REF. NO. X/13/71999

PLANNING APPLICATION REPORT

DESCRIPTION/ ADDRESS	-	Relief of condition 6 of appeal decision APP/W1715/A/10/2131505/NWF - planning application F/10/66971 to allow cooking & opening to customers between the hours of 09.00-00.00 on any day Domino's Pizza 6 St Johns Centre St Johns Road Hedge End Southampton SO30 4QU

SITE VISIT DATE – 5/2/13

ARE PLANS ACCURATE? - Yes

HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? - Yes

THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
FLOOR AREA	108 sqm
BOUNDARY TREATMENT	Open frontage and the rear opens out on to the car park
SITE CHARACTERISTICS	Single storey commercial building occupied by dominos pizza.
CHARACTER OF LOCALITY	The building is part of a parade of shops within Hedge End Town Centre. Some of the shops are two storey with living accommodation above.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
F/10/66971	Change of use from retail (A1) to takeaway (A5), new shop front, 2no. Air compressors & new flue.	Allowed on appeal
Z/29379/2	Construction of a studio flat within existing roof void and alteration of rear dormer window *(at unit 5, St John's Centre, St John's Road, Hedge End)*	Permitted 1996

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
2 objection letters	• The premise is attached to a shop with a flat above it. Although Dominos is open until 11 o'clock, on some occasions they do not finish cleaning until 1am. The noise generated by Dominos is transmitted through the partition wall into the flat above. The proposal will increase the amount of disturbance to the neighbouring resident. • Delivery lorries park on the yellow lines outside the property, rather than in the rear car park. This is directly below the windows of the residential property. The noise of shutting car doors and the exhaust fumes from the cars are a problem.

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REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
	• No reason why they should be allowed to open till 12 midnight every day. The other pizza place does not open this late. • Additional problems with rubbish and people hanging around. Not good for Hedge End and not very healthy either.

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Environmental Health	Objection • There is a sensitive residential use immediately adjacent to the application site and other residential properties nearby. • The nature of the business and activity of customers arriving to and leaving the premises is likely to generate noise. • The proposed hours of opening are for 7 days a week until 00.00hrs, so the likely elevated noise levels will impact nearby residents and possibility impact on their sleep everyday. • No information has been submitted with the application that shows how any elevated noise levels generated by the premise will be reduced or mitigated in order to prevent any adverse impacts on the amenity of nearby residents.
Hedge End Town Council	Objection

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Within Built-Up Area Boundary Adjacent to Established Residential Area Within District Retail Centre

DEVELOPMENT PLAN SAVED POLICIES, EMERGING LOCAL PLAN POLICIES AND SPD'S

Eastleigh Borough Local Plan Review (2001-2011): 59.BE & 142.TC
Pre submission Eastleigh Borough Local Plan 2011-2029: DM1
Supplementary Planning Document: Quality Places

NATIONAL PLANNING POLICY GUIDANCE

National Planning Policy Framework

POLICY COMMENTARY

The above policies and guidance combine to form the criteria against which this application will be assessed.

COMMENT ON CONSULTATION RESPONSES

Comments are noted and will be discussed in the assessment section.

COMMENT ON REPRESENTATIONS RECEIVED

Comments are noted. The impact on nearby residential properties will be discussed in the

COMMENT ON REPRESENTATIONS RECEIVED

assessment section. It is considered unlikely that the additional open hours will affect deliveries or significantly increase amounts of litter. The health implications are not a material planning considerations.

PLANNING OBLIGATION/CONSIDERATIONS

None

ASSESSMENT OF PROPOSAL

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."*

Policy 29.ES of the Local Plan states that industrial or commercial development will be refused where it would result in any noise-sensitive premises being subject to a loss of amenity by means of an excessive increase in noise.

Policy 59.BE of the Local Plan requires development to take full and proper account of the context of the site including the character and appearance of the locality and be appropriate in mass, scale, materials, layout, design and siting. It also requires a high standard of landscape design, have a satisfactory means of access and layout for vehicles, cyclist and pedestrians, make provision for refuse and cycle storage and avoid unduly impacting on neighbouring uses through overlooking, loss of light, loss of outlook, noise and fumes.

ASSESSMENT

Residential Amenity

The premise is located within a district shopping centre, where upper floors are often used as residential accommodation. Our records show that the upper floor of the adjoining property (unit 5) is in a residential use and there are further first floor flats at units 1 & 11 St John's Centre. Residential uses are particularly sensitive to noise disturbance.

Under the appeal decision APP/W1715/A/10/2131505 the takeaway is not allowed to cook food or be open to customers outside of the hours 09.00 to 23.00. This condition was applied to protect the amenity of nearby residents from excessive periods of noise caused by staff preparing the food, customers using at the takeaway and associated car movements.

The current proposal is to extend the cooking/ customer opening hours to midnight everyday. This means that nearby residents will be subject to noise disturbance for an additional hour a day, amounting to seven hours a week. This does not take in account the addition noise generated after the business closes where staff have to clean up and leave the premise.

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ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

The noise disturbance associated with the longer operating hours is likely to be significant as it will occur late in the evening when background noise is generally low and nearby residents are likely to want to sleep. A particular concern is for the residents of unit 5, which are separated from the takeaway by a partition wall. An objection letter has been received to this affect. Noise disturbance is likely to be particularly acute during the weekend when the takeaway is more heavily used and during the summer months when windows are open and customers are more likely to wait outside.

In summary the proposal is considered contrary to Policies 29.ES & 59.BE in that it fails to make adequate and acceptable provision for controlling noise which will adversely affect the amenity of nearby residents. The submission does not include any supporting information.

Other Issues

The proposal involves no alterations to the external appearance of the building. Provision for neutralising odours, dealing with rubbish and parking has been accepted as part of the previous application (F/10/66971).

OTHER MATERIAL CONSIDERATIONS

Also of relevance is the pre-submission Eastleigh Borough Local Plan 2011-2029. While not yet adopted it does carry weight by virtue of being intended as the current local plan's replacement. With regards to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

CONCLUSIONS

Recommend Refuse