



Our Ref: A111576

Your Ref: PP-07759846

7th June 2019

Havant Borough Council

Public Service Plaza,
Civic Centre Rd,
Havant
PO9 2AX

Dear Sirs,

PLANNING PORTAL REFERENCE PP-07759846

SECTION 73 PLANNING APPLICATION TO VARY CONDITION 2 (APPROVED PLANS), 4 (NOISE MITIGATION), 5 (ODOUR), 7 (DELIVERY VEHICLE OPERATING HOURS) and 8 (BIN STORAGE) OF PLANNING PERMISSION REF: APP/18/00059

WYG has been retained by Papa John's (GB) Ltd to submit a Section 73 planning application to amend Conditions 2, 4, 5, 7 and 8 on planning permission ref APP/18/00059. The application relates to the existing Papa John's unit at 260-262 London Road, Waterlooville and seeks to extend the delivery vehicle operating hours (Condition 7), and amend Condition 4, 5 and 8 to compliance conditions.

The plans and information accompanying this submission are as follows:

- Completed application forms and Certificates
- Site Location Plan (Scale 1:1250)
- Copy of Decision Notice APP/18/00059
- Noise Assessment – Cole Jarman
- Papa John's Noise Management Plan
- Odour Assessment – WYG
- Bin Storage Plan Drawing No. 223147
- Drawing No. 01100-10 Rev J Proposed Ground Floor
- Drawing No. 01100-11 Rev E Proposed Elevations
- Drawing No. 01100-17 Rev D Proposed Ceiling & Electrical
- Drawing No. 01100-01 Location Plan

The Application is submitted via the Planning Portal (Reference PP-07759846). The planning application fee is being submitted to the Authority under separate cover.

Background

Planning Permission reference APP/18/00059 was granted at the application site on 25th July 2018 and approved the change of use to hot food takeaway (Use Class A5) with minor external alterations. The permission was granted subject to ten conditions in total.

This application relates to conditions 4,5,7 and 8 on the planning permission.





Condition 2

Condition 2 of Permission Ref: APP/18/00059 states:

"The development hereby permitted shall be carried out in accordance with the following approved plans:

Design and Planning Statement: Received 04.04.2018

Specification and Schedule of Ventilation: Received 04.04.2018

Ventilation and Extraction Statement: Received 04.06.2018

Proposed Elevations Plan: Drawing No 04

Proposed Ground Floor Plan: Drawing No 02 Received via email 18.07.2018

Confirmation of opening hours: Received via email 27.06.2018

Reason: - *To ensure provision of a satisfactory development."*

In order for Papa John's to undertake their operations, the internal and external alterations to accommodate the proposed use are shown on the following plans:

- Drawing No. 01100-10 Rev G Proposed Ground Floor
- Drawing No. 01100-11 Rev C Proposed Elevations
- Drawing No. 01100-17 Rev D Proposed Ceiling & Electrical
- Bin Storage Plan Drawing No. 223147
- Noise Assessment – Cole Jarman
- Odour Assessment - WYG

It is requested the Bin Storage Plan is included within the approved plans which, along with details submitted under Condition 8, should assist with the variation of condition 8.

As such, we request that Condition 2 be amended to include the following information for Papa John's operation;

"The development hereby permitted shall be carried out in accordance with the following approved plans:

Design and Planning Statement: Received 04.04.2018

Specification and Schedule of Ventilation: Received 04.04.2018

Ventilation and Extraction Statement: Received 04.06.2018

Proposed Elevations Plan: Drawing No 04

Proposed Ground Floor Plan: Drawing No 02 Received via email 18.07.2018

Confirmation of opening hours: Received via email 27.06.2018

Proposed Ground Floor: Drawing No 01100-10 Rev G

Proposed Elevations: Drawing No. 01100-11 Rev C

Proposed Ceiling & Electrical: Drawing No. 01100-17 Rev D

Bin Storage Plan: Drawing No. 223147

Noise Assessment – Cole Jarman

Odour Assessment - WYG

Reason: - *To ensure provision of a satisfactory development."*

Condition 4

Condition 4 of Permission Ref: APP/18/00059 states:

"The development hereby permitted shall not be occupied unless and until details to confirm that any requisite acoustic mitigation measures related to any extraction systems, air conditioning and / or cold room / chiller units and the like, have been submitted to and approved in writing by the Local Planning Authority.

It should also be noted that noise resulting from the use of any / all plant, machinery or equipment used on this site, shall be of a No Observable Adverse Effect Level (NOAEL), or better, when measured according to British Standard BS4142-2014, at the boundary of the nearest sensitive receptor. The approved measures shall be implemented prior to occupation and maintained in accordance with the approved details.

Reason: *To ensure the residential amenity of the property is not unacceptably impacted upon by any internal or external noise levels, including from commercial premises below having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."*

Please see the accompanying Noise Assessment prepared by Cole Jarman (15th May 2019) for the proposed use of the unit by Papa John's (GB) Ltd which states with the specified mitigation measures in place (set out at Section 7.2 of the report), the calculated noise rating levels will meet the noise limits. As such, this report is considered sufficient to discharge the requirements of the condition and amend the wording to read:

"The development hereby permitted shall comply with the specified mitigation measures set out within the Noise Assessment dated 15th May 2019 by Cole Jarman and these mitigation measures installed shall be maintained for the life of the development.

Reason: *To ensure the residential amenity of the property is not unacceptably impacted upon by any internal or external noise levels, including from commercial premises below having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."*

Condition 5

Condition 5 of Permission Ref: APP/18/00059 states:

"Prior to the development being brought into use, equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. Details of the equipment shall be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason: *To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."*

The Odour Assessment included within this report, prepared by WYG dated 3rd June 2019 states mitigation measures outlined in "Control of Odour and Noise from Commercial Kitchen Exhaust Systems, September 2018" including:

"1. Fine filtration or ESP followed by carbon filtration (carbon filters rated with a 0.2 –0.4 second residence time).

2. Fine filtration or ESP followed by UV ozone system to achieve the same level of control as 1."

With regard to the Odour Assessment it is requested that requirements of Condition 5 are met and that the condition be amended to the following:

"Equipment shall be installed as per the recommendations set out in the Odour Assessment dated March 2019 by WYG and the equipment shall be effectively operated for so long as the use continues.

Reason: *To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests*



of the amenity of occupiers of nearby properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

Condition 7

Condition 7 of Permission Ref: APP/18/00059 states:

"No delivery vehicles (including mopeds and motorbikes) are to be used in conjunction with the hereby permitted A3/A5 use between the hours of 2200 to 0800 unless otherwise agreed in writing by the Local Planning Authority."

Reason: In the interests of the occupiers of the neighbouring properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

This application requires that the permitted hours of delivery from the unit are extended to allow Papa John's to make deliveries associated with their operation until 11pm daily. It is requested that the condition 11 be amended to read:

"No delivery vehicles (including mopeds and motorbikes) are to be used in conjunction with the hereby permitted A3/A5 use between the hours of 2300 to 0800 unless otherwise agreed in writing by the Local Planning Authority."

Reason: In the interests of the occupiers of the neighbouring properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

An assessment of the proposed change to the unit's delivery hours is set out later in this letter.

Condition 8

Condition 8 of Permission Ref: APP/18/00059 states:

"The change of use hereby permitted shall not commence until details and/or specification of bin provision relating to the café/restaurant facility and storage for the disposal of refuse have been submitted to and approved in writing by the Local Planning Authority. This must also include a scheme for the disposal of customer refuse and litter. The use hereby permitted shall not commence until the implementation of such provision for refuse and bins has been completed in full accordance with such an approved specification."

Reason: In the interests of the amenities of the area and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

Please see attached Drawing No. 223147. Bins will be stored internally within the hatched area shown on Drawing No. 223147, located to the rear of the premises. There would be one refuse bin for general waste and one for cardboard recycling. All bins would be emptied on a weekly basis; the bins would be retrieved, emptied and replaced once empty on the dedicated collection day.

To prevent pests the refuse bins would be BIFFA lockable wheelie bins. The Applicant has a standard contract with a pest control agency to control and manage the presence of vermin around the premises. The premises would also be sealed to prevent pests gaining access via the windows or under the doors.

The information submitted is sufficient to discharge the requirements of the condition and we therefore request that the condition be reworded to the following:

"The change of use hereby permitted shall operate and maintain bin provision and specification in line with



Drawing no. 223147 and the details provided within Covering Letter dated 16th May 2019 for the approved Hot Food Takeaway use at 260 London Road.

Reason: In the interests of the amenities of the area and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

Existing Operation of the Existing Hot Food Takeaway Use

Whilst the proposed operation of the unit will remain as lawfully approved, for ease of reference, information on the various aspects of the business operation are provided below.

In terms of deliveries, Papa John's (GB) Ltd has a centrally controlled logistics operation to deliver the fresh dough and other products necessary to meet the business needs of each store.

The delivery model is company-wide and based on three deliveries per week; two deliveries from the main distribution centre, using fixed-bed ten tonne delivery vehicles; and one by the drinks supply partner, Coca Cola, utilising a 7.5 tonne non-articulated delivery vehicle.

Food deliveries are made twice a week and on regular days to maintain stock levels in the store. Drinks deliveries are made once per week. Deliveries are currently received to the front of the Unit, with delivery vehicles being present for approximately 20 minutes.

As the majority of food orders received by each outlet are for home delivery, having regard to the peak hours of the business and available parking in front of the unit, it is not expected that the proposed extension of hours would have an adverse impact on the road network, highway safety or residential amenity.

Refuse from the Unit is disposed of in two lockable bins stored externally at the premises. One refuse bin is for general waste and one is for cardboard recycling. All bins are emptied on a weekly basis; contractors retrieve the bins, empty them and replace them once empty.

Papa John's GB Ltd has a standard contract with a pest control agency to control and manage the presence of vermin around the premises. In order to prevent pests the refuse bins are BIFFA lockable wheelie bins. The premises is also sealed to prevent pests gaining access via the windows or under the doors. Specifically, Condition 5 of Permission Ref: PA/15/01932 states:

Planning Policy

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) requires that proposals are determined in accordance with the development plan unless material considerations indicate otherwise. The adopted Development Plan relevant to this proposal comprises:

- Havant Borough Local Plan (Core Strategy) (adopted 2011)
- Havant Borough Local Plan (Allocations) (adopted 2014)

Material considerations in determining individual planning applications include the National Planning Policy Framework (NPPF).

The principal planning issue relevant to this proposed development is the impact on the amenity of neighbouring uses and occupiers. The planning policies relevant to this planning application are set out below.



Havant Borough Local Plan (Core Strategy) (adopted 2011)

Policy CS16 of the Core Strategy refers to High Quality Design. Part (1.e) states that development should not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking. Part (6) requires that development mitigates negative environmental impacts through sustainable design including the provision of facilities for waste recycling.

Policy DM5 (Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses) requires the following criteria to be met for the grant of Use Classes A3, A4 and A5:

- 1. Measures are incorporated, where a proposal includes the preparation of hot food, to mitigate the effect on nearby properties.*
- 2. The measures proposed in respect of criterion 1 are such that the installation does not materially detract from the appearance of the building itself and the wider locality.*
- 3. The measures proposed in respect of criterion 1 are suitable for the range and nature of hot food to be prepared on the premises.*
- 4. The development includes adequate provision for the disposal, storage and collection of refuse, including litter bins for use by customers.*
- 5. The development would not result in indiscriminate customer parking and/or traffic movement that would be likely to create hazards for traffic or pedestrians.*
- 6. The development would not cause 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.*

Policy DM10 seeks to protect against developments that may cause pollution through noise, smell, smoke, fumes, gases and other pollutants and will only permit development where all of the following criteria can be met:

- 1. The health and safety of existing and future users of the site, or nearby occupiers and residents is not put at risk.*
- 2. National air quality standards or objectives would not be breached.*
- 3. The water environment would not be detrimentally affected.*
- 4. It would not lead to an unacceptable deterioration in the quality or potential yield of coastal, surface and ground water resources.*
- 5. External lighting is of the minimum level of illumination and duration required for security and operational purposes.*
- 6. External lighting would not interfere with safe navigation in either Chichester or Langstone Harbours and other coastal locations.*

Havant Borough Local Plan (Allocations) (adopted 2014)

Policy DM18 seeks to protect amenity of future occupiers or users by ensuring that projected levels of air, noise, vibration, light, water or other pollution do not cause significant negative effects.

Planning Assessment

The Application seeks to amend the following conditions attached to planning permission reference APP/18/00059:

- Condition 2 (Approved Plans);
- Condition 4 (Noise Mitigation);
- Condition 5 (Odour);
- Condition 7 (Delivery vehicle operating hours); and
- Condition 8 (Bin Storage)



The key planning matter associated with the suggested alterations are the impacts on the amenity of neighbouring occupiers by way of noise and disturbance through the proposed amendment to condition 7 and this matter is considered further here. The relevant Local Plan policies are CS16, DM5 and DM10.

Papa John's are committed to ensuring their operations do not adversely impact the amenity of neighbouring occupiers'. They adopt a Noise Management Plan in all units. This is submitted with this Application and includes practices to minimise noise from customers visiting the store and deliveries being despatched, including signage, staff training and regular servicing of delivery vehicles associated with the unit. It is considered that with the noise management plan in place there would be no adverse impact on the amenity of the area arising from the amended hours of operation of delivery vehicles.

The proposed amendments to the delivery hours are considered to be acceptable. The Noise Management Plan demonstrates how Papa John's will ensure that the proposed opening hours would have no adverse impacts on the amenity of neighbouring occupiers by way of noise and thus be in accordance with relevant Development Plan Policies.

The Application is submitted to Havant Borough Council for approval, subject to reasonable and relevant conditions. I look forward to receiving confirmation of registration of the Application, a receipt for the application fee paid and a likely timescale for the determination of the application in due course.

Yours faithfully



Sarah Butterfield
Associate Director
For and on behalf of WYG

Encs.