

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **4th SEPTEMBER 2024**

REPORT BY: **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

SUBJECT: **Application for variation of condition no.10 attached to Planning Permission ref : FUL/000498/22**

APPLICATION NUMBER: **FUL/000451/24**

APPLICANT: **Gastronomy Foods UK Limited**

SITE: **KFC, Chester Road, Mold, CH7 1UF**

APPLICATION VALID DATE: **10 June 2024**

LOCAL MEMBERS: **Councillor Bithell**

TOWN/COMMUNITY COUNCIL: **Mold Town Council**

REASON FOR COMMITTEE: **Requested by Councillor Bithell due to detrimental impacts upon neighbouring amenity**

SITE VISIT: **No**

1.00 SUMMARY

1.01 The application seeks to vary condition 10 of the original planning permission FUL/000498/22 by extending the opening hours 1 hour and closing at 23:00 hours. The previously imposed condition was as follows:

The opening hours of the uses hereby approved shall be limited to 08:00 hours and 22:00 hours.

Reason: In the interest of protecting adjacent living conditions in accordance with Policy GEN 1

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 Conditions

1. The development hereby approved shall be commenced before the expiration of five years from the date of this permission.

Reason: To comply with the requirements of Sections 91 to 93 of the Town and Country Planning Act, 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

- Application form, received 10th June 2024
- Location plan, received 10th June 2024
- Planning statement, received 10th June 2024

Reason: To ensure that the development is carried out in accordance with the approved details.

3. Adequate facilities shall be provided and retained within the retail park for the loading, unloading, parking and turning of vehicles in accordance with a scheme to be submitted to and approved by the Local Planning Authority prior to the commencement of any site works. Such facilities being completed prior to the proposed development being brought into use and to remain so in perpetuity.

Reason: To ensure that adequate parking and manoeuvring space is provided to serve the proposed development in the interests of highway safety and maintaining the free flow of traffic on the adjoining highway in accordance with Policies PC2 and PC5 of the Flintshire Local Development Plan.

4. Prior to the development hereby permitted being brought into use, details of an adequate grease trap to be fitted, in accordance with environmental health regulations, shall be submitted to and approved by the Local Planning Authority and maintained thereafter so as to prevent grease entering the public sewerage system.

Reason: To protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policies PC2 and EN15 of the Flintshire Local Development Plan.

Details required by this condition were submitted and approved under reference 00468/23, dated 19.7.2023

5. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with Policies PC2 and EN15 of the Flintshire Local Development Plan.

6. Prior to the development hereby permitted being brought into use, full details of any proposed flood defence controls and measures shall be prepared, submitted to and approved in writing by the Local Planning Authority. Such plan should detail proposed flood control measures and procedures for evacuation in the event of a flood. The plan approved shall remain so in perpetuity.

Reason: To ensure flood risk can be appropriately managed in accordance with Policy PC2 and EN14 of the Flintshire Local Development Plan.

7. Prior to the development hereby permitted being brought into use, a scheme of external lighting shall be prepared, submitted to and approved in writing by the Local Planning Authority. Such scheme as shall be approved shall remain so in perpetuity.

Reason: To ensure the development complies with the aims of Policies PC2 and PC3 of the Flintshire Local Development Plan.

8. Prior to the development hereby permitted being brought into use, a suitable system for the extraction, filtration and ventilation of any process odours and fumes, should be installed in accordance with a scheme to be first submitted to and agreed in writing by the Local Planning Authority. Such scheme as shall be approved shall remain so in perpetuity.

Reason: To ensure the development complies with the aims of Policies PC2 and EN18 of the Flintshire Local Development Plan.

Details required by this condition were submitted and approved under reference 00468/23, dated 19.7.2023

9. Prior to the proposed development being bought into use, details of the proposed 3m high acoustic fence to the east of the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as may be approved shall be implemented and maintained in perpetuity.

Reason: To ensure that appropriate noise mitigation is provided within the scheme in the interests of protecting adjacent living conditions in accordance with Policy PC2 of the Flintshire Local Development Plan.

10. The opening hours of the uses hereby approved shall be limited to 08:00 hours and 23:00 hours.

Reason: In the interest of protecting adjacent living conditions in accordance with Policy PC2 and EN18 of the Flintshire Local Development Plan.

3.00 CONSULTATIONS

- 3.01 **Councillor Chris Bithell (Local Member):** Request that the application goes to planning committee for determination on the grounds that local residents have concerns about the additional hour in the evening extending noise, disruption and traffic to and from the premises further into the night.

Mold Town Council: The Planning Committee discussed the likely effect increasing the opening hours of KFC would have on the residents and surrounding area. Issues have already been raised with regards to increased litter, the impact of the bright lights, noise, smell and increased traffic in the area. On the original planning application Mold Town Council objected to the late opening hours due to the likely impact on local residents. The Planning Committee resolved to object to this application for variation of condition 10 as opening hours of 8am to 10pm is sufficient.

Highways: No objection to the proposal and do not wish to make a recommendation on highway grounds.

Community & Business Protection (Pollution Control): No objection to the premises operating hours being amended to mirror those of adjacent commercial premises.

Welsh Water/Dwr Cymru: No comments to make in regard to opening hours.

Natural Resources Wales: No objections.

Airbus: No aerodrome safeguarding objection.

4.00 PUBLICITY

- 4.01 28 Neighbour Notifications were sent to adjoining and nearby properties. The application was also advertised by way of a Site Notice posted adjacent to the site.

Two objections have been received on the following grounds:

1. Increased traffic and noise on the road since the opening of KFC which affects the residents which are located within close proximity and within a residential area.
2. The presence of strong odours and smells when you walk past the premises.
3. Already experienced an increased and unacceptable level of noise, light and smell pollution as a result of the restaurant opening.
4. The bright illuminated signage seems to be on from 5am in the morning, illuminating the house all through the night, extending the hours will result in the signage causing more pollution and stress on the residents.
5. The increase in traffic has been considerable especially after 8pm at night with gatherings of cars and youths in the carpark until early hours of the morning, well past the current closing time. Extending the hours will only encourage these gatherings and I am concerned about the potential for anti-social behaviour.
6. The extract/ventilation system continues to operate well past the current closing time of 10pm with a constant rattle and hum heard especially later at night above the road noise.
7. Extending opening hours will obviously increase levels of waste and litter.

5.00 SITE HISTORY

5.01 **FUL/000191/24** – Variation of condition to opening hours. Withdrawn

FUL/000498/22 – Change of use from motor vehicle service and parts sales to Class A1 sandwich shop & bakery and Class A3 (cafe / restaurant/ hot food takeaway)

FUL/000042/23 - Variation of Condition of 10 (Opening Hours) attached to planning permission ref: FUL/000498/22

DET/000468/23 - Discharge of Conditions No. 4 & 8, relating to application No. FUL/000498/22

DET/000469/23 - Discharge of conditions no 4 & 8, relating to Application No: FUL/000042/23

DET/000512/23 - Approval of details reserved by condition No. 9 attached to Ref: FUL/000042/23

DET/000534/23 - Application for Approval of Details Reserved by Condition No. 7, Ref: FUL/000042/23

DET/000560/23 - Application for Approval of Details Reserved by Condition No.6, Ref: FUL/000042/23

FUL/000834/23- New aluminium entrance door to be installed; new section of cladding to fascia signage area of unit; various illuminated and non-illuminated signage to both the building and the site.

ADV/000835/23 - New aluminium entrance door to be installed; new section of cladding to fascia signage area of unit; various illuminated and non-illuminated signage to both the building and the site.

ADV/000920/23 – Three fascia signs

6.00 PLANNING POLICIES

- 6.01 Flintshire Local Development Plan
Policy STR2: The Location of Development
Policy STR5: Transport and Accessibility
Policy PC1 The Relationship of Development to 109 Settlement Boundaries
PC2 General Requirements for Development
Policy PC3 Design
Policy PC5: Transport and Accessibility
EN 18 Pollution and Nuisance

National Planning Policies:
Planning Policy Wales – Edition 11 (Feb.2021)
Technical Advice Note 11 – Noise
Technical Advice Note 12 – Design
Future Wales: The National Plan 2040 (FWP 2040)

7.00 PLANNING APPRAISAL

- 7.01 The Site and Surroundings
The Site comprises a former motor vehicle service / repair unit, off Chester Road, Mold which previously was granted planning permission for the change of use to a Class A1 sandwich shop and bakery and Class A3 (café / restaurant/ hot food takeaway) along with external works to refurbish and extend the existing unit, reconfigured car park, external seating, acoustic barrier and associated works. The surrounding area is generally commercial in nature, bound to the northwest by existing retail uses, with nearby retailers including Iceland, Home Bargains and B&M. Mold Cricket Club and Mold Rugby Club sit directly northeast of the Site. The closest residential dwellings are located southeast of the Site on the opposite side of Chester Road. Existing vehicular and pedestrian access to the Site is gained from Chester Road (A541).

7.02 Principle of Development

The use of the unit as a Class A1 sandwich shop and bakery and Class A3 (café / restaurant/ hot food takeaway has been established with the granting of the original planning permission. As such the principle of the development is not in question.

7.03 The Proposal

The application seeks to vary condition 10 attached to Planning Permission ref : FUL/000498/22 which requires the store to close by 10pm. The applicants are applying to extend the opening hours by 1 hour to 11pm.

7.04 The Main Issues

Issues regarding increased traffic, disposal of waste are matters considered at the time of the original permission and do not fall to be reconsidered at this stage. The main issue is whether the proposed increase in opening hours will give rise to a material adverse impact upon neighbouring residential amenity.

A perceived increase in anti-social behaviour is a matter outside of planning control and cannot be considered as part of this application.

7.05 Impacts upon Neighbouring Residential Amenity

Furthermore, comments have been received regarding strong odours and noise from ventilation system. The extension of opening hours by this amount of time is not going to have a significant impact upon either of these matters – neither of which have been raised as concerns by Community and Business Protection.

7.06 There are a number of commercial/fast food outlets within residential areas which aren't deemed to cause detrimental harm upon neighbours.

7.07 Comments have been also received regarding the intrusion of the lighting on the building and the impact this will have upon residential amenity. Having looked into the objector's comments, advert consent was granted under ADV/000920/23 & ADV/000835/23 – advert consent was granted and the development is in accordance with this.

7.08 The LPA would also note that the car park lighting is more extensive and covers the adjoining retail units, and, on all night, so in isolation, the issue is unlikely to give rise to any greater light intrusions than that already arising from the car park.

7.09 The closest residential properties are located on the opposite side of A541 approximately 26 metres to the closest property from the rear wall of the retail unit and separated from the site by the highway. The front of the unit faces away from any residential property towards the car park of the neighbouring retail units.

7.10 The existing hours of operation were included as a condition to the original permission at the request of Community and Business protection in addition to the installation of the noise and odour mitigation measures that were also secured by condition and subsequently approved and implemented. It is noted that Community and Business protection have not objected to this alteration to the hours of opening. It is also noted that the Mold Rugby Club offers club hire and is licensed until midnight, and that in general other takeaways in Mold have later opening hours. This proposal therefore accords with existing similar commercial outlets in the area.

8.00 CONCLUSION

With the existing noise and odour mitigation measures in place, and the distance between the retail unit and surrounding residential development, it is not considered that the extra hour being requested will introduce any materially adverse impacts upon neighbouring residential amenity. The proposal complies with planning policy and is not deemed to cause a detrimental impact upon neighbouring living amenities. As such, the application is recommended for approval by the LPA.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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