

## **Report of the Head of Planning & Enforcement Services**

<b>Address</b>	UNIT 3 MILLINGTON ROAD HAYES
<b>Development:</b>	Mixed use development comprising 7,310 sqm (gea) industrial/warehousing unit (Use Classes B1c, B2, B8); 7998 sqm (gea) retail store (use class A1) and petrol filling station, together with associated car parking, landscaping and alterations to adjacent highway.
<b>LBH Ref Nos:</b>	32157/APP/2011/872
<b>Drawing Nos:</b>	10.034.A(00)_01 rev:C - Location & Existing Site Plan 10.034.A(00)_02 rev:B - Topographical Survey 10.034.A(00)_03 rev:B - Existing Site Sections 10.034.A(00)_04 rev:E - Site Plan 10.034.A(00)_05 rev:E - Street Elevations 1 10.034.A(00)_06 rev:E - Site Sections Sheet 1 of 2 10.034.A(00)_07 rev:E - Site Sections Sheet 2 of 2 10.034.A(00)_08 rev:F - ASDA Ground Floor 10.034.A(00)_09 rev:D - ASDA First Floor 10.034.A(00)_10 rev:D - ASDA Second Floor 10.034.A(00)_11 rev:D - ASDA NE & SE Elevations 10.034.A(00)_12 rev:D - ASDA NW & SW Elevations 10.034.A(00)_13 rev:C - ASDA Sections 10.034.A(00)_14 rev:D - Industrial / Warehouse Ground Floor 10.034.A(00)_15 rev:D - Industrial / Warehouse First Floor 10.034.A(00)_16 rev:C - Industrial / Warehouse NE & SE Elevations 10.034.A(00)_17 rev:C - Industrial / Warehouse NW & SW Elevations 10.034.A(00)_18 rev:C - Industrial / Warehouse Sections 10.034.A(00)_19 rev:D - ASDA Roof Plan 10.034.A(00)_20 rev:B - Industrial / Warehouse Roof Plan 10.034.A(00)_21 rev:D - Planning Boundary 10.034.A(00)_22 rev:E - ASDA NE & SE Elevations - Colour 10.034.A(00)_23 rev:D - ASDA NW & SW Elevations - Colour 10.034.A(00)_24 rev:C - Industrial / Warehouse NE & SE Elevations - Colour 10.034.A(00)_25 rev:C - Industrial / Warehouse NW & SW Elevations - Colour 10.034.A(00)_26 rev:E - Site Plan - Colour 1309- SK009 - Terrafirma Indicative Sections Through Landscape for Station Road 9V5694-SK-04 rev:I - Proposed Site Layout 9V5694-SK-07 rev:A - Proposed Layout - Visibility Splay (Transport Assessment Appendix DW9) 9V5694-SK-16, rev:A - Proposed Extended Highway Network Highway Arrangements in context of 10.034.A(00)_27 rev:D - Hidden Elevations 10.034.A(00)_28 rev:B - Petrol Filling Station 10.034.A(00)_29 rev:C - Street Elevations 2 1309-001 rev:PO4 - Terrafirma Landscape Proposals 2 of 2 1309-002 rev:PO2 - Terrafirma Landscape Proposals 1 of 2 1309- SK005 - Terrafirma Street Scape for Station Road

BH.01/02 - Tree Survey & Constraints Plan  
 Design and Access Statement Issue 05 by HGP Architects  
 Planning Summary Statement by CgMs  
 Retail Statement by Planning Potential  
 Supplementary Retail Statement by Planning Potential  
 Case for Loss of Employment Land by CgMs  
 Transport Assessment by Royal Haskoning/Denis Wilson  
 Travel Plan - ASDA (Complete Document) FINAL rev A  
 Travel Plan - Industrial Unit (Complete Document) FINAL rev A  
 Technical Note 1 by Royal Haskoning/Denis Wilson  
 Technical Note 2 by Royal Haskoning/Denis Wilson  
 Stage 1 Road Safety Audit by Royal Haskoning/Denis Wilson  
 Statement of Community Involvement (SCI) by Bircham Dyson Bell  
 Ecology report by Scott Wilson  
 Air Quality Assessment by Environ  
 Revised Zone 1 Flood Risk Assessment 84351\_R1\_04 dated October 2011  
 by Fairhurst  
 Supplementary Report on SUDS by Fairhurst  
 Letter from CgMs to EA, Re introduction of Green Roof(s) element  
 Arboriculture Report by Bernie Harverson  
 Noise Analysis by WSP  
 Sustainable Energy Statement by Silcock Dawson  
 Contaminated Land Phase 1 report by Fairhurst  
 Counsel's Opinion  
 External Buildings Materials Schedule

<b>Date Plans Received:</b>	05/04/2011	<b>Date(s) of Amendment(s):</b>	05/04/2011
<b>Date Application Valid:</b>	06/04/2011		18/04/2011
			15/06/2011
			01/07/2011
			06/07/2011
			19/07/2011
			01/08/2011
			22/08/2011
			05/09/2011
			07/10/2011
			11/10/2011
			17/10/2011
			19/10/2011

## 1. SUMMARY

The application proposes a development consisting of:

- (a) a retail store within use class A1 with 7,998 sq.m. gross external area (4,111 sq.m. net sales area) and a petrol filling station located on the north-eastern portion of the site; and
- (b) an industrial/warehousing unit for uses within classes B1(c), B2 or B8 with 7,310 sq.m. gross external area including ancillary first floor office space.

It is considered that the development would have an adverse impact on the vitality or viability of Hayes Town Centre and the development would attain an appropriate

appearance within the street scene.

In addition the development would incorporate adequate parking and including off-site highways works and contributions towards public transport improvements. The Council's Highways Officer is satisfied that the development would be served by adequate car parking and would not have any adverse impacts on the free flow of the highway network or on highway or pedestrian safety.

The development would integrate an appropriate level of inclusive design, measures to reduce energy use and other sustainable design features. Subject to appropriate conditions and obligations the development would not have any unacceptable impacts on Air Quality.

Further, subject to appropriate conditions the development would not have any adverse impacts on the amenity of residential occupiers by way of noise. In particular the Council's Environmental Protection Unit consider that 24 hour opening would be acceptable in this instance.

At present there remains an objection from the Environment Agency, however the applicant is working towards addressing this and it is considered likely that a resolution can be found to this issue. Final comments from the Environment Agency will be reported at the Committee Meeting.

Notwithstanding the above, the development would result in the loss of designated employment land (both within the local and regional development plan). Insufficient information has been submitted to demonstrate that there is no demand for industrial/warehousing uses on the site and it is not considered that the retail superstore would better meet the requirements of the development plan.

Further, officers have failed to reach agreement with the applicant with regard to the level of contributions required to mitigate the development in key areas, in particular with respect of Town Centre/Public Realm Improvements and project management and monitoring. Officers are of the view that these matters are essential, in particular to ensure that impacts on the Town Centre are in line with those that have been assessed, and in the absence of a S106 agreement to secure the full amount required, and other essential contributions the development is unacceptable.

Accordingly, it is recommended that the application be refused.

## **2. RECOMMENDATION**

**REFUSAL for the following reasons:**

### **1 NON2 Non Standard reason for refusal**

The proposal would result in the loss of designated industrial and employment land (Designated with an Industrial and Business Area within the London Borough of Hillingdon Unitary Development Plan Saved Policies (September 2007) and a Strategic Industrial Location within the London Plan (July 2011). The application has failed to demonstrate that there is no demand or need for the retention of the site for industrial purposes and the proposed retail store is not considered to better meet the objectives of the development than the redevelopment of the site for an appropriate use. Accordingly, the application is contrary to Policy LE2 of the London Borough of Hillingdon Unitary Development Plan Saved Policies, Policy 4.4 of the London Plan (July 2011) and the Mayor's Industrial Capacity Supplementary Planning guidance.

## **2            NON2            Non Standard reason for refusal**

The application has failed to make provision for necessary planning obligations to secure:

- (i) Off-Site Highways Works
- (ii) Bus Stop Improvements
- (iii) Travel Plans
- (iv) Construction Logistics and Delivery and Servicing Plans
- (v) Crossrail contribution
- (vi) Construction Training
- (vii) Hospitality Training
- (viii) Town Centre/Public Realm improvements
- (ix) Air Quality Monitoring; and
- (x) Project Management and Monitoring Fee.

In the absence of these contributions the development would fail to appropriately mitigate its impacts on matters of key importance contrary to Policies OE1, R17, AM7, AM8, AM9 and AM11 of the Hillingdon Unitary Development Plan Saved Policies, the Council's Planning Obligations SPD, the Council's Air Quality SPG, the London Plan (July 2011), the Mayor's Supplementary Planning Guidance (SPG) 'Use of planning obligations in the funding of Crossrail' (July 2010) and Planning Policy Statement 4.

## **3            NON2            Non Standard reason for refusal**

The proposed development, in the absence of any provision for the enhancement of the Public Realm linking the proposal site to Hayes Town Centre, would fail to encourage the provision of linked trips between the proposal site and Hayes Town Centre, resulting in the diversion of retail trade from Hayes Town Centre, which would unacceptably impact on the viability and vitality of Hayes Town Centre, contrary to Policies 2.15, 4.7 and 4.8 of the London Plan 2011, and Planning Policy Statement 4.

## **INFORMATIVES**

### **1            I52            Compulsory Informative (1)**

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

### **2            I53            Compulsory Informative (2)**

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

BE13	New development must harmonise with the existing street scene.
BE18	Design considerations - pedestrian security and safety
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE24	Requires new development to ensure adequate levels of privacy to

	neighbours.
BE25	Modernisation and improvement of industrial and business areas
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
OE1	Protection of the character and amenities of surrounding properties and the local area
OE11	Development involving hazardous substances and contaminated land - requirement for ameliorative measures
OE12	Energy conservation and new development
OE5	Siting of noise-sensitive developments
R17	Use of planning obligations to supplement the provision of recreation, leisure and community facilities
LE2	Development in designated Industrial and Business Areas
AM14	New development and car parking standards.
AM15	Provision of reserved parking spaces for disabled persons
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

### 3. CONSIDERATIONS

#### 3.1 Site and Locality

The application site is a 3.46 hectare site on the eastern side of an industrial area known as the Westlands Industrial Estate. The site is located approximately 325m to the southeast of Hayes & Harlington railway station and the Hayes Town Centre boundary, being approximately 650m from its primary shopping zone.

The site forms part of the wider Millington Road Industrial Estate, which extends approximately 10.5 hectares and is identified as a designated Industrial and Business Area within the Saved Policies UDP and Strategic Industrial Land within the London Plan.

The application site is currently vacant having been cleared in late 2010, but previously housed a storage and distribution warehouse.

The application site is located within walking distance of Hayes and Harlington railway station and is served by a number of buses. Currently the site has a mixed public transport accessibility level (PTAL) of between 4 and 5, however it is noted that Hayes and Harlington Station will be served by Crossrail from 2017.

Vehicular access to the site, and the estate at large, is from North Hyde Road and Station Road via Millington Road. The latter forms a loop around the south, west and north of the estate.

The site is bounded to the south and west by industrial buildings within the Millington Road Industrial Estate and to the north and east by residential area consisting primarily of 2 storey semi-detached. The character of the area is a mixture of these contexts.

### **3.2 Proposed Scheme**

Planning permission is sought for the erection of:

- (a) a retail store within use class A1 with 7,998 sq.m. gross external area (4,111 sq.m. net sales area) and a petrol filling station located on the north-eastern portion of the site; and
- (b) an industrial/warehousing unit for uses within classes B1(c), B2 or B8 with 7,310 sq.m. gross external area including ancillary first floor office space located on the western portion.

The retail store is proposed to be served by a car parking area accommodating 420 spaces (37 allocated for disabled users and 23 parent & toddler spaces) accessed from Millington Road, an elevated service yard accessed from North Hyde Road and associated landscaping. The car parking spaces would be located at surface level with the store being raised above them. The petrol station would be automated and also accessed from Millington Road.

The industrial unit is proposed to be served by 65 car spaces (including 7 allocated for disabled users) accessed from Millington Road, a surface level service yard accessed from North Hyde Road and associated landscaping.

The proposal also incorporates amendments to the layout of the highway network and the provision of new vehicular accesses to facilitate the development. It is proposed to secure improvements to the pedestrian/cycle link to the town centre and the public realm by way of planning obligations.

### **3.3 Relevant Planning History**

#### **Comment on Relevant Planning History**

None.

## **4. Planning Policies and Standards**

National Policy:

PPS1 - Planning Policy Statement 1: Delivering Sustainable Development

PPS1 supplement - Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1

PPS3 - Planning Policy Statement 3: Housing

PPS4 - Planning Policy Statement 4: Planning for Sustainable Economic Growth

PPG13 - Planning Policy Guidance 13: Transport

PPS22 - Planning Policy Statement 22: Renewable Energy

PPS23 - Planning Policy Statement 23: Planning and Pollution Control

PPG24 - Planning Policy Guidance 24: Planning and Noise

Planning Policy Statement 25: Development and Flood Risk

Planning and Access for Disabled People: a good practice guide (ODPM)

Also considered relevant is the draft National Planning Policy Framework.

Regional Policy:

The London Plan 2011

Mayor's Industrial Capacity SPG

The Mayor's Transport Strategy

Land for Transport Functions

Accessible London: achieving an inclusive environment SPG

Planning for Equality and Diversity in Meeting the spatial needs of London's diverse



communities SPG  
The Mayor's Energy Strategy  
Mayor's draft Climate Change Mitigation and Adaptation Strategies  
Mayor's draft Water Strategy  
Sustainable Design and Construction SPG  
The Mayor's Ambient Noise Strategy  
The Mayor's Air Quality Strategy  
Draft Replacement Air Quality Strategy

Local Policy:  
Accessible Hillingdon SPD  
Planning Obligations SPD  
Air Quality SPD  
Noise SPG

The following are also relevant material considerations:

- Hillingdon pre-submission Core Strategy, published in February 2011 for consultation.
- Hillingdon Employment Land Study, July 2009 (LDF Background Technical Report).
- Position Statement: Hillingdon's employment land and comparison retail floorspace, June 2010 (LDF Background Report).
- Hillingdon Town Centre and Retail Study, 2006 (LDF Background Technical Report).

#### **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.   |
| PT1.23 | To encourage industry and warehousing to located within existing Industrial and Business Areas and offices and other business uses, shops and public buildings employing or attracting large numbers of people to located within Town Centres or other areas identified for such purposes. |
| PT1.24 | To reserve designated Industrial and Business Areas as the preferred locations for industry and warehousing.   |
| PT1.26 | To encourage economic and urban regeneration in the Hayes/West Drayton Corridor, designated Industrial and Business Areas (IBA's) and other appropriate locations.   |
| PT1.30 | To promote and improve opportunities for everyone in Hillingdon, including in particular women, elderly people, people with disabilities and ethnic minorities.  |
| PT1.39 | To seek where appropriate planning obligations to achieve benefits to the community related to the scale and type of development proposed.   |

Part 2 Policies:

BE13	New development must harmonise with the existing street scene.
BE18	Design considerations - pedestrian security and safety
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
BE25	Modernisation and improvement of industrial and business areas
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
OE1	Protection of the character and amenities of surrounding properties and the local area
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AM9	Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities

## **5. Advertisement and Site Notice**

**5.1** Advertisement Expiry Date:- **6th May 2011**

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

## **6. Consultations**

### **External Consultees**

The application was advertised in a local paper, site notices posted and 370 nearby owner/occupiers including relevant residents groups were consulted.

A 192 signature petition has been received in support of the application has been received. The petition indicates that the proposal will benefit Hayes by boosting employment opportunities with the creation of 500 jobs and help regenerate a site which has remained unused for the past two years. In addition the petitioners consider the proposals will benefit the local businesses by bringing shoppers to Hayes Town Centre.

A 34 signature petition has been received objecting to the application raising concerns regarding extra traffic at the junction of Albert road and North Hyde Road due to the development.

10 letters have been received in support of the application:



- (i) The proposal will help to regenerate south Hayes and tidy up a disused site.
- (ii) The proposal will create jobs
- (iii) The proposed operator (Asda) will provide challenge and competition to the many Tesco supermarkets that dominate this type of retail in the borough.
- (iv) Do not believe the proposal would have adverse impact on traffic congestion and believe the proposal will free up traffic in a congested North Hyde Road, as those of us who currently have to travel to Bulls Bridge tesco will be able to shop nearer to home.
- (v) There is currently no other Asda store in this borough.
- (vi) The plans look like they are creating good use of the space on the site and the building appear of an appropriate scale
- (vii) In general, Hayes, needs regeneration, and a new development such as this will add to the freshness of the new current flats and retail units adjacent to Hayes station.
- (viii) Do not consider the proposal will have an adverse impact on local businesses.

1 letter of objection has been received raising the following concern:

- (a) The proposal will increase traffic on the roads in and around the area.
- (b) No need for an ASDA as there are other superstores nearby.
- (c) The proposal will have an adverse impact on small business and Hayes itself.

An objection has also been received from John McDonnell MP which is included in full below:

I wish to object to this application on the grounds that it will generate a significant increase in traffic in this area resulting in increased congestion and further deterioration in air quality standards. This area already suffers from air pollution caused by heavy traffic on local roads, often producing near gridlock on North Hyde Road. Any further increase in traffic will result in a considerable deterioration in local air quality and have a deleterious impact on the health of local residents. There are over 500 vehicle parking spaces planned on the new development, indicating that the number of vehicle movements associated with the proposed superstore, both shoppers' cars and delivery vehicles, will be on a considerable scale. The proposed siting of a new superstore outside of the main town centre will inevitably undermine further the viability of Hayes Town centre, threatening the closure of smaller retailers within the town centre. This development can be viewed in effect as a any other out of town shopping centre, drawing consumers away from the local small retailers within the town centre and contributing to the further deterioration and decline of the town centre. The proposal flies in the face of all the efforts made over the last decade to regenerate Hayes Town Centre. I urge that the application be rejected. If the development is to proceed I would urge that the local authority seek agreement to a significant contribution from the applicant to contribute to the investment in measures to counteract as far as possible the impact of this development on the local environment and on the viability of the town centre.

ENGLISH HERITAGE ARCHAEOLOGY

No objection

MOD

No objection.

BAA

No objection, subject to conditions.

NATS

No objection.

## GREATER LONDON AUTHORITY

London Plan policies on strategic industrial locations, employment, town centres and retail development; design, inclusive access, equalities, transport, energy, sustainability, ambient noise and air quality are relevant to this application. The application complies with some of these policies but not with others, for the following reasons:

(a) Land use: The inclusion of a retail superstore as part of the proposal conflicts with the strategic and local land use aspiration to retain the site as part of London's reservoir of land for industrial/warehouse purposes, as described in policies 2A.10, 3B.4 and Annex 2 of the London Plan; policies 2.17, 4.4 and Annex 3 of the draft replacement London Plan; and the Hillingdon UDP. A compelling case has not been made to demonstrate that there are no realistic prospects of the land being used for industrial or warehousing purposes in the future.

(b) Retail/town centre: The proposed superstore would undermine the long-term national (PPS4), London-wide (London Plan policies 3D.1 and 3D.2) and local strategy to promote sustainable economic growth in town centres, such as Hayes, by investing in and directing traditional town centre uses into centre or edge-of-centre locations and discouraging them outside town centres.

(c) Transport: Inadequate information has been provided to ensure full compliance with the transport policies of the London Plan.

(d) Inclusive access: Further details would be required to ensure full compliance with policy 4B.5 of the London Plan (and policies 7.2 and 3.8 of the draft replacement London Plan).

Officer Comment - Additional information has been received which is considered to address issues b - d, however officers do not consider that issue (a) has been addressed.

## CROSSRAIL

No objection to the development.

## LONDON FIRE BRIGADE

No objection, subject to the relocation of two existing fire hydrants and the provision of two additional fire hydrants.

Officer Comment: This matter would normally be dealt with under the building regulations, however it is considered that the provision of fire hydrants on-site could be secured through condition and any off-site hydrants could be required within the detailed drafting of the Head of Term for Highways improvements within any legal agreement if necessary were the development to be approved.

## TRANSPORT FOR LONDON

Comments from Transport for London initially indicated that further information in relation to the transport assessment and to justify parking numbers was required. However, this information has subsequently been received and addresses these issues.

It is noted that the applicant is willing to upgrade the off-site bus stop on Station Road and provide a bus stop on site to address aspects of TfL's comments. These matters could be secured by condition and a legal agreement were the application to be approved.

Transport for London's comments also raised a number of matters which would need to be secured by way of a legal agreement in order to make the development acceptable. These matters are detailed within the Planning Obligations Section of this report.

## ENVIRONMENT AGENCY

We currently maintain our objection to the proposal as outlined in our letter dated 13 July.

As you are aware we have been in conversation with CGMS regarding the provision of green roofs. If the scheme is amended so green roofs are provided on the Petrol Filling Station canopy and the canopy over the travelator of the Asda store we will be closer to removing our objection.

I understand that due to time constraints the applicant will not be able to confirm that green roofs will definitely be able to be provided over these areas. As a compromise we may be willing to remove our objection CGMS submit a letter confirming the details below:

a) That the applicant would accept a condition/conditions requiring:

- the provision of 805 sqm of green roofs across the development with final details to be submitted to and agreed by the LPA;
- the provision of all other measures set out within the various drainage documents submitted including but not limited to tanked attenuation, rainwater harvesting and bio-retention pits for all of the trees.

(b) That the applicant accepts that these conditions would be valid and meet all of the tests set out within circular 11/95, in particular that they would be:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

We are still in the process of reviewing the revised FRA submitted by Fairhurst on behalf of CGMS. If the FRA does not wholly address our concerns that we raised in our last letter we will maintain our objection regardless of the provision of the green roofs.

We are particularly concerned with the proposed pumping of the surface water from the proposed attenuation tanks to the sewer. This will only be acceptable if it has been demonstrated that connecting via gravity is not practical.

#### **Internal Consultees**

##### **ENVIRONMENTAL PROTECTION UNIT - NOISE**

The Council's Environmental Protection Unit have reviewed the applicants submission in detail, in particular with respect to noise arising from:

24 hour opening of the retail store;

Servicing of the retail store; and

The industrial and warehousing unit.

No objections are raised to the development, which would not have adverse impacts on the amenity of nearby residential occupiers subject to conditions. In particular, it is noted that noise associated with 24 hour trading would not have any adverse impacts on the amenity of neighbouring properties.

##### **ENVIRONMENTAL PROTECTION UNIT - AIR QUALITY**

The Environmental Protection Unit have reviewed the submitted air quality assessment and raise no objection to the development. This would be subject to a contribution towards air quality monitoring and compliance with the green travel plans being secured by way of a legal agreement and detailed matters being controlled by conditions.

#### S106 OFFICER

The Council's Section 106 Officer has reviewed the proposal with respect to the Council's adopted policy and the responses received from other statutory consultees and advised that a suite of planning obligations would be necessary to mitigate the impacts of the development.

Officer Comment: These matters are detailed in full within the relevant section of the report, however the Council and applicant have failed to reach agreement with regard to the level of contributions.

#### TREES & LANDSCAPING

No objection, subject to additional tree planting being provided within the retail store car park and conditions to ensure implementation and maintenance of the landscaping scheme.

Officer Comment: The submission has been amended to include the necessary landscaping within the retail store car park.

#### ACCESS OFFICER

No objection, subject to various detailed matters being secured as part of the application or by condition.

Officer Comment: Updated information has been received in respect of a number of detailed matters raised by the Council's Access Officer and it is considered that outstanding matters can be secured by way of condition.

#### URBAN DESIGN

No objection.

This scheme has been subject to much pre-application discussion in regard to design, materials, setting and improvements to the approach.

It is considered that previous concerns regarding the dominance of the entrance feature and the colours of the materials have now been overcome.

The improvements to the approach road still include mention of a sculpture on the pavement outside the store, which it was agreed would be relocated. However this whole element will be part of the S106 Agreement, and the details of the improvements can be finalised then.

#### HIGHWAYS OFFICER

No objection subject to conditions and an appropriate legal agreement.

The site has a PTAL of 5 at the store entrance but other parts of the site further away from Hayes and Harlington have a PTAL of 4.

#### Traffic Surveys:

Traffic surveys were carried out at the following junction: Station Road/North Hyde Road signal junction, Station Road/ High Street, North Hyde/ North Hyde Gardens, Station Road/ Millington Road, Station Road/ Clayton Road Roundabout, Station Road/ Dawley Road Roundabout and Dawley Road/ Bourne Avenue/ North Hyde Road Roundabout

To supplement these surveys, automatic traffic counters were also installed on Millington Road, Station Road and North Hyde Road site frontages.

The following committed developments have been considered in the traffic assessments: Southall

Gas works, Hayes Goods Yard, London Gate and Hyde Park Hayes( Maccess Site).

In addition to the accident data for the site frontage accident records at key junctions have also been reviewed.

The Station Road/ North Hyde Road junction experiences around 7 personal injury accidents in the course of a 12 month period. 69 % involved a vehicle turning right at the junction.

The proposed highway mitigation works at the junction, in addition to the carriageway widening, will include changes to the operation of the junction such that right turning traffic from North Hyde Road, both east and west directions, will no longer be required to give-way to oncoming traffic, reducing the risk of right turners being involved in a collision.

#### Public Transport:

A bus stand is to be provided on the northern side on Millington Road to extend the U5 bus service to the site. Millington Road is not an adopted public highway and a licence would have to be granted to TfL for the lifetime of the development or such other period to be agreed with TfL.

TfL would require funding for nearby bus stops to be upgraded to DDA access standards and for the installation of real time information using countdown on the 2 bus stops outside the store in Station Road.

#### Parking:

The provision of all types of parking spaces (including disabled and parent & child), motorcycle parking and cycle parking are considered acceptable. As is the level of provision of electric charging points. The layout of the parking areas is also considered satisfactory.

#### Trip Generation and Traffic Impact Assessment:

The sample sites chosen from the TRICS data base with a Petrol Filling Station are all in Outer London with lower PTAL and higher parking ratios than the proposed development and as such the assessment of traffic attraction based on these sites is considered to be robust.

An independent retail assessment informs that 94 percent of main food shopping expenditure from Hayes is lost to out of centre destinations with 69 percent of this taken by 3 stores. The accuracy of the traffic assessment hinges on the reliability of the retail assessment which envisages a claw back of trade that is currently purported to leak out of Hayes, principally to the Tesco store at Bullsbridge and other stores along the A312 corridor.

On this basis the developer has demonstrated that the traffic impact of the development has been satisfactorily mitigated by the proposed highway mitigation works. Detailed traffic modelling has been verified and accepted by TfL subject to approval of detail designs.

Section 106 Highway Works to be delivered under a Section 278 agreement and include:

Junction improvements including traffic signals and carriageway widening at and between Station Road / North Hyde Road and new signal junction at Station Road/ Millington Road/ Bedwell Gardens generally in accordance with the indicative Drawings Numbers 9V/694/SVK-04 Rev. I and Drg No 9V5694-SK Rev A

Both signal junctions are to be linked so that the cycle times of the co-ordinated traffic signal control is compatible with UTC / Scoot control. The detailed design is to include speed activated Signs in North Hyde Road west of it's junction with Station Road and consideration of a bus priority Selective Vehicle Detection system to aid buses through the Station Road/North Hyde Road junction.

The detailed design and modelling of the above signal junctions to be submitted and approved by LB Hillingdon and TfL prior to commencement of the development and the works to be completed and operational prior to the occupation of the development.

## **7. MAIN PLANNING ISSUES**

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

The application site is located in an out of centre location as defined within PPS4 and within an Industrial and Business Area as defined within the Saved Policies UDP. The site is part of the Hayes Industrial Area and is identified in the London Plan and draft replacement London Plan as a Strategic Industrial Location (SIL).

Accordingly, there are two key issues with regard to the principle of the development which need to be considered:

- (a) Impact on Town Centres; and
- (b) The loss of strategic employment land.

It should be noted that the application is of strategic importance and referable to the Greater London Authority, in addition were approval to be recommended it would be necessary to refer the application to the Department of Communities and Local Government due to the out of centre retail aspect of the proposal.

#### **(a) IMPACT ON TOWN CENTRES**

The application site is located approximately 650m from the Primary Shopping Centre of Hayes Town Centre, and therefore seeks permission for an out-of-centre retail development. PPS4 seeks to ensure that Town Centre uses, such as retail, are located within or as close to Town Centres as possible and accordingly resists out of centre developments unless such sites are not available.

The applicant has submitted a retail assessment and additional information following receipt of comments from the Council and Greater London Authority in respect of retail issues.

The applicants retail assessment includes a sequential test, based on a catchment area of a 5-minute drive time for the proposed store in order to satisfy policy requirements. The applicant has provided details of 10 alternative sites which were examined and has provided justification for why a retail development is not viable in these locations.

The justification provided is considered appropriate and at the time of writing this report officers are not aware of any sequentially preferable site, within or closer to Hayes Town Centre, which has not been considered by the applicant. Accordingly, the findings of the applicants sequential assessment are accepted.

Policy EC16 of PPS4 also requires that proposals for town centre uses not located in such a centre should be assessed against the following impacts:

- 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.
- 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.
- The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan.
- In the context of retail proposals, the impact 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.



- 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.
- Any locally important impacts on centres (as defined in the Development Plan).

The applicants submitted retail statement assesses the impact of the development against these criteria, and the introduction of an out-of-centre retail store could have potential impacts on nearby centres as a result of trade draw, however the applicant has submitted a detailed retail assessment which indicates that the store is more likely to compete with other stores of a similar size and character, a principle which is accepted. The majority of the stores trade would be diverted from existing out of centre retail stores including Tesco stores at Bulls Bridge & Glencoe Road and the Sainsburys at Lombardy Retail Park, with the over trading at these stores and trade diversion being sufficient to sustain the proposed store.

It is also noted that Hayes Town Centre is heavily reliant on comparison shopping, with no large retail store (eg. Sainsburys, Tesco, ASDA etc.) and the majority of convenience retailers being specialist or ethnic stores. The retail assessment has provided a robust assessment of likely impact on trading within the Town Centre, including on key stores such as the Iceland and this indicates that the proposed store would not result in such significant trade diversion as to have a significant impact on the vitality and viability of Hayes Town Centre.

The retail statement also indicates that the proposal would claw back trade being lost to existing out of centre locations and introduce the potential for linked trips to the Hayes Town Centre, which could generate trade. The distance between the store and the Town Centre is not insignificant and officers consider that the level of linked trips which have been assessed by the applicant would only have the ability to arise if there were substantial improvements to the public realm, including pedestrian and cycling routes to the town centre, in order to enable easy travel by sustainable means and encourage such behaviour in the consumers.

The level of improvements to the public realm is key to this issue and the Local Planning Authority and applicant have failed to reach agreement on the appropriate level of contribution. Accordingly, refusal is recommended on the grounds of insufficient planning obligations and on the grounds of impact on vitality and viability of the Town Centre, on the basis that public realm works are considered to be necessary to encourage linked trips between the store and the Town Centre.

#### (b) THE LOSS OF STRATEGIC EMPLOYMENT LAND

The application site is located within the Millington Road Industrial and Business Area as designated within the Saved Policies UDP, it is also located within a Strategic Industrial Location as identified within the London Plan.

Policy LE2 of the Saved Policies UDP and Policy 4.4 of the London Plan seek to protect such locations for appropriate industrial development and resist its loss to other uses. In this respect it should be noted that the proposed industrial and warehouse unit is appropriate within the IBA and the assessment is focused on the proposed retail store.

The proposed retail store would represent a loss of 2.03ha (58.7%) of designated industrial land on the site. The applicant's supporting documentation puts forward the case for release of this land for the following reasons:

- The Westlands Estate is relatively small in strategic policy terms and physically remote

from the bulk of employment land north of the railway line.

- The application site is surrounded by residential land, with vehicle access through a residential area.
- The site has good (and with the emergence of Crossrail), soon to be excellent, public transport accessibility, which a more intensive land use would make better use of.
- Its close proximity to Hayes town centre and train station makes it ideally suited for complementary uses and its gateway location means an Asda superstore would improve the townscape to an extent which a continuing employment designation is unlikely to achieve.
- There would be a significant increase in employment (from zero to 500) compared to an industrial/warehouse use.
- There is a longstanding need for a major new food store to serve Hayes and provide a better choice to residents.
- The application premises had been on the market for two years, with serious interest from only one party.
- The retention of an industrial warehouse development on the site represented partial compliance with the policy relating to SILs/IBAs.

It is important in assessing such requirements that both local requirements for employment land and regional requirements are taken into account, with the regional requirements falling within the remit of the Greater London Authority. It is also important to take into account that the relevant Planning Authorities and Regional Bodies are, as set out in PPS4, responsible for assessing in broad terms, the overall need for the land or floorspace for economic development over the plan period and the inclusion of sites within the development plan should be based on a critical examination of site allocations.

Policy LE2 of the Saved Policies UDP indicates that only B1- B8 or appropriate sui generis uses should be permitted within IBA's unless the Local Planning Authority is satisfied that: (i) there is no realistic prospect of the land being used for these purposes in the future; and (ii) the proposed use does not conflict with the policies and objectives of the plan; (iii) the proposal better meets the plans objectives particularly in relation to affordable housing and economic regeneration.

London Plan policy 4.4 also requires boroughs to identify the potential for surplus land to help meet the strategic and local requirements for a mix of other uses, such as housing and social infrastructure and where appropriate, contribute to town centre renewal. The criteria for release of land in SIL's and IBA's are set out in detail in the Mayor's Industrial Capacity SPG 2008 (paragraphs 4.11- 4.13) and policy LE2 of the UDP.

In the case of SIL's, the SPG sets out a list of economic, land use and demand based criteria for the retention or release of industrial land and identifies Hillingdon as a borough in which a limited transfer of industrial/warehousing sites to other uses should be allowed to take place. Within the limited transfer category, boroughs are encouraged to reconfigure their industrial land, safeguarding the best quality sites and phasing any release to reduce vacancy rates. In particular, release should be focused on smaller sites outside SIL's.

On a regional basis it is important that the Industrial Capacity SPG identified a capacity to release 52ha of industrial land within the West London sub-region between 2006 and 2026. Subsequent studies undertaken in 2010 indicate that 72 ha (excluding non-implemented permissions) had already been lost within the sub-region. Although much of this loss (37 ha) took place in the London Borough of Brent, the rate and extent of the loss weakens the strategic case for releasing employment sites unless there are compelling

reasons to do so and a robust case can be made to justify an exception.

At a local level, the London Borough of Hillingdon prepared a study of employment land in 2009, looking at a plan period up to 2026 as part of the evidence base for its emerging Local Development Framework. This was subsequently updated by a Position Statement issued in June 2010. Whilst the latter suggests a capacity for the release of 17.3 ha in the borough between 2009 and 2027, it specifically proposed the retention of the industrial/warehouse allocation of Westlands Estate, and a re-designation of the adjoining Hyde Park Hayes (also in Millington Road) to a more general business (office) category. Both were designated as sites of local significance and this report is considered to be recent and up to date.

It is not considered that there are any particular site constraints or attributes which would prevent its continued or future use/development for purposes appropriate within the IBA. As such, in order to justify that there is no realistic prospect of land being used for these purposes marketing evidence has been submitted. However, both the case officer and the Greater London Authority have concerns regarding the adequacy of this submission, in particular:

(i) Over the marketing period 13 prospective occupiers were identified and the reasons for leases not being signed appear to relate more to the poor quality of the industrial premises on site at the time, rather than a lack of genuine demand for industrial or warehousing premises. Other interested parties failed to emerge due to loss of enabling contracts or failure to reach favourable terms, again neither of these are indicative of a genuine lack of need.

(ii) The marketing data indicates that marketing was only undertaken for a period of 18 months prior to demolition of the previous building (less than the 2 years recommended by the Industrial Capacity SPG), further it indicates that for approximately 8 months of this period no advertising activity took place.

(iii) The decision to market the premises appears to have been on the basis that industrial/warehouse interest was unlikely to emerge, and initial instructions appear to have been to explore interests for food retail in addition to industrial pre-let interest before any marketing of the premises had commenced.

The site is designated for industrial and employment purposes within the Saved Policies UDP, which was saved in 2007, and as a strategic employment location in the London Plan, adopted in 2011, nor is the site proposed to be removed from this designation within the upcoming LDF and this position is on the basis of up to date employment land studies.

The marketing data is considered inadequate and is not considered to demonstrate that there is a genuine lack of demand or need for the site and the most recent development plan and evidence base indicate that the site should be retained in this designation.

In considering this issue it is also important to understand whether the proposed development would better meet the economic objectives of the development plan, or indeed the current governments position towards economic development.

In this respect the applicant has submitted a Counsel's opinion on the matter which places specific weight on:

The site being close to the Town Centre and could provide a complimentary use;

The site is soon to achieve enhance public transport accessibility

The site would provide a significant enhancement in employment profile by providing over

500 jobs (including 130 on the industrial and business element) - many more than a solely B class development.

A new major foodstore for which there is an established need will be provided.

In respect of these points, the site is not located in close proximity to the Town Centre, indeed it is located in an out-of-centre location as defined within PPS4. The accessibility of the site is noted, as is the fact that other food stores in the vicinity are over trading, however no evidence has been submitted to indicate that these factors would have any substantial positive impact on the economy or better meet the needs of the development plan. It is anticipated that an industrial redevelopment of the site would generate circa 300 employees (based on the applicants figures for their industrial component) which is not substantially less. Industrial Jobs relating to primary industry generate more for national economy than retail jobs and a person involved in a job relating to supply chains would generally generate more benefit to the economy. It is therefore considered that a view based on employee numbers alone is considered an overly simplistic way to assess economic impacts.

PPS4 focuses on facilitating growth and economic recovery through planning decisions wherever it is possible to do so without compromising sustainable development principles and where the development is otherwise in accordance with PPS4. In addition the opinion highlights the emphasis in the draft NPPF that "The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. A positive planning system is essential because, without growth, a sustainable future cannot be achieved. Planning must operate to encourage growth and not act as an impediment. Therefore, significant weight should be placed on the need to support economic growth through the planning system." and "At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking."

These points are noted, however regard needs to be had to the fact that the governments definition of sustainable development is that which complies with an up to date development plan. There is no evidence that the site cannot be successfully redeveloped for appropriate uses, or that the development proposed would have a more beneficial impact on the economy than such a redevelopment. Nor does the development comply with the requirements of the development plan, which is formed of the Saved Policies UDP (2007) and the London Plan (2011), the saving/adoption of both documents being recent. The stance of these documents is also supported by the Council's 2009 Employment Land Study, which is also up to date.

Accordingly, it is not considered that there are any overriding factors or that the proposed development would better meet the requirements of the up to date development plan in force. The proposal would result in the loss of land within a designated employment location and accordingly would be contrary to Policy LE2 of the Saved Policies UDP and Policy 4.4 of the London Plan. Refusal is therefore recommended.

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

Residential density is not relevant to this application.

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

English Heritage Archaeology have been consulted on the application and have advised that the present proposals are not considered to have an affect on any significant archaeological remains.

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

#### **7.04 Airport safeguarding**

MOD, BAA and NATs Safeguarding have been consulted on the application and raise no objection subject to appropriate conditions.

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

The application site is not located in proximity to the designated Green Belt.

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

Policy BE13 of the Saved Policies UDP seeks to ensure that new development are appropriate with regard to their context whereas policy BE25 seeks that new developments within Industrial and Business Areas seek to enhance and modernise their appearance.

In considering the impact of the proposal in terms of character and appearance it is important to consider that the development site is located within a designated Industrial and Business Area which includes buildings of an industrial nature such as sheds and warehouses, and where this scale and character of development is appropriate. In addition regard has to be had to the character of the residential areas located in proximity to the application site on the opposite side of Station Road and North Hyde Road.

The retail store would be located at the junction of Station Road and North Hyde Road, with a height increasing from approximately 10m to 14m along North Hyde Road. The store would have access from the car park to the south, but the main entrance from the public realm has been orientated towards the junction facing the main access route from North Hyde Road, where the store is of a curved design and a first floor café has been integrated into a projecting feature to provide increased visual interest and activity. The Station Road elevation would be largely glazed, serving the travelers, thereby providing activity adjacent to the road and articulated through the use of materials. The northern elevation would not benefit from glazing, but would be articulated through the use of materials.

The store would be completed in a modern palette of architectural panelling, stained timber cladding and anti-sun, green glazed curtain walling. A robust landscaping scheme, including tree planting along the principle road frontage is also proposed.

Overall, the proposed store is considered to be of an appropriate scale and massing and the design is considered to appropriately address the sites context and surroundings, in particular the relationship with Station Road and the principle elevation facing toward Hayes Town Centre and the Station Road/North Hyde Road junction.

The industrial unit would be set back from North Hyde Road and sit well within the context of the surrounding industrial and business area. It would be approximately 15m in height and would be in the form of a simple frame industrial building clad with steel panels. The south west facing elevation would be completed in blue cladding and glazed behind brise soleil.

Overall, the industrial unit is considered to be of an appropriate design and the overall simple and functional design of the unit is appropriate for its context within an industrial and business area.

The applicant has also confirmed a commitment to the provision of areas of green roof within the development, however the precise location of these areas would be determined



at detailed design stage and would be the subject of a condition.

The proposals also include enhancements to the public realm, however the Local Planning Authority and applicant have not reached agreement with regard to the costs or requirements of these provision which would need to be secured by way of a legal agreement. This is addressed in more detail within the relevant section of the report.

The Council's Design Officer raises no objection to the scheme which is considered to be of an appropriate massing and design in accordance with Policies BE13 and BE25 of the Council's Saved Policies UDP.

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

Policies BE20 and BE21 seek to prevent developments which would be detrimental to the amenity of nearby occupiers by way of their siting, bulk, proximity or loss of light.

The development which is located within an existing industrial estate would be separated from residential properties by roads on all sides, the buildings which have a maximum height of 14m would be separated from the residential properties by 36m at their closest point. This separation is adequate to ensure the development does not have adverse impacts on the amenity of residential occupiers in respect of dominance or loss of light.

Policy BE24 seeks to ensure that new developments do not have adverse impacts on the amenity of existing residential properties due to loss of privacy.

The industrial unit is located well within the industrial and business area, over 100m from the nearest residential property, and would not have any adverse impacts by way of loss of privacy.

The proposed retail store would only have glazing on the eastern elevation, serving the travelator and first floor cafe, and southern elevation facing the car park. The eastern elevation is separated from residential properties by a minimum distance of 35.7m across Station Road and this is sufficient to ensure no harm to the residential occupiers by loss of privacy.

Accordingly, the proposal would comply with policies BE20, BE21 and BE24 of the Saved Policies UDP.

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

This consideration is not relevant to this application.

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

##### **TRAFFIC IMPACT**

The application is supported by a detailed transport assessment, which is based on sample sites contained within the TRICS data base which are commensurate, the assessment of traffic generation based on these sites is considered to be robust.

The Traffic assessment is linked to the findings of the submitted retail assessment, which indicates the majority of the new stores trade will be 'clawed back' from other retail stores (Bulls Bridge, Glencoe Road and Lombardy Retail Park) in the locality which are currently over trading and drawing trade significant trade from Hayes Town Centre. The retail assessment is considered generally robust, in particular with regard to the fact that the majority of trade to the new store will be derived from these existing out of centre stores.

The proposed development would include highway mitigation works at the junction, in



addition to the carriageway widening, will include changes to the operation of the junction such that right turning traffic from North Hyde Road, both east and west directions, will no longer be required to give-way to oncoming traffic, reducing the risk of right turners being involved in a collision.

A bus stand is also to be provided on the northern side on Millington Road to extend their U5 service to the site. Millington Road is not an adopted public highway and a licence would have to be granted to TfL for the lifetime of the development or such other period to be agreed with TfL.

Funding for enhancements to nearby bus stops, enhancements to the public realm (linking the site to Hayes Town Centre, the provision of the off-site highways improvements and compliance with Green Travel Plans for each aspect of the development would need to be secured by way of a legal agreement. This issues is addressed within the relevant section of this report.

Detailed traffic modelling has been undertaken by the applicant and reviewed by both the Council's Highways Officer and Transport for London, who consider that the development will be acceptable in terms of traffic impacts. No objection is therefore raised in respect of traffic generation.

#### **CAR/CYCLE PARKING AND HIGHWAY/PEDESTRIAN SAFETY**

The retail store would be served by 360 standard parking bays, 36 disabled bays, 23 parent and child bays, 12 motorcycle spaces and 60 cycle spaces. In addition 10 percent of the car parking spaces would have access to electric charging points with a further 10% being provided with infrastructure to allow future installation.

The industrial/warehouse unit would be served by 58 standard parking bays, 7 disabled bays, 4 motorcycle spaces and 48 cycle spaces. In addition 20 percent of the car parking spaces will have access to electric charging points with a further 10% being provided with infrastructure to allow future installation.

It is noted that the Greater London Authority and Transport for London initially raised objection that the level of parking provision for the retail store was too high and should be reduced. However, additional information has been provided by the applicant which is considered to adequately demonstrate the need for this level of car parking.

The Council's Highways Officer has reviewed the proposals and considers the level of provision for all types of spaces is acceptable as is the layout of the car parking area. In addition the provision of electric charging points complies with the London Plan requirements for the retail superstore and exceeds them for the industrial/warehouse unit.

The Council's Highways Officer has also reviewed all of the internal layouts and off-site highways works and raises no objections with regard to pedestrian safety.

Accordingly, no objection are raised to the proposal on highways grounds.

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

Issues of design and accessibility are addressed elsewhere within the body of the report.

In respect of security the submitted design and access statement details various areas where security has been taken into account in the design of the proposals including:

- (i) Natural Surveillance;

- (ii) Appropriate Levels of Lighting;
- (iii) Provision of internal and external CCTV (including dedicated CCTV for cash machines);
- (iv) Design of the car park to comply with Park Mark standards; and
- (v) Provision of appropriate boundary treatments.

It is considered that the submitted documentation demonstrates that security and safety considerations have formed a fundamental part of the design process and have been appropriately integrated into the scheme. The implementation of specific measures such as lighting, boundary treatments and CCTV could be secured by way of appropriate conditions in the event the application were approved.

## **7.12 Disabled access**

Policies 7.2 and 3.8 of the London Plan provide that developments should seek to provide the highest standards of inclusive design and this advice is supported by the Council's Supplementary Planning Document - Accessible Hillingdon.

The application is supported by a design and access statement and incorporates a number of measures to incorporate the requirements of inclusive design including:

- (i) provision of a lay-by for suitable for Dial-a-Ride minibus pick up/drop off in proximity to the retail store entrance;
- (ii) appropriate gradients and flush kerbs within car parking areas for the retail store and industrial unit; and
- (iii) full compliance with Part M of the Building Regulations and the Disability Discrimination Act, including but not limited to the provision of flush thresholds, wheelchair accessible lifts, disabled toilets and baby change facilities.

In terms of accessible parking the proposal would provide 35 spaces marked out to an appropriate standard for use by blue badge holders within the car park for the retail store, which would be appropriately located adjacent to the store entrance. This level of provision would exceed the requirements set out within the Council's Supplementary Planning Document - Accessible Hillingdon, but would fall slightly below the 10% required within by the London Plan. However, the store car park would also be served by 23 parent and children spaces which would also to a size which could be used by disabled users and located an appropriate distance from the store entrance. Given that the proposal would comply with the Council's Local Guidance and that the parent and children spaces provide additional flexibility with regard to parking no objection with respect to the provision of inclusive parking for the retail store.

The industrial unit would be served by 7 spaces marked out to an appropriate standard for use by blue badge holders, which fully complies with both the Council's Local Guidance and the the London Plan.

Additional information, including an updated design and access statement and amended plans have been received addressing the detailed design points initially raised by the Council's Access Officer and the Greater London Authority and it is considered that the final details of matters such as fire evacuation and signage could be dealt with by way of conditions should approval be recommended.

Subject to appropriate conditions it is considered that the application would comply with the relevant policy requirements on inclusive design and no objection is raised in this respect.

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

The proposal does not include residential accommodation and accordingly this consideration is not relevant.

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

The application is supported by a tree survey, arboricultural implications report and by detailed landscaping plans covering both the retail store and the industrial and warehousing developments.

Hard landscape improvements include new paving, seating, new lighting, ground level lighting and fences / railings to screen operational areas and protect areas of soft landscaping.

Soft landscaping proposals for the store include soft landscape buffers to the north and south of the site, including tree planting, and the planting of a row of trees along the eastern site boundary with North Hyde Road. Importantly, the landscaping plans have been amended in accordance with the initial comments of the Council's Trees and Landscape Officer and now incorporates the provision of 5 trees within the open parking area which would serve to break up and soften the expanse of hard surfacing.

For the industrial unit a hedge which would grow to 3m in height would be provided to screen the service yard from Millington Road to the north, tree planting along the boundary with the proposed retail store, to the south a combination of tree and shrub planting would be provided around the staff car park and along the boundary with Millington Road.

The Council's Trees and Landscaping Officer has reviewed the arboricultural details and considers that the tree removals can be justified subject to the re-provision of a well considered soft landscaping scheme.

Overall, the landscaping scheme as amended is considered acceptable and will result in a development with an appropriate landscaped appearance within the street scene and the industrial and business area in accordance with Policies BE25 and BE38 of the Saved Policies UDP.

It is also noted that the proposals would include a commitment to enhance the public realm between the application site and Hayes Town Centre, however at present the applicant and Local Planning Authority are not in agreement with regard to the level of such contributions. Further discussion on this is provided within the Planning Obligations section of this report.

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

Policy 5.17 of the London Plan requires development to make adequate provision of waste and recycling storage.

Both the proposed retail store and industrial unit would have service yards with ample room for vehicle manoeuvring and could easily accommodate refuse and recycling storage.

On the superstore site these areas would be well screened from public view, however a condition could be attached to ensure that any refuse storage area serving the industrial unit benefited from adequate screening. Accordingly, the proposal would achieve satisfactory arrangements in terms of waste and recycling management.

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

Chapter 7 of the London Plan (2011) sets out requirements for developments to achieve

the highest levels of sustainable design and to reduce carbon dioxide emissions when compared to the building regulations, where feasible.

The application proposes a combination of energy efficiency measures and renewables, in the form of 1,400 sq.m of photo-voltaic panels across the development and waste heat recovery from refrigeration plant, the combination of measures would achieve a 27.5% reduction in regulated carbon dioxide emissions.

The application is referable to the Greater London Authority who have reviewed the scheme and raised no objections with regard to the proposals for energy efficiency within the development. Accordingly, the proposal is considered to comply with the London Plan requirements on energy efficiency. Implementation of the relevant measures could be secured by way of appropriate conditions.

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

The application is not located within a zone at risk of flooding, however due to the size of the development it is necessary for it to demonstrate that it would incorporate sustainable drainage techniques and reduce the risk of flooding in accordance with the requirements of Policies 5.11, 5.12 and 5.13 of the London Plan and Planning Policy Statement 25.

The original application was supported by a flood risk assessment and a number of revisions and supplementary documents have been received in order to address detailed comments arising from the Environment Agency.

The current flood risk strategy for the development consists of:

- (i) The provision of green roofs to a minimum area of 805 sq.m. (with the detailed locations and design to be secured via condition);
- (ii) Rain water harvesting;
- (iii) Bio-retention pits included within the landscaping; and
- (iv) Underground water attenuation tanks.

The most recent flood risk documentation received indicated that the rate of discharge has been reduced by 57% when compared to the existing situation which consists of an entirely hard surfaced site.

Following negotiation between the Local Planning Authority and applicant the scheme has been amended to integrate a number of sustainable drainage techniques and to achieve a reduction in surface water run off arising from the site.

The most recent comments from the Environment Agency received on the 18th October 2011 maintain an objection to the scheme and indicate that the most recent submission of documentation is still under consideration, however the correspondence indicates that the Environment Agency may be willing to remove their objection subject to receipt of formal correspondence from the agent confirming that:

- (a) The applicant would accept a condition/conditions requiring:
  - the provision of 805 sqm of green roofs across the development with final details to be submitted to and agreed by the LPA; and
  - the provision of all other measures set out within the various drainage documents submitted including but not limited to tanked attenuation, rainwater harvesting and bio-retention pits for all of the trees.
- (b) That the applicant accepts that these conditions would be valid and meet all of

the tests set out within circular 11/95.

Correspondence to this effect has now been received from the applicant and it is considered that the provision of the relevant sustainable drainage systems could be secured by way of conditions should the application be approved.

At present officers are of the view that further consideration of the information submitted and discussions between the applicant and Environment Agency may result in the removal of the objection prior to the Committee meeting and as such refusal is not currently recommended in this respect. However, the Environment Agencies final comments will be reported to the Committee.

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

### **AIR QUALITY**

The application is accompanied by a detailed Air Quality Assessment, in addition Travel Plans are proposed in respect of each individual part of the development in order to minimise vehicular trips.

The Council's Environmental Protection Unit have reviewed the document in detail and raise no objection to the development on air quality grounds subject to specific conditions and the following planning obligations being secured by way of a legal agreement:

- a) A contribution towards air quality monitoring
- b) The compliance of each part of the development with a relevant Travel Plan.

The detailed situation with respect to planning obligations is discussed in detail within the relevant section of this report. However, subject to the above it is not considered that the development would result in any adverse impacts on air quality and would comply with Policy OE1 of the Saved Policies UDP and 7.14 of the London Plan.

The Greater London Authority have also considered the developments impact on Air Quality and have raised no objection in this respect.

### **NOISE**

Policies OE1 and OE3 seek to ensure that new developments which have the potential to cause noise are only allowed where their impacts can be mitigated within acceptable levels.

The application is supported by a detailed noise report which has been subject to consideration by the Council's Environmental Protection Unit. It is also noted that the application site is located within a designated Industrial and Business area and that certain aspects of the development are orientated towards the industrial estate rather than residential properties.

Having regard to the above there are several key issues which require consideration, and these will be addressed separately in respect of the retail superstore and industrial unit.

#### **a) Retail Superstore**

The first issue which needs to be considered in respect of the retail superstore is noise emanating from the use of the store itself as a shop, in particular with regard to the fact that 24 hour opening is proposed.

The Council's Environmental Protection Unit have undertaken a detailed assessment of the noise assessment both as a whole and in particular with regard to the areas of the

public car park and petrol filling station, which are the most likely noise sources during opening times.

In respect of these two areas the Council's Environmental Protection Unit are satisfied with the robustness of the submitted noise assessment which demonstrates that the noise levels arising from activity associated with the opening hours of the retail store would be well within the acceptable limits at the nearest residential receptors as set out within the Council's supplementary planning guidance on noise, both during daytime and nighttime hours.

Accordingly, no objection is raised to the proposed development in terms of noise arising from these areas or the proposal for 24 hour opening.

The second key issue in respect of the retail store relates to noise relating to the servicing of the development. The Council's Environmental Health Unit have reviewed the noise assessment in this respect and advised that subject to appropriate conditions the servicing arrangements would not have any adverse impacts on the amenity of nearby residential occupiers.

#### b) Industrial Warehouse Noise

The Council's Environmental Protection Unit have reviewed the detailed aspects of the noise assessment in respect of the proposed industrial unit. The Council's Environmental Unit have reviewed the impacts of the proposed unit and have indicated that subject to a combination of physical and operational mitigation measures the unit would be acceptable in terms of noise impacts.

It is therefore considered that subject to conditions the development would not result in any harm to the amenity of nearby residential occupiers and would comply with policies OE1 and OE3 of the Saved Policies UDP with respect to noise.

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

The comments received in relation to the application are noted and all relevant issues are addressed within the body of the report. However, of note the transport assessment which is considered robust by the Council's Highways Engineer does indicate a reduction in traffic at the North Hyde Road/ North Hyde Gardens Junction and the Highways Engineer considers the proposal acceptable in terms of traffic generation.

### **7.20 Planning obligations**

Policy R17 of the Saved Policies UDP requires the provision of planning obligations necessary to mitigate the impacts of developments. The council's Planning Obligations SPD provides further guidance. In addition the requirements of the London Plan and the need for a contribution towards Crossrail under the Mayors Crossrail SPG are also relevant.

The Council's Section 106 Officer has reviewed the proposal, as have other statutory consultees including the Greater London Authority and Transport for London. These comments indicate the need for the following contributions to mitigate the impacts of the development.

1. Transport: the legal agreement would need to secure the implementation for all off-site highways works which form part of the proposal.
2. Bus Stop Improvements: A contribution is required to secure the provision of a new



northbound stop on Station Road, outside the retail store. The bus stop will be provided in accordance with Transport for London's Accessible Bus Stop Design Guidance and will therefore be DDA compliant. The bus stop will incorporate real time bus service travel information. A contribution will also be provided to secure the provision of real time bus travel information at the existing Station Road (southbound) bus stop, located opposite the retail development (adjacent to the Station Road shopping parade).

3. Travel Plans: The legal agreement would need to secure compliance with individual travel plans for the retail and industrial use, alongside a £20,000 bond to ensure compliance.

4. Construction Logistics and Delivery and Servicing Plans: It would be necessary for these matters to be addressed within a S106 agreement to ensure compliance and that the proposal would not have adverse impacts on the highway network in accordance with comments from the Greater London Authority and Transport for London.

5. Crossrail: A contribution of £127,968 towards Crossrail is required in accordance with the Mayor's supplementary Planning Guidance (SPG) 'Use of obligation in the funding of Crossrail' (July 2010).

6. Construction Training: in line with the SPD a contribution towards construction training is likely to be sought as a result of this proposal. If no on-site training scheme is forthcoming then it is likely that a cash contribution in the sum of £2,500 for every £1m build cost will be sought to assist with training initiatives in the borough. It is likely that a contribution towards co-ordinator costs will also be sought as a result of this proposal, proportionate to the size and length of the construction phase of the development.

7. Hospitality Training: in line with the SPD a contribution towards hospitality training is likely to be sought as a result of this proposal, as it is proposed to generate more than 50 jobs and if an employment strategy cannot be secured then as a compensatory measure the employer will be required to make a contribution equal to £400 per new employee to a training course to serve under skilled or unemployed people in the area.

8. Town Centre/Public Realm: in line with the SPD and following on from pre application discussion there will be a requirement for public realm improvements. The Council considers that a contribution is required in order to secure the provision of appropriate enhancements to the public realm and in particular the areas linking the site to Hayes Town Centre. This would need to be a comprehensive scheme to ensure the street scene and pedestrian linkages to the town centre are improved to encourage linked trips between the proposal site and Hayes Town Centre.

9. Air Quality: a contribution in the sum of £25,000 is sought. The contribution would be used on the air quality monitoring network in the area. It is also noted here that any junction improvements to Millington Way and Station Road would also benefit the issue with air quality in this area.

10. Project Management and Monitoring Fee: in line with the SPD if a s106 agreement is entered into then a cash contribution equal to 5% of the total cash contributions will be sought to enable the management and monitoring of the resulting agreement.

In addition to the above it is noted that Transport for London are requesting provision of an on-site facility for bus driver toilets. The applicant has indicated that they are willing for drivers to utilise the store toilets during opening hours, but would not be willing to provide

a toilet just for use of bus drivers. Officers are of the view that the provision of such a facility is not fundamental to the development and cannot be insisted upon.

Officers and the applicant have reached agreement on the majority of the Heads of Terms, however have failed to reach agreement on matters relating to Town Centre/Public Realm improvements and Project Management and Monitoring. Furthermore, the applicant has indicated that those heads of terms they had agreed were only on the basis of an approval.

However, officers are of the view that improvements to the Town Centre/Public Realm are of fundamental importance to the scheme, in particular with regard to encouraging connectivity between the site and Town Centre. Given that agreement has not been reached on this matter refusal is recommended on these grounds.

#### **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 proposes a development consisting of:

(a) a retail store within use class A1 with 7,998 sq.m. gross external area (4,111 sq.m. net sales area) and a petrol filling station located on the north-eastern portion of the site; and  
(b) an industrial/warehousing unit for uses within classes B1(c), B2 or B8 with 7,310 sq.m. gross external area including ancillary first floor office space located on the western portion.

It is not considered that the development would have a significant adverse impact on the vitality or viability of Hayes town Centre and the development would attain an appropriate appearance within the street scene.

In addition the development would incorporate adequate parking, and include off-site highways works and contributions towards public transport improvements. The Council's Highways Officer is satisfied that the development would be served by adequate car parking and would not have any adverse impacts on the free flow of the highway network or on highway or pedestrian safety.

The development would integrate an appropriate level of inclusive design, measures to reduce energy use and other sustainable design features. Subject to appropriate conditions and obligations the development would not have any unacceptable impacts on Air Quality.

Further, subject to appropriate conditions the development would not have any adverse impacts on the amenity of residential occupiers by way of noise. In particular the Council's Environmental Protection Unit consider that 24 hour opening would be acceptable in this instance.

At present there remains an objection from the Environment Agency, however the applicant is working towards addressing this and it is considered likely that a resolution can be found to this issue. Final comments from the Environment Agency will be reported at the Committee Meeting.

Notwithstanding the above, the development would result in the loss of designated employment land (both within the local and regional development plan). Insufficient information has been submitted to demonstrate that there is no demand for industrial/warehousing uses on the site and it is not considered that the retail superstore would better meet the requirements of the development plan.

Further, officers have failed to reach agreement with the applicant with regard to the level of contributions required to mitigate the development in key areas, in particular with respect of Town Centre/Public Realm Improvements and project management and monitoring. Officers are of the view that these matters are essential and in the absence of a S106 agreement to secure the full amount require, and other essential contributions the development is unacceptable.

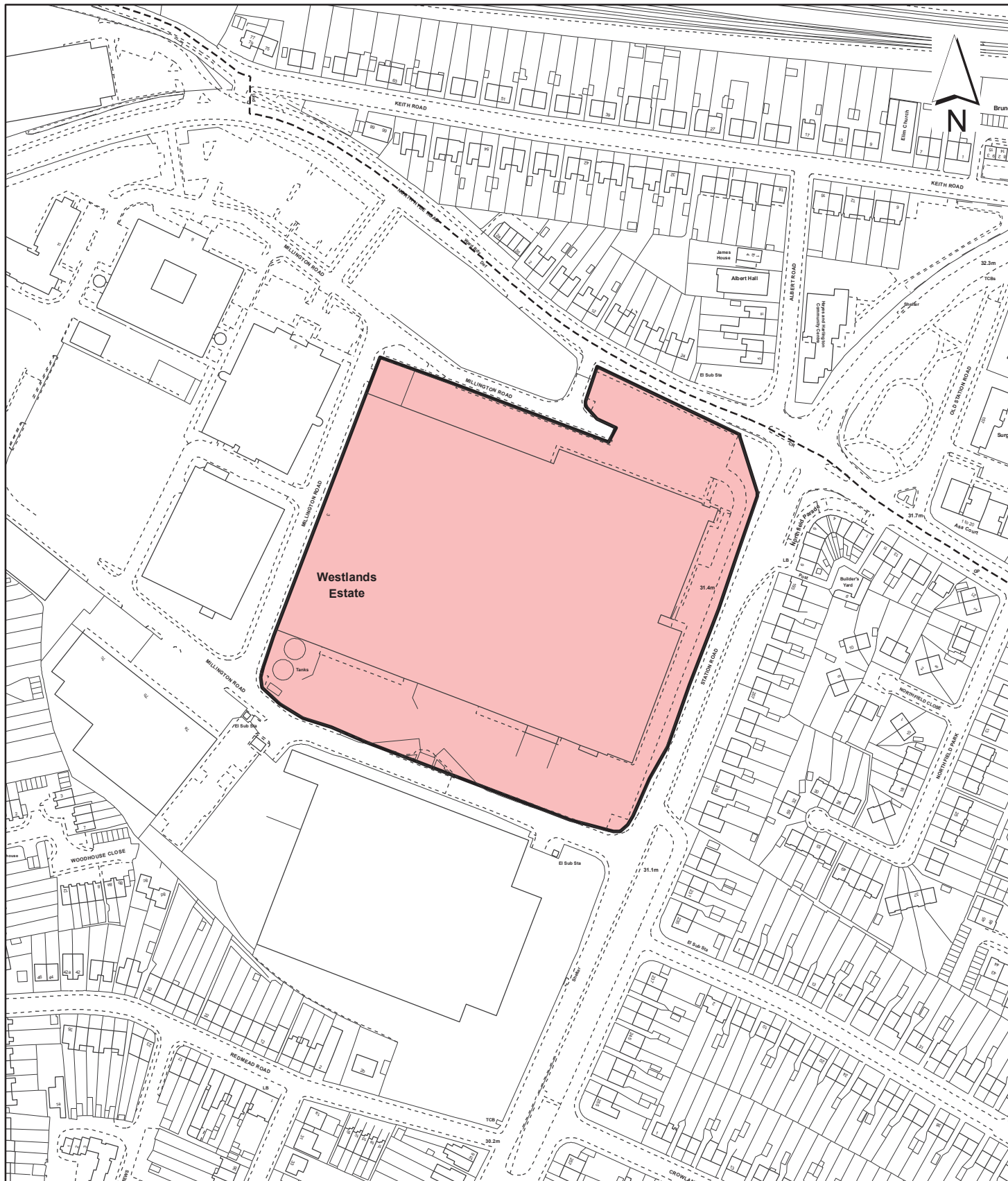
Accordingly, it is recommended that the application be refused.

## **11. Reference Documents**

See Planning Policies and Standards

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## Notes



Site boundary

For identification purposes only.

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Site Address

**Unit 3, Millington Road  
Hayes**

Planning Application Ref:

**32157/APP/2011/872**

Planning Committee

**Central and South**

Scale

**1:2,500**

Date

**October  
2011**

**LONDON BOROUGH  
OF HILLINGDON**

**Planning,  
Environment, Education  
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