

<b>Committee date</b>	Tuesday, 2 November 2021
<b>Application reference</b>	21/01034/FUL - 62 and 58 Harwoods Road (amended
<b>Site address</b>	address to include No.58)
<b>Proposal</b>	Proposed new extract duct at 62 Harwoods Road (amended description)
<b>Applicant</b>	Via Properties (amended applicant)
<b>Agent</b>	Mr Steven York
<b>Type of Application</b>	Full planning permission
<b>Reason for committee Item</b>	Number of objections
<b>Target decision date</b>	3 December 2021
<b>Statutory publicity</b>	Neighbour notifications
<b>Case officer</b>	Paul Baxter, paul.baxter@watford.gov.uk
<b>Ward</b>	Vicarage

## 1. Recommendation

That conditional planning permission be granted as set out in section 8 of this report.

## 2. Site and surroundings

- 2.1 The application site comprises two end of terrace properties. No.62 is a two storey end terrace building with the ground floor formerly in use as a sandwich bar, with self-contained residential accommodation on the first floor. The building has a vehicular accessway between the application property and No. 64 Harwoods Road leading to flatted properties behind. No.58 is a two storey end of terrace dwellinghouse separated from No.62 by a private side alleyway leading to the rear garden. The application site lies within a primarily residential area in West Watford.
- 2.2 The site is not located within a Conservation Area and does not comprise of nor is it within close proximity to any listed or locally listed buildings. The site is within a controlled parking zone.

## 3. Summary of the proposal

### 3.1 Proposal

- 3.2 Installation of a new extract flue on the flank wall of 62, Harwoods Road to a height of 9.7m to serve the ground floor commercial unit. The proposal would involve the removal of the disused flue which exists on the side of the

building. Although attached to the flank wall of No.62, the flue will overhang the side alleyway of No.58. The flue is to be coloured brown.

### **3.3 Conclusion**

- 3.4 The application is supported by a noise impact assessment and an odour assessment detailing proposed mitigation measures. These are considered to be acceptable to mitigate any adverse impacts to adjoining residential properties within the site and surrounding properties. The proposed flue will not appear unduly prominent within the streetscene. The application is therefore considered to be acceptable.

## **4. Relevant policies**

- 4.1 Members should refer to the background papers attached to the agenda. These highlight the policy framework under which this application is determined. Specific policy considerations with regard to this particular application are detailed in section 6 below.

## **5. Relevant site history/background information**

- 5.1 21/00506/FUL – Proposed new extract duct. Refused Planning Permission on 26.10.2021. Reason for refusal:

*“The application has failed to demonstrate that the proposed extractor and ducting flue, would not unacceptably harm the amenities of adjoining and surrounding residential occupiers. The information provided with the application has been insufficient to fully demonstrate that the potential odours resulting from the development would not unacceptably harm the amenities of residential occupiers of the first floor flats at No. 62, nor those properties adjacent and to the rear of the application site. The development is therefore contrary to the 'saved' Policy E2 of the Watford District Plan 2000 and Policy SS1 of the Watford Local Plan Core Strategy 2006-31.”*

20/01346/FUL - Proposed new extract duct. Refused Planning Permission on 26.10.2021. Reason for refusal:

*“The application has failed to demonstrate that the proposed extractor and ducting flue, motors and systems would not unacceptably harm the amenities of adjoining and surrounding residential occupiers. The systems and housing for the extractor and ducting, to serve the enhanced commercial activity at the site, have the potential to create unreasonable disturbance to the amenities of nearby residential occupiers. The information provided with the application*

*has been insufficient to demonstrate that the potential noise and odour of the development would not unacceptably harm the amenities of residential occupiers. The development is therefore contrary to the '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."*

20/01225/FUL – Proposed new extract duct. Application withdrawn.

## **6. Main considerations**

- 6.1 The main issues to be considered in the determination of these applications are:

- (a) Siting and design
- (b) Impact of neighbouring properties
- (c) Other matters

- 6.2 (a) Siting and design

The application site is an isolated commercial use within a predominantly residential area.

- 6.3 In relation to the host building, the extent of the proposed extract flue and ducting to be positioned on the side elevation to a height of 9.7m, would largely be shielded from most views along the street scene. In longer views within the street it would be viewed alongside existing chimneys and telegraph poles. The colour finish for the extract flue is to be brown which will help it to blend in with the roof tiles and chimneys and further mitigate its visual impact.

- 6.4 In terms of scale and siting, based on the information provided, it is considered that the proposal would not be unduly visually prominent within the residential context, and would not harm the character and appearance of the host building.

- 6.5 (b) Impact on neighbouring properties

The application site is immediately adjacent to residential properties to the north, south and west. The application premises also contains residential flats to the first floor level and to the rear.

- 6.6 The previous applications were refused on the basis that the information submitted as part of the applications was insufficient to demonstrate that the

noise and odour of the development would not unacceptably harm the amenities of neighbouring residential properties.

- 6.7 This application is supported by a noise impact assessment and an odour risk assessment. Both reports recommend a number of mitigation measures to protect residential amenity. The noise mitigation measures include a silencer, sound attenuating duct liners, equipment meeting specified noise levels and enhancements to the ground floor ceiling incorporating sound rated plasterboard and a full suspended ceiling. The odour mitigation measures include the high level discharge of the flue (9.7m above ground level), discharge rate, grease filters, fine filters and carbon filters. The council's Environmental Health team has reviewed both reports and agree with the consultants' assessments and recommendations. These mitigation measures can be secured by condition and will ensure the proposed flue will have no adverse impact on residential amenity.

6.8 (c) Other matters

The application states that the proposed development is sought to expand the business offering to allow for the change of use from the existing sandwich shop to a restaurant. Officers note a number of the public objections raise concerns regarding the unit's operation as a hot food takeaway/restaurant premises. These comments have also previously been raised by the council's Environmental Health team in relation to the intended use as a hot food establishment, both in terms of traffic generation and refuse storage.

- 6.9 On 1<sup>st</sup> September 2020, the Government amended the Town and Country Planning (Use Classes) Order 1987 by introducing a new Use Class E (Commercial, Business and Service) and this use class covers the former use classes of A1 (shops), A2 (financial and professional), A3 (restaurants and cafes) as well as parts of D1 (non-residential institutions) and D2 (assembly and leisure). As such, both classes A1 (shops) and A3 (cafes and restaurants) are now within new Use Class E and no planning permission is therefore required for a change of use between these uses.
- 6.10 Providing the unit is used as a restaurant as its primary use, this would be lawful. In the event that the primary use is as a take-away (sui generis) planning permission for this use would be required.
- 6.11 As no planning permission is sought for a change of use, the local planning authority has no control over the hours of use of the commercial unit or over refuse provision. However, following a recent site visit, it was noted that a commercial refuse bin was being stored at the rear of the unit adjacent to the door to the staff room.

## 7. Consultation responses received

### 7.1 Statutory consultees and other organisations

### 7.2 Internal Consultees

Comments	Officer response
<p><u>Environmental Health</u></p> <p>After reviewing the acoustic report and Odour report, this application is acceptable provided all the control measures set out within these documents are fully implemented. Ideally, these would be in place prior to the change of use.</p> <p>When I commented on the previous application I raised concerns regarding noise from patrons, deliveries and refuse storage. However, as the scope is restricted the flue only, I have not included these in this reply.</p>	Noted.

### 7.3 Interested parties

Letters were sent to 47 properties in the surrounding area. Nine responses have been received from eight properties. The main comments are summarised below, the full letters are available to view online:

Comments	Officer response
There are five residential dwellings at this property. It is not clear the assessments have taken these properties into account.	The site has been viewed by officers from Environmental Health and Planning who are aware of the residential properties.
The use of the commercial unit will change to cooking hot foods with longer hours of opening.	This use is permitted under Use Class E provided the primary use is not as a take-away. As such, the LPA has no control over opening hours.
Inadequate fire safety measures.	These are not a planning consideration but are covered by Building Regulations.
Accessway should not be obstructed by vehicles.	This is a civil matter.

Loss of privacy for residential units to the rear of the site through longer hours of use of the site.	This use is permitted under Use Class E. The LPA has no control over hours of use.
Use of the commercial unit as a take-away may lead to anti-social behaviour. Additional noise and litter.	The use as a take-away as the primary use will require a separate planning permission. Use as a café or restaurant is permitted under Use Class E.
Refuse being inappropriately stored and not removed.	This is a civil matter. In certain circumstances this may be a matter for Environmental Health.
Insufficient refuse storage.	This use is permitted under Use Class E. The LPA has no control over refuse storage.
No need for this use. Inappropriate residential location.	This use is permitted under Use Class E.
Loss of amenity to residential units. Noise and odours. Previous applications have been refused.	Environmental Health have raised no objection to the current proposal and have agreed the proposed mitigation measures.
Increased traffic and disturbance. Increased on-street parking.	This use is permitted under Use Class E.

## 8. Recommendation

That planning permission be granted subject to the following conditions:

### 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:

Site location plan

Unnumbered drawing (Amended 1/4/2021)

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

3. The approved flue shall only be installed in accordance with the full mitigation measures set out in the following documents:

Noise Impact Assessment by Nova Acoustics dated 18/02/2021

Odour Risk Assessment by Silsoe Odours dated 05/07/2021

Design and Access Statement by S A York Design Facilities dated 06/07/2021

These mitigation measures shall be retained at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To mitigate the noise, odours and fumes arising from the proposed use in the interests of the amenities of occupiers of the upper floor flats and neighbouring properties, in accordance with Policy SS1 of the Watford Local Plan Core Strategy 2006-31 and saved Policies SE22 and S11 of the Watford District Plan 2000.

4. The external surfaces of the approved flue shall be painted in a dark brown colour (RAL 8014 or similar) and retained as such at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual appearance of the site, pursuant to Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

#### Informatives

1. IN907 Positive and proactive statement GRANT
2. IN910 Building Regulations
3. IN911 Party Wall Act
4. IN912 Hours of Construction
5. Under the provisions of Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended), the ground floor commercial unit can only be used as a cafe or restaurant serving hot food. Use of the commercial unit as a take-away (sui generis) as the primary use will require a separate planning permission from the local planning authority.