

(BIFOHH, Bishopstoke, Fair Oak and Horton Heath Local Area Committee,
28th June 2023)

Application Number: F/22/94393
Case Officer: Rachael Morris
Received Date: 16/12/2022
Site Address: Unit 2 To 3, Botley Road, Fair Oak, Eastleigh, SO50 7AN
Applicant: Dominos Pizza UK & Ireland Ltd
Proposal: Change of use from a betting shop (Sui Generis) to a hot food takeaway (Sui Generis); installation of ventilation/plant equipment and other external alterations.

Recommendation: **PERMIT subject to conditions**

CONDITIONS AND REASONS:

1. The development hereby permitted shall be implemented in accordance with the following plans numbered: 13071-AEW-PJ004923-00-DR-0001, 13071-AEW-PJ004923-XX-DR-0002, 13071-AEW-PJ004923-00-DR-0003, 13071-AEW-PJ004923-XX-DR-0004, 13071-AEW-PJ004923-XX-DR-0005 Rev A, and 13071-AEW-PJ004923-XX-DR-0006 Rev A
Reason: For the avoidance of doubt and in the interests of proper planning.
2. The development hereby permitted shall start no later than three years from the date of this decision.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
3. The development hereby permitted shall not be open to customers and no deliveries shall be received or dispatched from the site except between the hours of 1100 and 2300.
Reason: To protect the amenity of the occupiers of nearby properties.
4. Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of the external sound level emitted from the premises, plant, machinery and equipment and mitigation measures as appropriate. The measures shall ensure that the external sound level emitted from the premises, plant, machinery and equipment will be lower than the lowest existing background sound level by at least 10 dB(A) in order to prevent any adverse impact. The assessment shall be made in accordance with BS4142:2014 at the nearest and/or most affected noise sensitive premises, with the premises and machinery operating together at maximum capacity. A post installation noise assessment shall be carried out where required to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be

implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To protect nearby residents from adverse noise impacts in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

5. Prior to commencement of the development, details of anti-vibration measures shall be submitted to and approved in writing by the Council. The measures shall ensure that machinery, plant and equipment, and extract, ventilation system and ducting are mounted with proprietary anti-vibration isolators and fan motors are vibration isolated from the casing and adequately silenced. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To protect nearby residents from adverse noise impacts in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

6. Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of the sound insulation of the floor/ ceiling/ walls separating the commercial parts of the premises from dwellings and noise sensitive premises. Details shall demonstrate that the sound insulation value $D_{nT,w} + C_{tr}$ [and $L'_{nT,w}$] is enhanced by at least 20 dB above the Building Regulations value and, where necessary, additional mitigation measures are implemented to contain commercial noise within the commercial premises. A post installation noise assessment shall be carried out where required to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To protect nearby residents from adverse noise impacts in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

7. Prior to commencement of the development, details shall be submitted to and approved in writing by the Council of a professional kitchen systems design and the installation, operation, and maintenance of the odour abatement equipment and extract system, including the height of the extract duct and vertical discharge outlet, in accordance with the EMAQ+ publication "*Control of odour and noise from commercial kitchen exhaust systems*". Approved details shall be implemented prior to the commencement of the use and thereafter be permanently retained.

Reason: To protect nearby residents from adverse noise impacts in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

8. Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of a suitable cleaning schedule and/or maintenance contract for the extract and odour control system. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To protect nearby residents from adverse noise impacts in

accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

9. The use shall not commence until all external doors to the premises have been fitted with self-closing devices, which shall be maintained in an operational condition and at no time shall any external door nor windows be fixed in an open position.

Reason: To protect nearby residents from adverse noise impacts in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

10. The submitted and approved Management Plan (ref MP/23) shall be accorded to in full for the duration of the use of these premises as a hot food takeaway unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect nearby residents from adverse noise impacts in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

Note to Applicant: In accordance with paragraph 38 of the National Planning Policy Framework (July 2021), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Report:

1. This application has been referred to Committee because it has been called-in by Cllr Broomfield, Cllr Couldrey, Cllr Marsh and Cllr Parker-Jones.

Site Characteristics and Character of the Locality

2. These are two central units in a row of circa 1960's shop units on the main road through Fair Oak.
3. The site is served by existing parking to the front which also serves the surrounding units on this parade. The other units in the parade are a bakery, scout hut and hairdressers.

Description of Application

4. Change of use from a betting shop (Sui Generis) to a hot food takeaway (Sui Generis); installation of ventilation/plant equipment and other external alterations.
5. The application is accompanied by the following reports and technical assessments:
 - Proposed Ventilation System Report with associated annexes
 - Design & Access Statement
 - Risk Assessment for Odour Control
 - Specification & EMAQ Report

- Trips & Parking Technical Note
- Noise Assessment

Relevant Planning History

- Z/14674/002/00 - Change of use to veterinary surgery, build frontage – Permit – Aug 1976
- Z/19912/001/00 - conversion of existing veterinary surgery to branch bank premises – Permit – Aug 1983
- Z/30865/000/00 - Change of Use of First Floor from Residential to Office – Permit – Apr 1989
- Z/30865/002/00 - Change of Use of First Floor to Flat- Permit – Aug 1997
- F/04/50067 - Installation of New Glazed Frontage with Associated Ramp Access and Handrails – Permit – Mar 2004
- Z/39064/001/00 - Outline: Erection Of 3no. Two Storey Terraced Houses with Parking For 6 Vehicles and Vehicular Access from Botley Road – Grant outline – May 2005
- O/10/67070 - Renewal of extant planning permission Z/39064/001/00 for Outline: Erection of 3no. two storey terraced houses with parking for 6 vehicles and vehicular access from Botley Road – Refuse – Jun 2010
- F/15/75854 – Installation of new shop front, 2no. air conditioning units and 2no. satellite dishes – Permit – Mar 2015

Representations received

6. Seven representations received including 4 objections, 1 comment and 2 Support covering the following points:
 - Do not need another takeaway
 - Insufficient parking
 - Additional litter and food waste
 - Advertising would be detrimental to the street scene
 - Anti-social behaviour
 - Traffic congestion
 - Noise disturbance
 - Parking reconfiguration and re-surfacing needed
 - Good to have brand in small community
 - Uses a vacant shop space
7. Fair Oak Parish Council - No objection in principle, but would like the following comments recorded:
 - Would like to see an enhanced provision of litter bins for patrons using this facility.
 - Would like bollards installed to prevent anti-social parking outside the facility.
 - Would like noise from machinery and fans at this facility kept to a minimum to avoid disruption to neighbouring residents.

Consultation Responses

8. **EBC Environmental Health** – No objection subject to conditions.
9. **EBC Economic Development** - No objection:
- Coral disinclined to renew its lease so the immediate alternative to Domino's would be a vacant shop
 - Though the hospitality offer in Fair Oak is quite concentrated, relative to its size, that seems the trend for village centres and Domino's is a known and solid brand
 - There are just two Domino's locally - in Chandlers Ford and Eastleigh - so the local market should be able to accommodate another in Fair Oak
 - Employment is slightly up from 11FTE at Coral to 18 with Domino's
 - Neighbourhood objections are around parking as well as potential littering and smell. Parking to the rear and two-hour bays along the road should provide ample space for short stay visits by customers and the other two concerns can be addressed by conditions
10. **HCC Hampshire Highways** – No objection to the proposals from a highway's perspective.

Access into the site for both pedestrians and vehicles is unchanged and acceptable, and in regard to parking, whilst this is for EBC to assess as Local Parking Authority, there appears to be a good level of localised parking available for customers. The only addition that the Case Officer may wish to review, is that of cycle parking which appears to be lacking at present and would be beneficial for future users.

11. **Built Heritage Consultant** – No objection.

The existing shop frontage that received planning permission in 2015 is a rather bright blue, in stark contrast with that proposed. The new colour is more subdued, and in-fact appears to be a close match to the colour-way used in the refurbishment of The Old George, so a good choice. The proposed shop front is in keeping with the remainder of the parade, so will tie in well and in fact be an improvement to the setting of the nearby listed building.

Policy Context and Designations Applicable to Site

- Within Built-up Area Boundary
- Within Established Residential Area
- Affects/Setting of Listed Building
- Eastleigh Town, District and Local Centres and Neighbourhood Parades

12. The Eastleigh Borough Local Plan 2016-2036 has full weight. The most relevant policies are

Strategic policies:

- S1 (Sustainable Development);
- S2 (Promotion of New Development);

Development Management policies:

- DM1 (General Development Criteria);
- DM2 (Environmentally Sustainable Development);
- DM8 (Pollution);
- DM11 (Nature Conservation);
- DM13 (General development criteria - transport);
- DM14 (Car Parking);
- DM22 (Changes of use in retail frontages in Eastleigh town centre, district centres, local centres and neighbourhood parades)

Supplementary Planning Documents

- Quality Places (November 2011);
- Residential Parking Standards (January 2009);

National Planning Policy Framework

13. At national level, the National Planning Policy Framework (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The National Planning Policy Framework (the 'NPPF' or the 'Framework') states that (as required by statute) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development unless material considerations indicate otherwise. Agent of Change principles protect existing businesses.

14. Three dimensions of sustainability are to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst local circumstances should also be taken into account, so that development responds to the different opportunities for achieving sustainable development in different areas.

National Planning Practice Guidance

15. Where material, the Planning Practice Guidance which supports the provisions and policies of the NPPF should be afforded weight in the consideration and determination of planning applications.

Assessment of Proposal: Development Plan and / or Legislative Background

16. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a Local Planning Authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Saved Policies of the Eastleigh Borough Local Plan Review 2001-2011 and the Hampshire Minerals and Waste Plan 2013 (which is not applicable in this case). The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

Listed Buildings:

17. The proposal affects a Listed Building or its setting and section 66(1) of the Planning (Listed Building & Conservation Areas) Act 1990 states:

"In considering whether to grant planning permission for development which affects a Listed Building or its setting, the Local Planning Authority ... shall have regard to the desirability of reserving the building or its setting or any features of special architectural or historic interest which it possesses".

Principle:

18. The proposal would be assessed against the following policies from the 2016-2036 Eastleigh Local Plan.

19. Policy DM1 states that all new development should (as relevant):
- a. not have an unacceptable impact on, and where possible should enhance:
 - i. residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;
 - ii. biodiversity (avoiding significant adverse impacts); and
 - iii. the significance of heritage assets;
 - b. take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views.
20. Policy DM8 states development will not be permitted if it is likely to cause loss of amenity or impact on public health or other unacceptable environmental impacts through: a. air pollution (including odours or particulate emissions); Development susceptible to particular forms of

pollution will not be permitted: a. where it will be adversely affected by such pollution, unless measures can be taken that adequately mitigate the polluting effects.

21. Policy DM22 states that within the ground floor of the core shopping zone, primary and secondary shopping frontages of Eastleigh town centre and the district centres and frontages of the local centres and neighbourhood parades, as defined on the policies map, a change of use or redevelopment involving the loss of a Class E use, community or leisure/cultural uses under Classes E and F; or sui generis uses including pubs, drinking establishments and hot food takeaways; must demonstrate that: a. the new use retains an active ground floor frontage; b. it does not adversely affect amenity of an area or the appearance of the frontage; and c. it does not have a negative impact on the provision of services or on the sustainability of a key shopping area.

Sustainable Development:

22. Section 2 of the NPPF (July 2021) states that the purpose of the planning system is to contribute to the achievement of sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
23. Achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental (which are interdependent and need to be pursued in mutually supportive ways) that should be delivered through the preparation and implementation of plans and the application of the policies in the Framework.
24. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
25. National legislation and guidance, together with local policy ensure that all planning applications are tested for their resilience to and impact on the Environment. Details elsewhere in this report set out the Climate Change and Environmental implications of this application and their proposed mitigations.

Assessment:

26. The proposed change of use from a Suis Generis (Betting Shop) to Suis Generis (Hot Food Takeaway) within a neighbourhood parade is,

in principle, acceptable and is a common feature of local shopping areas within villages and towns and accords with policy DM22 of the Local Plan which supports such uses in district centres.

27. The previous occupier of the unit, used as a betting shop, has vacated the unit in which this has been left un-tenanted since January 2023.
28. The proposed Hot Food Takeaway use would create an increased use in the evening, compared to the Betting Shop that would have had an increased use in day-time hours, when comparing the two uses.
29. However, any potential evening disturbance would be mostly limited to general customer activity and vehicular movements. It is also recognised that the Public House a few doors down, The Old George, would have a similar if not increased level of disturbance within the evening hours with people leaving the premises and generally socialising in their outdoor seating area. The proposed takeaway is to shut at 11pm, which is the same as the Public House, and so potential disturbance should cease from both premises at this time.
30. The main area of assessment for this change of use is the potential impact on nearby residential dwellings from noise and odour produced from the use (pizza cooking) and any potential impact from increase vehicular movements.

Noise and Odour

31. A revised odour impact assessment and kitchen system design, submitted by the applicant, targeted the level of risk to neighbouring dwellings as “very high”. The method is per the EMAQ+ guidance which is generally applicable for restaurant or takeaway kitchens of this size or output. “Pizza” is not one of the higher odour generator foods or cooking processes. Greasy and spicy tend to be. However, there are neighbouring dwellings closely located above the unit.
32. Regarding odour and fumes, it is considered that the information supplied is sufficient to support the planning application. Further information is to be supplied through conditions for odour abatement equipment and extract system details, and a suitable cleaning schedule for the extract and odour control system.
33. The existing residential use above the proposed ground floor takeaway unit will benefit from a high degree of acoustic

protection. The proposed fit-out of the unit will enhance the acoustic performance of the separating structure. This will be achieved by the removal of the existing laying grid ceiling within the betting shop, and its replacement with a high performing insulating layer and breaking or disconnecting of flanking pathways of sound transmission including from plant or equipment suspended from the structure which will be vibration isolated.

34. The originally submitted plant noise detailed that noise emissions from the plant should have no observed adverse effect on the amenity of existing residents indicating that this could be suitable use. It is agreed with the applicant that noise emissions from the proposed plant will be controlled to an order of magnitude below background sound levels such that there should not be an increase in ambient noise from the existing situation. This can be secured through planning condition 4.

35. Regarding deliveries and pick-ups, the level of noise predicted is not expected to be unacceptably different from that of the existing users of Botley Road. Information supplied states that there are high number of vehicle pass-by events on Botley Road. Between 18.00 and 19.00, it is estimated that there are in excess of 150 events with a sound level exceeding 70dB(A). Between 22.00 and 23.00 hours, there are around 68 events exceeding 70dB(A). During the worst-case hour of deliveries/collections it is expected this would be up to 49dB.

36. A management plan (MP/23) has been submitted to support the application which details the standards to which delivery drivers should perform including standards such as turning off the engine between deliveries and that moped drivers will not turn engines on until reaching the Highway. In addition, it details the standards in which staff will behave. This can be secured through planning condition 10.

37. Further conditions are proposed for more information to be submitted to ensure suitable levels of external sound emitted from the premises, plant, machinery and equipment; anti-vibration details; and sound insulation details.

Access and Parking:

38. As stated in the applicant's Trips & Parking Technical Note, peak hour for customer and delivery trips is expected as being between 6pm-7pm, with 26 trips equating to 52 total movements (arrivals and departures),

approximately one movement every minute, of which 76% are deliveries. It should be noted that for robustness, a 'worse case' was assumed that all customers making a trip to the store would arrive at the store by car. In reality, not all customer collections will be made by car. In addition, at least 25% of all Dominos deliveries are not a single order delivery, instead delivering two or more orders on a single trip. Again, for robustness, this assessment assumes that all individual delivery orders result in a vehicular trip. a total number of 117 daily trips (arrivals and departures) has been predicted for the new Fair Oak store based on Domino's data for the existing Chandlers Ford, of which 65% are deliveries.

39. Cycling associated with deliveries is outlined in the report as accounting for 33-50% of all deliveries undertaken. Cycling can be accommodated on site in the future should the company deem this as appropriate. This would need to be provided either to the rear or outside of the red line, on Highways land. The Council has no cycle standards for commercial units and as such, in this case, a requirement to provide cycle storage is not deemed necessary.
40. The site is served by public transport with the nearest bus stop provided on Fair Oak Road approximately 80 meters walking distance from the site and providing regular services to Eastleigh, Southampton, Winchester, Fareham and Bishops Waltham.
41. There is a lay-by / access road adjacent the front of the unit providing non-allocated parking for 4-5 vehicles. The other two units in the parade are a bakery which closes at 4pm (2pm Saturday/closed Sundays) and a hairdressers open until 5pm (2pm Sat and closed Sundays). The greatest demand for parking will be in the evening after 5pm when the proposed takeaway will be at its busiest. Therefore, parking in this lay-by is largely expected to be available.
42. Should there be additional demand at the very busiest of periods, there is a lay-by providing space for a further 4-5 vehicles located on Fair Oak Road approximately 1 minute walking distance from the site.
43. The proposal is in accordance with Policy DM13 which sets out the general criteria for transport. Overall, the proposed access onto the Highway remains unchanged from existing and there are alternative methods of accessing the location such as the nearby bus-stop. This is supported by a No Objection from HCC Highways.

Impact to nearby listed building:

44. These are two central units that are close to The Old George public house that is a Grade II listed building. On the north side of the pub is

the village square, overlooked by the village church on the opposite side of the main road.

45. The Old George is the only heritage asset close to this site and there is no conservation area in the vicinity. The new frontage will be seen in the context of the listed building.
46. However the altered unit would not result in a an appearance that is too dissimilar from the existing betting shop frontage in terms of a commercial character. Moreover, the proposal would enhance the setting from existing through a more subtle colour proposal on the fascia of grey, compared to the existing blue, which also ties into the colour scheme seen at The Old George. This is in accordance with Policy DM12, which allows development within a heritage asset's setting to be permitted provided it does not harm or detract from the significance or special interest of the asset and sustains and enhances its special character and qualities.

Sustainability Measures and Climate Change:

47. In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.
48. The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.

Other material considerations

Equalities Implications:

49. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

50. When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications

Conclusion

51. The proposal makes limited external amendments to the existing building but has the potential for impacts on the locality through odour and noise associated with the unit and the use, as well as potential trip generations to the proposed hot food takeaway.

52. Although this is a proposed change of use to sui generis, as stated in policy DM22, the proposal is considered to retain an active ground floor frontage; will not adversely affect amenity of an area or the appearance of the frontage; and it does not have a negative impact on the provision of services or on the sustainability of a key shopping area.

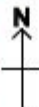
53. Based upon the supporting information and proposed conditions, securing odour and noise mitigation measures, the proposed use would not result in an unacceptable impact on the locality, immediate neighbouring properties, highway safety or the local historic assets.

54. The proposed change of use to a hot food takeaway is recommended for approval subject to conditions.

F/22/94393



EASTLEIGH
BOROUGH COUNCIL



Address: Unit 2 to 3, Botley Road,
Fair Oak, Eastleigh. SO50 7AN

Date: 16/06/2023

Scale: 1:1250