

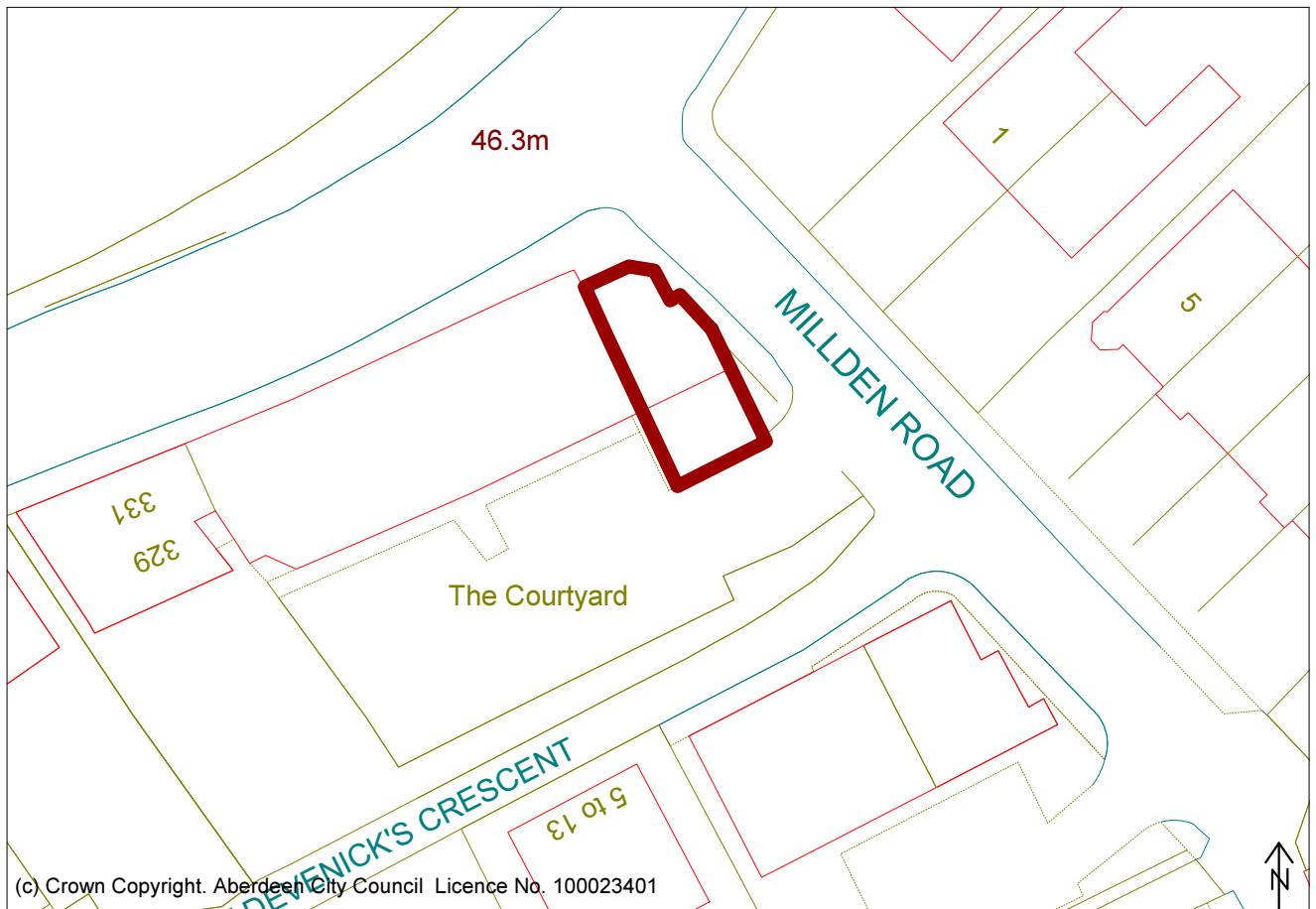
THE COURTYARD, UNIT 1 NORTH  
DEESIDE ROAD, CULTS

CHANGE OF USE FROM CLASS 1  
(RETAIL) TO PIZZA DELIVERY/HOT-FOOD  
TAKEAWAY ESTABLISHMENT (SUI-  
GENERIS) WITH INSTALLATION OF  
EXTRACTION/VENTILATION AND  
COMPRESSORS

For: Domino Pizza Group Ltd

Application Ref. : P111915  
Application Date : 22/12/2011  
Officer : Frances Swanston  
Ward: Lower Deeside (M Boulton/A  
Malone/A Milne)

Advert : Section 34 -Proj. Pub.  
Concern  
Advertised on : 01/02/2012  
Committee Date : 19 April 2012  
Community Council : Comments



**RECOMMENDATION: Approve subject to conditions**

## **DESCRIPTION**

The application site relates to the corner unit at The Courtyard shopping arcade on North Deeside Road, Cults. The unit was last in use as Odd bins off licence and has been vacant since June 2011. The entrance to the property is on the corner of North Deeside Road and Millden Road. The building wraps around the corner of Millden Road, which slopes from north to south. There is a car park to the rear of The Courtyard shared by customers of the shops along this part of North Deeside Road. The car park is adjoined by the residential properties on St Devenick's Crescent to the south. There is an on-street parking area in front of the unit on North Deeside Road. The building is bounded to the west by Blockbuster Video. There is existing signage on the building relating to Odd bins. Whilst of a modern design, the building and in particular the existing windows have interesting art-deco style details.

## **HISTORY**

Advertisement consent (application reference 111892) for signage for Domino's Pizza was approved under delegated powers on 21 March 2012.

## **PROPOSAL**

Detailed planning permission is sought for the change of use of the vacant retail (Class 1) unit to a pizza delivery/hot food takeaway (sui-generis) for Domino's Pizza. No physical alterations are proposed to the building's exterior. A separate application has been approved for signage. It is proposed to install an extraction/ventilation duct to the roof on the east elevation to the rear, and a cold room compressor and air conditioning unit to the rear (south) elevation of the building.

In supporting information the applicant states that unlike many forms of food sold for consumption off the premises, Domino's pizzas are only prepared and baked on receipt of an order. Pizzas are not kept warm waiting sales. Customers telephone their orders to the shop and then the pizza is prepared and baked. The vast majority of pizzas are telephone orders. Only about 20% are bought by customers visiting the unit.

The store would typically open with one manager and 1-2 drivers, one driver would start at 10am with a second driver arriving at around 11:30am if needed. This would be the typical level of staffing until 4:30pm. Data from existing stores shows that a maximum of approximately 10 delivery drivers will be working during the peak period of 6:30pm – 8:30pm.

## **REASON FOR REFERRAL TO SUB-COMMITTEE**

The Cults Bieldside and Milltimber Community Council object to the proposal and the application has attracted 11 letters of objection.

## **CONSULTATIONS**

**ROADS SECTION** – The Roads Engineer states that there is a requirement for the applicants to provide 4 additional parking spaces to accommodate the change of use from retail to hot food takeaway based on the Council's parking standards. The applicant was not able to provide the 4 additional spaces required and was therefore requested to carry out a parking survey to determine whether the vehicles associated with the new use could be accommodated within the existing parking areas. The result of the survey showed that although additional parking spaces could not be provided, there would be sufficient parking spaces both in the shared car park and on North Deeside Road to meet the parking demands of the development. Therefore the Roads Engineer does not object to the application.

**ENVIRONMENTAL HEALTH** – The Environmental Health officer does not object to the application but recommends a number of conditions be attached to any approval requiring a noise assessment of the external plant proposed, to minimise noise nuisance to neighbouring residential properties, a scheme showing the proposed means of filtering, extracting and dispersing of cooking fumes, bin storage/refuse collection and control over the hours of construction. The Officer also has concern over noise nuisance to residents from deliveries and uplifts to the premises at the rear of the property.

**COMMUNITY COUNCIL** – The Cults Bieldside and Milltimber Community Council object to the proposal for the following reasons, summarised below:

- inadequate parking for both customers and delivery vehicles;
- Illegal parking on Millden Road by customers using the shops; and
- Proliferation of litter associated with the hot-food takeaway.

## **REPRESENTATIONS**

11 letters of representation were received from neighbouring residents and businesses objecting to the application for the reasons summarised below:

- No suitable parking for delivery vehicles, no dedicated parking spaces and inadequate parking for customers
- Impact of illegal parking on Millden Road
- Inappropriate use in a prime main street location/over provision of carry out food units
- Concern over ventilation and smells from cooking
- Litter problems

## **PLANNING POLICY**

### **Policy RT3 - Town, District and Neighbourhood Centres**

Proposals for changes of use from retail to non-retail use in town, district and neighbourhood centres will only be allowed if:

1. The proposed alternative use makes a positive contribution to the vitality and viability of the shopping centre; and
2. The proposed alternative use will not undermine the principal retail function of the shopping centre or the shopping development in which it is located; and
3. The applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use since the property became vacant); and
4. The proposed use caters for a local need; and
5. The proposed use retains or creates a live and attractive shop frontage.

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

### **Planning Policy**

The site falls within the Cults shopping centre, which is identified in the Aberdeen Local Development Plan (ALDP) as a Town, District and Neighbourhood Centre and as such Policy RT3 sets out a number of criteria that must be met in order for a change of use from Class 1 retail to be acceptable. The criteria are listed in the Planning Policy section and are discussed below.

The applicant has provided supporting information, which states that marketing of the unit commenced in June 2011 and initially there was some interest from both existing local retailers and parties looking to explore options for a hot food takeaway. Details were widely circulated to local and national retail agents and were advertised on relevant property websites. Problems were highlighted by the previous tenant Odd Bins that whilst the unit provides a degree of character, it is not as versatile as other retail units in the area as it has an inadequate shop front to enable normal shop window displays. Dominos Pizza has been the only serious enquiry/offer to date.

The proposed alternative use would bring back into use a property that has lain vacant for almost 10 months. Whilst there has been an increase in the number of non-retail uses in the Cults neighbourhood centre, the proposed alternative use would not undermine the principal retail function of the centre, taking into consideration the other non-retail uses in the vicinity. The fact that the unit has been vacant since June 2011 would imply that the demand for retail use is not as strong as it once was. The proposed use would create a live frontage rather than an empty, vacant one albeit the majority of potential customers would be phone orders rather than visitors to Domino's Pizza. The proposed use would cater for a local need.

On balance, the new use would add to the vitality and viability of the neighbourhood centre, especially given that the application site has a prominent corner location and has been vacant since June 2011 with little apparent interest from retailers.

### **Issues raised by the Cults, Bielside and Milltimber Community Council and letters of objection**

**No suitable parking for delivery vehicles and no dedicated parking spaces and inadequate parking for customers** - The applicant submitted a detailed parking survey for the proposal and has been able to demonstrate that there would be adequate parking to accommodate the parking demands of the hot-food takeaway operation. The parking survey was undertaken on a Wednesday, Friday and Saturday between the hours of 12:00 and 00:00 on the 15<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> February 2012. In addition to the 28 shared parking spaces to the rear, the on-street parking on North Deeside Road was also surveyed. This area provides parking for approximately 11 vehicles.

The busiest times in the car park were on Friday at 13:30, 13:40 and 15:40 where 25 vehicles were parked with three remaining vacant spaces. As these times, there would be a maximum of two parked vehicles associated with Domino's Pizza and as both would be being used for deliveries they would not require to be permanently parked.

The results for all three days on North Deeside Road were similar with peak occupancy of 10 parked vehicles and one remaining vacant space occurring at various times on all three days between 12:10 and 17:10. At all other times during this period on all three days the minimum observed occupancy was for to 5 vehicles leaving up to six spaces vacant. After 18:30 there were rarely more than 5 vehicles parked.

The number of vehicles parked at the site decreased rapidly from 16:30 onwards and by 18:30 only 5 vehicles were parked leaving 23 vacant spaces. The observed occupancy continued to decrease as the evening progressed.

Therefore the applicant has demonstrated that even without dedicated parking spaces for Domino's Pizza vehicles and customers, taking into consideration the Council's parking standards, there would be sufficient parking available at all times to accommodate the parking demand generated by the proposed use.

**Impact of illegal parking on Millden Road** - The control of parking on Millden Road is not the responsibility of the applicant, it is an enforcement issue. However, the applicant is able to demonstrate that there is sufficient parking to meet the demands of the proposal.

**Inappropriate use in a prime main street location/over provision of carry out food units** - Policy RT3's purpose is to ensure that the loss of a retail use in a shopping centre is carefully considered. Whilst there are three other restaurants in the vicinity and two takeaway businesses, the predominant use is still Class 1 retail. The shift away from retail uses is perhaps a sign of changing

economic circumstances. The applicants have demonstrated that the unit was widely advertised and no serious retail offers were made. A balance has to be made between leaving units vacant thus not making a contribution to the viability and viability of a shopping centre or allowing a non-retail use into the area. The use of the shopping area as a whole is still predominantly for retail purposes.

**Concern over ventilation and smells from cooking** - The Environmental Health officer has requested that a condition be attached to any approval requiring the applicant to submit a suitable scheme showing the proposed means of filtering, extracting and dispersing of cooking fumes from the premises along with a system of regular maintenance to be agreed by Aberdeen City Council before the change of use can take place. It is proposed to position the extract duct on the roof at one of the highest parts of the building. The closest residential property would be at St Devenick's Crescent, 22 metres to the south.

**Litter problems** - The applicant advises that Dominos units are recognised as being good neighbours who take the issue of litter seriously. They also state in support that the nature of pizza deters people from eating it in the street. The Environmental Health officer recommends a condition be attached to any approval requiring suitable litter bins to be provided outwith the unit to allow customers the opportunity to dispose of their litter.

### **Conclusion**

The proposal for the change of use of the vacant unit from Class 1 retail to a pizza delivery/hot food take away is acceptable in terms of Policy RT3 of the ALDP. Whilst there would be the loss of a retail unit within the wider neighbourhood centre, there appears to be little demand for new retail uses in the area combined with the perceived restrictions over the design of the unit's frontage and the limitations this poses for retailers. Approval of the proposal would bring back into use a vacant property on a prominent corner site adding to the vitality and viability of the neighbourhood centre.

The main point of contention surrounding the application is the perceived problems with parking in the area and the increase in vehicles approval of the application would generate. The applicants have carried out a detailed parking survey demonstrating capacity in the existing car park and on-street to accommodate the delivery vehicles and the parking demand generated by the proposal to the satisfaction of the Council's Roads Engineer. Illegal parking in the area is an enforcement issue and not the responsibility of the applicant.

The Environmental Health officer does not object to the application but requests a number of conditions be attached to any approval requiring a noise assessment of the external plant proposed, to minimise noise nuisance to neighbouring residential properties, a scheme showing the proposed means of filtering, extracting and dispersing of cooking fumes, bin storage/refuse collection and control over the hours of construction. No external alterations to the building are proposed other than the installation of an extract duct and air conditioning units. The Officer also has concern over noise nuisance to residents from deliveries

and uplifts to the premises at the rear of the property however the car park has been in existence close to the residential properties on St Devenick's Crescent for a number of years; it is an existing situation. It would not be physically possible to enforce delivery vehicles to only park on North Deeside Road. It is not considered that during the peak hours of operation between 18:30 and 20:30 at night delivery vehicles would cause a significant noise nuisance.

It is therefore recommended that the application be approved subject to conditions requiring a noise assessment to be undertaken, a scheme of filtering extracting and dispersing of cooking fumes, and for bin storage/refuse collection to be agreed and restrictions to the hours of construction.

## **RECOMMENDATION**

### **Approve subject to conditions**

#### **REASONS FOR RECOMMENDATION**

that the proposed change of use is acceptable at the location proposed and complies with Policy RT3 of the Aberdeen Local Development Plan. Approval of the pizza delivery/hot food take away would bring back into use a vacant building whilst not significantly detracting from the primary retail function of the neighbourhood centre. The additional vehicle and parking requirements can be accommodated within the existing parking areas.

#### **it is recommended that approval is granted with the following condition(s):**

(1) that no development pursuant to this planning permission shall take place nor shall the building be occupied unless there has been submitted to and approved in writing for the purpose by the Planning Authority an assessment of the noise levels likely from all external plant. The assessment shall be prepared by a suitably qualified independent noise consultant and shall recommend any measures necessary to ensure a satisfactory noise attenuation for the building. The property shall not be occupied unless the said measures have been implemented in full - in the interests of residential amenity.

(2) that the use hereby granted planning permission shall not take place unless a scheme showing the proposed means of filtering, extracting and dispersing cooking fumes from the premises has been submitted to and approved in writing by the planning authority and that the said scheme has been implemented in full and is ready for operation - in order to preserve the amenity of the neighbourhood.

(3) that the use hereby granted planning permission shall not take place unless provision has been made within the application site for litter disposal and, if appropriate, recycling facilities in accordance with a scheme which has been submitted to and approved in writing by the planning authority - in order to preserve the amenity of the neighbourhood and in the interests of public health.

(4) that, except as the Planning Authority may otherwise agree in writing, no construction or demolition work shall take place:

- (a) outwith the hours of 7.00 am to 7.00 pm Mondays to Fridays;
- (b) outwith the hours of 8.00 am to 4.00 pm Saturdays; or
- (c) at any time on Sundays,

except (on all days) for works inaudible outwith the application site boundary. [For the avoidance of doubt, this would generally allow internal finishing work, but not the use of machinery] - in the interests of residential amenity.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.