

The information, recommendations and advice contained in this report are correct as at the date of preparation, which is more than two weeks in advance of the Committee meeting. Because of these time constraints some reports may have been prepared in advance of the final date given for consultee responses or neighbour comment. Any changes or necessary updates to the report will be made orally at the Committee meeting.

Case Officer	Katie Ingram
Application No.	24/00117/REVPP
Date Valid	26th February 2024
Expiry date of consultations	13th May 2024
Proposal	The erection of a restaurant with drive-through and takeaway facility (Use Class E) with associated structures, fencing, parking, landscaping and vehicular access from North Close (following demolition of existing buildings and closure of access onto North Lane), without compliance with condition 1 previously imposed on planning permission granted on appeal ref APP/P1750/W/21/3278383 dated 17 February 2022 in accordance with the application ref 21/00048/REVPP to allow permitted hours from 0600 to 0000 hours (midnight) 7 days a week for a temporary period of 1 year
Address	1 North Close Aldershot
Ward	North Town
Applicant	McDonald's Restaurants Limited
Agent	Miss Francesca Opoku-Gyamfi
Recommendation	Refuse

Description

1. The application site is on the northern side of Ash Road and is a corner plot bounded to the west by North Lane and to the north by North Close. Ash Road where it adjoins the application site is a four-lane dual carriageway with a filter lane into North Lane. Opposite the junction of North Close on the western side of North Lane is Lower Newport Road.
2. The site is rectangular and is occupied by a two storey McDonalds restaurant/takeaway building with a drive-through facility. This site is bound by a low fence. The building is set back from Ash Road by 26m. The vehicular site entrance and exit from North Close, from where a vehicular circulation route runs through the car park areas to the east and south of the building to enter a drive-through lane to the west of the building. The customer ordering points are located to the north of the building and food delivered to

customers on the east side of the building, where the drive-through lane returns to the car park area. A fenced bin-store area between the north side of the building and the customer order points.

3. The approved building has a gross internal floor area of 546 sq m, of which 238 square metres would be available for customer dining and provide seating for up to 160 diners. There are a total of 40 on-site parking spaces, all situated to the east and south of the building. Two spaces in the south-west corner are provided with EV chargers.
4. Adjoining the eastern boundary of the site is Clyde Court, which comprises two buildings built up the side boundary shared with the application site containing eight flats separated by a central parking courtyard. Adjoining the eastern side of Clyde Court is a KFC drive-through and takeaway restaurant and associated parking, which has vehicular access to/from both the end of North Close and also directly from Ash Road.
5. To the west of the application site is No.215 Ash Road, a 3-storey flat building containing six flats. This is adjoined to the north by No. 1 North Lane, which is a Salvation Army single storey hall, which is bounded by Lower Newport Road to the north. The nearest residential properties on Lower Newport Road to the application site are No. 36, 27m from the application site, and the first floor flat at No.41 North Lane, which is 38m from the application site.
6. Opposite the application site, on the northern side of North Close is No.38 North Lane which is a printing premises, 'Jondo'. To the north-east are Southern Gas Network compounds.
7. The current application seeks planning permission for the operation of extended opening hours for a temporary trial period of one year. This is for customer opening hours commencing at 0600 hours and ending at 0000 hours (i.e. midnight) 7-days a week at variance with the customer opening hours set by Condition No.1 of planning permission 17/00344/REVPP. In this respect the applicants consider that various proposed amended mitigation measures set out in a submitted Site Management Plan (as amended on 13 May 2024) will satisfactorily address the Council's previous concerns about mitigation measures operated during a previous trial period operated between 18 July 2022 and 18 July 2023 such that no significant harm to the amenities of occupiers of adjoining and nearby residential properties will be demonstrated. The Council are requested to allow the further temporary trial period to allow them the opportunity to prove that the revised mitigation measures are adequate and can be appropriately implemented and maintained.

Relevant Planning History

8. Planning permission was originally granted subject to conditions in July 2016 for the "*Erection of restaurant [part single-, part two-storey building] with drive-thru and takeaway facility (Use Class A3/A5) with associated structures, fencing, parking, landscaping and vehicular access from North Close (following demolition of the existing training buildings and closure of access onto North Lane)*", 16/00411/FULPP. The 25 conditions imposed with this permission included the following:-
 - 13 *Prior to the first occupation of the development details of a lighting strategy for the site shall be submitted for the approval of the Local Planning Authority. Once approved the lights shall be installed in accordance with these details prior*

*to the first occupation of the development and thereafter retained.
Reason - In the interests of visual and residential amenity.*

- *14 The plant and machinery hereby approved shall be installed in accordance with the noise levels and mitigation measures as set out in the Environment Noise Assessment and supplementary Environment Noise Information prepared by Peter Ashford of Acoustic Associates South West Ltd dated 13 October 2015 and 4 April 2016 prior to the premises opening to the public and thereafter retained in accordance with these approved details.
Reason - To protect the amenity of neighbouring occupiers.**

- *15 Notwithstanding any details submitted with the application the use of the development hereby approved shall not commence, until details of the means of suppressing and directing smells and fumes from the premises have been submitted to and approved in writing by the Local Planning Authority. These details shall include the height, position, design, materials and finish of any external chimney or vent. The development shall be carried out in accordance with the details so approved prior to the first use of the development and thereafter retained.
Reason - To safeguard the amenities of neighbouring property.**

- **16 The restaurant/takeaway/drive through uses hereby permitted shall not be open to customers outside the hours of 07:00 to 23:00.**
Reason - To safeguard the amenities of existing and future neighbouring occupiers.

- *17 Deliveries and refuse collections to/from the premises shall only take place between the hours of 8am to 9pm.
Reason - To safeguard the amenities of adjoining and future occupiers*

- *18 Unless shown on the approved plans no display or storage of goods, materials, plant, or equipment shall take place other than within the buildings.
Reason - To protect the amenities of neighbouring property and the character of the area.*

- *23 Prior to the first occupation of the development and notwithstanding any information submitted with the application details of the proposed acoustic fencing shall be submitted to the Local Planning Authority for approval. These details should include its proposed construction to demonstrate that it will provide the level of acoustic attenuation required. Once approved the acoustic fencing shall be erected prior to the first occupation of the development and thereafter retained and maintained for the duration of the operational life of the premises.
Reason - To safeguard the amenities of adjoining occupiers.”*

9. The 2016 planning permission was subsequently implemented. However, in June 2017 a minor material amendment application was approved for “Variation of conditions 2, 3, 5, 8, 10, 11, 13, 14, 15, 21, 23 and 25 attached to planning permission 16/00411/FULPP dated 20/07/2016 for the erection of restaurant with drive-thru and takeaway facility (Use Class A3/A5) with associated structures, fencing, parking, landscaping and vehicular access from North Close (following demolition of existing buildings and closure of access onto North Lane) to allow for changes to the site layout”, 17/00344/REVPP. The approval of this application, with minor amendments, resulted in

the issue of a fresh planning permission for the development, to which similar or identical conditions were imposed as above, albeit the conditions were re-numbered, as follows:-

- Condition No.12 : Lighting Strategy for the site approved with the 2017 application as shown by Drawing No.D-1954-08 Rev.3, together with lighting columns and LUMA luminaires;
- Condition No.13 : Plant & Machinery Noise Mitigation Measures to be implemented and retained thereafter identical to that approved with the 2016 permission;
- Condition No.14 : Odour control measures as approved with conditions details approval 16/00738/CONDPP dated 14/12/2016;
- **Condition No.15 : Hours of Opening to Customers identical to those imposed with the 2016 permission: 0700 to 2300 hours;**
- Condition No.16 : Delivery/Refuse Servicing Times identical to those imposed with the 2016 permission: 0800 to 2100 hours;
- Condition No.17 : No external storage of goods, plant, machinery and equipment except within the buildings on site – identical requirements to those on the 2016 permission; and
- Condition No.22 : Acoustic Fence to be provided and retained thereafter in accordance with details approved with Condition Details application 16/00745/CONDPP dated 02/12/2016. The approved details in this respect comprise a 3.5m high timber acoustic fence running along 45 metres of the east boundary of the site adjacent to Clyde Court.

10. In April 2021 planning permission was refused for variation of Condition No.15 of planning permission 17/00344/REVPP dated 22/06/2017 to allow customer opening hours to be between 0600 and 0000 hours daily 7 days a week, thereby extending the customer opening hours one hour earlier in the morning and also an hour later at night, 21/00048/REVPP. The Council's reason for refusal was:-

11. *"The proposed permanent extended customer opening hours would give rise to unneighbourly nuisance impacts on neighbouring residential properties due to lighting and activity early in the morning and late at night to the detriment of the living environment and amenities of occupiers of those residential properties. The proposals are thereby unacceptable having regard to Policies SS1, DE1 and DE10 of the adopted Rushmoor Local Plan (2014-2032) and the National Planning Policy Framework and Guidance."*

12. A subsequent appeal against this refusal was allowed conditionally by the Inspector by decision letter dated 17 February 2022, in effect granting planning permission for the operation of the extended customer opening hours for a trial period of 1 year in order to allow time for the Council to monitor and test the efficacy of the various neighbour impact mitigation measures proffered by the applicants. The temporary period of extended opening hours allowed by the appeal decision was commenced on 18 July 2022 and expired on 18 July 2023. The conditions imposed by the Inspector generally replicated those imposed with the 2016 and 2017 permissions. The following conditions imposed by the Inspector are pertinent:-

- ***The restaurant/takeaway/drive-through uses hereby permitted may operate between the hours of 0600 to 0000 (midnight) for a temporary period of one year and only on the condition that all noise mitigation measures included in***

the submitted Noise Impact Assessment report 'McDonalds Ash Road Aldershot 14-0167-79 RO2' carried out by Sustainable Acoustics are implemented. During the temporary period the restaurant/takeaway/drive-through uses shall not be open to customers outside the hours of 0600 to 0000 (midnight). The Local Planning Authority shall be notified in writing within five days of the extended hours of operation commencing. Upon the expiry of the one year temporary period, the permitted hours of operation for the restaurant, takeaway and drive-through shall revert back to 0700 to 2300. Thereafter, the restaurant/takeaway/drive-through uses shall not be open to customers outside the hours of 0700 to 2300 without a fresh grant of planning permission.

- ***For the avoidance of doubt, the mitigation measures referenced above include:***
 - ***Adjusting plant and kitchen extract to night-time settings;***
 - ***Cordoning off those parking spaces closest to Clyde Court; and***
 - ***Compliance with the Premises Noise Management Plan set out within Appendix C of the Noise Impact Assessment.***

- ***6) The lighting strategy for this site shall be implemented in accordance with drawing number D-195408 rev 3 and the details of streetlighting columns and LUMA luminaires and thereafter maintained/retained.***

- ***7) The plant and machinery hereby approved shall be installed in accordance with the noise levels and mitigation measures as set out in the Environment Noise Assessment and supplementary Environment Noise Information prepared by Peter Ashford of Acoustic Associates South West Ltd dated 13 October 2015 and 4 April 2016 and thereafter retained in accordance with these approved details.***

- ***8) Means of suppressing and directing fumes and smells from the premises shall be installed in accordance with the details approved under application reference 16/00738/CONDPP dated 14 December 2016 and thereafter maintained/retained.***

- ***10) Unless shown on the approved plans no display or storage of goods, materials, plant, or equipment shall take place other than within the buildings.***

And

- ***13) The acoustic fencing shown on the approved plans shall be retained and maintained in accordance with these details and as approved under application reference 16/00745/CONDPP dated 2 December 2016 for the duration of the operational life of the premises."***

13. In June 2023 (i.e. before the trial period allowed by the appeal Inspector had expired), an application was submitted seeking the permanent retention of the extended opening hours the subject of the trial period on the basis that the applicants considered that the trial period had been a success, 23/00440/REVPP. However, this application was withdrawn from consideration in mid-July shortly before the application was to be considered by the Council's Development Management Committee at the 19th July 2023. According to Condition No.1 of the Appeal decision planning permission, the

opening hours of the site reverted to the hours of 0700 to 2300 hours 7 days a week with effect from 19 July 2023 and the premises have continued to the current date to be operated in accordance with these approved customer opening hours.

14. Advertisement Consents for the application site/premises were granted in July 2016 for the signage displayed at the application premises as follows:-

- 16/00408/ADVPP : Display three sets of internally-illuminated letters, three internally-illuminated fascia signs and one internally-illuminated golden arch;
- 16/00409/ADVPP : Display a double sided internally illuminated totem sign (6.5 metres high); and
- 16/00410/ADVPP : Display one internally illuminated Gateway (height restrictor) sign, nine freestanding internally-illuminated signs, one freestanding non-illuminated sign, twenty non- illuminated traffic signs and one non-illuminated double sided banner unit.

15. In April 2020 a further advertisement consent was granted for the display of 3no. double digital freestanding signs, 1no. single digital freestanding sign and 1no. 15" digital booth screen to provide further signage within the drive-thru lane for customer ordering, 20/00130/ADVPP. This is for the customer menu boards.

16. In January 2022, planning permission was granted for *"Installation 2 x rapid electric vehicle charging cabinets on two parking bays to become EV charging bays, and associated equipment"*, 21/00918/FULPP.

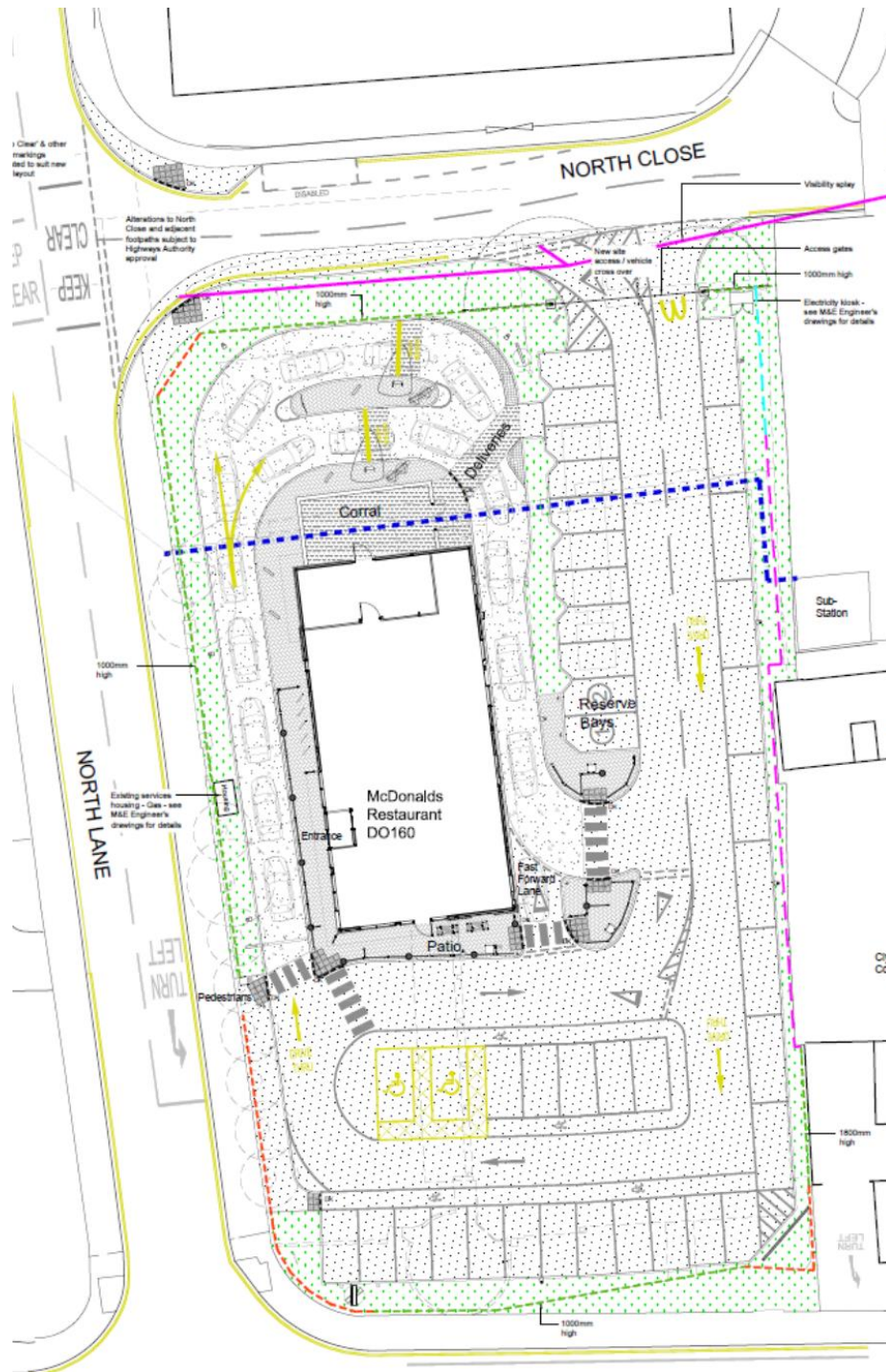


Figure 1: Approved Site Layout Plan 304 C: Note that the mini-roundabout at the junction of North Lane with North Close and Lower Newport Road is not shown on this plan since, at that time, the design was subject to approval by the Highway Authority (Hampshire County Council).

Consultee Responses

HCC Highways Development Planning No highways objections.

Environmental Health Environmental Health would support a temporary approval.

Neighbours notified

In addition to posting a site notice and press advertisement, 40 individual letters of notification were sent to adjoining and nearby properties.

Neighbour comments

Objections:

- Flat 2 Clyde Court, 233 Ash Road As direct neighbours to this establishment we already have our lives blighted by it. The revving of loud engines, car stereos blaring, horns being used, litter being thrown over the fence or dumped in our bins, random people parking in our car park or using it as a toilet. Light pollution from their lighting, and the smells. We suffer these things enough hrs of the day already, there is a 24 hr McDonalds just up the 331 on retail park, so there was no need for this one in the 1st place.
- Flat 4 Clyde Court, 233 Ash Road Trial of late opening a year or two ago was a disaster, increase in rubbish, increase in customers urinating on our property in sight of children, increase in stone and rubbish thrown over the fence into our carpark. Allegedly all noise stops when they close but rubbish pick up and trundling bins around continues for 1 to 1.5 hours after closing, right outside my bedroom window. If designated drivers can get the drunks here from the pub, they can get them to the retail park McD's up A331.
- 40, North Lane Damage to property from late night drunk customers. Litter in gardens, roads and drives. Milkshakes and drinks thrown over cars. Ketch up thrown at my house. Cups and bags and salt packets constantly thrown at each other. Customers park in the small car park and eat their drive through throwing the remains out the car on the floor - they also urinate up the walls on neighbours gardens and fences. It is not wanted by those who live here and this is what we suffer now - imagine the increase ! NO
- 5 North Lane MDs was open for longer hours previously, there was continuous noise disturbance from traffic entering & leaving, including boy racers speeding after 11pm. There is also congestion towards the lights & at the roundabout when busy with drivers tooting their horns. This happens at all hours including late at night!
In my garden or front of my property I can hear orders through the intercom. Lights are left on after closing hours.
Amount of litter is unacceptable & no one litter picks!
- Flat 6, 215 Ash Road We already struggle with people using our private parking to use this facility in addition to the noise and light pollution. Already we have cars honking in the morning and evenings at the drive thru and revving engines unnecessarily. We absolutely Do not want the extended hours.... We are woken in the am and can hear the drive through tannoy in the mornings and evening which is worse during the summer months as the windows are open in our flat. Ltedts not even start on the rubbish from there!
- 5 Lwr Newport Rd Aggravates existing problems on the site. Local residents all know how well the "trial" period went last time. More noise, more traffic, more light pollution,

rubbish and air pollution etc. There is a 24 hour McD just up the dual carriageway not located next to residential housing so there is no arguable need for an extension to hours here. The clearing up & setting up take place outside opening hours so the site is realistically going to be in use 20/24 hours a day. Cynical profiteering!

Representations in Support:

4 Lwr Newport Rd I am really satisfied about their service

26B Church Lane East Extending hours of a busy restaurant would help though that need help with the current state of work this would open work and also give more opportunity to family that have people working later shift to provide and support their families a chance to eat without have to make/prepare food giving them more chance to sleep or enjoy precious family times

3 Kempt Lane, Wellesley 2 hours extra trading a day will make no material difference to the site as it currently trades.

2 Churchlands I work at Frimley Park as a Nurse and the service early morning and late nights is of great benefit to me and my fellow staff members. From my visits on this times when it was previously open I found it to be quiet and well managed, I didn't see any anti social issues.

5 Churchlands As a nurse working at Frimley the extended times are beneficial to people working late and early, so many of my friends at work also use these times on the way in and back . It also supports creating more employment opportunities, which is crucial given the current economy.

Policy and determining issues

17. The site is located within the built-up area of Aldershot as defined by the Proposals Map for the adopted Rushmoor Local Plan (2014-2032). Policies SS1 (Presumption in favour of sustainable development) and DE10 (Pollution) are relevant to the consideration of the current application. Also of relevance is the advice in the National Planning Policy Framework (2019) with particular relevance to noise (paragraphs 180-183).

18. Although objection has been raised on a number of grounds relating to the existence of a McDonalds outlet at the site, including issues with litter and ongoing highway problems attributed to the operation of the site, the use of the application site as a McDonalds hot food restaurant and takeaway premises incorporating a drive-thru is lawful in planning terms; as are customer opening hours from 0700 to 2300 hours daily 7-days a week.

19. The temporary period that the Inspector allowed in 2022 and was operated between 18 July 2022 and 18 July 2023 was a trial and an opportunity for the applicants to demonstrate to the Council and their neighbours that they were able and willing to operate the premises for longer hours each day without causing undue and unneighbourly harm to the amenities/living environment of occupiers of adjoining and nearby residential properties.

20. It is considered that there are two possible outcomes for the Council to consider in respect

of the current application, which are that:-

- (a) permission could be **granted for the requested further temporary period** if it is considered that the proposed amended mitigation measures now proposed are considered likely to be sufficiently effective that it is considered appropriate and reasonable to allow a temporary trial period within which the efficacy of those measures can be assessed by the Council; or
- (b) **permission could be refused** for the extended customer opening hours for the proposed further trial period in the event that the Council considers that the proposed amended mitigation measures would be ineffective and inadequate and, further, that there are no practical and enforceable improvements to these measures that are considered likely to be effective and adequate to mitigate material harm to the amenities/living environment of neighbours which could be reasonably imposed by way of planning conditions. In this event the authorised customer opening hours would remain 0700 to 2300 hours daily, 7 days a week.

21. Further temporary permissions are not precluded by Government Practice Guidance, not least in the current circumstances, with an amended suite of mitigation and management measures being suggested by the applicants with the current application that have not previously been subject to trial and, indeed, on the basis that the applicants themselves are requesting a further trial period.

22. Since the further mitigation and management measures now proposed are untested, it is not considered that there is any justification whatsoever for the Council permitting extended opening hours on a permanent basis with the current application.

23. Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and, in respect of every condition under consideration, only used where they satisfy the following 6 tests:-

- 1. necessary;
- 2. relevant to planning;
- 3. relevant to the development to be permitted;
- 4. enforceable;
- 5. precise; and
- 6. reasonable in all other respects.

24. In this context it is considered that the sole determining issue is the impact of the proposed extended customer opening hours on the amenities of occupiers of adjoining and nearby residential properties.

Commentary

25. The Council has acquired useful knowledge concerning the proposed extended customer opening hours and the way that customers at the site behaved during the extended opening hours. The operation of the extended customer opening hours both (a) before and during the additional 0600 to 0700 hour; and (b) during and after the additional 2300 to 0000 (midnight) hours were monitored by Planning Officers on a sample basis at intervals throughout the 18 July 2022 to 18 July 2023 trial period in order to assess the efficacy of the mitigation measures proffered by the applicants as secured by conditions of the temporary planning permission granted by the appeal

Inspector.

26. In addition, the North Town Ward Councillors and residents who had made representations in respect of the appeal were notified of the appeal decision and that, if implemented, the Council would monitor the operation of the extended customer opening hours. The Ward Councillors and local residents were asked to provide feedback on their experiences and observations with the extended customer opening hours to the Council for further investigation within the monitoring to be undertaken by Officers as considered necessary. The Council's Environmental Health Team were also made aware of the onset of the trial period in case enquiries might be received by them instead of the Planning Officers.
27. Throughout the trial period the following concerns about the operation of the extended hours were raised by neighbours:-
- Voices audible from the Customer Order Point tannoy inside, with windows open, and in front gardens
 - Disturbance to neighbours from customers chatting in the car park
 - Disturbance from noisy vehicles created by anti-social driving e.g. loud car stereos and cars driving to and around the site with derestricted exhausts
 - Customer litter bins being moved around waking residents up
 - External lighting, including signage, and internal lighting not being switched off at midnight or left on all night
 - Menu board lights being left on all night
 - Customers using Clyde Court and other neighbouring driveways to dump rubbish
28. The applicants' main method of controlling noise from customer behaviour during anti-social hours during the trial period was the implementation of a Premises Noise Management Plan (NMP), requiring staff to be proactive and vigilant in challenging anti-social and noisy customer behaviour. However, objections and complaints received from occupants of Clyde Court and other nearby residential occupants suggesting that customer noise was disturbing to them also suggest that the NMP was ineffective in curtailing customer noise.
29. The second main mitigation measure to be employed during the trial period was that the car park within 25m of Clyde Court was to be cordoned off during the extended hours, however this was not implemented, with the applicants cordoning-off just the row of parking spaces immediately adjacent to the Clyde Court boundary instead, leaving most of the car park available for unrestricted use.
30. During the trial period, in January 2023, the Council wrote to the applicants to set out some observations as a result of the monitoring of the operation of the trial extended customer opening hours that had been undertaken up to that date, including those outlined above. The applicants subsequently responded, most significantly denying that there have been any significant issues with anti-social customer behaviour. Nevertheless, from the monitoring observations made by Planning Officers of the operation of the extended customer opening hours during the trial period, it was evident that the extended opening hours had resulted in unacceptable and undue additional noise and activity at the site during anti-social nighttime hours. This was considered to be detrimental to the amenities and living environment of occupiers of adjoining and nearby residential properties. Furthermore, some of the customer behaviour witnessed by Officers during the trial period had clearly been anti-social and to be evidence of little

consideration towards residential neighbours of the site. It was also noted that some of this noise and activity had continued beyond the extended night-time closing. Furthermore, the mitigation measures proposed and/or operated by the applicants to tackle inconsiderate and anti-social customer behaviour and to encourage better behaviour had been ineffective and inadequate – indeed, it was clear that it was difficult for staff to implement their adopted mitigation measures in any event, with some critical measures not implemented as originally indicated and specified.

31. Environmental Health legislation defines night-time hours as being between 2300 and 0700 hours, which are the hours when most people would expect to be, and remain, asleep in their homes. The noise, disturbance and activity witnessed taking place before 0700 and after 2300 at the application site during the trial period was considered to be of a nature that would be likely to wake people up, or make it difficult for them to get to sleep if they remained awake. This was confirmed by neighbours whom provided comments of the effects on them during the trial period.
32. In the context of the conclusions reached from the operation of the trial period for the extended customer opening hours between 18 July 2022 and 18 July 2023, the question to consider with the current application for a new trial period is whether the amended mitigation and management measures for the operation of the site during the extended customer opening hours now proposed would provide adequate control over the noise and activity at the site, most especially, as particularly noted during the 2022-23 trial period, those measures intended to apply controls to the behaviour of customers. The proposed mitigation and management measures to be operated for the additional customer opening hours, as updated with additional information received on 13 May 2024, are as follows:-
 - a) Although access for vehicles to the Drive-Thru would be retained, most of the car parking at the site would be coned-off during the extended hours using one cone for each parking space. This would be with the exception of the two EV charging point spaces, 2 disabled space and 8 spaces between the east side of the restaurant building and the site access road are to be reserved exclusively for any staff parking. It is indicated that the coning-off would commence from 2200 hours and the cones would remain in place overnight.
 - b) Additionally, the entrance gate into the site will be closed at midnight. A member of staff would marshal the gate from 2345 hours (15 minutes before the proposed night-time extended opening period) through to the closure time to ensure that all customer vehicles leave the site shortly after the 0000 hours (midnight) closing time. In addition, a shift manager would also be present from 2345 hours at the main entrance to the restaurant to ensure all customers are cleared from the site by closing time (midnight).
 - c) The Customer Order Display (COD) units in the drive-thru lanes would have the PA system reduced to level 7 (out of 10) at 9pm each night;
 - d) All Managers are to be required to complete conflict management awareness courses so that they can deal effectively with any problems faced with customers. Furthermore, all shift managers will undertake an on-line training module so that staff will be able to deal more efficiently with any potential anti-social behaviour.

- e) An internal intercom system is already in place at the site which can be used to deter anti-social behaviour. Internal and external CCTV cameras at the site are monitored by a third-party and they can intervene via the intercom system to explain that offenders should leave the site otherwise emergency services will be called. It is argued that the existence of CCTV discourages anti-social behaviour from taking place and can record any car registration plates of offenders associated with anti-social behaviour.
 - f) All external lighting at the site will be operated in accordance with existing permissions and switched-off after the restaurant closes each evening.
 - g) The various illuminated signage would remain illuminated as long as the restaurant remains in use.
 - h) Waste collections from the site will not take place before 0630 hours on any day and restaurant staff will not move waste bins within the site before 0700 hours to ensure no noise nuisance arises. [Officer Note: in this respect, Condition No.9 of planning permission 21/00048/REVPP requires that waste collections only take place between 0800 and 2100 hours.
 - i) Any incidents of anti-social behaviour or other crime issues will be recorded within an Incident Log-Book which will be regularly monitored, reviewed and action taken as considered appropriate. A soft copy of the log-book will be shared with the Council, upon request, in phases to provide updates on how anti-social behaviour is addressed if it occurs.
 - j) The restaurant management team will work closely with the Police on all crime and disorder, anti-social behaviour and premises licencing issues. A direct telephone number and email address have been provided for members of the public to report any issues directly to the restaurant management.
33. With the extended opening times commencing from 0600 hours daily, it is to be expected that staff would be at the site to open up and prepare for the arrival of customers no later than 0530 daily. In addition, tidying-up after the extended night-time closing time of 0000 hours could extend until perhaps 0030 hours or even further into the early hours of the morning depending upon how quickly the last late customers can be dispersed from the site. Accordingly, as a result of the proposed extended customer opening hours, residential neighbours adjoining or near the site may only get any respite from the operation of the application site for perhaps 5 hours out of every 24 daily. This is in contrast to the 7 hours daily that would not impinge so significantly into night-time hours that neighbours could expect to endure with the current approved customer opening hours.
34. Given the conclusions reached as a result of the 2022-23 trial period considerable doubt has to be cast over the efficacy of the suggested mitigation and management measures now being proposed to restrain customer behaviour. It is considered that these are likely to be inadequate and, indeed, more likely to simply encourage further anti-social behaviour and, indeed, even result in increased noise and disturbance at the site. In this respect, a key element of the proposed new measures is the coning-off of most of the parking spaces within the car park during the extended opening hours. Yet it is considered that this could simply encourage customers to move bollards to park-up all the same. Furthermore, any attempts by staff seeking to move customers on from the

site and/or re-impose the coning-off of parking spaces would be likely to result in a battle of wills between staff and customers. Indeed, customers could possibly even regard this activity as entertainment. It is considered that the end result would be additional friction between customers and staff in the car park, resulting in additional noise and disturbance that would adversely affect neighbours. Any interventions seeking to engage with anti-social customers using the external intercom system by the off-site CCTV monitoring contractors is considered likely to add to noise and disturbance and, as such, be ineffective.

35. A further proposed management measure is the closing of the 'In' entrance gate 15 minutes before night-time closing time, combined with staff seeking to encourage existing customers on site to leave the site by closing time. However, it is considered that there has to be doubt that these measures would be effective and, indeed, not encourage further entertainment for customers generating further additional noise and activity instead of reducing it. It is also considered that there is also a possibility that customers faced with a closed 'In' entrance gate would simply resort to using the 'Out' access to gain entry to the site instead.
36. The proposed lighting strategy indicated by the applicants is also considered likely to further encourage customers to remain on site and, indeed, as the lighting would remain switched-on until closing time, also cause direct nuisance to neighbours. In this respect it was noted during the 2022-23 trial period that the signage of the restaurant was particularly bright. As a result of the Council's feedback to the applicants during the trial period, measures were put into place to switch-off external illumination earlier than closing time to encourage customers to leave the site. However, it is considered to be a retrograde step for the applicants to now propose that the bright external illumination of the site remains on for the duration of the proposed extended opening hours.
37. Although it is indicated that training is to be provided to staff to enable them to tackle and manage customer behaviour, it is not considered likely that this would have any significant impact upon customer behaviour, albeit it could be a health and safety imperative for the applicants and their staff in any event.
38. In the light of the above, it is not therefore considered that granting temporary permission to allow a further trial period as requested with the current application would be likely to adequately mitigate and/or manage the impacts of the activity taking place on the site. Ultimately the issues considered likely to generate undue noise and disturbance to residential neighbours relate to anti-social customer behaviour that it is considered that the applicants measures would, at best, be inadequately and incompletely managed; and, at worst, would simply provide anti-social customers with late night entertainment, whether malicious or in jest, that would generate more noise and disturbance than they are intended to mitigate. There are also continuing concerns about the enforceability of any conditions imposed since this would require considerable on-going monitoring activity by Council Officers. It is therefore considered that the imposition of conditions would fail the tests for reasonable conditions.
39. In the absence of mitigation and measures that can be guaranteed to be effective it is considered that the only realistic option available to the Council is to refuse planning permission for the proposed extended customer opening hours, such that the possibility of anti-social behaviour arising as a result of the extended opening hours would not occur in the first instance.

Full Recommendation

It is considered therefore that it has not been demonstrated that harm caused by the proposed opening hours can be reasonably or adequately addressed by the imposition of conditions and that the application should be **refused** for the following reason:

1. The proposed extended customer opening hours would, even for a temporary period, be likely to give rise to unacceptable noise nuisance impacts on neighbouring residential properties due to activity at the site in the early morning and late at night to the detriment of the living environment and amenities of occupiers of those residential properties. It is not considered that adequate and effective means and methods of mitigation and management of customer behaviour at and in the vicinity of the site can be implemented and sustained to ensure that such impacts do not arise and it is considered inappropriate to grant permission on a temporary basis to facilitate a trial period for the extended customer opening hours. The proposals are thereby unacceptable having regard to Policies SS1, DE1 and DE10 of the adopted Rushmoor Local Plan (2014-2032) and the National Planning Policy Framework and Guidance.