

Report of the Head of Planning & Enforcement Services

Address: UNIT 1 COWLEY MILL INDUSTRIAL EST LONGBRIDGE WAY UXBRIDGE

Development: Change of use from Class B1/B8 to Class B1/B8/D1 for use as children's soft play centre

LBH Ref Nos: 29704/APP/2011/875

Drawing Nos:

- Marketing Report
- Transport Statement
- 30313-PL-100 Location Plan
- 30313-PL-101 Existing Elevations
- 30313-PL-102 Proposed Elevation
- Technical Note - Response to Planning Report
- Planning Statement

Date Plans Received: 08/04/2011 **Date(s) of Amendment(s):**

Date Application Valid: 08/04/2011

1. SUMMARY

Planning permission is sought for the change of use to a mixed use comprising B1, B8 and D1 uses. The B1 and B8 uses are as existing and as such, no objections are raised.

The site has not been identified by the Council as one which is to be released from its Industrial Business Area Classification and additionally it is identified as a Strategic Employment location within the London Plan (July 2011). In this regard there is considerable concern that the proposed use would not only result in a loss of a preferred industrial location, but also have a negative effect on other occupiers of the industrial estate.

Additionally the Transport Statement fails to demonstrate the development would not result in unacceptable traffic and parking impacts.

Refusal is recommended.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The submitted Transport Statement fails to provide an accurate and robust assessment of the transportation aspect of the proposed development. As such, the Council has been unable to assess the parking, traffic, and safety aspects of the proposed development. In the absence of information, the proposals are considered to be contrary to the Council's Policies AM7 and AM14 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

2 NON2 Non Standard reason for refusal

The application site falls within the Uxbridge Industrial and Business Area and is designated as a Strategic Industrial Location in the London Plan (July 2011). The

proposal would result in an unacceptable loss of employment land that is capable of being used for industrial and warehouse purposes, contrary to Policy LE2 of the Hillingdon Unitary Development Plan Saved Policies (September 2007), Policy 2.17 of the London Plan (July 2011) and recommendations within the Council's Employment Land Study (July 2009).

3 NON2 Non Standard reason for refusal

The position of sensitive land uses, including child play facilities, within the industrial business area could affect the ability of the Uxbridge Industrial and Business Area to function effectively, neutralising existing industrial uses within the estate. This includes the potential for conflict between pedestrians using the D1 use and commercial vehicles using the proposed B1/B8 uses in a confined space. The proposal is therefore contrary to Policies LE2 and AM7 of the Hillingdon Unitary Development Plan Saved Policies September (September 2007), Policy 2.17 of the London Plan (July 2011) and recommendations within the Council's Employment Land Study (July 2009).

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 (February 2008) and national guidance.

AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
LE2	Development in designated Industrial and Business Areas
AM14	New development and car parking standards.
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.
CACPS	Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
EC1	Protection of sites of special scientific interest, nature conservation importance and nature reserves
LPP2.17	Promote, manage and protect the strategic Industrial locations

3

You are advised that the Council considers that the lack of any dedicated car parking area is problematic.

3. CONSIDERATIONS

3.1 Site and Locality

The site is located at Unit 1 in the Cowley Mill Trading Estate, which is located between the River Colne and Longbridge Way (western side of Longbridge Way and south of the junction between Cowley Mill Road and Longbridge Way).

The industrial estate is characterised by two storey warehouse/industrial buildings. Opposite the site to the east (across Longbridge Way) development is mixed, with large warehouse/industrial development and two storey residential flat buildings to the north east.

The site is designated as a Strategic Industrial Location in the London Plan and as an Industrial Business Area in the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3.2 Proposed Scheme

Planning permission is sought for the change of use to a mixed use comprising B1, B8 and D1 uses. The B1 and B8 uses are as existing. Minor changes are proposed to the external elevations including 3 signs, and a small extract duct (for kitchen fume extraction).

The applicant has advised that it is proposed that the unit would be occupied by a newly established company providing soft play facilities. The unit would provide internal soft play areas for children, separated into age ranges, along with caf© facilities, relaxed seating and ancillary areas.

The planning statement describes the use as providing a day nursery and care centre use for the local area. The planning statement is also clear that this application simply seeks to extend the range of uses able to be undertaken at the site, rather than a complete change of use from the B Class uses.

The application does not indicate how much space would be used as Class D1, as opposed to the Class B type uses.

3.3 Relevant Planning History

29704/APP/2010/2345 Unit 1 Cowley Mill Industrial Est Longbridge Way Uxbridge

Change of use from Class B1/B8 to Class B1/B8/D1 for use as children's soft play centre.

Decision: 09-12-2010 Refused

Comment on Relevant Planning History

The above application was refused for the following reasons:

1. The proposed D1 use of the premises as a play centre would result in the loss of industrial and warehouse floorspace in a designated Industrial and Business Area and a Strategic Industrial Area and Preferred Industrial Location that is capable of being used for industrial and warehouse purposes, contrary to Policy LE2 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and London Plan Policy 3B.4.

2. The application is not accompanied by a Transport Assessment or a travel plan to demonstrate the likely impact on traffic generation associated with the proposed D1 use. As such, the Council has been unable to assess the traffic impact on the proposed D1 the local highway network and to determine whether the existing parking spaces can cater for the parking demand associated with the proposed use. It is therefore considered that the proposal with its potential traffic increase would be harmful to highway and pedestrian safety and would result in inadequate provision for car parking which would be likely to cause on-street parking contrary to Policies AM2, AM7(i) and (ii) and AM14 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

- AM2 Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
- AM7 Consideration of traffic generated by proposed developments.
- LE2 Development in designated Industrial and Business Areas
- AM14 New development and car parking standards.
- 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.
- CACPS Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
- EC1 Protection of sites of special scientific interest, nature conservation importance and nature reserves
- LPP2.17 Promote, manage and protect the strategic Industrial locations

5. Advertisement and Site Notice

- 5.1 Advertisement Expiry Date:- Not applicable
- 5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

11 near by occupiers were notified of this planning application.

The applicant has provided a petition in support of the application (175 signatures). This states that there is a need for the use and that the facility would cater for children with special needs giving them a safe place to play.

Internal Consultees

HIGHWAYS ADVISOR

The Transport Statement submitted with the application fails to consider the mix of the proposed D1 use with the B1/B8 uses, which involve other vehicles including HGV movements in and out of

Cowley Mill Trading Estate and turning within this Estate.

The transport statement also fails to provide an accurate assessment of the proposals:

- i) The capacity of the site for the proposed D1 use to cater for families, childminder and birthday parties has not been quantified;
- ii) The car parking demand and traffic associated with the D1 use (both staff and visitors) have not been satisfactorily quantified;
- iii) The applicant has proposed that at particularly busy times the length of stay will be restricted to a maximum of 2 hours. However, it would be very difficult to practically enforce this on a day to day basis throughout the life of the development and the restriction on the length of stay can change in the future as per the business demand/requirements, resources etc;
- iv) There are inconsistencies in the proposed opening times and full time staff numbers stated in the application form and the transport statement;
- v) The arrival and departure vehicle profile is considered to be unrealistic.

Consequently, the proposals are considered to be contrary to policies AM7 and AM14 of the UDP.

REFUSE/RECYCLING ADVISOR

- i) The proposal is for a commercial unit. The occupiers would have to make an arrangement with either the Council or a licensed waste carrier for the collection of the waste produced from the premises.
- ii) As the producers of waste from a commercial premises the occupiers have a Duty of Care to contain the waste safely until it is collected by the Council or a licensed waste carrier. They can best comply with this through the use of bulk bins or presenting sacks on the day of collection.
- iii) The collectors should not have to cart a 1,100 litre bulk bin more than 10 metres from the point of storage to the collection vehicle (BS 5906 standard). Collectors should not have to carry refuse sacks more than 15 metres.
- iv) 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 storage area 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.

ENVIRONMENTAL PROTECTION UNIT

I do not wish to object to this proposal.

The nearest residential receptor is measured at approximately 55 meters on the other side of Longbridge Way from the application site. The potential for any disturbance from children's activities is not significant.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

LONDON PLAN (July 2011)

London Plan Policy 2.17 relates to Strategic Industrial Locations and notes that boroughs should, promote, manage and where appropriate, protect strategic industrial locations (SILs) as London's main reservoirs of industrial land. The policy states that development proposals in SILs should be refused unless:

- * they fall within the broad industrial type of activities
- * they are part of a strategically co-ordinated process of SIL Consolidation
- * the proposal is for employment workspace to meet identified needs for small and medium sized enterprises (SMEs) or new emerging industrial sectors;
- * the proposal is for small scale 'walk to' services for industrial occupiers such as workplace crèches or cafes.

PLANNING OFFICER COMMENT

The retention of the B1 and B8 uses is consistent with the above, however the D1 use would be contrary to policy 2.17. The proposed D1 use would not be classified as an SME.

While the proposed D1 use could be used for industrial occupiers of the estate, demand (as evidenced by the address of petitioners) for this use would be wider than just the IBA (i.e. not a small scale 'walk to' service for the industrial estate).

The application is not considered to accord with the London Plan.

HILLINGDON UNITARY DEVELOPMENT PLAN (SAVED POLICIES SEPTEMBER 2007)

Policy LE2 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) (the UDP) seeks to retain uses within classes B1, B2 and B8 within IBA's and other uses that do not fall within these classes if they are appropriate within IBA's. The local planning authority will not permit development for other uses in industrial and business areas unless it is satisfied that:-

- (i) there is no realistic prospect of the land being used for industrial or warehousing purposes in the future; and
- (ii) the proposed alternative use does not conflict with the policies and objectives of the plan.
- (iii) the proposal better meets the plan's objectives particularly in relation to affordable housing and economic regeneration.

PLANNING OFFICER COMMENT

With regards to the existing industrial use and criteria (i) above, the applicant has submitted a Marketing Report. This report advises that the 6 units currently vacant, Units 1, 2, 3, 6, 8 & 10, have all been marketed with flexible terms, for the past 2 years.

The present market conditions are considered to reflect at least in part the immediate problems with national and international economies. The local market conditions could change to a favourable position (due to the fluctuations in the local and national economy) and therefore, it is important that the unit is retained for industrial purposes in the future.

The Council has undertaken an evaluation of all industrial sites in the Borough and identified a number of sites for release (this will be dealt with via the Core Strategy and Local Development Framework process).

The application site is not one of the sites proposed to be released. As the supply of industrial land is reduced, it will become increasingly important to retain and protect the remainder. The London Plan has identified the site as a SIL, and this elevates its importance in terms of ensuring it is retained for use as an employment location. Given

that the supply of industrial land is to reduce and that the current market conditions could well change over the medium and long term, it is considered that there is a realistic prospect of the land being used for industrial or warehousing purposes in the future.

The applicant contends that the B Class uses will remain and that this application is simply for an extended range of uses. However no floor plans have been provided to indicate what share of the building would be retained for B Class uses. The application form is equally ambiguous, noting only that the space would be available to be used equally as Class D1 or Class B1 or B8.

It is not considered that a soft play facility/nursery use would sensibly be able to be accommodated in the very same building that is also occupied by an industrial and warehousing use. Whereas it would not be the role of the planning authority to consider health and safety issues (as other legislation would cover this) it is the role of the local planning authority to consider the impact of the land use on other land uses.

Should planning permission be granted and the D1 use becomes operational, there is a possibility that the industrial floorspace would be permanently lost.

The position of such a sensitive land use (child play facilities), adjacent to industrial units could lead to conflicts between site users (e.g. trucks making deliveries to other business units close to children entering and leaving the site) and conflicts with parents trying to park around an industrial estate where Heavy Goods Vehicles need space to manoeuvre. There is considerable concern that this would affect the ability of the Uxbridge Industrial and Business Area to function effectively, neutralising existing industrial uses within the estate.

The scheme is not considered to comply with the London Plan (July 2011) or the Council's UDP, and there is an in principle objection to the scheme in this regard.

7.07 Impact on the character & appearance of the area

No external alterations are proposed apart from an air vent in the flank wall and 3 signs. There is no objection to the scheme in terms of appearance or visual impacts on the street scene.

7.08 Impact on neighbours

There are no residential properties nearby that would be adversely affected by the proposed development.

The application was referred to the Council's Environmental Protection Officer who has raised no objection to the scheme in terms of noise or disturbance.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The applicant has advised that the facilities would cater for both children and parents, providing a safe and sociable setting in an accessible location. The application site is located within the Uxbridge IBA and has a PTAL accessibility rating of 1. This means that within a scale of 1 to 6, where 6 is the most accessible, the area has a low accessibility level. Therefore, customers are likely to travel to the site by car, thereby generating additional vehicular traffic on the highway network.

There are no specific parking standards for D1 uses and as such, the proposal should be determined on an individual basis using a transport assessment and travel plan.

The application is supported by a Transport Statement which concludes that the proposed D1 use will not have any material impact on the road network and the existing parking

provision can cater for the parking demand associated with the proposed use.

However the Councils Highway Engineer advises that the Transport Statement fails to provide an accurate assessment of the proposals. In particular, the capacity of the site for the proposed D1 use to cater for families, childminder and birthday parties, and the car parking demand and traffic associated with the D1 use (both staff and visitors), have not been satisfactorily quantified. Furthermore, the applicant proposes that at particularly busy times the length of stay will be restricted to a maximum of 2 hours. However, realistically, it would be very difficult to practically enforce this on a day to day basis throughout the life of the development (especially as small children are involved) and the restriction on the length of stay can change in future as per the business demand/requirements, resources etc. Also, there are inconsistencies in the proposed opening times and full time staff numbers stated in the application form and the transport statement, and the arrival and departure vehicle profile is considered to be unrealistic.

Therefore, it is considered that the proposal fails to fully demonstrate the likely impact on traffic generation associated with the proposed D1 use. As such, the Council has been unable to assess the traffic impact of the proposed D1 on the local highway network and to determine whether the existing parking spaces can cater for the parking demand associated with the proposed use.

It is therefore considered that the proposal with its potential traffic increase would be harmful to highway and pedestrian safety and would result in inadequate provision for car parking which would be likely to cause on-street parking contrary to Policies AM2, AM7(i) and (ii) and AM14 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

It is noted that the applicant submitted an additional technical note, which has been considered by the Council's Highways Officer. This is not considered to overcome the issues which are raised above.

The proposal fails to overcome the second reason for refusal of the previous scheme.

7.19 Comments on Public Consultations

The third party comments are noted and are addressed in the report. It is clear that there is considerable demand for the proposed use, it is noted that the demand is wide spread. Although it is unclear why 'Wacky World of Soft Play' needs to locate in an IBA.

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'.

10. CONCLUSION

The application is not considered to have overcome the previous reason for refusal and the proposed D1 use is considered to be contrary to London Plan and local UDP policy.

In considering this second, more detailed application, officers have had additional concerns over the potential negative impact the proposed use could have over the wider industrial estate.

There are also significant concerns in relation to this scheme in terms of highways and parking impacts.

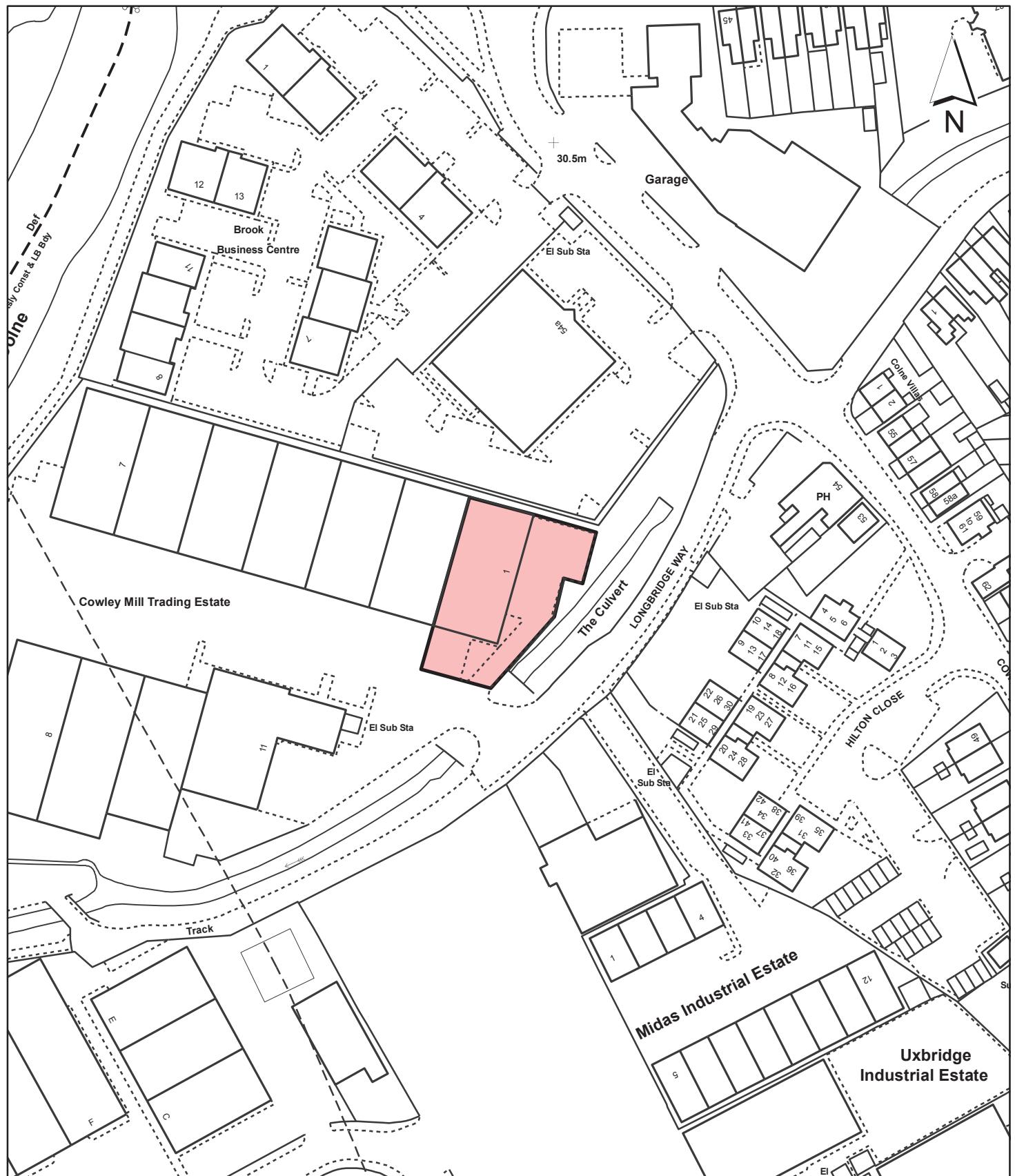
This application is recommended for refusal.

11. Reference Documents

Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

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Notes

Site boundary

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Site Address

**Unit 1 Cowley Mill Industrial Estate
Longbridge Way
Uxbridge**

Planning Application Ref:

29704/APP/2011/875

Planning Committee

Central and South

Scale

1:1,250

Date

July
2011

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