



Epping Forest District Council



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Application Number:	EPF/2162/19
Site Name:	202 High Road Loughton IG10 1ET
Scale of Plot:	1:500

APPLICATION No:	EPF/2162/19
SITE ADDRESS:	202 High Road Loughton IG10 1ET
PARISH:	Loughton
WARD:	Loughton St Marys
APPLICANT:	.
DESCRIPTION OF PROPOSAL:	Change of use from A3 to A5 (Including Air Extraction & Ventilation Details)
RECOMMENDED DECISION:	Grant Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=628058

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings numbers: P19-044-01 Rev A, P19-044-02 Rev A, P19-044-06 Rev E, P19-044-105 Rev A and 8382 M 1010 B.
- 3 The Extraction and Ventilation System shall be fully installed and operational prior to the use hereby permitted first commencing and thereafter shall be maintained in perpetuity strictly in accordance with the Environmental Noise Assessment (Project Ref: 7147-Loughton | Rev: 0 | 25th June 2019), Odour Control Assessment (Rev 00, June 2019), P19-044-105 Rev A and 8382 M 1010 B.
- 4 The A5 use hereby permitted shall not be open to customers / members outside the hours of 08:00 to 23:00 Sunday to Thursday and 08:00 to 23:30 Friday and Saturday.

This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Site and Surroundings

The site is a vacant A3 restaurant premises (including a take away element) named Pak Choi within the Loughton Town Centre and designated primary retail frontage. The application

premises comprise the ground and first floor of a continuous two/three storey purpose-built building with a long part two/part single storey rear element within a block fronting Loughton High Road. The upper floor flat, which is contained within the second floor, is accessed from the rear of the site via a stair case and pathway over the two-storey section of the rear element, which also provides access to the other adjoining flats at upper floors in the block. To the rear of the building is a car park and beyond that Clifton Road properties. The building is not listed nor is it within a Conservation Area. The A3 use ceased in August 2019 and the premises has remained closed since.

Proposal

The proposal is for change of use from A3 (restaurant) use to A5 (Hot food take away) use to provide for a McDonalds takeaway. The proposal is designed with a limited Customer zone on the ground floor which would take up approximately a third of the total ground floor area (including the kitchen and ancillary areas to the rear – chiller, goods lift and storage). On the first floor of the building is a plant room, crew room, stock room and conveniences (it should be noted the first floor of the previous restaurant/take away use comprised the kitchen, chiller and freezer and ancillary rooms).

The proposed opening hours are from 08:00 – 23:00 Sunday to Thursday and 08:00 – 23:30 Friday and Saturday. The accompanied planning statement states that approx. 65 Full-time/equivalent staff would be employed at this site.

Relevant Planning History

CHI/0003/68 - Use of shop for fried fish, use of 1st floor as restaurant & installation of shop front – Approved

EPF/2124/03 - Re-locate the external flue, alteration to front facade on ground floor level, new projecting entrance canopy to restaurant – Approved

EPF/1622/19 - Proposed new shopfront. The installation of a digital window poster sited behind the shopfront glazing and new plant equipment to the roof with alterations to the rear elevation – Approved July 2019

EPF/1623/19 - Proposed installation of x 1 no. fascia sign, x 1 no. projecting sign, x 1 no. window decal and x 1 no. LCD digital window poster – Approved July 2019?

Development Plan Context

Local Plan and Alterations (LP) (1998 & 2006)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006)

The following policies within the current Development Plan are considered to be of relevance to this application:

CP1	Achieving Sustainable Development Objectives
TC1	Town Centre Hierarchy
TC3	Town Centre Function
DBE2	Effect on Neighbouring Properties

National Planning Policy Framework (Framework) (2019)

The Framework is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraph	80
Paragraph	85
Paragraphs	91 and 95
Paragraph	127

Epping Forest District Local Plan Submission Version (LPSV) (2017)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2nd August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional Main Modifications (MMs), significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework. The following table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

Policy	Weight afforded
SP1 Presumption in Favour of Sustainable Development	Significant
DM9 High Quality Design	Significant
E2 Centre Hierarchy/Retail Policy	Significant
P2 Loughton	Significant

Summary of Representations

Number of neighbours consulted: 36. 11 response(s) received
 Site notice posted: Yes

6 COLSON GARDENS, 69 BURNLEY DRIVE, 2 CLIFTON ROAD, 204 HIGH ROAD, 164 FOREST ROAD, LRA PLANS GROUP and 3 EMAIL ADDRESSES ONLY – Objections – Summarised as:

- Highway safety - parking concerns/congestion/deliveries;
- Litter;
- Anti-social behaviour; and
- Noise and smell disturbance.

LOUGHTON TOWN COUNCIL – The Committee OBJECTED to this application on the grounds that the change of use from A3 to A5 would attract a higher level of traffic to this area, especially at night.

The noise pollution created by the extra traffic, in particular motorbikes used for home deliveries would be detrimental to the amenity of neighbouring residents in Clifton Road, Forest Road and those living above the shops in the High Road and Centric Parade.

A takeaway food outlet of this nature, of which there are already a sufficient number in the locality, would create excessive litter for the High Road and surrounding areas, particularly Jackson Alley This problem would also have a harmful effect on the amenity of neighbouring residents.

The subsequent increase in traffic pollution caused by this proposal would create a detrimental impact on the SAC (Special Area of Conservation), which would be further exacerbated by customers who consumed the takeaway food in the nearby forest and then discarded their rubbish.

Members considered it would be preferable for the usage to remain A3 with some A5, and that operating times should be outlined. The Committee recommended that the outlet should not be allowed to open late at night to protect nearby residents from noise disturbance and public nuisance issues which these types of establishments commonly attract.

The Chairman of the Committee confirmed she would be willing to attend an Area Planning Sub-Committee South meeting if required to do so.

ENVIRONMENTAL HEALTH – No comments

Reconsultation

The application was amended in January 2020 to include the fume extraction system and plant (located to the roof of the single storey element of the building) previously approved in July 2019 along with a new shopfront and alterations to the rear.

Further comments were received as follows:

ENVIRONMENTAL HEALTH – No comments

LOUGHTON TOWN COUNCIL – No objection to extraction system, but re-iterated above objections to the change of use

4 & 15 CLIFTON ROAD, LRA, 6 COLSON ROAD & 1 EMAIL ADDRESS ONLY – Re-iterated concerns raised previously with the addition of Healthy Eating.

Planning Considerations

The main issues for consideration in this case are:

- a) The principle of the proposal in the Town Centre and whether it would maintain the vitality and viability of the Town Centre;
- b) The impact on neighbouring amenities with regard to noise and odour nuisance, general disturbance from activities including comings and goings to the premises, the potential for litter, concerns over the potential for anti-social behaviour; and
- c) Highway safety.

Principle of Development

The government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Significant weight should be placed on the need to support economic growth through the planning system. The NPPF sets out the core planning principles which should underpin decisions and notes that planning should, amongst other matters, proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the development needs of an area and respond positively to wider opportunities for growth.

Vitality and Viability

Prior to the 2005 use class amendment there was no A4 and A5 use classes and the A3 use class included what is now these two additional A class uses. In this context the proposed lawful use for the host site is for an A3 which included and operated a take away as a part of the business. Since 2005 planning permission is required for a change of use from an A3 use to an A4 (or as in this case) an A5 use.

The site falls within a primary retail frontage (Loughton High Road) and as such policy E2 (Centre Hierarchy/Retail Policy) is applicable. The policy states that within defined Primary Retail Frontage ground floor units will be maintained in A1 Class Uses in accordance with Policies P1 to P5. Proposals that would not result in a reduction in the specified percentage of A1 Class Uses will be permitted for other main town centre uses where this would support the function, vitality or viability of the Town or District Centre and maintain an active daytime frontage.

Notwithstanding the above, the proposal would not result in the loss of an A1 unit given the existing A3 classification of the property and as such existing ground floor A1 coverage within the town centre will be maintained in compliance with Policy E2 of the LPSV 2017.

The proposal is for an A5 use of the Planning use classes order 1987 (as amended) (Hot food takeaway establishments). Concern has been raised by objectors that the use would give rise to a higher level of vehicle traffic including the use of motor bikes for deliveries, particularly late at night. The previous use included a take away operation, and as such, this

element of the proposal is not inconsistent with the existing established use of the site, which had been in existence for at least 26 years. This type of use would not be out of character with the shopping area and, as noted above, the proposal would not result in a loss of existing retail floorspace.

Furthermore, the proposal would generate footfall, maintain the diversity, vitality and viability of the town centre, and complement existing A1 uses. With regard to traffic generation, there is no quantifiable evidence that the use would give rise to an increase in traffic in the area. Parking on the main road is controlled and there is a car park to the rear offering a limited number of spaces that is available for general town centre use. The limited scale of the development, and the fact that it does not provide for seated meals, would most likely suggest that it would be more attractive to non-car users. The proposal therefore is in compliance with policy E2 of the LPSV 2017.

With regard to the opening hours proposed, other existing A3/A5 uses on Loughton High Road are open till late (listed below);

- Wildwood open till 11pm Friday and Saturdays;
- Pizza Express open till 11:30pm Friday and Saturdays;
- The olive tree open till midnight Friday and Saturdays;
- Wo Fat restaurant open till midnight Friday and Saturdays;
- Turquoise Grill & Bar open till 12:30am Fridays and Saturdays;
- Loughton Chilli open till 11pm (Every day);
- KFC open till 11pm every day; and
- Papa John's Pizza open till midnight (Monday to Saturday).

Therefore, it is considered that the proposed opening hours are acceptable and will ensure that there is an active frontage that contributes to the night time economy as well as the day time economy, thereby enhancing the vitality and viability of the Town Centre, in line with Paragraph 85 of the National Planning Policy Framework.

The end user (McDonalds) has stated that they would employ approx. 65 Full-time/Equivalent staff from the local community (35 full time and 30 part time) and provide training/qualifications for them in the form of apprenticeships and degrees. The benefits of this increase in the local job offer has to be weighed in the balance, in fulfilling one of the aims of the NPPF, and the further opportunities as a spin off from being employed by McDonald's as part of their national agenda for working with and to the benefit of local communities.

As such it is considered that there will be significant Socio-economic benefits to Loughton and the District as whole, in addition to ensuring that the residents from the local communities are equipped with the necessary skills and qualifications for challenging situations and/or opportunities in life, particularly having access to the job market. This is given significant weight in the Framework as set out in Paragraph 80 and 91 - the main objective to building a strong and competitive economy and healthy and safe communities.

Neighbouring amenities in terms of litter, noise, smell and anti-social behaviour

Residents have raised several issues around litter, anti-social behaviour and noise and smell disturbance matters which are capable of control through other powers. While noting these concerns raised by residents, concerns in relation to anti-social behaviour cannot be taken into account as there is currently no basis for these in relation to a McDonalds in the local area. While anti-social behaviour can be an issue where groups of individuals are more likely to gather (although there is no reason to presume groups would gather), it is a matter for law enforcement to control this. In Town Centres existing procedures through Town centre Management Programmes are normally in place where the Council, local police and business

operators work together through co-operative working arrangements.

In this respect, the end user in planning terms is not a material consideration; however it is noted that due to business scale and reputation, the applicant (McDonalds) has sought to address these as follows:

Paragraph 95 of the Framework states that planning policies and decisions should promote public safety and take into account wider security and defence requirements by:

- a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate.

Due to business scale and reputation of the end user (McDonalds) it is likely to attract large numbers of customers, in particular young people that are statistically more likely to result in increased anti-social behaviour and noise disturbance. To address this the application is supported by the statement below which outlines McDonalds approach in ensuring public safety and security;

All managers receive bespoke McDonald's Conflict Management training programme, provided by MAYBO the leading UK provider for such courses according to the Security Industry Authority (SIA). McDonald's have working directly with MAYBO for over 15 years, to ensure all managers receive the most up to date training available for the business, whilst remaining flexible in the areas it covers to deal with any emerging issues.

All new restaurants are equipped with a state-of-the-art HD IP CCTV system, which covers both inside and outside the restaurant. We are happy for further details of this to be conditioned and can provide details of cameras to the front, rear and within the building.

StaffSafe AV is installed in all new restaurants. This is a comprehensive audio-visual monitoring system, designed to prevent crime and disorder issues by intervening through the use of the restaurant's CCTV and sound system. It allows, crew and managers to deal with situations whilst a remote monitoring control room can call for emergency services as required. It has been shown to reduce ASB issues in restaurants by up to 80%. It also has the added advantage it be adapted to monitor Intruder Alarms systems overnight at non 24/7 restaurants (which this will be), speaking to suspects they can see trying to break-in and telling them we are calling the police, thus preventing a burglary before it occurs.

Additional features are utilised across the portfolio to avoid any loitering or large groups. Active management techniques include turning the free Wi-Fi off and turning charging points off so people cannot charge their phones. In addition, the use of classical music is employed which also helps.

On occasions to deal with more serious or prolonged issues, restaurants will on a risk assessed basis, employ SIA approved guards from companies approved by the SIA. This work is often linked to the use of Incident Logs to record issues, use of Body worn video cameras by guards to record incidents, banning enforcement and any other security measures deemed necessary. This is purely done on a case by case basis, if required.

In terms of concerns regarding litter, planning permission cannot be reasonably refused for litter impact. The impact of litter outside of the application site is controlled specifically under the Environmental Protection Act 1990 Part IV, rather than through planning legislation or

policy. The planning application however is supported by a Litter Management Plan which indicates that it is company policy to conduct a minimum of 3 daily litter patrols, whereby employees pick up not only McDonald's packaging but also any other litter that may have been discarded in a 100m vicinity of the restaurant. The applicant has stated that this can be expanded to suit local needs.

McDonalds is also a founding member of Keep Britain Tidy's Love where you Live anti-littering campaign. The company organises regular clean up events in local communities and raises awareness of the anti-littering message through its 1,280 UK restaurant's. This has seen McDonalds carry out over 3,000 events across the country involving over 50,000 volunteers. Individual restaurants also undertake their own anti-littering initiatives, such as litter picking sessions in local parks and open spaces with local community groups.

With regards to any noise and smells generated by the operation, it should be noted that two flues currently exist which provide for fume extraction and smell mitigation for the previous use. These are older types of flue and are not screened from the adjoining residential properties. With regard to the current proposal, a high-quality air extraction & ventilation system is proposed to be located to the roof of the two-storey rear element with a 2-metre aluminium solid panel surround to the plant and duct. The system is rated at the highest level for mitigating noise and smells and the panel would both screen the plant from views and provide additional insulation. At first floor level to the rear, the plant to the roof of the single storey element would be screened from the staircase and the car park by a solid brick wall.

The details and drawings set out in the applicant's noise and extraction system reports, which also include any potential impact on the nearest residential receptor (202a High Road), was previously found to be acceptable to the Councils Environmental Health team and subsequently approved under EPF/1622/19. The Environmental Health Team have provided no additional comments within the scope of this application as the details are the same as previously proposed and accepted, however it is considered reasonable to condition the above details to ensure that the development is carried out in accordance with the approved documents and plans.

Highway Safety

Residents have raised concerns that the proposal would result in harm to highway safety, highway congestion and parking problems.

Members need to consider whether the proposal would have a severe impact on the highway network. It is officer advice that the impact would not be severe, and that parking is limited to the front with controlled parking hours and any delivery vehicles can use the existing service/parking area to the rear of the building.

Highway and amenity concerns have been raised earlier in this report. In further addressing this point, the applicant has provided additional information about the operation which includes data provided by their highway consultants ADL. It should be noted that deliveries would be provided by Uber Eats.

The car park to the rear is a 24/7 public car park and can be expected to be used by frequenters of the High Street at all hours. A group of people may go to the Last Post until 11pm and then return to their car. Regardless of this, the vast majority of delivery drivers will park to the front and enter the store, using the path of least resistance. They will not want to pay to park to the rear when they can easily park in the designated parking spaces to the main road. It is also noted that car parking on the High Street is free between 8am – 9:30am and 5pm – 11pm, therefore an Uber Eats driver is unlikely to want to pay to park to the rear further away when they could park closer for free.

Uber Eats Operation

Delivery Radius

McDelivery covers an area up to 1.5-mile radius from the store. Deliveries are undertaken by Uber Eats couriers who are predominantly on bicycles and scooters.

Customer Procedure

Customers use the Uber Eats App on a smartphone or tablet to place their order. The customer can choose which restaurant they want to place their order at, based on delivery time or star rating (out of 5 stars). The customer places their order and pays via the App.

Restaurant Procedure

Once the customer has placed the order via the App, the order is received at the McDonald's restaurant onto a tablet which is auto accepted. A courier is dispatched to the restaurant. The restaurant is alerted when the courier is 3 minutes from the store.

The order is then recalled on the till system and preparation commences. The order is assembled when all items are ready. Condiments are added and the order is checked for accuracy.

Delivery Procedure

The courier enters the restaurant via High Road only via the dedicated courier entrance (the partitioned area to the ground floor plan). The McDelivery bags are sealed and are handed to the courier across the dedicated courier counter. The courier leaves the restaurant and heads to the customer's destination where the food is delivered.

Only one Uber order is taken per delivery by the courier.

Trip Generation

McDonald's have provided hourly Uber Eats transaction data from 77 instore restaurants all located within the M25. This data has been provided for a typical Friday, Saturday and Sunday. ADL (Traffic Consultants) have taken an average of all 77 sites to provide an hourly profile of Uber Eats deliveries for the proposed restaurant. The results are summarised in Table A below for the proposed hours of opening 08:00-23:00 hours.

Uber Eats have advised that based on a sample of London instore restaurants 60% of deliveries would be undertaken by a bicycle courier and 40% by moped couriers. The expected trip numbers have therefore been split by mode accordingly as shown in Table A.

Table A Proposed Uber Eats Trips

Time	Friday			Saturday			Sunday		
	Total Trips	Pedal Cycles	Mopeds	Total Trips	Pedal Cycles	Mopeds	Total Trips	Pedal Cycles	Mopeds
08:00	7	4	3	10	6	4	9	5	4
09:00	14	8	6	20	12	8	20	12	8
10:00	9	5	4	15	9	6	16	10	6
11:00	10	6	4	12	7	5	13	8	5

12:00	11	7	4	16	10	6	16	10	6
13:00	9	5	4	16	10	6	16	10	6
14:00	10	6	4	15	9	6	14	8	6
15:00	11	7	4	12	7	5	13	8	5
16:00	14	8	6	13	8	5	13	8	5
17:00	17	10	7	15	9	6	15	9	6
18:00	22	13	9	17	10	7	17	10	7
19:00	21	13	8	19	11	8	19	11	8
20:00	21	13	8	17	10	7	20	12	8
21:00	18	11	7	16	10	6	17	10	7
22:00	15	9	6	15	9	6	13	8	5

Table A - Demonstrates that the typical peaks for deliveries would be:

Friday	18:00 hours	22 deliveries	13 cycles, 9 mopeds
Saturday	09:00 hours	20 deliveries	12 cycles, 8 mopeds
Sunday	09:00 hours	20 deliveries	12 cycles, 8 mopeds

There would be 1 cycle every 6 minutes during the busiest periods and 1 moped every 8-9 minutes. There are existing motorcycle bays located on High Road. The courier duration of stay on-site should therefore be very low. It is expected that this would be 1-2 minutes including time taken to park their bicycle/scooter, walk to the entrance, collect the food and go back to their bicycle/scooter. There would likely be only one cycle and one moped at the restaurant at any one time.

Other considerations

The Town Council have raised concerns regarding the impact to the Epping Forest Special Area of Conservation, however members should note that any impact to the EFSAC is restricted to new dwellings and commercial units. Also, in terms of Healthy Eating, there is no evidence of any high obesity levels within the district that justifies refusing the application on this ground. Furthermore, McDonalds offer a range of lower calorie options and nutritional information is normally accessible in store, which enables an individual to identify and purchase food items and combinations that fit in with their individualised calorie or nutritional requirements. Therefore, there is no evidence to substantiate that the proposal would have an adverse effect upon the health and well-being of local residents, particularly given the availability of healthier menu choices.

Conclusion

In broad planning terms, the proposal seeks to provide an active frontage, whilst supporting the Framework's objectives of building a strong, competitive economy, proving a healthy safe community and ensuring the vitality and viability of the Town Centre.

For the reasons set out above having regard to all the matters raised, it is recommended that conditional planning permission be granted.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

***Planning Application Case Officer: Muhammad Rahman
Direct Line Telephone Number: 01992 564415***

or if no direct contact can be made please email:
contactplanning@eppingforestdc.gov.uk