

Report of the Head of Planning & Enforcement Services

Address 95 - 97 HIGH ROAD ICKENHAM

Development: Change of use from Class B2 (General Industry) to Class A5 (Hot Food Takeaways) for use as a takeaway, including installation of new shopfront.

LBH Ref Nos: 63771/APP/2010/2174

Drawing Nos: Planning Statement
1077-06
1077-02
1077-01
1077-03
1077-04
1077-05 Rev A

Date Plans Received: 14/09/2010 **Date(s) of Amendment(s):** 14/09/2010
Date Application Valid: 22/11/2010 22/11/2010

1. SUMMARY

Planning permission is sought for the retention of the use of the premises as a take away business and the shopfront. It is considered that the level of shop uses in the parade and in the nearby Ickenham Local Centre are adequate to maintain the convenience shopping needs of local residents, and the shopfront is acceptable and does not detract from the appearance of the street scene.

2. RECOMMENDATION

APPROVAL subject to the following:

1 MCD13 Extraction Vent or Chimney

Notwithstanding the submitted plans, within 1 month of the date of this permission details of the height, position, design, materials, noise generation and means of mitigating the noise and vibration of the chimney and/or extraction vent to be provided in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved vent/chimney shall be installed in accordance with the approved details within 1 month of the approval of the details. Thereafter the vent/chimney shall be permanently retained and maintained in good working order for so long as the use continues.

REASON

In order to safeguard the amenities of adjoining properties in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (February 2008) Policies 4B.1 and 4A.19.

2 NONSC Non Standard Condition

The premises shall only be used for the preparation, sale of food and drink and clearing up 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 Policies September 2007).

3 NONSC Non Standard Condition

Within 1 month from the date of this permission, details of a sound insulation scheme that specifies the provisions to be made for the control of noise transmission to adjoining dwellings, has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be implemented within 1 month from the date of approval of the details and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

REASON:

To protect the amenities of the occupiers of residential accommodation in the vicinity in accordance with Policy OE1 of the Adopted Hillingdon Unitary Development Plan (Saved Policies 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 OM5 Provision of Bin Stores

Within 1 month from the date of this permission, details of covered and secure 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. The approved facilities shall be implemented within 1 month from the date of approval of the 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 Policy OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

6 H14 Cycle Storage - details to be submitted

Within 1 month from the date of this permission, details of covered and secure cycle storage, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be implemented within 1 month from the date of approval of the details and thereafter the facilities shall be permanently retained.

REASON

To ensure the provision and retention of facilities for cyclists to the development and hence the availability of sustainable forms of transport to the site in accordance with Policy AM9 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 3C of the London Plan. (February 2008).

7 NONSC Non Standard Condition

Within 1 month from the date of this permission, a scheme detailing the method of disposal, storage and collection of litter and waste materials, generated by the business and/or discarded by patrons, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a description of the facilities to be provided and the methods for collection of litter within and in the vicinity of the premises. The approved scheme shall be implemented in full thereafter.

REASON

To ensure that adequate provision is made for the disposal of litter and waste, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with policy S1 of the Hillingdon Unitary Development Plan.

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.
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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
AM9	Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities
AM14	New development and car parking standards.
HDAS	Hillingdon Design & Accessibility Statement (HDAS): Shopfronts (adopted in August 2006 and to form part of the emerging Local Development Framework documents).

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 13 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).

5 145 Discharge of Conditions

Your attention is drawn to conditions 1, 3, 5, 6 and 7 which must be discharged within the specified dates. You will be in breach of planning control should you not submit the details within the required time scales. The Council may consider taking enforcement action to rectify the breach of this condition. For further information and advice contact Planning & Community Services, Civic Centre, Uxbridge, UB8 1UW (Tel: 01895 250230).

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the north west side of High Road Ickenham and forms part of a parade of 8 commercial units with residential above, accessed from the rear. The application property comprises a ground floor unit which is currently in use as a hot food takeaway restaurant, the subject of this planning application, and has a single storey rear extension. The external flue associated with the application property is located on the flank wall of 97 High Street.

To the north east lies 97 High Street and to the south west lies 91 -93 High Street. Beyond 97 High Street is 183-199 (odd) The Greenway, a residential apartment block of flats. To the rear lies off-street parking spaces accessed from The Greenway. The street scene is residential in character and appearance and the application site lies within the developed area as identified in the Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

3.2 Proposed Scheme

Planning permission is sought for the retention of the use as a hot food take away and elevational alterations comprising the installation of a new shopfront. A fascia sign has also been erected however this is the subject to a separate application for Advertisement Consent.

The new shopfront comprises a glazed shopfront set within a powder coated aluminium frame with a 1m wide centrally positioned doorway with internal ramped access.

Originally the applicants also applied for the retention of the extractor flue located on the flank wall of 97 High Street. The duct is located some 9m behind the front elevation of 97 High Street, immediately before the existing external metal staircase. It comprises

galvanised steel attached to the wall by brackets and measures 1m by 1m tapering to 0.8m by 0.8m, and extending approximately 1m above the parapet. However, the applicants have agreed to submit details of a new flue and remove the existing one.

3.3 Relevant Planning History

Comment on Relevant Planning History

Retrospective application (ref: 14964/APP/2006/2429) for retention of the change of use from office to four 3-bedroom flats at first and loft levels was refused on 23/11/06. The application included internal alterations involving the removal of four internal staircases linking the ground floor to the first floor and internal partition walls at first floor levels that create the various bedrooms and living rooms within the four flats. The application also proposed the installation of external access stairs to the northeast corner of the building and associated railings to the rear elevation. The reason for refusal was as follows:

1. The existing flats, due to their location above an authorised general industrial (B2) use on the ground floor and the potential for noise disturbance and other disturbances associated with such a use, constitute a substandard form of accommodation, detrimental to the living conditions of future occupants. As such, the development is contrary to policies OE1, OE3 and B8 of the adopted Hillingdon Unitary Development Plan.

Planning application ref: 14964/APP/2007/560 for the installation of an external staircase was received on 30/03/07. The proposed siting and design of the staircase was identical to that indicated on the previous application. This application was refused on 25/05/07 for the following reasons:

1. The proposed external staircase would enable independent access to the unauthorised first flats. This would facilitate the retention of the unauthorised flats, which due to their location above an authorised general industrial (B2) use on the ground floor and the potential for noise disturbance and other disturbances associated with such a use, constitute a substandard form of accommodation, detrimental to the living conditions of future occupants. As such, the development is contrary to policies OE1, OE3 and H8 of the adopted Hillingdon Unitary Development Plan.

2. The proposal would fail to provide an internal staircase for flats and would therefore result in a substandard level of accommodation for the existing and future occupiers being contrary to policy H7(iii) of the UDP.

Planning application ref: 14964/APP/2007/1178 at 91-97 High Road Ickenham for the change of use of four existing first/second floor office units to four 3-bedroom flats (incorporating roofspace accommodation) with side/rear external access staircase and rear terrace was refused on 29/06/07 for the following reasons:

1. The existing flats, due to their location above an authorised general industrial (B2) use on the ground floor and the potential for noise disturbance and other disturbances associated with such a use, constitute a substandard form of accommodation, detrimental to the living conditions of future occupants. As such, the development is contrary to policies OE1, OE3 and B8 of the adopted Hillingdon Unitary Development Plan.

2. The proposed external staircase would enable independent access to the unauthorised first flats. This would facilitate the retention of the unauthorised use, which due to their location above an authorised general industrial (B2) use on the ground floor and the potential for noise disturbance and other disturbances associated with such a use, constitute a substandard form of accommodation, detrimental to the living conditions of

future occupants. As such, the development is contrary to policies OE1, OE3 and H8 of the adopted Hillingdon Unitary Development Plan.

Planning application ref: 14964/APP/2009/896 at 91-97 High Road Ickenham for the change of use of the first and second floors from Class B2 industrial use to 4 four-bedroom flats with side/rear external access staircase and rear first floor walkway and installation of new rear first floor walkway and staircase was refused on 27/05/10 for the following reasons:

1. The proposed car parking layout, given the siting of existing and proposed stairs/fire accesses would not be capable of implementation/full use of all the spaces and the proposal makes inadequate provision for the storage of refuse/recycling. The development would therefore be likely to generate additional on-street car parking, prejudicial to conditions of pedestrian and highway safety, contrary to policies AM7(ii) and AM14 of the adopted Hillingdon Unitary development Plan Saved Policies (September 2007).

2. The development is estimated to give rise to a significant number of children of school age and additional provision would need to be made in the locality due to the shortfall of places in schools serving the area. Given that a legal agreement at this stage has not been offered or secured, the proposal is considered to be contrary to Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and the adopted London Borough of Hillingdon Planning Obligations Supplementary Planning Document (July 2008).

Planning application ref: 63005/APP/2007/1175 at 97 High Road Ickenham for the subdivision of ground floor to form a separate unit and change of use from class B2 (general industry) to class A3 (restaurant, snack bar, cafe) for use as a restaurant with installation of a new shop front and flue was approved on the 29th June 2007.

This permission was not implemented and in its place an A5 use occurred on the site, the retention of which is the subject of this application.

Planning application ref: 63007/APP/2007/1177 at 95 High Road for the sub-division of ground-floor and change of use from class B2 (general industry) to class A3 (restaurants, snack bars, cafes) for use as a restaurant and installation of new shopfront was approved on the 29th June 2007.

Planning application ref: 63007/APP/2008/2649 at 95 High Road for the change of use of the ground-floor from class B2 (general industry) to class D1 (Non-Residential Institution) for use as a dental practice and installation of new shopfront was refused on the 7th November 2008 for the following reasons:

1. The applicants have failed to provide a transport statement indicating details of the likely traffic generation and requirement for parking which could arise from the proposal. In the absence of such information, and taking into consideration the absence of parking and cycle provision within the application site boundary the applicants have failed to demonstrate that the proposal would not give rise to additional on-street car parking, or conditions which would be prejudicial to highway and pedestrian safety. As such, the proposal would be contrary to Policies AM7 (ii) and AM14 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

2. The proposed stepped entrance to the premises would not be accessible to people with

disabilities. The proposal would therefore fail to comply with Policy R16 of the Hillingdon Unitary Development Plan Saved Policies September 2007 and the Council's SPD 'Accessible Hillingdon'.

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 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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
AM9	Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities
AM14	New development and car parking standards.
HDAS	Hillingdon Design & Accessibility Statement (HDAS): Shopfronts (adopted in August 2006 and to form part of the emerging Local Development Framework documents).

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

23 adjoining owner/occupiers have been consulted. 4 letters of objection and a petition with 53 signatories have been submitted.

Letters of objection:

- (i) There is no need for a further food outlet in this parade;
- (ii) The use has commenced before the planning application was submitted;
- (iii) Insufficient parking has been provided;
- (iv) The use results in an increase in traffic;
- (v) Objections were raised against the two previous applications (restaurant and dental surgery)

- (vi) The use generates noise and disturbance which is harmful to adjoining residents;
- (vii) There has been an increase in litter and dumping of food waste

OFFICER COMMENTS: On point (i), the Council cannot refuse this application on the grounds that there is no need for a further food outlet. On point (ii), this application has been submitted to rectify the breach in planning control. Points (iii), (iv) and (vi) have been addressed in the report, point (v) is noted and point (vii) can be resolved through an appropriate planning condition should permission be granted.

Petition:

We the undersigned as residents of the London Borough of Hillingdon wish to state our objection to the application at 95A High Road Ickenham to provide a Takeaway Restaurant within the High Road parade and strongly oppose any attempt to grant Planning Permission either on a retrospective or any other basis.

We object to this outlet being granted Planning Permission on the following grounds.

Disabled Access

- The shop front does not comply with Part M of the Building regulations or BS8300
- There is no colour contrast between doors and frames
- The handles on the manually operated door are non compliant
- There is a stepped threshold
- There is a totally unacceptable ramp to the counter internally.
- There are no guard rails from falling of raised areas of the front of house waiting area.
- There is no disabled parking available either front or rear.
- It has been stated Planning support statement item 4.00 the shop front is similar to the Tesco Express. This is incorrect. Tesco's have automated doors and level access and thus accessible by wheelchair users and people with limited mobility and upper body strength. The applicant's proposals are not.
- Internal doors are not in accordance with Part M and opening against the flow of fire routes
- "A frame" notice boards on public footpath are a hazard to disabled people, in addition reduces the pavement width to all especially when delivering to outlets are in progress.

OFFICER COMMENTS: The shopfront is considered to relate satisfactorily with the appearance of the street scene. Matters under Part M can be resolved through Building Regulations and access has been provided via an internal ramp for wheelchair users. The matter relating to the 'A' board is a matter for highways enforcement.

Parking

- Insufficient Parking: This applies from both a residential aspect and from existing local business operators who are being impacted by not having sufficient parking for their customers and the detrimental impact on their business as a result of too many food outlets in a small parade.
- Dangerous Parking situations whereby takeaway customers double park in the cycle lane and carriageway within the High Road and gives rise to reversing, impeded sight lines within the Greenway.
- Insufficient off road parking for staff and employees
- Insufficient parking and loading for home delivery vans.
- Insufficient loading areas for general deliveries which are made at all times day and night.
- Nuisance, noise, antisocial driving practice, at speed, within The Greenway by Home delivery drivers at all times during the day and night. Speeding delivery cars/vans in a narrow residential road with a children's nursery opposite is unacceptable. Speed restrictors are required.
- Anti-social hours of refuse collection at between 4.00 and 6.00am within the residential road The Greenway.

- This is not a situation whereby the rear of the shops backs onto a service road but directly onto residential streets. All delivery activity has an impact on the residents as does 'on road' parking.
- The drawings clearly show one car parking space is available with the other area used for refuse. It is stated on the application two spaces are available and thus misleading statements have been issued. In any case, these cars will be required to reverse across the footpath which creates an unacceptable hazard due to congested parking along the greenway. It is again stated in Planning support statement item 4.00. This is clearly not the case. See drawing 1077-03. It is not possible to open the car door unless the adjoining premises parking spaces are used. That is if the car reverse in. If it simple drove in as most do then it would be parked on the adjoining owners land and is thus unworkable.
- The London Borough of Hillingdon has refused permission for a dental practice to serve the community's health and well being on the grounds insufficient parking therefore there is no justification to allow a fast food 'Takeaway' with all associated parking, delivery, collection and access issues.

Increased Traffic

- The increased traffic generated by customers, staff, delivery and home delivery vehicles from a second takeaway in the parade is unacceptable and a danger to road users and pedestrians alike. Dangerous situations and accidents are a common occurrence.
- The existing situation is being monitored and petitions in progress for road safety audits. The opening of two restaurants, two takeaways and Tesco's express has caused a considerable strain and a increase in dangerous situations and accidents. New traffic lights make the High Road a static gridlock and U turns and other dangerous situations arise. The area simple cannot take this level of traffic generated by addition fast food outlets and the resulting vehicular use.

OFFICER COMMENTS: The Highway Engineer has considered the impact of the development on the local highway network and on surrounding residential streets and concludes that the proposal does not result in a significant increase in traffic movement, congestion or lead to an increase in demand for on-street parking spaces.

Outstanding Planning Conditions:

Extract Ventilator Stack

- The extract stack to the side elevation produces unacceptable noise levels and prevents adjoining residents from sleeping at night and is a constant nuisance during the hours of 11.00am to 11.30pm (and later). A constant droning noise permeates the adjacent flats and is considered a statutory nuisance by the residents. This stack has been erected closer to the residential apartments than the previous application had indicated whereby it gained Planning permission and should be part of an enforcement notice. The stack does not rise one meter above the ridgeline and doesn't comply with good practice. The extract system runs through two separate units and maintenance issues exist which may be seen as a considerable fire hazard. All attempts to baffle the sound have been unsuccessful and is a continuing nuisance and annoyance to residents. Odours could not be monitored due to the overpowering odours of the Planet Boliwood restaurant and yet another extract system installed without Planning permission. The design of the stack is considered wholly inappropriate on the gable end of the parade. There is no precedent for gable end stacks on the parade and this massive silver stack is an eyesore for local residents whereby the rear gardens view is spoiled by this installation. The stack being a fire hazard is also located along a escape route from the first floor units. The external staircase (without planning permission) is in close proximity. Any fire in this location may impede escape from the upper units and possibly fire could penetrate the residential flank windows. The applicant's summary fails to address or record the fact the stack was erected some three metres closer to the residential units than indicated on the Planning applications which was approved in 2009 and has been in operation for some six months.

OFFICER COMMENTS: The Environmental Health Officer considers that the extract flue does not harm the amenities of nearby residents. The location of the flue is addressed in the report.

Noise, Litter and nuisance:

- Over and above the noise and nuisance caused by the extractor and deliveries within The Greenway residential area, the takeaway staff use the hard standing to the rear as a rest area. Talking, laughing, phone calls are undertaken at all hours of the day until 2.00am in the morning. Staff also loiter in The Greenway, sit on garden walls and enter private land. Delivery vans/cars use the Private car park as a turning circle before racing of to deliver food.
- Litter is experienced from the Takeaway along the Greenway and High Road. Customers eat in their cars whilst on double yellow lines, then throw cartons out of the window. Customers also sit on garden walls throwing their rubbish into the residential gardens and pavements.
- Insufficient refuse areas. Two blue container bins always overflowing with waste.
- The staff entrance being at the rear and within the residential area is unacceptable as staff collection by cars with radios on have been experienced at 2.30am. Staff entrance should be from the High Road only.
- Customers urinating in gardens and surrounding streets
- Antisocial behaviour
- Drunken customers from venues at the golf club and similar using late night food outlet (unknown if Late night food licence is in place if not should be refused on the same grounds).

OFFICER COMMENTS: Matter relating to litter, hours of operation and limiting the number of staff on the premises outside operating hours can be addressed by suitable planning conditions should permission be granted. The anti-social behaviour issues do not apply solely to the use of the application site, but are wider issues better addressed by Community Safety Officers and the Police..

Out of Character:

- The overall appearance is generally considered pleasing however the proliferation of fast food and convenience stores is considered out of keeping with the surrounding area and has resulted in a deterioration of the quality of life in the area and is discriminatory in respect of disabled people.

OFFICER COMMENTS: This is addressed in the report.

Pollution:

- Staff have been observed throwing oil down the road gullies on many occasions.
- Oil spills have been experienced and witnessed by police officers. The grease slick running the length of the Greenway over the pavements and has eroded the road finish tarmac.
- There is no spill prevention for oil such as bunds. Oil cans are store in the open on the hard-standing to the rear and not in covered storage. There is not any surface water drainage system (although the application states SW drains to the main drainage. This is not the case. Surface water spills from the flat roof on the extension (erected without Planning or Building regulation approval) onto the hard standing, which floods washing further grease, oil and refuse onto the pavement and road gullies.

OFFICER COMMENTS: The above matters are controlled through seperate legislation and not under the Town & Country Planning Act. The street Scene Enforcement Team have been involved in addressing these issues.

Building regulations:

- Not compliant with Part M Approved documents
- No compliant with Part N Approved documents
- Not compliant with Part L Approved documents

OFFICER COMMENTS: The above matters can be addressed under the Building Regulations.

Health and Hygiene / Environmental Health:

- Rest room has no ventilation of natural daylight
- WC opens onto food preparation area
- Wash up facilities open onto food preparation area.
- No fire escape routes around fixed equipment
- No male/ female disabled WC provision for staff
- Storage areas not segregated from food preparation area.
- No cleaners sink to serve front of house therefore dirty water brought through food preparation area. (requires separate 900 mm corridor)
- Fire routes are not 900mm clear
- Maintenance of extract systems unworkable and not independent.
- No grease traps or dowsing systems (known history of grease spills)
- Extracts and vents penetrate flat roof areas directly under an steel escape landing above and is a serious hazard in the event of fire.
- Very large rats have been sighted since this unit and the adjoining restaurant were opened
- Staff smoke in The Greenway and refuse areas at all hours which is anti-social, unhygienic and a fire risk. This sets off a security light which is a nuisance
- No cleaning cupboards to hold cleaning agents have been indicated and should be away from food preparation areas.

OFFICER COMMENTS: The above matters are controlled through separate legislation and not under the Town & Country Planning Act.

Observations:

- There is the provision of not only a shower yet a full bathroom to the back of house. This is most irregular for a restaurant and would suggest staff are staying on the premises and using the rest room as living areas. Staff has arrived and has not been seen to leave at night.
- The landlords extension is not part of the application. This structure was formally a covered roof area. It was built up under using the same substandard roof structure, no foundations, insufficient insulation, inadequate surface water provision and sub standard finishes. Photographs can be provided.
- A gas pipe runs over the flat roof over the kitchen area and is considered a fire and explosion hazard.
- It is brought to the attention of the Planning Officers reviewing this application that the businesses and associated interested parties operating within this parade has been subject to enforcement orders, environmental investigations, hygiene, fire, police involvement and building control violations. It is our opinion, deliberate and premeditated actions have been undertaken in constructing areas without planning or building control approval. Only under considerable pressure have the landlords and lease owners made retrospective applications and inaccurate and false information have been included in previous applications. It is also believed the landlord authorizing these works also has vested interests in the trading businesses. One business having vacated the adjoining unit and closed down and the units on the first floor having unauthorised Homes in multi occupation which under enforcement action with notice to decant. In addition remain unauthorised structures and installations are still in place with petitions for removal in progress.
- It is the opinion of the petitioners that the London Borough of Hillingdon should not continue with a policy of allowing the system to be manipulated and rewarded by retrospective approval. This sets an unacceptable precedent which has forced unnecessary stress on residents and a deterioration of the quality of life within the area. This is from both residential and existing small business points of view, who have lived in harmony in the past. The mutual cooperation, balance and use of the parade has been destroyed by allowing too many food outlets within a small local parade and predominantly residential area which will be further eroded by an additional new housing estate and possibly a high speed rail link which has change the character of the village from suburban to urban

environment. We would therefore trust the Local Authority will refuse this application.

- There are two takeaways, A Tesco Express, Two Asian restaurants, Golf Club Hotel, Further takeaway food outlets at West Ruislip station and Ickenham has considerable restaurants, cafe and takeaway business base. There is no social need for additional outlets in the close proximity especially when outlets back onto a residential areas without a service road for deliveries and parking in place.

OFFICER COMMENTS: The above matters are noted. The need for the use is not a material planning consideration.

Ickenham Residents' Association:

Being aware of one of our committee member's personal response (Mr. David Harding) to this application we concur with the general thrust of his email dated 18.10.10 in response to this new application for change of use. Although not stated, the shop as alluded to in this application already exists and has been operating for some 6 months and we can only assume that it is a retrospective application. Should this be the case, then we feel the application should express this clearly.

In addition we do not feel the need for yet another fast food outlet in this area and therefore, if this was a first time application, we would oppose it.

Obviously, Mr. Harding being a local resident in the immediate vicinity of this outlet is well placed to make valid comments.

OFFICER COMMENTS: The above matters are noted. The need for the use is not a material planning consideration.

Internal Consultees

Waste Management:

a) The application is for a fast food take-away.

One x 1,100 litre type of bulk bin is needed to safely and hygienically contain the waste arising from this area. This design of bin has dimensions are:

Bin Size: 1,100 ltr Eurobin

Height: 1,370mm

Depth: 990mm

Width: 1,260mm

Further bins could be required for the separation of waste for recycling.

b) The bulk bin should be sited on an area of hard-standing, with a smooth surface, so that it can be washed down with water and disinfectant. The surface should be cambered so the run off follows towards a proper drain.

c) The collectors should not have to cart a bulk bin more than 10 metres from the point of storage to the collection vehicle (BS 5906 standard). The 26 tonne refuse collection vehicle would therefore have to access the site from The Greenway.

d) The gradient of any path that the bulk bins have to be moved on should ideally be no more than 1:20, with a width of at least 2 metres. The surface should be smooth. If the path is raised above the area where the collection vehicle parks, then a dropped kerb is needed to safely move the bin to level of the collection vehicle.

e) The client for the building work should ensure that the contractor complies with the Duty of Care requirements, created by Section 33 and 34 of the Environmental Protection Act.

Highways:

The site is located on the eastern side of High Road Ickenham which is a Borough secondary Distributor Road and is designated as a Local distributor Road in the Council's UDP.

The site is situated approximately 150m from West Ruislip Station and embedded as part of a shopping parade in High Road Ickenham, with an approximately 50m parking lay-by starting from the corner of The Greenway/ High Road, stretching south outside the parade of shops. The High Road is part of the London Transport bus route and the area is served by several buses.

As per the application form, the proposed take away restaurant would employ 6 full time and 3 part time staff, with proposed opening hours of 12.00 noon -23.00 Monday-Sunday, and has a rear access from The Greenway leading to the yard at back. The nearby customers are likely to walk to the proposed Take away restaurant. Some trips to/from the site are likely to be linked with those already in the vicinity. The lay-by in front of the site could be used for parking by customers for a short period of time for collection of food.

There are also other on-site parking facilities in the vicinity and the peak traffic and car parking associated with the application is likely to be at times outside the normal highway network peak periods and also at times when most retail units in the parade have ceased trading.

However the applicant have failed to provide sufficient information in the Design and access statement accompanied with current application with regards to the proposed cycle stands, as required by the policy AM9 (iii) of the Council's UDP. The adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) cycle parking standard stipulate a requirement of 6 spaces, however considering that it would likely to be used by staff only, a lower provision of 4 spaces would be acceptable.

No objection is raised on the highways aspect of the proposals subject to applicant providing details of covered and secure cycle storage for 4 no. cycles and a suitable condition being attached restricting vehicles associated with any delivery service from the site to park within the rear parking area.

Environmental Protection Unit:

No objections to this proposal.

EPU complaint history:

Complaints of alleged noise nuisance have been lodged by local residents against this premises whilst trading as Ickenham Rendezvous Oriental Cuisine. These were first received in May 2010. Other matters have been raised such as concerns over the storage of waste cooking oil at the rear of the premises prior to collection and general noise from delivery staff. It is important to note that some of the complaints received by the EPU may have been attributable to the next door premises, Planet Bollywood at 97 High Road, which it is believed has ceased trading.

In summary:

- a statutory noise nuisance was witnessed from the operation of the extractor fan serving No. 95 and informal action from the EPU has resulted in the leaseholder addressing the noise issue by requiring the fan manufacturer (ELTA) to replace the unit. This was identified to be out of balance giving rise to a tonal irregularity. In the short term the fan speed was adjusted downwards to provide mitigation and more recently the fan has been replaced. Further complaints have not been received following this informal action.
- no odour nuisance has to date been witnessed from the extraction system serving Number 95.
- a complaint was received that staff are causing disturbance surrounding the operation of

deliveries from the rear of the premises. The need for staff to be respectful of neighbouring residential dwellings was communicated to the premises by EPU.

- an isolated report of night-time waste collections was received by EPU however this has not been substantiated. This is subject to an existing condition on the premises restricting this activity.

- following complaint regarding waste oil disposal, interventions from the Street Scene Enforcement Team have resulted in Number 95 changing their waste cooking oil collection arrangements with a view to a more frequent collection. An incident involving a spillage resulted in a clean-up operation by the premises.

Should this proposal be recommended for approval conditions relating to the extractor unit, hours of operation, sound insulation, deliveries/collection and litter are recommended.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application site lies within a local parade. Table 8.1 defines parades as:

"Groups of shops which provide at least 3 essential local shop uses and other retail and service uses for people living or working within a walking distance of around 800m."

Local shopping parades serve an important role in providing convenience shopping that caters for the needs of local residents. Paragraph 8.22 of the Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) seeks to ensure that all residential areas are within half a mile of a least 5 essential shop uses, although not necessarily within the same parade. The LPA seeks to protect vulnerable parades and corner shops which have a particularly important role for the local community and to provide opportunities for the establishment of new essential shop uses in existing class A1 premises. Ideally there should be no less than 3 (essential shops) in the smaller parades and a choice of essential shops in the larger parades.

Policies S6 and S7 seek to maintain the amenity and vitality of shopping areas by maintaining a range of A1 units appropriate to the size of the parade. Following a survey in November 2010, the parade contains a Tesco Express. Furthermore, Ickenham Local Centre is some 620m south west of the application property. It is therefore considered that the level of shop uses in this parade and in the nearby Ickenham Local Centre are adequate to maintain the convenience shopping needs of local residents in accordance with Policy S7 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007). It should also be noted that the proposal does not involve the loss of a retail unit, given that the authorised use of the premises was as General Industrial (B2) and that in 2007 planning permission was granted for its use as a Restaurant (A3).

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.

7.06 Environmental Impact

The environmental impact of the development is addressed at section 07.08 of this report. The Environmental Protection Unit has raised no objections to the siting of the existing flue.

7.07 Impact on the character & appearance of the area

The new shopfront is acceptable and does not harm the appearance of the existing building, the terrace of properties or the character and appearance of the street scene. The proposal accords with policies BE13, BE15 and BE28 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and the Hillingdon Design & Accessibility Statement (HDAS): Shopfronts.

Whilst the flue is no longer the subject of this application, members should note that condition 3 of planning permission ref: (ref: 63005/APP/2007/1175), for the sub-division of 95 and 97 High Street to form separate units and the change of use of 97 High Street to class A3 (Restaurant, snack bar, cafe), required details of extract equipment to be submitted prior to installation. The details submitted involved the installation of a flue on the flank elevation of 97 High Street. This flue was shown set further forward towards the High Street than that which currently exists, and extended to a point immediately below the roof ridge. These details were approved in September 2009 (ref: 63005/APP/2009/717). Given this the principle of siting an extract duct on this flank has already been approved.

7.08 Impact on neighbours

There are residential properties above and adjacent to the application site. The Environmental Health Officer raises no objections subject to conditions to ensure that sufficient details relating to the external flue is submitted to protect the residential amenities of nearby residents from odour nuisance and noise vibration. Further conditions relating to hours of operation and deliveries will also assist in protecting against late night noise and disturbance.

Given the comments of the Environmental Health Officer, the proposal, subject to the above mentioned conditions, is considered to comply with Policies S6 (iii) and OE1 of the Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.09 Living conditions for future occupiers

This is not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

The site is situated approximately 150m from West Ruislip Station and embedded as part of a shopping parade in High Road Ickenham, with an approximately 50m parking lay-by starting from the corner of The Greenway/ High Road, stretching south outside the parade of shops. The High Road is part of the London Transport bus route and the area is served by several buses.

There is one off-street parking space associated with the application premises, located in the rear yard, accessed from The Greenway. This is used by staff. The Highway Engineer advises that nearby customers are likely to walk to the take away restaurant. Some trips to/from the site are likely to be linked with those already in the vicinity and the lay-by in front of the site could be used for parking by customers for a short period of time for collection of food.

It is further advised that there are also other on-site parking facilities in the vicinity and the peak traffic and car parking associated with the application site is likely to be at times outside the normal highway network peak periods and also at times when most retail units in the parade have ceased trading.

Given the above, it is unlikely that the use will generate a significant increase in traffic or result in a noticeable increase in demand for on-street parking.

No details of cycle parking provision have been provided. The use generates a

requirement for 6 spaces, however considering that the cycle stands would be used by staff only, a lower provision of 4 spaces would be acceptable. This can be secured by way of an appropriate planning condition should permission be granted.

The development complies with policies AM2, AM7, AM9 and AM14 of the Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.11 Urban design, access and security

These are addressed elsewhere in this report.

7.12 Disabled access

The shopfront entrance is at grade and an internal ramped access is shown on the submitted plans. This allows access for disabled users.

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

An external refuse compound is located in the rear yard accessed via the existing service road. The compound is of a sufficient size to meet the Council's waste management standards.

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

Whilst the use of the premises for a take away will inevitably result in some noise, it should be remembered that the previous use of the premises was for General Industrial (B2) without any restrictive conditions relating to hours of use or operation, deliveries, sound insulation, etc. Given this situation and the fact that permission has previously been granted for a restaurant use on the premises, it is considered that the proposal will not lead to any undue noise or disturbance over and above that which would have accrued from the authorised and subsequently approved use of the premises. Given this, the proposal, subject to the above mentioned conditions, is considered to comply with Policies S6 and OE1 of the Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.19 Comments on Public Consultations

These are addressed above at section 06.1.

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 planning 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

For the reasons outlined above and that the proposal accords with the aforementioned policies of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007), this application is recommended for approval.


11. Reference Documents

Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007)

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<p>Notes</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 2011</p>	<p>Site Address</p> <p>95 - 97 High Road Ickenham</p>		<p>LONDON BOROUGH OF HILLINGDON</p> <p>Planning, Environment & Community Services</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p>63771/APP/2010/2174</p>	<p>Scale</p> <p>1:1,250</p>	
	<p>Planning Committee</p> <p>North</p>	<p>Date</p> <p>January 2011</p>	



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