Application Number: AWDM/0289/21 Recommendation – Approve

Site: 44 North Road, Lancing

Proposal: Variation of Condition 4 of AWDM/0617/16 to extend opening hours to between 09.00am and 00.00 midnight on any day

Date of site visit: Not visited

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to the ground floor of 44 North Road, occupied by Domino's Pizza takeaway in a two-storey commercial parade with a residential flat above. The site is within the Primary Shopping Frontage in Lancing Town Centre. The site is adjacent to a vacant retail unit to the north (previously occupied by William Hill) and a family centre to the south. There is an alley to the immediate south of the site which provides access to a parking area at the rear of the premises which serves the family centre. As well as the flat above the takeaway there are further flats above the commercial parade opposite the site.

Planning permission was granted in June 2016 for the current ground floor use (AWDM/0617/16). Condition 4 of this permission states:

"*The hot food takeaway use hereby permitted shall not take place except between the hours of 09.00 and 23.00 on any day with no customer orders taken after 23.00 hrs and all activity at the premises to have ceased by 12 Midnight*."

This application proposes an amendment to condition 4 to allow pizza deliveries to take place from the site until 01.00 daily. During this time the store will remain closed to customers and the site will only be accessed by staff and delivery drivers. The proposed wording of the amended condition is:

"*The hot food takeaway use hereby permitted shall not be open to walk-in custom except between the hours of 09.00 and 01.00 on any day with no deliveries to take place after 01.00*."

No changes are proposed to the servicing arrangements or deliveries to the site. The supporting statement submitted on behalf of the applicants states that:

"*To ensure that the activity at the site is reduced to a minimum, the premises will be closed to customer collections after 23.00 and the takeaway will only operate a delivery service*." Furthermore, "*To ensure that the store has the*

appearance of being closed, the illuminated signage will be switched off after 2300 so that it does not attract passing traffic."

Other measures proposed are:

"Delivery drivers will use the front door to access the premises after 2300, parking in the on-street spaces along North Road. It is expected that there will be ample space for delivery drivers to park at this time.
As far as possible, deliveries of several orders will be made in a single trip which helps to limit the number of trips to and from the unit and reduce the number of delivery drivers at the site at one time. With Domino's late-night arrangements, it is unusual for more than one delivery driver to be at the site at a time.
To further reduce the potential for disturbance, signs will be posted at the front of the store reminding customers to be considerate of local residents and to remind delivery drivers that they must switch off their engines once parked, and no loud music must be played. This will also be enforced by duty managers.
These measures are outlined in the attached Delivery Driver Management Plan, but are already implemented in the day-to-day operation of the store and it is known they provide effective noise mitigation prior to 23.00, and will continue to do so until 01.00."

Relevant site history

As above

Consultations:

WSCC: The ***Highway*** Authority has raised no objection. Comments that the existing hours of opening are duly noted. The extended hours may give rise to the site generating vehicular traffic over an extended period. However, the number of movements would not be anticipated to be particularly significant and would not be expected to exacerbate any existing issues, nor warrant an objection on the basis of safety or capacity. Whilst the Planning Authority will no doubt wish to consider matters of amenity for local residents, no highway objection would be raised.

Adur and Worthing Councils: The ***Environmental Health*** Officer advises that only the Railway PH on North Road is open to 1am and that is at weekends. The other licensed premises in the immediate area are closed by midnight. Given the mixture of commercial and residential properties in the locality I would object to extending the hours to 1am. However, condition 4 allows the premises to be occupied until midnight and I would have no objection to varying the condition to allow orders to be taken after 11pm so long as the last orders are dispatched and the premises are still vacated by midnight. My concern is noise disturbance caused by delivery drivers and their vehicles, whether bikes or cars, to nearby residents. Particularly during the summer months when windows will be open for thermal comfort. Also once one takeaway premises has its hours extended a precedent is set for

other takeaways to follow suit, incrementally changing the night time character of the area.

Subsequent Comments (*in response to applicant's suggestion that activity would need to take place at the site until 00.30 to allow for the cleaning down/closing of the kitchen*): The sound insulation between Domino and the residential above has been improved and we have never received any complaints from above of any kind. My main concern is the comings and goings of the delivery drivers. The Parish Council seems happy with midnight, for the last orders to be dispatched and I suspect the staff will be out of the door as soon as possible thereafter, so 30 minutes seems reasonable. The Broadwater store is open until midnight and staff there probably stay on a little after to put things away and have a quick clean down. If you are happy with this compromise then I will not object.

Lancing Parish Council*:* Members' objected to extending the opening hours to 1am, however agreed with the recommendation from Environmental Health that 12am be permitted in line with most other licensed premises in the immediate area.

Representations

None received

Relevant Planning Policies

Adur Local Plan (2017): Policies 9, 27, 34
Lancing Village Vision (2012)
WSCC Guidance on Parking at New Developments (Sept 2020).
National Planning Policy Framework (February 2019)

Planning Assessment

Principle

The application premises is subject to policy 9 of the Local Plan which allows the following uses at ground floor level, subject to compliance with other relevant policies:
 A1 (shops)
 A3 (food and drink) and A4 (drinking establishments) and appropriate
D1 (non-residential institutions) uses where there is a long term vacancy (normally a minimum of 1 year) and reasonable attempts have been made to sell or let the premises for A1 use.

Any other uses will be resisted.

It is worth noting that the policy wording pre-dates the recent introduction of Class E which now classes hot food takeaway uses as sui generis.

However, in this case the use is existing and this application seeks only to extend the opening hours. The proposal would not result in the loss of an A1

or A3 use (now Class E) and consequently there is no conflict with policies 9 or 27.

Residential Amenity

There is a flat above the takeaway, as well as opposite the site, and consideration must therefore be given to the effect of the extended opening hours on residential amenity.

The proposed takeaway use would generate activity throughout the times it is open for business. The busiest time for the home delivery service is likely to be after 1700 hrs. The rear car park is not available for use by customers or staff so activity associated with the use will be restricted to the front of the building and within the street. The other measures outlined in the application are all designed to minimise disturbance to residents.

There is an argument that a degree of activity associated with the operation of a vibrant evening economy is inevitable in a town centre location such as this. However, the majority of licensed premises in the immediate area are closed by midnight and there are concerns that allowing this unit to open until 1am will set an undesirable precedent and cause noise disturbance. The Environmental Health Officer has therefore no objection to varying the condition to allow orders to be taken after 11pm so long as the last orders are dispatched and the premises are still vacated by midnight, rather than 1am as sought.

The applicants' agent has responded as follows:

"The delivery drivers will only approach the front of the premises in their vehicles (cars only). North Road is a main route through the centre and is in use throughout the day and night, as such, it is not considered likely that the existing noise environment is conducive to residents leaving their windows open (at the front elevation) through the night and therefore harm in this respect is not expected to be significant.

Notwithstanding this, the number of trips associated with the use is very low and, given the town centre location it is our belief that this can be accommodated without causing harm to the amenity of local residents.

*The compromise suggested by Mr Lavender (*Env Health*) is welcomed, however in order to offer deliveries until midnight, activity would need to take place at the site until 00.30 to allow for the cleaning down/closing of the kitchen. If opening hours until 01.00 could not be agreed, we may be able to agree to reconsider the delivery hours, following further discussion with our client, but the wording of condition 4 would need a slight amendment to take into account the additional time needed to close the premises following the dispatch of the last orders*."

The EHO has considered these comments and his response is set out earlier in this report. He does not object to allowing an additional 30 minutes of cleaning down/closing provided there are no deliveries after midnight.

Furthermore, there is a delivery driver management plan which confirms that the proposed takeaway will not be open to customer collections between the hours of 23:00 and 11:00. Pizzas must be purchased by phone or via the website for delivery between 23:00 and 00:00. Other measures include switching off the illuminated signage after 23.00 to ensure that the operation does not attract people passing the site; delivery drivers will use the on-street spaces along North Road and access the store by the front door during the hours after 23:00; Members of staff, including delivery drivers are advised to be respectful to any neighbours, the customers of the takeaway and other road users. It is proposed to impose a condition requiring the management plan to be adhered to.

The amended wording of the hours of opening condition would read as follows:

The hot food takeaway use hereby permitted shall not take place except between the hours of 09.00 and 00.00 midnight on any day with no customer collection from the premises after 2300 and no deliveries being dispatched after 00.00 midnight and all activity at the premises shall cease by 00.30 hours.

It is considered that this is a reasonable compromise and will not cause a harmful loss of amenity for residents in this town centre location.

Visual Amenity

There are no changes to the shopfront or external appearance of the building.

Parking and Highway Safety

It is not anticipated that the extended opening hours will cause any significant highway safety or parking concerns.

Recommendation

APPROVE subject to conditions

1. Approved plans
2. The hot food takeaway use hereby permitted shall not take place except between the hours of 09.00 and 00.00 midnight on any day with no customer collection from the premises after 2300 and no deliveries being dispatched after 00.00 midnight and all activity at the premises shall cease by 00.30 hours.
3. The measures set out in the driver delivery management plan submitted with the application shall be fully adhered to at all times.
4. No external plant other than as shown on the approved plans submitted with AWDM/0617/16

Informative

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Peter Barnett Date: 9 April 2021

Authorised by: Gary Peck Date: 12 April 2021