

PART A

AGENDA  
ITEM

**5F**

Report of: **Development Manager**

To Committee: **10<sup>th</sup> August 2006**

Site address: **308 Whippendell Road, Watford**

Ref: **06/00424/COU**

Description of Development: **Change of Use from Taxi Office (Sui Generis) to Hot food takeaway (A5) (amended plans)**

Applicant: **Mr M Shoub**

Ward: **Holywell**

Date received: **29<sup>th</sup> March 2006**

8 week date (minor): **23<sup>rd</sup> May 2006**

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## **SUMMARY AND REASONS FOR DECISION**

Full planning permission is sought for the change of use of 308 Whippendell Road from a taxi office (Sui Generis) to a hot food takeaway (A5 Use). The subject property is located in between two Local Shopping Frontages within West Watford but is not itself located in an identified shopping frontage. The area is characterised by a mix of residential properties and commercial premises and it is considered that a hot food takeaway would be compatible within these surroundings. The neighbouring residential properties will not be significantly

affected by this development given the existing levels of activity within this area.

The original plans submitted with this application were considered unacceptable due to the proposed extraction flue system. The initial plans illustrated that the terminus of the flue will rise 1.0m above eaves height. However, the Council's Environmental Health Department raised concerns regarding the extraction system and as such the agent has amended the plans to meet the required standards. The proposed flue will now terminate 1.0m above ridge height which will ensure that odours are dispersed appropriately. Anti-vibration mountings will ensure that noise and disturbance to nearby residents will also be minimised.

There is no parking provision on site and parking restrictions exist on the adjacent highway. However, there is unlikely to be a significant increase in the amount of traffic and on-street parking and as a result Hertfordshire Highways have confirmed that they have no objection to the scheme.

The development complies with Policies S11, S12 and T4 of the Watford District Plan 2000 and is therefore considered acceptable.

The Development Manager recommends the application be approved as set out in the report.

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## **BACKGROUND**

### Site and Surroundings:

The subject property is a two storey mid-terraced dwellinghouse built in 1911 which has since been converted into a shop at ground floor level with residential accommodation above. Currently the shop remains vacant, however, its previous use was as a taxi office (temporary consent for this use was received under applications 02/00179/COU and 03/00223/COU). The property fronts Whippendell Road and is situated close to the crossroad junction with Queens

Avenue.

The adjoining property to the west is used as a Café. The adjoining property to the east serves as a family dwelling. There is no parking provision available on site and many of the surrounding streets are covered by controlled parking zones. The area is also covered by the match day parking scheme.

To the rear of the property a single storey rear extension exists, measuring 3.2m in depth. The garden to the rear covers an area of approximately 54m<sup>2</sup>. Access to this rear garden area is gained via an alleyway which runs between 310 and 312 Whippendell Road.

The property is not listed and is not located within a Conservation Area.

Proposed Development:

Full planning permission is sought for the change of use of the property from a taxi office to a hot food takeaway. The previous use as a taxi office was granted permission by the Council for a temporary period of one year which commenced on 8<sup>th</sup> May 2002. This consent was renewed in 2003 for a further 12 months and expired on 29<sup>th</sup> July 2004. The Council are unaware of the property having been used for any other business since its use as a taxi office.

The proposed change of use will involve both internal and external alterations to the building. The internal alterations involve the removal of the existing internal partitions and the installation of a new counter, servery and cooking range. A kitchen and store will occupy the rear part of the ground floor. Towards the front of the property a public waiting area will be provided. A separate access to the first floor flat will be formed also.

The external alterations to the building will involve the 'bricking-up' of an existing ground floor window on the two storey rear projecting element. In addition, a new

extract duct will be installed on the rear elevation. The extraction flue will rise to a height of 1.0m above the ridgeline of the main roof.

### Planning History

Erection of dwellinghouse – 1911.

Ref. 25907 – Use of ground floor as a shop – Approved in April 1963.

Ref. 98/0613/9 – Change of use from shop to a residential dwelling – Conditional Planning Permission granted in March 1999.

Ref. 02/00179/COU – Change of use of ground floor from Class A1 (shops) to private hire booking office – Conditional Planning Permission granted in May 2002. Please note that this permission was granted for a year only.

Ref. 03/00223/COU – Renewal of Change of Use of ground floor from A1 to private hire booking office (TP Ref 02/00179/COU) – Conditional Planning Permission granted in August 2003. Please note that this permission was granted for a year only.

Ref. 03/00930/FUL – New rear access stairs to first floor flat – Refused Planning Permission in February 2004.

Ref. 06/00263/PREAPP – Pre-planning advice for the conversion of the property to A5 Use was provided by the Council in March 2006. The applicant was advised that an A5 takeaway would be acceptable in principle subject to the development not having detrimental impacts on highway and pedestrian safety or upon the amenity of adjoining residential occupiers.

*Relevant Planning History for 288 Whippendell Road is detailed below (please note that this property is located within an identified Local Shopping Frontage*

*and therefore Policy S9 applies):*

Ref. 05/00769/COU – Change of use from A1 to A5 hot food take away (fish and chip shop) – Refused in October 2005 for the following reasons:

1. The proposed change of use would involve a loss of a Class A1 unit which would result in the identified parade being unable to provide an adequate range of key local shops with consequent harm to local shopping facilities and contrary to Policy S9 of the Watford District Plan 2000.
2. The extraction system and flue by virtue of its proximity to the windows of the residential flat at 288 Whippendell Road and siting within an enclosed courtyard area at the rear of the property would be likely to be harmful to the residential amenity as a consequence of the resulting noise and odour emissions from the system contrary to policies S11 and SE22 of the Watford District Plan 2000.

This case was taken to appeal and dismissed. The Inspector felt that the proposal would not result in an unacceptable loss of local shopping facilities, however, considered that the proposal would unacceptably harm the living conditions of nearby residents because of the noise and fumes being emitted by the extraction flue.

Ref. 06/00670/COU – Change of use from A1 to A5 hot food take away (fish and chip shop) – This application was a resubmission of 05/00769/COU. The extraction flue had been amended and was considered acceptable. Conditional Planning Permission was granted in July 2006.

## Relevant Policies

### **Hertfordshire Structure Plan 1998**

Policy 1 Sustainable Development. Policy aims to provide for housing in ways that minimise the need to travel, improve people's quality of life and make most efficient use of land.

Policy 2 Design Provisions of Development. All development should make a positive contribution to achieving the sustainability aims of this plan. Good design is essential to this. The requirements of good design need to be considered right from the start in the preparation of proposals and at all stages of development control.

Policy 23 Non-motorised Transport and Buses. Developments should provide safe access for pedestrians, cyclists and passenger transport users.

### **Watford District Plan 2000 (WDP2000)**

The following policies would apply as summarised below:

Policy S11 Use Class A3 Food and Drink Proposals for a general A3 use will be refused where this will result in the creation of unacceptably high levels of traffic/pedestrian generation, car parking problems, a reduction in highway safety in surrounding areas or where there will be an adverse effect on the amenities of residential occupiers or community safety.

Policy S12 Planning Conditions for Use Class A3 Food and Drink Where permission is granted for Use Class A3 Food and Drink uses, or for an extension of such use, conditions appropriate to the permitted use will be imposed relating to hours of opening, noise, emission of fumes, the disposal of refuse and

restricting the sale of hot food to be consumed off the premises.

Policy T4 Transport and New Development Policy T4 aims to ensure that new developments do not cause or add to road congestion, safety problems for all users and that parking and traffic do not adversely affect the environment. It also aims to ensure adequate provisions for cyclists and pedestrians especially those with mobility disabilities.

Policy T22 Car Parking Standards All new development will be expected to comply with the parking standards set out in Appendix 2. On-site parking will not be permitted in excess of the maximum appropriate for the zone in which the site is located. Non-residential development will be expected to provide sufficient on-site parking to meet operational needs and the needs of disabled motorists.

### **Planning Policy Guidance Notes**

PPS 1 Delivering Sustainable Development Presumption is favour of development that is in accord with the Development Plan (i.e. the WDP2000). Applicants should demonstrate in a written statement and with illustration (photos, plans and elevations) that they have had regard to the Development Plan and to Supplementary Guidance and the setting and wider context of their proposal. Local Authorities are encouraged to reject poor designs particularly where their decision is supported by the Development Plan and SPG's. Relevant design aspects include overall scale, density, massing, height, landscape, layout and access in relation to neighbouring uses and their local area more generally.

PPG13 Planning and Transportation Encourages more sustainable modes of Public Transport such as public transport and cycles.

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## CONSULTATIONS

### Neighbour consultations:

The Council notified the following properties:

301 Whippendell Road, Watford, WD18 7PA,  
303 Whippendell Road, Watford, WD18 7PA,  
306 Whippendell Road, Watford, WD18 7PD,  
Crossroads Cafe, 310 Whippendell Road, Watford, WD18 7PD  
109 Princes Avenue, Watford, WD18 7SQ,  
Trinity International, 312 Whippendell Road, Watford, WD18 7PD  
111 Princes Avenue, Watford, WD18 7SQ,  
304 Whippendell Road, Watford, WD18 7PD,  
312A Whippendell Road, Watford, WD18 7PD,  
295 Whippendell Road, Watford, WD18 7PA,  
297 - 299 Whippendell Road, Watford, WD18 7PA,

5 responses were received citing the following objections:

- Increased noise from customers, deliveries, industrial/catering equipment such as extractor vents.
- Increased waste and litter in local area from customers/food packaging etc.
- Increased risk of vermin.
- Increase in bugs, rodents and foxes.
- Smell/odours from cooking etc.
- Traffic generation and car parking – the area is already congested with major issues regarding residents parking.
- Potential increase in gangs of youths loitering around the area – which already happens by the existent 2 takeaways on Queens Avenue.



- The operational hours of such an establishment are inconsistent with the residential area i.e. noise late at night.
- The local area is already saturated with a myriad of fast food outlets. The introduction of another is unjustified.
- Extractor duct will be unsightly and will affect outlook of surrounding properties.
- Use of surrounding back gardens will be affected by issues such as noise and smell.
- The introduction of another hot food takeaway would bring same negative effects as the existing takeaways within the area.
- Increased competition and loss of business for existing takeaways.
- Location of the proposed takeaway is on a dangerous corner on Whippendell Road. This will increase the chance of an accident to people or children using the facility and especially those who are still under the effects of alcohol who are frequently on their way home through Whippendell Road.
- The existing café only operates in the daytime yet even then many customers find it hard to park since the road is fully used by residents and nearby businesses during the day. At night it is fully occupied by residents parking.
- The road is narrow with a bus stop at this point and the Council has already found it necessary to put bollards on the pavement to attempt to prevent illegal parking half up on the pavement. A fast food outlet would generate more traffic especially late at night when the pubs empty creating noise, danger from illegal parking at an especially dangerous point.
- Potential obstruction of alleyway to rear of property.
- The property is situated behind a bus stop which has a raised and extended footpath into the road to enable disabled wheelchair users and buggies.
- Traffic congestion - the bus stop outside the property is a pick up point for at least four school coaches between 7:30 and 8:30am.

### **Advertisements in local paper/ site notices**

None required.

### **Statutory consultations**

#### Hertfordshire Highways

The comments of the Hertfordshire Highways Development Control Engineer are summarised below:

Take away use generally generates trips with customers parking for a short duration of time and this short term parking is likely to occur on-street close to the site. I consider this short-term on-street parking may result in obstruction of Whippendell Road.

I am however aware that a similar proposal for a 'take away' at 468 St Albans Road has recently been allowed on appeal. It appears the Inspector considered the Council had not provided sufficient evidence to show there was insufficient convenient parking in the vicinity of the site or that the short term parking resulting from the takeaway use would result in obstruction of the adjacent highway.

Close to the site there are other uses that could cause short-term on-street parking and there are parking restrictions adjacent to this site therefore, under these circumstances, unless you can provide details of sites where Inspectors have agreed with the Councils view that a 'take away' use is likely to result in short term on street parking close to the site to the detriment of highway safety, it is unlikely a highway reason for refusal could be substantiated to this application.

## Environmental Services

The Environmental Health Officer's comments are summarised below:

Construction noise – suggest a standard condition to restrict the hours of noise from construction works.

Separating floor between the business and the living accommodation – suggest a condition to ensure that the standard of noise insulation and fire resistance of the separating floor meets the standard of the current Building Regulations.

Food hygiene – suggest a standard paragraph advising that all food businesses are legally required to register with the Council at least 28 days prior to opening for business and also advising that the necessary form can be obtained from Environmental Services.

Extract ventilation system – suggest that more information, DEFA guidance as attached, is requested from the applicant, re the consideration of environmental pollution issues of noise and odour.

The Environmental Health Officer has also provided a copy of 'Information Required To Support Planning Application For Commercial Kitchen'. This booklet has not been summarised in this report.

Please note that the amended plans, which show the relocation of the extract flue and additional information, have been approved by the Environmental Health Officer.

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## **APPRAISAL**

### **Policy Considerations**

The Statutory Plan for the site, for the purposes of s.38(6) of the Planning and Compulsory Purchase Act 2004 comprises the Hertfordshire Structure Plan 1998 and the Watford District Plan 2000.

The District Plan was adopted recently and is up to date and can be afforded considerable weight in decision making on planning applications.

### **Planning Analysis**

It is considered that the proposed change of use to a take-away will be an acceptable form of development and will not compromise the policy objectives of the Watford District Plan 2000 in that the proposed use will not be detrimental to the character, vitality and viability of the surrounding area.

The property is situated in between two designated Local Shopping Frontages which consist of a range of commercial premises including A1 and A3 Uses. The site itself does not lie within the Local Shopping Frontage designation and therefore Policy S9 of the Watford District Plan 2000 is not considered relevant to this case. In addition, as the property is not located within an identified shopping frontage there are no policies that restrict the use of the property for non-retail use. It is considered that the proposed A5 Use will be compatible with the surrounding uses and will not have any detrimental impacts upon the local area. Furthermore, the shop is currently vacant and the proposed development will bring the premises back into use.

Prior to this application the property was last used as a taxi office. The use of the property as a taxi office was for a temporary time period which expired in July 2004. In effect, the property has now reverted back to its original A1 use.

The proposed extract duct will be sited on the rear elevation of the property. It will rise vertically upwards from the proposed store room at ground floor level. The terminus of the flue will be 1.0m above the ridgeline which will mitigate against the possibility of odour affecting the residential unit at first floor level and the adjoining properties. The final discharge of the flue will be vertically upwards, therefore, minimising the possibility of odour being brought back towards the property by wind. It should be noted that the extraction flue system has been amended after discussions with the Council's Environmental Health Department. The proposed extraction flue will be similar to that which has recently been approved at 288 Whippendell Road as part of a change of use application (Ref. 06/00670/FUL).

The front elevation of the building will not be materially altered as part of this application. The only alteration to the front elevation will involve the repositioning of the entrance door to the shop. As a result, the development will have no significant impact upon the appearance of the property or the character of the streetscene. Any new shopfront to be installed will require planning permission and would require a new application. Similarly, any new advertisements to be installed will require Advertisement Consent.

**Access and Transportation:**

The application property is situated close to a busy junction where Whippendell Road meets Queens Avenue. Parking is restricted by the implementation of double yellow lines and a matchday controlled parking zone. In addition, a bus stop exists on Whippendell Road, close to the front of the property. On-street parking spaces exist on Whippendell Road to the west of the site. These spaces are reserved for 'Zone N' permit holders on match days, however, they provide the opportunity for patrons of the business to park nearby at times when matches at the Vicarage Road Stadium are not being played.

Hertfordshire Highways have commented that take away uses commonly

generate short term on-street parking close to the premises. This property has no on-site parking and there are parking restrictions in the immediate area. Therefore, motorists are discouraged from parking their vehicles directly outside the shop. Furthermore, it is considered that the new use of the property would not generate any significant additional parking demand as the property will be providing a local service and it is anticipated that the majority of customers would walk to the property. It is considered that the previous use of the property as a taxi office would have created an equivalent amount of traffic and pedestrian activity as an A5 Use. Therefore, it is unlikely that there will be any considerable increase in traffic or pedestrian movements to and from the site.

It should be noted that a previous application at the subject property for a change of use to a private hire booking office (Ref. 02/00179/COU) was approved at Development Control Committee in May 2002. The permission was granted for a temporary period in order to allow the suitability of the use to be assessed over a year long period. A further application for renewal of this permission was granted at Committee in August 2003 for another year (Ref. 03/00223/COU). In light of these decisions, it is felt that the proposed use which is unlikely to cause further traffic problems or disturbance will be acceptable in this location.

With regard to the appeal at 288 Whippendell Road, the Inspector confirmed that the area as a whole is relatively busy and it is unlikely that there would be a significant increase in activity on Whippendell Road at most times of the day due to the provision of a fish and chip shop. The proposal at 308 Whippendell Road is for a similar use. It is reasonable to expect a takeaway to be busy in the evening when occupiers of nearby dwellings are most likely to be at home but it is not considered that this use would cause undue disturbance to the occupants of nearby properties. The Inspector also found that the risk of disturbance from people and vehicles could be further limited through the imposition of conditions controlling the hours of operation.

The proposed scheme does not involve any external alterations to the front of the shop that will affect the adjoining footpath and highway.

**Impact on neighbouring properties:**

It is felt that the proposed use will not cause significant detriment to the residential amenities of the nearby properties. The subject site is located within a predominantly residential area, however, commercial premises occupy many of the surrounding properties. Activity associated with these businesses is expected and it is felt that there will be no increase in disturbance as a result of the provision of a new takeaway within the area. Furthermore, with numerous other units and several other take-aways within the immediate vicinity open until late, the level of activity is already high. Consequently, the proposed use will not result in a significant harmful impact upon the surrounding area or adjoining neighbouring properties.

The type of business proposed does not involve the use of large-scale machinery or equipment and therefore will not result in a significant increase in noise or disturbance to the living accommodation of the adjoining properties (including the flat above the application site).

The proposed extract system to be installed has been designed to cause minimal impact in terms of its appearance, noise and the discharge of odours. The flue terminus will be positioned 1.0m above the ridge of the roof to ensure that odours and fumes do not enter the residential accommodation. The duct will be fixed to the wall using anti-vibration mountings to reduce the amount of noise and disturbance caused to residents.

**Comments on the representations received.**

The concerns highlighted in representations have been discussed in the appraisal section above.

## **Conclusion**

It is considered that the proposed change of use to a take-away will be an acceptable form of development and will not compromise the policy objectives of the Watford District Plan 2000 in that the proposed use will not be detrimental to the residential amenities of the neighbouring properties or the character of the surrounding area.

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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:**

**Grant** Planning Permission 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. Any works involved in the implementation of the development hereby permitted shall not take place before 8am or after 6pm Mondays to Fridays, before 8am or after 1pm on Saturdays or at all on Sundays and Public



Holidays.

**Reason:** To safeguard the amenities and quiet enjoyment of neighbouring properties during the time that the development is being constructed, pursuant to Policy SE22 of the Watford District Plan 2000.

3. No members of the public or customers shall be permitted within the premises and no cooking of food shall take place before 10.00 am or after 11:30pm on Mondays to Sundays and Public or Bank Holidays.

**Reason:** To safeguard the amenities and quiet enjoyment of neighbouring properties pursuant to Policy SE22 of the Watford District Plan 2000.

4. The development hereby approved shall not commence until details of sound insulation have been submitted and approved by the Local Planning Authority and these details carried out before the development is first occupied or brought into use.

**Reason:** In the interests of the amenities of adjoining occupiers pursuant to Policy SE22 of the Watford District Plan 2000.

5. The use hereby permitted shall not commence until the proposed extraction system has been installed in accordance with the approved plans.

**Reason:** In the interests of the appearance of the property and the amenities of adjoining occupiers in accordance with Policies H7, U2 and SE22 of the Watford District Plan 2000.

#### **INFORMATIVES:**

1. The Local Planning Authority's reasons for granting planning permission in

this case are as follows:

The Development is in accordance with the policies of the Development Plan (namely the Watford District Plan 2000 and Hertfordshire Structure Plan): having regard to the sites location, the character of the surrounding area and the impact upon surrounding buildings and uses, there are considered to be no other material planning interests that would as a result of the development being carried out be materially harmed.

2. In reaching its decision on this application the Council has had regard to the following policies in the Watford District Plan 2000 and Supplementary Planning Guidance:-

Policy S11 - Food and Drink

Policy S12 - Planning conditions for use class A3 food and drink

Policy T4 - Transport and New Development

Policy T22 - Car Parking Standards

3. Please be advised that any premises intending to store, sell, distribute or prepare food (including alcoholic drinks) must register with Watford Council as a food trader under the Food Hygiene (Registration) Regulations 1991, at least 28 days before trading commences. Forms are available from the Council's Environmental Services Department who can be contacted on 01923 226400.

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Drawing numbers:

Site Location Plan (1:1250 scale)

1 drawing –unnumbered (1:50 scale)

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## **ACCESS TO INFORMATION**

Background Papers: (letters, memos, file documents)

Site Photographs.

Comments from Hertfordshire Highways.

Comments from Environmental Health.

Letter from 104 Princes Avenue

Letters from 306 Whippendell Road

Letter from 109 Princes Avenue, Watford

Letter from 302 Whippendell Road, Watford

Email from Nigel Bell

Published Documents:

PPS1

Hertfordshire Structure Plan 1998

Watford District Plan 2000

Case Officer: Simon Hoskin

Tel: 01923 278598