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## Appeal Decision

Site visit made on 14 July 2020

**by Edwin Maund BA (Hons) MSc Dip UP MRTPI**

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

**Decision date: 5<sup>th</sup> August 2020**

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**Appeal Ref: APP/Y2003/W/20/3247541**

**31 Doncaster Road, Scunthorpe, Lincolnshire DN15 7RG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mrs Stase Grineviciene against North Lincolnshire Council.
  - The application Ref PA/2019/1915, is dated 13 November 2019.
  - The development proposed is the change of use from retail (Use Class A1) to cafe and takeaway (Use Class A3).
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of the premises from (Use Class A1) retail to café and takeaway (Use Class A3) at 31 Doncaster Road, Scunthorpe, Lincolnshire DN15 7RG, in accordance with the terms of the planning application Ref. PA/2019/1915, dated 13 November 2019, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PA/2019/1915/01, PA/2019/1915/02.
  - 3) The premises shall only be open for customers between the following hours:  
0900 – 21:00 Mondays – Sundays, Bank and Public Holidays.
  - 4) Prior to installation, details of any refrigeration, chiller or air conditioning systems shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the location, layout and specification of the systems, including noise data. The noise data shall include details of noise levels emitted by the proposed plant, including frequency spectrum information, noise attenuation measures if appropriate and the resulting predicted noise level at the closest residential property. The agreed systems including any agreed noise attenuation measures shall be installed prior to the commencement of use of this development and shall be retained thereafter.
  - 5) Prior to installation, a scheme for the extraction and filtration of cooking odours shall be submitted to and approved in writing by the local planning authority. The scheme shall also provide details of the noise impact of any extraction and filtration system and the details of any noise mitigation

measures necessary. The approved scheme shall be implemented prior to commencement of the use and maintained thereafter.

### **Procedural Matter**

2. The Council has indicated that had it come to a decision on the planning application it may have been minded to grant planning permission.
3. The description of development in the banner heading above is taken from the forms provided by the Council as this more clearly represents the proposed development, I do not consider any party would be prejudiced by determining the appeal on this basis.

### **Main Issues**

4. From the evidence before me I consider the main issue is whether the proposed development would comply with the development plan and in particular Policy S9 of the North Lincolnshire Local Plan (2003).

### **Reasons**

5. The Council have indicated that the site does not sit within a town, district or local centre. The introductory text to policy S9 advises that problems associated with takeaways make them unsuited to residential areas and they would be only appropriately located within town, district and local centres. Policy S9 supports such developments subject to them satisfying a set of criteria. Such that they would;
  - Have no adverse effect on residential amenity or highway safety;
  - Have suitable off or on street parking, fume extraction system and refuse storage area; and
  - Where appropriate conditions limiting opening hours would be desirable.
6. The site is not in a residential area but located towards the western end of a terrace of properties fronting Doncaster Road a main thoroughfare through the town . This terrace is predominantly formed of commercial premises with residential units above and behind facing onto a rear service lane and pay and display car park. Within the terrace a number of existing restaurants and takeaways are already apparent, and this appeal site would add to that number.
7. No evidence has been presented that would indicate the use would result in harm to the amenities of neighbouring residential properties, and I was able to see that in this location there is a distinct separation between the two commercial and residential elements, with the commercial premises accessed from Doncaster Road and the residential element from the rear service lane. This close proximity, however would still require a degree of protection to achieve suitable living conditions, but this can be achieved through the imposition of suitable conditions.
8. Parking would be available in the car park to the rear, or from the road outside the premises where time restricted parking is available. This is a straight stretch of road with sufficient space for vehicles to pass, and there is no indication that there would be any adverse effects on highway safety if the development were to go ahead.

9. The Council have indicated that if the appeal were to be allowed conditions controlling the fume extraction system would be appropriate. I have nothing before me that would suggest that this would not be a satisfactory approach to ensuring these elements of the scheme accord with the criterion of policy S9.
10. On this basis despite not being located in a town, district or local centre the appeal development would not cause harm to the residential amenity of properties in the vicinity, would be satisfactory in highway terms and with the imposition of appropriate conditions would result in an appropriate form of development.

### **Other Matters**

11. The Council has not raised any other issues which are material to my consideration of the appeal and no third parties have commented raising any additional issues which might lead to a different decision being made.

### **Conditions**

12. The approved plans are listed for certainty. Limitations on opening hours, appropriate provision of fume extraction equipment, and refrigeration/ventilation equipment are required to ensure the residential units above and behind the premises are adequately protected.

### **Conclusions**

13. The appeal is allowed.

*Edwin Maund*

INSPECTOR