

Report of the Head of Planning & Enforcement Services

Address 1 YEADING LANE HAYES

Development: Change of use from A3 (restaurant and cafes) to A3 (restaurant and cafes) /A5 (hot food takeaways), installation of extraction unit and an extension of hours from 0700 - 2000 on Monday to Saturday and 0900 - 1700 on Sunday, to 0700 - 2200 Monday to Saturday and 0900 - 2000 on Sundays and Bank Holidays.

LBH Ref Nos: 47275/APP/2010/494

Drawing Nos: 1:1250 Location Plan
Design & Access Statement
01
03
Petition in support of this application
06A
06B
02
04
05

Date Plans Received: 05/03/2010 **Date(s) of Amendment(s):** 05/03/2010

Date Application Valid: 24/03/2010 17/03/2010
24/03/2010

1. **SUMMARY**

Planning permission is sought for the change of use to allow take-away facilities at the existing restaurant. It is also proposed to extend the hours of operation and install a flue in the rear wall of the existing single storey rear extension.

The proposed development is considered to be acceptable and would not harm the appearance of the surrounding area, have an adverse impact on residential amenity, and would not result in an increase in on-street parking demand.

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 N12 **Air extraction system - noise and odour**

No air extraction system shall be used on the premises until a scheme for the control of noise and odour emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be fully implemented before the development is occupied/the 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).

3 N15 Hours restriction for audible amplified music/sound

No music and/ or other amplified sound arising from the premises shall be audible from the inside of surrounding or adjacent premises between 2200 and 0900 hours Monday to Sundays.

REASON

To safeguard the amenity of the occupants of surrounding properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 4A.20 of the London Plan (February 2008).

4 NONSC Hours restriction on deliveries

The premises shall not be used for delivery and the loading or unloading of goods outside the hours of 08:00 and 18:00 Monday to Friday and outside the hours of 08:00 and 13:00 on Saturdays. There shall be no deliveries or loading or unloading of goods on Sundays and ban/public holidays.

REASON

To safeguard the amenity of the surrounding area, in accordance with policies OE1 and OE3 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

5 HLC1 Restaurants/Cafes/Snack Bars

No persons other than staff shall be permitted to be on the premises between the hours of 22.00 hours and 07.00 hours Monday to Saturdays and 20.00 hours and 09.00 hours on Sundays and bank/public holidays.

REASON

To ensure that the amenity of the occupiers of adjoining or nearby properties is not adversely affected in accordance with Policy OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

6 OM5 Provision of Bin Stores

No development shall take place until details of facilities to be provided for the screened storage of refuse bins within the site have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the facilities have been provided in accordance with the approved details and thereafter the facilities shall be permanently retained.

REASON

To ensure a satisfactory appearance and in the interests of the amenities of the occupiers and adjoining residents, in accordance with Policies BE13 and OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

7 NONSC Provision of Litter Bin

The use hereby permitted shall not commence until the owner has made arrangements, to be submitted to and approved in writing by the Local Planning Authority, for the provision of a litter bins within and in the vicinity of the site.

REASON

To ensure that adequate provision is made for the disposal of litter likely to be generated by the proposed development, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

8 NONSC Permanently Displayed Notice

A notice shall be displayed permanently and prominently within the premises requesting that customers dispose of their litter responsibly.

REASON

To ensure the satisfactory disposal of litter in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with policy S1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

INFORMATIVES

1 152 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).

2 153 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.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the

	area.
S6	Change of use of shops - safeguarding the amenities of shopping areas
S12	Service uses in Secondary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures

3 11 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 14 Neighbourly Consideration - include on all residential exts

You have been granted planning permission to build a residential extension. When undertaking demolition and/or building work, please be considerate to your neighbours and do not undertake work in the early morning or late at night or at any time on Sundays or Bank Holidays. Furthermore, please ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway. You are advised that the Council does have formal powers to control noise and nuisance under The Control of Pollution Act 1974, the Clean Air Acts and other relevant legislation. For further information and advice, please contact - Environmental Protection Unit, 4W/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250190).

5 16 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.

6 115 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.

7 118 Storage and Collection of Refuse

The Council's Waste Service should be consulted about refuse storage and collection arrangements. Details of proposals should be included on submitted plans.

For further information and advice, contact - the Waste Service Manager, Central Depot - Block A, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB8 3EU (Tel. 01895 277505 / 506).

8 127 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).

9

You are advised that Thames Water recommends the installation of a properly maintained fat trap on all catering establishment. They further recommend, in line with best practice for the disposal of Fats, Oil 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. You are advised to consult Thames Water on 0208 507 4321.

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:-

- 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-gb.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.

11 114 Installation of Plant and Machinery

The Council's Commercial Premises Section and Building Control Services should be consulted regarding any of the following:-

The installation of a boiler with a rating of 55,000 - 1¼ million Btu/hr and/or the construction of a chimney serving a furnace with a minimum rating of 1¼ million Btu/hr;

The siting of any external machinery (eg air conditioning);

The installation of additional plant/machinery or replacement of existing machinery.

Contact:- Commercial Premises Section, 4W/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250190). Building Control Services, 3N/01, Civic Centre, High Street, Uxbridge, UB8 1UW (tel. 01895 250804 / 805 / 808).

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the west side of Yeading Lane near its junction with Uxbridge Road, Hayes, and comprises a ground floor cafe within class A3, with a single storey rear extension, with residential above accessed from the rear. A service road and lay-by lies in front of the application property, while a service yard lies to the rear. To the south lies 364 Uxbridge Road and to the north lies 3 Yeading Lane, both with commercial units on the ground floor with residential above accessed from the rear. The street scene is commercial in character and appearance and the application site lies within the secondary centre of the Uxbridge Road Hayes Town Centre as designated in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

Planning permission is sought for the change of use of the existing restaurant to a restaurant with takeaway facilities (within classes A3/A5) and an extension of hours from 0700 - 2000 on Monday to Saturday and 0900 - 1700 on Sunday, to 0700 - 2200 Monday

to Saturday and 0900 - 2000 on Sundays and Bank Holidays.

The previously refused scheme proposed a flue extending from the rear walkway, which provides access to the residential properties above, up along the rear elevation of the premises set between the existing dormer windows. This current scheme now proposes the installation of a flue on the rear wall of the existing rear elevation.

3.3 Relevant Planning History

47275/APP/2005/3063 1 Yeading Lane Hayes

EXTENSION OF HOURS OF OPERATION FROM 6.00PM TO 11.00PM, MONDAY TO SATURDAY IN VARIATION OF CONDITION 6 OF PLANNING PERMISSION REF: 47275B/93/215 DATED 07/05/1993: CHANGE OF USE FROM CLASS A1 (RETAIL) TO A MIXED USE WITHIN CLASS A3 FOR TEA ROOMS AND COMMERCIAL CATERERS

Decision: 20-12-2005 Refused

47275/B/93/0215 1 Yeading Lane Hayes

Change of use from Class A1 (retail shop) to a mixed use within Class A3 for tea rooms and commercial caterers

Decision: 07-05-1993 Approved

47275/PRE/2000/132 1 Yeading Lane Hayes

PRE-CORRES ENQUIRY FOR USE OF CLASS.

Decision:

Comment on Relevant Planning History

Planning application ref: 47275/APP/2008/319 for the change of use from a cafe (class A3) to a mixed use for a cafe during the day and takeaway in the evening (classes A3 and A5) and installation of a rear extraction unit, was refused for the following reason:

"The proposed flue, by reason of its siting, projecting above the shared walkway and extending between the windows of the residential property above, would represent an incongruous and visually intrusive form of development that would harm the residential amenities of the occupier of the above residential unit and would detract from the appearance of the original property and the surrounding area generally, contrary to Policies BE13, BE15 and BE19 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007)."

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

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

Part 1 Policies:

PT1.10 To seek to ensure that development does not adversely affect the amenity and the character of the area.

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.

Part 2 Policies:

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.
S6 Change of use of shops - safeguarding the amenities of shopping areas
S12 Service uses in Secondary Shopping Areas
OE1 Protection of the character and amenities of surrounding properties and the local area
AM2 Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7 Consideration of traffic generated by proposed developments.
AM14 New development and car parking standards.
OE3 Buildings or uses likely to cause noise annoyance - mitigation measures

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 adjoining owner/occupiers have been consulted. 2 letters of objection from the same occupier and a petition with 122 signatories in support have been received, making the following comments:

Letter of objection:

- (i) The proposal would result in an increase in noise and disturbance, particularly late at night;
- (ii) The proposal would increase litter and encourage vermin; and
- (iii) The proposal would result in an increase in on-street parking.

Petition

"To our customers and local residents we are currently planning to change to a cafe to include takeaway style restaurant. This is in response to your requests and feedback on what you would like this cafe to provide in cuisine."

Thames Water:

Thames Water recommends the installation of a properly maintained fat trap on all catering

establishments. We 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 the submission of technical specifications relating to noise and odour to be submitted and approved prior to installation.

Access Officer: No objections.

Highways Officer: No objections.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Planning permission is sought for the change of use to allow takeaway facilities to operate from the premises. As the proposed use would not result in the loss of retail floorspace, the proposal would not harm the vitality and viability of the town centre, in accordance with policy S12 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.02 Density of the proposed development

This is not applicable to this application.

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

This is not applicable to this application.

7.04 Airport safeguarding

This is not applicable to this application.

7.05 Impact on the green belt

This is not applicable to this application.

7.07 Impact on the character & appearance of the area

The proposed flue would now comprise an extract duct on the rear wall of the existing single storey rear extension. This elevational alteration is minimal and as such, it is not considered to have an adverse impact on the appearance of the original building and the character of the surrounding area. As such, the proposal would overcome the reason for refusal of the previous scheme and would now comply with policies BE13, BE15 and BE19 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.08 Impact on neighbours

With regard to residential amenity, the proposal involves extending the hours of operation from 6pm to 10pm Monday to Saturday and 5pm to 8pm on Sundays and Bank Holidays.

The Environmental Protection Unit (EPU) raises no objections to the extension of hours, particularly as generally, it is not uncommon for take-away uses below residential properties to operate under similar hours. As such, subject to a condition restricting the hours of operation, it is unlikely that the proposed take-away use would harm residential amenity. Further conditions relating to the deliveries and the display of an external bin to

protect against late night noise and disturbance and litter are also recommended to safeguard residential amenity. The proposal is therefore considered to comply with Policies S6 (iii) and OE1 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

There are residential properties located above the application property. The EPU raises no objections to a flue in principle, subject to further details relating to the control of noise and odour.

7.09 Living conditions for future occupiers

This is not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

There are waiting restriction, double yellow lines, and an at 'any time' loading bay (lay-by) outside the shops on Yeading Lane. There is also a CCTV camera at the Grapes Junction to deter illegal parking. As such no objections are raised to the proposal on Highways Grounds.

7.11 Urban design, access and security

Given the nature of the proposal, there are no access issues.

7.12 Disabled access

This is not applicable to this application.

7.13 Provision of affordable & special needs housing

This is not applicable to this application.

7.14 Trees, landscaping and Ecology

This is not applicable to this application.

7.15 Sustainable waste management

As the application is for a commercial development the site occupier ultimately has discretion over which waste management methods are used. Nevertheless, full details of refuse arrangements would be required by way of condition should permission be granted.

7.16 Renewable energy / Sustainability

This is not applicable to this application.

7.17 Flooding or Drainage Issues

This is not applicable to this application.

7.18 Noise or Air Quality Issues

This has been addressed in part 7.08 of the report. It is not considered that the proposal would lead to a significant increase in noise at the premises. Notably officers in the Council's Environmental Protection Unit have raised no objections in this respect.

7.19 Comments on Public Consultations

With regards to the third party comments, these are addressed in the report. The petition in support of the application is noted.

7.20 Planning obligations

This is not applicable to this application.

7.21 Expediency of enforcement action

This is not applicable to this application.

7.22 Other Issues

There are no other relevant issues.

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

This is not applicable to this application.

10. CONCLUSION

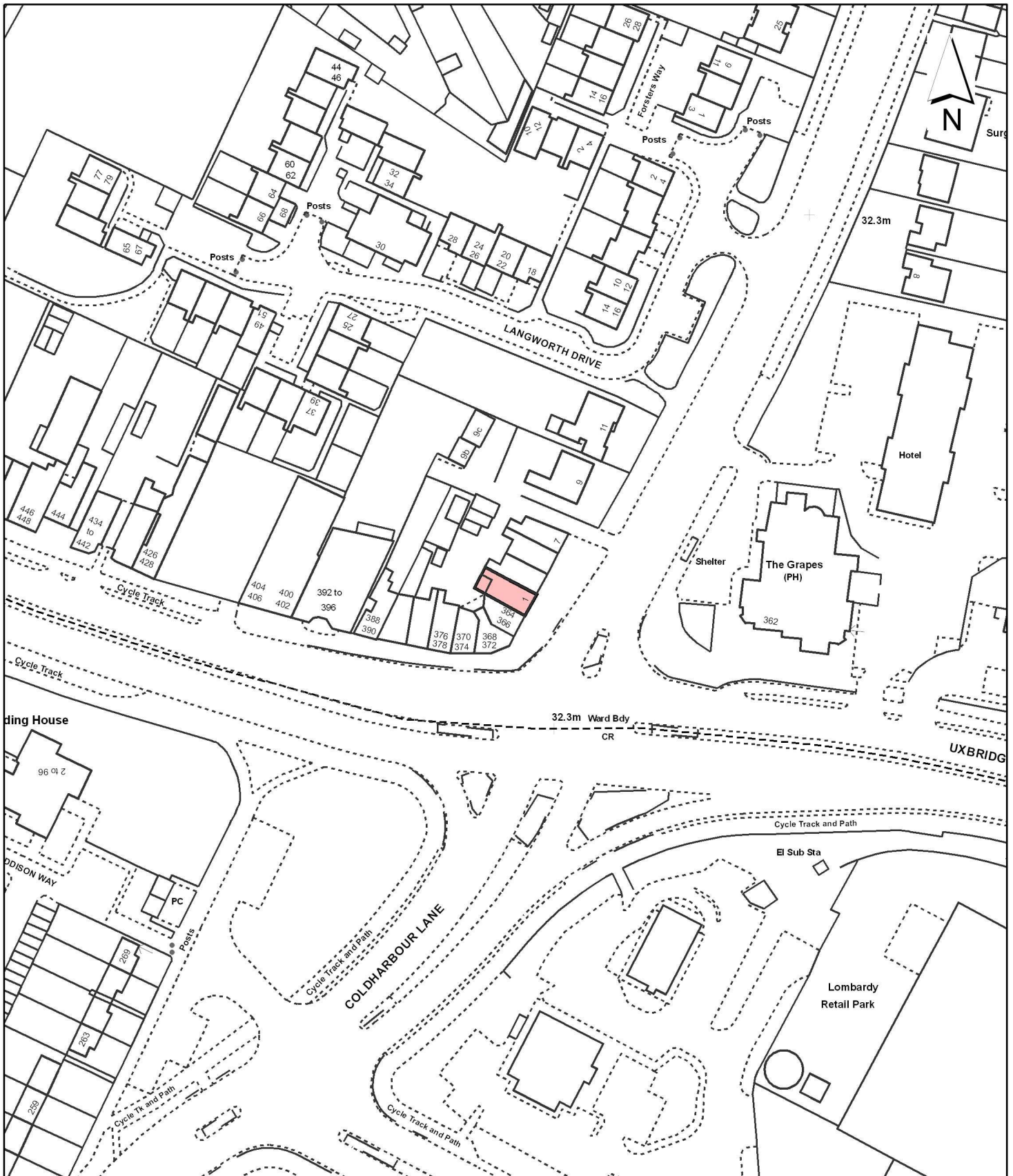
The proposed take-away facility, external flue and extension of the hours of operation are acceptable and would comply with the aforementioned adopted Hillingdon Unitary Development Plan (Saved Policies September 2007). Therefore, this application is recommended for approval.

11. Reference Documents

Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007)

Contact Officer: Sonia Bowen

Telephone No: 01895 250230



Notes

 Site boundary

For identification purposes only.

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Site Address

**1 Yeading Lane,
Hayes**

Planning Application Ref:
47275/APP/2010/494

Planning Committee

Central and South

Scale

1:1,250

Date

September 2010

**LONDON BOROUGH
OF HILLINGDON
Planning &
Community Services**

Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111



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