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## Appeal Decisions

Site visit made on 18 February 2020

**by D Peppitt BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12<sup>th</sup> May 2020**

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### **Appeal A Ref: APP/B5480/W/19/3242377**

#### **Khetia Newsagents, 4 Carlton Road, Romford RM2 5AA**

- 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 Md Mamun Ul Ghoni against the decision of the Council of the London Borough of Havering.
  - The application Ref P0967.19, dated 20 June 2019, was refused by notice dated 24 September 2019.
  - The development proposed is the change of use on ground floor from A1 to A3 with flue pipe installation at rear, and first floor rear extension of the 2 bedroom flat above.
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### **Appeal B Ref: APP/B5480/W/19/3242379**

#### **Khetia Newsagents, 4 Carlton Road, Romford RM2 5AA**

- 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 Md Mamun Ul Ghoni (LM Investment Management Ltd) against the decision of the Council of the London Borough of Havering.
  - The application Ref P1521.19, dated 3 October 2019, was refused by notice dated 28 November 2019.
  - The development proposed is the change of use from NewsAgent to A5 Take Away, with flu pipe cased with matching brickwork at rear and new front door to access flat above.
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### **Decision**

1. Appeals A and B are dismissed.

### **Procedural Matter**

2. The appeals relate to two different schemes, but both are on the same site. I have dealt with each appeal on its own individual merits, although to avoid duplication, I have dealt with some aspects together in my reasoning where appropriate.

### **Main Issue**

3. The main issue in both appeals, is the effect of the proposals on the living conditions of the occupiers of the neighbouring properties, with particular reference to noise and disturbance.

### **Reasons**

4. The appeal site is located on Carlton Road, in close proximity to the junction with Junction Road. It is situated within a parade of commercial units, with

residential properties above. Aside from the commercial uses on the ground floor of the parade and the nearby club, the surrounding area is predominantly residential. To the front of the properties along the parade, there is an area for the parking of vehicles. I observed on my site visit that cars were parked all along the forecourt area of the parade. The appeal site has an area to the front which could accommodate the parking of 2 vehicles. There are parking restrictions on the roads surrounding the parade, including no waiting Monday-Saturday 0830-1830 and permit holder only parking Monday-Saturday 0830-1830.

5. The proposed opening hours would be between 1100-2300 Monday to Saturday and 1100-2230 on Sundays and Bank Holidays. The appellant advises that the adjacent off licence at No 2 Carlton Road, has the same opening hours as those proposed. Whilst I have not been provided with the opening hours of the other units and uses in the area, from my observations, other than the nearby club, many of the other units did not appear to contain uses that would generate much in the way of visitors in the evening and late at night. Consequently, in the absence of any substantive evidence to the contrary, there would appear to be little in the way of existing uses, that would give rise to noise or disturbance to the occupiers of the neighbouring residential properties, as a result of visitors or activities occurring late into the evening.
6. The change of use from A1 to A3 would alter the external environment and activity levels around the unit, particularly in the evenings. Short visits to a newsagent, even late in the evening, would be materially different to those visiting an A3 use. The proposed A3 use would have groups of people coming and going, including those leaving in high spirits late at night or waiting outside for taxis. Although the dwell time and frequency of customers to a restaurant would be longer and less frequent, than an A1 use, customers are more likely to arrive and leave in groups of people, rather than being a singular visitor.
7. In terms of the proposed A5 use, this would create a materially different environment and activity levels outside the site. As with the A3 use, customers could also be in high spirits when entering and exiting the takeaway in the late evening. The A5 use would have a higher frequency of customers coming and going than an A3 use. It is also probable that customers could congregate outside, either waiting to be served, picking up deliveries or eating their takeaway food. The addition of delivery drivers would also have a similar impact in terms of people waiting outside or making frequent return trips.
8. The proposed use, whether a takeaway or a restaurant, would have a number of vehicles accessing the site, including customers and staff, as well as the possibility of delivery drivers. I acknowledge that the vehicle movements of the A3 and A5 use would be different.
9. An A5 use would have frequent, but short stay parking, compared to an A3 use, which would have vehicles parked for a longer period of time, but with less frequent vehicle movements. Nevertheless, both uses would include car doors closing, engine noise, music from car audio systems and conversations of people entering and exiting the building. The noise and disturbance generated by vehicle movements would be particularly apparent during the evenings, and on Sundays when the nearby parking restrictions would no longer be in force. This would be due to customers and staff parking outside the site, in order to park as close as possible to the unit.

10. Despite the surrounding parking restrictions, due to the lack of car park spaces in front of the unit, it would mean that customers and staff would be displaced onto the road outside the site for parking. I note that the appellant has suggested that not all businesses provide car parking spaces, and that there are pay and display parking bays approximately 2 minutes' walk from the site. Nonetheless, customers to a takeaway would only need a short visit and they would want to collect their food and return home as quickly as possible.
11. I note that this is an urban area with other retail units along the parade, therefore, some level of background noise would be expected during the daytime. However, the proposals would introduce different uses to the site and parade, which do not currently exist, and when combined with the proposed late opening times, would increase the noise and disturbance experienced by the occupiers of the neighbouring properties.
12. I find that the proposals would have a detrimental effect on the living conditions of the occupiers of the neighbouring properties, with particular reference to noise and disturbance. Therefore, it would be contrary to Policies DC55 and DC61 of the Core Strategy and Development Control Policies Development Plan Document (CS) (2008). These policies, amongst other criteria, seek to protect the living conditions of nearby residential accommodation and that proposals should not result in unreasonable adverse effects on the environment by reason of noise impact and hours of operation.

### **Other Matters**

13. I note that there are a number of interested parties outlining their support for the proposals. However, this does not outweigh the harm that I have identified above.
14. The Council's officer report for the A5 use highlighted highway safety concerns, although this was not reflected in the reason for refusal. As I intend to dismiss the appeal for another reason, I have not pursued this matter further with the main parties.

### **Conclusion**

15. For the reasons set out above, I conclude that appeals A and B are dismissed.

*D Peppitt*

INSPECTOR