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**REPORT TO:** DEVELOPMENT CONTROL COMMITTEE

**AGENDA  
ITEM:**

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**DATE OF MEETING:** 14<sup>th</sup> August 2001

**CATEGORY: DELEGATED**

**REPORT FROM:** Deputy Chief Executive

**OPEN**

**MEMBERS'**

**CONTACT POINT:** RAFA SHIRLEY (EXT. 5750)

**SUBJECT:** Non-Compliance with Condition 3 of planning permission 9/0296/0747/U relating to the use as a hot food takeaway of the ground floor sales area and the conversion into a flat of the first floor offices at the premises of JT Leavesley, Union Road, Newhall ( now known as The Newhall Balti)

**REF:** RMS/E2001/00098

**WARD AFFECTED:** Newhall

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1.0 **Purpose of Report**

1.1 To obtain the Development Control Committee's instructions

2.0 **Content**

- 2.1 Planning permission for the use of the premises as a hot food take away was allowed on appeal on 10<sup>th</sup> February 1997.
- 2.2 Condition 3 of the decision notice stated that: before the development, hereby permitted, is begun, details of the fume extraction system and flue shall be submitted to and approved in writing by, the local planning authority; the fume extraction system and flue shall be fitted into the premises in accordance with these approved details prior to the first use of the takeaway; and the equipment shall be operated and maintained in accordance with the manufacturer's instructions.
- 2.3 An application to retain a flue installed at the premises without the benefit of planning permission has been submitted. However, the submitted scheme was not acceptable and attempts to obtain additional information with a view to obtaining the implementation of an alternative scheme have not been successful. The application has, therefore, been refused on the basis that the submitted scheme was not acceptable.
- 2.4 The Environmental Health Department remains concerned at the lack of odour control measures at the premises.
- 2.5 As stated above, the occupier of the premises has been contacted but has taken no action in the matter.
- 2.6 A plan of the site which is approximately 336 square metres in area is attached at Annexe A.
- 3.0 **Financial Implications**
- 3.1 Should prosecution prove necessary, the Council may be subject to certain costs.

#### 4.0 **Conclusions**

- 4.1 There is a clear breach of Condition 3 of the permission and it is viewed that its implementation is important to ensure that the hot food takeaway use does not prejudice the enjoyment of their properties by neighbouring occupiers.
- 4.2 It is open to the Committee to authorise the service of a Breach of Condition Notice to require full compliance with the outstanding condition.

#### 5.0 **Recommendation**

- 5.1 That the Committee authorise the service of a Breach of Condition Notice requiring the provision of full details of the fume extraction system and flue and its satisfactory installation and appropriate maintenance.
- 5.2 A twenty – eight day compliance period is viewed as appropriate.

#### 6.0 **Background Papers**

- 6.1 Enforcement File E/2001/98, planning application files 9/296/747/U and 9/2000/1057/F