

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	S73/2017/1903
<b>Site:</b>	Holyhead Fish Saloon 320 Holyhead Road
<b>Ward:</b>	Sherbourne
<b>Applicant:</b>	DPSK Ltd (Dominos Pizza)
<b>Proposal:</b>	Variation of condition 2 imposed upon planning permission S/1982/0181 granted on 07/04/1982 for a hot food takeaway/cafe; to allow Sunday opening
<b>Case Officer:</b>	Liam D'Onofrio

### **SUMMARY**

The application proposes to vary a condition imposed upon the original 1982 change of use permission to allow the existing and established takeaway use to trade on Sundays.

### **KEY FACTS**

<b>Reason for report to committee:</b>	Representations from more than 5 properties
<b>Current use of site:</b>	Hot food takeaway/café
<b>Proposal</b>	To allow the existing use to trade on Sundays

### **RECOMMENDATION**

Planning committee are recommended to Grant planning permission, subject to conditions.

### **REASON FOR DECISION**

- The proposal will not adversely impact upon highway safety
- The proposal will not adversely impact upon the amenity of neighbours
- The proposal accords with Policies EM5, AM22, S10 of the Coventry Development Plan 2001, together with the aims of the NPPF.

### **BACKGROUND**

#### **APPLICATION PROPOSAL**

Planning permission is sought to vary condition 2 imposed upon planning application S/1982/0181. Condition 2 reads: *That the premises the use of which is hereby permitted shall not be open to customers or patrons before 9am or after 11pm on any weekday and at no time on Sundays.*

The applicant seeks to vary the condition to allow Sunday opening by altering the condition to read: *That the premises the use of which is hereby permitted shall not be open to customers or patrons before 9 am or after 11 pm on any day.*

The scheme proposes no physical changes to the existing property.

#### **SITE DESCRIPTION**

The application site relates to a hot food takeaway/café operating as a fish and chip shop (the Holyhead Fish Saloon) occupying a corner plot fronting the northeastern side of Holyhead Road and extending along the northwestern side of Redesdale Road. The

site is on the end of a short parade of four shops (with flats over) in an otherwise predominantly residential area.

### ***PLANNING HISTORY***

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

<b>Application Number</b>	<b>Description of Development</b>	<b>Decision and Date</b>
S/1982/0181	Retention and continued use of hot food take-away and café:	Granted 07/04/1982

### ***POLICY***

#### **National Policy Guidance**

National Planning Policy Framework (NPPF). The NPPF published in March 2012 sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF promotes sustainable development and good design is recognised as a key aspect of this.

The National Planning Practice Guidance (NPPG) 2014, this adds further context to the NPPF and it is intended that the two documents are read together.

#### **Local Policy Guidance**

The current local policy is provided within the Coventry Development Plan 2001 (CDP) relevant policy relating to this application is:

EM5 – Pollution Protection Strategy  
AM22 – Road Safety in New Developments  
S10 – Catering Outlets

#### **Emerging Policy Guidance**

The Draft Local Plan 2016 to 2031 has been submitted to the Inspectorate, examination hearings and consultation on modifications has concluded and the Inspectors report is currently awaited. Whilst the policies do not hold significant weight at this time, they will gain weight as the local plan continues through the process. Policies within the draft local plan that are relevant include: Policy R6 – Restaurants, Bars and Takeaways

### ***CONSULTATION***

No objections have been received from:  
Environmental Protection Officers (CCC)  
Highways (CCC)

Immediate neighbours and local councillors have been notified; a site notice was posted on 09/08/17.

Five letters of objection and a multi-signature letter with 24 signatures have been received, raising the following material planning considerations:

- a) There are existing litter, noise, odour, anti-social behaviour, parking and pedestrian safety issues generated by the Holyhead Fish Saloon. There is concern that this will be extended to Sundays, which is currently the only day of respite.

One letter of support has been received, raising the following material planning considerations:

- a) Living extremely close to the chip shop it's believed that the Owner should be allowed to open on Sundays, the same as other local fast food establishments.
- b) The importance of local businesses and passing trade to the adjoining convenience store is recognised.
- c). Other resident's concerns regarding extra traffic on Sundays are dismissed.

Any further comments received will be reported within late representations.

### ***APPRAISAL***

The main issues in determining this application are the impact upon neighbouring amenity and highway considerations.

#### ***Impact on neighbouring amenity***

The café/takeaway is an existing and long established use, dating back to 1982, although it has never operated on Sundays.

A number of local residents have raised concerns with regard to litter, noise, general anti-social behaviour, odour and parking problems generated by the business when it operates Monday to Saturday. In terms of litter, noise and anti-social behaviour, the inconsiderate actions of individuals would not give reasonable justification to refuse the business to operate on Sundays. Such matters would generally be dealt with by the Police or the Council's Neighbourhood Enforcement Service, who can, for example, issue fixed penalty notices for littering and can concentrate on areas of the city where Coventry residents indicate that there is a problem.

The takeaway is on a main thoroughfare into the City and given its corner location it is well separated from adjoining residential properties. In terms of cumulative impact there are no other takeaway or restaurant uses within the small parade of four shops. It is considered that customer comings and goings on Sundays would be easily absorbed into the streetscene. Environmental Protection has raised no objection to the 9am to 11pm Sunday operating hours proposed.

In terms of odour issues identified by local residents it may be that the extraction is an older system; however it serves an existing and lawful takeaway use. If the system is operating inefficiently it would therefore be a matter for the Council's Environmental Protection Team to investigate. It is understood that the Holyhead Fish Saloon has ceased trading and Officers are aware that the site has been purchased by Domino's Pizza (the existing takeaway business can be lawfully used to serve any type of food). Two further applications have been recently submitted for a new flue system/rear extension and for advertisement consent under application references FUL/2017/2108 and ADV/2017/2113 respectively. Additional investment into the premises and a new extraction system may resolve odour issues that have previously been experienced by local residents.

Officers are mindful that Sunday trading has changed significantly since the early 1980's when the condition was originally imposed. The proposed variation of condition to allow Sunday trading is not considered to create any significant impact upon the amenities of the occupiers of adjoining and surrounding properties that would warrant refusal of the scheme. There is no reasonable justification to restrict the business from trading seven days a week.

### ***Highway considerations***

The parade of shops benefits from several off-street parking spaces on the frontage and there is unrestricted on-street parking adjacent to the premises on Redesdale Avenue. There is frontage parking available for other shops within the parade and it is not considered that the Sunday opening would have any greater impact upon highway or pedestrian safety. The Highway Authority has raised no objection to the business operating on Sundays.

### ***Conclusion***

The proposed variation of condition 2 to allow Sunday trading is therefore considered to be acceptable and is not considered to affect neighbouring amenity or highway safety. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies EM5, AM22 and S10 of the Coventry Development Plan 2001, together with the aims of the NPPF.

## **CONDITIONS/REASONS**

1. That the development hereby permitted shall not be carried out other than in strict conformity with the details shown on the approved plans and contained in the form of the application [S/1982/0181] or contained in any subsequently approved amending document.

***Reason:*** *To ensure that any development carried out is only carried out in accordance with the terms of this permission.*

2. That the premises the use of which is hereby permitted shall not be open to customers or patrons before 9 am or after 11 pm on any day.

***Reason:*** *To ensure that the premises are not used at times when they could cause nuisance or disturbance to the occupiers of adjacent and nearby residential properties in accordance with Policies S10 and EM5 of the Coventry Development Plan 2001.*

[Location Plan](#)