

## Report of the Head of Planning & Enforcement Services

**Address** UNIT 3, RUISLIP RETAIL PARK VICTORIA ROAD RUISLIP

**Development:** Variation of condition 11 (to remove restrictions on the sales of fancy goods) of planning permission Ref: 43510/APP/2000/2485 dated 14/03/2003: (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.

**LBH Ref Nos:** 43510/APP/2011/1344

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

**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 11 of Planning Permission 43510/APP/2000/2485 to allow for the sale of fancy goods as it relates to unit 3, in order to expand the acceptable range of goods.

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 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 TL5 Landscaping Scheme - (full apps where details are reserved)**

The landscaping scheme, management responsibilities and maintenance of all landscaped areas shall be carried out in accordance with the details approved under application ref: 43510/APP/2003/797 dated 29/10/2003, unless otherwise agreed in writing by the Local Planning Authority.

**REASON**

To ensure that the proposed development will preserve and enhance the visual amenities of the locality in compliance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

**3 M1 Details/Samples to be Submitted**

The materials, colours and finishes to be used on all external surfaces shall be in accordance with details approved under application ref: 43510/APP/2003/797 dated 29/10/2003, unless otherwise agreed in writing by the Local Planning Authority.

**REASON**

To ensure that the development presents a satisfactory appearance in accordance with Policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

**4 NONSC Non Standard Condition**

The roads/turning/loading facilities/sight lines, direction and prohibition signs and parking areas (including the installation of one way flaps at the Victoria Road access and the marking out of parking spaces) 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 that adequate facilities are provided, to ensure pedestrian and vehicular safety and convenience and to ensure adequate off-street parking, and loading facilities are provided, in compliance with Policies AM7 and AM14 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

**5 DIS1 Facilities for People with Disabilities**

All the facilities designed specifically to meet the needs of people with disabilities (to include where appropriate to this application reserved/specifically designated disabled parking bays, ramped approach to building entrances, ramped kerbs, door and lobby openings at building entrances) 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 Policies 2.15 and relevant policies contained in PPS4: Planning For Sustainable Economic Growth (December 2009).

#### **7 NONSC Non Standard Condition**

No mezzanine or upper level floorspace may be used for retail purposes until details of access arrangements to the upper level 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 (July 2011) Policies 3.1 and 7.2.

#### **8 RCU4 Internal Floorspace**

Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 (or any others revoking and re-enacting this provision with or without modification), no additional internal floorspace shall be created other than that expressly authorised by planning permission ref: 43510/APP/2010/1979 dated 10/02/2011.

#### REASON

To enable the Local Planning Authority to assess all the implications of the development and to ensure that adequate parking and loading facilities can be provided on the site, in accordance with Policy AM14 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

### **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.

AM7 Consideration of traffic generated by proposed developments.

AM14	New development and car parking standards.
AM15	Provision of reserved parking spaces for disabled persons
BE13	New development must harmonise with the existing street scene.
LE2	Development in designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
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            I25                    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.

#### **8**

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](http://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](http://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](http://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](http://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.

## 10

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 1,858m<sup>2</sup> retail unit, one of four retail outlets, forming part of the larger Ruislip Retail Park (totalling 5,855m<sup>2</sup>). The retail park is located on the southwest corner of the junction of Field End Road and Victoria Road and falls within the Stonefield Way Industrial Estate, a designated Industrial and Business Area. 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 Proposal relates to Unit 3, Ruislip Retail Park. The Unit comprises a ground floor area of 1,858 sq m gross, and operates within a bulky goods permission. This is a Section 73 Application to vary Condition 11 of Planning Permission 43510/APP/2000/2485, to allow for the sale of fancy goods from this unit, thereby widening the range of goods permitted to be sold from the premises.

Condition 11 of Planning Permission 43510/APP/2000/2485 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 of 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 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/APP/2000/2485 Mfi, Carpetright And Halfords Victoria Road Ruislip  
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

**Decision:** 14-03-2003 Approved

43510/APP/2003/797 Mfi, Carpetright And Halfords Victoria Road Ruislip  
DETAILS OF LANDSCAPING SCHEME, LANDSCAPING MAINTENANCE, TREE PROTECTION, MATERIALS AND ACCESS IN COMPLIANCE WITH CONDITIONS 2, 3, 4, 7 AND 8 OF PLANNING PERMISSION REF. 43510/APP/2000/2485 DATED 14/03/2003; 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

**Decision:** 29-10-2003 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

#### 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 60,000 sq feet to be occupied by MFI and one of 19,500 sq 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.

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.

The condition of specific relevance is Condition 11 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 1,810 sq.m mezzanine to the existing 1,858 sq.m floorspace creating a total of 3,668 sq.m 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 and discourage them outside the town centres.

#### **UDP / LDF Designation and London Plan**

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

Part 1 Policies:

Part 2 Policies:

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
AM15	Provision of reserved parking spaces for disabled persons
BE13	New development must harmonise with the existing street scene.
LE2	Development in designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
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 UDP Saved Policies. 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 11 seeks to restrict the type of goods sold from the application premises so as not to conflict with those that are readily available in the adjoining local parade and local town centre, in order not to damage their vitality, viability and competitiveness. 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 as small decorative gifts and 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 there is no clear and precise definition of fancy goods and as a result, 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 unit 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 will 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 be more likely to 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 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 (few if any of which are sold within existing Centres) and would therefore benefit the overall economy and assist in stimulating economic growth. It therefore complies 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 Application Proposals do 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 application 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.

Overall, it not considered that the relaxation of this condition would result in any impacts detrimental to the amenity of nearby residential occupiers, in compliance with Saved Policy OE1.

**7.09 Living conditions for future occupiers**

Not applicable to this application.

**7.10 Traffic impact, car/cycle parking, pedestrian safety**

**TRAFFIC GENERATION**

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 15m<sup>2</sup> of floorspace and 1 space per 75m<sup>2</sup> of floorspace depending on retail format and PTAL. Therefore, based on an approximate total floorspace of 3,668m<sup>2</sup> retail floorspace (1,858m<sup>2</sup> gross of floor space originally allowed in addition to 1,810m<sup>2</sup> 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 cycle 18 parking which is 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**

Not applicable to this application.

#### **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.

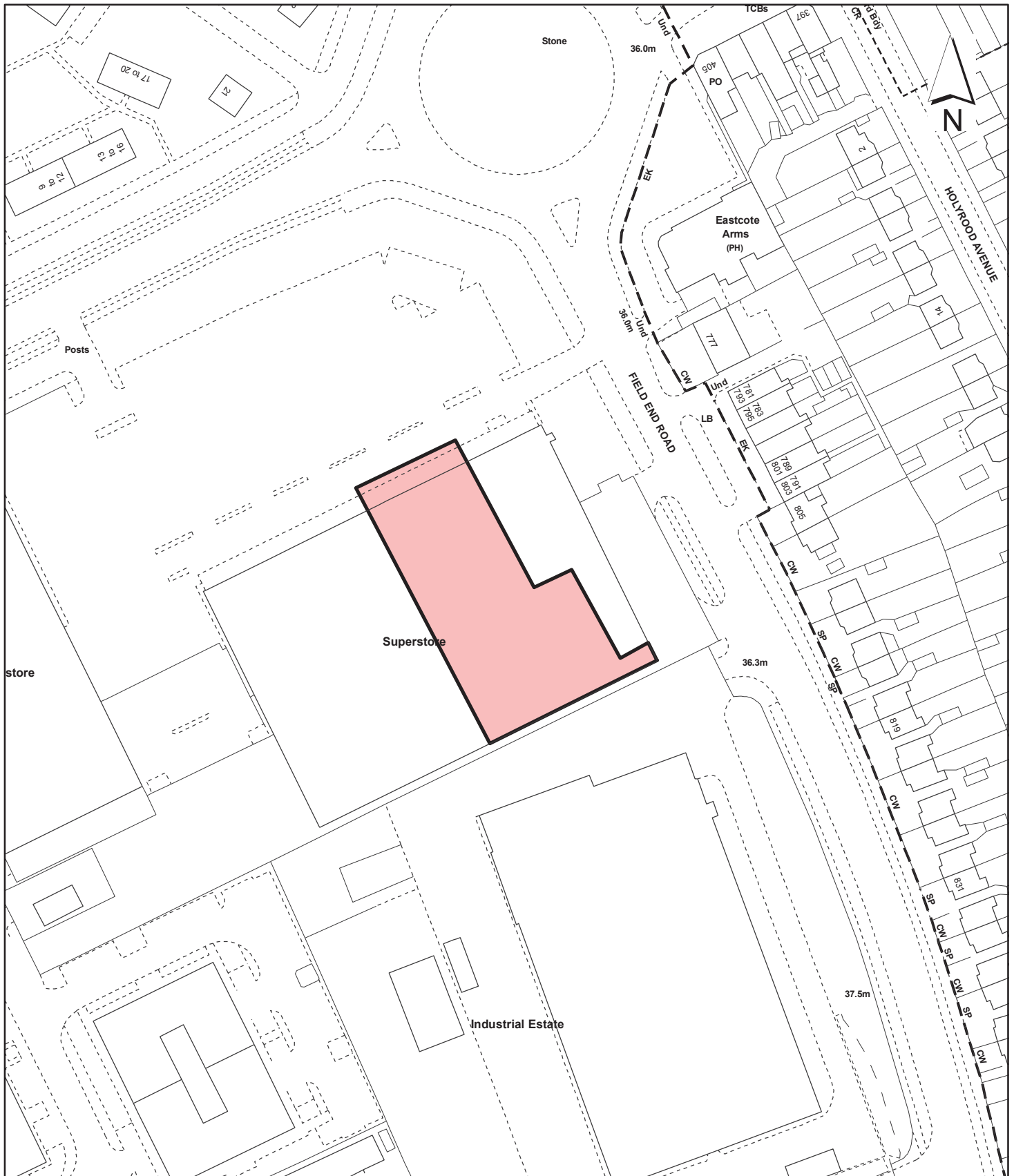
It is considered that the proposed relaxation of the condition controlling the range of goods that can be sold from the site meets the sequential and impact tests of PPS4 and would not have a significant detrimental impact on the vitality or viability of nearby centres. The amended condition would still 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  
Planning Policy Statement 4: Planning for Sustainable Economic Growth  
Planning Policy Guidance 13: Transport  
Planning Policy Guidance 24: Planning and Noise  
The London Plan (July 2011)  
Accessible Hillingdon SPD  
Air Quality SPG  
Noise SPG

**Contact Officer:** Karl Dafe

**Telephone No:** 01895 250230



<p><b>Notes</b></p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act).</p> <p>Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2011 Ordnance Survey 100019283</p>	<p>Site Address</p> <p><b>Unit 3, Ruislip Retail Park</b>  <b>Victoria Road</b>  <b>Ruislip</b></p>		<p><b>LONDON BOROUGH OF HILLINGDON</b>  <b>Planning, Environment, Education &amp; Community Services</b>          Civic Centre, Uxbridge, Middx. UB8 1UW          Telephone No.: Uxbridge 250111</p> <p>  <b>HILLINGDON</b>          LONDON</p>
	<p>Planning Application Ref:</p> <p><b>43510/APP/2011/1344</b></p>	<p>Scale</p> <p><b>1:1,250</b></p>	
	<p>Planning Committee</p> <p><b>North</b></p>	<p>Date</p> <p><b>October 2011</b></p>	