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## Appeal Decision

Site visit made on 15 May 2017

**by Zoe Raygen Dip URP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 June 2017**

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**Appeal Ref: APP/Y1945/W/17/3168116**  
**786A St Albans Road, Watford WD25 9FH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Watford Car Sales against the decision of Watford Borough Council.
  - The application Ref 16/01373/COU, dated 3 October 2016, was refused by notice dated 25 November 2016.
  - The development is retrospective application for the change of use of land and buildings from a limousine hire company to a car sales company (*sui generis*).
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Watford Car Sales against Watford Borough Council. This application is the subject of a separate decision.

### Procedural matter

3. At the time of the site visit the appeal property was being used for car sales. I have therefore determined the appeal in accordance with S73A of the Act.

### Background and Main Issues

4. Planning application 9/534/87 was granted by the Council in respect of land at 784/786 St Albans Road for use of part of ground floor as office and garage area for storage purposes (the 1987 permission). The permission included a condition which restricted the use to that applied for and to no other use within Class B1 of the Town and Country Planning (Use Classes Order) 1987.
  5. In 2005 appeal reference APP/Y1945/C/04/1156463 upheld an enforcement notice and refused planning permission for use of the land at 784, 786 and 788 St Albans Road in respect of the unauthorised change of use from A1 to use for car and limousine hire and for the parking of vehicles at the premises in connection with the use (the enforcement appeal).
  6. In 2010 planning permission was granted at appeal (APP/Y1945/A/10/2124872) for the use of 784-788 St Albans Road for a car/limousine hire office and/or the sale of up to 5 cars to be displayed from the front forecourt (the planning appeal). The appeal decision was subject to a number of conditions which restricted the number of cars for sale on the front
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forecourt to five, no vehicles to be displayed for sale in the rear yard and no parking or storage of limousines to take place in the rear yard. The latter two conditions were applied to protect residential amenity.

7. The appeal before me now is in respect of 786A St Albans Road only. The appeal site is now being used for car sales with cars parked on the site frontage and in the rear yard. Accordingly, the main issues are the effect of the operation of the site for car sales on firstly, highway safety and secondly, on the living conditions of the occupiers of surrounding residential properties with particular regard to noise and disturbance and car parking.

## **Reasons**

### *Highway safety*

8. The submitted site location plan shows that the appeal site includes the forecourt immediately to the front of 786A St Albans Road. In common with the adjacent area to the front of 784 St Albans Road and properties on the corner of St Albans Road and Kilby Close this area is capable of use for car parking facilitated by a drop kerb.
9. At the time of my site visit there were three cars parked for sale to the front of No 786A, one of which was in front of the archway access to the rear of the site. This part of the frontage is outside of the red line shown on the submitted plan ref 16/01373/COU. I have been supplied with no plan which demonstrates that five cars can be accommodated within the frontage demarked by the red line.
10. Irrespective of the red line extent of the red line, to achieve five cars on the frontage, requires that four cars are double parked as evidenced by photographs supplied by the Council. As a result of the limited depth of the frontage this results in cars overhanging the footway.
11. This reduces the width of the pavement having an adverse impact on pedestrian safety forcing them to walk closer to the kerb to avoid overhanging cars. Such an obstruction would be particularly harmful to those pedestrians with limited mobility or sight, and those accompanied by children.
12. In the absence of on-site turning within the existing frontage vehicles need to either reverse into the space or out onto St Albans Road which is a busy Class A main distributor road. I note that other forecourts on this part of the road are used for customer parking and therefore would have to carry out a similar manoeuvre. However, in this instance, the amount of cars using the limited forecourt area is significant. Cars at the front would need to be moved to enable those at the back to be brought out for customers necessitating at least two manoeuvres within a very short space of time. This would lead to a number of movements within the highway over the pavement and onto a busy highway creating hazardous and chaotic traffic movements. The presence of the bus stop close to the site on this busy section of highway, and the distractions and unexpected manoeuvres that may be caused due to the presence of buses, adds to those concerns.
13. I appreciate that the Inspector on the planning appeal allowed the sale of five cars on the front forecourt. However, that appeal related to 784-788 St Albans Road which comprises a much larger forecourt than that I am considering for the appeal proposal at No 786A only. While therefore I note the comments of

the appellant that the size of the forecourt has not altered I have not seen any substantive evidence that shows this to be the case given that I have identified a difference in the address of each appeal.

14. Furthermore, even if I had found that it was acceptable to have five cars for sale within the front area, I have not been in receipt of a plan which demonstrates that they could be accommodated within the extent of the red line shown on plan ref 16/01373/COU. It would not therefore be reasonable for me to apply such a condition which could not be implemented.
15. For the reasons above I conclude that the existing use of the site for car sales is harmful to highway safety. It is therefore contrary to saved Policy T21 of the Watford District Plan 2000 and paragraph 35 of the National Planning Policy Framework. These require that development should include adequate provision for access/egress to meet the necessary safety requirements and create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

#### *Living conditions*

16. The site has an access from the rear yard directly to Kilby Close. Kilby Close is a narrow residential road. Most properties are set back from the road with side garages allowing off-street parking to occur to the side of the houses from wide dropped kerbs.
17. The 1987 permission was subject to two conditions the second of which was that provision should be made and permanently maintained for the parking of 16 motor vehicles within the site for persons employed on, or visitors to the site and such provision shall not be used for the parking of any other vehicles for any purpose whatsoever. Furthermore, the use of the site at that time involved up to 50 diesel powered vans and trucks going in and out of the rear access onto Kilby Close.
18. However, the Inspector on the enforcement notice appeal found no evidence that the parking had been provided or any record of the average number of vehicle movements to and from the site in connection with the 1987 permitted use. Furthermore, the authorised use of the site is that allowed under the planning appeal and the 1987 B1 use could not now be implemented. I therefore give limited weight to historic and previous uses of the site.
19. What the historic uses of the site do demonstrate though is that the rear yard can accommodate a high number of vehicles. At the time of my site visit there were 18 cars parked in the area and there was room for more to be accommodated. The appellants' application form states that 38 cars are parked on site. Presuming that five are on the frontage then that leaves 33 in the rear yard.
20. Although the appellant states that 99% of the business is via the internet this may not always be the case. Furthermore, there are clear signs on the building directing customers to the rear area. Moreover, customers are likely to visit the site to test drive the cars. Nonetheless, they cannot access the site from Kilby Close. Instead cars are driven around by staff to the front of the premises for the customer. The appellant has supplied two separate traffic counts for this activity, both of which demonstrate a low of number of cars being moved over a period of a week during normal opening hours between

0930 and 1730 on weekdays and Saturdays. The business is closed on a Sunday and Bank Holiday Monday. At most five vehicles were moved in any one day. These figures have not been disputed by the Council. Therefore car movements are unlikely to be significantly higher than those authorised by the planning appeal.

21. On the basis of the submitted evidence it is unlikely therefore that car movements between the front and rear of the property are likely to cause an unacceptable level of noise and disturbance, particularly given the day time operation of the business.
22. The appellant refers to customer parking at the front of the property but I saw no dedicated customer parking on site at the time of my site visit. Although parking is available on St Albans Road it is restricted in the vicinity of the appeal site by the bus stop and the high number of drop kerbs providing access to businesses and dwellings. I think it likely therefore that parking is displaced to surrounding streets including Kilby Close.
23. Nevertheless, I have been given no substantive evidence to suggest that levels of on street parking along Kilby Close is already at such a level as to cause harm to the living conditions of residents. I note the comments of some residents at the planning application stage but have seen nothing to suggest that parking they refer to is from the operation of the business the subject of this appeal. At the time of my site visit parking there was on street parking, particularly around the entrance to the appeal site from Kilby Close, yet there was only one member of staff on site and no customers that I saw.
24. Furthermore, while I accept that there may be some additional customers over and above those with appointments as identified in the appellant's survey, given the size and scale of the business these are unlikely to be significant.
25. The appellant advises that there are only two members of staff. Both drive one of the cars that are for sale to and from work. Therefore staff parking is accommodated within the rear yard, included in the cars for sale. Staff parking would not therefore be accommodated on Kilby Close to the detriment of residents' living conditions.
26. There are a high number of cars parked within the rear area of the yard. However, the area is located to the rear of a residents parking court off Kilby Close, and to the side of a parking area to the rear of residential properties on St Albans Road. As a result the intervening distance between the rear yard and properties on Kilby Close is sufficient to ensure that noise and disturbance associated with the manoeuvring of cars would not be materially harmful to residents' living conditions particularly given the limited level of activity and the operation of the business in the day time only.
27. I am mindful of the Inspectors decision on the previous appeal when she imposed a condition preventing car sales in the rear area to protect residents living conditions. However, in this instance I have been supplied with no substantive evidence to suggest that levels of customer parking or car movements would be materially harmful to the living conditions of local residents based on the current method and level of operation of the business. Had the proposal been otherwise acceptable then conditions could have been imposed to ensure that the business continued to operate in this manner.

28. For the reasons above I conclude that while customer parking would not be provided on site and therefore in this respect the use of the site is contrary to saved Policy T22 of the Watford District Plan 2000, it is not materially harmful to the living conditions of occupiers of surrounding residential properties. There is therefore no conflict with saved Policy H15 of the Watford District Plan 2000 and paragraph 17 of the National Planning Policy Framework. These require that development does not have an adverse effect on residential amenity by means of noise, car parking or general disturbance.

### **Other matters**

29. The appellant refers to paragraph 9 of the Framework which seeks to make it easier for jobs to be created in cities. I have also had regard to the economic role of planning in terms of supporting growth and the contribution the appeal car sales business makes to the local economy. However, in this instance this has not been sufficient to outweigh the considerable harm I have found to highway safety and therefore the conflict with the development plan.

### **Conclusion**

30. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Zoe Raygen*

INSPECTOR