

## PART A

Report of: **DEVELOPMENT MANAGEMENT SECTION HEAD**

Date of Committee	<b>6<sup>th</sup> June 2014</b>
Site address:	<b>70 Euston Avenue</b>
Reference Number :	<b>14/00408/FUL</b>
Description of Development:	<b>Change of use from vacant shop unit (A1) to massage treatment studio (D1) with 2 x treatment rooms</b>
Applicant	<b>Mr Dock No</b>
date received:	<b>13th March 2014</b>
8wk date(minor):	<b>9th July 2014</b>
Ward:	<b>Holywell</b>

### **SUMMARY**

Full planning permission is sought for the change of use of the ground floor of the premises from a shop (A1) to a massage treatment studio (D1) with two treatment rooms. The business proposes to offer customers massage and Chinese treatments and therapies.

The internal works to the premises have been undertaken and the use had commenced without planning permission. Following a planning enforcement investigation, this application was submitted and the use has ceased awaiting its outcome.

The loss of the A1 unit will not unduly affect the shopping facilities in the locality which is well served by other convenience shops within the immediate surrounding area. The premises have been vacant for over 5 years and are unlikely to be viable as an A1 unit.

The loss of the A1 use is therefore acceptable.

The proposed D1 use, offering massage and Chinese treatments and therapies, is likely to attract people living and working in the area, akin to a beauty salon or hairdressers. The business would therefore complement the local function of the group of shops. The internal layout of the premises maintains an area of shop front looking into the reception and entrance area of the premises so that an active frontage is maintained.

Providing massage treatments is an activity which will create very little noise so is unlikely to affect adjoining residents. With only 2 small treatment rooms there would be a minimal number of staff and visitors such that noise and disturbance to residents on Euston Avenue is unlikely to be noticeable above the level of activity relating to the adjacent betting office and newsagents.

No on-site parking is provided but the premises are within a Controlled Parking Zone (CPZ). Outside of the CPZ hours of 08:00 to 18:30, proposed use of the premises may result in additional cars attempting to park in Euston Avenue. However, owing to the nature and small scale of the proposed use, any impact is likely to be small and is indeed likely to be lower than that resulting from the use of the premises as shop. The Highway Authority has confirmed that the proposal will not impact greatly on the highway safety or capacity.

The Development Management Section Head recommends that the application be approved as set out in the report, subject to conditions.

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## **BACKGROUND**

### **Site and surroundings**

The property has a gross internal floor space of just 20.3m<sup>2</sup> and occupies the front portion of the ground floor at 70 Euston Avenue, with a shop front and access to Euston Avenue.

The property is an established A1 use; however, it has been vacant for some time, understood as being for over 5 years.

The remainder of 70 Euston Avenue contains 2 residential flats on the ground floor to the rear of the premises and on the first and second floors above the application premises (Planning permission 08/00379/FUL). The flats are accessed from the rear of the property with vehicular access from Hagden Lane and there is on-site parking for 2 cars at the rear of the property. There is no internal access between the application premises and the residential units to the rear.

The property is the middle unit of a group of three purpose-built shop units, dating from 1923, with ground floor shops and rear ground and first floor residential accommodation. No. 68, to the north east, is a newsagents (A1 use). No. 72, to the south west, is a betting shop (currently an A2 use). The use at No. 68 appears to pre-date planning control, and there are no planning restrictions on opening hours. The premises are licensed by Watford Borough Council to sell alcohol between 10:00 and 20:00 daily. Under the licence, the premises can remain open after 20:00 but cannot sell alcohol after this time. The betting office at No. 72 was granted planning in 1972 (72/08110/COU) with no planning condition relating to hours of opening. The occupiers' head office has advised that this branch is usual open until 21:30.

The site is within a predominantly residential area in West Watford. The application site is located at the southern end of Euston Avenue which contains predominantly two storey terraces from the early 20<sup>th</sup> Century. To the north of Euston Avenue there are commercial shop premises at 1-5 Euston Road, including a recently opened supermarket at 1-3 Euston Road.

The site is not within a Conservation Area.

## **Proposed development**

Full planning permission is sought for the change of use of the ground floor shop premises, occupying 20.3sqm, from A1 to D1 for a massage treatment studio to offer massage and Chinese therapies and treatments.

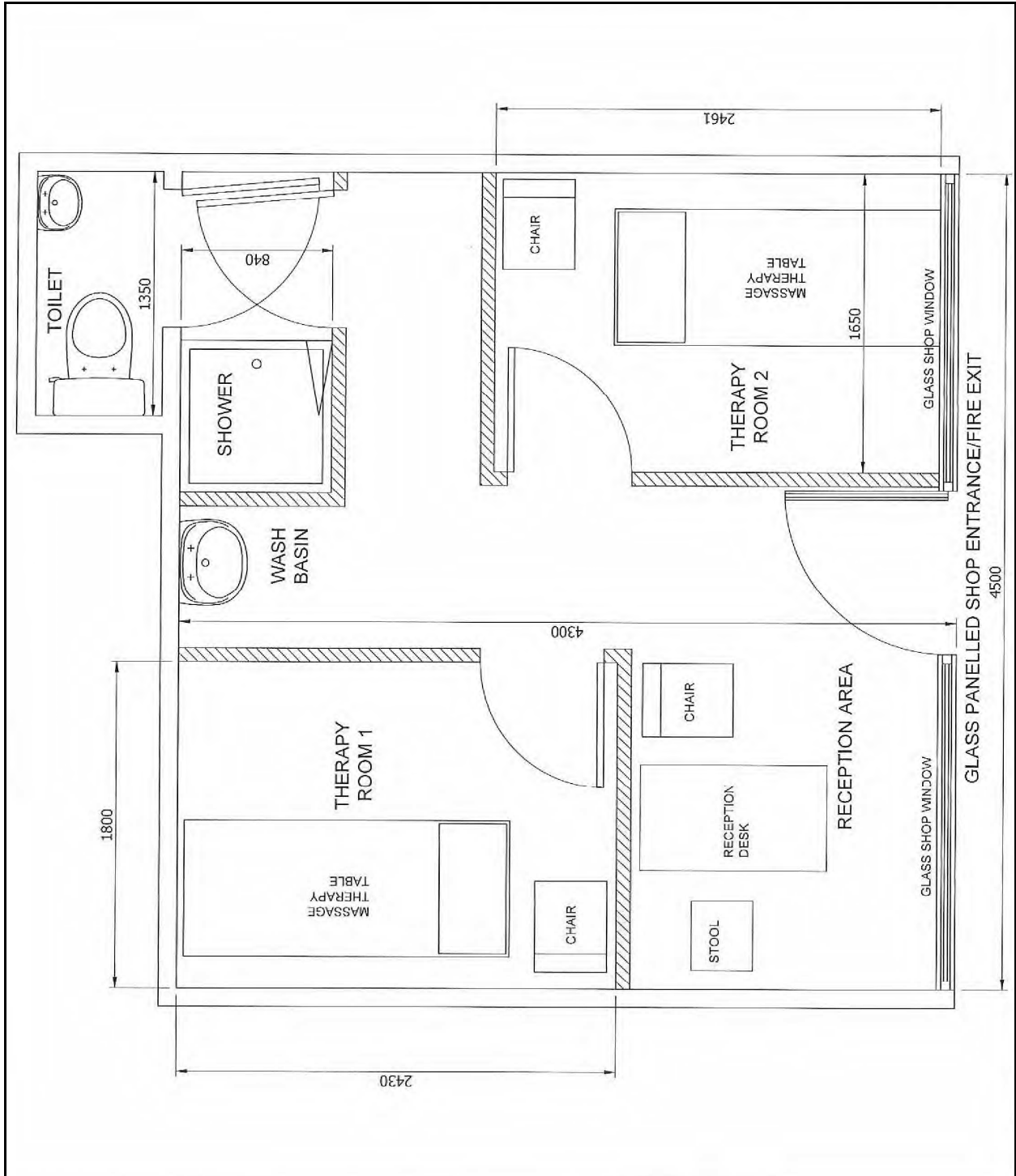


Site plan

The original submitted site plan incorrectly showed the whole of the premises at 70 Euston Avenue as being subject to the application. However, the amended site plan correctly indicates the premises to which the application relates. A floor plan was submitted as an additional plan during the course of the application to show the internal layout of the premises (see below).

The change of use involves internal works to arrange the reception area, two treatment rooms and shower room/WC as shown in the proposed floor plan. One section of the shop front window has been obscured as it forms part of one of the treatment rooms. The

remaining section of the shop front window and the door remain clear glazed to serve the entrance and reception areas.



Floor plan

The application states that there will be one full time employee. The hours of opening are proposed as 10:30 to 21:00 on Monday to Fridays, Saturdays, Sundays and Bank Holidays.

The proposed development was originally described in the application form as for the 'change of use from vacant shop (A1) to Massage Parlour (D1)'. The application was registered with this description and this was the description provided to neighbours. The description was later amended, with the agreement of the applicant to the current description: change of use from vacant shop unit (A1) to massage treatment studio (D1) with 2 x treatment rooms.

### **Planning history**

1923 Group of three buildings built to provide three ground floor shops with associated residential accommodation to the rear ground floor and first floors.

Ref. 77/00352/FUL *Erection of a private garage.* Conditional Planning Permission 07.09.1977

Ref. 08/00379/FUL *Single storey rear extension, rear roof dormer, new shop frontage and conversion of property to 2 flats.* Conditional Planning Permission 04.09.2008

Ref. 08/01080/FUL *Installation of external security shutters.* Conditional Planning Permission 30.03.2009

Ref. 11/00341/FUL *Installation of galvanised steel roller shutter door.* Conditional Planning Permission 17.05.2011

March 2014 – Planning enforcement investigation confirmed planning permission was required for the use that had commenced. An application was requested and the use has ceased awaiting a decision on the application.

### **Relevant policies**

#### **The National Planning Policy Framework (NPPF)**

- Section 1 Building a strong, competitive economy
- Section 7 Requiring good design
- Section 10 Meeting the challenge of climate change, flooding and coastal change

#### **Hertfordshire Waste Core Strategy and Development Management Policies**

##### **Document 2011-2026**

No relevant policies.

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

No relevant policies.

#### **Watford Local Plan, Part 1: Core Strategy 2006-31**

- WBC1 Presumption in favour of Sustainable Development
- SS1 Spatial Strategy
- SD1 Sustainable Design
- UD1 Delivering High Quality Design
- Chapter 7 Town and Local Centres

#### **Watford District Plan 2000**

- Policy T22 Car Parking Standards

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## **CONSULTATIONS**

### **Neighbour consultations**

Letters were sent to 13 addresses including properties in Euston Road and Hagden Lane. In addition, a site notice was placed expiring 22<sup>nd</sup> April 2014.

Seven representations have been received citing the following objections:

- This is unlikely to be a genuine massage business. Gentlemen from bookies have been seen going into the treatment rooms.
- The massage parlour, along with the existing off licence and betting office, is an unsuitable combination for a residential area and on the walking route of secondary school children.
- The business would not serve local needs with residents being mostly families and the elderly.
- The road as existing is hazardous. When both sides of the dead end road are fully occupied with parked cars, vehicles cannot pass one another causing backed up traffic to the roundabout and Hagden Lane.
- Additional highway pressures could restrict emergency services access to Euston Avenue and would endanger lives.
- Parking for residents in the evenings is already very difficult. The nature of the establishment will encourage custom from outside of the area. There are no off street parking spaces for the business and no on road visitor spaces so on road parking after 18:00 will add to the parking issues.
- People ignore the CPZ and double yellow lines and park hazardously or on private-off road spaces; this will worsen.
- The nature of the business will attract customers in taxis. Waiting taxis and people exiting/boarding taxis will create noise and disturbance, particularly at night, and a highway hazard.
- The expected groups of men to the premises will create noise, disturbance and make residents feel less safe.
- There is no precedent for this type of business or the late hours of the business in this area.
- It was unprofessional and underhand for the business to commence without planning permission.



## **Statutory consultations**

### **Hertfordshire County Council (Highway Authority)**

Notice is given under article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission. The proposed development is for the change of use from a local shop (vacant) to a massage parlour on 70 Euston Avenue, Watford. The proposed site has an existing pedestrian access only from the Euston Road that is a classified C secondary distributor road, with a speed limit of 30mph. There is no off-street parking space provision for the application site. The Highway Authority is aware that the lack of adequate parking for proposed site is likely to result in parking on the street which will lead to over-spill on to surrounding roads. The Local Planning Authority should decide whether there is sufficient off-street parking for it. Furthermore, Euston Road is in a controlled parking zone with both sides subject to permit holder parking only, which is also a cul-de-sac. However, the proposals are not considered to greatly impact upon highway safety or capacity. As a consequence, HCC as the Highway Authority does not recommend refusing this application.

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## **APPRAISAL**

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

- (a) the *Watford Local Plan Part 1 - 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*.

### **Principle of the change of use**

Euston Avenue is identified in Table 2 of chapter 7 of the Watford Local Plan, Part 1: Core Strategy 2006-31, as having a group of 'local shops', defined as being '*small parades or groups of individual shops meeting day-to-day short term needs*'. The adjacent newsagent at No. 68 falls within the definition of a 'Key Local Shop' (paragraph 7.45 of the Watford District Plan 2000). In addition, there is the nearby 'local shopping frontage' of 1-5 Euston Avenue identified in the Watford District Plan 2000 and referred to in the Core Strategy as a neighbourhood centre. 1-3 Euston Avenue has been recently occupied as a supermarket (A1) following a grant of planning permission (14/00358/COU). Whippendell Road also offers a variety of commercial shops in various uses. The area is therefore well served by the existing and occupied local shops providing convenience goods and more for the local area. Consequently, the loss of the A1 use at No. 70 would not result in under provision of shopping facilities for the local area and would not conflict with the policies of the Core Strategy.

The proposed D1 use for the massage treatment studio is also considered complementary to the local shops as it would offer services akin to a beauty salon or hairdressers. To this extent it is likely that this will be frequented by local residents or employees in the area such as, for example, from the nearby hospital. As such it is considered that the use would support the contribution, and improve the offer, of the local shops in this vicinity, in accordance with paragraph 7.3.2 of the Core Strategy.

It is also recognised that the premises are unlikely to be viable as an A1 unit due to the very small size of only 20.3sqm and the lack of rear access. It is unsurprising, therefore, that the premises have been vacant for a considerable time (information available to the Council indicates that this has been for a period in excess of 5 years). The premises have remained vacant despite investment from the landlord in upgrading the premises and shop front. This long term vacancy supports concerns as to the viability of an A1 use of the property. As stated in paragraph 19 of the NPPF "significant weight should be placed on the need to support economic growth through the planning system". Bringing this vacant

unit back into use, when it is unlikely to be viable in its current use, would benefit the local economy.

Other uses within the D1 use class (for example, places of worship and day nurseries) would be subject to different considerations and may not be suitable. As such a condition should be included in any planning permission that may be granted that the use of the premises cannot be changed to another use falling within the D1 use class without planning permission.

### **Transportation, access and parking**

The local Highway Authority has been consulted in order to assess the potential impact of the change of use on the safety and operation of the adjacent highways. The County Council does not consider that this proposal would greatly impact on either highway safety or capacity and has advised that they do not recommend the refusal of the application.

There is no off-road parking provision for the proposed use. However, there is no off-road parking provision for the existing use. So far as parking is concerned, therefore, the issue is whether there is evidence to demonstrate that the proposed use would have a significant adverse impact as compared to the existing situation.

For staff or customers choosing to drive to the property, Euston Avenue is a Controlled Parking Zone with full control and match day restrictions. Staff and visitors would not be able to park within the CPZ within the restricted hours. Outside of the CPZ hours it is clear that on-street parking is problematic for local residents. The particular issue for Euston Avenue is that it is a dead end road with parking along both sides. When parking areas are occupied the road is single file and this creates difficulties for vehicles to pass. As a dead end road, vehicles on Euston Avenue have no option other than to travel to the turning area at the north end to turn around and then double back to the south to exit from the junction with Hagden Lane. Vehicles entering Euston Avenue at this junction have to wait on or back onto Hagden lane to allow vehicles to exit. This is referred to by residents in their representations and has been evident on the case officer's site visits.

Additional cars parking on the road outside of the CPZ hours, namely after 6.30pm, would inevitably make it harder for residents to find spaces at this time as parking demand already exceeds supply. The reoccupation of the premises may also see additional road movements along Euston Avenue. However, there is no evidence to suggest that the situation would be noticeably different if the premises were to be re-occupied by a retail use.

The premises are in an accessible area of West Watford and within walking distance of a large number of dwellings and places of work, including the hospital. Massage treatments and Chinese therapies are likely to attract local customers in much the same way as would a beauty salon or hairdressers and so it is reasonably foreseeable that the majority of customers would be local. Indeed, as an investment in a property with no on or off road parking provision, the success of the business is dependant on appealing to customers living and working in the area.

Moreover, the proposed use is likely to have a lower demand for parking than the established A1 use. For example, a hairdresser could occupy the premises with 3-4 stations at similar times to the use proposed. Hairdressers on the premises could reasonably see up to 4 customers at a time with 6 members of staff plus 2 customers waiting, totalling 12 or more people at one time. The proposed massage treatment rooms are stated as having one employee but with two treatment rooms the maximum foreseeable visitors would be 2 customers, 3 staff (2 treatments and 1 receptionist) plus 2 customers waiting, totalling 7 maximum at any time. The proposed massage treatment studio is therefore likely to have a lower impact on the road and parking than a possible A1 use which could be commenced at any time.

It is therefore the re-occupation of the vacant unit, rather than the specific use proposed, that could result in increased traffic and add to parking demand on the road outside of CPZ hours. However, the proposed use is likely to result in a lesser highway impact than the permitted re-occupation of the premises for an A1 use. Consequently, there is no

evidence to show that parking and highway impacts of the proposed use would justify a refusal of planning permission.

### **Impact on neighbouring properties**

The re-occupation of the premises following its long term vacancy will create additional activity at the premises on Euston Avenue. However, the proposed use is not one that would necessarily be out of place in a predominantly residential area. The massage treatments rooms would be similar in activity to a beauty salon, with individuals attending appointments for treatments. Any noise generated by the use is expected to low level ambient music and talking. The activity of the massage treatments would therefore not create noise or disturbance to adjoining residential properties.

With only two small treatment rooms the numbers of staff and customers at the premises at any time would be small. Activity will increase due to the re-occupation of the premises; however, individuals attending appointments in the two treatment rooms are unlikely to create significant noise or disturbance. Any increased activity from the proposed use is unlikely to be noticeable beyond that already created by the higher number and frequency of customers to the adjacent betting office and newsagent.

No planning restrictions exist on the opening hours of the existing newsagents at No. 68, the betting office at No. 72 or the established A1 use at No. 70. Under its licence, the newsagents cannot sell alcohol after 8 pm although the shop can remain open after this time. The betting office at No. 72 is usually open until 9.30 pm.

The application seeks opening hours of 10.30 am to 9 pm on Mondays to Fridays, Saturdays, Sundays and Bank Holidays. This would not exceed the existing or potential opening hours of the adjacent betting office and newsagents. Owing to the small numbers of visitors to the premises and the low level of noise and disturbance likely to be created by the use, particularly in relation to the adjacent uses, there is no justification in planning terms to apply a restriction on the opening hours of the use.

There are no external building works or alterations proposed. Internal works to create the treatment rooms and internal fitting of the premises has already taken place.

In summary, it is not considered that the proposed use or activity associated with the use would cause any significant noise, disturbance or harm to the amenities of adjoining or surrounding residents. In this regard, the proposal is in accordance with the provisions of Policies SS1 and UD1 of the Watford Local Plan Core Strategy 2006-31.

**Impact on street scene**

No physical external alterations are proposed. The internal arrangements screen part of the shop front window to create the front treatment room; however, the majority of the shop front remains as clear glazed. The shop front is open to the entrance and reception area for the premises such that an active street frontage is maintained. The premises therefore retain their contribution to the vitality and viability of the local shop frontage and the street scene.

**Consideration of representations received**

Seven representations were received and these are summarised in the “Consultations” section of the report above. Many of the issues raised have been discussed in the “Appraisal” section of the report. However, those issues that have not already been referred to, or which require further discussion, are outlined in the following table.

<b>Objections</b>	<b>Officer’s response</b>
This is unlikely to be a genuine massage business. Gentlemen from bookies have been seen going into the treatment rooms. Police have been seen at premises.	It is understood that prior to the planning application there had been a police visit to the premises which found no illegal activity. The planning application legitimately seeks permission for a massage treatment studio. Suspicions of illegal activity are not material to the assessment of this application.

<p>The massage parlour, along with the existing off licence and betting office is an unsuitable combination for a residential area and on the walking route of secondary school children</p>	<p>A business offering massage and Chinese therapies and treatments is not unsuitable for a residential area.</p>
<p>The business would not serve local needs with residents being mostly families and the elderly</p>	<p>In choosing to invest in a premises with no on or off road parking provision, the success of the business is dependant on appealing to customers living and working in the area.</p>
<p>The road as existing is hazardous: When both sides of the dead end road are fully occupied with parked cars, vehicles cannot pass one another causing backed up traffic to the roundabout and Hagden Lane. Additional highway pressures could restrict emergency services access to Euston Avenue and would endanger lives</p>	<p>The existing problems arise from the design of Euston Avenue. The re-occupation of the premises may re-introduce traffic; however, this would be the case whatever use was made of the premises. Due to the scale of the proposed use, its impact is likely to be less than re-occupation of the premises by an A1 use. The Highway Authority does not object to the application.</p>
<p>Parking for residents in the evenings is already very difficult. The nature of the establishment will encourage custom from outside of the area. There are no off street parking spaces for the business and no on road visitor spaces so on road parking after 18:00 will add to the parking issues.</p>	<p>The property as existing does not have any off road parking provision. The re-occupation of the premises may add to parking demand outside of CPZ hours; however, this would be the case even if the premises were re-occupied by an A1 use. Indeed, it is likely the proposed use would have a lower parking demand than an A1 use (which could be commenced at any time).</p>

<p>People ignore the CPZ and double yellow lines and park hazardously or on private-off road spaces, this will worsen.</p>	<p>Illegal or unauthorised parking would be matters for the police or Parking Enforcement at Watford Borough Council.</p>
<p>The nature of the business will attract customers in taxis. Waiting taxis and people exiting/boarding taxis will create noise and disturbance, particularly at night, and highway hazard.</p>	<p>Assumptions have been made as to the legality of the activities at the premises. The individuals attending for treatments may attend by taxi as people may attend hairdressers appointments by taxi. However owing to the scale of the business and frequency of visitors by taxi, this is unlikely to create an impact, particularly in comparison to visitors to the adjacent betting office and newsagent.</p>
<p>The expected groups of men to the premises will create noise, disturbance and make residents feel less safe</p>	<p>Assumptions have been made as to the legality of the activities at the premises. The use for which permission is sought is unlikely to result in noise or disturbance as discussed in the report.</p>
<p>There is no precedent for this type of business or the late hours of the business in this area.</p>	<p>There are no other massage treatment studios in this area; however, the market is unlikely to support two such competing businesses. There are no planning restrictions on the opening hours of the uses at Nos. 68, 70 or 72. The betting office and newsagents do, however, remain open into the evening as discussed in the report. The proposed opening hours to 9 pm would therefore not be out of keeping with the adjacent uses or cause to residential amenity.</p>



<p>It was unprofessional and underhand for the business to commence without planning permission.</p>	<p>The applicant has submitted the application as required and has ceased trading whilst awaiting the outcome. Nevertheless, the commencement of the use without permission is not a material consideration in assessing whether or not permission should be granted.</p>
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### **Conclusion**

The loss of the A1 use will not adversely affect the shopping facilities in the locality which is served by other convenience shops within the immediate surrounding area. The premises have been vacant for over 5 years and are unlikely to be viable as an A1 use. The loss of the A1 use is therefore acceptable.

The proposed D1 use, offering massage and Chinese treatments and therapies, is likely to attract people living and working in the area, akin to a beauty salon or hairdressers, and so the business is likely to complement the function and offer of local shops. The internal layout of the premises maintains an area of shop front looking into the reception and entrance area of the premises so that an active street frontage is maintained.

The activity of the use will create very little noise. With only 2 small treatment rooms there would be a minimal number of staff and visitors such that noise and disturbance to residents on Euston Avenue is unlikely. Any increased activity from the proposed use is unlikely to be noticeable beyond that already created by the higher number and frequency of customers to the adjacent betting office and newsagent.

The premises do not offer off road parking. The site is within a Controlled Parking Zone (CPZ). Outside of the CPZ hours, the re-occupation of the premises may result in additional cars on and attempting to park in Euston Avenue. However, owing to the nature and small scale of the proposed use, any impact is likely to be small and is indeed likely to be lower than could be expected for the re-occupation of the premises as an A1 use. The Highway Authority has confirmed that the proposal is not considered to impact greatly on highway safety or capacity.

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### **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.

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### **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 premises shall be used only as a massage treatment studio and shall not be used for any other purpose, including any other purpose falling within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended.

Reason: Other uses including other D1 uses may not be suitable for the premises and would require consideration on their own merits in accordance with Policies SS1, SD1 and UD1 of the Watford Local Plan, Part 1: Core Strategy 2006-31.

## Informative

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 2010, as amended.

## Drawing Numbers

Site Plan 1:1250

140513-21-DK002 (Floor Plan)

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