Report of the Corporate Director of Planning & Community Services

Address 76, PARK WAY AND 59-61 WINDMILL HILL RUISLIP

Development: Change of use of 61 Windmill Hill and 76 Park Way from Class A1 (Retail) to

Class A3 (Restaurants and Cafes), with new shopfronts and alterations to

existing shopfront at 59 Windmill Hill.

LBH Ref Nos: 16366/APP/2009/1873

Drawing Nos: Design and Access Statement

Location Plan at Scale 1:1250

Date Plans Received: 27/08/2009 Date(s) of Amendment(s):

Date Application Valid: 27/08/2009

1. SUMMARY

This application seeks permission for the change of use of two former retail units in use as a beauty salon to allow the expansion of a restaurant use within the secondary area of the Ruislip Manor Minor Town Centre. The proposal would not result in the length of retail representation of the secondary shopping area reducing below 50% and it is considered that being sited on the northern edge of the secondary shopping area, there would be no separation of retail uses within either the primary or secondary areas. The amenities of the surrounding residential occupiers can be safeguarded with appropriate conditions and the proposed new shopfront would be appropriate to the area. No alterations are proposed to the existing car parking arrangements on site and no additional car parking is required. The scheme is recommended for approval.

2. RECOMMENDATION

APPROVAL subject to the following:

1 T8 Time Limit - full planning application 3 years

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 OM1 Development in accordance with Approved Plans

The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the Local Planning Authority.

REASON

To ensure that the external appearance of the development is satisfactory and complies

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with Policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3 HLC1 Restaurants/Cafes/Snack Bars

The premises shall only be used for the preparation or sale of food, between the hours of 08:00 and 23:30. There shall be no staff allowed on the premises outside these hours.

REASON

To safeguard the residential amenity of the occupiers and nearby properties, in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Polices September 2007).

4 NONSC Non Standard Condition

The premises shall not be used for deliveries and collections, including waste collections other than between the hours of 08:00 and 18:00, Mondays to Fridays, 08:00 to 13:00 Saturdays and not at all on Sundays and Bank and Public Holidays.

REASON

To safeguard the amenity of surrounding areas, in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 4A.20 of the London Plan (February 2008).

5 DIS2 Access to Buildings for People with Disabilities

Development shall not commence until details of access to building entrances and w.c. facilities (to include ramped/level approaches, signposting, types and dimensions of door width and lobby openings) to meet the needs of people with disabilities have been submitted to and approved in writing by the Local Planning Authority. The approved facilities should be provided prior to the occupation of the development and shall be permanently retained thereafter.

REASON

To ensure that people with disabilities have adequate access to the development in accordance with Policy R16 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan Policies (February 2008) Policies 3A.13, 3A.17 and 4B.5.

6 N13 Sound insulation of commercial/entertainment premises

The development shall not begin until a sound insulation scheme for the control of noise transmission to the adjoining dwellings/premises has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is occupied/use commences and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

REASON

To safeguard the amenity of the occupants of surrounding properties in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 4A.20 of the London Plan (February 2008).

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to GRANT 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 GRANT 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 (February 2008) and national guidance

BE13	New development must harmonise with the existing street scene.		
BE28	Shop fronts - design and materials		
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		
S6	Change of use of shops - safeguarding the amenities of shopping areas		
S12	Service uses in Secondary Shopping Areas		
AM7	Consideration of traffic generated by proposed developments.		
AM14	New development and car parking standards.		
LPP	London Plan (February 2008).		
HDAS	Accessible Hillingdon		
	Shopfronts		
R16	Accessibility for elderly people, people with disabilities, women and children		

3 I1 Building to Approved Drawing

You are advised this permission is based on the dimensions provided on the approved drawings as numbered above. The development hereby approved must be constructed precisely in accordance with the approved drawings. Any deviation from these drawings requires the written consent of the Local Planning Authority.

4 I3 Building Regulations - Demolition and Building Works

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced. For further information and advice, contact - Planning & Community Services, Building Control, 3N/01 Civic Centre, Uxbridge (Telephone 01895 250804 / 805 / 808).

5 I5 Party Walls

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:

carry out work to an existing party wall;

build on the boundary with a neighbouring property;

in some circumstances, carry out groundworks within 6 metres of an adjoining building. Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "the Party Walls etc. Act 1996 - explanatory booklet" published by the ODPM, available free of charge from the Planning & Community Services Reception Desk, Level 3, Civic Centre, Uxbridge, UB8 1UW.

6 Property Rights/Rights of Light

Your attention is drawn to the fact that the planning permission does not override property rights and any ancient rights of light that may exist. This permission does not empower you to enter onto land not in your ownership without the specific consent of the owner. If you require further information or advice, you should consult a solicitor.

7 I15 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with: -

- A) Demolition and construction works should only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank and Public Holidays.
- B) All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228: 1984.
- C) The elimination of the release of dust or odours that could create a public health nuisance.
- D) No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit, 3S/02, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel.01895 277401) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

8 | 125 | Consent for the Display of Adverts and Illuminated Signs

This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992. [To display an advertisement without the necessary consent is an offence that can lead to prosecution]. For further information and advice, contact - Planning & Community Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

9 I27 Hot Food Takeaways/restaurants - late night opening

If the premises are to be open after midnight on any night (for which an application for planning permission is required), registration with the Council is required pursuant to the Night Cafes Act. For further advice and information contact:- Commercial Premises Section, 4W/04, Civic Centre, High Street, Uxbridge (Telephone 01895 250190).

10 | 134 | Building Regulations 'Access to and use of buildings'

Compliance with Building Regulations 'Access to and use of buildings' and Disability Discrimination Act 1995 for commercial and residential development.

You are advised that the scheme is required to comply with either:-

- \cdot The Building Regulations 2000 Approved Document Part M 'Access to and use of buildings', or with
- · BS 8300:2001 Design of buildings and their approaches to meet the needs of disabled people Code of practice. AMD 15617 2005, AMD 15982 2005.

These documents (which are for guidance) set minimum standards to allow residents, workers and visitors, regardless of disability, age or gender, to gain access to and within buildings, and to use their facilities and sanitary conveniences.

You may also be required make provisions to comply with the Disability Discrimination Act 1995. The Act gives disabled people various rights. Under the Act it is unlawful for employers and persons who provide services to members of the public to discriminate against disabled people by treating them less favourably for any reason related to their disability, or by failing to comply with a duty to provide reasonable adjustments. This duty can require the removal or modification of physical features of buildings provided it is reasonable.

The duty to make reasonable adjustments can be effected by the Building Regulation compliance. For compliance with the DDA please refer to the following guidance: -

- · The Disability Discrimination Act 1995. Available to download from www.opsi.gov.uk
- · Disability Rights Commission (DRC) Access statements. Achieving an inclusive environment by ensuring continuity throughout the planning, design and management of building and spaces, 2004. Available to download from www.drc-gb.org.
- · Code of practice. Rights of access. Goods, facilities, services and premises. Disability discrimination act 1995, 2002. ISBN 0 11702 860 6. Available to download from www.drc-qb.org.
- · Creating an inclusive environment, 2003 & 2004 What it means to you. A guide for service providers, 2003. Available to download from www.drc-gb.org.

This is not a comprehensive list of Building Regulations legislation. For further information you should contact Building Control on 01895 250804/5/6.

11 I43 Keeping Highways and Pavements free from mud etc

You are advised that care should be taken during the building works hereby approved to

avoid spillage of mud, soil or related building materials onto the pavement or public highway. You are further advised that failure to take appropriate steps to avoid spillage or adequately clear it away could result in action being taken under the Highways Act.

12 I45 Discharge of Conditions

Your attention is drawn to conditions 5 and 6 which must be discharged prior to the commencement of works. You will be in breach of planning control should you commence these works prior to the discharge of this/these condition(s). The Council may consider taking enforcement action to rectify the breach of this condition(s). For further information and advice contact - Planning & Community Services, Civic Centre, Uxbridge, UB8 1UW (Tel: 01895 250230).

To promote the development of sustainable building design and construction methods, you are encouraged to investigate the use of renewable energy resources which do not produce any extra carbon dioxide (CO2) emissions, including solar, geothermal and fuel cell systems, and use of high quality insulation.

14 I47 Damage to Verge

You are advised that care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense. For further information and advice contact - Highways Maintenance Operations, Central Depot - Block K, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB3 3EU (Tel: 01895 277524).

15

You are advised that Thames Water recommends that a properly maintained fat trap is installed on all catering establishments. They further recommend, in line with best practice for the disposal of Fats, Oils and Grease, that waste oil is collected by a contractor, particularly for recycling purposes for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses. Further information on the above is available in their leaflet, 'Best Management Practices for Catering Establishments', which can be requested by telephoning 020 8507 4321.

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You are advised to contact the Council's Environmental Protection Unit prior to submitting details seeking to discharge condition 5.

3. CONSIDERATIONS

3.1 Site and Locality

The application site forms three ground floor units within a three storey retail parade sited on the eastern side of Windmill Hill just to the north of its junction with Park Way.

No.59 is currently in use as a restaurant and Nos.61 Windmill Hill and 76 Park Way are in use as a beauty saloon. The floors above form residential maisonettes which are accessed from a stairwell which opens onto Windmill Hill immediately to the north of No.59. To the north of this stairwell, beyond the vehicular access of the rear service road is a new three storey development with a large ground floor bedroom furniture store with residential units above which are yet to be occupied.

The site forms part of the secondary shopping area of the Ruislip Manor Town Centre.

3.2 Proposed Scheme

Planning permission is sought to change the use of No.61 Windmill Hill and No.76 Park Way from retail (Class A1) to restaurant (Class A3) in order to allow the expansion of the existing Indian restaurant at No.59 Windmill Hill. The proposal also involves the installation of a new shopfront at Nos.61 Windmill Hill and 76 Park Way, with alterations to the existing shopfront at No.59 Windmill Hill.

3.3 Relevant Planning History

Comment on Relevant Planning History

There is no relevant planning history on this site.

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:

BE13	New development must	t harmonise with the	existing street scene.
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BE28 Shop fronts - design and materials

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

S6 Change of use of shops - safeguarding the amenities of shopping areas

S12 Service uses in Secondary Shopping Areas

AM7 Consideration of traffic generated by proposed developments.

AM14 New development and car parking standards.

LPP London Plan (February 2008).

HDAS Accessible Hillingdon

Shopfronts

R16 Accessibility for elderly people, people with disabilities, women and children

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

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6. Consultations

External Consultees

27 neighbouring properties have been consulted. No responses have been received.

Ruislip Residents' Association: No response received.

Thames Water: Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. They further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses. Further information on the above is available in a leaflet, 'Best Management Practices for Catering Establishments', which can be requested by telephoning 020 8507 4321.

Internal Consultees

Environmental Protection Unit:

No objections, subject to restriction on hours of use, hours of delivery and waste collection and the provision of sound insulation between the ground floor use and the residential units above.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The adopted Hillingdon Unitary Development Plan (Saved Policies, September 2007) (UDP) seeks to maintain the retail hierarchy in the Borough and Minor Town Centres are viewed as being vital in providing a range of goods and services over and above local convenience shopping which is still reasonably accessible to the local community.

Policy S6 advises that changes of use of Class A1 shops should:-

- (i) Not be detrimental to visual amenity in the case of a Listed Building or within a conservation area,
- (ii) Retain an appropriate frontage,
- (iii) Be compatible with neighbouring uses, and
- (iv) Not be harmful to road safety.

This part of the Ruislip Manor Minor Town Centre forms part of the secondary retail area. Policy S12 advises that changes of use to service uses, including restaurants, will be allowed where:

- (a) The remaining retail facilities are adequate to accord with the character and function of the shopping centre, and
- (b) The proposed use will not result in the separation of Class A1 uses or a concentration of non-retail uses which might harm the viability of the centre.

The supporting text of the saved UDP at paragraph 8.26 advises that secondary shopping areas are generally expected to maintain at least 50% of their frontage in retail use. The shopping survey carried out in July 2009 records Ruislip Manor's secondary shopping area as having 61% of its frontage in retail use. This would reduce to 58% with the implementation of this proposal. As such, the overall retained retail representation in the secondary area would be acceptable.

The application site lies on the northern edge of the secondary area. This part of the

secondary area, to the north of Park Way, comprises the following uses:

- 61 Windmill Hill Indian Restaurant (Class A3)
- 59 Windmill Hill/76 Park Way Beauty Salon (Class A1)
- 74 Park Way Locksmiths (Class A1)
- 72 Park Way Kebab takeaway (Class A5)
- 70 Park Way Vacant (Former kitchen showroom (Class A1)
- 68 Park Way Insurance Office (Class A2)
- 66 Park Way Travel Agent (Class A2)
- 64 Park Way Tuition School (Class D1)
- 58-62 Park Way Supermarket (Class A1)

In terms of separation, there are no retail units within either the primary or secondary areas of the town centre that would be isolated or marginalised by the proposed change of use. It is also considered that the proposal would not result in a concentration of non-retail uses in this area, given the supermarket use at Nos.58 to 62 Park Way with a wide frontage onto Park Way and the new retail uses to the north of the application site and on the opposite side of Windmill Hill.

It is therefore considered that the proposal complies with policies S6 and S12 of the adopted Hillingdon Unitary Development Plan (Saved Policies, September 2007).

7.02 Density of the proposed development

N/A to this development.

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

N/A to this development.

7.04 Airport safeguarding

N/A to this development.

7.05 Impact on the green belt

N/A to this development.

7.06 Environmental Impact

N/A to this development.

7.07 Impact on the character & appearance of the area

The proposed new shopfront would be similar in design and proportion to the existing shopfront at No.59 Windmill Hill. They would consist of a recessed glazed shopfront, fronted by a series of oriental arches supported on twisted brick columns with railings in between.

In terms of the character of the street scene and surrounding area, it is considered that the proportion of the shopfront would be in-keeping with surrounding shopfronts and the design would reflect the use of the premises. It is considered that the proposal satisfies policies BE13, BE28 and S6 of the adopted Hillingdon Unitary Development Plan (Saved Policies, September 2007) and the Council's Supplementary Planning Document HDAS: Shopfronts.

7.08 Impact on neighbours

Policy S6 of the UDP saved policies September 2007 states that to safeguard the amenities of shopping areas, the Local Planning Authority will only grant permission for changes of use of class A1 shops if the proposed use will not cause unacceptable loss of amenity to nearby residential properties by reason of disturbance, noise, smell, fumes, parking.

Policy OE1 states that proposed uses should not have a detrimental impact on the character of an area or the amenities of neighbouring properties by reason of noise and vibration or the emission of dust, smell or other pollutants.

The application site forms part of the Ruislip Manor town centre where commercial activity, even into the late evening, can reasonably be expected to take place. There are residential occupiers on the first and second floors of this building. In terms of the potential for disturbance, the proposed enlarged restaurant would utilise the existing kitchen at No.59, so there would be no requirement for a new or re-sited extract flue. It is recommended that the hours of use, amplified music and deliveries/collections are controlled. With such controls in place, it is considered that the proposal would be compatible with neighbouring uses and would not result in an unacceptable loss of amenity to adjoining residential properties. It is considered that the proposal would comply with Policies S6 and OE1 of the adopted Hillingdon Unitary Development Plan (Saved Policies, September 2007).

7.09 Living conditions for future occupiers

N/A to this development.

7.10 Traffic impact, car/cycle parking, pedestrian safety

Policy S6 of the UDP Saved Polices (September 2007) states that to safeguard the amenities of shopping areas, the Local Planning Authority will only grant permission for changes of use of class A1 shops if the proposed use will not cause unacceptable traffic related problems.

Policy AM14 of the UDP Saved Polices (September 2007) states that new development will only be permitted where it is in accordance with the Council's adopted car parking standards.

The proposal would not alter the existing car parking arrangements on site, with 3 spaces being provided at the rear of the premises and the Council's and London Plan's (February 2008) car parking standards do not differentiate between Class A1 and A3 uses. As such, there is no requirement for additional off-street car parking. In light of the above, it is considered that the proposed change of use would not be detrimental to highway safety and accords with policies S6, AM7(ii) and AM14 of the adopted Hillingdon Unitary Development Plan Saved Polices (September 2007).

7.11 Urban design, access and security

N/A to this development.

7.12 Disabled access

The plans show that a disabled toilet will be provided. A condition has been added to ensure that this will be provided and disabled access is provided to the building. As such, the proposal would comply with policy R16 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.13 Provision of affordable & special needs housing

N/A to this development.

7.14 Trees, Landscaping and Ecology

N/A to this development.

7.15 Sustainable waste management

N/A to this development.

7.16 Renewable energy / Sustainability

N/A to this development.

7.17 Flooding or Drainage Issues

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An informative, recommended by Thames Water, has been added.

7.18 Noise or Air Quality Issues

N/A to this development.

7.19 Comments on Public Consultations

No responses have been received.

7.20 Planning Obligations

N/A to this application.

7.21 Expediency of enforcement action

N/A to this development.

7.22 Other Issues

N/A to this development.

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

As there are no S106 or enforcement issues involved, the recommendations have no financial implications for the Planning Committee or the Council. The officer recommendations are based upon planning considerations only and therefore, if agreed by the Planning Committee, they should reduce the risk of a successful challenge being made at a later stage. Hence, adopting the recommendations will reduce the possibility of unbudgeted calls upon the Council's financial resources, and the associated financial risk to the Council.

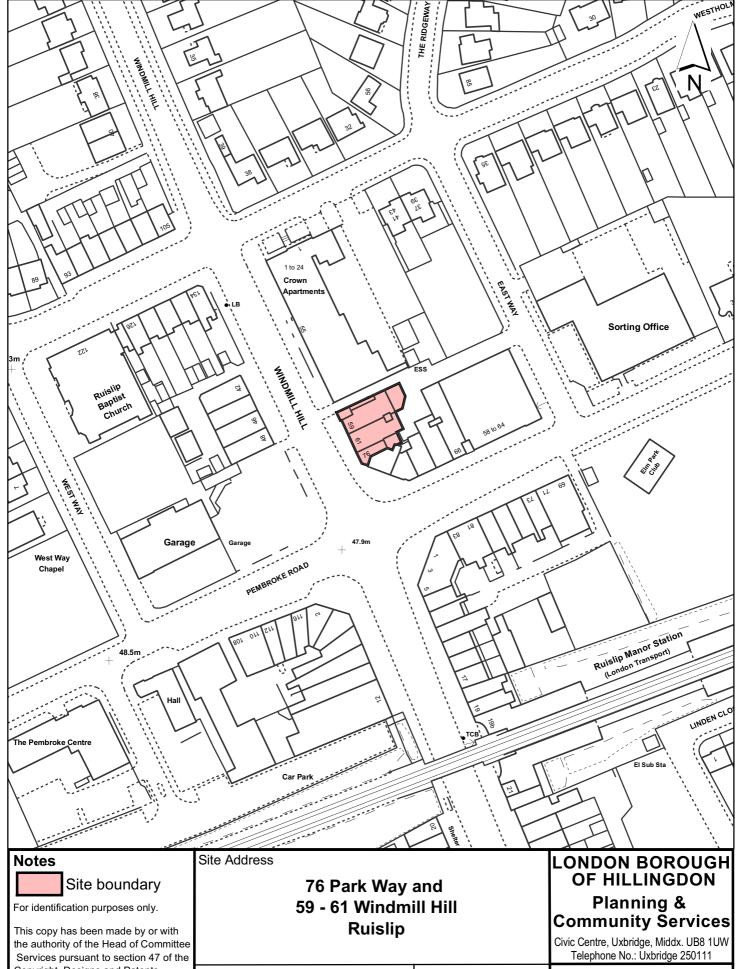
10. CONCLUSION

The change of use is acceptable in terms of retaining the retail attractiveness of the Ruslip Manor Town Centre and conditions would safeguard the amenities of surrounding residential occupiers. The proposed shopfront is also acceptable.

11. Reference Documents

- (a) Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007)
- (b) London Plan (February 2008)
- (c) HDAS: 'Accessible Hillingdon' & 'Shopfronts'
- (d) Council's adopted Car Parking Standards (Annex 1, adopted Hillingdon UDP, Saved Policies, September 2007)
- (e) Consultation Responses

Contact Officer: Richard Phillips Telephone No: 01895 250230



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Date

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Planning Committee

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