

Report of the Head of Planning & Enforcement Services

Address UNIT 7A, HAYES BRIDGE RETAIL PARK UXBRIDGE ROAD HAYES

Development: Application for variation of condition 4 (to extend the range of goods permitted to be sold) of planning permission ref: 51331/APP/2005/1415 dated 17/07/2005: Alterations to front, rear and side elevations to create new entrances and new enclosed service corridor.

LBH Ref Nos: 67475/APP/2011/853

Drawing Nos: Location Plan
Planning & Retail Statement
Appendices to Planning & Retail Statement

Date Plans Received: 06/04/2011 **Date(s) of Amendment(s):**

Date Application Valid: 07/04/2011

1. SUMMARY

This application relates to Unit 7A, a vacant retail unit, located at Hayes Bridge Retail Park, on the southern side of Uxbridge Road in Hayes. In 2005 planning permission was granted for alterations to the front, rear and side elevations of the unit. Condition 4 of that permission restricted the type of goods which could be sold at the site to, primarily, bulk goods (ref: 51331/APP/2005/1415).

This application seeks the variation of that condition to extend the range of goods which could be sold at the unit in order to allow Next Home to operate from the premises. The applicant advises that these stores are dedicated to retailing a comprehensive range of products including Next's range of furniture and home furnishings.

The applicant has submitted a Planning and Retail Statement and letter in support of the application and has advised that in addition to the already permitted goods, Next Home wish to sell luggage and travel goods, pushchairs and car seats, crockery, glassware and cutlery, cookware, ornaments and vases, seasonal gifts including food and drink, toys and games, cards and stationery.

The applicant has submitted a draft unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 which proposes that the additional goods shall not account for more than 17% of the net sales area of the store. It is considered that this would be a sufficiently robust mechanism to control the share of sales in merchandise categories outside of those set out in the existing condition to avoid occupiers of Unit 7A diverting a significant proportion of trade from nearby town centres. As such, the proposal is considered to be in accordance with relevant UDP and London Plan policies in addition to guidance within Planning Policy Statement 4: Planning for Sustainable Economic Growth. Accordingly, approval is recommended subject to satisfactory completion of the unilateral undertaking and appropriate conditions.

2. RECOMMENDATION

a. That the application be determined by the Head of Planning, Consumer Protection, Sport and Green Spaces under delegated powers, subject to the completion of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) to provide for the following obligation:

(i) That the additional goods proposed as part of the planning application shall not account for more than 17% of the net sales area of the store at the site at any one time and shall comprise any of the following items:

1.1 Luggage and travel goods

1.2 Pushchairs and car seats

1.3 Crockery

1.4 Glassware and cutlery

1.5 Cookware

1.6 Ornaments and Vases

1.7 Seasonal Gifts including:

- Food and drink
- Toys and Games
- Cards and Stationery

b. That the applicant meets the Council's reasonable costs in the preparation of the unilateral undertaking and any abortive work as a result of the undertaking not being completed.

c. That officers be authorised to negotiate and agree the detailed terms of the proposed agreement.

d. That if within 6 months, the unilateral undertaking has not been finalised, delegated powers be given to the Head of Planning, Consumer Protection, Sport and Green Spaces to refuse planning permission for the following reasons:

1. The proposed amendment to condition 4 of planning permission 51331/APP/2005/1415 would provide for inadequate control over the sale of goods which should be sold within Town Centre Locations. As such it would result in an unsustainable pattern of development which would encourage transportation by private motor vehicles and result in a detrimental impact on the vitality and viability of nearby Town centres contrary to the objectives of Policies AM1 and AM2 of the Hillingdon Unitary Development Plan Saved Policies, Policies 2A.8, 3D.1, 3D.2 and 3D.3 of the London Plan, Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 4: Planning for Sustainable Economic Growth and Planning Policy Guidance 12: Transport.

e. That if the application is approved, the following conditions be attached:

1 T8 Time Limit - full planning application 3 years

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 NONSC Non-food goods restriction

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

Furthermore, the following goods may be sold from an area not accounting for more than 17% of the net sales area of the store: luggage & travel goods; pushchairs & car seats; crockery; glassware & cutlery; cookware; ornaments & vases; seasonal gifts including food & drink; toys & games; and cards & stationery.

REASON

The site is not considered an appropriate one for general shopping purposes because of its location on an industrial estate away from existing shopping centres and is not accessible to the majority of potential customers by public transport or on foot and is not, therefore, one where a general retail development could be permitted in accordance with policies and objectives of the UDP. Therefore, in accordance with Policy S2 of the adopted UDP, the local planning authority is only prepared to permit retail development for that limited range of goods for which public transport accessibility is not a material consideration and which require a site which is neither available nor appropriate to any existing local town centre. Additionally, the Local Planning Authority would wish to control the range of goods for this out-of-centre location to protect the vitality and viability of the local shopping centres in accordance with Policy S1 of the Borough's adopted Unitary Development Plan.

INFORMATIVES

1 I52 Compulsory Informative (1)

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

2 I53 Compulsory Informative (2)

The decision to GRANT planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance.

LPP 3D.1	London Plan Policy 3D.1 - Supporting Town Centres.
LPP 3D.3	London Plan Policy 3D.2 - Town centre development
LPP 2A.8	London Plan Policy - 2A.8 Town Centres

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises Unit 7A, an existing vacant retail unit located at Hayes Bridge Retail Park, on the Southern side of Uxbridge Road in Hayes. The unit provides

1,646m² of floorspace, 887m² at ground floor level and 759m² at mezzanine level. The unit, formerly occupied by Furnitureland, has recently been created following the sub-division of the original Unit 7.

The retail park comprises approximately eight attached units, and one single detached unit, with associated car parking, loading facilities, etc. Most of the units are occupied by well known retailers such as Currys, Halfords, Staples, Dreams, etc, and comprise modern shop fronts with heavy signage.

Access to the retail park is via a dedicated access road off Uxbridge Road, located to the east of the units and car park.

The retail park is bounded to the north by Uxbridge Road, beyond which are residential properties, and to the south, east and west by industrial units.

Uxbridge Road is designated as a London Distributor Road.

3.2 Proposed Scheme

Condition 4 of planning permission ref: 51331/APP/2005/1415 dated 19/07/05 states:

"The non-food retail development hereby approved shall not be used for any purpose other than the sale of the following non-food goods: DIY articles, garden materials and goods, building and decorating equipment and related goods, furniture and furnishings, self-assembly furniture, carpets, floor coverings, white goods and other electrical goods and accessories, computers, office stationary and equipment, pets and pet products. The premises shall be used for no other purposes, including any other use within Class A1 of the Town and Country Planning Use Classes (Amendment) Order 2005, unless prior written consent is obtained from the local planning authority.

REASON

The site is not considered an appropriate one for general shopping purposes because of its location on an industrial estate away from existing shopping centres and is not accessible to the majority of potential customers by public transport or on foot and is not, therefore, one where general retail development could be permitted in accordance with policies and objectives of the UDP. Therefore, in accordance with Policy S2 of the adopted UDP, the local planning authority is only prepared to permit retail development for that limited range of goods for which public transport accessibility is not a material consideration and which require a site which is neither available nor appropriate to any existing local town centre. Additionally, the Local Planning Authority would wish to control the range of goods for this out-of centre location to protect the vitality and viability of the local shopping centres in accordance with Policy S1 of the Borough's adopted Unitary Development Plan."

This application seeks planning permission to vary that condition to allow a wider range of goods to be sold to include home furnishings (including textiles, fabrics and decorative goods), housewares, kitchenwares (including crockery, glassware and cutlery), mother and baby products, luggage, travel accessories and seasonal gifts.

3.3 Relevant Planning History

67475/APP/2010/2824 Unit 7a, Hayes Bridge Retail Park Uxbridge Road Hayes

Application for variation of condition 4 (to extend the range of goods permitted to be sold) of planning permission ref: 51331/APP/2005/1415 dated 17/07/2005: Alterations to front, rear and

side elevations to create new entrances and new enclosed service corridor.

Decision: 10-06-2011 Approved

Comment on Relevant Planning History

The planning history, directly relevant to unit 7a, is summarised above. The following, relating to the wider retail park, is also considered to be relevant:

On 26/01/96 outline planning permission was granted for the demolition of an existing record factory building and the redevelopment of the site to provide 9,290m² of class A1 (non-food retail) floorspace and 278m² of class A3 (food and drink) floorspace with associated parking and landscaping (ref: 1911BJ/95/895).

Condition 10 of that consent controls the retail use of the floorspace to, primarily, bulk goods.

An application for reserved matters in compliance with the above permission was approved on 15/05/96 (ref: 1911/BM/96/0326)

Permission was granted for the variation of condition 10 of planning permission ref: 1911BJ/95/895 in February 1997, to permit the sale of bicycle accessories and car improvement products (ref: 1911/BS/96/1058).

A Section 73 application to amend Condition 10 of outline planning permission ref: 1911BJ/95/895 dated 26/01/1996, in order to sell a wider range of goods at Unit 6 was refused on 12/08/10 for the following reason:

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

A subsequent application for external alterations to Unit 6, creation of an addition 930m² of floorspace at mezzanine level, and change of use to enable occupation of the unit by a catalogue showroom retailer (involving the sale of additional types of good) was granted planning permission on 04/11/10.

4. Planning Policies and Standards

Hillingdon Unitary Development Plan Saved Policies (September 2007)
London Plan (2008)
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Guidance 13: Transport
Supplementary Planning Document on Accessible Hillingdon

UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

LPP 3D.1 London Plan Policy 3D.1 - Supporting Town Centres.

LPP 3D.3 London Plan Policy 3D.2 - Town centre development

LPP 2A.8 London Plan Policy - 2A.8 Town Centres

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Consultation letters were sent to eight local owner/occupiers. No responses were received.

The Hayes Town Centre Partnership advised that they were not aware of any sites, with the required floorspace, within Hayes Town Centre.

Internal Consultees

No internal consultations took place.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application site falls within an existing retail park, located within the Springfield Road Industrial and Business Area as designated within the UDP. Given that the site forms part of an existing retail park and no change of use is proposed, no objections are raised in terms of Policies LE1 and LE2 of the UDP, which seek to retain designated Industrial and Business Areas for B1, B2, B8 and appropriate sui generis uses.

Nevertheless, the application seeks to extend the range of goods which can be sold from the retail unit. The existing restriction on the sale of goods is in place in order to ensure that the retail park does not have an unacceptable impact on the vitality or viability of local shopping centres and that only goods for which public transport accessibility is not a key consideration can be sold.

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

Notably, Policy 2A.8 of the London Plan encourages the enhancement in vitality and viability of town centres and improving the sustainability of London's development. It encourages such development, where practicable, in town centres and, where this is not practicable, on the edge of town centres.

Policy 3D.1 states that boroughs should enhance access to goods and services and strengthen the wider role of town centres, through a number of objectives, including:

- encouraging retail, leisure and other related uses in town centres and discouraging them outside the town centres
- encouraging forms of development, operational practice and consumer behaviour which will help to reduce carbon dioxide emissions
- enhancing the competitiveness and quality of retail and other consumer services in town centres

Policy 3D.2 reiterates that retail, commercial and leisure development should be encouraged to locate in appropriate town centre locations and that if no town centre sites are available provision should be made on the edge of centres. It states that proposals for out of centre development or for intensification or expansion of existing out of centre retail facilities should be managed in line with the sequential approach, seeking to reduce car dependency and traffic generation and to improve public transport access to promote more sustainable forms of development.

Planning Policy Statement 4: Planning for Sustainable Economic Growth, provides more detailed guidance on planning for economic growth, including proposals for out of centre retail development. Policy EC10 of PPS4 sets out considerations which should be applied to all economic development including whether it has been planned to minimise carbon dioxide reductions, the accessibility of the site, whether it achieves a high quality and accessible design, the impact on economic and physical regeneration and the impact on local employment.

Policies EC14, EC15, EC16 and EC17 of PPS4 set out the information which is required to support applications for Town Centre Uses and the approach to the assessment of applications for such uses in out of centre locations. In particular, Policy EC15 requires that any such application should be subject to a sequential assessment as to whether the proposal could be located within a town centre and Policy EC16 requires an Impact Assessment addressing the following issues:

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

The applicant has submitted a Planning and Retail Statement in support of the application.

This contains a sequential assessment of alternative sites within the nearest town centres of Hayes, Uxbridge Road and Southall. The assessment indicates that there are no suitable alternative sites which would meet the requirement of the proposed occupier.

Officers have surveyed these town centres, spoken to the Hayes Town Partnership and local estate agents and have been unable to find any existing alternative vacant units

either within or on the edge of these centres, which would meet Next Home's floorspace requirements. Nonetheless, regardless of the indications of the sequential assessment the proposal must also satisfy the impact assessment in accordance with Policies EC16 and EC17 of PPS4.

It is considered that the main issue relates to the potential impact the proposal could have on surrounding town centres, and in particular Hayes. Therefore, it is important that the applicant sufficiently demonstrates that the expansion in the range of goods to be sold will not divert such a significant proportion of trade from town centre locations so as to harm their viability and vitality.

The applicant has advised that in addition to the already permitted goods, Next Home wish to sell luggage and travel goods, pushchairs and car seats, crockery, cookware, glassware and cutlery, ornaments and vases, seasonal gifts including food and drink, toys and games, cards and stationery. The applicant has submitted a draft unilateral undertaking which proposes that the additional goods shall not account for more than 17% of the net sales area of the store.

It is considered that this would be a sufficiently robust mechanism to control the share of sales in merchandise categories outside of those set out in the existing condition to avoid occupiers of Unit 7A diverting a significant proportion of trade from nearby town centres. As such, the proposal would comply with the above policy guidance.

7.02 Density of the proposed development

Not applicable. Guidelines relating to density relate to residential developments.

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

Not applicable. The site does not fall within an Archaeological Priority Area and there are no Conservation Areas, listed buildings or Areas of Special Local Character within the vicinity of the site.

7.04 Airport safeguarding

Not applicable. There is no requirement to consult the aerodrome safeguarding authorities on this type of application.

7.05 Impact on the green belt

Not applicable. There is no Green Belt within the vicinity of the site.

7.07 Impact on the character & appearance of the area

Not applicable. No external alterations are proposed to the unit as part of this application.

7.08 Impact on neighbours

The nearest residential properties are located approximately 235m to the north on the opposite side of Uxbridge Road. It is not considered that the variation of the condition, to allow a greater range of goods to be sold, would have any detrimental impact on the amenity of the nearest residential occupants. No other alterations are proposed to the unit or the original consent.

7.09 Living conditions for future occupiers

Not applicable to this type of development.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

It is not considered that the proposed variation of the condition, to allow a greater range of goods to be sold at the unit, would result in a significant increase in traffic to/from the site sufficient to justify refusal.

No alterations are proposed to the existing car parking, access or servicing arrangements.

In terms of parking, the applicant advises that the retail park is currently served by 475 parking spaces, including 16 disability standard spaces. The Council's current car parking standards require between 1 space per 15m² of floorspace and 1 space per 75m² of floorspace depending on retail format and PTAL. Therefore, based on an approximate total floorspace of 10,498m² (9,568m² of floor space originally allowed in addition to 930m² mezzanine floorspace permitted during 2010) between approximately 140 and 700 spaces should be provided. Accordingly, the existing parking provision complies with the Council's current Parking Standards and is considered to be adequate.

7.11 Urban design, access and security

No applicable. No external alterations are proposed to the existing retail unit as a result of this application.

7.12 Disabled access

No alterations are proposed to the existing access to the retail unit as a result of this application.

7.13 Provision of affordable & special needs housing

Not applicable to this type of application.

7.14 Trees, landscaping and Ecology

Not applicable. No external alterations are proposed as a result of this application.

7.15 Sustainable waste management

As this relates to a commercial premises, the site occupiers ultimately have discretion over which waste management methods are used. No external alterations are proposed and, accordingly, it is assumed that existing waste and recycling facilities would be used.

7.16 Renewable energy / Sustainability

Not applicable. This application relates to an existing retail unit. No external alterations are proposed to the building.

7.17 Flooding or Drainage Issues

Not applicable. The proposal would not result in an increase in floor area or hardstanding and, accordingly, would have no impact on flooding or surface water drainage.

7.18 Noise or Air Quality Issues

Not applicable. It is not considered that the proposed variation of condition to allow a wider range of goods to be sold at the unit would have any detrimental impacts in terms of noise or air quality.

7.19 Comments on Public Consultations

Officers contacted the Hayes Town Centre Partnership to seek their knowledge in relation to existing vacant retail premises within the Hayes area. The Hayes Town Centre Partnership advised that they were unaware of any vacant retail units of a sufficient size to meet Next Home's requirements.

7.20 Planning obligations

The applicant has submitted a draft unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 which proposes that the additional goods shall not account for more than 17% of the net sales area of the store. It is considered that this would be a sufficiently robust mechanism to control the share of sales in merchandise categories outside of those set out in the existing condition to avoid occupiers of Unit 7A diverting a significant proportion of trade from nearby town centres.

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

Not applicable.

10. CONCLUSION

This application relates to Unit 7A, a vacant retail unit, located at Hayes Bridge Retail Park, on the southern side of Uxbridge Road in Hayes. In 2005 planning permission was granted for alterations to the front, rear and side elevations of the unit. Condition 4 of that permission restricted the type of goods which could be sold at the site to, primarily, bulk goods (ref: 51331/APP/2005/1415).

This application seeks the variation of that condition to extend the range of goods which could be sold at the unit in order to allow Next Home to operate from the premises. The applicant advises that these stores are dedicated to retailing a comprehensive range of products including Next's range of furniture and home furnishings.

The applicant has submitted a Planning and Retail Statement and letter in support of the application and has advised that in addition to the already permitted goods, Next Home wish to sell luggage and travel goods, pushchairs and car seats, crockery, cookware, glassware and cutlery, ornaments and vases, seasonal gifts including food and drink, toys and games, cards and stationery.

The applicant has submitted a draft unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 which proposes that the additional goods shall not account for more than 17% of the net sales area of the store. It is considered that this

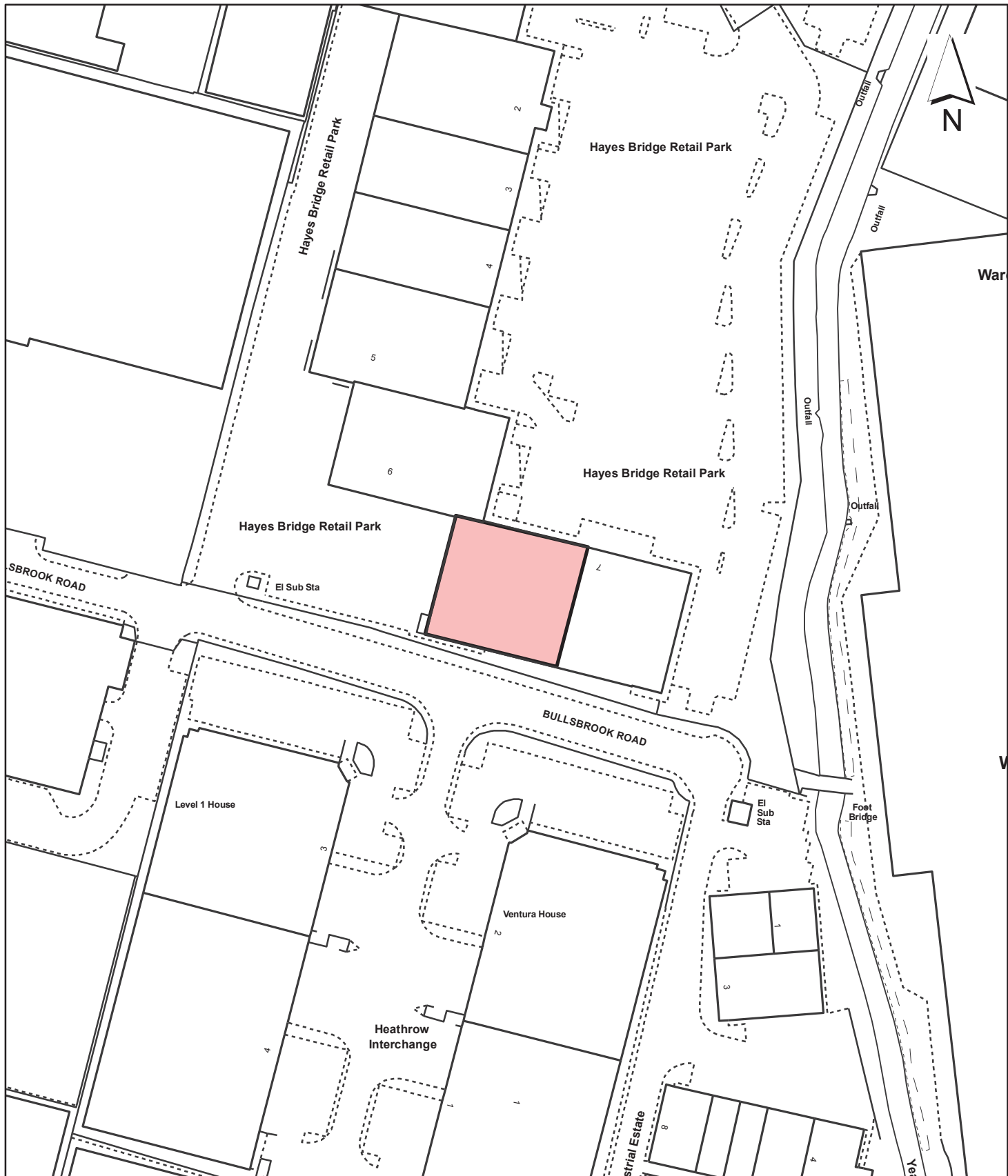
would be a sufficiently robust mechanism to control the share of sales in merchandise categories outside of those set out in the existing condition to avoid occupiers of Unit 7A diverting a significant proportion of trade from nearby town centres. As such, the proposal is considered to be in accordance with relevant UDP and London Plan policies in addition to guidance within Planning Policy Statement 4: Planning for Sustainable Economic Growth. Accordingly, approval is recommended subject to satisfactory completion of the unilateral undertaking and appropriate conditions.

11. Reference Documents

Hillingdon Unitary Development Plan Saved Policies (September 2007)
London Plan (2008)
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Guidance 13: Transport
Supplementary Planning Document on Accessible Hillingdon

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Notes



Site boundary

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Site Address

**Unit 7A, Hayes Bridge Retail Park
Uxbridge Road
Hayes**

Planning Application Ref:

67475/APP/2011/853

Planning Committee

Central and South

Scale

1:1,250

Date

**July
2011**

**LONDON BOROUGH
OF HILLINGDON**
Planning,
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