

Report of the Head of Planning & Enforcement Services

Address 97 FIELD END ROAD EASTCOTE PINNER

Development: Change of use from Use Class A1 (Shops) to Use Class A5 (Hot Food Takeaway).

LBH Ref Nos: 15559/APP/2011/2885

Drawing Nos: Location Plan to Scale 1:1250
FERLCP2212081 (Block Plan to Scale 1:500)

Date Plans Received: 28/11/2011 **Date(s) of Amendment(s):**
Date Application Valid: 06/12/2011

1. SUMMARY

Planning permission is sought for a Class A5 Hot Food Take Away use. The change of use does not result in the proportion of frontage in non-retail use within the secondary area exceeding 50% and it is considered that the proposal would not impact on the amenities of adjoining occupiers to such an extent as to justify refusal. The proposal is therefore considered acceptable in this instance.

2. RECOMMENDATION

APPROVAL subject to the following:

1 NONSC Non Standard Condition

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

REASON

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

2 NONSC Non Standard Condition

The premises shall only be used for the preparation, sale of food and drink and clearing up between the hours of 08:00 and 23:30. There shall be no staff allowed on the premises outside these hours.

REASON

To safeguard the residential amenity of the occupiers and nearby properties, in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Polices September 2007).

3 NONSC Non Standard Condition

The proposed commercial use hereby approved shall not be commenced until details of all extract ventilation systems and odour control equipment including details of any noise levels, vibration levels, and external ducting, have been submitted to and approved by the local planning authority and the equipment so approved has been installed. The approved extract ventilation system equipment and odour control equipment shall be operated at all times when cooking is carried out and maintained in accordance with the manufacturer's instructions. The external ducting shall be removed as soon as possible when no longer required. The approved scheme shall be implemented and completed

before the use hereby approved commences and shall thereafter be maintained.

REASON

To protect the amenities of the occupiers of residential accommodation in the vicinity in accordance with Policy OE1 of the Hillingdon UDP.

4 NONSC Non Standard Condition

The development shall not begin until a sound insulation scheme that specifies the provisions to be made for the control of noise transmission to adjoining dwellings, has been submitted to, and approved by the Local Planning Authority. The scheme shall include such combination of sound insulation and other measures as may be approved by the LPA. The said scheme shall include such secure provision as will ensure that the said scheme and all of it endures for use and that any and all constituent parts are repaired and maintained and replaced in whole or in part so often as occasion may require. The approved scheme shall be implemented and completed before the use hereby approved commences and shall thereafter be maintained.

REASON

To protect the amenities of the occupiers of residential accommodation in the vicinity in accordance with Policy OE1 of the Hillingdon UDP.

5 NONSC Non Standard Condition

The premises shall not be used for deliveries and collections, including waste collections other than between the hours of 08:00 and 18:00, Mondays to Fridays, 08:00 to 13:00 Saturdays and not at all on Sundays and Bank and Public Holidays.

REASON

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

6 NONSC Non Standard Condition

Development shall not commence until details of the full internal layout, including a fully accessible wc, access to building entrances (to include ramped/level approaches, signposting, types and dimensions of door width and lobby openings) to meet the needs of people with disabilities 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, 3.8 and 7.2.

7 OM12 External Litter Bins

Before the development hereby permitted is commenced, a scheme shall be submitted to and approved in writing by the Local Planning Authority, detailing how an external litter bin facility for customers will be provided. This shall include a timescale for the provision of this facility. The approved means, siting and timescale for the provision of the facility shall be implemented in accordance with the agreed scheme and thereafter permanently maintained.

REASON

To protect the visual amenities of the street scene and the surrounding area and to

safeguard the interests of the amenities of the occupiers and adjoining residents, in accordance with Policies BE13 and BE19 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 (July 2011) and national guidance.

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
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
AM14	New development and car parking standards.
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
LPP 7.15	(2011) Reducing noise and enhancing soundscapes
LPP 2.15	(2011) Town Centres
LPP 4.7	(2011) Retail and town centre development
LPP 4.8	(2011) Supporting a Successful and Diverse Retail Sector

3 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.

4 13 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).

5 15 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.

6 125 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).

7 128 Food Hygiene

The Council's Commercial Premises Section should be consulted prior to the use of the premises so as to ensure compliance with the Food Safety Registration Regulations 1990, Hygiene (General) Regulations 1970, The Food Act 1984, The Health and Safety at Work Act 1974 and any other relevant legislation. Contact: - Commercial Premises Section, 4W/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Telephone 01895

250190).

8

The Equality Act 2010 seeks to protect people accessing goods, facilities and services from direct discrimination on the basis of a "protected characteristic", which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustment can be incorporated with relative ease.

The Act states that service providers should think ahead to take steps to address barriers that impede disabled people.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located towards the northern end of Eastcote Town Centre and is on the east side of Field End Road. It comprises an unoccupied shop, No.97, on the ground floor of a three storey, brick built parade of shops. The adjoining unit to the north, is an interior design shop, Mayfair Interiors. To the south, is a restaurant, Aura Indian Cuisine. Flats are located on the first and second floors above. There is front access through a set of stairs in the centre of the parade of shops and rear access to other flats where there is some car parking accessed from an un-gated service road and yards. The site lies within the Secondary Shopping Area of the Eastcote Town Centre as identified in the policies of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007). The surrounding shopping frontage has a mix of A-class uses, including two existing takeaways.

3.2 Proposed Scheme

Planning permission is sought for the change of use from retail (Use Class A1) to use as a takeaway (Use Class A5) only. No building works form part of this application.

3.3 Relevant Planning History

Comment on Relevant Planning History

There is no relevant planning history for this site.

Planning permission for a takeaway was granted at No. 109 within the shopping frontage, on 25 October 2011, reference 12666/APP/2011/1044.

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:

- | | |
|-----|---|
| 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
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
AM14	New development and car parking standards.
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
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5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

40 neighbours were consulted on 8 December 2011, plus Eastcote Village Conservation Panel and Eastcote Residents Association.

There have been two objections which can be summarised as follows:

1. Already 27 eating places in Eastcote (Field End Road) not including the public houses (4 Number)
2. Already 4 restaurants struggling in this parade alone.
3. An earlier application approved for number 109 Field End Road also in this parade to have change of use to A3.
4. Is it really necessary to have even more food shops?
5. Draws attention to the extant permission for A5 use at 109 Field End Road ref: 12666/APP/2011/1044 which was approved at the North Planning Committee 25th October 2011.
6. Seeking information regarding, internal layout, ducting, waste disposal, disabled access, opening hours, shop sign prior to any decision being made.
7. Two other retail outlets, 109 and 106 have recently been granted change of use.
8. That currently 186 Field End Road is seeking change of use. This outlet was granted change of use from A1 Retail to A2 Financial services earlier this year, a further change is now being sought for D1 Non residential institution (Case officer note: this is in a separate part of the shopping area).
9. The secondary shopping area of Eastcote is rapidly nearing the 50% limit of non retail units.
10. More information should be sought from the Agent before determination of this application.

Internal Consultees

Environmental Protection Unit: No objections subject to conditions.

Access Officer: As no existing or proposed plans appear to have been submitted, it would seem that the proposed change of use would involve no material alterations. In view of the aforesaid, no specific access observations are offered. However, it is recommended that the following informative is attached to any grant of planning permission:

The Equality Act 2010 seeks to protect people accessing goods, facilities and services from direct discrimination on the basis of a "protected characteristic", which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustment can be incorporated with relative ease. The Act states that service providers should think ahead to take steps to address barriers that impede disabled people.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Paragraph 8.24 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) defines Secondary Shopping Areas as peripheral to the primary areas in which shopping and service uses are more mixed although class A1 shops should still be the majority use. Paragraph 8.26 states that as a guideline, the Council will normally seek to prevent a separation or an increase in the separation of class A1 units of more than approximately 12m. Class A1 shops should remain the predominant use in secondary areas and the Local Planning Authority will expect at least 50% of the frontage to be in class A1 use.

Policy S12 establishes that a change of use from Class A1 to non Class A1 uses in secondary frontages, where there remains adequate retail facilities to accord with the character and function of the shopping centre in order to maintain the vitality and viability of the town centre, to be acceptable.

The 2011 shopping survey shows that within the secondary frontage of the Eastcote Town centre the proportion of Class A1 units comprises 51.9% of the frontage. The loss of the application property would reduce this to 50.9%. Therefore the proposal would not result in a reduction in the retail frontage below 50%. This figure includes the unit recently granted permission for change of use to A5 at No. 109 Field End Road.

The change of use would result in a break in the retail frontage of 12.4m, 0.4m above the guidelines of 12m. This additional 0.4m is considered not to be a sufficiently material reason to warrant refusal. Overall, it is considered that the change of use would not harm the vitality and attractiveness of Eastcote Town Centre and complies with Policy S12 of the Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and Policy 2.15 of the London Plan (2011).

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

See paragraphs 7.08, 7.10, 7.18.

7.07 Impact on the character & appearance of the area

No alterations are proposed on the front elevation and therefore the proposal does not harm the appearance of the street scene. The proposal therefore complies with policies BE13, BE15 and BE19 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.08 Impact on neighbours

In terms of assessing the effects of the proposal on residential amenity, the relevant factors are those of noise, smell and disturbance.

Policy OE1 states permission will not be granted for uses which are likely to become detrimental to the character or amenities 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 proposed development would be set within an existing commercial area. The nearest residential properties lie above, adjacent, behind and opposite to the application unit. It is considered that planning conditions requiring details of the ventilation equipment, the installation of appropriate sound attenuation and insulation between floors and the imposition of limitations on hours of operation and deliveries are sufficient to maintain the residential amenity of the occupiers of adjoining and nearby residential properties, should planning permission be granted. This is the approach that was taken on the approval for No. 109 Field End Road.

The proposal is thus considered to comply with policies OE1 and S6 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and 7.15 of the London Plan 2011.

7.09 Living conditions for future occupiers

See paragraph 7.08.

7.10 Traffic impact, car/cycle parking, pedestrian safety

The Hot Food Takeaway use does not lead to an increase in traffic generation given its use and location within a parade of shops.

The Council's Parking Standards (Annex 1, adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) requires 1 space per 25sqm for non-shop uses. This requirement is the same for shop uses. As no additional floorspace is proposed, no additional parking spaces are required. The site has capacity for the provision of parking spaces to the rear and thus the proposal complies with policies AM2, AM7(ii) and AM14 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and the Council's Parking Standards (Annex 1, adopted Hillingdon Unitary Development Plan, Saved Policies, September 2007).

7.11 Urban design, access and security

No floor plans have been submitted with the application as it is speculative. As a result, the Council cannot at this stage be satisfied that the internal arrangement will be fully accessible. A condition is proposed to address this matter.

7.12 Disabled access

A condition requiring details of shop layout is added in order for shop operators to think ahead to take steps to address barriers that impede disabled people.

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

A condition of permission is recommended in order to ensure waste is properly managed.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

No flooding or drainage issues are highlighted by consultees. It is not within a Flood Zone.

7.18 Noise or Air Quality Issues

A condition is recommended seeking details of extract flues, in order to ensure smells and noise nuisance are reduced.

7.19 Comments on Public Consultations

The public consultation comments are responded to within the report.

7.20 Planning Obligations

Not applicable to this application.

7.21 Expediency of enforcement action

Not applicable to this application.

7.22 Other Issues

The applicant owns the entire parade of shops. They are the same applicant as at No. 109 for the extant change of use application. The applicant has advised that No. 109 is shortly to be let by part of the A1 premises next door, therefore the permission for A5 is not likely to be exercised. Notwithstanding this, the applicant offered to rescind No. 109's permission in favour of this application. Whilst this option was considered as part of the assessment of the current application, it would, however, be in conflict with the first of the tests of reasonableness for applying S.106 agreements set out in Circular 1/2010. In this respect the current proposal sufficiently meets the policy tests required within the Hillingdon UDP Saved Policies September 2007 and would be acceptable in its own right.

It should be noted, however, that any future change of use in this Parade would take the balance to below the policy threshold.

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

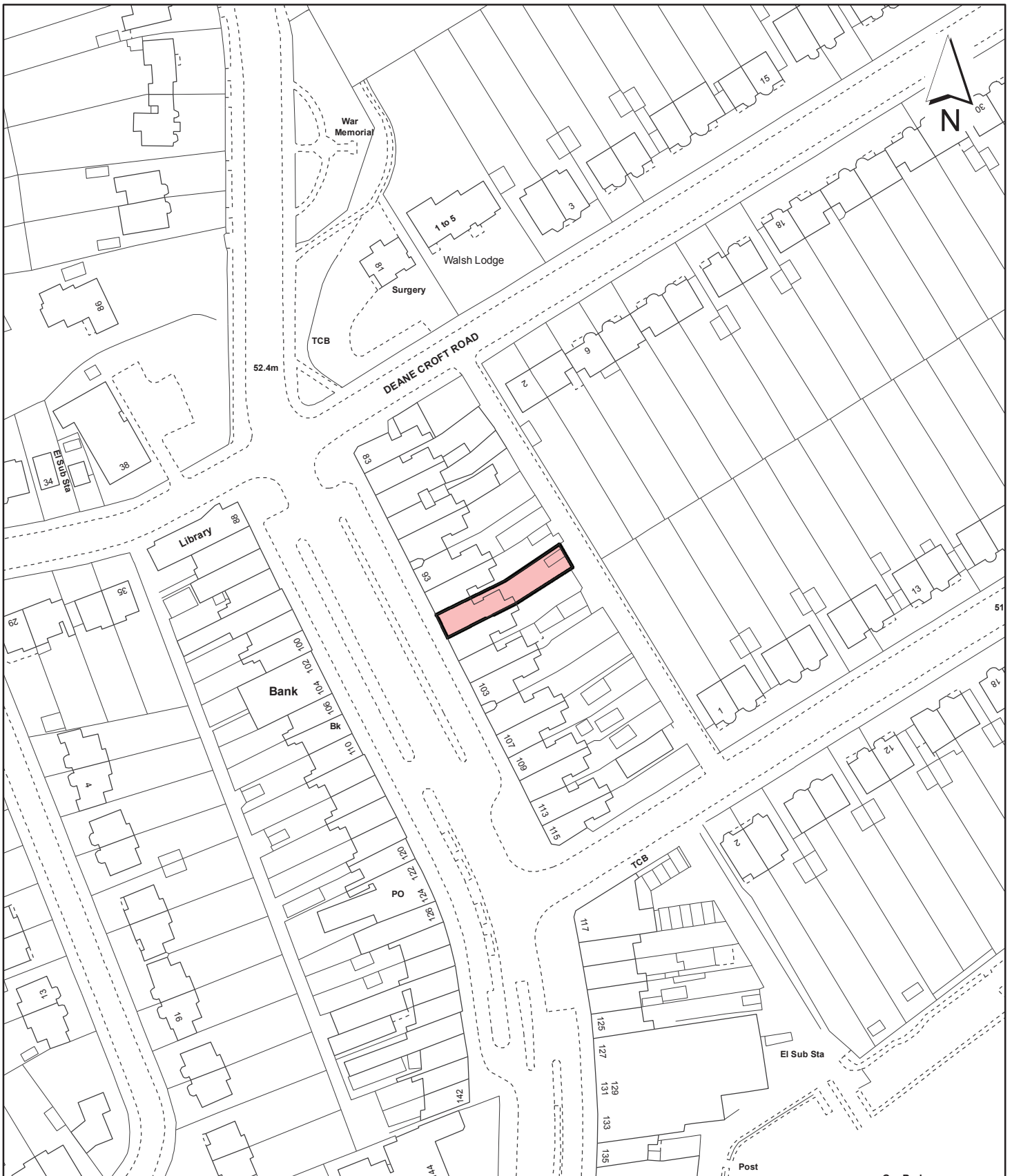
The change of use does not result in the proportion of frontage in non-retail use within the secondary area exceeding 50% and it is considered that the proposal would not impact on the amenities of adjoining occupiers and can be suitably controlled by condition. The proposal is therefore considered acceptable in this instance.

11. Reference Documents

Hillingdon Unitary Development Plan (Saved Policies September 2007).
London Plan 2011

Contact Officer: Clare Wright

Telephone No: 01895 250230



Notes

 Site boundary

For identification purposes only.

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Site Address

**97 Field End Road
Eastcote**

Planning Application Ref:

15559/APP/2011/2885

Planning Committee

North

Scale

1:1,250

Date

**January
2012**

**LONDON BOROUGH
OF HILLINGDON**
Planning,
Environment, Education
& Community Services

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



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