

Memo

To: Tina Pickup
From: Daniel Bayles
Date: 22 March 2023
Re: Dominos 39 West Street, Havant PO9 1LA

Variation of Condition 4 of Planning Permission APP/18/01234 (Change of use from a former bank (Class A2) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations) relating to the extension of opening hours for the delivery of Pizzas until 0100 during the week and until 03.00 on weekends.

Planning Ref: APP 23 000146
EH Ref: CONS 23 00602

SUMMARY

The proposal is deliveries from the premises until 3am. At this time of night, the background noise is very low and there is the potential for activities of the business to significantly harm the amenity of the nearby residents. One of whom has already complained about noise from the existing hours.

The application includes a Noise Impact Assessment and an Operational Management Plan. The Noise Impact Assessment requires further details to be included.

A temporary planning permission for 12 months until 1am is recommend as a pragmatic approach.

The development will require a variation of the existing Premises Licence. An informative is requested.

APPLICATION

Variation of Condition 4 of Planning Permission APP/18/01234 (Change of use from a former bank (Class A2) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations) relating to the extension of opening hours for the delivery of Pizzas until 0100 during the week and until 03.00 on weekends.

4 The premises shall only be open to the public for trade or business between the hours of 09:00 and 23:00 Sunday to Thursday; and between 09:00 and 24:00 (midnight) on Fridays and Saturdays. No delivery of pizzas shall take place outside these hours. Reason: To protect the amenities of nearby residential properties and having due regard to policy DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Condition 5 limits the larger delivery vehicles as follows:

5 Servicing and deliveries to or from the premises shall only take place between the hours of 07:00 and 20:00 Monday to Saturdays and at no other time, in accordance with the Waste and Operational Management Plan, dated January 2019. Reason: In the interests of the amenities of occupiers of nearby residential properties and having due regard to policies DM10, DM11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

COMMENTS

Licensing

In addition to planning permission to supply hot food and drink after 11pm and before 5 am the premises requires a Premises Licence.

Domino's currently has a Premises Licence for the existing hours. The Premises Licence is on our public register and is available here:

https://licensing.havant.gov.uk/PAforLalpacHavantLIVE/1/LicensingActPremises/Search/1927/Detail?LIC_ID=8008

They will need to submit a variation to their Premises Licence if/when they get the planning application approved.

An informative is requested.

Food Safety

Dominos has extensive food safety management systems and regular internal audits. These will be adequate for the extended hours.

Refuse and Recycling

The applicant will need to increase their existing refuse and recycling storage or have additional refuse collections due to the predicted increased in refuse produced.

Noise

Complaints

One noise complaint has been received about noise from Dominos from a resident of West Street.

Date	Details	Outcome
08/2/2021	Noise from vehicles, traffic issues	Increased patrols from Parking Wardens resolve issues

Acoustic Report

I have read the Noise Impact Assessment, reference 2813.RP.1 dated 6 February 2023 by BHa of Suono. The author is not named, and their qualifications are not detailed. They should be.

Sound level measurements were taken on a Monday into Tuesday night. Noise measurements were not taken on a weekend night (Saturday or Sunday). Only a single 15-minute measurement has been taken for each hour period at 2 locations. Only a single measurement has a significant risk of being unrepresentative.

The sound measurements taken show the area is currently quiet at night.

The noise of delivery vehicles coming and going will be short loud noise events lasting seconds that will have the impact to disturb residents. The Noise Impact Assessment evaluates the potential noise over a 15-minute period. This will average out any sound over the 15-minute period.

Details of the filed calibration and traceable (e.g. UKAS) calibration of the equipment used are not provided. It should be.

There is no discussion on possible error or variance in the measurements. There should be. I would expect this to include a discussion about only a single measurement being taken at each location each hour.

DISCUSSION

The applicant is not seeking to extend the time the shop will be open to the public for collections. This will avoid the potential for noise disturbance from rowdy customers.

The applicant is not seeking to extend the time the shop can have deliveries (supplies). This will prevent HGV's disturbing residents late at night.

The applicant is seeking to extend the hours of delivery.

The Noise Impact Assessment records that the background noise in the area is quiet so the noise of additional cars and mopeds will be noticeable.

The cars and mopeds used for deliveries will enter the site using West Street and Brockhampton Lane, where there is residential accommodation. The cars and mopeds will create short bursts of noise. The noise of staff leaving late at night will also be heard. This noise will be noticeable to residents as sporadic events and could cause sleep disturbance as the background noise is low in the area at night.

Extending the opening hours to 3 am when the background noise is quiet is a significant risk of harm to the amenity of the neighboring residents.

I have previously dealt with similar applications for pizza delivery business, including Dominos, at other local authorities. Other Local Planning Authorities have limited the increased in delivery hours to hourly steps and for initially 12-month temporary planning permissions to allow the impact to be assessed.

The staggered approach has limited the impact on the amenity. As the applicant will not be incurring considerable costs, such as for building work, this approach has been viewed as being proportionate.

This temporary permission has allowed the concept that the variation can take place without unacceptable harm to the amenity to be proven.

Nuisance / Licensing and Planning Overlap

Planning deals with the more stringent standard of protection of amenity. Environmental Health and Licensing enforce the less stringent standard of nuisance. A development can cause unacceptable harm to the amenity but not be a nuisance. Planning cannot rely on Licensing or Environmental Health to protect the amenity.

The advantage of Licensing is that a Licence can be reviewed, although this is not a simple process.

CONCLUSION

The extension until 3 am is a significant risk to the amenity of neighboring residents. I temporary planning permission until 1 am as a trail would allow this risk to be evaluated without the applicant incurring unreasonable costs.

RECOMMENDATION

A 12-month temporary planning permission until 1 am.

Regards

Daniel Bayles BSc (Hons) AKC MCIEH CEnvH MIOA MCMI CMgr
Interim Pollution Team Leader

INFORMATIVE

A. Licensing Informative

In addition to Planning Permission this development will require a variation of the Premises Licence.

The applicant must contact Licensing to vary the Premises Licence on email licensing@havant.gov.uk