

Report of the Head of Planning & Enforcement Services

Address 25 JOEL STREET NORTHWOOD

Development: Variation of condition Nos. 4 and 6 (Opening and Delivery Hours) of planning permission ref 56137/APP/2010/48 dated 10/05/2010 to allow staff to be permitted on the premises between 23.30 and 08.00 and also to allow the premises to have deliveries or collections, including waste collections between the hours of 08.00 and 22.00 daily (Change of use to Class A3 Restaurant and Class A5 hot food takeaway and elevation alterations)

LBH Ref Nos: 56137/APP/2012/1119

Drawing Nos: Design & Access Statement
5046.01 (1:1250 Location Plan)
Specification - sound insulation; air extraction & ventilation details
5046:03E
5046:06

Date Plans Received: 09/05/2012

Date(s) of Amendment(s):

Date Application Valid: 11/05/2012

1. SUMMARY

The application is for the variation of condition 4 (Hours of Operation) and Condition 6 (Delivery times) of planning application reference 56137/APP/2010/48/FUL. The variation of condition 4 would allow staff on the premises at any time. The variation of condition 6 would allow delivery times between 08am and 10:00pm on Mondays to Fridays and 08:00am and 18:00 on Saturdays. It is considered that the proposed variation of condition would not result in an unacceptable level of noise and disturbance to the neighbouring residential dwellings and is therefore recommended for approval.

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 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3 N15 Hours restriction for audible amplified music/sound

No music and/ or other amplified sound arising from the site shall be audible from the inside of surrounding or adjacent premises between 2300 and 0700 hours.

REASON

To safeguard the amenity of the occupants of surrounding properties in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 7.15 of the London Plan (February 2008).

4 HLC1 Restaurants/Cafes/Snack Bars

No persons other than staff shall be permitted to be on the premises between 08:00 and 23:30pm.

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 Policies September 2007).

5 NONSC Non Standard Condition

No front window shutters shall be used unless design details are first submitted to and approved in writing by the local planning authority. Any installation shall be made in accordance with the approved details.

REASON

To safeguard the character and appearance of the street scene in accordance with policies BE13 and BE28 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

6 NONSC Non Standard Condition

There shall be no deliveries to the premises or waste collections from the premises outside the hours of 0800 and 2200 Mondays to Fridays, 0800 and 1800 on Saturdays and at no time on Sundays, Bank or 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).

7 NONSC Non Standard Condition

The use hereby permitted shall not commence until arrangements are submitted to and approved in writing by the Local Planning Authority for the provision of litter bins within 50m 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 S1 of the Hillingdon Unitary Development Plan.

8 NONSC Non Standard Condition

The uses hereby approved shall not commence until the submitted and approved plans and details for refuse storage, air extraction and ventilation and sound insulation have been implemented. These details shall also be maintained for as long as the development remains in existence.

REASON

To safeguard the amenity of surrounding area, in accordance with policies OE1 and OE3 of the adopted 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 |
| BE19 | New development must improve or complement the character of the area. |
| 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 |
| AM14 | New development and car parking standards. |
| AM7 | Consideration of traffic generated by proposed developments. |

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 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).

5 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.

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 I18 Storage and Collection of Refuse

The Council's Waste Service should be consulted about refuse storage and collection arrangements. Details of proposals should be included on submitted plans. For further information and advice, contact - the Waste Service Manager, Central Depot - Block A, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB8 3EU (Tel. 01895 277505 / 506).

8 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).

9

You are advised that Thames Water recommends the installation of a properly maintained fat trap on all catering establishment. They further recommend, in line with best practice for the disposal of Fats, Oil and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses. You are advised to consult Thames Water on 0208 507 4321.

10

You should ensure that your premises do not generate litter in the streets and nearby areas. Sections 93 and 94 of the Environmental Protection Act 1990 give local authorities the power to serve 'Street Litter Control Notices' requiring businesses to clear up the litter and implement measures to prevent the land from becoming littered again. By imposing a 'Street Litter Control Notice', the local authority has the power to force businesses to clean up the area in the vicinity of their premises, provide and empty bins and do anything else which may be necessary to remove litter. Amendments made to the 1990 Act by the Clean Neighbourhoods and Environment Act 2005 have made it immediately an offence to fail to comply with the requirements of a Street Litter Control Notice, and fixed penalties may be issued as an alternative to prosecution.

Given the requirements of the Clean Neighbourhoods and Environment Act 2005, you are advised to take part in Defra's Voluntary Code of Practice for 'Reducing litter caused by Food on the Go', published in November 2004.

Should you have any queries on the above, please contact the Environmental Enforcement Team within the Environment and Consumer Protection Group on 01895 277402 at the London Borough of Hillingdon.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the east side of Joel Street, north of the Northwood Hills Underground Station and comprises a three storey unit with residential units above. The application site is currently vacant and was previously in use as a hardware/flooring shop. Planning permission has been granted for a A3 Restuarant/A5 Takeaway Use. The site lies in the secondary shopping area of the Northwood Hills Minor Town Centre, as designated in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

The application seeks planning permission to vary Conditions 4 (Allowance of preparing of food, clearing up and staff on the premises) and Condition 6 (Delivery Hours including waste collection) of planning application reference 56137/APP/2010/48 to allow staff on the premises 24 hours and deliveries to take place between the hours of 08:00 and 22:00hrs daily.

3.3 Relevant Planning History

56137/APP/2001/698 25 Joel Street Northwood
CHANGE OF USE OF PART STORAGE AREA TO A TWO-BEDROOM SELF-CONTAINED FLAT

Decision: 28-06-2004 Refused

56137/APP/2005/2824 25 Joel Street Northwood
CHANGE OF USE FROM CLASS A1 (SHOPS) TO CLASS A3 (RESTAURANTS, SNACK BARS, CAFES) AND CLASS A5 (TAKEAWAYS)

Decision: 20-01-2006 Refused

Appeal: 29-03-2007 Allowed

56137/APP/2008/2867 25 Joel Street Northwood

Details in compliance with condition 4 (refuse storage), 5 (air extract and ventilation), and 6 (sound insulation) of planning permission (Ref 56137/APP/2005/2824) granted for the change of use to a restaurant and take away (Class 3 and A5)

Decision: 20-11-2008 Approved

56137/APP/2010/48 25 Joel Street Northwood

Change of use to Class A3 Restaurant and Class A5 hot food takeaway and elevational alterations.

Decision: 11-05-2010 Approved

Comment on Relevant Planning History

The site has planning permission for a change of use from Class A1 (shops) to Class A3 (restaurants, snack bars, cafes) and Class A5 (takeaway). This application was initially refused 56137/APP/2005/2824) by the North Planning Committee in January 2006 for the following reason:

"The proposed loss of this retail unit would erode the retail character and function of the Secondary Shopping Area and result in an over concentration of non-shop uses harming the vitality and viability of the Northwood Hills Secondary Shopping Area. The proposal is therefore contrary to Policy S12 of the Borough's adopted Unitary Development Plan.

An appeal was lodged and subsequently allowed in March 2007.

An application for the renewal of this approval (56137/APP/2010/48/FUL) was granted at the North Planning Committee in April 2010. As part of the decision for this application the following conditions were added in relation to staff on the premises and deliveries.

Condition 4

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 Policies September 2007).

Condition 6

The premises shall not have deliveries or 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) and Policy 4A.20 of the London Plan (February 2008).

The current application is solely to consider the variation of both these conditions.

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 |
| BE19 | New development must improve or complement the character of the area. |
| 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 |
| AM14 | New development and car parking standards. |
| AM7 | Consideration of traffic generated by proposed developments. |

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

A Site Notice was placed on the shop front on the 2nd June 2012 giving members of the public 21 days to express their views on the current application. The period for submission of comments expired on 23rd June 2012.

3 objections and a petition with 50 signatures has been received. The 3 representations raised the following concerns:

Objection 1

- (i) Abundance of fast food takeaways already with 25 in the area, no need for another
- (ii) Concerns over litter generated from these fast food outlets.

Objection 2

- (i) This variation will mean even more traffic and other disturbance through the night and early hours of the day, e.g. refuse being moved. e.g. moving glass bottles outdoors during the night.

Objection 3

- (i) If this application is approved there will be very additional serious noise nuisance and disturbance

problems created by the delivery and collection trucks during the night especially to the residents with young children living in the immediate vicinity. There is a law against noise nuisance at night. Residents are already suffering from noise and anti social problems in this area. Oakdale Ave. is very narrow and has existing parking problems.

(ii) We would like to know how trucks will obtain access to collect rubbish from this premises?

(iii) There is also a major vermin and rodent problem in this area and feel another food outlet will only accentuate this even further.

The following petition was received

There are already 25 existing takeaways/restaurants serving food in this area including Tam's Fried Chicken Takeaway at 78 Joel Street. We feel that another takeaway/restaurant will only add further to the existing difficult problems of :

1. Litter
2. Parking
3. Disturbance (anti-social) to neighbours and residents
4. Unpleasant odours

Northwood Hills Residents Association

No comments received.

Officer Comments

It must be noted that the principle of the use has already been granted and the assessment is solely on the variation of 2 conditions. Some of the points raised in the petition and objection 1 regarding the number of takeaways/restaurants, parking and impact on litter will not be considered under this assessment, as this has already been assessed and approved under the previous application. Concerns related to the impact from opening hours will be addressed in the main bulk of the report.

Internal Consultees

Environment Protection Unit

With respect to condition 4, EPU can support the proposed wording as set out in the letter dated 10th of May from Walsingham Planning.

With respect to condition 6, the wording that would be acceptable to EPU is as follows;

There shall be no deliveries to the premises or waste collections from the premises outside the hours of 0800 and 2200 Mondays to Fridays, 0800 and 1800 on Saturdays and at no time on Sundays or Bank or Public Holidays.

The proposal to amend delivery times to between 0800 and 2200 on a daily basis cannot be supported by EPU due to the potential for adverse impact on the amenity of the occupiers of adjoining residential dwellings. Additionally, it is not felt that the premises in question has demonstrated why it would be necessary to allow deliveries and waste collections seven days per week. It is felt that the above hours provides additional flexibility, does not impinge on the collection of takeaway meals and provides protection to residential amenity on weekends and public holidays.

Officer Comments

Following the comments expressed by EPU, the applicant is happy to accept the reworded condition suggested by EPU which would restrict deliveries between the hours of 8am and 10pm on Mondays to Fridays and 8am to 6pm on Saturdays, with no deliveries on Sundays, Bank or Public Holidays.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application is for a variation of condition to allow for staff on the premises 24 hours and an alteration in the delivery times. Given that the use has already been granted permission in 2007 and renewed in 2010, the principle of a A3 Restuarant/A5 Takeaway use on the site is acceptable.

7.02 Density of the proposed development

Not applicable to this application.

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

The application site is not within any designated Conservation Areas or Area of Special Local Character.

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 proposed variation of condition would result in no material change in the form of the building and would, therefore, be in compliance with Policies BE13, BE15 and BE19 of the adopted UDP (Saved Policies September 2007).

7.08 Impact on neighbours

Whilst, the application site is located within a Secondary Shopping Area as identified in the UDP, there are several residential units at first floor level along this parade. The wider characteristic of the area is a residential with the residential streets of Oakdale Avenue and Briarwood Drive situated direct to the east of the site.

The initial planning appeal decision (APP/R5510/A/06/2016620) in 2007 placed the following condition restricting opening hours on the site.

Condition 2 The use hereby permitted shall not be used by customers outside the following times 08:00-23:00 on Monday to Thursdays; 08:00-24:00 on Fridays and Saturdays; and 12:00-23:00hrs on Sundays and Bank Holidays.

The Inspectorate did not consider it necessary to place a condition on staff or delivery times to the premises.

The Environment Protection Officer has no objections to the alteration of Condition 4. The proposed use would still restrict customers from the premises between the hours of 08:30am and 11:00pm. It is considered that having staff on the premises would not create any additional noise disturbance to the neighbouring properties. Staff on the premises would not lead to any adverse impact on the neighbours amenity as other conditions would protect the property against potential noise disturbances. The scheme is subject to a condition (8) requiring suitable sound insulation measures to be submitted and implemented as long as the development remains in existence. Suitable insulation to be agreed with EPU would alleviate any sound nuisances from staff and customers to the residents above the premises. Furthermore, condition 3 attached to the planning permission restricts music or amplified being audible from the surrounding properties between the hours of 7am and 11pm. It is considered that both these conditions would allow the neighbours amenity to remain protected during the night time and therefore the relaxation of condition 4 to allow staff on the premises would be acceptable.

With regard Condition 6, as noted, the initial appeal decision APP/R5510/A/06/2016620 had no restrictions on delivery times. The renewed scheme in 2010 restricted deliveries between the hours of 08:00am and 18:00pm. The current scheme proposes between the hours of 08:00am and 10pm, 7 days a week. The EPU Officer has recommended revised hours which would continue to restrict deliveries between the hours of 08:00am and 6:00pm on Saturdays and no deliveries on Sundays/Bank Holidays. This has been accepted by the applicant and it is considered that this restriction would alleviate the impact on neighbours amenity when occupiers are most likely to be at home. The night-time period of 23:00pm and 07:00am would remain protected from any deliveries. As such it is considered that the revised condition would be acceptable.

The proposal would therefore comply with Policies OE1, OE3 and BE19 of the adopted UDP (Saved Policies September 2007) and would not be harmful to the residential amenity of the neighbouring residential properties.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

The parking requirements for Class A3 and Class A5 uses are the same as for Class A1 uses. Therefore, the proposed change of use is unlikely to result in a greater impact on highway safety than the existing use. As such, the proposal would comply with Policy AM14 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.11 Urban design, access and security

No urban design, access or security issues for determination in this application.

7.12 Disabled access

Not applicable to this application.

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

Not applicable to this application.

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

This is addressed at section 07.08.

7.19 Comments on Public Consultations

With regards to the third party comments, the principle of the use including issues raised litter; parking; unpleasant odours; abundance of takeaways have been addressed under the original scheme. Conditions were attached on this scheme to address concerns over waste management, limitation of music and amplified sound and provision of litter bins outside to ensure that the amenities of adjoining residential occupiers are protected. It is also important to note that details relating to the storage of refuse, air extraction and ventilation and sound insulation have been submitted and approved in November 2008.

Furthermore the rear service road is sufficient for deliveries and services to the use. The concerns raised to noise and disturbances to the neighbours have been addressed in

Section 7:08.

7.20 Planning Obligations

This is not applicable to this application.

7.21 Expediency of enforcement action

This is not applicable to this application.

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

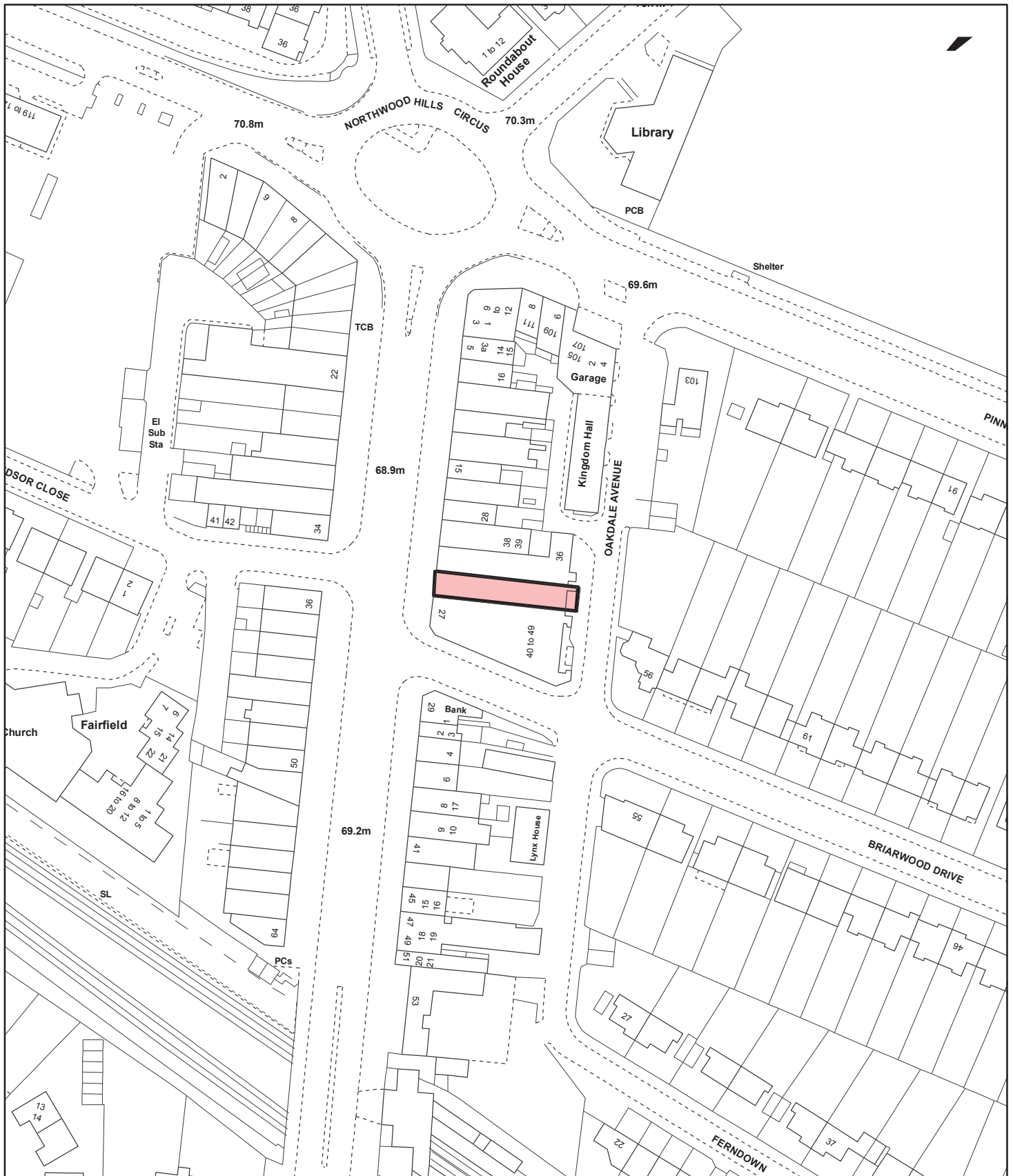
The proposed variation of conditions is considered acceptable and would not result in an unacceptable level of noise disturbance to the neighbouring residential dwellings and is therefore recommended for approval.

11. Reference Documents


Hillingdon Unitary Development (Saved Policies September 2007).
The London Plan 2011
Supplementary Planning Document: Noise (April 2006).

Contact Officer: Eoin Concannon

Telephone No: 01895 250230



Notes

 Site boundary

For identification purposes only.

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| Site Address | |
| 25 Joel Street, Northwood | |
| Planning Application Ref: | Scale |
| 56137/APP/2012/1119 | 1:1,250 |
| Planning Committee | Date |
| North | July 2012 |

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

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 Telephone No.: Uxbridge 250111



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