

PART A	
Report of: Development Management Section Head	
Date of Committee:	27 July 2016
Site address:	Leavesden Green Newsagent and Post Office 146-148 Haines Way
Reference Number :	16/00352/FUL
Description of Development:	Conversion of existing shop into new takeaway shop (Use Class A5) and new hairdressers/pharmacy shop (Use Class A1).
Applicant	Leavesden Green Newsagent And Post Office
Date Received:	9th March 2016
8 week date (minor):	30th May 2016
Ward:	WOODSIDE

1.0 Summary

- 1.1 The application seeks permission for the subdivision of the existing A1 shop unit into two premises. One unit to retain as A1 with a pharmacy or hairdressers proposed, and one unit to become an A5 take away.
- 1.2 The principle of this subdivision and change of use has been found to be acceptable. A previous application was refused as the application had not demonstrated that the scheme could be undertaken without harm to the amenities of neighbouring properties.
- 1.3 Environmental Health and Development Management have been working collaboratively with the applicant and agent to ensure that the scheme can be undertaken without the creation of undue noise, disturbance and odour nuisance to neighbouring occupiers from the air conditioning units, kitchen extraction and flue system and the general activity of the A5 use proposed. Supporting information has been submitted and reviewed. Due to the close proximity of the flue to the windows of neighbours, under guidance from Department of Food and Rural Affairs, additional information is however required to demonstrate that an extraction system can treat and disperse odours suitably. It is understood that such a system can be found and this detail can be suitably secured by a condition which requires the design, approval and installation of such a system prior to any A5 operations.

- 1.4 Prior to the commencement of the development, the applicant is arranging for the post office within the application site to be moved into the adjacent unit. This is not a planning consideration however the officer recommendation for the grant of permission with the relevant details secured by condition is the positive and proactive approach to prevent any hindrance in the reopening of the much needed Post Office within the locality.
- 1.5 Subject to the recommended conditions and as set out in the report it is considered that the proposed development would improve local shopping facilities, it would not result in notable harm to the amenities of neighbouring occupiers or community safety, no highway implications would occur and there would not be any undue harm to public health. The physical alterations to the building involving the extraction system, flue and new shopfront would be suitable in design terms for the building and appearance of the area.
- 1.6 The development is therefore considered to be in accordance with 'saved' policies S11 and SE22 of the Watford District Plan 2000 and policies SS1 and UD1 of the Watford Local Plan, Part 1- Core Strategy 2006-31 and it is recommended that the application be approved subject to conditions as set out in the report.

2.0 Site and surroundings

- 2.1 A1 shop premises located within a single storey building at the rear of the four storey Dale Court building, near the junction of Haines Way with High Road. The unit has a floor space of 175sqm and is currently occupied as a newsagents with integral post office. Adjacent to No150 Haines Way, which is also A1, is a 'Costcutter' supermarket/convenience store. The main building of Dale Court, to the west of the application site, is a 4 storey building owned by Watford Community Housing Trust and contains 38 flats.
- 2.2 The unit is located immediately adjacent to Dale Court car park with access from Haines Way. The car park contains parking allocation to Dale Court and 14 free short stay spaces. This car park also leads to the servicing area to the rear of No146-148 which provides delivery area and bin storage buildings for the existing newsagents at the application site as well as the supermarket at No150. The application has included these parking spaces plus the spaces at the rear of the site within the red line application site. The car park is owned by WCHT and the

relevant certificate B notification has been made. The car park also provides access to the rear yard area of the store which is shown to contain private parking, delivery space and bin stores for the existing A1 unit and the adjacent 'Costcutter' store.



Figure 1 Aerial view of Dale Court and No150 and No146-148 Haines Way

3.0 Proposed development

- 3.1 Full planning permission is sought for the subdivision of the A1 unit into two units of 85sqm and 75sqm. One unit is proposed to retain A1 use as a hairdressers, the other is proposed to change to an A5 takeaway. No extensions or increase in floor space is proposed. Staff numbers will increase from 4 to 10 total full time equivalents.
- 3.2 Following amendments, the development does not propose new air conditioning units or mechanical fans. The development proposes to reuse the existing two air condition units sited on the roof of the single storey building. The only new plant proposed is a new kitchen extractor system with odour neutralising systems and flue at the rear of the A5 unit. In details submitted 27.05.2016 this is detailed as an Electrostatic Precipitator, 'Purified Air, O.N.100 Odour Neutraliser'.
- 3.3 Opening hours:
- Hairdressers or Pharmacy, Use Class A1:
 - 9am to 6pm Monday to Saturday,
 - Closed Sundays and bank holidays.
 - Takeaway A5:
 - 11am to 9.30pm Monday to Saturday
 - Closed Sundays and bank holidays.

3.4 Installation of a new shopfront with access

- On East elevation
- To serve the takeaway A5 unit
- Glass with powder coated aluminium frame.

3.5 Supporting Documents submitted:

- Design and Access Statement (09.03.2016)
- Intruder Alarm Schedule by Croxley Alarm Systems and two plans of alarm layout (09.03.2016)
- Product details for CCTV system and plan of CCTC layout (09.03.2016)
- 'Shopfitters' estimate for construction works for takeaway including specification for new shop front (09.03.2016)
- Quotation from 'Biffa Waste Services Ltd' detailing fortnightly collection of 240l wheelie bin for the A1 unit and weekly collection for two x 240l wheelie bins for the A5 use (one standard general waste and one organic food waste) (09.03.2016)
- 'Kids Menu' 09.03.2016
- Extraction system and flue:
 - Manufacturers details of 'The O.N.100 Odour Neutraliser' by 'Purified air Ltd' (27.05.2016)
 - Manufacturers details of the Electrostatic Precipitator and product ESP3000 by 'Purified air Ltd' (27.05.2016)
 - Drawing number ESS-001 of extract fan specification for KBR315 DZ Kitchen Extract Fan, Hopkins 12" and 9" Fans, Turboprop Canopy and SLGU100 Circular Straight Silencer by 'Hopkins Catering Equipment Ltd'. (27.05.2016)
 - Drawing number MHQ570 of proposed extraction system layout by 'Hopkins Catering Equipment Ltd'. (27.05.2016)
- 'Commercial Sound Assessment' carried out by I. Baxter of Peak Acoustics, dated and received 01.07.2016. (Supersedes report of same title dated 08.06.2016).

4.0 Relevant planning history

75/00387/FUL Planning Permission 21.10.1975 Erection of new shop front.

97/0426/9 Conditional Planning Permission 06.11.1997 Installation of security shutters to 4 windows fronting Haines Way and entrance doors

97/0053/9/A Advert Condition 06.11.1997 New fascia signage with external illumination.

15/00423/FUL WDN 29.05.2015 Part conversion of existing shop into new takeaway shop and modified post office/shop.

15/00994/FUL RPP Conversion of existing shop into new takeaway shop and new hairdressers shop.

Reason for refusal :

1. The premises are located within a primarily residential area and nearby to residential properties. The application fails to demonstrate that the proposed A5 use would not be detrimental to the amenities of surrounding residential occupiers. The proposed A5 use would require systems such as compressor units, extraction units, ventilation systems, generators or other mechanical equipment which would be required to support the cooking activity. No details of these systems have been submitted and there is no information regarding the potential noise generation of these systems. There is no detail also of any noise or odour prevention measures. The activity at the premises and of staff and customers on site until 11pm would result in increased noise and unreasonable disturbance to neighbouring occupiers. The application also fails to include any mitigation measures to avoid anti social behaviour at the proposed A5 use. On the basis of the information provided, the A5 use with opening hours proposed up to 11pm Monday to Saturday, is likely to give rise to noise and disturbance from mechanical systems and noise and disturbance from customer/staff activity as well as odour nuisance, that would be unacceptably harmful to the amenities of surrounding occupiers, the local environment and may have an adverse affect on community safety contrary to 'saved' policies S11 and SE22 of the Watford District Plan 2000 and policies SS1 and UD1 of the Watford Local Plan, Part 1- Core Strategy 2006-31.

5.0 Planning policies

5.1 Development plan

In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the Development Plan for Watford comprises:

- (a) *Watford Local Plan Core Strategy 2006-31;*
- (b) the continuing “saved” policies of the *Watford District Plan 2000;*

- (c) the *Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026*; and
- (d) the *Hertfordshire Minerals Local Plan Review 2002-2016*.

5.2 The *Watford Local Plan Core Strategy 2006-31* was adopted in January 2013. The *Core Strategy* policies, together with the “saved policies” of the *Watford District Plan 2000* (adopted December 2003), constitute the “development plan” policies which, together with any relevant policies from the County Council’s *Waste Core Strategy* and the *Minerals Local Plan*, must be afforded considerable weight in decision making on planning applications. The following policies are relevant to this application.

5.3 **Watford Local Plan Core Strategy 2006-31**

- WBC1 Presumption in favour of sustainable development
- SS1 Spatial Strategy
- SD1 Sustainable Design
- SD4 Waste
- TLC1 Retail and Commercial Leisure Development
- TLC2 Neighbourhood Centres

5.4 **Watford District Plan 2000**

- SE7 Waste Storage, Recovery and Recycling in New Development
- SE20 Air Quality
- SE21 Air Quality Management Areas
- SE22 Noise
- S11 Use Class A3 food and drink (*NB The A3 category in 2000 included all food and drink uses. This was subdivided under the Planning and Compulsory Purchase Act 2004 to A3, A4 and A5. This policy is therefore applicable to A3, A4 and A5 uses.*)
- T22 Car Parking Standards

5.5 **Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026**

No relevant policies.

5.6 **Hertfordshire Minerals Local Plan Review 2002-2016**

No relevant policies.

5.7 **Supplementary Planning Documents**

The following Supplementary Planning Documents are relevant to the determination of this application, and must be taken into account as a material planning consideration.

5.8 **Watford Character of Area Study**

The Watford Character of Area Study was adopted in December 2011. It is a spatial study of the Borough based on broad historical character types. The study sets out the characteristics of each individual character area in the Borough, including green spaces. It is capable of constituting a material consideration in the determination of relevant planning applications.

5.9 **National Planning Policy Framework**

The National Planning Policy Framework sets out the Government's planning policies for England. The following provisions are relevant to the determination of this application, and must be taken into account as a material planning consideration:

Achieving sustainable development

The presumption in favour of sustainable development

Core planning principles

Section 1 Building a strong, competitive economy

Section 2 Ensuring the vitality of town centres

Section 7 Requiring good design

Section 8 Promoting healthy communities

Decision taking

5.10 **Other background document**

'Using the planning system to control hot food takeaways - A good practice guide' February 2013 NHS London Urban Development Health Unit.

6.0 **Consultations**

6.1 **Neighbour consultations**

The following properties were notified:

1 to 38 (inclusive) Dale Court, High Road, Watford, WD25 7BP

140 Haines Way, Watford, Hertfordshire, WD25 7QL

Costcutters, 150 Haines Way, Watford, Hertfordshire

138 Haines Way, Watford, Hertfordshire, WD25 7QL

136 Haines Way, Watford, Hertfordshire, WD25 7QL

134 Haines Way, Watford, Hertfordshire, WD25 7QL

132 Haines Way, Watford, Hertfordshire, WD25 7QL

142 Haines Way, Watford, Hertfordshire, WD25 7QL

144 Haines Way, Watford, Hertfordshire, WD25 7QL
 Leavesden Children’s Centre, High Road, Watford, WD25 7QZ
 128 Haines Way, Watford, Hertfordshire, WD25 7QL
 122 Haines Way, Watford, Herts, WD25 7QL
 130 Haines Way, Watford, Herts,
 2 Heath Farm Court, Grove Mill Lane, Watford, WD17 3TT

6.2 The following is a summary of the representations that have been received:

Number of original notifications:	49
Number of objections:	18
Number in support:	53
Number of representations:	0
TOTAL REPRESENTATIONS:	71

The objections were submitted in the form of one letter with petition with signatories from 18 households.

The support representations were submitted in the form of one letter and 52 online representations submitted by the applicant following signatories to a petition of support held in the existing shop premises.

The points that have been raised are summarised and considered in the table below.

Representations	Officer’s response
Objections	
The scheme is for financial benefit and there are supporting documents or correspondence with the Royal Mail regarding the relocation of the Post Office.	The relocation of the Post Office is not a material planning consideration. Planning cannot assess the merits or reasons for a particular business occupier wanting to open or move. The planning assessment relates to the type of use and in this case, the A1 (shop) and A5 (takeaway) uses.
There are existing pharmacy, hairdresser and takeaway facilities in the area as set out in submitted plans.	This is noted however none are within the immediate area of the application site and so would not warrant an over provision within this immediate area. It is also noted that the nearest facilities listed are 3miles away. These would not therefore be within walking distance for the community local to

	the application site.
The parking spaces available are in high demand from existing uses. The new units will increase demand for these spaces. Requested for strategic traffic planner to be consulted.	The highway authority, Hertfordshire County Council have been consulted and raise no objection. The development proposed the change of use of the existing commercial space only, there is no increase in commercial floor space and it cannot be asserted that the traffic generation would be significant. Nonetheless, should the new uses increase car visits to the site, it is considered that the site is ideally located next to a public short term parking area.
More staff parking is required and deliveries block rear access to Dale Court	The subdivision of the units is not creating any new commercial floor space and so it is not reasonable or necessary to require increased staff parking. The reoccupation of the existing A1 unit as a large hairdressers for example, could create a significant increase in staff numbers but would not require planning permission. Nonetheless, there is a large area available for the shop and takeaway to use for staff parking and deliveries.
Opening hours of the takeaway should be 8pm	8pm is considered to be unreasonably early. Suitable kitchen extraction systems are to be secured and installed by condition and will ensure these impacts are minimised. There are no current restrictions on the opening hours of the newsagents and Costcutter shop and it is considered the proposed time of 9.30pm is suitable and comparable to other similar takeaways. Crucially, the 9.30pm does not extend into late night hours of 10-11pm when late night congregation could occur and create notable noise and disturbance from customers.
Waste Disposal – queried provision for toxic/medical waste from pharmacy and hairdressers and food waste from takeaway.	The existing servicing and bins area is proposed to be used. Both the pharmacy and hairdresser uses are within the existing A1 use class and do not require particular planning measures on the waste provision.
The siting of the takeaway 25m from the school entrance is not	This has been discussed in full in the report. It is a primary school and children would not

allowing for healthy eating.	be visiting the takeaway alone.
Support	
The application is supported to be increasing provision of shops and services for the local community.	Noted
Support the new uses but would like the Post Office to stay.	It is stated that the applicant intends to move the existing Post office into the adjacent Costcutter supermarket. This is supported however is outside of planning control and cannot be insisted upon.

6.3 Statutory publicity

No statutory advertisement was required for this application.

6.4 Technical consultations

The following responses have been received from technical consultees:

6.5 Environmental Health, Watford Borough Council

10.05.2016 – Initial comments from EH Officer

Following on from our discussion regarding this planning application , I have visited the area and I am now able to give you a formal response.

The proposal has the potential to introduce two main issues. The first is Odour and noise from the flue, the second is noise from the air-handling units and air-intakes.

In order to protect residents in the vicinity, it would be appropriate for the applicant to utilise the services of a competent person, such as a building services engineer to design the flue and demonstrate how it will meet the requirements of Department for the Environment, Food and Rural Affairs, "Guidance on the control of Odour and Noise from commercial kitchen exhaust systems".

Knowing the exact design and specification of the flue, will allow an acoustic consultant to theoretically predict the sound pressure level at the nearest receptor, and if necessary specify any attenuation.

There are a number of noise sources, and it would be appropriate to ensure that the cumulative sound pressure level from all sources at full

capacity meet the relevant noise criteria set out in British Standard BS:4142. We will require an acoustic report to demonstrate that this has been achieved.

We will also require a grease trap.

27.05.2016 - Flue information received from agent

08.06.2016- Commercial Sound Assessment prepared by Peak Acoustics dated 08.06.2016 received from applicant.

28.06.2016- Case review with Alice Reade and Environmental Health officer, Hardesh Bhatti. We found a number of issues with the acoustic report of 08.06.2016 as follows:

- The report assessment is based on the nearest sensitive receptor being the garden of 144 Haines Way at a distance of 30m. This is incorrect, the distance of the nearest of the units to this garden is 22m. However more importantly, the nearest sensitive receptors of the windows of the flats at Dale Court, at 14m minimum distance, have not been included at all in the report.
- The report considers two air conditioning units and an extractor flue. The extractor flue assessed in the report is however shown in a different location to that on Sht No.4.
- The 5 air conditioning units shown on Sht 4 are not considered in the acoustic report. Your email of 27.05.2016 states that the two existing air conditioning units are to be reused however the other three units remain proposed as shown on the plan and have not been assessed.
- The three mechanically ventilated fans shown on Sht No4 are also not considered in the report.

This report is therefore considerably flawed and does not demonstrate that the development would not create noise disturbance to the neighbouring occupiers. A correct report was requested.

01.07.2016 - Commercial Sound Assessment (revised) prepared by Peak Acoustics dated 01.07.2016 received from applicant.

04.07.2016 – Email from EH Officer Hardesh Bhatti

Having been on site, I have noted the close proximity of the residential block to the proposed flue and I just need to ensure that there is sufficient distance to allow adequate dilution of the discharge. This is necessary to protect residents against Odour.

Guidance issued by the Department for Environment, Food and Rural Affairs requires a distance of at least twenty metres. If the flue is closer than this distance, we would require the applicant to utilise the services of a competent person such as a building services engineer to demonstrate that when in operation, the flue does not cause an Odour nuisance.

04.07.2016 – Email from EH Officer Hardesh Bhatti

Unfortunately, as the flue is fourteen metres away, it is possible that the dilution of the discharge will be insufficient and that other controls will be needed. Therefore, it will be necessary for the applicant to demonstrate that the controls will be effective and in accordance with the guidance.

Without this information, it is not possible to demonstrate that the application is acceptable.

05.07.2016 Telephone call AR and HB. Agreed Conditional Planning Permission with extraction system secured by condition.

05.07.2016 Email from HB confirming suitability of conditions 3 and 4, with addition of reference to smoke.

6.6 Hertfordshire County Council (Highway Authority)

Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

AN1. The applicant is advised that storage of materials associated with the development should take place within the site and not extend into within the public highway without authorisation from the highway authority, Hertfordshire County Council. If necessary further details can be obtained from the County Council Highways via either the website <http://www.hertsdirect.org/services/transtreets/highways/> or telephone 0300 1234047 to arrange this.

AN2. The developer should be aware that the required standards regarding the maintenance of the public right of way and safety during the construction. The public rights of way along the carriageway and

footways should remain unobstructed by vehicles, machinery, materials and other aspects of construction works.

The proposal is for conversion of existing shop(news Agent and post office) into a takeaway, new Hairdresser and Pharmacy. There are existing 15 car parking spaces and 3 spaces for light Goods Vehicle. The applicant is not proposing to alter the parking or vehicular/pedestrian access as well. There are no highway implication associated with the development

6.7 Hertfordshire Constabulary

Comments

Whilst not against the application I make the following comments:

1. A5 Hours of operation:

The hours of operation for the A5 Hot Food Takeaway shop are given as Monday to Saturday 11:00am to 9:30pm and closed on Sundays. I would ask that the terminal hour is 9:00pm, so as to help protect amenity for nearby residents, and that this is conditioned. The location of the proposed premises is not on a main through road, but is on an estate and therefore residents living nearby should be protected. Also 9pm falls more in line with similar premises nearby such as Barkers fish and chip shop at Katherine Place in College Road.

2. CCTV & Alarm:

Whilst some details of an alarm and CCTV camera is given there is no plan or description as to the areas the CCTV cameras will cover.

- a. I am pleased the A5 takeaway will have a panic button fitted to the serving counter area.
- b. As regards CCTV this should cover the front counter area of the take-away, as well as just outside the entrance door and immediate car parking area, so as to deter anti-social behaviour (ASB). I would ask this is conditioned.

Requested Conditions:

Condition 1: The premises shall not be open to customers outside of the hours of:

- 1100 to 2100 Mondays to Saturdays.

Reason: To preserve amenity for local residents

Condition 2: Details of a CCTV system to be fitted shall be submitted to and approved in writing by the local planning authority. The use as a take-away hereby approved shall not commence until the CCTV scheme has been installed in accordance with the approved details, and the equipment shall be retained thereafter as per the approved details for so long as the take-away use remains.

Reason: For deterring anti-social behaviour inside and outside the premises, as well as safety of staff.

I would recommend a CCTV system as follows: Such CCTV system should have cameras with a field of view (FOV) covering the counter where customers would stand and / or wait to be served; immediately outside the premises, ideally to a general observation category where the relative size a person would appear on screen is set at 50% recognisable image. Such CCTV must be a DVD best quality digital system that records for a minimum of 31 days before overwriting; the recording system that will be installed has its own software for playing back the CCTV on the DVD disk (that software needs to go on each playback disc). I would recommend a frame rate of a minimum of 8 frames per second (FPS) or higher.

I hope the above is of use to you in your deliberations and will help the development achieve that aims of the National Planning Policy Framework (NPPF).

- 69 – re safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
& the National Planning Practice Guidance (NPPG) under ‘Design’
- 010 – re Sec 17 of the Crime and Disorder Act 1984 – to prevent crime & disorder.
- 011 – re taking proportionate security measures being a central consideration to the planning and delivery of new developments and substantive retrofits.
- & policy UD1 of Watford Core Strategy

However, in the meantime, if you or the applicants have any queries about crime prevention design in relation to the proposals then please feel free to contact me.

6.8 Watford Community Housing Trust
Consulted 12.07.2016. No response received

6.9 UK Power Networks

Consulted 12.07.2016. No response received

7.0 Appraisal

7.1 Main issues

The main issues to be considered in the determination of this application are:

- (a) Principle of the loss of the A1 unit
- (b) Subdivision to two units, shop access and new shopfront
- (c) Impact of the proposed A5 use on neighbouring occupiers
- (d) Impact of the proposed A5 use on public health
- (e) Parking and Highways implications.

7.2 (a) Principle of the loss of the A1 unit

The proposed change of use would see the loss of the A1 newsagents. This is not within a designated shopping frontage and it is not recognized in the Watford District Plan 2000 as a 'key local shop'. There is therefore no specific policy to preserve the shop. However it is noted that individual A1 units within residential areas can offer an important local shopping facility, the loss of which can be detrimental to communities.

7.2.1 In this instance, there is a large A1 unit, occupied as a 'Costcutter' convenience store supermarket, located immediately adjacent to the newsagent. The two units therefore provide some duplication in the goods they offer and the loss of the newsagents would not undermine suitable shopping provision for the local community. Moreover, it is noted that with the existing convenience store remaining at No 150, the creation of the smaller A1 unit, suitable as a hairdressers or pharmacy, could add to the range of local facilities.

7.2.2 The existing premises contain a post office which would be lost in the closing of the existing A1 unit. The design and access statement submitted with the application indicates that it is proposed for a larger post office to be reopened as a more viable, smaller facility in the adjacent supermarket unit. A post office can be very locally important asset and the retention is welcomed, however, like any specific business, the particular occupant of a premises is outside of planning control. The proposed replacement post office cannot be secured by planning condition on any approved application.

7.3 (b) Subdivision to two units, shop access and new shopfront

The subdivision of the large unit to small units would be entirely suitable. Both units would be of a size that is considered to be viable in the locality. The existing service area at the rear will continue to provide suitable turning and stopping area for deliveries, staff parking and bin storage. There are bin storage buildings at the rear of the building stated as being shared between the two units.

7.3.1 The A1 shop unit will retain its existing shopfront and access. This access is reachable only via steps. This is not preferable however this is the same as the existing arrangement for the existing larger A1 unit. A new access is being created for the A5 takeaway unit. This is on the east side of the building facing the car park and on level ground. A new shop front on this east elevation will serve the takeaway unit and the design and material finish of the shop front will be in keeping with the building and the existing shop frontages. Both units would therefore have suitable active frontage.

7.4 (c) Impact of the proposed A5 use on neighbouring occupiers

Saved Policy S11 of the Watford District Plan 2000 states that proposals for food and drink uses shall be refused “where there will be an adverse effect on the amenities of residential occupiers or community safety.”

7.4.1 The premises are in a predominantly residential area and there are properties in close proximity for whom the amenity of the residential occupiers must be maintained. In particular close proximity are the flats in the 4 storey building of Dale Court. The three upper floors of this building have flats in the rear facing over the single storey building of Nos150 and 146-148. At the nearest point, the flue of the proposed unit would be 14m to the nearest window of a Dale Court flat. On the opposite side of the car park to the North and East there are houses. The nearest being No144 cited 20m to the east of the proposed A5 unit. The car park forming part of the application site is surrounding by residential properties.

7.4.2 An A5 hot food takeaway use can create impacts on the amenities of neighbouring properties and the local environment by virtue of the noise and disturbance of staff, customers, deliveries traffic, odour, extraction, air conditioning, refrigeration systems, bin storage, litter and hours of opening. The previous two applications submitted failed to demonstrate that this impact would not be harmful. With the submission of an acoustic report, odour neutralisation details and

further details with this application, it is considered that it has been demonstrated that the scheme and particularly the A5 use would not create undue impact to the amenities of neighbouring occupiers.

- 7.4.3 The Environmental Health Officer has set out two main issues with potential impact of the scheme as originally proposed. First is Odour and noise from the flue, the second is noise from the air-handling units and air-intakes. The original plans submitted with this application proposed replacement of the two existing air conditioning units, installation of an additional 3 air conditioning units and 3 mechanical fans and the installation of an extractor system and flue for the A5 unit. This was amended by the applicant to propose the reuse of the existing 2 air conditioning units with no new air conditioning units to be installed meaning that the only new plant being proposed is for the extract system and flue. The main Environmental Health consideration would therefore be odour and noise from the extract system and flue. The extractor system is proposed as an electrostatic precipitator 'Purified air, O.N.100 Odour Neutraliser' as set out in manufacturer's details submitted 27.05.2016. This is to be sited on the roof of the single storey building with a maximum height above the flat roof level of 1.2m. This would be sited 14m to the nearest window of the Dale Court flats at 1st, 2nd and 3rd floors which are positioned level with and above the flue. The flue is therefore a low level relative to the building and flats at Dale Court and there is particular concern regarding the space and height available for odours and sounds to leave and disperse from the flue without entering the windows of these flats.
- 7.4.4 An acoustic report 'Commercial Sound Assessment' was carried out in accordance with BS4142:2014 by I. Baxter of 'Peak Acoustics' to assess the impact of the flue proposed. The first report of 08.06.2016 was found to be erroneous however the revised report of 01.07.2016 was accurate in identifying the nearest neighbouring occupiers. This report assessed the potential noise impact of the existing two air conditioning units and the extractor flue system, as specified, in relation to the existing background noise levels. In accordance with the BS4142:2014 criteria the difference is determined to received a "Low Impact" rating. It is therefore considered that despite the close proximity and the relative height levels, the extraction system proposed would be unlikely to create noise and disturbance to neighbouring occupiers.
- 7.4.5 With regards to odour however, it has not been sufficiently demonstrated that the extraction system proposed would allow for suitable dispersal of odours in the space and height available. The

Environmental Health officer has stated that guidance issued by the Department for Environment, Food and Rural Affairs requires a distance of at least twenty metres between a flue and windows. As the flue is fourteen metres away, it is possible that the dilution of the discharge will be insufficient and that other controls will be needed. In such cases, we would require the applicant to utilise the services of a competent person such as a building services engineer to demonstrate that when in operation, the flue does not cause an odour nuisance. The agent was advised of this by email on 10.05.2016. The additional flue details and specification were received on 27.05.2016 however this has not been supported by a report of a specialist to demonstrate that this is acceptable.

- 7.4.6 In the event that a building services engineer finds the proposed extraction system unsuitable to prevent odour nuisance, from experience of comparable situations, it is considered that there are extraction systems available with suitable technology controls that could be designed by a specialist that would suitably control the odour omissions and dispersal. To ensure a proactive approach, the recommendation is therefore made that this extraction system is secured by condition to this approval (condition 2). This will require that any such system and flue must be designed by a building services engineer, installed and made available for use prior to any A5 operations at the premises to ensure that there is no odour or smoke nuisance to neighbouring occupiers from the takeaway cooking of hot food.
- 7.4.7 It is however noted that should an alternative extraction system and flue be required by this condition, following the assessment of a building services engineer, this system is likely to create a different noise output. For instance, a system with a stronger fan needed to disperse odour may create additional noise. A further acoustic report would therefore be required to assess the noise impact and ensure that the extraction system suitable for odour control does not create a harmful noise impact. Again this is secured by condition (condition 4).
- 7.4.8 It would have been preferable to have a suitably design extraction system at application stage and this information was requested in the application process however, as the application is acceptable in other terms, the use of condition is appropriate in this instance to allow for a proactive outcome. It is also noted that prior to the commencement of the development, the applicant is arranging for the post office within the application site to be moved into the adjacent unit. This is not a

planning consideration however the officer recommendation for the grant of permission with the relevant details secured by condition is the positive and proactive approach to prevent any hindrance in the reopening of the much needed post office within the group of shops. Nonetheless, as set out in the condition (condition 3), it is required and indeed paramount that the A5 use is not commenced until an extraction system with suitable odour control and no harmful noise is designed, approved and installed to ensure neighbours' amenity is not harmed.

7.4.9 In general terms, the development is likely to create a different range of visitors and activity at the application site. Saved policy SE22 of the Watford District Plan 2000 sets out that the use of conditions for the hours of operation is required to ensure that a commercial use does not result in unreasonable disturbance to neighbouring occupiers. The 'Costcutter' supermarket adjacent at No150 states opening times of 8.30am to 8pm Monday to Saturday and 9am to 7pm on Sundays. This and the existing shop unit at No146-148 are not however subject to any planning restriction on opening hours. The existing situation is therefore that the units can lawfully open at any time, including during the night. The previous refused application proposed hours to 11pm for the A5 takeaway use. However, the current application proposes a 9.30pm closing time meaning the activity of the takeaway does not extend into the quiet evening hours and so would not create unreasonable noise and disturbance to neighbouring occupiers.

7.4.10 The planning advisor of Hertfordshire Constabulary has recommended a terminal hour of 9pm for the A5 takeaway in order to preserve the amenities of neighbouring occupiers. However, it is considered that this would be unduly early for the business, the imposition of unfeasible opening times would mean the business could not operate and ultimately result in a vacant unit and it would be unacceptable to impose a condition which put in place unreasonable restrictions on opening hours. The proposed 9.30pm period is well outside of sensitive night time hours and it is not considered that customers within the 9pm to 9.30pm window would create notable or unreasonable noise and disturbance. It is also noted that the proposal includes a new active frontage to the car park, new alarm systems and new CCTV. It is considered that these measures will significantly deter late night congregations and potential for anti-social behavior. It is therefore not considered that the A5 use would be detrimental to community safety in the area.

7.4.11 Therefore, for the reasons discussed and subject to the recommended conditions, it is not considered that the proposed A5 use create undue noise, disturbance, odour nuisance or other impacts that would result in notable harm to the amenities of the neighbouring properties. The proposed use is therefore in accordance with 'saved' policies S11 and SE22 of the Watford District Plan 2000 and policies SS1 and UD1 of the Watford Local Plan, Part 1- Core Strategy 2006-31.

7.5 (d) Impact of the proposed A5 use on public health

The premises are located opposite the site of a children's centre and 25m from the entrance of Leavesden Green JMI primary school and nursery. Hot food takeaways near schools can create an unsuitable mix of uses. NHS document 'Using the planning system to control hot food takeaways - A good practice guide' February 2013 identifies the conflict of these uses whereby A5 uses near schools can lead to children at lunch breaks or after school making poor food choices with health implications. The successful use of the planning system to restrict this conflict of use is identified.

7.5.1 Further to this, some Local Planning Authorities have SPDs which state exclusion zones for A5 uses around school sites for health reasons and planning applications for A5 uses within these zones are seen to be refused and dismissed at appeal. Watford does not have any such specific SPD or policy. The NPPF identifies that the planning system can play an important role in creating healthy, inclusive communities (para 69). There is also a basic principle of land use planning which seeks a suitable mix. The health implications of the A5 use proposed near the school are therefore a consideration.

7.5.2 Should an A5 use be proposed adjacent to a secondary school, unaccompanied children would be able to visit the A5 premises at lunch times and there could be potential concerns for the children's health. The school near the premises is however a primary school. It is therefore not expected that children will be leaving the site unaccompanied during the school day and would not be able to visit the takeaway.

7.5.3 The NHS document does however recognise that, even for primary schools, an A5 use near to a school can encourage parents to make the unhealthy food choice after the school day at school pick up time. This is not however considered to be a consideration that outweighs the suitability of the scheme and this does not warrant refusal of the application. For these reasons and in line with the NHS guidance

document, it is considered that the A5 use proposed near the school would not undermine public health or be an unsuitable mix of uses, and there is no justification for refusal on this basis.

- 7.5.4 The application states that the food proposed is Fish and Chips with 'Healthy options'. This is welcomed however the type of food served is not subject to planning controls and it is not recommended to be restricted by condition.

7.6 (e) Parking and Highway implications

Although no floor space is created, the subdivision of the unit to two new businesses including an A5 use may change the range of visitors. As the premises are within a residential area, it is expected that the predominant customers being local will come on foot/bicycle. It is possible however that there will be increased customer car trips to the site. If so, the site is ideally located adjacent to a WCHT car park. The car park offers free short term parking and as seen on the officers' site visit, is used by visitors to the two existing A1 premises. It is noted that this car park is not for the exclusive use of the application site and it is also available for visitors to the school, children's centre and other local visitors. However, under the short term restrictions imposed by WCHT on these spaces, it is considered the car park would allow for sufficient parking and stopping/turning area for visitors and deliveries to the premises. The proposed takeaway and hairdresser units are therefore unlikely to result in any impact to highway safety and convenience.

- 7.6.1 Highways have stated "There are no highway implications associated with the development". Hertfordshire Highways have recommended two conditions relating to the storage of materials for construction and the maintenance of the highway during construction. As the development does not involve any new buildings or any construction works other than an external shop front and internal works, it is not considered that such conditions are necessary or reasonable.

8.0 Community infrastructure levy and planning obligation

8.1 Community Infrastructure Levy (CIL)

The Council introduced the Community Infrastructure Levy (CIL) with effect from 1 April 2015. The CIL charge covers a wide range of infrastructure as set out in the Council's Regulation 123 list, including highways and transport improvements, education provision, youth facilities, childcare facilities, children's play space, adult care services, open space and sports facilities. CIL is chargeable on the relevant net

additional floorspace created by the development. The charge is non-negotiable and is calculated at the time that planning permission is granted.

8.1.1 The charge is based on the net increase of the gross internal floor area of the proposed development. Exemptions can be sought for charities, social housing and self-build housing. If any of these exemptions is applied for and granted, the CIL liability can be reduced.

8.1.2 The development proposed in this application does not create a net increase of gross internal floor area.

8.2 S.106 planning obligation

The Council introduced the Community Infrastructure Levy (CIL) with effect from 1 April 2015. On and from this date, s.106 planning obligations can only be used to secure affordable housing provision and other site specific requirements, such as the removal of entitlement to parking permits in Controlled Parking Zones and the provision of fire hydrants.

8.2.1 The development proposed in this application does not invoke any s106 planning obligations.

9.0 Conclusion

9.1 Of key importance is that the proposal scheme and the introduction of the A5 use does not unreasonably harm the amenities and quiet enjoyment of the many surrounding residential occupiers. It has been sufficiently demonstrated that the scheme can be undertaken, subject to conditions, without the creation of undue noise, disturbance and odour nuisance to neighbouring occupiers from the air conditioning units, kitchen extraction and flue system and the general activity of the A5 use proposed. Due to the close proximity of the flue to the windows of neighbours, under guidance from Department of Food and Rural Affairs, additional information is however required to demonstrate that an extraction system can treat and disperse odours suitably. It is understood that such a system can be achieved and this detail can be suitably secured by a condition which requires the design, approval and installation of such a system prior to any A5 operations.

9.2 The principle of the subdivision of the A1 newsagents unit to create a smaller A1 unit and an A5 unit have been found to be acceptable. The two premises will retain use of suitable bin storage, staff parking and

delivery areas in the dedicated area at the rear of the building. Both premises would have suitable access and active shop frontages and would retain viability. The local community would not lose a key local shop, a supermarket shop is adjacent to the site and indeed the subdivision of the unit as proposed would be beneficial in improving the range of shops and services offered in the locality.

9.3 Being immediately adjacent to the WCHT car park which offers dedicated, free, short stay public parking spaces, the premises are ideally situated should customers wish to travel by car. The scheme is not creating new commercial floor space however should car visits increase, there is parking available and it is unlikely to result in increased parking on the surrounding roads and unlikely to result in harm or inconvenience to the highway.

9.4 The application proposes either a pharmacy or hairdressers within the A1 unit and a fish and chip takeaway within the A5 unit. It is however noted that the premises may be operated as other uses within those classes and that there are further permitted development changes of use that may occur without the need for further permissions. For instance, the A5 takeaway could offer a different type of hot food takeaway or indeed change to another Class A use. Provided full compliance with the conditions set, it is not considered that any other uses within the A1 or A5 classes of permissible changes would result in increased potential impacts to neighbouring occupiers or raise other material planning considerations and so it is not necessary or reasonable for a condition on the specific uses to be imposed.

10.0 Human rights implications

The Local Planning Authority is justified in interfering with the applicant's human rights in order to alleviate any adverse effect on adjoining properties and their occupiers and on general public amenity. With regard to any infringement of third party human rights, these are not considered to be of such a nature and degree as to override the human rights of the applicant and therefore warrant refusal of planning permission.

11.0 Recommendation

That planning permission be granted subject to the following conditions:

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the following drawings, unless otherwise approved in writing by the Local Planning Authority. The following drawings and documents are hereby approved:
 - Site Location Plan 1:1250
 - Block Plan 1:500
 - Design and Access Statement (09.03.2016)
 - Sheet 1 Existing (09.03.2016)
 - Sheet 2 Proposed plan and elevations (06.07.2016)
 - Sheet 3 Block Plan, Rear elevation detail and extraction detail (06.07.2016)
 - Sheet 4 Proposed ground floor and roof plan (06.07.2016)
 - 'Commercial Sound Assessment' carried out by I. Baxter of Peak Acoustics, dated and received 01.07.2016.
 - Manufacturers details of 'The O.N.100 Odour Neutraliser' by 'Purified air Ltd' (27.05.2016)
 - Manufacturers details of the Electrostatic Precipitator and product ESP3000 by 'Purified air Ltd' (27.05.2016)
 - Drawing number ESS-001 of extract fan specification for KBR315 DZ Kitchen Extract Fan, Hopkins 12" and 9" Fans, Turboprop Canopy and SLGU100 Circular Straight Silencer by 'Hopkins Catering Equipment Ltd'. (27.05.2016)
 - Drawing number MHQ570 of proposed extraction system layout by 'Hopkins Catering Equipment Ltd'. (27.05.2016)
 - Intruder Alarm Schedule by Croxley Alarm Systems and two plans of alarm layout (09.03.2016)
 - Product details for CCTV system and plan of CCTC layout (09.03.2016)

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the information already submitted, an assessment and report of a buildings services engineer must be undertaken to demonstrate that the extraction system and flue proposed would not create odour or smoke nuisance to the nearest residential properties.

In the event that this system is found to be unsatisfactory, a suitable system shall be designed by a building services engineer. The details of the extraction system found to be suitable for odour and smoke control shall be submitted to and approved in writing by the Local Planning Authority. No A5 activity shall occur at the premises until the flue and systems approved under this condition have been installed and made available for use. The flue and extraction systems shall be installed, operated and maintained in accordance with the manufacturers' instructions and be retained at all times for use.

Reason: To prevent odour nuisance to safeguard the amenities of the occupiers of surrounding and nearby properties in accordance with Policy S12 of the Watford District Plan 2000 and pursuant to SS1 of the Local Plan Part 1 Core Strategy.

4. Should an extraction system and flue be required by condition 3 that is not as specified in the Noise Impact Assessment 'Commercial Sound Assessment' prepared by I Baxter of Peak Acoustics (01.07.2016), a further assessment and Noise Impact Assessment, carried out in accordance with BS4142:2014, shall be undertaken. The A5 use shall not commence or occur at the premises until the report for this assessment has been submitted and approved in writing by the Local Planning Authority. If the report requires mitigation measures these shall be carried out and maintained in accordance with the report.

Reason: To prevent noise nuisance to safeguard the amenities of the occupiers of surrounding and nearby properties in accordance with Policy S9, S12 and SE22 of the Watford District Plan 2000 and pursuant to SS1 of the Local Plan Part 1 Core Strategy.

5. The A5 premises shall be open only between 11am and 9.30pm on Monday to Saturday. No cooking activities shall be undertaken at the A5 takeaway unit and no customers shall be on the premises before 11am or after 9.30pm Monday to Saturday and not at all on Sundays and Public Bank Holdiays.

Reason: To safeguard the amenities of the occupiers of surrounding and nearby properties in accordance with Policy S12 of the Watford District Plan 2000 and pursuant to SS1 of the Local Plan Part 1 Core Strategy.

6. The use as a take-away hereby approved shall not commence until the CCTV and intruder alarm systems have been installed in accordance

with the approved details and drawings with this application. The equipment shall be retained thereafter as per the approved details for as long as the take-away use remains.

Reason: For deterring anti-social behaviour inside and outside the premises, as well as the safety of staff and to preserve the safety and amenity of the area.

Informatives

1. In dealing with this application, Watford Borough Council has considered the proposal in a positive and proactive manner having regard to the policies of the development plan as well as paragraphs 186 and 187 of the National Planning Policy Framework and other material considerations, and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. The applicant is reminded that conditions 3 and 4 must be fulfilled in full prior to the commencement of the hot food takeaway use (A5). Once these details are submitted to the Local Planning Authority, a statutory target period for determination of 8 weeks applies. The applicant is advised to speak to the case officer to discuss the requirements of these conditions in full.
3. Internally illuminated signage is shown on the approved drawings however these are not authorised by this decision and these require advertisement consent.
4. The existing steps to the access for the A1 unit are shown to be retained. The applicant is encouraged to seek advice regarding the potential to create a ramped access to the premises to improve accessibility.

Drawing numbers

Site Location Plan 1:1250

Block Plan 1:500

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