

Recommendation Report for Planning Permission**REF NO:** LU/119/13/**LOCATION:** Dominos Pizza
9 Wick Parade
Littlehampton**PROPOSAL:** Application for the variation of condition 2 following a grant of planning permission LU/30/02 - to vary the opening hours/operating arrangements. Resubmission of LU/31/13**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Proposal is to increase the operating hours to allow delivery for an additional hour until midnight, after shutting at 11.00 p.m. Sunday to Thursday and for an additional two hours until 1.00 a.m. after shutting at 11.00 p.m. on Friday and Saturday. The hours are currently daily 12 noon to 11.00 p.m.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Open site frontage. Unit is located on back edge of footpath.
SITE CHARACTERISTICS	Premises is located within a parade of shops. The units are three storeys high with retail at ground floor and residential. An off licence is located one side, betting shop on other. Other retail uses comprise pizza/kebabs, cafe, curry house, charity shop, Chinese, Co-Op.
CHARACTER OF LOCALITY	Mix of residential and retail. Residential opposite side of Wick Street.

RELEVANT SITE HISTORY

LU/30/02/	Application for continuance of use without compliance with Condition 2 imposed on Planning Permission LU/354/74 for opening hours - Mon - Sat 12.00 noon to 11.00pm Sun & Bank holidays 2.00pm to 10.00pm	Approve Conditionally 09-04-2002
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LU/68/04/	Application for continuance of use without compliance with Condition 2 imposed on Planning Permission LU/30/02/ for opening hours 12 noon to 23.00 Sundays and Bank Holidays	Approve Conditionally 13-04-2004
LU/31/13/	Application for the variation of Condition 2 following a grant of planning permission LU/30/02/ to vary the opening hours	Refused 28-03-2013
LU/332/76	Amendment of condition no 2 of LU/354/74 to restrict opening hours	Refused 29-10-1976
LU/101/78	Change of use to an Indian Restaurant	Approve Conditionally 05-04-1978

REPRESENTATIONS

Representations received:

Littlehampton Town Council

No objection

Comments on Representations received:

None

CONSULTATIONS

Environmental Health

Consultations responses received:

Environmental Health

No objection

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Class 'A' Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN7](#)
[GEN32](#)

The Form of New Development
Noise Pollution

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual amenity and character.

It should be noted that the Arun District Local Plan was adopted in 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced weight. The weight afforded to the policies with Local Plan Policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NAPPY states that weight is given to individual policies and not to the plan as a whole.

The Emerging Local Plan has recently been approved by the Council and is therefore a material consideration in the determination of the Planning Application. Whilst it has not been formally adopted due weight has been given to its Policies in terms of the decision making process at this stage.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan Policies in that it would have no materially adverse effect on the residential amenities of the adjoining properties or the character of the area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The premises has an established takeaway and delivery use. It is located within an existing parade of shops where cafes/takeaways are present. The use is therefore acceptable in principle.

PLANNING HISTORY OF THE SITE

The hours of operation of the premises have altered over time. Reference to the planning history of the site indicates LU/101/78 approved hours of 8.00 a.m. - 10.00 p.m. Monday to Saturday and excluded Sundays and Bank Holidays. In 2002 LU/30/02 requested removal of opening restrictions on Sundays and Bank Holidays and these were amended to 12 noon to 11.00 p.m. Monday to Saturday and 2.00 p.m. to 10.00 p.m. Sundays and Bank Holidays. In 2004 permission LU/68/04 granted consent for the hours to increase to 12 noon to 11.00 p.m. Monday to Sunday. The Local Planning Authority has therefore been reasonable incrementally allowing an increase in the hours of operation. However, LU/31/13 the requested opening until 1.00 a.m. on a Friday and Saturday and until midnight every other night would have had an unacceptable impact on the residential amenities of adjoining properties. Noise from traffic and customers would have been generated into the night during the increased opening times when residents above and opposite the premises would reasonably expect peace and quiet. The application was therefore refused.

CURRENT PROPOSAL

This latest application has taken account of the previous refusal and potential nuisance to local residents and seeks approval to allow the premises to operate beyond the current approved hours to allow deliveries to take place between 11.00 p.m. and midnight Sunday to Thursday and between 11.00 p.m. and 1.00 a.m. Friday and Saturday. This will allow Dominos to maximise the delivery sales, whilst ensuring no additional noise through customers attending or waiting around outside the store late into the evening. One driver would be employed for the extra hour on Sunday to Thursday making a maximum of four deliveries and Friday and Saturday four deliveries per hour work be undertaken by two drivers between 11.00 p.m. and midnight and one driver between midnight and 1.00 a.m.

The operation of the premises in the manner set out above would be unlikely to cause unacceptable noise and disturbance to adjoining occupiers.

It is, therefore, recommended for approval subject to the following Conditions.

HUMAN RIGHTS ACT

FOR APPROVAL

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (the right to respect for private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the no negative impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

- 2 The development hereby approved shall be carried out in accordance with the following approved plans: Site Plan and Floor Plan

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7 of the Arun District Local Plan.

- 3 This permission does not purport to grant permission for extended opening hours to the public. The premises shall not be open to customers beyond existing opening times. Deliveries shall only be made from the site between 2300 hours and Midnight Sunday to Thursday and limited to a maximum of 4 deliveries and 2300 hours and 0100 hours Friday and Saturday and limited to a maximum of 8 deliveries.

Reason: In the interests of amenity in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 4 No more than one delivery driver shall operate from the premises between 2300 hours and Midnight Sunday To Thursday and Midnight and 0100 hours Friday and Saturday and no more than 2 delivery drivers shall operate from the site between 2300 hours and Midnight Friday and Saturday.

Reason: In the interests of amenity in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 5 INFORMATIVE: Summary of Reasons for Grant Article 31 Development Management Procedure Order 2010

SUMMARY

This planning permission is granted because it complies with the policies listed below in that the development would not cause any material adverse effect on visual or residential amenity on the surrounding area and its character and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN7, GEN32

NATIONAL POLICIES: National Planning Policy Framework

This is only a summary of reasons for granting to comply with Article 31 and full reasons appear in the Officer report.

- 6 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.