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## Appeal Decision

Site visit made on 25 September 2018

**by Siobhan Watson BA(Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> September 2018**

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**Appeal Ref: APP/Z4718/W/18/3201322**

**697 Bradford Road, Oakenshaw, Bradford, BD12 7DT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Imran Khan against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2018/62/90165/E, dated 16 January 2018, was refused by notice dated 13 March 2018.
  - The development proposed is a change of use from A1 to A5 with flats on first floor and single storey side extension.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effects of the proposal upon (i) the living conditions of the occupiers of adjoining properties and (ii) highway safety.

### Reasons

#### *Living Conditions*

3. The appeal property is located on a main road and is situated amongst other retail units and dwellings. Two dwellings adjoin the appeal property at the rear.
4. Hot food takeaways are predominantly evening uses and the proposed hours are from 11am to 11pm. I appreciate that a modern extractor system would be used but the noise from the kitchen and the customer area (e.g., voices, radio and kitchen clattering) has the potential to travel through the wall to the existing dwellings and through the ceiling to the proposed flat. This would be during periods when householders would expect quiet, i.e., in the evenings. I note the appellant's proposal to insulate the walls but without technical details I cannot be sure that an acoustic scheme would work.
5. I understand that there would have been some noise when the building operated as a bakery but I have nothing to indicate that the bakery was a late evening use. I also note the appellant's offer to retain the proposed flat for an employee but this would not overcome the noise issue for the existing neighbours.
6. I therefore conclude that the proposed A5 use would harm the living conditions of the occupiers of adjoining properties. It would conflict with Policies D2, EP4,

S14 and PLP 16 of the Kirklees Unitary Development Plan which seek to protect residential amenity.

### *Highway Safety*

7. The Council has indicated that 2 car parking spaces should be provided, however, the proposal could only accommodate one comfortably whilst allowing room for bin storage. That said, Appendix 2 of the UDP expresses car parking figures as a maximum rather than as a minimum. I noted that car parking is possible in parking bays on the main road as well as within several nearby side streets. Furthermore, the A1 use would also attract staff and customers by car and currently there is no on-site provision. I do not consider that the proposal would make the situation any worse. In addition, I have no specific reason to believe that the parking generated could not be accommodated within the surrounding highway network which is generally free of parking restrictions.
8. I conclude that the proposal would not harm highway safety. I find no conflict with UDP Policy T10 which seeks to prevent development if it would create highway safety problems.

### **Other Matters**

9. I have considered all other matters raised, including those from interested parties but none outweigh the conclusions I have reached.

### **Conclusion**

10. Although I find no harm to highway safety, I do find significant harm to living conditions and therefore I dismiss the appeal.

*Siobhan Watson*

INSPECTOR