

## Report of the Head of Planning & Enforcement Services

**Address** UNIT 6,HAYES BRIDGE RETAIL PARK UXBRIDGE ROAD HAYES

**Development:** Section 73 application to amend Condition 10 of outline planning permission ref:1911/BJ/95/0895 dated 26/01/1996: Redevelopment of site to provide 9,290 sq. metres of Class A1 (non-food retail) floor space and 278 sq. metres of Class A3 (Food and Drink) floor space (involving demolition of existing record factory building.)

**LBH Ref Nos:** 51652/APP/2010/1240

**Drawing Nos:** Design & Access Statement  
Planning & Retail Statement  
8782 01

**Date Plans Received:** 27/05/2010                      **Date(s) of Amendment(s):**  
**Date Application Valid:** 27/05/2010

### 1. **SUMMARY**

The application seeks to amend condition 10 of planning permission 1911BJ/95/895 as it relates to unit 6 in order to expand the acceptable range of goods and enable occupation by a catalogue retailer.

It is not considered that the expansion in the range of goods sold at the site would give rise to any significant additional traffic generation which would be detrimental to the operation of the highway network.

It is not considered that sufficient information has been provided to demonstrate that the development would not have a detrimental impact on the vitality or viability of nearby Town Centres in accordance with PPS4.

Accordingly, the application is recommended for refusal.

### 2. **RECOMMENDATION**

**REFUSAL for the following reasons:**

#### 1            NON2            **Impact on Town Centre Vitality and Viability**

Insufficient information has been provided to demonstrate that the proposal would not have a significant adverse impact on the vitality and viability of nearby town centres, including consumer choice and the range and quality of comparison and convenience retail offer. Accordingly, the application is considered to be contrary to Policies 2A.8, 3D.1, 3D.2 and 3D.3 of the London Plan and Planning Policy Statement 4: Planning for Sustainable Economic Growth.

### **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).

## **2 153 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 (February 2008) and national guidance.

LE3	Provision of small units in designated Industrial and Business Areas
LPP 2A.8	London Plan Policy 2A.8 - Town Centre.
LPP 3D.1	London Plan Policy 3D.1 - Supporting Town Centres.
LPP 3D.2	London Plan Policy 3D.2 - Town Centre Development
LPP 3D.3	London Plan Policy 3D.3 - Maintaining and Improving Retail Facilities.

## **3**

The effect of the proposed wording provided within question 6 of the application form would be not only to allow occupation of unit 6 by a Catalogue Showroom Retailer, but also to increase the product range which could be sold from units 1, 3, 4, 5, 7 and 8 to match that currently sold at unit 2 (Halfords). However it is clear that the submitted Planning and Retail Assessment does not assess the impact of such an alteration.

## **4**

Your attention is also drawn to a number of apparent typographical errors within the submitted documentation. Were a subsequent application to be lodged you should ensure that all submitted documentation provides consistency in all respects. In particular, with regard to the scope of the intended variation and the Town Centres which have been assessed.

### **3. CONSIDERATIONS**

#### **3.1 Site and Locality**

The application site is Unit 6 at the Hayes Bridge Retail Park, which has a gross internal floor area of 930 sq.m and is currently vacant.

Hayes Bridge Retail Park is accessed via Uxbridge Road and is located approximately 600m to the east of the Uxbridge Road centre (which is defined as a Minor Town Centre in the Saved Policies UDP). Hayes Town Centre (defined as a Major Town Centre lies approximately 1.2km to the west of the Retail Park. The existing Retail Park is located within the Springfield Road Industrial and Business Area.

As a whole the retail park provides a total retail park contains a total of 12,651 sq.m gross internal floorspace. Currently, both unit 6 and unit 7 are unoccupied bringing the total vacant floorspace to 4,115 sq.m.

Currently the sale of goods from units 1, 3, 4, 5, 6, 7 and 8 are restricted by condition 10 of planning permission 1911BJ/95/895 which stipulates 'The non-food retail development hereby approved shall not be used for any purpose other than the sale of the following non-food goods: DIY articles, garden materials and goods, building and decorating equipment and related goods, furniture and soft furnishings, self-assembly furniture,

carpets, floor coverings, white goods and other electrical goods and accessories, computers, office stationary and equipment, pets and pet products. The premises shall be used for no other purposes, including any other use within Class A1 of the Town and Country Planning (Use Classes) Order 1987, unless prior written consent is obtained from the Local Planning Authority.'

The sale of goods from unit 2 (currently occupied by Halfords) is controlled under planning permission 1911BS/96/1058 which states: 'The non-food retail development hereby approved shall not be used for any purpose other than the sale of the following non-food goods: DIY articles, garden furniture and furnishings, self-assembly furniture, carpets, floor coverings, white goods and other electrical equipment, pets and pet products, products for the maintenance and improvement of the car , bicycles and car and bicycle accessories. The premises shall be used for no purposes, including any other use within Class A1 of the town and Country Planning Use Classes) Order 1987, unless prior written consent is obtained from the Local Planning Authority.'

### **3.2 Proposed Scheme**

The application seeks to amend condition 10 of planning permission 1911BJ/95/895 as it relates to unit 6 in order to expand the acceptable range of goods and enable occupation by a catalogue retailer.

The variation of condition application form requires the applicant to provide details and wording of the variation which is being sought to the condition under question 6. The proposed wording sought by the applicant as stated in question 6 of the application form is:

'The non-food retail development hereby approved shall not be used for any purpose other than the sale of the following non-food goods: DIY articles, garden materials and goods, building and decorating equipment and related goods, furniture and furnishings, self-assembly furniture, carpets, floor coverings, white goods and other electrical goods and accessories, computers, office stationary and equipment, pets and pet products, products for the maintenance and improvements of the car, bicycles and car & bicycle accessories.

In addition to the above, Unit 6 can be used by a catalogue retailer for the sale of all non-food goods within Class A1 with the exception of clothing and footwear; books and newspaper; and pharmaceutical goods. A catalogue showroom retailer in the condition is defined as a retailer selling a wide selection of non-food goods selected by the visiting public from a catalogue and supplied to them fully packaged. If unit 6 is occupied by a catalogue retailer at all times at least 50% of the gross floor area will be used for storage and not open to access by retail customers. The sale of Jewellery and Watches shall take place from a single display of no greater than 50 sq.m.

The premises shall be used for no other purposes, including any other use within Class A1 of the Town and Country Planning (Use Classes) Order 1987, unless prior written consent is obtained from the Local Planning Authority.'

In addition to allowing occupation of unit 6 by a Catalogue Showroom Retailer, the effect of such a wording would be to increase the product range which could be sold from units 1, 3, 4, 5, 7 and 8 to match that currently sold at unit 2 (Halfords). However, it is clear from the submitted Retail Impact Assessment that the impact of such an alteration has not been assessed.

### 3.3 Relevant Planning History

1911/BJ/95/0895 Emi (1-3) Uxbridge Road Hayes

Redevelopment of site to provide 9,290 sq. metres of Class A1 (non-food retail) floorspace and 278 sq. metres of Class A3 (Food and Drink) floorspace plus associated parking and landscaping (involving demolition of existing record factory building) (outline application)

**Decision:** 26-01-1996 Approved

#### Comment on Relevant Planning History

### 4. Planning Policies and Standards

Planning Policy Statement 4 - Planning for Sustainable Economic Growth

#### UDP / LDF Designation and London Plan

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

Part 1 Policies:

- PT1.18 To maintain, enhance and promote town centres as the principle centres for shopping, employment and community and cultural activities in the Borough.
- PT1.19 To maintain a hierarchy of shopping centres which maximises accessibility to shops and to encourage retail development in existing centres or local parades which is appropriate to their scale and function and not likely to harm the viability and vitality of Town or Local Centres.
- PT1.24 To reserve designated Industrial and Business Areas as the preferred locations for industry and warehousing.

Part 2 Policies:

- LE3 Provision of small units in designated Industrial and Business Areas
- LPP 2A.8 London Plan Policy 2A.8 - Town Centre.
- LPP 3D.1 London Plan Policy 3D.1 - Supporting Town Centres.
- LPP 3D.2 London Plan Policy 3D.2 - Town Centre Development
- LPP 3D.3 London Plan Policy 3D.3 - Maintaining and Improving Retail Facilities.

### 5. Advertisement and Site Notice

**5.1** Advertisement Expiry Date:- **1st July 2010**

**5.2** Site Notice Expiry Date:- Not applicable

### 6. Consultations

#### External Consultees

The proposal has been advertised as a major application, and 7 nearby owner/occupiers have been consulted individually.

No responses have been received in relation to the consultation.

## **Internal Consultees**

### **POLICY**

As part of pre-application advice, the applicant was advised that unless a robust impact assessment demonstrating that the proposal would not have a detrimental impact on neighbouring centres, there would be an in principle objection to an expansion in the range of goods condition.

The retail statement submitted with the application merely states that "there is unlikely to be any impact on Hayes town centre as Argos is already represented in the centre. Argos has confirmed that the existing store will remain trading and this is to enhance the Company's representation within Hillingdon. Furthermore there will be no impact on either Uxbridge Road or Southall centres as there is limited provision in these centres for the range of goods sold by Argos".

This is not enough information to assess the likely impact on Hayes or Uxbridge Road town centres.

### **HIGHWAYS**

The application has been considered with respect to to the variation of goods condition and with reference to a Transport Assessment which has been provided for application 51652/APP/2010/1263, while the transport assessment did not accompany this application it does consider the worst case traffic situation should both applications 51652/APP/2010/1263 and 51652/APP/2010/1240 (this application) be approved.

The Transport Statement considers a worst case scenario with trips generated by retail use of the additional floor area and finds that there would be not significant increase in traffic generation or parking demand. As such no objections are raised on highway grounds.

## **7. MAIN PLANNING ISSUES**

### **7.01 The principle of the development**

The application site is an existing retail park within the Springfield Road Industrial and Business Area as designated within the Saved Policies UDP.

Given that the site is an existing retail park and no change of use is proposed there is no objection in terms of Policy LE2 of the Saved Policies UDP.

However, the application does seek to extend the range of goods which can be sold from the retail unit and the existing restriction on the sale of goods is in place in order to ensure that the retail park does not have an unacceptable impact on vitality or viability of local shopping centres and for which Public Transport Accessibility is not a key consideration.

The extension of the range of goods which could be sold from unit 6 has the potential to impact on existing shopping centres and to attract shopping trips by car which could be more sustainably serviced by existing town centre locations. Accordingly, the proposal requires careful consideration with respect to Policies 2A.8, 3D.1 and 3D.2 of the London Plan and Planning Policy Statement 4 - Planning for Sustainable Economic Growth; including the PPS4 Practice guidance on need, impact and the sequential approach.

Policy EC10 of PPS4 sets out considerations which should be applied to all economic development including whether is has been planned to minimise carbon dioxide reductions, the accessibility of the site, whether it achieves a high quality and accessible design, the impact on economic and physical regeneration and the impact on local employment.

Policies EC14, EC15, EC16 and EC17 of PPS4 set out the information which is required

to support applications for Town Centre Uses and the approach to the assessment of applications for such uses in out of centre locations. In particular, Policy EC15 requires that any such application should be subject to a sequential assessment as to whether the proposal could be located within a town centre and Policy EC16 requires an Impact Assessment addressing the following issues:

- 'a. the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal
- b. the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer
- c. the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
- d. in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy
- e. if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
- f. any locally important impacts on centres under policy EC3.1.e'

In respect of the current application the applicant has submitted a Planning and Retail Assessment, the scope of which is intended to address both the current application and an application for an additional 930 sq.m of mezzanine floorspace within the unit for storage use only (this is being separately considered under application 51652/APP/2010/1263).

The retail assessment contains a sequential assessment of alternative sites within the nearest Town Centres of Hayes, Uxbridge Road and Southall. The assessment indicates that there are no suitable alternative sites which would meet the requirement of the proposed occupier of unit 6 and officers do not currently have any reason to doubt the validity of the assessment in this regard. However, regardless of the indications of the sequential assessment the proposal must also satisfy the impact assessment in accordance with Policies EC16 and EC17 of PPS4.

The Council's Policy Team has raised concerns with regards to the level and adequacy of the impact assessment and information which has been provided to inform the impact assessment.

In particular, the impact assessment in considering part b. of Policy EC16 is predicated on two key assumptions:

- a) That if a Town Centre has an existing Argos store the creation of an additional out of Town Store will have no impact on the Town Centre; and
- b) That if a Town Centre does not currently sell a significant proportion of the same range of goods as the proposed store there will be no impact.

It is considered that these assumptions are over-simplified and do not accurately have regard to issues such as the proximity of the proposed store to retailers who may utilise existing centres, or the reduced viability of introducing such product ranges within vacant units should the out of centre store be approved.

Officers are particularly mindful that there have recently been a number of similar applications to vary 'bulky goods conditions' across the Borough and that if approved such applications can cumulatively result in significant impacts on the vitality and viability of

Town Centres. Accordingly, it is considered imperative that any supporting retail assessments contain sufficient information on which to accurately assess the impact of the proposal.

On the basis of the information provided it is considered that insufficient information has been provided to demonstrate that the proposal would not have a significant adverse impact on the vitality and viability of nearby town centres, including consumer choice and the range and quality of comparison and convenience retail offer.

There is also the issue of the applicants real intentions behind this application (lodged by the owner of the retail park). As explained under paragraph 3.2 on question 6 of the application form the variation of condition 6 actually requested by the applicant would have much wider affects and result in changes to goods sold from units 1, 3, 4, 5, 7 & 8 of the retail park. The submitted planning and retail assessment does not properly consider these units and there is clear potential for such a change in goods sold at the retail park to impact on nearby Town Centres. This further re-enforces officer concerns regarding the failure of the retail impact assessment to properly consider the impacts of the proposal.

The applicant has also put forward that the proposal will bring a vacant unit back into use and therefore provide jobs and benefit local employment. Consideration of the development on Local Employment is relevant under Policy EC10.2 of PPS4, however the applicant has not provided any detailed information to demonstrate that there is no reasonable possibility of the site being occupied subject to the existing condition or with regard to the level of jobs which could be created. On this basis it is not possible to properly balance this consideration against the key issue of impacts on nearby Town Centres.

It is also noted that the applicant has provided a number of references to appeal decisions and decisions by other Council's, however officers do not have access to the detailed circumstances in these cases and given the geographical spread of these applications it is not considered that these decisions are directly applicable to the current application.

#### **7.02 Density of the proposed development**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Density is not therefore a relevant consideration.

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

The application site is not located within or in proximity to any Conservations Areas, Areas of Special Local Character or Listed Buildings.

The application seeks an alteration to a condition restricting the sale of goods. The proposal would not therefore impact on archaeology.

#### **7.04 Airport safeguarding**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any implications with regard to airport safeguarding.

#### **7.05 Impact on the green belt**

The application site is not located in proximity to any land designated as Green Belt.

#### **7.07 Impact on the character & appearance of the area**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any impacts on the character or appearance of the application site.

#### **7.08 Impact on neighbours**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It is not considered that this would result in any impacts detrimental to the amenity of nearby residential occupiers.

#### **7.09 Living conditions for future occupiers**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Living conditions for future residential occupiers is therefore not relevant to consideration of this proposal.

#### **7.10 Traffic impact, Car/cycle parking, pedestrian safety**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. No alterations to the existing car parking or access arrangements for the retail park are proposed.

The application has been considered with respect to a Transport Statement which supports a separate application for Unit 6, but which addresses the traffic and parking implications should this be approved alongside the current proposal.

The Council's Highways Engineer has considered the proposal in respect of this assessment and raises no objection the proposal in terms of traffic generation or car parking provision.

#### **7.11 Urban design, access and security**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any implications with regard to urban design, accessibility or security.

#### **7.12 Disabled access**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any implications with regard to disabled accessibility.

#### **7.13 Provision of affordable & special needs housing**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Considerations relating to affordable and special needs housing are therefore not relevant to this proposal.

#### **7.14 Trees, landscaping and Ecology**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any implications on existing trees, landscaping or ecology.

#### **7.15 Sustainable waste management**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park.

The unit would be served by existing waste and recycling facilities and it is considered

#### **7.16 Renewable energy / Sustainability**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it does not have any implications with regard to renewable energy or sustainability.

#### **7.17 Flooding or Drainage Issues**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it would not have any implications with regard to flooding or drainage issues.

#### **7.18 Noise or Air Quality Issues**



The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it would not have any implications with regard to noise or air quality.

#### **7.19 Comments on Public Consultations**

No responses received.

#### **7.20 Planning obligations**

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not give rise to the need for any planning obligations.

#### **7.21 Expediency of enforcement action**

Not applicable.

#### **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**

### **10. CONCLUSION**

The application seeks to amend condition 10 of planning permission 1911BJ/95/895 as it relates to unit 6 in order to expand the acceptable range of goods and enable occupation by a catalogue retailer.

It is not considered that the expansion in the range of goods sold at the site would give

rise to any significant additional traffic generation which would be detrimental to the operation of the highway network.

It is not considered that sufficient information has been provided to demonstrate that the development would not have a detrimental impact on the vitality or viability of nearby Town Centres in accordance with PPS4.

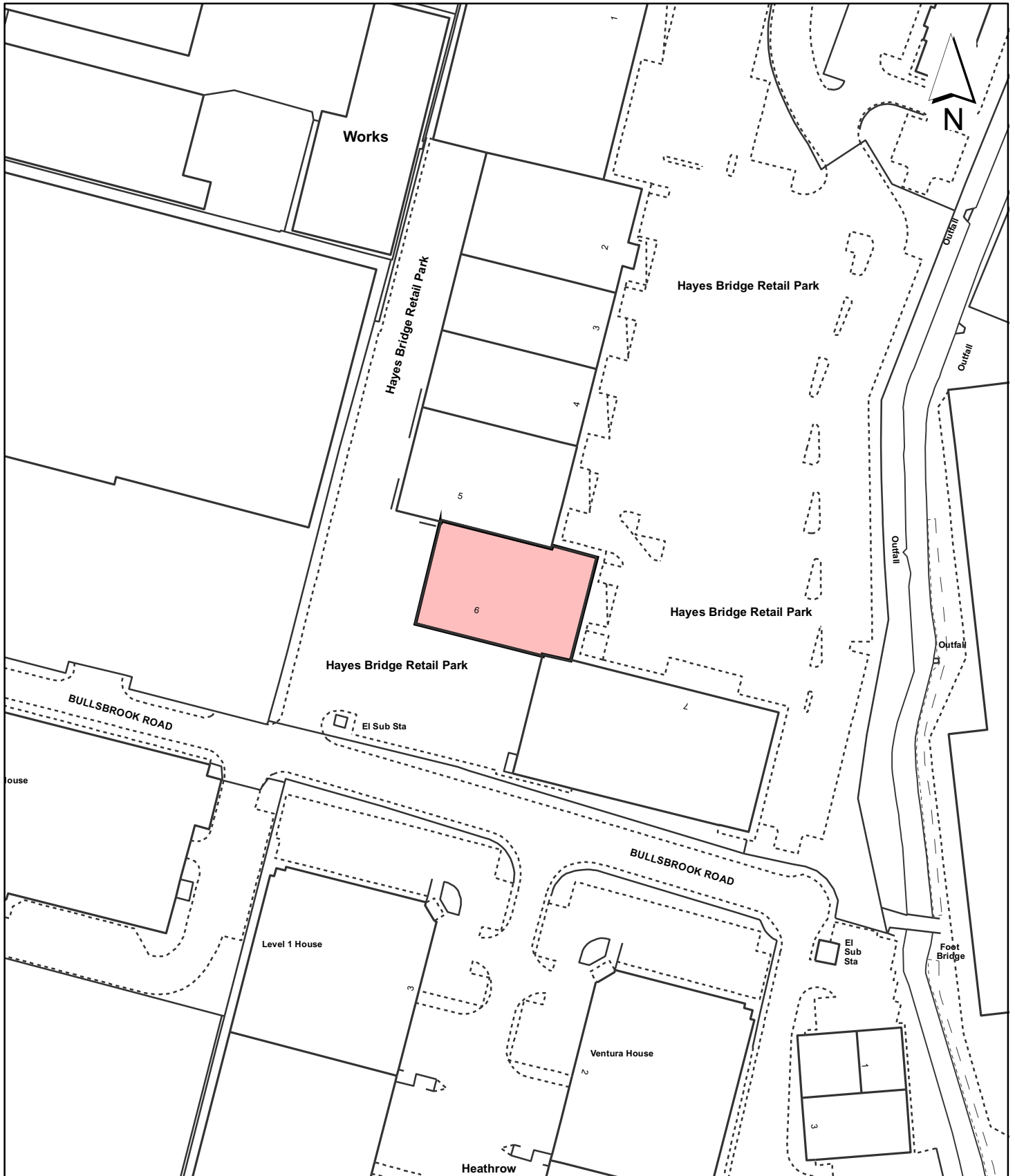
Accordingly, the application is recommended for refusal.



#### **11. Reference Documents**

- (a) The London Plan
- (b) Planning Policy Statement 4 - Planning for Sustainable Economic Growth

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<p><b>Notes</b></p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown Copyright. All rights reserved. London Borough of Hillingdon 100019283 2009</p>	<p>Site Address</p> <p><b>Unit 6, Hayes Bridge Retail Park Uxbridge Road Hayes</b></p>		<p><b>LONDON BOROUGH OF HILLINGDON</b></p> <p><b>Planning &amp; Community Services</b></p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p><b>51652/APP/2010/1240</b></p>	<p>Scale</p> <p><b>1:1,250</b></p>	
	<p>Planning Committee</p> <p><b>Central and South</b></p>	<p>Date</p> <p><b>July 2010</b></p>	
		 <b>HILLINGDON</b> <small>LONDON</small>	