

Report of the Head of Planning & Enforcement Services

Address UNIT 3, RUISLIP RETAIL PARK VICTORIA ROAD RUISLIP

Development: Variation of condition 6, (to remove restrictions on the sales of goods), of planning permission ref. 43510/APP/2010/1979 dated 10/02/2011:
Construction of a 1,810 sq.m mezzanine within Unit 3, Ruislip Retail Park.

LBH Ref Nos: 43510/APP/2011/1343

Drawing Nos: Barton Willmore Letter dated 2/9/2011
Cushman Wakefield Letter dated 4/10/2011
Planning Statement (Ref: BWLLP/17684/A5/AI)
PP-001

Date Plans Received: 31/05/2011 **Date(s) of Amendment(s):**
Date Application Valid: 31/05/2011

1. SUMMARY

The application seeks to amend condition 6 of Planning Permission 43510/APP/2010/1979, to remove the restriction on the sale of fancy goods as it relates to the mezzanine floor of unit 3, Ruislip Retail Park. This mezzanine floor space was recently granted planning permission on 10/2/2011, but has not yet been implemented. This proposal has been submitted in conjunction with another application, also on this agenda, which seeks to relax a similar condition on the type of goods that can be sold from the original unit, by removing any reference to 'fancy goods' (Condition 11 of planning permission ref: 43510/APP/2000/2485). The unit has been vacant for two and a half years and the relaxation of the conditions is intended to facilitate bringing the unit back into economic use, through the widening of the range of goods permitted to be sold, to allow it to be occupied by interested retailers.

It is considered that sufficient information has been provided to demonstrate that the development would not have a detrimental impact on the vitality or viability of nearby Town Centres in accordance with Planning Policy Statement 4: Planning for Sustainable Economic Growth, relevant UDP and London Plan policies.

It is not considered that the expansion in the range of goods sold at the site would give rise to any significant additional traffic generation which would be detrimental to the operation of the highway network. Subject to conditions, the existing car parking and servicing facilities for the retail park would be retained for use by the proposed unit and would continue to meet the needs of the proposed unit and retail park as a whole.

There are no external amendments. As such the unit would remain in keeping with the character and appearance of the surrounding area. The development would not result in any detrimental impacts on the amenity of nearby residential occupiers, subject to conditions.

Accordingly, approval is recommended to relax the existing planning condition as proposed, subject to the imposition of all other conditions originally imposed, which are still relevant and capable of being discharged.

2. RECOMMENDATION

APPROVAL subject to the following:

1 T8 Time Limit - full planning application 3 years

The development hereby permitted shall be begun before 9th. February 2014.

REASON

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

2 NONSC Non Standard Condition

The mezzanine floor space hereby permitted shall not be used to form a separate unit, but shall be used solely in conjunction with the existing ground level floor space.

REASON

To enable the Local Planning Authority to assess the implications of the intensification of the use of the floorspace in the context of the relevant development plan policies for retail development, specifically in terms of its impact on traffic, car parking and other environmental issues.

3 NONSC Non Standard Condition

Development shall not commence until details of the location and dimensions of the lift to the mezzanine have been submitted to and approved in writing by the Local Planning Authority. The approved facilities should be provided prior to the occupation of the development and shall be permanently retained thereafter.

REASON

To ensure that people with disabilities have adequate access to the development in accordance with Policy R16 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (February 2008) Policies 3A.13, 3A.17 and 4B.5.

4 OM19 Construction Management Plan

Prior to development commencing, the applicant shall submit a demolition and construction management plan to the Local Planning Authority for its approval. The plan shall detail:

- (i) The phasing of development works
- (ii) The hours during which development works will occur (please refer to informative 6 for maximum permitted working hours).
- (iii) A programme to demonstrate that the most valuable or potentially contaminating materials and fittings can be removed safely and intact for later re-use or processing.
- (iv) Measures to prevent mud and dirt tracking onto footways and adjoining roads (including wheel washing facilities).
- (v) Traffic management and access arrangements (vehicular and pedestrian) and parking provisions for contractors during the development process (including measures to reduce the numbers of construction vehicles accessing the site during peak hours).
- (vi) Measures to reduce the impact of the development on local air quality and dust through minimising emissions throughout the demolition and construction process.
- (vii) The storage of demolition/construction materials on site.

The approved details shall be implemented and maintained throughout the duration of the demolition and construction process.

REASON

To safeguard the amenity of surrounding areas in accordance with Policy OE1 of the Hillingdon Unitary Development Plan (Saved Policies 2007).

5 DIS1 Facilities for People with Disabilities

All the facilities designed specifically to meet the needs of people with disabilities including the disabled parking bays that are shown on the approved plans shall be provided prior to the occupation of the development and thereafter permanently retained.

REASON

To ensure that adequate facilities are provided for people with disabilities in accordance with Policy AM15 and R16 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (July 2011) Policies 3.1 and 7.2.

6 NONSC Non Standard Condition

The premises shall not be used for the retail sale of food (other than refreshments restricted for consumption on the premises by customers), clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and maintenance activities), cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines and books (other than those related to DIY goods, vehicle repair and maintenance), stationery, jewellery, toys, luggage and sports goods.

REASON

To accord with existing restrictions on the sale of goods from the premises, to protect the vitality and viability of town and local centres and to limit retail activity on sites which are more readily accessible by private motor vehicles than by public transport, bicycles or pedestrians in compliance with London Plan Policy 2.151 and relevant policies contained in PPS4: Planning For Sustainable Economic Growth (December 2009).

7 MCD13 Extraction Vent or Chimney

No development shall take place until details of the height, position, design and materials of any chimney or extraction vent to be provided in connection with the development have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out until the vent/chimney has been installed in accordance with the approved details. Thereafter the vent/chimney shall be permanently retained and maintained in good working order for so long as the use continues.

REASON

In order to safeguard the amenities of adjoining properties in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (February 2008) Policies 7.1 and 7.14.

8 SUS1 Energy Efficiency Major Applications (full)

The measures to reduce the energy demand and carbon dioxide emissions of the development contained within the submitted report entitled Energy Report Ref: BWLLP/17684/A5/SM/jp dated 16 September 2010, comprising the exclusive use of low energy light fittings, shall be integrated into the development and thereafter permanently retained and maintained.

REASON

To ensure that the development incorporates appropriate energy efficiency measures in accordance with policies 5.1, 5.3, 5.4, 5.5, 5.7 and 5.9 of the London Plan (July 2011).

NONSC

The car parking areas ~~Non-Standard Condition~~ parking spaces, loading and servicing facilities for the Ruislip Retail Park shall be retained and made available for users of Unit 3 for its lifetime.

REASON

To ensure pedestrian and vehicular safety and convenience and to ensure adequate off-street parking, and loading facilities in compliance with Policies AM7, AM14 and AM15 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

INFORMATIVES

1 152 Compulsory Informative (1)

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

2 153 Compulsory Informative (2)

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

AM14	New development and car parking standards.
AM15	Provision of reserved parking spaces for disabled persons
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
BE13	New development must harmonise with the existing street scene.
BE19	New development must improve or complement the character of the area.
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
LE2	Development in designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
LPP 2.15	(2011) Town Centres
PPG13	Transport
PPS1	Delivering Sustainable Development
PPS1-A	Planning and Climate Change - Supplement to Planning Policy Statement 1
PPS4	Planning for Sustainable Economic Growth

3 125 Consent for the Display of Adverts and Illuminated Signs

This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992. [To display an advertisement without the necessary

consent is an offence that can lead to prosecution]. For further information and advice, contact - Planning & Community Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

4 I25A The Party Wall etc. Act 1996

On 1 July 1997, a new act, The Party Wall etc. Act 1996, came into force.

This Act requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:-

- 1) carry out work to an existing party wall;
- 2) build on the boundary with a neighbouring property;
- 3) in some circumstances, carry out groundworks within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations or planning controls. Building Control will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by Building Control should be taken as removing the necessity for the building owner to comply fully with the Act.

5 I14 Installation of Plant and Machinery

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

The installation of a boiler with a rating of 55,000 - 1¼ million Btu/hr and/or the construction of a chimney serving a furnace with a minimum rating of 1¼ million Btu/hr;
The siting of any external machinery (eg air conditioning);

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

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

6 I15 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with: -

A) Demolition and construction works should only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank and Public Holidays.

B) All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228: 1984.

C) The elimination of the release of dust or odours that could create a public health nuisance.

D) No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit, 3S/02, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel.01895 277401) or to seek prior approval

under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

7 16 Property Rights/Rights of Light

Your attention is drawn to the fact that the planning permission does not override property rights and any ancient rights of light that may exist. This permission does not empower you to enter onto land not in your ownership without the specific consent of the owner. If you require further information or advice, you should consult a solicitor.

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Your attention is drawn to conditions 3, 4 and 7 which must be discharged prior to the commencement of works. You will be in breach of planning control should you commence these works prior to the discharge of these conditions.

9 134 Building Regulations 'Access to and use of buildings'

Compliance with Building Regulations 'Access to and use of buildings' and Disability Discrimination Act 1995 for commercial and residential development.

You are advised that the scheme is required to comply with either:-

- The Building Regulations 2000 Approved Document Part M 'Access to and use of buildings', or with
- BS 8300:2001 Design of buildings and their approaches to meet the needs of disabled people - Code of practice. AMD 15617 2005, AMD 15982 2005.

These documents (which are for guidance) set minimum standards to allow residents, workers and visitors, regardless of disability, age or gender, to gain access to and within buildings, and to use their facilities and sanitary conveniences.

You may also be required make provisions to comply with the Disability Discrimination Act 1995. The Act gives disabled people various rights. Under the Act it is unlawful for employers and persons who provide services to members of the public to discriminate against disabled people by treating them less favourably for any reason related to their disability, or by failing to comply with a duty to provide reasonable adjustments. This duty can require the removal or modification of physical features of buildings provided it is reasonable.

The duty to make reasonable adjustments can be effected by the Building Regulation compliance. For compliance with the DDA please refer to the following guidance: -

- The Disability Discrimination Act 1995. Available to download from www.opsi.gov.uk
- Disability Rights Commission (DRC) Access statements. Achieving an inclusive environment by ensuring continuity throughout the planning, design and management of building and spaces, 2004. Available to download from www.drc-gb.org.
- Code of practice. Rights of access. Goods, facilities, services and premises. Disability discrimination act 1995, 2002. ISBN 0 11702 860 6. Available to download from www.drc-gb.org.
- Creating an inclusive environment, 2003 & 2004 - What it means to you. A guide for

service providers, 2003. Available to download from www.drc-gb.org.

This is not a comprehensive list of Building Regulations legislation. For further information you should contact Building Control on 01895 250804/5/6.

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The applicant is encouraged to produce and implement a Green Travel Plan which relates to the whole unit and sets targets for sustainable travel arrangements and a commitment to achieving the travel plan objectives.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is a 1,858m² retail unit, one of four retail outlets, forming part of the larger Ruislip Retail Park (totalling 5,855m²). The retail park is located on the southwest corner of the junction of Field End Road and Victoria Road, South Ruislip and falls within the Stonefield Way Industrial Estate, a designated Industrial and Business Area.

This application relates to relaxation of a condition imposed on planning permission ref: 43510/APP/2010/1979 for a 1,810m² mezzanine floor at Unit 3 which, was granted planning permission in February 2011. This permission has not yet been implemented.

The current car parking provision for the retail park is 204 spaces (including 10 for disabled drivers). The 4 units in the Retail Park which are part of the applicant's landholding are currently occupied as follows:

Unit 1: Furniture Village

Unit 2: Carpetright

Unit 3: Application Site. Vacant (formerly occupied by MFI)

Unit 4: Halfords

To the west of the four units is a Wickes DIY Store, which, whilst part of the Ruislip Retail Park, is not part of the applicant's landholding. There are a further 100 spaces in an adjoining car park for the neighbouring Wickes DIY Store. Servicing and deliveries to Units 3 and 4 are provided via Field End Road, whilst servicing access to Units 1 and 2 is provided via Stonefield Way.

Ruislip Retail Park is located in close proximity to a number of other retail outlets and retail parks. Stores include Argos Extra, Homebase, Brantano (on the Victoria Retail Park); Pets at Home, Allied Carpets (on the Brook Retail Park); Currys, DFS, Kwik Fit, Comet, Rosebys and Bensons Beds as well as a number of car showrooms (including Honda and VW).

Alongside the existing retail units and retail parks located along Victoria Road there are a variety of industrial units, which extend south of Victoria Road along Stonefield Way. This area, including Ruislip Retail Park, extending west to the defined South Ruislip Local Centre and south to the rail line, is designated within the Adopted London Borough of Hillingdon UDP as an Industrial and Business Area.

Unit 3 has stood vacant for the past two and a half years, following MFI's closure in 2008.

3.2 Proposed Scheme

The application seeks to amend condition 6 of Planning Permission 43510/APP/2010/1979, to remove the restriction on the sale of fancy goods as it relates to the mezzanine floor of unit 3, Ruislip Retail Park. This mezzanine floor space was granted planning permission on 10/2/2011, but has not yet been implemented.

This proposal has been submitted in conjunction with another application, also on this agenda, which seeks to relax a similar condition on the type of goods that can be sold from the original unit, by removing any reference to 'fancy goods' (Condition 11 of planning permission ref: 43510/APP/2000/2485).

Condition 6 of Planning Permission 43510/APP/2010/1979 states:

"The premises shall not be used for the retail sale of food (other than refreshments restricted for consumption on the premises by customers), clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and maintenance activities), cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines and books (other than those related to DIY goods, vehicle repair and maintenance), stationery, jewellery, toys, luggage and sports goods and fancy goods".

The applicants state that the reason for seeking to remove the restriction on the sale of fancy goods is to enable the unit to be brought back into economic use, through the widening of the range of goods permitted to be sold, to allow it to be occupied by interested retailers. At the time of submitting this application, these parties included Next at Home and Dunelm Mill. These retailers typically operate from out-of-centre locations under 'bulky goods' consents. However, concern has been expressed by potential occupiers with respect to the restriction of the sale of fancy goods. As a result, this application seeks to remove reference to the restriction on the sale of fancy goods from the relevant planning permission, to enable the re-occupation of the unit.

The applicants suggested wording of the condition is as follows:

The sale of goods from the premises shall be in accordance with condition 11 of planning permission 43510/APP/2000/2485 and any subsequent amendment.

However, it is not considered appropriate to link the amended condition (in the event of an approval) to a condition attached to a separate planning permission. The preferred approach would be to impose the same amended condition for the mezzanine floor space as for the original unit.

The application is supported by a Planning and Retail Assessment. The scope of the assessment is intended to address the variation of the range of goods that could be sold at Unit 3. This document includes a sequential site assessment, which indicates that there are no suitable alternative sites which would meet the requirement of the proposed occupier of Unit 3. The Assessment concludes that the proposal would not have any unacceptable impact on the vitality and viability of nearby existing centres and would comply with the tests set out in PPS4.

The Application Site is subject to a Section 52 Agreement, which restricts the type of goods which can be sold. This application for the variation of condition 11 which governs the range of goods, if approved, would automatically vary the Section 52 Agreement, so

that the prohibition of fancy goods contained in the Section 52 Agreement would cease to have effect.

3.3 Relevant Planning History

43510/89/3560 Mfi Victoria Road Ruislip

Retention of a non-illuminated sign

Decision: 13-11-1989 Approved

43510/APP/2010/1979 Unit 3, Ruislip Retail Park Victoria Road Ruislip

Construction of a 1,810 sq.m mezzanine within Unit 3, Ruislip Retail Park.

Decision: 10-02-2011 Approved

43510/C/91/3600 Mfi Victoria Road Ruislip

Installation of freestanding internally and externally illuminated sign, seven internally illuminated fascia signs and one non-illuminated fascia sign

Decision: 10-01-1992 Approved

Comment on Relevant Planning History

Application 2120/S/85/0645 Erection of two single storey retail buildings for limited retail purposes within Class I (one building of 60,000sq feet to be occupied by MFI and one of 19,500sq feet to be occupied by Wickes), was allowed on appeal on 1 August 1986 (appeal decision ref. R5510/A/85/36786).

The Inspector in allowing the appeal, did not include a condition restricting the type of goods to be sold from the units or any conditions restricting subdivision or additional internal floorspace. However, on the 26 September 1986 the applicants for the original application entered into a Section 52 Agreement with the Council which stipulated that:

The site shall not be used for the retail sale of food (other than refreshments intended for consumption on the site by customers), clothing, footwear and accessories (other than clothing footwear and accessories intended for use in connection with building or DIY activities) cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines, books (other than those relating to DIY and car maintenance manuals), and stationery, jewellery, toys, luggage, sport and fancy goods.

2120AC/87/2107 Planning permission to use part of the MFI building for the retail sale of vehicle parts and accessories and associated products was granted in January 1988.

43510/APP/2003/1601: A proposal for the addition of a 158m² mezzanine for unit 4. Approved 11/09/2003.

43510/APP/2003/1447: Variation of condition 10 (to allow for installation of mezzanine floor to provide additional 1,170m² of floorspace) together with details of access to mezzanine as required by condition 8 of the same consent of planning permission ref. 43510/APP/2000/2485 dated 14/03/2003; refurbishment of existing retail units, cladding on all elevations, new covered walkway on

northern frontage. Approved 10/09/2003

In terms of subsequent planning history, the following most relevant planning application to the current application proposals is Planning Application 43510/APP/2000/2485 which was granted permission on 14 March 2003 for the refurbishment of existing retail units, with new cladding on all elevations, new covered walkway on northern frontage (facing Victoria Road) and changes to service arrangements and car parking with enhanced frontage landscaping, incorporating disused service road.

Condition 11 is of specific relevance, which stipulates the following:

The premises shall not be used for the retail sale of food (other than refreshments restricted for consumption on the premises by customers), clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and maintenance activities), cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines and books (other than those related to DIY goods, vehicle repair and maintenance), stationery, jewellery, toys, luggage, sports goods and fancy goods.

Reason:

To accord with existing restrictions on the sale of goods from the premises, to protect the vitality and viability of town and local centres and to limit retail activity on sites which are more readily accessible by private motor vehicles than by public transport, bicycles or pedestrians.

Planning permission ref: 43510/APP/2010/1979 was granted in February 2011 for the construction of a 1,810m² mezzanine to the existing 1,858m² floorspace creating a total of 3,668m² retail floorspace.

4. Planning Policies and Standards

PPS1: Delivering Sustainable Development (January 2005)

PPS1 sets out the overarching planning policies on the delivery of sustainable development through the planning system.

Planning and Climate Change (Supplement to PPS1) (December 2007)

The underlying objective of the Supplement to PPS1 is to reduce carbon emissions from domestic and non-domestic buildings, by way of action against climate change.

PPS4: Planning For Sustainable Economic Growth (December 2009)

PPS4 was published relatively recently and brings together all of the Government's planning policies relating to the economy in both urban and rural areas into one single PPS. It replaces PPS6, PPG5 and PPG4 in their entirety as well as sections of PPS7 and PPG13. PPS4 emphasises the Government's support for sustainable economic growth and the need for local authorities to take a positive approach to identifying sites and determining applications. It defines economic development as development within the B Use Classes, public and community uses, main town centre uses as well as any development that either: provides employment, generates wealth or produces an economic output.

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.

PPG13: Transport (March 2001)(Amended January 2011)

The objectives of PPG13 are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices. It recognises that our quality of life depends on transport and easy access to jobs, shopping, leisure facilities and services, and that we need a safe, efficient and integrated transport system to support a strong and prosperous economy. It encourages development which facilitates cycling and walking, as well as the use of public transport.

Draft National Planning Policy Framework

Since the submission of this application, the Government has published the Draft National Planning Policy Framework (NPPF). Key points relevant to the consideration of applications are:

- The default position to development should be positive unless the adverse impacts significantly and demonstrably outweigh the benefits.
- Significant weight should be attached to economic growth.
- The impact test has been streamlined to two main criteria rather than the 6 in PPS4.

Whilst in draft form, the NPPF is a material consideration.

LONDON PLAN (July 2011)

Policy 2.15 Town Centres recognises the key economic importance of Town Centre and strongly supports the development of a competitive retail sector through policies which among other things sustain and enhance the vitality and viability of town centres including community and civic activities and facilities, and also reducing delivery, servicing and road user conflict. It aims to encourage retail, leisure and other related uses in town centres.

UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

- | | |
|------|---|
| AM14 | New development and car parking standards. |
| AM15 | Provision of reserved parking spaces for disabled persons |
| 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 |
| BE13 | New development must harmonise with the existing street scene. |
| BE19 | New development must improve or complement the character of the area. |
| BE38 | Retention of topographical and landscape features and provision of new planting |

and landscaping in development proposals.

LE2	Development in designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
LPP 2.15	(2011) Town Centres
PPG13	Transport
PPS1	Delivering Sustainable Development
PPS1-A	Planning and Climate Change - Supplement to Planning Policy Statement 1
PPS4	Planning for Sustainable Economic Growth

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

93 nearby owner/occupiers have been consulted individually. Site notices were posted on the site. No responses have been received in relation to the consultation.

London Borough of Harrow: No objection.

South Ruislip Residents Association: No response.

Internal Consultees

POLICY AND ENVIRONMENTAL PLANNING

1) The previous 2003 planning condition was extensive in scope and probably reflected the Council's intention to severely restrict any future bulky goods retailing in the Stonefield Way/Victoria Road IBA. This IBA was identified in the Employment Land Study as at threat from further retail incursion. Unit 3 was on part of its north east corner which the Study considered would not be included in a future Locally Significant Industrial Site.

2) Previous caution at relaxing any constraint on the permission reflected concern that the applicants had not given any information on the user proposed for Unit 3. Without that, the Council might relax one aspect of the condition and then subsequently find itself approached for further loosening of its restrictions, so that eventually it is faced with another application for an out-of-centre retail use on the site, resulting from the arguments being put forward previously on the difficulty of letting Unit 3.

3) Now that the applicants have submitted details of the letting campaign from Cushman Wakefield and Barton Willmore in their recent letters, the evidence suggests that detailed attempts have been made to market Unit 3 for some time to major bulky goods retailers. It appears that the existing planning condition regarding "fancy goods" is a major difficulty for potential occupiers. Allied to that, Barton Willmore have carried out a local sequential test to meet PPS4 requirements and found little floorspace in the area used for that type of goods. There is also no policy requirement to maintain

that sector here.

4) In these circumstances it would seem appropriate to relax the existing planning condition as proposed.

HIGHWAY ENGINEER: No objections.

ENVIRONMENTAL PROTECTION UNIT: No objections.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application site is an existing retail park within the Stonefield Way Industrial and Business Area as designated within the Saved Policies UDP. Ruislip Retail Park is located on the Victoria Road which is an established retail location that includes a range of retailers that sell both bulky and non-bulky comparison goods. The sale of comparison goods and food is currently restricted on the retail park. Given that the site is an existing retail park and no change of use is proposed, there is no objection in terms of Policy LE2 of the Saved Policies UDP.

Condition 6 seeks to restrict the type of goods sold from the application premises so as not to conflict with those goods that are readily available in the adjoining local parade and local town centre, in order not to damage their vitality, viability and competitiveness. This condition was imposed upon the mezzanine consent in order to conform with the existing goods restriction condition for the original unit. The condition includes a restriction on the sale of fancy goods. As such, the applicant would be required to provide evidence that the amendment of the condition would not have a negative impact on the vitality and viability of the nearby local town centres and local parades, or result in the increase in the use of private vehicles to and from the site.

Definition of fancy goods

There is no precise definition as to what is considered to constitute 'fancy goods'. The Oxford Dictionary defines this term as items for sale that are purely or chiefly ornamental, Collins New English Dictionary defines this term as small decorative gifts, whilst the Free Dictionary online as small objects used for decoration. On the basis that fancy goods might be considered to be classed as chiefly ornamental goods, many ornaments and by implication, fancy goods could be classed as bulky goods, which are already permitted to be sold from Unit 3.

The applicants contend that since there is no clear and precise definition of fancy goods, the condition is ambiguous, imprecise and unenforceable. As a result, any reference to 'fancy goods' (without proper definition) cannot accord with Circular 11/95 (Use of Conditions in Planning Permission).

It is acknowledged that there is lack of precision in the definition of fancy goods and this ambiguity could lead to potential occupiers expressing concerns with respect to the restriction of the sale of fancy goods, as there would be no certainty as to when they might be in breach of planning control.

Sequential test

The Planning and Retail Statement assesses the proposal in relation to the tests of PPS4, principally the sequential and the impact tests. The Assessment has attempted to demonstrate that there are no sites in sequentially preferable locations available within the

catchment area to accommodate the application Proposals.

Policy EC15 of PPS4 requires that all development proposals for sites that are not in an existing centre, nor allocated in an up-to-date development plan document should be subject to a sequential assessment as to whether the proposal could be located within a town centre. Whilst the application site is located within an established retail location, it does not fall within a defined centre, nor is it allocated for retail development in an up-to-date development plan document. As such the site is considered to occupy an out of centre location.

The applicants consider, and officers agree, that the wider catchment of Victoria Retail Park is the most appropriate catchment in assessing the availability, viability and suitability of sequentially preferable sites within this area. South Ruislip Local Centre is the only defined centre which is encompassed within this catchment area, and therefore the sequential site assessment has been limited to this centre.

The applicants have submitted that there are no vacant units of similar size to Unit 3 within the catchment area of the retail park and that operators who have expressed interest in occupying Unit 3 would not be interested in occupying units in the adjoining local centre. There are no specific retailers who sell only fancy goods in nearby centres. Such goods generally comprise a very small element of a much wider retail offer and are ancillary in nature. It is therefore not considered appropriate to seek to detach the fancy goods element and locate it within a separate unit within, or on the edge of, an existing Centre.

For these reasons, it is considered that the removal on the restriction of the sale of fancy goods will comply with the PPS4 sequential test (Policy EC15).

Impact Assessment

The applicants undertook survey of retailers at the nearby South Ruislip Local Centre and nearby parades within South Ruislip. There were no retailers selling goods within the gifts, china, and leather goods or other non-bulky categories. By implication, the assessment concludes, the proposed variation of condition would not result in an adverse impact upon the vitality and viability of the Centre or parades. As such, the inclusion of the sale of such goods from the unit, forming an ancillary component of a much wider retail offer, would not result in an adverse impact on the vitality and viability of these Centres. The applicant states further that the removal of the restriction on the sale of 'fancy goods' would not affect the bulky goods nature of the unit, but rather allow for the future use of the unit by bulky goods retailers, which would still be subject to the remaining restrictions on the sale of goods. As the proposed variation of the condition does not comprise additional floorspace, the turnover the unit could potentially achieve will not increase. It would still remain a bulky goods unit in nature and would primarily sell such goods.

The applicant cannot provide evidence at this stage of potential retailer(s), so as to assess the scale and range of 'fancy goods' to be sold by such retailer. However, the applicants point out that in reality, any fancy goods element within the unit will be small. It is noted that several of the nearby retail warehouse units on Victoria Road do sell fancy goods, including Homebase and Argos. In respect of Homebase, these are a small proportion of their overall bulky goods offer, whilst Argos sells a range of bulky and non-bulky items. It is more likely that the unit, operating without the fancy goods restriction would compete with similar retail warehouse operators on Victoria Road. The impact on other locations such as the South Ruislip Local Centre would be negligible.

The variation of the conditions should also be assessed taking into account of the benefits of bringing a vacant retail unit back into active use. It will result in the creation of a range of job opportunities and types, will increase local spend and access to goods locally (none of which are sold within existing Centres) and would therefore benefit the overall economy and assist in stimulating economic growth, in compliance with PPS4 Policy EC17.

It is therefore considered that the removal of the restriction on the sale of fancy goods will not result in a significant adverse impact against any one of the tests set out in PPS4 Policy EC16.

Marketing of Unit

Council policy is primarily concerned with the health of its town centres and would encourage retailers to locate in existing suitable vacant units in the town centre. As a result of the recession, there has been an increase in vacant A1 floorspace in Hillingdon. Although South Ruislip Local Centre is relatively healthy with only one unit (2.1% of total units) vacant, this particular unit has been vacant for two and a half years.

The applicants have submitted details of the letting campaign from Cushman Wakefield and Barton Willmore. The evidence suggests that detailed attempts have been made to market Unit 3 for some time to major bulky goods retailers. It appears that the existing planning condition regarding fancy goods is a major difficulty for potential occupiers.

Planning Policy Statement 4 (PPS4) recognises a need for sites for larger format developments. Such locations (as the application site) are intended for specialist retailers which sell bulky goods, which would still apply with the modified condition in place.

For the reasons given above, no policy objections are raised to the proposal and it is considered that in this case, it would be appropriate to relax the existing planning condition as proposed.

7.02 Density of the proposed development

Not applicable to this application.

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

Not applicable to this application.

7.04 Airport safeguarding

Not applicable to this application.

7.05 Impact on the green belt

Not applicable to this application.

7.06 Environmental Impact

Not applicable to this application.

7.07 Impact on the character & appearance of the area

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any impacts on the character or appearance of the application site.

7.08 Impact on neighbours

With regard to impact on residential amenity, the proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. As the proposal does not involve any external alterations, the proposed development will not have a visual impact on nearby residential properties. In terms of additional traffic/shoppers attracted to the

retail park, the site is within an established retail location where there are sufficient car parking facilities and also existing arrangements for accessing the site via public transport. It is acknowledged that the re-use of the vacant unit will increase the number of visitors to the Retail Park, but it is not felt that any increased trips will have a detrimental impact on residential amenity.

It is not considered that this would result in any impacts detrimental to the amenity of nearby residential occupiers in compliance with Saved Policy OE1 of the UDP.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

Traffic Generation/ Access

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. No alterations to the existing car parking or access arrangements for the retail park are proposed. 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.

In terms of car parking arrangements the Ruislip Retail Park provides 304 car parking spaces, of which 204 are within the applicant's control. Of these spaces 10 are set aside for disabled access. It is intended as part of the proposals for the recently approved mezzanine floor, that 2 additional disabled car parking bays are provided, which will reduce to car parking spaces to 303.

The Council's current car parking standards rely on the London Plan which requires 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 3,668m² retail floorspace (1,858m² gross of floor space originally allowed in addition to 1,810m² mezzanine floorspace permitted during 2010) between approximately 49 and 244 spaces should be provided. Accordingly, the existing parking provision complies with the Council's current Parking Standards and is considered to be adequate.

Cycle/Pedestrian Facilities

Currently the Retail Park benefits from 18 cycle parking spaces which are located in front of the terrace of retail units. The Retail Park is also accessible by workers and shoppers by foot with pavements linking the site to South Ruislip and nearby bus stops. It is not considered that it would necessitate the provision of any additional cycle parking facilities, given the nature of the goods likely to be sold from the retail outlet.

In conclusion, the Council's Highways Engineer has reviewed the submission and raises no objection to the proposal in terms of traffic generation or car parking, subject to a condition requiring that the car parking for the retail park be retained and made available for users of the unit for its lifetime.

7.11 Urban design, access and security

Not applicable to this application.

7.12 Disabled access

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any implications with regard to disabled accessibility.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, Landscaping and Ecology

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. It would not therefore have any implications on existing trees, landscaping or ecology.

7.15 Sustainable waste management

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it does not have any implications with regard to sustainable waste management.

7.16 Renewable energy / Sustainability

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it does not have any implications with regard to renewable energy or sustainability.

7.17 Flooding or Drainage Issues

With regard to flood risk, the site is not within an area of flood risk. The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it would not have any implications with regard to flooding or drainage issues.

7.18 Noise or Air Quality Issues

The proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. Accordingly, it would not have any implications with regard to noise or air quality.

7.19 Comments on Public Consultations

No comments have been received.

7.20 Planning Obligations

The Retail Park is the subject to a Section 52 Agreement which restricts the range of goods that can be sold from Unit 3 to that specified in condition 11.(part 7 (Clause1) of the Section 52 Agreement). However Part 7 (Clause 2) of the Agreement goes on to state that if any planning permission is granted subsequently for any of the uses prohibited by Clause 1, such planning permission shall vary Clause 1 of the S52 Agreement, to allow those prohibited goods to be sold from the unit. In effect, should the current S73 application be approved, this would automatically vary Clause 1 of the S52 Agreement and there would be no need to enter into a deed of variation.

The proposal would not give rise to any impacts which would need to be mitigated by way of planning obligations.

7.21 Expediency of enforcement action

Not applicable to this application.

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 to this application.

10. CONCLUSION

Unit 3 has remained vacant since the departure of MFI in 2008. Despite on going marketing over the past two and a half years, there has been no viable interest in the unit, and these proposals will facilitate bringing the unit back into economic use.

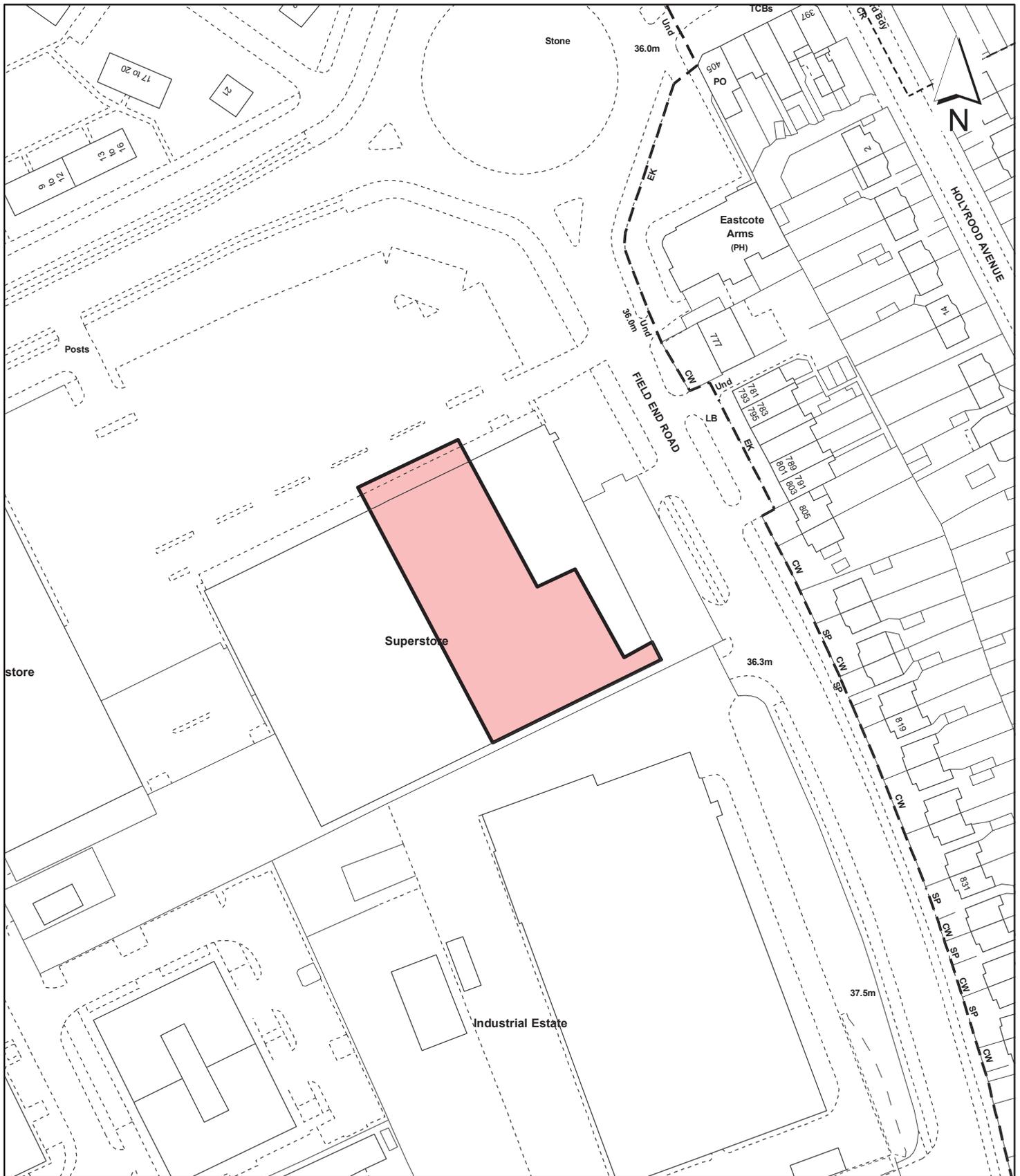
It is considered that the proposed relaxation of the condition controlling the range of goods that can be sold from the site meets the sequential and impact tests of PPS4 and would not have a significant detrimental impact on the vitality or viability of nearby centres. The amended condition would still restrict the unit primarily to the sale of bulky comparison goods. The proposal is therefore considered to be acceptable in planning policy terms. Accordingly, there are no objections to the principle of the development, subject to conditions originally imposed, which are still subsisting and are capable of being discharged.

11. Reference Documents

Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1
Planning Policy Guidance 13: Transport
Planning Policy Guidance 24: Planning and Noise
The London Plan
Accessible Hillingdon SPD
Air Quality SPG
Noise SPG
Planning Policy Statement 4: Planning for Sustainable Economic Growth

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Notes

 Site boundary

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Site Address

**Unit 3, Ruislip Retail Park
 Victoria Road
 Ruislip**

**LONDON BOROUGH
 OF HILLINGDON**
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 Environment, Education
 & Community Services
 Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 250111

Planning Application Ref:
43510/APP/2011/1343

Scale
1:1,250

Planning Committee
North

Date
**October
 2011**



HILLINGDON
 LONDON