

Report of the Head of Planning & Enforcement Services

Address 15B STATION ROAD HAYES

Development: Change of Use from Use Class B8 (Storage and Distribution) to Use Class A1 (Shops) covered car park to retail shop

LBH Ref Nos: 17297/APP/2011/2231

Drawing Nos: Location Plan
05/B/01
05/B/02

Date Plans Received: 14/09/2011 **Date(s) of Amendment(s):** 14/09/2011

Date Application Valid: 27/09/2011

1. SUMMARY

Planning permission is sought for a change of use of an existing two storey storage building to an A1 retail unit (retrospective). Given the town centre location, the use would be acceptable in principle.

No external alterations are proposed and the use has already commenced. It should be noted that there are residential properties above the shops in the proximity of the application site, and there is considerable concern that the proposal would have a detrimental impact on the amenity of occupiers of the first floor residential units, through the cumulative impact associated with noise and disturbance from shoppers and deliveries as well as the increased potential for overlooking of the rear of dwellings above shops. The cumulative effect of this would lead to what is considered on balance to be an unacceptable reduction in the quality of residential amenity.

However, the application has failed to demonstrate that the proposal would not harm highway and pedestrian safety.

As such the application is considered unacceptable and recommended for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal has not demonstrated that either sufficient parking for vehicles associated with the use would be provided or sufficient manoeuvring and access arrangements for service delivery vehicles. It is considered that the proposal would be detrimental to highway and pedestrian safety contrary to policies AM7 and AM14 of the Hillingdon Unitary Development Plan (Saved Policies September 2007) and to the Hillingdon's Adopted Parking Standards Hillingdon UDP, Saved Policies, September(2007).

2 NON2 Non Standard reason for refusal

The proposed development would result in an increase in the perception of overlooking, as well as actual noise and disturbance to nearby residential properties, and as such would constitute an un-neighbourly form of development, resulting in a material loss of residential amenity. The proposal is therefore contrary to policies OE1 and BE24 of the

INFORMATIVES

1 I52 **Compulsory Informative (1)**

The decision to REFUSE 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 REFUSE 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.

LE1	Proposals for industry, warehousing and business development
LE4	Loss of existing industrial floorspace or land outside designated Industrial and Business Areas
S11	Service uses in Primary Shopping Areas
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
OE1	Protection of the character and amenities of surrounding properties and the local area
BE19	New development must improve or complement the character of the area.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
LPP 4.1	(2011) Developing London's economy
LPP 4.7	(2011) Retail and town centre development
LPP 4.9	(2011) Small Shops

3. **CONSIDERATIONS**

3.1 **Site and Locality**

The application site is located on the east side of Station Road, to the rear of the commercial units at Nos.13 and 15 Station Road. It comprises a two storey detached building previously used for 3 car spaces at ground floor and a storage distribution area at first floor level (both related to the A1 retail unit of No.15 Station Road). The ground floor is now in use as a A1 retail unit, the subject of this application. The site is accessed through an arched alleyway between the commercial units of Nos.11 and 15 Station Road. A corrugated sheeted roof (which is not apart of the application) covers the passageway between the application building and the arched alleyway.

To the west, lies the main Hayes Town Centre with the application site situated in between A2 Office (Thomas Cook Travel Agents No.11 Station Road) and a Class A1 retail unit (No.15 Station Road). Directly above the commercial units on this parade are residential properties which face directly onto the application site. Two external stairways provide access to these residential units to the front of the application site.

Directly to the north, to the rear of the shops is an area of hard standing used for vehicular parking.

As indicated, the application site is within Hayes Town Centre and also within a Primary Shopping Area as identified in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

Retrospective planning permission is sought for the change of use from Class B8 Storage and Distribution and associated parking (ground floor) to a Class A1 retail unit (ground floor) with ancillary storage warehouse at first floor level.

The submitted plans show that the ground floor would include a retail space measuring approximately 80 sq.m in area with an disabled wc also situated on the ground floor. The first floor would include a storage area 81 sq.m and two toilets.

The application is solely related to the use of the building as indicated by the red line in the site layout plan.

3.3 Relevant Planning History

17297/APP/2000/444 15b Station Road Hayes

ERECTION OF A TWO STOREY BUILDING FOR USE AS A FOOD MANUFACTURING PLACE (CLASS B1 USE) WITH ANCILLARY STORAGE AND OFFICE FACILITIES

Decision: 17-08-2000 Refused

17297/APP/2004/2485 15b Station Road Hayes

ERECTION OF A TWO STOREY ANCILLARY STORAGE BUILDING (FOR NO.15 STATION ROAD) WITH CAR PARKING (INVOLVING DEMOLITION OF EXISTING WORKSHOP BUILDING)

Decision: 04-11-2004 Approved

Comment on Relevant Planning History

Planning permission was granted in 2004 (17297/APP/2004/2485) for the erection of a two storey ancillary storage building for No.15 Station Road with car parking involving demolition of the existing workshop building. The ground floor plan provided 6 vehicular parking spaces and a storage unit with further storage facility on first floor. There were no relevant conditions attached to this decision.

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:

LE1	Proposals for industry, warehousing and business development
LE4	Loss of existing industrial floorspace or land outside designated Industrial and Business Areas
S11	Service uses in Primary Shopping Areas
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
OE1	Protection of the character and amenities of surrounding properties and the local area
BE19	New development must improve or complement the character of the area.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
LPP 4.1	(2011) Developing London's economy
LPP 4.7	(2011) Retail and town centre development
LPP 4.9	(2011) Small Shops

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

29 adjoining owner/occupiers were neighbour notified on the 29th September 2011. Two representations have been received.

The first representation received has raised concerns regarding the roof that has been installed between the application site and the passageway leading into the property. This is a health and safety issue which is of concern to the residents in the area. Concerns have also been raised in regard to the opening hours.

The second representation has highlighted that the public alleyway is been used as a retail platform and has also raised concerns of the covered walkway, which has no guttering leading to hazardous conditions during winter that impacts on the residents safety.

Officers Comments

The opening hours will be addressed under the main section of this report. With regard to the covered roof and the sale of good on a public right of way. This is outside the application site and would not impact on the outcome of this decision. The covered roof would require the benefit of planning permission and this information has been passed on to the Planning Enforcement Team for investigation.

A Ward Councillor requested that the application be determined by the Planning Committee.

Internal Consultees

Highways

The service road at the rear of the parade of shops fronting Station Road is accessed through a narrow access road with poor visibility and no provision for pedestrians. The proposals would require this unsuitable access road to be used by the members of the public and would also

intensity its use by delivery and staff vehicles for the proposed A1 use leading to situation detrimental highway and pedestrian safety, contrary to the Council's Policy AM7 of the UDP.

The application is therefore recommended for refusal.

Environment Protection Unit

No objection subject to conditions

(i) Restricting opening hours from 09:00am to 16:00pm Mondays to Saturdays and closure on Sundays.

(ii) A further condition restricting the air handling system through a scheme to control noise emanating from the site.

Officer Comment:

The EPU officer's very restrictive hours condition is considered to be tantamount to an objection to the scheme as this condition does not relate to the existing usage of the retail units.

Access Officer

The Equality Act 2010 seeks to protect people accessing goods, facilities and services from 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.

Whilst it has been noted that the proposed change of use would involve no material alterations affecting accessibility, the applicant should be advised of their legal obligations as set out above.

To this end it is strongly recommended that the applicant takes the opportunity to alter the layout of the existing accessible toilet facility to comply with the layout specified in Part M to the Building Regulations 2000 (2004 Edition).

Conclusion: Acceptable.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Although the property was previously a B8 warehouse, it was ancillary to No.15 Station Road which was in Class A1 Retail Use. The application site is also situated within the Primary Shopping Area of Hayes Town Centre where the presumption is in favour of A1 retail units. It is therefore considered that the principle of the use is acceptable subject to compliance with other policies in the plan and other the other considerations within this report.

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.

7.07 Impact on the character & appearance of the area

There are no external alterations proposed. As no external alterations are proposed, there would be no harm caused by the development and as such would not unduly detract from the visual amenities of the surrounding area and would be in compliance with policies BE13, BE15 and BE19 of the adopted Hillingdon Unitary Development Plan (Saved Policies, September 2007).

7.08 Impact on neighbours

The nearest residential properties lie above the commercial units situated directly north and west of the site. The control of opening hours could potentially protect these residents from disturbance during off-peak times, however, it is considered that the proposed use would attract a greater level of activity from customers coming and going than the previous B8 storage use. The previous storage use was used in conjunction with the Class A1 use situated on the commercial parade and would not have led to a significant movement of people other than those who work in the unit or vehicles.

A Class A1 retail unit has the potential to attract significantly greater number of people to the site than a B8 use. With unrestricted movement of people through the alleyway to the proposed A1 unit. Additional noise and disturbance from movement of customers would cause a detrimental impact on the residential properties at first floor level that face onto this A1 unit. Furthermore, customers can stand outside the A1 unit, or move freely within the car park area with the potential to overlook the residential units only area of amenity space and the habitable room windows in the rear of the dwellings. Even though, these neighbours are at first floor level and within a town centre location, this perception of overlooking would be so great that it would unacceptably reduce their amenity.

The cumulative combination of the additional noise and disturbance from customer movement, along with the perception of overlooking would therefore represent an unneighbourly form of use and in this respect would be contrary to policies OE1 and BE24 of the adopted Hillingdon Unitary Development Plan (Saved Policies, September 2007).

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Highways have been consulted on the application and have raised concerns regarding the access to the site. The property is accessed through a narrow access road with poor visibility and no provision for pedestrians. The use of this access road by pedestrians is considered unsuitable. Furthermore, due to the change of use, it would lead to an intensification of delivery and staff vehicles, ultimately detrimental to highway and pedestrian safety. No supporting information has been provided indicating where deliveries would take place. Nor has any plan been submitted which shows an area for both customer and staff parking.

There is already significant strain on the parking arrangements to the rear of this commercial parade which the additional Class A1 use would exacerbate and would therefore impact detrimentally on highway and pedestrian safety contrary to the policies AM7 and AM14 of the Hillingdon Unitary Development Plan (Saved Policies September 2007) and to the Council's Adopted Parking Standards.

7.11 Urban design, access and security

The application does not involve any external alterations to the building. The interior layout would provide a sufficient amount of floorspace to operate in Class A1 retail use.

7.12 Disabled access

The Access Officer has been consulted and has no objections to the scheme as no external alterations are proposed. However, the Access Officer has highlighted the need to comply with the Equality Act 2010 and strongly recommends altering the layout of the existing accessible toilet facility to comply with the layout specified in Part M to the Building Regulations 2000 (2004 Edition). If the application is deemed acceptable, an informative may be attached indicating this requirement.

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

No details of refuse storage have been submitted. However, this could be secured by way of a suitably worded planning condition, should planning permission be granted.

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

The proposal would generate a significant increase in noise from the movement of customers. No mitigating measures to control the noise levels have accompanied the application. No alterations are proposed to the fabric of the building to prevent noise break out. Nor would it be possible to control the number of customers into the Class A1 retail unit thereby reducing potential noise levels. As such, the A1 use in its present location would lead to an increase in noise levels from movement of both customers and vehicles than the previous B8 storage use. This increase in noise would be considered unacceptable and contrary to Policy OE1 of the Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.19 Comments on Public Consultations

The third party comments have been addressed in this report.

7.20 Planning obligations

Not applicable to this application.

7.21 Expediency of enforcement action

The assessment of this application is based solely on the use of the building as indicated through the submitted plans and the redline on the site location map. The use has commenced and as permission has not been granted, if this application is refused then the matter will be referred to the enforcement team. As noted, the roof structure linking the building with the nearby archway does not have planning permission. An enforcement case on this additional roof is presently being investigated by the enforcement team.

7.22 Other Issues

There are no other relevant issues.

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

10. CONCLUSION

As the use would potentially lead to greater noise and disturbance to the nearby residential flats that face onto the building, the Class A1 use would have a detrimental impact on the amenity of these residents. Furthermore, the use would generate additional deliveries, movement of vehicles and pedestrians along a narrow accessway. This would not be a suitable arrangement for the movement of both people and vehicles leading to a highway safety risk.

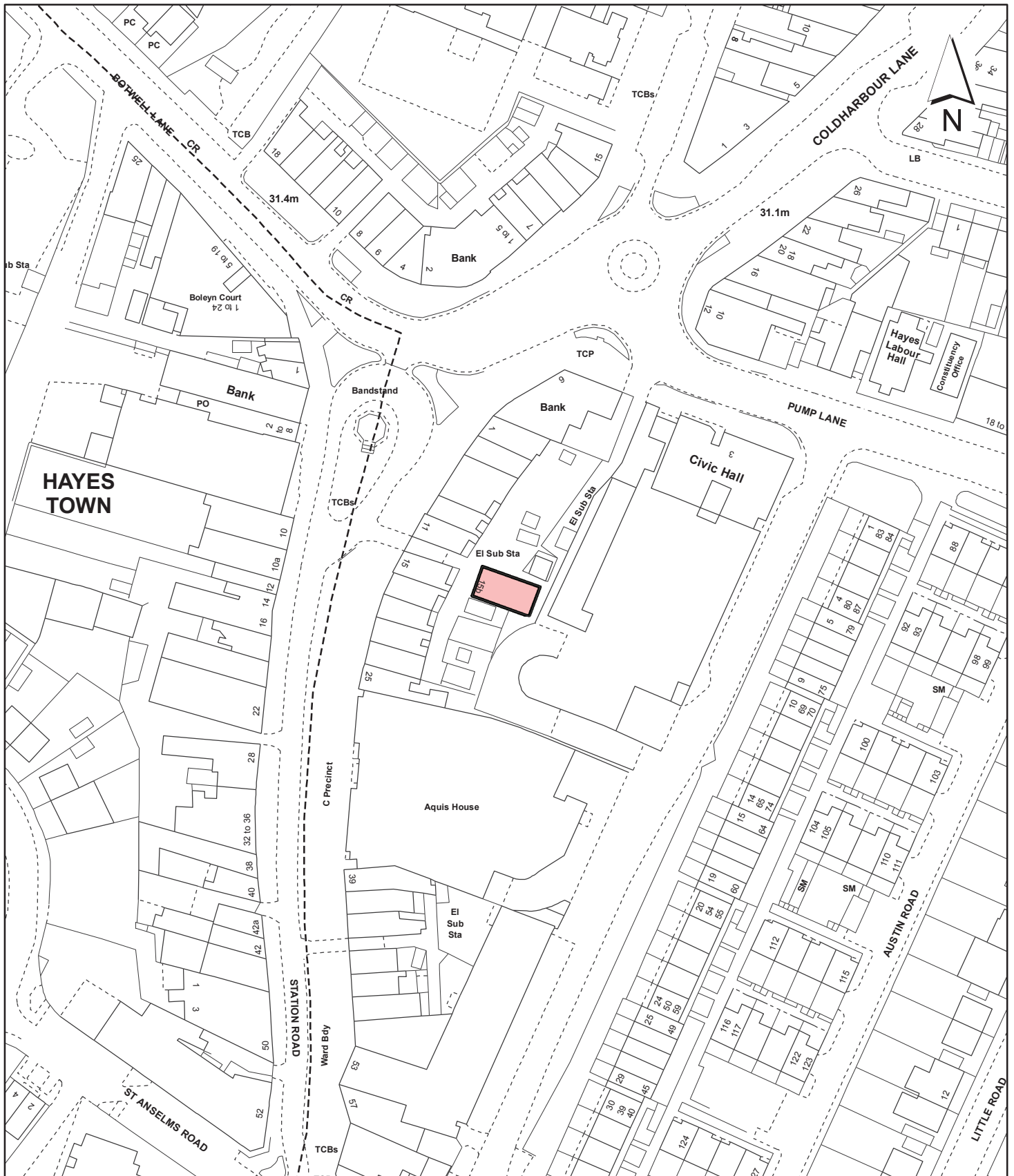
The application is recommended for refusal.

11. Reference Documents

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

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Notes

 Site boundary

For identification purposes only.

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Site Address

**15B Station Road
Hayes**

Planning Application Ref:

17297/APP/2011/2231

Planning Committee

Central and South

Scale

1:1,250

Date

**February
2012**

**LONDON BOROUGH
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