Planning Inspectorate

Appeal Decision

Site visit made on 26 August 2026

by K Lancaster BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th November 2026

Appeal Ref: APP/J4525/W/26/3378408
Former Co-operative Convenience Store adjacent to McDonald's Restaurant, North Moor Road, Sunderland SR3 1TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by McDonald's Restaurants Ltd against the decision of Sunderland City Council.
- The application Ref is 25/01620/FUL.
- The development proposed is the use of premises as a delivery kitchen (retrospective).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A new National Planning Policy Framework (the Framework) was published on 17 August 2026. As this could affect the issues and matters in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest version of the Framework, and the responses received on it.

3. Although an application for planning permission has been made, the appellant states that the appeal proposal falls within Class E(g)(iii) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and therefore does not require planning permission. The Council disagrees with this position. Notwithstanding these differing positions, planning permission was sought and refused, and the appeal before me concerns that decision.

4. The use has already commenced. Therefore, the question of whether it is lawful is not a matter that falls to be determined through this appeal. The lawfulness of an existing use may instead be considered through an application for a lawful development certificate under section 191 of the Town and Country Planning Act 1990 (as amended), irrespective of the outcome of this appeal.

Main Issue

5. The main issue is the effect of the development on public health, having regard to the availability and accessibility of unhealthy food and the development plan policies seeking to promote and facilitate active and healthy lifestyles.

Reasons

6. The appeal site comprises a single-storey detached building, with a car park containing 17 spaces and cycle parking. It is adjacent to a McDonald's restaurant and drive-through, with other food outlets close by, including Costa Coffee and Greggs. It is opposite the Fire Station and Police Station. Whilst the area is

predominantly commercial in character, there is a short terrace of residential properties on the opposite side of North Moor Lane, to the rear of the appeal site.

7. Retrospective planning permission is sought for the change of use from a retail store to a delivery kitchen, which commenced in December 2023. The delivery kitchen operates daily between 07:00 and 23:00. There is no customer collection point. The premises produce food for online delivery orders, which couriers collect and deliver directly to customers within a radius of approximately 1.5 miles. The evidence indicates that, before the kitchen opened, orders were fulfilled from the adjacent McDonald's restaurant and drive-through. The food on offer primarily comprises fast food items such as burgers, chicken, wraps, fries, breakfast items, ice creams, soft drinks, milkshakes and hot drinks.

8. In addition to the change of use, the development includes external alterations to the building, comprising the removal of the ATM, painting of window and door frames, soffits and fascias, and installation of vinyls. A number of condenser-type units are installed within cages along the side/northern elevation. The Council has raised no specific concerns about these alterations or the siting of the units. Based on the evidence before me and my own observations, I see no reason to disagree.

9. Strategic Priority 3 of the Sunderland City Council Core Strategy and Development Plan 2015–2033 (the CSDP), adopted in January 2020, seeks to improve health and wellbeing, including by promoting and facilitating active and healthy lifestyles. Policy SP7(3) of the CSDP supports this priority and states that the Council will seek to improve health and wellbeing by promoting and facilitating active and healthy lifestyles.

10. Policy SP7(5) of the CSDP further states that the Council will manage the location, number and access to unhealthy eating outlets, with a cross-reference to Policy VC4, Hot Food Takeaways. The Council also relies on the Sunderland Healthy City Plan as setting out its wider public health objectives. Whilst this document is not part of the adopted development plan, it is a material consideration.

11. Neither the Council nor the appellant considers the use to be a hot food takeaway. I agree and therefore do not apply Policy VC4's criteria directly. Nevertheless, whilst the development would not provide a conventional hot food takeaway operation, the delivery kitchen shares relevant characteristics with a hot food takeaway. The proposal introduces a delivery-led food operation, specialising in the preparation and distribution of food for consumption away from the premises.

12. A dedicated delivery kitchen serving app-based and online orders changes the way in which customers purchase food. In particular, it removes the need for customers to travel, with food delivered directly to their home, place of work or other location. It is a service specifically designed to make the purchase and consumption more convenient. This greater convenience makes the food more readily accessible, extending the service's reach to people who might otherwise be less likely to purchase it. As a result, the effects on the accessibility and availability of unhealthy food for consumption would be similar to those of a hot food takeaway.

13. I acknowledge that there is an existing McDonald's restaurant adjacent to the appeal site which offers the same type of food. However, this does not, in my view, negate the additional availability of food arising from the appeal proposal. It would supplement the existing provision, increasing both capacity and geographical reach. Furthermore, as indicated by the appellant's own evidence, the delivery

kitchen was established to cater for demand beyond that which could reasonably be accommodated by the existing restaurant.

14. The Council's evidence demonstrates that the appeal site is located in a ward where 11.9% of Reception-aged children and 27.6% of Year 6 children are living with obesity. These figures exceed national averages. I acknowledge that obesity has multiple contributing factors and that the proposal could not, in isolation, be regarded as directly causing or worsening local obesity levels. However, the planning system has a role in influencing the environment in which people make choices about food. The Council's evidence of high local obesity levels, including childhood obesity, underlines the importance of improving health and wellbeing in this area. The proposal would run counter to the Council's objectives to improve public health and reduce health inequalities, particularly Strategic Priority 3 and Policy SP7 of the CSDP which seek to promote active and healthy lifestyles and manage access to unhealthy food outlets. I attach significant weight to this conflict.

15. I recognise the appellant's concern that an unduly broad interpretation of Policy SP7(3) could render an unreasonably wide range of commercial and leisure developments unacceptable. However, the assessment depends on the nature of the development and its likely effects. My concern is not simply that the kitchen fails to promote healthier lifestyles, but rather that the additional capacity and greater convenience of the delivery service make unhealthy food more readily available, with the potential to encourage more frequent consumption and reinforce unhealthy eating patterns.

16. I recognise the appellant's contention that delivery orders could revert to the restaurant if the appeal were to be dismissed. I also accept that this limits the additional effects attributable to the proposal. However, the capacity constraints identified by the appellant clearly indicate that the dedicated facility provides operational efficiencies. Therefore, I find that it has not been demonstrated that the restaurant could provide an equivalent level of capacity and convenience whilst also accommodating its restaurant and drive-through operations. Accordingly, I attach moderate weight to this fallback position.

17. I have considered the recent planning permission for the nearby retail park development, which included units occupied by Costa Coffee, Greggs and Dickson's and was not found to conflict with Policy SP7. Those outlets form part of a broader mixed-use development. However, there is insufficient evidence before me to establish whether those outlets are comparable to the appeal use in their operation, delivery capacity and resulting public health effects. I therefore attach very limited weight to that decision.

18. For these reasons, I conclude that the development would cause significant harm to public health through increased availability and accessibility of unhealthy food. The development therefore conflicts with Strategic Priority 3 and Policy SP7 of the CSDP, which seek, amongst other things, to promote and facilitate active and healthy lifestyles and manage access to unhealthy food outlets. It would also be contrary to the objectives of the Sunderland Healthy City Plan.

Other Matters

19. I have carefully considered the benefits advanced in favour of the development. The appellant indicates that the operation employs approximately 33 members of staff. Retaining those jobs and supporting economic growth and business

investment are economic benefits, to which I attach significant weight in accordance with Policy E2(1)(a) of the Framework. I also attach significant weight to the reuse of a vacant commercial unit, having regard to the support in Policy L2(1)(b) of the Framework for the effective use of land by making better use of vacant and underutilised land and buildings.

20. The appellant highlights the provision of nutritional information and menu details through delivery platforms, allowing customers to make informed purchasing decisions. Whilst this is a positive feature, the availability of that information does not, in itself, demonstrate that the additional access to unhealthy food identified in my assessment would be reduced. I therefore attach limited weight to this consideration.

21. The appellant also contends that dismissal of the appeal could result in job losses. They further state that it could cause additional operational pressures, including in relation to highway safety at the restaurant if delivery demand is redirected there. Nevertheless, the extent of those consequences is not clearly demonstrated and I take the potential employment consequences into account within the significant weight already given to retaining existing jobs. The possibility of additional operational pressures reinforces the evidence of capacity constraints but does not, in this case, establish a further quantified economic benefit.

22. Finally, I have considered the fallback position that the unit could be occupied by an alternative Class E use without needing planning permission. However, the evidence before me does not demonstrate that an alternative Class E use would facilitate comparable access to, or availability of, unhealthy food. Accordingly, I attach limited weight to this fallback position.

Planning Balance and Conclusion

23. Policy S3 of the Framework establishes a presumption in favour of sustainable development. As the appeal site lies within a settlement, Policy S4 of the Framework applies, which states that development proposals should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies of the Framework.

24. The development would increase the capacity and convenience of the delivery service, making unhealthy food more readily accessible in an area with high levels of obesity. This would undermine the Council's policies and objectives to promote healthier lifestyles and reduce health inequalities and would also be contrary to the aims and objectives of Chapter 16 of the Framework. I attach significant weight to this harm.

25. Against this, the proposal supports employment and economic growth and has brought a vacant building back into use. I attach significant weight to these benefits in accordance with the Framework. However, the overall scale of these benefits in the context of the appeal proposal is relatively.

26. Taking these matters together, I find that the harm to public health through increased availability and accessibility of unhealthy food leads me to conclude that the benefits of granting planning permission to be substantially outweighed by the adverse effects, when assessed against the national decision-making policies of the Framework.

27. Consequently, the proposal would conflict with the development plan taken as a whole and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Lancaster

INSPECTOR