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# Appeal Decision

Site visit made on 26 June 2018

**by R A Exton Dip URP MRTPI**

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

**Decision date: 19<sup>th</sup> July 2018**

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**Appeal Ref: APP/R4408/W/18/3200956**  
**29-31 New Street, Barnsley S70 1RZ**

- 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 P & J Textiles against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref 2017/0118, dated 23 January 2017, was refused by notice dated 8 November 2017.
  - The development proposed is described as extension to retail premises with single 2 bedroom residential unit over.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by P & J Textiles against Barnsley Metropolitan Borough Council. This application is the subject of a separate decision.

## Main Issue

3. The main issue is the effect of the appeal proposal on the living conditions of future occupiers of the proposed residential unit with particular regard to the effects of noise and odour.

## Reasons

### *Living conditions*

4. No 29-31 New Street is situated at the junction of New Street and Albert Street. New Street is occupied by a mix of town centre uses including a bar, restaurant and hot food takeaway. Albert Street provides access to the rear of properties fronting New Street, Market Street and other parts of the town centre beyond. It provides access to car parking, bin storage and delivery areas for a considerable number of business premises. Market Street accommodates food and drink uses catering for the night time economy. A number of these premises have ventilation/extraction equipment fixed to their rear elevations facing Albert Street.
5. Overall, I consider that the immediate area to the rear of No 29-31 is highly likely to be subject to a significant amount of general noise and disturbance. During the day time this would result from the servicing operations, including deliveries and refuse disposal, associated with the many properties accessed by

Albert Street. During the night time this would result from general activity associated with the night time economy together with the operation of ventilation/extraction equipment associated with premises fronting Albert Street.

6. I note the appellant's comments regarding the lawfulness of the ventilation/extraction equipment. However, the Council consider the equipment is lawful and I have no reason to disagree. I must therefore take account of the equipment in the form that it exists.
7. The appeal proposal would result in a 2 bedroom residential unit on the first floor level of No 29-31. A substantial proportion of the floor area would be occupied by an open roof terrace. This would be accessed by folding doors from both the living and kitchen/dining rooms within the proposed residential unit. I consider that this arrangement would provide opportunities and encourage future occupiers to use the roof terrace in conjunction with these 2 rooms, particularly in good weather.
8. I note the contents of the noise report submitted with the planning application. I have no reason to question that the proposed combination of glazing, acoustic insulation and mechanical ventilation would mitigate noise levels within the proposed residential unit. However, these measures would only be wholly effective when the folding doors to the roof terrace were closed. Given the high likelihood of the roof terrace being used in conjunction with the living room and kitchen/dining room with the folding doors open, I consider these measures would not always be effective.
9. The measures would not be effective at all for future occupiers using the roof terrace. Given its significant nature I consider that future occupiers would be highly likely to make extensive use of the roof terrace. Both the roof terrace and internal areas of the proposed residential unit would also be subject to cooking odours from the ventilation/extraction systems of nearby premises. Taking account of the amount of hot food related premises in the vicinity and their hours of operation, there would be likely to be significant odour issues, particularly at night time.
10. I note the appellant's comments regarding the approval of other applications involving residential accommodation in the town centre. However, I have very limited information regarding these and so cannot be certain they are directly comparable to the appeal proposal. I have, in any event, considered the appeal proposal on its own merits and the other developments referred to do not lead me to a different conclusion.
11. In light of the above, I conclude that future occupiers of the proposed residential unit would be subject to unacceptable levels of noise and odour. Consequently, they would not be afforded an adequate standard of living conditions. The appeal proposal would therefore conflict with Policy CSP40 of the Core Strategy<sup>1</sup>. This seeks to resist residential development in locations where there are unacceptable levels of pollution and no reasonable prospect of mitigation.

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<sup>1</sup> The Barnsley Local Development Framework Core Strategy adopted in 2011.

*Other matters*

12. I note the appellant's comments relating to the visual changes to the appeal building, investment in the town centre, proposed security measures, bin stores, presence of odours elsewhere in the town centre and support from interested parties for the appeal proposal. However, these matters do not outweigh the harm to the living conditions of future occupiers I have identified.
13. I also note the appellant's comments on the Councils handling of the planning application. This however is not a matter for this appeal. Other routes exist to pursue such matters.

**Conclusion**

14. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

*Richard Exton*

INSPECTOR