

# THE CITY OF DURHAM TRUST

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c/o Blackett, Hart & Pratt, LLP  
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Durham, DH1 1TH  
24 February 2025

Web site: <http://www.DurhamCity.org>

David Richards  
Durham County Council Planning Development  
PO BOX 274  
Stanley Co Durham  
DH8 1HG

Dear Mr Richards,

**DM/25/00271/VOC | Variation of condition 4 (delivery hours) pursuant to planning permission DM/21/01752/FPA | 37 North Road Durham DH1 4SE**

The City of Durham Trust objects to the above application and asks the Authority to refuse it in the interests of the residential amenity of surrounding properties, in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

The reason advanced for this proposed change is that the only reason given for condition 4 was *"In order to ensure the highway safety in accordance with Policy 21 of the County Durham Plan."* The argument is advanced that *"As the condition was imposed only in the interests of highway safety, it is submitted that this should be the only basis against which to assess this application."* We disagree.

The primary reason for condition 4 is to require all deliveries and servicing to be made to the rear of the premises. The words used in the description (delivery hours) do not occur in the condition; although the hours 1000 to 2300 are specified, these are subsidiary. Condition 3 sets the opening hours with an appropriate reason. No inference can be drawn as to the suitability of a later terminal hour for deliveries from the absence of a reason in this condition about permissible hours.

Even though walk-in customers should stop at 11pm, these will be coming through the front door. Disturbance at the rear of the premises will continue, and this must be assessed. There are 15 houses in Lambton Street and 8 of them are on the side of the street that backs on to North Road. Vehicles accessing the rear of 37 North Road will travel the length of the alley between Lambton Street and North Road.

There is residential accommodation above Partners at 36 North Road, immediately adjacent to number 37. They will also be disturbed.

Application DM/24/02806/FPA is currently awaiting determination as a delegated decision, and you are also its case officer. We hope it can be determined first, as it will clarify the position. If approved, it would be a change in circumstances since permission was given in October 2021 for the takeaway. It proposes a one-bedroom flat on the first floor of these premises. Paragraph 4.29 of its Planning Statement says *"The development would provide an ... acceptable standard*

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*of amenity for future occupants in respect of noise, with planning conditions and licensing restrictions controlling opening hours of commercial premises nearby.*” Those conditions would include the 10am – 11pm restriction on the hours of operation of the takeaway on the ground floor. Should the plans for the first floor flat be approved, its resident will suffer disturbance from delivery vehicles arriving and departing up till 2am.

The applicant refers to the *current trading hours of nearby premises, including Domino’s*. These are all serviced, as far as we can tell, from the front of their premises, and so do not generate traffic down the alley between Lambton Street and North Road. By way of contrast, 37 North Road is only serviced via its rear entrance. This application is apparently being made *In response to growing demand from customers*. Consequently increased traffic should be expected if this is approved.

We note that the Nuisance Action Team, in commenting on application DM/21/01752/FPA, requested as a condition that *The premises subject to this permission shall not be open for business outside of the hours of 0900 to 2300hrs on any night of the week, with the exception of midnight on New Year's Eve*. If deliveries are being made, even though walk-in customers are not being served, then the premises would still be open for business. Currently the premises do not open outside the requested hours, but if extended delivery hours are granted then this would be contrary to the condition requested by the Nuisance Action Team.

Deliveries to and from the rear of 37 North Road after 11pm will increase the noise and disturbance to neighbouring premises, affecting the amenity of people living there. County Durham Plan Policy 31 includes this paragraph:

Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.

This proposal has the potential to lead to unacceptable levels of noise in surrounding homes. No mitigation measures have been put forward by the applicant, and we doubt that any will be possible, so the application should be refused, citing County Durham Plan Policy 31.

Furthermore, NPPF paragraph 187 says that planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. This is a further reason to refuse this application.

Yours sincerely,

JOHN LOWE

Chair, City of Durham Trust