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By email only: Olivia Roberts – dc.admin@kirklees.gov.uk

18/05/21

Dear Olivia

**Objection: Planning Application Reference 2021/62/91208/E**  
**Former Pizza Hut Restaurant, Centre 27 Business Park, Bankwood Way, Birstall,**  
**WF17 9TB**

We note that Tim Hortons has applied for planning permission in respect of proposed alterations, including the installation of a drive thru lane, at the above property which is currently trading as a Pizza Hut Restaurant. We object for the reasons set out below.

**Existing Use**

The current building benefits from class E use as a restaurant, with ancillary take away. Pizza Hut takeaway sales are typically below 20% and therefore were ancillary to the old A3 use. It does not benefit from a sui generis planning permission or use allowing takeaway.

**Proposed Use**

The planning statement and highways assessment submitted with the application suggest that Tim Hortons is a coffee shop. That is not the case. Tim Hortons is a mixed use restaurant and takeaway offering menu items that are broadly similar to McDonald's, KFC and Burger King. Tim Hortons is one of North America's largest restaurant chains operating in the quick service segment having been founded in Canada in 1964. A review of Tim Hortons' menu confirms that they are not simply a coffee shop and shows a similar range of products as other operators in this sector such as breakfast muffins, wraps, chicken strips and chicken buns along with a range of sweeter offerings. All products are served in packaging designed for takeaway.

We have visited Tim Hortons on a number of occasions and estimate that their takeaway sales are in excess of 60%. At that level takeaway sales are above the 'mostly' threshold and a change of use from the existing A3 use is required. This is further reinforced by the fact that Tim Hortons intend on operating a delivery service from this location which again falls under a takeaway use.

In a recent application at the Kingston Centre in Milton Keynes (19/00240/FUL) Tim Hortons applied for a change of use from Class A1 to a mixed Class A3/A5 in order to lawfully occupy their premises. The changes to the subject property included the development of a drive thru lane. There are other examples of the same approach elsewhere in the UK. That application confirms that Tim Hortons are aware of their correct planning use.

In view of the proposed use, that is a drive thru restaurant and takeaway which also offers delivery, we consider that an application for a change of use is required as it would be for any other operator in this sector such as McDonald's, KFC or Burger King.

### **Lack of Evidence to support the application**

The Transport Assessment submitted with the application provides no transport information. The application proposal is for the addition of a drive thru lane which significantly changes the way the existing site operates. This has not been considered.

There is no detail provided on how this new drive thru lane will integrate into the existing road network, which is shared with McDonald's, Starbucks and Krispy Kreme, nor is there any detail about levels of traffic generation and whether there is capacity on the network to support this. As a minimum some information on anticipated levels of traffic generation should be included to demonstrate that the proposals can be supported by the existing site infrastructure and demonstrate the split of proposed drive thru customers versus dine in customers to support the claims made in the Transport Assessment. Such information is routinely submitted with Transport Assessments so should not present a problem for the applicant's traffic consultants to provide.

The very inclusion of a drive thru lane in the proposals indicates that Tim Hortons are expecting a significant volume of trade to be attributable to takeaway sales further strengthening our view that a change of use is required as the intended use does not fall within Class E.

### **Conclusion**

Tim Hortons require a change of use for their occupation of the existing premises for the reasons detailed above, namely that they are a mixed use restaurant and takeaway. A restaurant with a drive thru lane can only be considered a mixed use and as such the applicant should have the correct planning use for their operation.

Yours sincerely