping' (App Ref: APP/11/00993)(the '2012 Permission').

The 2012 Permission was granted subject to 26 conditions.

Condition 9 of the 2012 Permission controls the operating hours of the unit and states: "The premises hereby permitted shall not open to the public before 06:00 hours or remain so open after 23:00 hours on any day." On 8 October 2024, planning permission was granted for the 'variation of Condition 9 of Planning Permission APP/11/00993 relating to hours of operation' (App Ref: APP/24/00557) (the '2024 Permission').

Condition 5 of the 2024 Permission enabled the restaurant to trade 24 hours a day, seven days a week, as follows: ~~Street, London, W1G 0JD~~ "The extended 24 hour opening hereby permitted shall apply in relation to the Drive Through Restaurant only. The main restaurant shall continue to be open to the public only during the times set out in Condition 9 of Planning Permission APP/11/00993."

Condition 1 of the 2024 Permission limited the 24 hour trade to a temporary period, as follows: "This permission shall be for a limited period expiring on 1st November 2025, on or before which date the extended opening hours for the drive through restaurant shall revert to those set out in condition 9 of Planning Permission APP/11/00993 unless the prior written consent of the Local Planning Authority has been obtained in writing for a further period."

The reason for imposing Condition 1 was: "To enable a review of the operation of the site on a 24 hour basis to be reviewed over a period of time to assess any impacts resulting from the operation of longer hours over a period of time on antisocial behaviour, noise and impacts on nearby residents..."

3. Proposal

The current Section 73 application seeks to vary Condition 1 of Planning Permission Application to develop land without compliance with Condition 1 of planning permission: APP/24/00557, to enable the drive-thru lane of the restaurant to operate 24 hours a day, seven days a week, on a permanent basis.

The main restaurant will remain restricted to between 06:00 – 23:00, and there are no other changes to the established operation of the restaurant as a result of this application.

4. Policy Considerations

In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the Planning Considerations section of the report.

Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016
Chichester Harbour Management Plan 2024-2025
Havant Borough Council and Chichester District Council Joint SPD - Chichester Harbour Area of Outstanding Natural Beauty
Havant Borough Local Plan (Core Strategy) March 2011

- CS7 (Community Support and Inclusion)
- CS13 (Green Infrastructure)
- CS14 (Efficient Use of Resources)
- CS16 (High Quality Design)
- CS18 (Strategic Site Delivery)
- CS19 (Effective Provision of Infrastructure)
- CS20 (Transport and Access Strategy)
- CS21 (Developer Requirements)
- DM8 (Conservation, Protection and Enhancement of Existing Natural Features)
- DM10 (Pollution)
- DM11 (Planning for More Sustainable Travel)
- DM12 (Mitigating the Impacts of Travel)
- DM14 (Car and Cycle Parking on Development (excluding residential))
- DM16 (Freight Transport)

Havant Borough Local Plan (Allocations) July 2014

- AL1 (Presumption in Favour of Sustainable Development)
- DM18 (Protecting New Development from Pollution)
- DM17 (Contaminated Land)

Listed Building Grade: N/A
Conservation Area: N/A

5. **Statutory and Non Statutory Consultations**

Publicity Type	Publicity Details	Start Date	End Date	Reasons
Site Notice	Site notice display	26/3/26	20/4/26	Is advertised in the public interest

Neighbouring properties consulted (as defined by the Statement of Community Involvement)

Number consulted: 34
No of representations received:0

Consultees:

Environmental Health
Environmental Health (pollution) has no objection to the proposed 24 hour operation of the drive-thru lane on a permanent basis.

Highways Authority
In regard to application APP/26/00151, having reviewed the information contained within the application pack, there would be no objection to the 24 hour a day operation of the drive thru, on a permanent basis (following the permitted temporary period) from a highway perspective.

Material planning considerations are addressed in Section 7.

7 **Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- I. Principle of development
- II. Appropriateness of design and impact on the character of the area
- III. Effect on neighbours
- IV. Transport and Parking
- V. Environmental Health

(i) Principle of development

The application site is located within the defined urban area; therefore development is considered acceptable in principle subject to development management criteria.

The proposed hours of operation are now 'tried and tested' at the site, and the evidence shows that the additional hours of operation for the restaurant has not resulted in any significant impact on residential amenity. As a result, it is clear that the reason given for the temporary imposition of Condition 1 is no longer necessary.

This application has been submitted under Section 73 of the Town and Country Planning Act 1990 seeking variation of conditions attached to planning permission. Section 73 applications relate solely to the variation or removal of conditions attached to an extant planning permission. The principle of development has already been established under planning permission [ref APP/24/00557]. The main issue for consideration is therefore whether the proposed amendment would result in any material planning harm, having regard to the following:

- ☐ the effect of the proposed change
- ☐ updated planning policy
- ☐ impacts on neighbours/highways/environment
- ☐ whether revised conditions are needed

(ii) Appropriateness of design and impact on the character of the area

The revised design is considered acceptable and would retain the character and appearance of the surrounding area. The proposed amendments would not materially alter the visual impact of the development.

(iii) Effect on neighbouring properties

The nearest residential properties are sufficiently separate from the site and no neighbour representations have been made. The operation has been subject to enforcement action and was operating as such for some time.

It is considered that given the separation distances afforded, there will be no undue loss of privacy, nor would the development appear overbearing.

Consequently, it is considered that the variation of condition would have limited and acceptable impact on the properties immediately adjacent to the application site meeting the requirements of Policy CS16 of the HBLP (Core Strategy). It is noted no letters of objection were received with respect to the scheme.

(vi) Transport/Parking

The amendments would not materially alter vehicle movements, parking provision or highway safety impacts compared with the approved scheme. The Highways Authority have reviewed the application and no objection to the 24 hour a day operation of the drive thru, on a permanent basis (following the permitted temporary period) from a highway perspective.

(vii) Environmental Health

The Council's Environmental Health team raise no objections to the proposed 24 hour operation of the drive-thru lane on a permanent basis.

8. Conclusions

The proposed amendments are not considered to materially change the nature of the approved development and would continue to comply with the relevant policies of the Development Plan. Subject to the recommended conditions, the proposal is considered acceptable and approval is therefore recommended

Overall, the proposed development is acceptable in principle.

This Section 73 permission constitutes a new standalone planning permission sitting alongside the original planning permission, with relevant conditions reimposed. The original permission remains extant.

9. RECOMMENDATION:

That the Interim Development Manager be authorised to Approve with Conditions for application APP/25/00610

Conditions:

1. The extended opening hours for the drive through restaurant hereby permitted shall operate on a permanent basis and not be subject to any temporary time limitation.

Reason: In the opinion of the Local Planning Authority, sufficient evidence has been provided to demonstrate that the extended opening hours would not result in unacceptable impacts in terms of noise, antisocial behaviour or residential amenity, having regard to Policies CS8 and CS16 of the Havant Borough Core Strategy (2011), Policy DM10 of the Havant Borough Local Plan, and the National Planning Policy Framework.

2. The development hereby permitted shall be carried out in full accordance with the following approved plans and measures submitted with application reference APP/24/00557: PHOTO 1 RE CONDITION 2: Uploaded 21/2/25 PHOTO 2 RE CONDITION 2: Uploaded 21/2/25 PHOTO 3 RE CONDITION 2: Uploaded 21/2/25 PHOTO 4 RE CONDITION 2: Uploaded 21/2/25 PHOTO 5 RE CONDITION 2: Uploaded 21/2/25 PHOTO 6 RE CONDITION 2: Uploaded 21/2/25 SPECIFICATIONS: ACOUSTIC ENCLOSURE AS-50: Uploaded 21/2/25 SPECIFICATIONS: BCW NEW STANDARD NOISE (002): Uploaded 21/2/25 SPECIFICATIONS: SILENCER SCHEDULE AS25-2MR: Uploaded 21/2/25 Drawing Number: WWRF-BCW-550-RD270-GA REV B: SPECIFICATIONS: GENERAL ARRANGEMENT DRAWING SWSI-BCW-550/100-1: Uploaded 21/2/25.

Reason: To ensure that noise levels have an acceptable impact on the character of the area and to residential properties particularly in the overnight period having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

3.The development hereby permitted shall be carried out in accordance with the following approved plans: Letter from Savills Ltd dated 4th July 2024 Noise Impact Assessment Report No. 14-0167-93 R02 dated 3rd July 2024 Technical Note Plant Noise Project Ref: 8001 Rev 1 Dated 7th May 2024

Reason: To ensure provision of a satisfactory development.

4 The site shall operate in accordance with the Noise Impact Assessment by Savills Report No. 14-0167-93 R02 dated 3rd July 2024 Appendix C Premises Noise Management Plan and Appendix F McDonald's Guidance on Anti-Social behaviour.

Reason: To ensure that the site operates in a appropriately to minimise noise and antisocial behaviour at the site particularly in the overnight period having due regard to policies CS8, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

5.The extended 24 hour opening hereby permitted shall apply in relation to the Drive Through Restaurant only. The main restaurant shall continue to be open to the public only during the times set out in Condition 9 of Planning Permission APP/11/00993.

The hours applicable are:

Drive Through Restaurant - 24 hours for 7 days per week.

Main restaurant - shall not be open to the public before 06:00 hours or remain so open after 23:00 hours on any day.

Reason: To accord with the details set out in the supporting information and to avoid additional potential noise and anti-social behaviour issues having due regard to policies CS8, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

6.The use hereby permitted shall be carried out in accordance with the McDonald's Litter Management Plan previously approved under condition 21 of planning permission APP/11/00993 under discharge of condition application APP/12/01096. All components of the agreed details and scheme shall remain in place and be retained for their intended purpose.

Reason: In the interests of the amenity of occupiers of nearby properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

7.The use hereby approved and occupation of the building shall continue operate using the turning, loading and unloading of vehicles and the parking of vehicles areas approved under planning permission APP/11/00993 and the areas of land so provided shall not be used for any purpose other than the turning, loading and unloading and parking.

Reason: In the interests of highway safety and local amenity having due regard to policies CS16, CS20 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

8. The CCTV equipment approved under condition 10 of planning permission APP/11/00993 shall be retained and maintained in full working order, in accordance with the details approved under discharge of condition application APP/12/01099 and all components of the approved scheme shall remain in full working order so long as the use continues.

Reason: To ensure the safety and security of staff and customers and safeguard the amenities of the locality and having due regard to policy CS8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

9. The lockable barrier and kerb detail to the car park to prevent access into the car park when the restaurant is closed, approved under condition 11 of planning permission APP/11/00993 in discharge of condition permission application APP/12/01098 shall at all times be retained in a wholly sound and effective condition.

Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policies CS16 and CS8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

10. The development hereby permitted shall be operated in accordance with the Exterior Car Park Lighting Plan (22-6-12 Rev A) and Supporting Information (McDonalds Havant 14-09-11 Rev A) approved under conditions 12 and 13 of planning permission APP/11/00993 in discharge of condition application APP/12/01100 and there shall be no external or internal lighting that can be seen outside the premises on the site other than as thereby approved.

Reason: To safeguard the amenities of the locality and in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

Informative

The permission hereby granted shall be read in conjunction with planning permission APP/11/00993 and APP/24/00557.