

MEETING:	PLANNING COMMITTEE
DATE:	3 FEBRUARY 2016
TITLE OF REPORT:	153000 - VARIATION OF CONDITION 7 OF PLANNING PERMISSION CW2002/3803/F AND CONDITION 1 OF PLANNING PERMISSION CW2003/3853/F AT UNIT 3, 109-111 BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JR For: The Owner and/or Occupier per Mr Paul Semple, Seacourt Tower, West Way, Oxford, Oxfordshire, OX2 0JJ
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/search-and-comment-on-planning-applications/details?id=153000&search=153000
Reason Application submitted to Committee – Redirection	

Date Received: 7 October 2015

Ward: Redhill

Grid Ref: 350422,238897

Expiry Date: 6 January 2016

Local Member: Councillor P Rone

1. Site Description and Proposal

- 1.1 The application site is situated on the south-eastern side of Belmont Road within Hereford City. The site comprises a single commercial unit, part of a mixed use commercial complex with a dedicated car-parking area to the front. The unit itself is currently occupied by Domino's Pizza. Surrounding this complex of commercial units are residential properties to the north and west, school playing fields to the south and Our Lady Queen of Martyrs Church to the east.
- 1.2 A variation of condition is sought to condition 1 of planning permission CW2003/3853/F which is itself a variation of condition 7 of the original planning permission CW2002/3803/F. The proposed change seeks approval to extend the opening hours for pizza deliveries from the premises on Sunday to Thursday to 1am and on Friday and Saturday to 2am. In addition direct counter sales to visiting customers are proposed to be extended until midnight throughout the week.

2. Policies

2.1 Herefordshire Local Plan - Core Strategy

SD1 - Sustainable Design and Energy Efficiency

2.2 National Planning Policy Framework

Introduction - Achieving Sustainable Development

2.3 Neighbourhood Planning

There is no Neighbourhood Plan for Hereford. The Council will prepare a Hereford Area Action Plan.

2.4 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

3.1 P151384/F Variation of condition 1 of CW2003/3853/F. **Refused** 01.09.15

3.2 DCC041324/F New shopfront, extract ventilation system and external compressors. **Approved** 14.04.04

3.3 DCC033580/F Variation of condition 6 of CW2002/3803/F to allow deliveries between 9am and 1pm on Sundays and Bank Holidays. **Approved** 16.01.04

3.4 DCC033383/F Variation of condition 7 of CW2002/3803/F to allow trading to 11pm, 7 days a week. **Approved** 13.02.04

3.5 DCC023952/F Local centre (Class A1 and A3) with car-parking and ancillary works. **Approved** 16.10.03

4. Consultation Summary

Statutory Consultations

4.1 None

Internal Council Consultations

4.2 Environmental Health:

Having considered the new proposals made in this application Environmental Health have no objections to the application in principle. However, further consideration is recommended for the reduced lighting issue at the front of the store when the customer service is closed and the delivery service is still in operation. Dominos operational control supporting document details the lighting in the customer area would be turned off. Having further assessed the premises, this proposal has been considered to have minimal impact on the lighting of the premises, as the customer counter is very close to the premises front window. Lighting and staff working behind the Domino's counter would still be clearly visible from the road and pavement. This is likely to encourage customers to approach the premises after customer service has ceased, after midnight. I would recommend further consideration on this matter prior to approving the application e.g. blinds could be fitted to the front window and door which are closed after midnight and the front store lighting kept to a minimum.

I feel this control would have a significant impact on the control of noise at the premises after midnight and should be considered as a planning condition rather than a statement in the Domino's operational control document.

In response to a request from a neighbouring objector, the Principal Environmental Health Officer has reviewed all of the objections and other correspondence received in relation to the application and maintains the advice set out above

4.3 Transportation Manager:

No comments received

4.4 Economic Development:

No comments received

5. Representations

5.1 Hereford City Council has no objection to the proposal

5.2 A number of objections have been received from Mr Jones representing residents of 119, 121, 123 and 125 Belmont Road. These raise issues pertaining to:

- Noise and disturbance;
- Depressing the value of their properties;
- Dominos incapable of operating within existing conditions;
- Locality is not a 'commercial area';
- Close proximity to dwellings;
- Traffic noise can be filtered as ambient whereas these disturbances are intrusive;
- Anticipated numbers of vehicles are underestimated;
- Encouraging vehicles to honk horns;
- Illuminated sign is lit 24 hours; and
- No lighting or noise management plan.

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 In accordance with the Town and Country Planning Act 1990 (as amended) the principal consideration in the determination of this application is whether the detrimental impact to neighbouring amenity, which led to the previous refusal reason, has been suitably addressed.

6.2 This submission follows the refusal of P151384/F to extend the opening hours of this unit from a 7am – 11pm as defined in the previously varied permission CW2003/3853/F. It also seeks to align the planning permission more closely with the approved licence which allows for the premises to trade from 7am – 4am on Friday and Saturday with 7am – 2am Sunday to Thursday in respect of pizza deliveries and the walk-in counter service which is allowed under the licence until midnight. This application was itself the result of an enforcement investigation into the breach of opening hours following complaints dating back as far as October 2014.

6.3 The subsequent monitoring conducted by the Environmental Health team last summer identified the noise and activities connected with this business as:

- Cars driving into and out of the premises (approximately 2 car movements every 3 minutes);
- Car doors banging;
- Car engines running;
- Radio noise from cars (both delivery staff and customers using their cars to wait for their orders);
- People smoking and talking outside the premises;
- Customers sounding their horns; and
- The Dominos premises door banging closed.

- 6.4 These issues are reiterated and expanded upon in the objections to this proposal and it is essentially upon these matters that the acceptability of the extended hours hinges. One particularly salient point refers to the manner of the business operation which requires customers to wait 5-15 minutes after their purchase to collect their order. This results in customers and delivery staff loitering outside the premises whilst they wait for orders, a situation which has been described as especially disruptive in the evenings, when customers have arrived at the store inebriated.
- 6.5 Notwithstanding this anecdotal evidence, the findings of the Environmental Health assessment indicated that these disturbances did not constitute a statutory nuisance. There was, however, an objection to the delivery service hours being extended to 2am Sunday to Thursday and 4am Friday to Saturday. The grounds for this objection were due to the increased traffic movements into Dominos and Dominos general business activity noise being recognised as both noticeable and intrusive at these times. A mitigation scheme, involving a light and noise management plan, as well as shorter opening hours was recommended as a viable solution to this issue.
- 6.6 This revised submission has clearly considered the previous comments and recommendations of the Principal Environmental Health Officer and these have informed the parameters of this latest proposal. The current proposal for an extension of the operating hours for the delivery service by an additional 2 hours Sunday to Thursday and 3 hours Friday and Saturday with the walk-in counter service ceasing at midnight, exactly matches the previous recommendation of the Principal Environmental Health Officer.
- 6.7 Notably, the recommendation for lighting and noise management plans has only partially been adopted within the contents of the operational statement which was submitted with this application. This document contains a wide range of measures proposed by the management to avoid disturbance to neighbours of which only some aspects are material planning considerations.
- 6.8 Of particular interest is the proposed switching off of 'customer lighting' once the walk-in service is proposed to stop at midnight. This raises some concerns as the customer counter is very close to the premises front window. Lighting and staff working behind the Domino's counter would still be clearly visible from the road and pavement. This is likely to encourage customers to approach the premises even after the customer service has ceased, potentially generating additional noise disturbances late at night. In discussion with the Environmental Health Officer and the applicant, it has been agreed that a condition requiring roller blinds to be installed and drawn across the windows and door would suitably resolve this issue without requiring a lighting management plan.
- 6.9 Concerning the noise generated by customers and delivery drivers, the contents of the operational statement are welcomed but considered to be largely unenforceable with planning controls. These would need to be considered as part of the licensing regime. The Environmental Health team have raised no objection to this proposal with respect to noise disturbance. Nevertheless, a planning condition requiring the parking of delivery vehicles away

from the residential properties adjacent to the western boundary of the retail park is deemed appropriate.

- 6.10 Various aspects of the objections to this scheme extend well beyond the remit of what can be considered as relevant to this planning proposal. Many of the issues raised relate not to the proposed extension of opening hours but more generally to the established use. Concerns regarding the capacity to enforce licensing conditions in the early hours and any breaches of condition regarding delivery times of goods to the store are considered both reasonable and valid concerns, but are separate considerations that should not be given weight in determining the proposed extension of hours.
- 6.11 The single consideration which is up for debate is whether the extension of these opening hours would have an unacceptable impact upon the amenity of the neighbouring residents. To this effect, the Council's Principal Environmental Health Officer has investigated the noise and disturbance generated whilst it was operating beyond its permitted opening hours and found, subject to conditions, the noise associated with the operation of the business to be acceptable within the hours proposed under this application.
- 6.12 It is considered that the evidence that has been collected through out of hours monitoring is demonstrative that the revised opening hours would safeguard an acceptable degree of local amenity by requiring the store to close at the times when its operations were found to have an unacceptable detrimental impact. Conversely, the business operation prior to these times is considered to fall within acceptable parameters and in officers' opinion would not justify a planning refusal.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. Hours of opening

The permitted use in relation to the delivery of pizzas and associated products off the premises shall not be open to customers outside the hours of 0700 to 0100 Sundays to Thursdays and 0700 and 0200 Fridays and Saturdays. The walk-in counter service shall cease by midnight every day of the week.

Reason: To ensure the potential for disruption to neighbouring amenity is minimised in compliance with policy SD1 of the Herefordshire Local Plan Core Strategy.

2. Details & operation of blinds to be installed

Before commencement of this permission, details of the blinds and the way they are to be installed shall be submitted to and agreed with the local planning authority. Once installed, these blinds shall be drawn shut whenever the walk-in service is unavailable.

Reason: To ensure that the blinds would effectively screen the light emanating from the unit such that the potential for disruption to neighbouring amenity is minimised in compliance with policy SD1 of the Herefordshire Local Plan Core Strategy.

3. Parking of delivery vehicles

All delivery vehicles operating after 11pm will be required to park within a defined

area illustrated on a parking plan. This parking plan shall be submitted to and agreed with the local planning authority within 3 months of the grant of this permission.

Reason: To ensure the potential for disruption to neighbouring amenity is minimised in compliance with policy SD1 of the Herefordshire Local Plan Core Strategy.

4. Amendment to existing permission

The permission hereby granted is an amendment to planning permission DCC023952/F dated 16.10.2003 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.

Reason: For the avoidance of doubt and to comply with the requirements of Policy SD1 of Herefordshire Local Plan – Core Strategy.

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

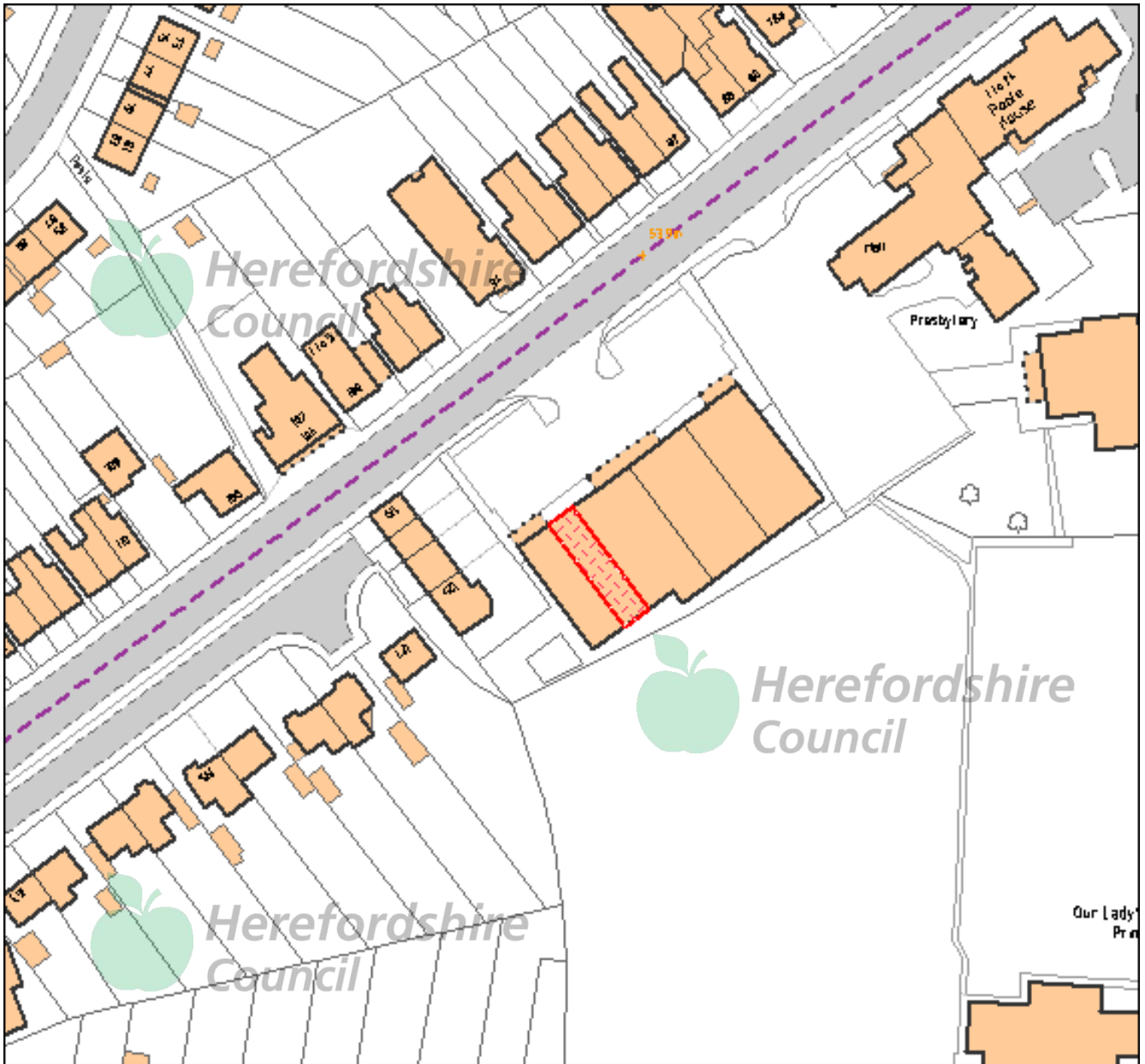
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 153000

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