
Site Address: Dominos 39 West Street, Havant, PO9 1LA
Proposal: 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 temporary extension of opening hours for the delivery of Pizzas until 01:00, 7 days a week, for one calendar year.
Application Type: Variation/Relief of Condition
Application No: APP/23/00146 Expiry Date: 14/04/2023
Applicant: Dominos Pizza UK & Ireland Ltd
Agent: Mr Sykes Case Officer: Tina Pickup
 Pegasus Planning Group Ltd
Ward: St Faiths

Recommendation: **GRANT TEMPORARY PERMISSION**

1 Site Description

- 1.1 The application site relates to the existing Dominos pizza premises located on the corner of Park Road South and West Street, within Havant town centre. The site relates to the ground floor only within the two-storey flat roofed building, where there are independently accessed offices above. Being a corner unit, the ground floor has a chamfered footprint with the main access doors on the diagonal beneath a first floor overhang. As a takeaway the use of the site is Sui Generis.
- 1.2 To the rear of the site is a shared rear access service yard and parking area, accessed from Brockhampton Lane and Park Road South and the application site has 3 dedicated spaces within this rear area. Pedestrian access to the rear of the unit for staff and servicing is shared with other ground floor retail units. There is an external fire escape style, metal railing stairway serving the first-floor offices. There is also a culverted main river that goes beneath the site, which is enclosed by railings. The frontage of the site lies within Flood Zone 3.
- 1.3 The site lies within the identified Town Centre by Policy CS4 of the adopted Core Strategy, but outside the primary shopping frontage.
- 1.4 Park Road South is the main B2149 through the town centre and the traffic lighted pedestrian crossing is located immediately to the east of the site, linking to the pedestrianised West Street. There are therefore traffic restrictions on Park Road South with zig zag road markings and pedestrian safety rails, preventing vehicles stopping on Park Road South. When heading south, there is no right turn into West Street from Park Road South. The corner heading west into West Street has double yellow lines which continue along West Street, becoming single yellow lines in Brockhampton Lane. There is an area for approximately 6 cars to park on the south side of West Street, just to the west of the application site, and these spaces are currently restricted to 30 minute waiting between 8am and 6pm Monday to Saturday. Outside of these times parking is unrestricted in these spaces. The rear service yard is accessed off either Brockhampton Lane or between numbers 16 and 24 Park Road South where it is possible to turn right into the service yard when heading south.

- 1.5 The north side of West Street includes the 19 Fourteas tea room and then reverts to predominantly residential accommodation with the former Cobden Arms being converted to flats. The old Court House has also been converted to flats such that the west side of Brockhampton Lane is also residential. This area forms part of the Black Dog Conservation Area. The site is opposite, but not within this Conservation Area. There is also a residential property at No 3 Brockhampton Lane, sited to the south west of the access into the service yard, and this dwelling is located adjacent a printers at 1b and a car tyre centre. The site is therefore closely related to the residential properties on the fringe of the town centre.

2 Relevant Planning History

APP/18/00706 - Change of use from a former bank (Class A2) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other minor external alterations., REF,22/10/2018

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 (resubmission of application ref: APP/18/00706). , PERM,28/01/2019

APP/19/00135 - Display of 2No. internally illuminated Fascia Signs and 1No. internally illuminated Projecting Sign., PERM,29/03/2019

3 Proposal

- 3.1 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 temporary extension of opening hours for the delivery of Pizzas until 01:00, 7 days a week, for one calendar year.
- 3.2 As originally submitted the proposal sought to vary the opening hours condition to extend the opening hours for the delivery of pizzas until 01:00 during the week and until 03:00 at weekends, on a permanent basis. Following input from Environmental Health this was negotiated and the application amended to allow the delivery of pizzas until 01:00 for a temporary 12 month period only. This would not relate to customer collections etc as the premises would remain closed to the public, in accordance with previous conditions after 23:00 on Sundays to Thursdays and after midnight on Fridays and Saturdays.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS4	()
DM10	(Pollution)

DM11 (Planning for More Sustainable Travel)
DM12 (Mitigating the Impacts of Travel)
DM14 (Car and Cycle Parking on Development (excluding residential))
DM5 (Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Havant Borough Local Plan (Allocations) July 2014

DM20 (Historic Assets)
AL1 (Presumption in Favour of Sustainable Development)
DM21 (Shopfronts, Signs, Security Shutters and Advertisements)
AL3 (Town, District and Local Centres)
AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health

SUMMARY - full comments viewable online

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.

Hampshire Constabulary

None received

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 98

Number of site notices: 2

Statutory advertisement: Not applicable.

Number of representations received: 2

Comment	Officer Comment
<u>On original submission with opening hours to 3am at weekends:</u> Because of the location of this business the opening hours shouldn't be extended. There are residential properties close by and the noise of extraction fans running until 3.00am would cause disturbance for residents who need to sleep. Vehicles stopping to pick up food and delivery vehicles coming and going in the early hours of the morning would also generate noise disturbance for residents in West Street. Please refuse this application.	Noted - see section 7 below
<u>On amended submission for temporary permission until 1am:</u> With regards to noise: There will be an increased amount of traffic produced by the extended opening hours. It is in the nature, of delivery services nowadays, that deliveries are made on high RPM mopeds that will no doubt be passing through West Street. All it will take is one said high RPM moped / motorbike, to make a collection and the whole area, near the old Black Dog pub especially, will be woken up. Furthermore, if we are taking about delivery cars then they are already illegally parking on West Street and cause a large amount of noise when passing through and especially opening / closing doors. Where will they be stationed - illegally on the pavement outside bedroom windows? I can see there being nuisance noises produced each night that will harm my rights to peace, tranquillity and a good nights sleep.	Noted - see section 7 Any illegal parking a police matter

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Highways and parking

(i) Principle of development

7.2 This is a Section 73 application to vary a condition and if approved, its granting effectively re-issues the original permission and must repeat and update the relevant conditions unless they have been discharged. In this case condition 4 is being sought to be varied (opening hours). The determination of this application must consider the impact of the proposed changes only and does not need to re-consider the whole development which already has planning permission and been implemented under APP/18/01234.

7.3 The application site is situated within a defined town centre, and relates to an existing takeaway site, with some ancillary seating internally, which comprises a Sui Generis use. Policies AL3 and CS4 support such town centre uses that retain active ground floor frontages and enhance the evening economy. Policy DM5 specifically seeks to control any environmental issues associated with food and drink uses and would be relevant to this proposal for extended delivery hours, to be considered below.

(ii) Impact upon the character and appearance of the area

7.4 There would be no operational development associated with this proposal to vary condition 4 of APP/18/01234 and the appearance of the site would be unaltered and remain appropriate to its town centre location.

(iii) Impact upon residential amenity

7.5 There are residential properties on both West Street and in Brockhampton Lane directly opposite the vehicular access point used to service the rear of the site. Condition 4 of APP/18/01234 currently restricts both the opening times of the premises, and the hours during which pizzas can be delivered, to between 09:00 and 23:00 Sunday to Thursday and between 09:00 and 24:00 on Fridays and Saturdays. This amended proposal seeks an additional 2 hours on Sundays to Thursday and an additional hour on Fridays and Saturdays, for the delivery of pizzas only - for a trial period of 12 months - this would not alter the opening times of the store itself for customers.

- 7.6 Therefore any congregation of customers outside the premises, and customer trips to and from the site would not change. It would only involve additional trips by delivery drivers and staff leaving later. The Environmental Health consultation response identified some shortcomings in the submitted Noise Impact Assessment which was prepared for the original application seeking until 3am at weekends. It is noted that background noise levels are quieter during the late night /early morning and noise of delivery vehicles in cars or mopeds, and staff leaving, would be noticeable to residents as sporadic events that would be noticeable and could potentially cause sleep disturbance. Therefore Environmental Health objected to the proposed 3am use at weekends and instead suggested incrementally increasing in hourly steps for temporary periods in order for any impacts to be assessed.
- 7.7 The application was re-advertised on this basis and only 1 additional letter of objection was received. The point made about high RPM mopeds is fair and exactly what Environmental Health wanted to avoid without assessment. Until the later opening hours are in use it cannot exactly be anticipated whether there really would be such an increase in delivery drivers for the additional 1 hour of Fridays and Saturdays and 2 hours on Sundays to Thursdays, that really would cause a material increase to the noise in the area affecting amenity. Since the premises has operated without much complaint to date, then it would appear that actual harm is less than perceived harm.
- 7.8 Clause 6 of Policy DM5 does seek to resist unacceptable disturbance to the occupiers of nearby residential property at times when activity in the immediate vicinity would otherwise be at a relatively quiet level. It is acknowledged that the site is within the town centre where later night activity takes place, but also adjacent residential properties. Therefore it would seem appropriate to allow a temporary permission, that can be reviewed after 12 months, to monitor any actual harm resulting from the additional hours of delivery of pizzas.

(iv) Highways and parking

- 7.9 The site has 3 parking spaces in the rear servicing yard and delivery drivers would continue to use these and access the premises from the back of the building for the additional hours. These would likely be adequate to serve the drivers needed during the extended opening hours, which should not result in any over spill of delivery vehicles on the local roads. This aspect could also be subject to review as part of the temporary permission proposed.
- 7.10 The limited additional trade and associated trips over the extended hours when the highway network is generally quieter, would not have any adverse impact on the local highway network.

8 Conclusion

- 8.1 This is a Section 73 application and its granting effectively re-issues the original permission and must repeat or amend accordingly the relevant conditions unless they have already been discharged. It is considered that it would be appropriate to vary condition 4 of APP/18/01234 to allow the delivery of pizzas until 1am for a 12 month temporary period, enabling any adverse impacts to be fully monitored and assessed.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT TEMPORARY PERMISSION** for application APP/23/00146 subject to the following conditions

- 1 This permission shall be for a limited period expiring 12 months from the date of this permission, on or before which date the hours of delivery of pizzas from the premises shall revert to between 09:00 and 23:00 Sundays to Thursdays; and between 09:00 and 24:00 (midnight) on Fridays and Saturdays with no delivery of pizzas taking place outside these hours unless the prior consent of the Local Planning Authority has been obtained in writing for a further period.

Reason: To enable the Local Planning Authority to assess the impact of the proposed extended opening hours on neighbouring residential amenity, having due regard to policies DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 2 The development hereby permitted shall continue to be carried out in accordance with the previously approved plans under APP/18/01234, other than as amended by the revised delivery hours hereby approved:

Highways Technical Note 02 (2472) by Croft Transport Planning & Design, received 11/01/2019

Swept Path Analysis Plan Drawing number: 2472-SP01 Rev A
Planning, Design and Access Statement (Incorporating Flood Risk Assessment) dated November 2018

Environmental Assessment Report 18/0455/R1 by Cole Jarman dated 26th September 2018

Location Plan Drawing No. DB447 - LP Rev A

Block Plan Drawing No. DB447 - BP

Proposed Elevations Drawing No. DB447 - EL05

Proposed Plan Drawing No. DB447 - GA04 Rev A

Air Handling Unit Information

Supporting Annex B Document for Proposed Ventilation System by DeltaBravo Ltd dated 19.06.18

Baffle Filter information

Extraction Details

Filtration Details

Reason: To ensure provision of a satisfactory development.

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, (as amended) and any Town and Country Planning (General Permitted Development) Order, the premises shall be used as a pizza takeaway only and for no other hot food takeaway uses.

Reason: In the interests of amenity as the proposed extractor equipment may not be adequate for other food types, and having due regard to Policies DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 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 the hours of 09:00 and 01:00 the following morning, 7 days a week.

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.

- 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.

- 6 The previously approved extraction equipment under APP/18/01234 shall be retained and effectively operated for as long as the use continues, and shall be regularly maintained in accordance with the Annex B Document for Proposed Ventilation System by DeltaBravo Ltd dated 19.06.18. Any failure of the extraction equipment and all cooking processes shall cease until the system has been restored to full working order. Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of the extraction equipment, shall be kept and made available for inspection at the premises by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

Reason: In the interests of amenity and to protect against cooking odours outside the premises, and having due regard to Policies DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 The previous noise mitigation measures under APP/18/01234, detailed in the Environmental Assessment Report 18/0455/R1 2nd issue by Cole Jarman shall be retained and the silencer and anti-vibration mounts and all other measures shall be maintained in full working order to the satisfaction of the Local Planning Authority.

Reason: In the interests of amenity and to protect against cooking odours outside the premises, and having due regard to Policies DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.