

MC/18/2530

Date Received: 28 August 2018

Location: 371-373 Walderslade Road Walderslade Chatham

Proposal: Variation of condition 4 on planning permission MC/18/0976 to change to hours of use of the premises to between 11:00 to 00:00 Sunday to Thursday and 11:00 to 01:00 Friday and Saturday

Applicant Domino's Pizza UK & Ireland Ltd

Agent Brian Croom
Unit 20, Ensign Business Centre
Westwood Way
Westwood Business Park
Coventry
CV4 8JA

Ward: Walderslade Ward

Case Officer: Tom Stubbs

Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 24th October 2018.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of planning permission MC/18/0976, that date being 9 July 2018.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Drawing numbers C5174-A5-04, C5174-A5-06, AC2 and CR3 received on 28 March 2018 and C5174-A5-03 Rev A received on 15 May 2018.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The development shall be implemented in accordance mitigation measures set out within the Plant Noise Assessment ref 18/0142/R1 dated and received

on 17 April 2018 undertaken by Cole Jarman and operate in accordance with the Noise Management Plan reference 18/1042/M1 Rev 0 dated and received on 19 September 2018 undertaken by Cole Jarman before any part of the development are occupied and shall thereafter be retained thereafter.

Reason: To safeguard conditions amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 The hereby permitted A5 use and associated delivery of hot food hereby permitted shall only operate between the hours of 11:00 to 00:00 Sunday to Thursday and 11:00 to 01:00 on Fridays and Saturdays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 No commercial goods shall be loaded, unloaded, stored or otherwise handled and no vehicles, with the exception of those in the off-site delivery of hot food sales, shall arrive or depart within the application outside the hours 07:00 to 19:00 Mondays to Fridays inclusive and between the hours of 08:00 to 18:00 on Saturdays and at no time on Sundays and Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 The area of proposed infill brickwork within plan C5174-A5-03A to the rear elevation shall match the existing building.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 7 The use shall not commence until the approved refuse storage arrangements for the use are in place and arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This application seeks the variation of condition 4 on planning permission MC/18/0976 to change to hours of use of the premises to between 11:00 to 00:00 Sunday to Thursday and 11:00 to 01:00 Friday and Saturday.
Condition 4 currently states:-

The hereby permitted A5 use and associated delivery of hot food hereby permitted shall only operate between the hours of 11:00 to 23:00.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local Plan 2003.

The application now seeks that the function room to be open an hour later Sunday to Thursdays and two hours later on Friday and Saturdays.

Relevant Planning History

MC/18/0976 Change of Use from Use Class A2 (Financial and Professional Services) to Use Class A5 (Hot Food Takeaway) at ground floor level and residential at first floor level, along with associated works including new shopfront, extraction and ventilation.
Decision Approval With Conditions
Decided 09/07/2018

Representation

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

Three letters of objection have been received raising the following concerns:-

- Noise and disturbance to residents from the additional hours from customers and deliveries.
- Later than other premises in parade.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2018 and are considered to conform.

Planning Appraisal

Principle

The principle of the development has been established and this amendment does not result in any change in that initial assessment. As this application only seeks change to the opening hours, the primary consideration for this application relates to amenity.

Amenity

The application seeks permission to open later. The approved unit is located in proximity to residential areas with flats above the parade of shops. The application

has been supported by a Noise Management Plan to control the break out of noise from the property.

It proposes that the deliveries from the takeaway to customers should only take place from the front of the unit after 21:00 thereby avoiding using the access road to the rear of the unit and the nearby residential street Birchfields. A Delivery Noise Management Plan is to be circulated to the takeaway delivery drivers to ensure drivers undertake the measures detailed in the plan. The plan also indicates that during the extended hours the front door when not in use will be closed, the rear door will be closed and no rubbish put out between 23:00-07:00. Where possible more than one delivery per journey will be undertaken to limit the number of trips to and from the unit.

The submitted Noise Management Plan is considered to be acceptable and would not result in a detrimental impact on neighbours subject to a condition regarding the Noise Management Plan. Subsequently, the application would be in accordance with Policy BNE2 of the Local Plan and paragraph 127(f) of the NPPF subject to the inclusion of the abovementioned condition.

Other matters

A variation of condition application is such that when granted approval for the variation, in effect, a new planning permission is granted. It is therefore necessary to re-impose the conditions set out in the original decision notice under MC/18/0976. The original permission was subject a section 106 agreement for a £1000 contribution to public health as required under the 'Hot Food Takeaways in Medway'- a Guidance Note (July 2014). This contribution was paid on completion of the agreement and therefore no deed of variation is considered to be required.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

It is considered subject to a condition for the use to operate as per the Noise Management Plan the impact on neighbouring amenity the application would be in accordance with Policy BNE2 of the Local Plan and paragraphs 127 (f) NPPF.

The application would normally be determined under officer delegated powers but is being reported to Committee for a decision in view of the number of letters of representations received contrary to the Officer's Recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>