

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0423/FULL 14.07.2015	McDonald's Restaurants Ltd 11- 59 High Road East Finchley London N2 8AW	Erect extensions, provide minor reconfiguration of the car park, alter the roof, install new glazing and stall riser including associated works to the site McDonalds Restaurants Ltd Unit C Crossways Park Parc Pontypandy Caerphilly CF83 3NL

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site is the McDonalds restaurant at Crossways/ Gallagher Retail Park, Caerphilly.

Site description: The premises are an existing purpose-built single storey A3 restaurant which is largely rectangular in shape with a Mansard style roof. The building is finished in face brickwork with large glazed areas beneath a tiled roof. The site is bounded to the east by the A469 Caerphilly By pass, to the north by the Nant yr Aber and then the Tesco store, to the north west by the Pizza Hut Restaurant and to the south by the Travel Inn Motel and the Crossways Public House. To the west of the site is the roundabout on the junction of Parc Pontypandy and Heol Ty Merchant. Dwellings are located on either side of Heol Ty Merchant.

Development: The application seeks full planning consent for the erection of an extension to the front and side of the premises. The extension will enable a re-configuration of the internal layout of the premises to provide an increased capacity by 14 seats. This encompasses a rectangular extension to the side of the premises and a narrow rectangular extension to the front. Consent is also sought for the erection of two small extensions to the rear of the building to accommodate additional office and staff dining space.

Dimensions: The extension to the side measures 5.1m by 9.9m whilst the front extension measures 0.85m by 12m. The rear extensions measure 2.91m by 0.945m and 1.686m by 3.137m.

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Application No. 15/0423/FULL Continued.

Materials: To match the host building.

Ancillary development, e.g. parking: The proposed side extension will be built on the area currently occupied by disabled parking spaces. As a result the application also seeks consent for a re-configuration of the car park including the loss of five standard parking spaces and one disabled parking space. The new disabled parking spaces will be provided to the rear of the side extension.

PLANNING HISTORY 2005 TO PRESENT

08/0270/NCC - Vary condition (6) of planning consent 5/5/96/0148 to allow the drive-thru facility only, to be open between the hours of 11.00p.m. and 7.30a.m. on Friday and Saturday nights only - Granted 20/05/2008.

08/0908/NCC - Vary condition 6 of planning consent 5/5/96/0148 to allow restaurant to open from 5am on Monday to Sunday inclusive - Granted 23/10/2008.

08/1052/FULL - Refurbish restaurant and alter elevations - Granted 04/11/2008.

08/1053/ADV - Install customer order display and various new signage - Granted 04/11/2008.

09/0521/NCC - Vary Condition (06) of Planning Consent 5/5/96/0148 to allow restaurant to open from 6.00 a.m. to 11.00 p.m. Monday to Sunday inclusive - Granted 10/09/2009.

10/0673/NCC - Vary Condition 6 of Planning Consent 5/5/96/0148 to allow restaurant to open from 6.00 a.m. Monday to Sunday inclusive - Granted 03/12/2010.

11/0248/NCC - Vary condition (06) of 5/5/96/0148 to allow the restaurant to trade 24 hours a day seven days a week with drive through only restriction between 11pm - 6am daily (for a 12 month temporary period) - Granted 07/07/2011.

11/0336/FULL - Create new drive thru lane, 2 no. new customer order display units, reconfigure car park and create 3 no. additional parking spaces together with associated hard and soft landscaping works - Granted 16/09/2011.

11/0337/ADV - Erect 3 no. rotating double three-sided menu units, relocate 2 no. rotating double three-sided menu units and relocate the existing height restrictor monolith - Granted 16/09/2011.

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Application No. 15/0423/FULL Continued.

11/0762/NCC - Vary Condition (5) of Planning Permission 11/0336/FULL to widen bays to 2.6 metres - Granted 16/01/2012.

11/0810/NCC - Vary Condition 6 of Planning Permission 5/5/96/0148 to allow the restaurant to open 24 hours a day seven days a week with drive thru only trading between 11.00 p.m. and 6.00 a.m. daily - Granted 20/01/12.

12/0004/ADV - Erect illuminated double sided appendage, featuring the 24 hour logo to be fixed to the existing McDonalds Sky Sign - Granted 15/03/12.

13/0537/FULL - Extend existing car park on adjacent vacant land which includes the introduction of 38 new bays, with the reconfiguration of the existing car park and site access with associated works to the site - Granted 28/11/2013.

14/0278/NCC - Vary Condition 7 (Landscaping scheme) of planning consent 13/0537/FULL (Extend existing car park on adjacent vacant land which includes the introduction of 38 new bays, with the reconfiguration of the existing car park and site access with associated works - Granted 26/06/2014.

POLICY

Local Development Plan: Within settlement limits.

Policies

Local Development Plan: SP5 (Settlement Boundaries)

SP6 (Place Making)

CW2 (Amenity)

CW3 (Design Considerations: Highways)

CW15 (General Locational Constraints).

Supplementary Planning Guidance LDP 5 Car Parking Standards sets out parking requirements for all developments.

National Policy: Paragraph 4.11.9 of Planning Policy Wales (2012) states: - "The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions."

National Planning Guidance contained in Technical Advice Note 12 - Design.

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Application No. 15/0423/FULL Continued.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Yes, a coal mining risk assessment has been submitted with the application. This has been assessed by The Coal Authority who has requested that a revised assessment be submitted prior to the determination of the application.

CONSULTATION

Transportation Engineering Manager - No objection.

Head Of Public Protection - No objection subject to conditions.

Senior Engineer (Land Drainage) - No objection subject to conditions.

Dwr Cymru - Raises no objection but provides advice to be conveyed to the developer.

Principal Valuer - No objection.

Rights Of Way Officer - Advises that FP55 in the Community of Caerphilly abuts the site and must be protected at all times.

The Coal Authority - Objects to the application until such time as a revised Ground Stability Report is submitted.

ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: Three letters of objection have been received from residents of the nearby housing estate, one with a 31 signature petition attached.

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Application 15/0423/FULL

Summary of observations: The stated reasons for objection are:-

- excessive late night noise - shouting and screaming at night, racing car engines - all leading to disturbed sleep patterns;
- traffic problems - dangerous driving (e.g. too fast, and wrong way around the roundabout);
- the barriers previously installed as part of the application to extend the car park of the premises are not being raised and lowered at the correct times;
- traffic enters the extended car park the wrong way;
- litter - food packaging thrown from car windows, resulting in litter in the surrounding streets and even the gardens of the objectors; and,
- unwanted cooking odours;
- the police do not patrol the area
- a reduction in the number car parking spaces at the site;
- the fence on the south west boundary of the site does not adequately screen the car park from resident's homes.

In addition, the letters of objection include suggestions to deal with the issues raised above, as follows:-

- Revert the drive through opening hours to those in place before the 24/7 permission was granted;
- Install additional traffic calming measures at pedestrian crossing points along Parc Pontypandy;
- HGV vehicles should be re-routed through the northernmost entrance into the retail park;
- Carry out an acoustic monitoring report of the vehicles using Parc Pontypandy;
- Carry out a Transport Assessment for the application.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

Late night hot food takeaways are often associated with anti-social behaviour, although one does not necessarily follow the other. In this case, this is an area where there are already a number of such uses, and it would be unreasonable to object to the scheme on crime and disorder grounds unless there was firm evidence that these small extensions would give rise to significant problems.

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Application No. 15/0423/FULL Continued.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

Is this development Community Infrastructure Levy liable? No.

ANALYSIS

Policies: The application has been considered in accordance with national guidance, local plan policy and supplementary planning guidance. The main points to consider in the determination of this application are the design of the extensions and the impact of the proposal on the amenity of neighbouring properties. With regard to the design of the extensions it is considered that they are in keeping with the character of the host building. Whilst the largest of the extensions is on the elevation facing the front of the site, it is to be constructed in the same materials as the host building and would have the same architectural features. There is a large car park to the front of the site with the building being located to the rear of the site and as such it is not felt that it would be incongruous when viewed from public viewpoints.

In terms of the impact of the proposal on the amenity of the neighbouring properties it should be noted that the nearest residential properties are over 100m away from the facade of the proposed extension and there is a roundabout and the access road through the site in between. It should also be noted that the extension is a relatively modest structure with a floor area of approximately 50 square metres and which will accommodate an increase of 14 seats. In that regard it is not felt that the extension would lead to a marked increase in the numbers customers using the facility and as such there would be no unacceptable impact on the amenity of neighbouring residents.

Comments from consultees: Whilst The Coal Authority has raised an objection to the application until such time as a revised Coal Mining Risk Assessment is submitted, it should be considered that the application site is located within a defined retail park where a number of similar buildings have been erected. It is felt that a solution to provide adequate foundations to construct the extension in a mining area can be achieved and as such it would not be reasonable to withhold consent when a condition could be attached to any consent granted requiring the provision of an amended assessment together with details of an acceptable means of construction. No other objections were received from statutory consultees.

Comments from public: Each of the objections will be considered in turn below.

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Application No. 15/0423/FULL Continued.

1 Whilst it is accepted that customers may be attracted to the Parc Pontypandy area as a consequence of the late night opening hours operated by McDonalds, that use has the benefit of planning consent. As stated above the proposed extension is a modest structure which would provide a small increase in the number of customers able to be accommodated within the restaurant itself. It would not lead to an increase in the opening hours of the restaurant itself and would not increase the number of customers that could be served by the drive through facility that operates after 10pm. In that regard it is not felt that the extension would have any impact on late night nuisance.

Moreover, such nuisance issues are a matter for the police in this case.

2 Residents have alleged that the area experiences high levels of traffic late at night with numerous examples of dangerous driving. Accident data for the area does not show a high level of problems, and there is no evidence that these small extensions could aggravate any existing problems.

3 The operation of the barriers at the site has been monitored by officers of the Local Planning Authority over a short period earlier this year following the receipt of complaints from local residents. The matter was pursued and it was noted that the barriers were lowered before 8am in breach of the condition attached to the consent. A letter was sent to McDonalds and the breach was ceased. Whilst the lowering of the barriers before 8am would be a breach of the condition, the Local Planning Authority would need to consider whether it is expedient to pursue enforcement action. In respect of the monitoring carried out by officers it is not felt that there was any impact on the amenity of local residents and as such it would not have been expedient to take enforcement action.

4 Whilst vehicles may enter the car park through the exit road, this would not allow them to enter the enlarged car park. Moreover this is not a material planning consideration.

5 Littering is a matter for Environmental Health legislation. McDonalds provide litter bins in their car park and these are frequently emptied to prevent overflow.

6 The Council's Environmental Health Division has received no complaints in respect of odours at McDonalds in over ten years.

7 Lack of police presence is not a material planning consideration.

8 Whilst the proposal would lead to a reduction in the number of parking spaces at the site, there is currently an over provision of spaces. Therefore the proposal would not lead to an increase in off-site parking.

9 The screen fence at the front of the site has the benefit of planning consent and is considered to be acceptable in planning terms. Its adequacy as a screen to this development is not relevant to the determination of this application.

The following comments are made in reference to the residents' suggestions as to how the Council should deal with McDonalds restaurant:

Firstly, the restaurant is a lawful use in planning terms, serving a wide community, and has all the necessary planning permissions in place, including permission for 24 hours operation of the drive through facility. If the Council were to withdraw or seek to take away those permissions, the compensation payable to McDonalds would probably be extremely high.

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Application No. 15/0423/FULL Continued.

Road safety measures, such as speed restrictions and the use of 'traffic calming', are matters for the Highway Authority to address.

Re-routing of HGV vehicles through the northernmost access to the retail park is not a matter for the Local Planning Authority and has no bearing on the determination of this application.

As the use of the site as a retail park is established by planning consent and policy allocations it is reasonable to expect that there would be a high level of vehicular movement within the site. Indeed, from an economic development perspective such high levels of traffic should be welcomed as it is an indication of economic success within the area. In any event it would not be reasonable either to require McDonalds to carry out such a survey in respect of this consent or indeed to withhold consent for this proposal until such time as a survey is carried out.

A Transport Assessment would only be required for a retail development with a floor area in excess of 1000 square metres.

Other material considerations: The plans indicate a banner that would be a form of advertising for the restaurant. It is proposed to attach a condition clarifying the position that a separate application would be necessary for advertisement consent.

In conclusion it is considered that this modest extension to an established A3 restaurant within a defined retail park is acceptable in planning terms and that planning consent should be granted subject to the imposition of conditions.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) Prior to the commencement of works on site a scheme of land drainage shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which they relate is occupied.
REASON: To ensure the development is served by an appropriate means of drainage.

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Application No. 15/0423/FULL Continued.

- 03) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.
REASON: In the interests of public health.
- 04) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLG document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.
REASON: To prevent contamination of the application site in the interests of public health.
- 05) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.
REASON: To protect public health.
- 06) Prior to the development commencing on the construction of any roads, drainage, or buildings hereby approved a scheme for noise mitigation shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the agreed scheme shall be employed as necessary to deal with noise arising from construction works.
REASON: In the interests of the amenity of the area.
- 07) The car park indicated on the approved plan shall be retained for the parking of vehicles at all times.
REASON: In the interests of highway safety.

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Application No. 15/0423/FULL Continued.

- 08) Notwithstanding the submitted plans, prior to the commencement of any work involving the construction of any building(s) on site the developer shall carry out an investigation of the underground strata (the results of which shall be submitted to the Local Planning Authority) in order to satisfy himself as to the stability of the site and the measures, which should be taken to mitigate against the risk of subsidence. Details of the design of the foundations of the proposed building(s) and/or proposals for ground treatment together with certification from an independent chartered civil or structural engineer that the proposals are structurally adequate and fit for their intended purpose shall be submitted to the Local Planning Authority prior to works commencing on site. Additional certification from an independent chartered civil or structural engineer confirming that the works have been constructed in accordance with the aforementioned details and that they are physically fit for their intended purpose shall be supplied to the Local Planning Authority prior to occupation of the approved development. REASON: To safeguard the buildings against the risk of damage from surface subsidence due to underground mining.

Advisory Note(s)

The following policy(ies) of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010 is/are relevant to the conditions of this permission: CW2 and CW3.

Public Footpath FP55 in the Community of Caerphilly abuts the site and must be protected and available throughout the duration of the works.

Please find attached comments from Dwr Cymru/Welsh Water and the Council's Senior Engineer (Land Drainage).

