

Report of the Head of Planning & Enforcement Services

Address 1 HARVIL ROAD HAREFIELD

Development: Variation of conditions 1 and 2 of planning permission ref. 13701/APP/2004/193 dated 30-04-2004 to allow the private care hire/chauffer business to operate 24 hours a day (retention of part of shop as private car hire/chauffeur business)

LBH Ref Nos: 13701/APP/2011/2334

Drawing Nos: Location Plan to Scale 1:1250

Date Plans Received: 27/09/2011 **Date(s) of Amendment(s):**

Date Application Valid: 29/09/2011

1. SUMMARY

The application is for the variation of condition 1 (Hours of Operation of Private Car Hire/Chauffeur Business) and condition 2 (Opening Hours for the Office of the Private Car Hire/Chauffer Business) of planning application reference 13701/APP/2004/193 to allow for 24 hour operation. It is considered that the proposed variation of condition would result in an unacceptable level of noise and disturbance to the neighbouring residential dwellings and is, therefore, recommended for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposed operation of a 24 hour private vehicle hire and chauffeur business would be out of character with the surrounding predominantly residential area and would result in increased noise disturbance and harm to the residential amenity of the neighbouring dwellings. The proposal is, therefore, contrary to Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies, September 2007).

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

2 I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (July 2011) and national guidance.

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
SPD-NO	Noise Supplementary Planning Document, adopted April 2006

3. CONSIDERATIONS

3.1 Site and Locality

The application relates to a ground floor commercial unit located at the junction between Harvil Road and Moorhall Road. The upper floor of the property is in use as residential flats, with the adjacent properties in use as retail at ground floor level and residential at first floor.

The application property and the adjacent retail parade is set back from the highway by the slip road and parking area, which runs parallel to Harvil Road and Moorhall Road.

The site is situated within a developed area as identified in the policies of the Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

The application is for planning permission for the variation of Condition 1 (Hours of Operation of Private Car Hire/Chauffeur Business) and Condition 2 (Opening Hours for Office of the Private Car Hire/Chauffeur Business) of planning application reference 13701/APP/2004/193 to allow for 24 hour operation of the existing Private Car Hire/Chauffeur Business business at No.1 Harvil Road.

3.3 Relevant Planning History

13701/APP/2001/1426 1 Harvil Road Harefield

CHANGE OF USE OF PART OF PROPERTY FROM PHOTOGRAPHY SHOP TO PRIVATE CAR HIRE OFFICE

Decision: 21-11-2001 ALT

13701/APP/2004/193 1 Harvil Road Harefield

RETENTION OF PART OF SHOP AS PRIVATE CAR HIRE/CHAUFFEUR BUSINESS

Decision: 22-04-2004 Approved

13701/B/81/1515 Michaels Store, 1 Harvil Road Harefield

Householder dev. (small extension,garage etc) (P) (*INCORRECTLY REG. BELONGS TO 2539/1 HARVIL ROAD).

Decision: 25-11-1981 Approved

13701/C/85/1810 Michaels Store, 1 Harvil Road Harefield
Change of use to Retail use 12sq.m.(P)

Decision: 06-12-1985 Approved

Comment on Relevant Planning History

In 2004 planning permission was granted for the change of use of the ground floor of the property to use for a Private Car Hire and Chauffeur Business. As part of the decision for this application the following conditions were added in relation to the hours of operation at the site:

Condition 1

The premises shall not be used for the private car hire/chauffeur business during the hours of 2300 and 0800 Mondays to Sundays

REASON

To protect the amenities of the local residents

Condition 2

The premises shall only operate as an office for the private car hire/chauffeur business during the hours of 0800 and 18:00 Mondays to Sundays.

REASON

To protect the amenities of the local residents

The application site was reported to enforcement and a case opened against the property (ENF/75/11/) after the business was in operation outside of the conditioned hours.

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

Part 2 Policies:

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
OE1	Protection of the character and amenities of surrounding properties and the local area

OE3 Buildings or uses likely to cause noise annoyance - mitigation measures
SPD-NO Noise Supplementary Planning Document, adopted April 2006

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

30 neighbouring properties were notified of the proposed development. Two responses have been received, one in objection to the proposal and one in support.

The objection was based on the following grounds:

- The site has already been in operation outside of the conditioned hours, which has led to increased noise disturbance.
- The area is predominately residential and the operation of the business late at night would cause harm to the residential amenity of the neighbouring properties.
- Increased litter in the area.

Officer Comments: There would be no direct correlation between the use of the site on a 24 hour basis and an increasing littering above the existing level at the site. The other objections are considered in the main body of the report.

The letter in support of the application was on the basis of the added value to the community.

In addition the applicant submitted a petition containing 29 signatures in support of the increased opening hours, as part of the application.

Internal Consultees

Environmental Protection Unit:

On the 14th February 2011 EPU received a complaint of alleged noise nuisance from the operation of this premises, from a resident of Harvil Road. It was alleged that the office was frequently in use until 2am.

As part of this investigation, having checked the permitted hours of use against the hours that trading was reported by the resident, the matter was referred to Planning Enforcement.

I was subsequently advised that the premises would be applying to vary their planning permission and enforcement action would not proceed pending this outcome.

However, having discussed the continued impacts reported by the resident, I do not believe a 24/7 use for this office can be supported or is suitable to this locality.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application is for a variation of condition to allow for the 24 hour operation of the site for the existing use as a private car hire and chauffeur business. Given that the use has

already been granted permission in 2004, the principle of a car hire/chauffeur business on the site is acceptable.

7.02 Density of the proposed development

Not applicable to this application.

7.03 Impact on archaeology/CAs/LBs or Areas of Special Character

The application site is not within any designated Conservation Areas or Area of Special Local Character.

7.04 Airport safeguarding

Not applicable to this application.

7.05 Impact on the green belt

The application site is outside of the Green Belt.

7.06 Environmental Impact

Not applicable to this application.

7.07 Impact on the character & appearance of the area

The proposed variation of condition would result in no material change in the form of the building and would, therefore, be in compliance with Policies BE13, BE15 and BE19 of the adopted UDP (Saved Policies September 2007).

7.08 Impact on neighbours

Whilst the application site is located within a parade of retail units, the wider characteristic of the area is a residential estate. A number of residential dwellings are located above the retail units in the parade and the nearest residential properties on Harvil Road and Moorhill Road are set 30 metres and 35 metres, respectively, from the application property.

Due to this, the operation of a 24 hours business would be out of character with the surrounding residential area and would lead to an unacceptable level of noise and disturbance. This would be from customers attending the premises, drivers going from and returning to the premises and the general noise of car doors being shut and vehicles arriving and departing, all at a time when there is no other activity in the vicinity. This is evidenced by the fact that use has been operating outside the hours stipulated in the conditions set out above and resulted in complaints of noise disturbance. The Environmental Protection Unit have judged the ongoing impact of a 24 hour opening and deemed the noise impact to the neighbouring residential dwellings as unacceptable.

Therefore, the proposal is considered to contravene Policies OE1, OE3 and BE19 of the adopted UDP (Saved Policies September 2007) and would be harmful to the residential amenity of the neighbouring residential properties.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

Planning permission was granted for the use of the site as a private car hire and chauffeur business under application reference: 13701/APP/2004/193. In the determination of this application no objection was raised in relation to the traffic impact and car parking and, therefore, the use of the site would still be considered acceptable under Policies AM7 and AM14 of the adopted UDP (Saved Policies September 2007).

7.11 Urban design, access and security

No urban design, access or security issues for determination in this application.

7.12 Disabled access

Not applicable to this application.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, Landscaping and Ecology

Not applicable to this application.

7.15 Sustainable waste management

Not applicable to this application.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

Not applicable to this application.

7.18 Noise or Air Quality Issues

The proposed development would result in an unacceptable level of noise disturbance to the neighbouring residential properties during the evening and early morning hours. Therefore, the proposed development would contravene Policies OE1, OE3 and BE19 of the adopted UDP (Saved Policies September 2007).

7.19 Comments on Public Consultations

No further comments in relation to the public consultations.

7.20 Planning Obligations

No planning obligations are required for the determination of this application.

7.21 Expediency of enforcement action

The use of the premises outside the hours controlled by the above conditions is the subject of an ongoing enforcement investigation.

7.22 Other Issues

None.

8. Observations of the Borough Solicitor

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

9. Observations of the Director of Finance

Not applicable to this application.

10. CONCLUSION

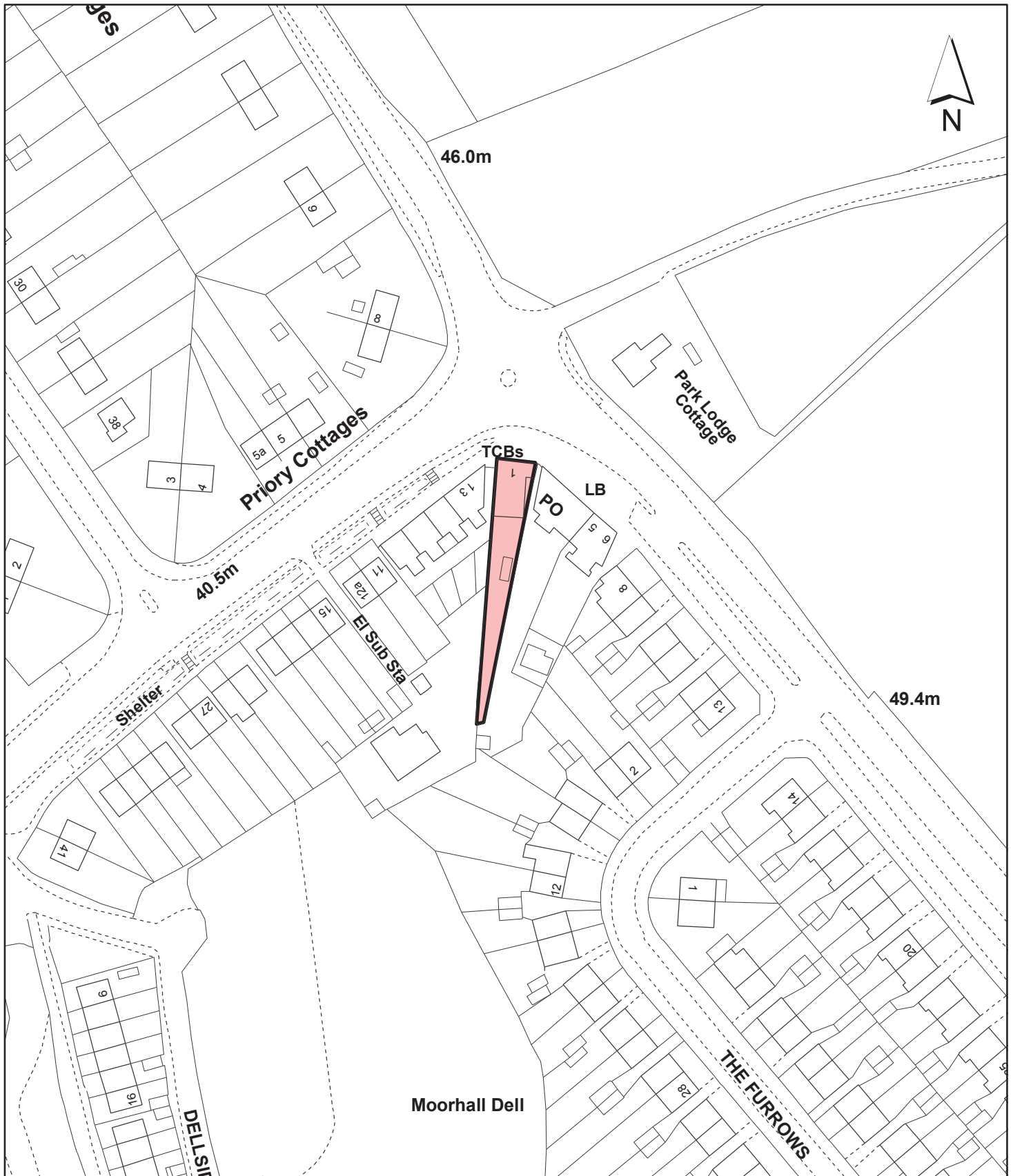
The proposed variation of condition would result in an unacceptable level of noise disturbance to the neighbouring residential dwellings and is, therefore, recommended for refusal.

11. Reference Documents


Hillingdon Unitary Development Plan (Saved Policies September 2007).
The London Plan 2011
Supplementary Planning Document: Noise (April 2006)

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Notes

 Site boundary

For identification purposes only.

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Site Address	
1 Harvil Road Harefield	
Planning Application Ref:	Scale
13701/APP/2011/2334	1:1,250
Planning Committee	Date
North	November 2011

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