

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE -

Application 2

Application Number:	17/00966/FUL	Application Expiry Date:	20th June 2017
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Application Type:	Full Application
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Proposal Description:	Variation of opening hours condition of application 16/02865/FUL (change of use from retail unit (class A1) to hot food takeaway (class A5) and associated ventilation system. Granted on 09/03/2017). - Vary opening hours condition to Monday to Friday 4pm to 11pm, Saturday, Sunday and Bank Holidays 3pm to 11pm.
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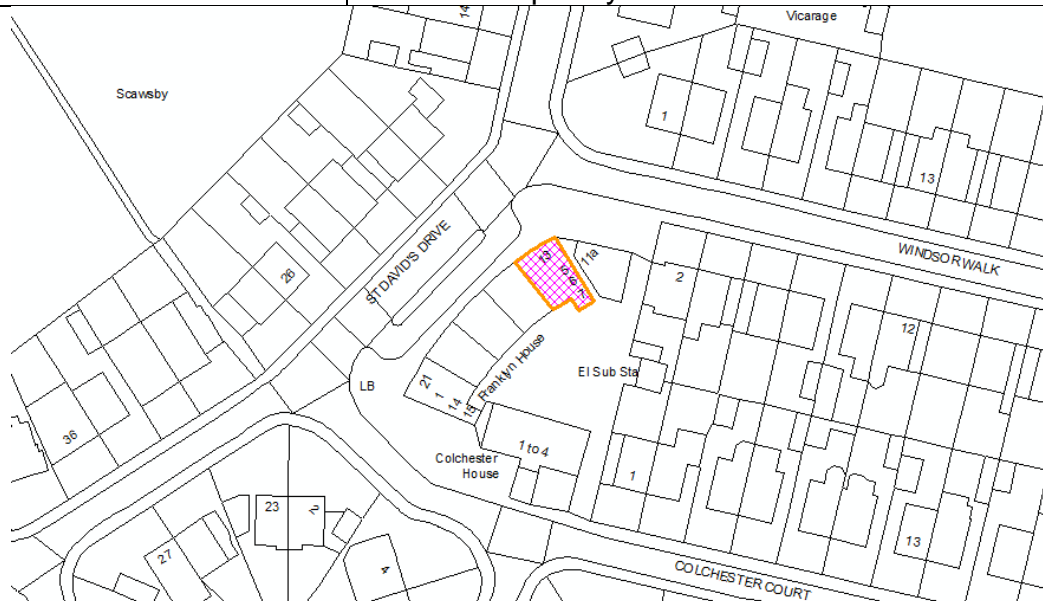
At:	13 St Davids Drive Cusworth Doncaster DN5 8NG
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For:	Mr Kenan Ezkitaz
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Third Party Reps:	3 objections 5 letters of support Petition of support from 393 people.	Parish:	Sprotbrough And Cusworth Parish Council
		Ward:	Roman Ridge

Author of Report	Elizabeth Maw
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MAIN RECOMMENDATION:	Grant a temporary consent until 31 st December 2017
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1.0 Reason for Report

1.1 The application is being presented to committee due to the significant public interest shown in the application and at the request of Cllr Pat Haith.

2.0 Proposal and Background

2.1 The site is a hot food takeaway at 13 St Davids Drive, Scawsby. It was granted consent at planning committee on 9th March 2017 but subject to an opening hour's condition.

2.3 The proposal is to vary the opening hour's condition of the takeaway so it can open later. The current opening hour's condition restricts the opening time until 9pm Sunday to Thursday and 9:30pm Friday and Saturday. This application is to vary the opening hour's condition so they can open until 11pm every night.

2.4. The application has been the subject of significant public support. Five letters of support and a petition in support from 393 people has been received.

2.5 Three letters of objection has been received. Two objections are from nearby residents and a third objection from a ward councillor. The Parish Council also object.

3.0 Relevant Planning History

3.1 Planning history relevant to the consideration of the application includes:

3.2 16/02865/FUL: Change of use from retail unit (class A1) to hot food takeaway (class A5) and associated ventilation system. Granted 09.03.2017

4.0 Representations

4.1 The application has been publicised by site notice and sending notification letters to objectors from the first application.

4.2 A petition in support has been received containing 393 signatures, five letters of support and three letters of objection.

4.2 The reasons for support are because the applicant is an owner with a good reputation and he is trying to build a business which is a good local amenity. The premises are kept clean and tidy. The previous use as a Cooplands bakery resulted in daytime issues including litter, large delivery wagons and school children congregating. Some supporters consider the takeaway to cause less issue than the former bakery. Supporters acknowledge teenagers congregate outside but they advise teenagers were here before the takeaway and they will continue to congregate irrespective of this application. One supporter suggested opening later on a trial basis.

4.3 The objectors consider the later opening to prejudice local amenity because it attracts youths to congregate and it will attract customers who have visited nearby licensed premises. The application has been submitted only one month since the previous consent was granted with the opening hours restriction, and this application could be a stepping stone to open until midnight. A resident living directly opposite advises the lights have a direct impact on their residential amenity.

5.0 Parish Council

5.1 Sprotbrough and Cusworth Parish Council have objected. They state "The PC wish to oppose this application. We believe that the current hours are adequate given the location of the premises in a residential area & that the conditions as previously imposed by DMBC should remain in force particularly as approval was only recently granted & neighbouring units close at 9.00pm."

6.0 Relevant Consultations

6.1 Environmental Health: No objections: No complaints have been received. The proposed opening hours are not within hours considered as night time (British standards suggest that night time hours from 23:00-07:00hrs).

7.0 Relevant Policy and Strategic Context

7.1 National Planning Policy Framework

7.2 Doncaster Core Strategy
Policy CS1: Quality of Life

7.3 Saved UDP Policies:
PH12: Non Residential Uses and Residential Policy Areas
SH14: Hot Food Takeaways

8.0 Planning Issues and Discussion

Main considerations

8.1 The only matter to consider is whether the later opening would cause a residential amenity issue.

Background

8.2 The takeaway opened to the public on 10th March 2017. The current closing times are 9pm Sunday to Thursday and 9:30pm on Fridays and Saturdays. This application is to extend the opening until 11pm every night.

8.3 The takeaway is located on a small shopping parade with flats above. The shopping parade is surrounded by family homes. The property was formerly a Cooplands Bakery. All other shops on the shopping parade are daytime opening. The off license next door closes at 9pm every day.

8.4 The original takeaway application restricted opening hours because of the residential location. A 9pm/ 9:30pm closing time was deemed to be the most suitable closing time because the off license next door closed at 9pm every day. Environmental Health was also content with these opening hours.

Concerns for later opening

8.5 According to objectors the issues that have arisen from this takeaway are litter, lights shining into a property across the road and teenagers are congregating outside.

8.6 Objectors are concerned the later opening will make the current issues worse and it could create new issues such as visiting customers that have been to nearby licensed premises.

8.7 Planning officers continue to have concerns that opening beyond 9pm/ 9:30pm will create a residential amenity issue. There are family homes and flats surrounding the takeaway. Customers coming and going later at night have the potential to cause a residential amenity issue. Although there appears to be limited impact at the moment this does not mean the later opening will also have a limited impact. Between 9pm and 11m it is a quieter time of night, the off license next door will be closed and many people will be trying to sleep. In addition, the takeaway has only been open for 3 months, during spring and summer. The lights of the takeaway will not currently be causing a residential issue due to the lighter nights.

Support for the application

8.8 A significant amount of public support has been received for this later opening; Including a petition of support with 393 names listed and 5 individual letters of support. Some of the supporters live in very close proximity to the application site.

8.9 Supporters of the application have advised this is a good local amenity and business. The supporters advise teenagers have been congregating outside this shopping parade before the takeaway opened and will continue to do so irrespective of this application. The former bakery also created more issues than the takeaway such as large delivery wagons, litter and groups of school children visiting at lunch times.

8.10 Environmental Health advised no complaints associated with the establishment have been received. The proposed closing time is not within hours considered as night time (British standards suggest that night time hours are between 23:00-07:00hrs). As such, they concluded not to object.

8.11 The planning officer has visited the property twice. It was noted the premises was clean and tidy. There was no litter outside and there was a bin available. One site visit was carried out at 6:45pm. There were no children congregating at 6:45pm and the lights were not noticeable because of the light nights.

8.12 The objector across the road has complained that lights have a direct impact on their property. But this objector has a hedge alongside the front boundary which will reduce light and make comings and goings of the takeaway less noticeable to them.

8.13 The owner advises the business is not profitable with a 9pm/ 9:30pm closing time because it is too early for many takeaway customers. An 11pm closing time will be suitable for them and they will not reapply to open beyond 11pm because they respect this is a residential area.

9.0 Summary and Conclusion

9.1 Officers have concerns that opening until 11pm will have a detrimental effect to residential amenity and three objections have been received. But this application has significant support from the local community. Environmental Health has not raised objection. As such, Officers consider the most appropriate recommendation is to grant a temporary consent until 31st December 2017. A temporary consent will allow Officers to fully understand and reconsider the issues (if any) that arise from opening later.

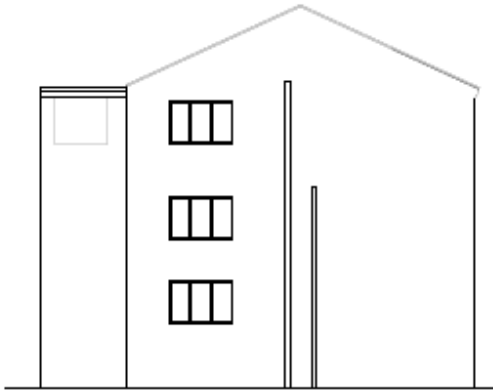
10.0 Recommendation

GRANT Full Planning Permission subject to the conditions below:

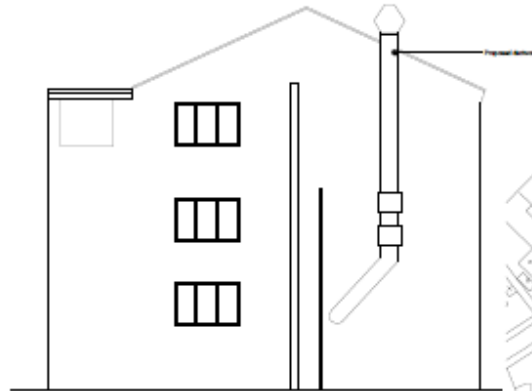
02. U53183 Until 31st December 2017 the hours of opening and takeaway deliveries shall be limited to:
Monday to Friday 4pm to 11pm
Saturdays, Sundays and Bank Holidays 3pm to 11ppm
- From 1st January 2018 the hours of opening and takeaway deliveries shall be limited to:
Monday to Thursday 4pm to 9pm
Fridays 4pm to 9:30pm
Saturdays 3pm to 9:30pm
Sundays 3pm to 9pm
REASON
The later opening hours are granted on a temporary basis so the Local Planning Authority can re assess the impact to residential amenity in 1 years' time.
03. U53184 The extraction/ventilation equipment shall be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.
REASON
To ensure odours from the unit do not cause a residential amenity issue.
04. U53185 The development hereby permitted shall be carried out in complete accordance with the details shown on the amended plans referenced and dated 01 Rev C stamped AMENDED PLANS 21.02.2017
REASON
To ensure that the development is carried out in accordance with the application as approved.
01. U11443 INFORMATIVE
Suitable closed storage facilities shall be provided for the accommodation of all waste food generated by the business whilst awaiting collection for disposal.

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

APPENDIX 1- PLAN APPROVED UNDER REF 16/02865/FUL



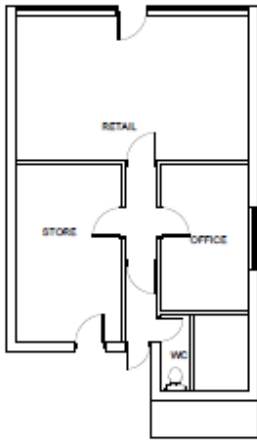
Side Elevation as Existing 1:50



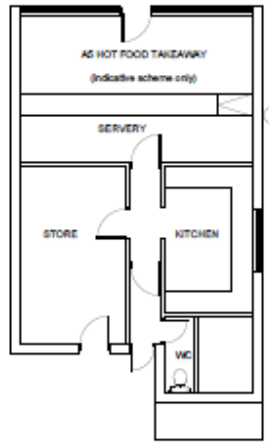
Side Elevation as Proposed 1:50



Block Plan 1:500



Ground Floor Plan as Existing 1:50



Ground Floor Plan as Proposed 1:50



AMENDED PLANS
21.03.2017

PLANNING			
Client: N Brown			
Project: 15 SAINT DAVIDS DRIVE, COLWYNIA			
Date: CHANGE OF USE PLAN			
Scale:	1:50	1:500	1:1250
Date:	MAR 2015		
Project No:	1517	Rev:	MJ 01 C