

Report of the Corporate Director of Planning & Community Services

Address 78 JOEL STREET NORTHWOOD

Development: Change of use from Class A1 Retail to Class A5 Hot Food Takeaway, involving alterations to shopfront and the installation of an extractor flue to the rear/ side.

LBH Ref Nos: 65970/APP/2009/860

Drawing Nos: KD/PP/147/09/J002
Design and Access Statement

Date Plans Received: 23/04/2009 **Date(s) of Amendment(s):**
Date Application Valid: 07/05/2009

1. SUMMARY

The adopted Unitary Development Plan, in the preamble to Saved Policy S12 states that in secondary areas at least 50% of the frontage should be in retail (A1) use. The Council's most recent retail frontage survey indicates that Northwood Hills Secondary Shopping Area has a retail frontage with A1 use at 53.1%. Thus the proposal would not result in the proportion of non-retail use exceeding 50% and would also bring a vacant unit back into use. It is considered that the proposed change of use would not be contrary to policy S12 of the UDP (Saved Policies September 2007) and would not undermine the retail function of Northwood Hills Town Centre.

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 OM1 Development in accordance with Approved Plans

The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the Local Planning Authority.

REASON

To ensure that the external appearance of the development is satisfactory and complies with Policy BE13 and BE15 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3 NONSC Non Standard Condition

The premises shall only be open for the preparation or sale of food between the hours of 10:00 hours and 23:00 hours on Mondays to Saturdays and 10:00 hours and 22:00 hours

on Sundays.

Reason:

To ensure that the amenity of the occupiers of adjoining or nearby properties is not adversely affected in accordance with Policy OE3 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

4 NONSC Non Standard Condition

No development shall take place until a scheme detailing the method of disposal, secure storage and collection of litter and waste materials, generated by the business and/or discarded by patrons, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a description of the facilities to be provided and the methods for collection of litter within and in the vicinity of the premises at least 15 metres either side of the site. The approved scheme shall be implemented in full thereafter.

REASON

To ensure that adequate provision is made for the disposal of litter and waste, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with policy S6 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

5 NONSC Non Standard Condition

The use hereby permitted shall not commence until the owner has made arrangements, to be submitted to and approved in writing by the Local Planning Authority, for the provision of a litter bins within and in the vicinity of the site.

REASON

To ensure that adequate provision is made for the disposal of litter likely to be generated by the proposed development, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with policy S6 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

6 NONSC Non Standard Condition

The use hereby permitted shall not commence until the kitchen extract flue is installed as per the details set out in drawing reference No.KD/PP/147/09/L002.

REASON

In the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with policy S6 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

BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE28	Shop fronts - design and materials
S6	Change of use of shops - safeguarding the amenities of shopping areas
S12	Service uses in Secondary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
HDAS	Shopfronts and Signage

3 I1 Building to Approved Drawing

You are advised this permission is based on the dimensions provided on the approved drawings as numbered above. The development hereby approved must be constructed precisely in accordance with the approved drawings. Any deviation from these drawings requires the written consent of the Local Planning Authority.

4 I2 Encroachment

You are advised that if any part of the development hereby permitted encroaches by either its roof, walls, eaves, gutters, or foundations, then a new planning application will have to be submitted. This planning permission is not valid for a development that results in any form of encroachment.

5 I3 Building Regulations - Demolition and Building Works

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced. For further information and advice, contact - Planning & Community Services, Building Control, 3N/01 Civic Centre, Uxbridge (Telephone 01895 250804 / 805 / 808).

6 I5 Party Walls

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement

from, any adjoining owner, where the building owner proposes to:

carry out work to an existing party wall;

build on the boundary with a neighbouring property;

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. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "the Party Walls etc. Act 1996 - explanatory booklet" published by the ODPM, available free of charge from the Planning & Community Services Reception Desk, Level 3, Civic Centre, Uxbridge, UB8 1UW.

7 I6 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 I14 Installation of Plant and Machinery

The Council's Commercial Premises 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).

9 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 or Bank 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.

3. CONSIDERATIONS

3.1 Site and Locality

The application comprises a ground floor unit of a four storey building. The unit is currently vacant and has an authorised use for retail purposes. There is on street parking to the front of the unit with a restriction from 11am to 12 noon. The site is on a slope with the service/access road to the rear at first floor level. The site is within Northwood Hills Secondary Shopping Centre as identified in the Hillingdon Unitary Development Plan (UDP) (Saved Polices September 2007).

3.2 Proposed Scheme

The proposal involves the change of use of the ground floor from a retail unit (A1) to Hot Food Take-Away (A5), the replacement of the existing shop front and the installation of an extraction flue to the rear.

3.3 Relevant Planning History

Comment on Relevant Planning History

None

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE28	Shop fronts - design and materials
S6	Change of use of shops - safeguarding the amenities of shopping areas
S12	Service uses in Secondary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
HDAS	Shopfronts and Signage

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

32 neighbours and the Northwood Hills Residents Association consulted and 6 responses were received which made the following comments:

1. There are already too many restaurants and takeaways on Joel Street and they are struggling to find enough customers to keep afloat. The residents association always object to change of use from A1 to A3 on Joel Street, as it is not sustainable. This and any future application should be rejected;
2. To have another use such as this next to subway would be too much;
3. Whilst it is good to see an empty shop being used, there has to be a limit on A5 uses and Northwood Hills has already surpassed this number;
4. The owners of Argyle House have put in plans to build a revolving restaurant (500/APP/2009/194), and there is already 1 large restaurant and one small hot food takeaway, this application is not wanted or required;
5. We have been in this building for 8 years and have endured foul smells from the cleaners, and more recently Subway, so to add another outlet would be extremely unpleasant;
6. We have experienced rats in the office due to Subways extraction system' involving the Environmental Health team. On top of this the rubbish and graffiti in the area is awful;
7. The car park to the rear is a meeting place for boy-racers, and it can be intimidating, even with the MET Police being in the same building;
8. I object to the installation of the waste flue to the rear of the building. We have been forced to close off certain offices as a result of Subways flue, and have had to have professional pest control treatment to remove rats.

Officer Comments: Points 1, 2, 3, 4 and 8 have been addressed in the main body of the report. With regard to points 5, 6 and 7 these are not planning issues and are covered by other legislation.

Ward Councillor - states that local residents are likely to object to the proposal and that the shop is next to Subway, the opening of which he strongly opposed. Also requests that the final decision is made by the North Planning Committee.

Northwood and Pinner Chamber of Commerce were consulted and no response was received.

Internal Consultees

Town Centre Manger

There are a number of shop units in the Northwood Hills area with poor quality shutters and that lead to a fortified look. It is therefore pleasing to see that this proposal involves a glazed shopfront. If shutters are to be introduced it would be preferable that they were internal and open mesh screen in line with guidance of P33-34 or the HDAS SDP.

Waste & Recycling Officer

Planning approval should require that the redevelopment of the site includes room to locate recycling facilities for all grades of paper and cardboard, cans, plastic bottles, and also glass bottles and jars.

To this end any refuse and recycling bins provided as part of this development must be housed in chambers constructed according to a strict specification.

EPU

I do not wish to object to this proposal. Should this application be recommended for approval I would wish to see the following conditions applied;

The kitchen extract flue shall be installed as per the details set out in drawing reference No.KD/PP/147/09/L002 of April 2009.

Reason: To safeguard the amenity of surrounding areas.

The premises shall not be open for the preparation or sale of food outside of the hours of 10:00 hours and 23:00 hours on Mondays to Saturdays and 10:00 hours and 22:00 hours on Sundays.

Reason: To safeguard the amenity of surrounding areas.

I would recommend the following condition to address potential for disturbance from vehicle movements at the rear of the premises;

Deliveries and collections, including waste collections, shall be restricted to the following hours; 0700 hrs to 2300 hrs Monday to Saturdays and not at all on Sundays and Bank/Public Holidays.

Reason: To safeguard the amenity of surrounding areas.

Would also recommend the construction site informative.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The adopted UDP states that the main aim of the Local Planning Authority is to ensure that the retail function of shopping areas meets the needs of the area it serves. However, it recognises that service uses may be appropriate provided they do not become predominant. To this end strict control over the loss of shops will be exercised.

Policy S6 sets out the criteria to be considered where the principle of the changes of use is acceptable. These are i) frontage of design appropriate to the surrounding area is maintained or provided; ii) the use would be compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties and iii) would have no harmful effect on road safety or worsen traffic congestion. The external alterations proposed as part of this application would be considered in keeping with the design of the building and the frontage to which it relates, and therefore would be acceptable. Loss of residential amenity issue is dealt with below, and the proposed use would not result in an undue impact in terms of traffic and parking.

The site is located within the Secondary Shopping Area of the Northwood Hills Town Centre. Policy S12 establishes the criteria whereby service use would be permitted in secondary frontages. Thus in order to maintain the viability of the retail function of a centre, i) at least 50% of the remaining frontage should remain in retail (A1) use and ii) retail units should be separated by no more than 12m.

The Council's most recent survey showed that the secondary frontage had a 53.1% proportion of A1 retail uses and the loss of this unit to non-retail use would not result in retail units being separated by more than 12m, given that the adjoining units are in retail use. As such, should this proposal receive consent it is not considered that it would have a

negative effect on the vitality and viability of this area, and therefore the proposal would comply with policy S12 of the UDP (Saved Policies September 2007).

There is, as referenced by the objector, an as yet un-determined application for a revolving restaurant on the top floor of this same building. It should be noted that this is not an existing retail unit hence the fact that the application for the revolving restaurant is not yet determined should not affect the determination of this application.

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

Policy BE13 of the UDP (Saved Policies September 2007) requires new development to harmonise with the appearance of the existing street scene and area, and Policy BE15 requires alterations to existing buildings to harmonise with the scale, form, architectural composition and proportions of the original building. Policy BE28 requires shopfronts to harmonise with the building and to improve the character of the area. The Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document: Shop Fronts and Signage: Section 5.3 states, the Council will encourage all applicants to adopt good design that can set example for others and can trigger improvements in the appearance of other shop fronts in the locality.

With regard to the design and appearance of the shop front, Section 5.6 of the SPD: Shopfronts and Signage, states that the Council will look for the use of traditional design features, such as stall risers, several smaller panes of glass instead of one large sheet of glass and more traditional types of window, vertical sub-divisions at ground floor level below the fascia area, which would appropriately relate to the street and to the building above. The application proposes the use of low stall risers, which is typical of the area of the street to which it relates. The use of a central door will break up the frontage by providing a vertical subdivision and this is considered to be in-keeping with the street scene. In terms of visual amenity, this site is within a parade of shops, and it is considered that there would be no significant harm to the area as a whole if this proposal were to be granted and therefore, it is considered to comply with policies BE13, BE15 and BE28 of the Hillingdon UDP (Saved Policies, September 2007).

The extraction flue to the rear is considered to be in-keeping with its surroundings. Therefore the proposal would comply with Policy S6 of the UDP (Saved Policies September 2007).

7.08 Impact on neighbours

Policy OE1 states permission will not be granted for uses which are likely to be detrimental to the character or amenity of surrounding properties and policy OE3 states buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact

can be mitigated. The Environmental protection officer has suggested a number of conditions should be applied relating to the; installation of the flue and the hours of operation, in order to safeguard the amenity of residents and the surrounding area. Therefore subject to condition the proposal is considered to accord with policies OE1 and OE3 of the UDP (Saved Polices September 2007).

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

It is considered that the difference in traffic generation between the existing retail use and the proposed take away use would be limited, such that a refusal on this ground could not be justified or sustained at appeal. The proposal would therefore comply with policies AM7 and AM14 of the UDP (Saved Polices September 2007).

7.11 Urban design, access and security

See above

7.12 Disabled access

Level access will be provided for disabled persons wishing to enter the building together with a 1000mm entrance door. Seating arrangements will allow enough mobility and turning for disabled users. As such the proposal would comply with Policy 3A.4 of the London Plan and the Council's SPD HDAS: Accessible Hillingdon.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, Landscaping and Ecology

Not applicable to this application.

7.15 Sustainable waste management

The Waste & Recycling Officer has been consulted and has commented that as a minimum planning approval should require that the should include recycling facilities for all grades of paper and cardboard, cans, plastic bottles, and also glass bottles and jars. To this end any refuse and recycling bins provided as part of this development must be housed in chambers constructed according to the recommended specifications. These details have not been submitted however, it is considered that the matter could be dealt with by way of a condition, which is recommended.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

Not applicable to this application.

7.18 Noise or Air Quality Issues

Not applicable to this application.

7.19 Comments on Public Consultations

See Section 6.1

7.20 Planning Obligations

Not applicable to this application.

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

As there are no S106 or enforcement issues involved, the recommendations have no financial implications for the Planning Committee or the Council. The officer recommendations are based upon planning considerations only and therefore, if agreed by the Planning Committee, they should reduce the risk of a successful challenge being made at a later stage. Hence, adopting the recommendations will reduce the possibility of unbudgeted calls upon the Council's financial resources, and the associated financial risk to the Council.

10. CONCLUSION

Whilst, it is accepted the proposal would bring a vacant unit back into use, the loss of the A1 element would further undermine the range of goods and services available within the centre and consequently the vitality and viability of the centre. It is considered that the proposed change of use would be contrary to policy S12 of the UDP (Saved Policies September 2007).and would undermine the retail function of Northwood Hills Town Centre.

11. Reference Documents


Unitary Development Plan (Saved Policies September 2007)
London Plan Policies (2008)

Contact Officer: Catherine Hems

Telephone No: 01895 250230



Notes

 Site boundary

For identification purposes only.

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Site Address	
78 Joel Street, Northwood	
Planning Application Ref:	Scale
65970/APP/2009/860	1:1,250
Planning Committee	Date
North	July 2009

**LONDON BOROUGH
OF HILLINGDON**

**Planning &
Community Services**

Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111



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