Planning Statement for Change of use of vacant bank (Class E) to hot food takeaway (sui generis) with associated works.

47 Huddersfield Road, Mirfield WF14 8AE.

On behalf of Domino's Pizza UK & Ireland Ltd.

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Contents.

1. Introduction 1
2. Site and Surrounding Area 2
3. Planning History 3
4. The Proposal 4
5. Planning Policy 6
6. Planning Assessment 10
7. Conclusions 15

1. Introduction

1.1. Pegasus Group is instructed by Domino's Pizza UK & Ireland Ltd (the Applicant) to submit an application for planning permission for the change of use of 47 Huddersfield Road, Mirfield from a former bank (Class E) to a hot food takeaway (sui generis), together with works to facilitate the use. The full description of development is:

> *"Change of use from vacant bank (Class E) to hot food takeaway (sui generis) with installation of extract and ventilation equipment and external alterations to the front and rear elevations."*

1.2. This Planning, Design and Access Statement provides the background to the application, including details of the site and surrounding area, together with the relevant planning history, policy context and detailed design of the proposal.

1.3. The main justification section explores whether the proposal is compliant with the policies in the Local Development Plan and considers the proposal against other material considerations including the National Planning Policy Framework (NPPF).

1.4. The Statement should be read in conjunction with the other supporting documents, including:

- Plans and drawings prepared by Simon's Design
- Noise Impact Assessment prepared by Suono
- Proposed Ventilation System and specifications.

2. Site and Surrounding Area

2.1. The application site comprises the ground floor of 47 Huddersfield Road, Mirfield, a two-storey detached building on the corner of Huddersfield Road and Trinity Street.

2.2. The site is on the southern side of Huddersfield Road and the first floor has been in use as a separate residential flat (Class C3). The ground floor appears to have most recently been in use as a tutoring centre (Class F1), but there is no planning history relating to the use which appears to have been operating for only 2-3 years and, as such, the change of use is made on the basis of the site's lawful former use as a bank (Class E).

2.3. There are outbuildings to the rear of the site and a yard which provides space to park up to three cars. There is separate access to the first floor via an external staircase and a refuse store which is used by residents. No changes are proposed to the first floor of the unit.

2.4. The site is located within Mirfield District Centre, close to the eastern boundary of the centre. The site is adjacent to a fire station to the east and Trinity Methodist Church to the west (across Trinity Street).

2.5. There is a mix of Class E and other community uses around the site. Beyond the Church, premises are generally in retail or financial and professional services use (Class E) with a small proportion of food and drink uses. There are no existing takeaways close to the site , with the nearest (Kowloon and Pizza Island at 186 and 188 Huddersfield Road) at least 260 metres away. The site is within 400 metres' walking distance of Crowlees Junior and Infant School.

2.6. As mentioned, there is car parking available at the rear of the site, and further parking is available on Huddersfield Road, approximately 20 metres west of the site which is restricted to a 1-hour stay (no return within 1 hour) between 08.00 and 18.00 hours Monday to Saturday.

2.7. The site is not located within a Conservation Area and it is not Listed. The neighbouring Trinity Methodist Church and associated front wall, railings and gate piers are Grade II Listed, as is Water Hall and the gate/gate piers which are immediately to the east of the fire station. The site is within Flood Zone 1, the area with least probability of flooding.

3. Planning History

3.1. The majority of planning applications at the site relate to signage and shopfront works associated with the former bank, including 2006/95145 for the installation of illuminated ATM signage (Approved December 2006).

3.2. Planning permission was granted in 2011 for the extension and conversion of an existing outbuilding to provide a garage (ref. 2011/62/917317/E2). This permission has not been implemented.

4. The Proposal

4.1. This Statement supports an application for the change of use of the unit and ancillary works to facilitate the takeaway use. The proposals are set out in full below.

Change of Use

4.2. It is proposed that the ground floor unit will be converted to a hot food takeaway (sui generis) to be occupied as a pizza takeaway once all necessary consents are in place.

4.3. The proposed takeaway will operate between 11.00 and 23.00 hours daily and will generate a number of part time and full time employment opportunities. The majority of employees will be sourced locally.

4.4. The submitted plans show the layout for the proposed takeaway. The front of the unit will be occupied by the customer waiting area and counter on one side, with the kitchen and oven on the other side. The location of the entrance will remain unchanged.

4.5. Towards the rear of the unit will be the staff welfare facilities, wash up areas and, beyond that, the cold room and dry storage areas.

4.6. Space for refuse storage will be provided within the rear yard, away from the rear elevation of the building. From here, it can easily be taken to a collection point in accordance with a schedule to be arranged by the applicant.

4.7. Deliveries will be made in at the front of the premises outside of peak hours.

Extraction and Ventilation Equipment

4.8. In order to facilitate the operation of the unit as a takeaway, it is proposed to install extract and ventilation equipment. This will include extract and air handling equipment together with air conditioning and cold room condensers.

4.9. The extract will run from the hood above the oven to exit via the rear elevation and extend up the back wall to terminate a minimum of 1 metre above eaves height. Odour mitigation including carbon filters will be incorporated into the system, together with silencers to prevent nuisance from noise.

4.10. An air handling unit will provide ventilation to the premises. This will be served by a louvred vent in the side elevation.

4.11. Air conditioning and cold room plant will be located within an outbuilding in the rear yard. the units will be mounted using anti vibration mounts. Any required attenuation will be installed in accordance with the recommendations set out in the Noise Impact Assessment by Suono.

External Alterations

4.12. The proposed external alterations are limited and comprise the following:

- Existing entrance doors on front elevation to be replaced with Traffic Grey aluminium framed doors. The panels above will be replaced with aluminium panels to match
- The windows will be repaired and top panels with vents replaced with aluminium panels.
- The rear door will be replaced with a new steel-faced door to provide emergency access.

4.13. All other changes relate to minor works to repair and repaint the existing windows fence and access lift.

5. Planning Policy

National Planning Policy Framework (NPPF)

5.1. The National Planning Policy Framework (NPPF) (last updated in December 2023) sets out the Government's planning policies for England at a national level and how they are expected to be applied.

5.2. **Paragraph 7** of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. In terms of what is meant by 'sustainable development', the NPPF states at **Paragraph 8** that there are three dimensions to sustainable development (economic, social and environmental) and three roles that the planning system needs to perform.

"an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."

5.3. **Paragraph 11** states that plans and decisions should apply a presumption in favour of sustainable development.

5.4. For decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

5.5. **Paragraph 39** confirms that *"Local planning authorities should approach decisions on proposed development in a positive and creative way"* and that *"…Decision-makers at every level should seek to approve applications for sustainable development where possible"*.

5.6. At **paragraph 85**, the NPPF states:

"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.".

5.7. **Paragraph 90** confirms that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

5.8. **Paragraph 97** states:

> *"Local planning authorities should refuse applications for hot food takeaways and fast food outlets:*
>
> *a) Within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or*
>
> *b) In locations where there is evidence that a concentration o such uses is having an adverse impact on local health, pollution or anti-social-behaviour."* [Pegasus' emphasis]

5.9. **Paragraph 116** of the NPPF states that *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

5.10. **Paragraph 198** relates to the potential pollution impacts of new development on existing uses. It states that planning policies and decisions should *"mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life."*

5.11. Overall, the NPPF confirms that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent it. Local Authorities should approach development management decisions positively – looking for solutions rather than problems so that applications can be approved wherever it is practical to do so. Securing the optimum viable use of the property and achieving public benefits are key material considerations for application proposals.

Local Planning Policy

5.12. The adopted Local Development Plan is comprised of the Kirklees Local Plan (2019). The Hot Food Takeaway Supplementary Planning Document (the HFT SPD) is also a material planning consideration in the assessment of this application.

5.13. **Policy LP7** states that proposals should encourage the efficient use of previously developed land in sustainable locations, provided that it is not of high environmental value and encourage the reuse or adaptation of vacant or underused properties.

5.14. **Policy LP13** relates to town centre uses/ It states that main town centre uses should be located within defined centres. It states that centres in Kirklees should aim to provide a range of uses to support the daytime and evening economy.

5.15. **Policy LP16** sets out the Council's approach to food and drink uses and the evening economy. It states that proposals for food and drink, licensed entertainment uses, and associated proposals will be supported, provided they are located within a defined centre, and subject to:

> *"ensuring the concentration of food and drink and licensed entertainment uses are not located in a particular centre or part of a centre, where they would result in harm to the character, function, vitality and viability of the centre, either individually or cumulatively."*

5.16. The following criteria are provided which will be considered with a planning application involving food and drink uses:

- The number, distribution and proximity of other food and drink uses, including those with unimplemented planning permission in a particular centre;
- The impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas;
- The potential for anti-social behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm through the use of planning conditions and/or obligations;
- The availability of public transport, parking and servicing;
- Highway safety;
- The provision of refuse storage and collection; and
- The appearance of any associated extensions, flues and installations.

5.17. **Policy LP22** states that within local centres, car parks close to the main shopping centres will be for short stay use. Long stay car parks will be directed to the periphery of the centre. The policy states that *"provision of private non-residential parking in town centres will not be permitted unless it can be demonstrated that it is required for operational reasons"* and *"car parking in new developments will be determined by the availability of public transport, the accessibility of the site, location of development, local car ownership levels and the type, mix and use of the development."*

5.18. **Policy LP24** sets out the Council's design standards and requires that good design is at the core of all proposals in the district. It confirms that development provides a high standard of amenity for future and neighbouring occupiers and seeks to secure the reuse and adaptation of buildings where possible. The policy also requires that the risk of crime is

minimised by enhanced security and the promotion of overlooked streets and places, and well-designed security features.

5.19. In relation to advertisements and shop fronts, **Policy LP25** states that the development of new or replacement shop front units and display of advertisements will only be permitted if they satisfy the following criteria:

- The design is consistent with the character of the existing building
- The proposals respect the character of the locality and any architectural, historic or cultural features
- The shop fascia is designed to be in scale in its depth and width, with the façade and street scene of which it forms part.

Hot Food Takeaway SPD (HFT SPD)

5.20. **Policy HFT 1** states that new takeaways will be assessed against the Kirklees Council Public Health Toolkit. Proposals in a postcode with a score of 21 or more will be refused. The score for the appraisal site is 18, a pass score.

5.21. **Policy HFT2** sets out criteria where the cumulative impact of a new takeaway would be harmful to the vitality and viability of the centre. If one or more criteria are met a proposal will be unacceptable:

a. Increase in the concentration of hot food takeaways at ground floor level to greater than 15% of all town centre uses

b. Creates a cluster of 3 or more takeaways together

c. Reduces the number of units between takeaway clusters to one or none.

5.22. **Policy HFT3** states that proposals within 400 metres of a primary school will only be permitted where the takeaway is not open to the public between 3 – 5 pm weekdays and there are no over the counter sales during this time.

5.23. **Policy HFT4** states that applications must be accompanied by a noise and odour impact assessment and that, if necessary, sound proofing of party walls and ceilings must be demonstrated.

5.24. **Policy HFT5** requires that all applications are accompanied by a Waste Management Strategy to cover the storage and disposal of waste and provision of grease traps where appropriate and the use of sustainable food packaging.

5.25. **Policy HFT7** states that applications for takeaways will be refused where they will have an unacceptable impact on highway efficiency and safety, taking account of the existing use and location of the site, the accessibility for pedestrians, cyclists and vehicles, and the operational requirements of the business.

6. Planning Assessment

6.1. This section of the Planning, Design and Access Statement sets out the justification for the proposed development when considered against the relevant planning policies and other material considerations.

6.2. The key issues arising from this proposal, which will be addressed below, are as follows:

- The Principle of the Change of Use
- The Impact on Residential Amenity
- Highways and Parking Considerations
- Design Considerations
- Access Considerations

6.3. Each point is discussed below.

The Principle of the Change of Use

6.4. The application site is an existing building in Mirfield District Centre. This is an appropriate location for retail, food and drink, and other supporting town centre uses. The previous lawful use of the site was as a bank within Class E (c) of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. This is confirmed by Policy LP13 of the Local Plan which states that a range of uses which support a daytime and nighttime economy should be supported.

6.5. Policy LP16 of the Local Plan seeks to ensure that there is no harm to centres by way of an overconcentration of food and drink uses, particularly in relation to:

- Impacts arising from noise, disturbance and odour
- An increase in anti social behaviour
- The availability of public transport, parking and servicing
- The arrangements for refuse storage and collection and
- The appearance of extract ducts

6.6. The HFT supports Policy LP16 and seeks to expand on the above criteria, and provides further tests to establish whether there is, or will be, an overconcentration of takeaway uses as a result of the proposals.

6.7. Each policy within the HFT SPD is discussed in turn below, but the weight of this document should be properly applied given that it comprises guidance to support adopted policy, and not adopted policy in its own right.

Policy HFT1 – Public Health Toolkit

6.8. The policy states that proposals will be assessed against the Kirklees Council Public Health Toolkit. Any proposal for a takeaway in a postcode with a score of 21 or greater will be refused. The postcode for the application site has a score of **18** and is therefore compliant with Policy HFT1.

Policy HFT2 – Town Centre Vitality and Viability

6.9. The policy states that proposals should not:

- Increase the concentration of hot food takeaways above 15% of all town centre uses in the centre;
- Create a cluster of 3 or more takeaways together
- Reduce the number of units between takeaway clusters to one or none.

6.10. The table at Appendix 2 to the HFT SPD states that the proportion of takeaway uses in Mirfield District Centre was 4.8% using 2018/19 data.

6.11. A search of the Council's planning records confirms that there have been no approvals for new takeaway uses since 2018 within the District Centre therefore the proportion of such should still be 4.8%. Therefore, if this application is approved, the proportion of takeaway uses would rise marginally to **6.0%**.

6.12. The site is not adjacent to any existing takeaways, with the nearest at least 260 metres from the application site. As such, the proposals are wholly in accordance with the requirements of Policy HFT2.

Policy HFT3 – Proximity to Schools

6.13. The application site is located within the 400 metre restrictive zone associated with Crowlees Junior School. Therefore, Policy HFT3 states that the opening hours should be restricted between 3 pm and 5 pm on weekdays.

6.14. It is considered that for a pizza takeaway such as this, the opening hours restriction is not necessary due to the way in which Domino's operate. The vast majority of orders are made online, with in-person orders becoming increasingly rare. This is partly due to the fact that pizzas take some time to prepare for collection. It is generally purchased as an infrequent luxury, often later in the evening. This further suggests that children are unlikely to be tempted to visit the site after school ends.

Policy HFT4 – Noise Abatement and Extraction of Odours

6.15. This policy requires that applications are accompanied by a noise and odour impact assessment. Both are submitted in support of this application and the results of these assessments are discussed further under the residential amenity heading below. The proposal complies with this policy.

Policy HFT5 – Waste Disposal

6.16. A Waste Management Strategy has been prepared and is included within this Statement. Compliance with this Strategy can be secured through an appropriately worded condition to be agreed with the Applicant.

6.17. The policy requires that bin stores should be located in an appropriate location where they will be easily accessed and will not detract from the street scene. The provision of a refuse store within the rear yard of the building will ensure that it can be easily brought to the kerb for collection at the appropriate times, whilst keeping it in a discrete location where it is only visible from the rear in the context of the established commercial back of house area.

6.18. Sufficient space is provided for refuse and recyclable waste, and collections will be timed to avoid peak times and ensure that waste is not kept on site for an excessive amount of time where it could lead to unacceptable odours or attract vermin. The exact schedule of collections is to be determined by the Applicant in due course. There is no conflict with this policy.

Policy HFT6 – Takeaway Design and Community Safety

6.19. Policy HFT6 states that consideration should be given to safety and residential amenity. This includes the design of the premises and any outdoor areas.

6.20. There are no significant changes proposed to the application site to facilitate the use. The customer area will be located at the front of the store and will provide surveillance on the street outside. No external seating is proposed.

6.21. Generally, Domino's customers order in advance and, if collecting, spend limited time at the site. Customers then leave the site with their order to consume elsewhere as pizzas are not generally suited for eating 'on the go'. As such, there is unlikely to be any loitering outside of the site or other activity which could introduce safety or amenity concerns. There is no conflict with this policy.

Policy HFT7 – Highway Safety

6.22. Highway safety is discussed in more detail below, but for the purposes of Policy HFT2, there is space for some parking at the rear of the site which provides for delivery drivers. There is no on-street parking immediately in front of the site, but there are sufficient TROs in the immediate area to prevent unsafe parking by customers.

6.23. There is sufficient parking in an easy walk along Huddersfield Road (20 metres west of the site) and the surrounding area to provide for customers without causing harm to amenity and it should also be noted that Domino's do not use third-party companies such as Just Eat or Deliveroo, with delivery drivers being employed direct by Domino's.

6.24. Overall, it can be seen that the proposed takeaway is entirely in accordance with the criteria set out within the HFT and is therefore clearly consistent with the requirements of Policy LP16.

The Impact on Residential Amenity

6.25. The application site is located within Mirfield District Centre. The closest units are above the site where the first floor is in use as a separate apartment. As such, residential amenity is an important consideration in the determination of this application.

6.26. The plant and extract systems have been carefully designed to ensure that there is the least possible potential or harm to amenity. The extract duct will extend up the rear elevation, however the fan will be located internally and a 1000 mm silencer and the use of anti-vibration mounts will ensure that no harmful noise is transmitted through the duct to the detriment of amenity for the neighbours above.

6.27. The condensers have been sited within the existing outbuilding at the rear of the site which will further protect nearby residents from any harmful noise.

6.28. These measures have been adopted following an assessment by Suono to establish the potential impact of the extract and ventilation equipment in relation to the existing noise environment. The resulting Noise Impact Assessment is submitted in support of this application and confirms that there will be no unacceptable impact on amenity, with the recommended mitigation in place.

6.29. Turning to odour, the proposed extract equipment includes fine filtration within the oven hood, and carbon filters to remove any remaining odour. This, in conjunction with the height of the extract discharge (1 metre above eaves height) is sufficient to ensure that there will be no harm to amenity from odour.

6.30. It should also be noted that the proposed use as a pizza takeaway will produce significantly less odour than the former restaurant/takeaway use as there will be no deep-frying or highly aromatic processes undertaken at the site. All cooking will be by convection oven.

Highways and Parking Considerations

6.31. The application site is located within a District Centre, in a highly sustainable location with bus stops within 50 metres. There is on-street parking to the west of the premises which is restricted to a 1-hour stay between 08.00 and 18.00 hours Monday to Saturday but is unrestricted outside of this time. As such, the on-street parking will be unrestricted during the majority of the takeaway's peak trading hours. There is also some parking in the rear yard.

6.32. While the former use of the site was as a bank (with an un-authorised period as a tutor centre) within Class E, the site could be occupied as a restaurant without the need for planning permission. On this basis, the parking demands could be similar or greater than that associated with the takeaway use.

6.33. Generally, visits to the site will be short-stay and can easily be accommodated on the existing parking around the site. The nature of Domino's operation is such that delivery drivers visit site to collect several orders to be delivered in one trip. Therefore, drivers visit the site less often and there is normally only one driver at the site at time. During busy peak times (normally Friday/Saturday between 17.30 and 21.00) there may be at most two drivers.

6.34. Loading will take place from the front of the premises on Huddersfield Road in accordance with the arrangements for other town centre uses nearby. Deliveries will be timed to take

place outside of peak travel times to ensure that there is no impact on the local highway network when they take place.

6.35. Overall, the above demonstrates that the proposed use is appropriate in this location and is in accordance with Policy LP16 of the Development Plan and HFT7 of the HFT SPD.

Design Considerations

6.36. The external changes associated with the change of use are limited and relate to the installation of an extract duct at the rear of the building, and minor shopfront alterations including the replacement of existing entrance doors and replacement top panels to the ground floor windows.

6.37. The position and arrangement of openings in the front elevation will remain the same and the existing window frames will be retained but repainted to match the new shopfront colour scheme.

6.38. The new aluminium panels will replace existing panels within the shopfront and will be finished to match the rest of the shopfront so that they are not unduly prominent in the streetscene.

6.39. The proposals will serve to facilitate the occupation of the unit in an active use, reintroducing an active frontage in this location. The refurbishment to the front elevation will improve the appearance of the building and there will be no associated harm to the appearance of the streetscene.

6.40. At the rear of the building, the extract duct will extend up the rear elevation to terminate above eaves height. The duct will not be visible from the front of the building and will only be visible in limited views at the rear where it will be viewed in its context at the rear of a commercial building where there is an expectation for plant and other commercial equipment in this district centre location.

6.41. Generally, the colours and materials proposed to be used in the building have been used elsewhere in the Centre and the proposals are therefore suitable in this location.

6.42. The application site is not located in a Conservation Area and will not cause harm to the setting of the Trinity Methodist Church and therefore, the proposed alterations are considered appropriate in design terms.

Access Considerations

6.43. New entrance doors are proposed in the front elevation which will fit within the same openings. The existing access lift will be retained and refurbished and therefore the site will remain fully accessible for all future customers and staff.

6.44. There will be no impact on access for the residents of the first floor and a rear means of escape at ground floor level will also be retained.

6.45. The proposals will not have a harmful impact on access to, past or within the site and therefore the proposed change of use and associated works is acceptable in access terms.

7. Conclusions

7.1. This Statement has been prepared in support of an application for planning permission for the change of use of the ground floor from a former lawful Class E use (bank) to a hot food takeaway (sui generis), and for the installation of extract and ventilation equipment and other external alterations.

7.2. It has been demonstrated that the proposed change of use is appropriate in this location and that there will be no conflict with LP16 of the Local Plan or the guidance contained within the HFT SPD, in particular in relation to the concentration of takeaway uses in the Centre.

7.3. It has also been demonstrated that the proposal is acceptable in terms of residential amenity and highway safety.

7.4. Finally, it has been shown that the minor alterations to the shopfront and at the rear of the premises are acceptable in design terms and there will be no adverse impact on the character or appearance of the local area.

7.5. It is for the reasons set out in this Statement that the proposed development is in accordance with the current adopted Development Plan, in particular policies LP13 and LP16 of the Local Plan.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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