

Report of the Head of Planning & Enforcement Services

Address 173 HIGH STREET UXBRIDGE
Development: Change of use to Betting Shop (Use Class A2) from Retail (Use Class A1).
LBH Ref Nos: 2104/APP/2012/2084
Drawing Nos: UXB/01
UXB/02
Planning Statement
Town Centre Evidence

Date Plans Received: 28/08/2012 **Date(s) of Amendment(s):**
Date Application Valid: 14/09/2012

1. SUMMARY

The application is for a change of use from A1 retail to an A2 Betting Shop.

The change of use would not cause unacceptable harm to the vitality and viability of the Town Centre and Primary Shopping Area as a retail destination and would ensure a vibrant mix of retail uses would be provided within the Town Centre. The change of use has had an acceptable impact on the residential amenity of the neighbouring occupiers. The application is 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 COM4 Accordance with Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan number UXB/02 and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and the London Plan (July 2011).

3 NONSC Refuse Storage

Details of on-site refuse storage for waste material awaiting disposal, including details of any screening, shall be indicated on plans to be submitted to and approved by the Local Planning Authority. Such facilities shall be provided prior to occupation of the development and thereafter permanently retained.

REASON

In order to safeguard the amenities of the area, in accordance with Policy OE1 of the Local Plan Part 2 and London Plan (July 2011) Policy 7.1.

4 DIS2 Access to Buildings for People with Disabilities

Development shall not commence until details of 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 AM13 of the Local Plan Part 2 and London Plan (July 2011) Policies 3.1, 3.8 and 7.2

5 COM22 Operating Hours

The premises shall not be used except between:-

[0800 to 2200], Mondays - Fridays
[0800 to 2200] Saturdays
[0800 to 2200] Sundays, Public or Bank Holidays.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policy OE3 of the Hillingdon Unitary Development Plan.

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.

BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE4	New development within or on the fringes of conservation areas
BE8	Planning applications for alteration or extension of listed buildings
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary 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

AM2	measures Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
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3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the north east side of High Street Uxbridge forming part of the frontage of Uxbridge Underground Station fronting the concourse. To the south east lies Santander Bank and to the north west lies 171 High Street. The application property is a Grade II listed building and lies within the Old Uxbridge/Windsor Street Conservation Area. It also lies within an archaeological Priority Area however given the nature of the proposed development.

3.2 Proposed Scheme

Change of use from A1 retail to a Betting Shop (Use class A2).

3.3 Relevant Planning History

Comment on Relevant Planning History

There is an extensive planning history on this site. It should be noted that the last approval on the site was for an A1 use and that in subsequent years used for cafe uses, which at the time were deemed to be A1.

There is also an application for Listed Building Consent relating to the internal alterations to the building that will be needed to facilitate a change of use ref: 2104/APP/2012/2288.

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
BE4	New development within or on the fringes of conservation areas
BE8	Planning applications for alteration or extension of listed buildings
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary 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
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity

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 letter of objection has been received, sent behalf of a party with an interest in the Uxbridge Town Centre. Objections are raised on the following grounds:

I act for clients with commercial interests in Uxbridge town centre close to the above premises, and I am instructed to submit representations in respect of the application to change the use of the premises to a licensed betting office (your ref 2104/APP/2012/2084).

As indicated in the applicant's covering letter, the saved policies of the 2007 UDP remain the relevant policies for development control purposes particularly, in this case, Policy S11. The application premises fall within the "Primary Shopping Area" of the Strategic Centre where Policy S11 allows non-Class A1 uses, but only banks and building societies of the A2 uses which excludes licensed betting offices and A3 uses. Betting offices are not, therefore, regarded as being appropriate unlike banks, restaurants, food take-aways and building societies which your Council regard as uses which "complement or support the retail function (para. 8.25 of the UDP). There is, therefore, a fundamental conflict with S11 which tells against this proposed change of use.

It is also explained, at para. 8.26, that the Council will seek to maintain at least 70% of the primary area frontage in Class A1 use and generally to avoid concentrations of service uses in primary and secondary areas. It is confirmed that you will normally seek to prevent a separation or an increase in separation of Class A1 units of more than about 8m".

The applicants have dealt with these two caveats in their supporting letter, suggesting that from the latest survey data, 76% of the town centre is currently in Class A1 use and that, on the basis of the "Costa" premises adjoining, at no. 172, being an A1 use, the continuous frontage in non-Class A1 use would be approximately 15.5m, should planning permission be granted "slightly more than 12m of continuous non-retail frontage ...".

I have no means of verifying the 76% A1 retail frontage in the centre's Primary Shopping Area, without carrying out a full survey of the centre, albeit I note from the 2012 Uxbridge Health Check Assessment that it is suggested that 76.6% of the PSA frontage was in A1 retail use in 2011 (Table 5.3 of the "Strategic Prospectives" Convenience Retail Study 2012).

Insofar as the "concentration issue is concerned, I note, as mentioned, that the applicants have excluded the "Costa" coffee unit at no. 172, which adjoins the application premises from their calculations. This is on the basis that there is no history of Class A3 use being approved there and that your Council has, apparently, confirmed that the lawful use of the premises is for A1 purposes. Whilst there may be no explicit planning permission for the A3 use, no document has been produced confirming that your Authority regard the lawful use to be A1. From inspection, there can be no doubt that the Costa premises must be regarded as a mixed A1/A3 use at the very least, if it does not fall within Class A3 of the Use Classes Order as: Use for the sale of food or drink for consumption on the premises. There is, after all, seating for over forty persons inside and outside the premises.

No. 172 must, therefore, be included in the equation, and a continuous run of non-A1 uses would result, should permission be granted in respect of this betting office, resulting in a run of 21m - 22m, which is close to double the 12m threshold referred to in the UDP.

Even if the use had been considered appropriate, therefore, as a matter of principle which it is not the proposal fails the "concentration test, which compounds the basis for objection. There can, therefore, be no justification for this proposed change of use, which would result in an unacceptable concentration of non-A1 retail uses at a particularly sensitive location in the town centre.

It is not without interest to note that mention is made of pedestrian flows in the 2012 Retail Update Study referred to above, where it is stated, at para. 5.45, that:

"The greatest concentration of pedestrian footfall is along the largely pedestrianised High Street and is concentrated between The Mall Shopping Centre to the north and The Chimes to the south. Another major contributor to footfall appears to be the Underground and bus stations which are located in between the two shopping centres. Overall, the centre is active and shops along this stretch appear to have access to a large footfall of passing trade.

This is precisely the location for this proposed betting office an area which should clearly be reserved for Class A1 retail uses, so as to promote the primary retail function of this important part of the centre.

OFFICER COMMENT: These issues have been addressed in the 'principle of development section'. It should be noted that Officers do not agree that the Costa unit is not an A1 use (officers base this view on recent appeal decisions).

Internal Consultees

URBAN DESIGN & CONSERVATION

No objection.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application is for planning permission for the change of use of a retail unit from A1 to A2 use within a designated Town centre.

Policy S6 of the Local Plan Part 2 states that to safeguard the amenities of shopping areas, the Local Planning Authority will grant permission for changes of use of Class A1 shops if:

a) The proposal will not be detrimental to visual amenity where the premises form part of a statutory or locally Listed Building or are located within a Conservation Area.

The application building is statutory listed and lies within a Conservation Area. A Listed Building Application has also been submitted and is being considered concurrently. It should be noted that the Council's Heritage Officer has agreed that the Listed building application can be decided separately from the change of use application, given the nature of the listing and the minimal nature of the alterations required to facilitate the change of use.

b) A frontage of a design appropriate to the surrounding area is maintained or provided:

No changes are proposed in this regard.

c) The proposed use is compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties by reason of disturbance, noise, smell, fumes, parking or traffic related problems:

No such issues are considered to arise. Issues regarding operating hours and

management are covered by the Licencing Act 2003.

d) Has no harmful effect on road safety and does not worsen traffic congestion or disrupt bus operations.

The proposed A2 betting shop is located within a pedestrianised area of the Town Centre, away from residential properties. It is therefore considered that the proposed use would have no harm on the vitality and viability of the Uxbridge Town Centre.

The application site is located within the Primary Shopping Area of Uxbridge Town Centre. Therefore Policy S11 of the adopted UDP (Saved Policies September 2007) would require the change of use of the premises to ensure the remaining retail facilities in the Primary Shopping Area would be adequate for the need of the retail area. In addition the development should not lead to a concentration of non-retail uses which might harm the viability of the retail centre.

The Uxbridge 2012 Annual Shopping Survey showed that of 76.9% of frontages in the Primary Shopping Area were in A1 use, with 79.5% of the units being in A1 use.

Policy S11 of the adopted UDP (Saved Policies September 2007) requires more than 70% of a Primary Shopping Area to be retained within A1 use, in order for the shopping area to remain as a viable retail destination.

The change of use of the site would reduce the frontages in A1 use to 76.5% and the number of units in A1 use to 79.1%. The Primary Shopping Area would remain above the 70% threshold. Furthermore, the existing unit is flanked to the northwest by Costa, which is in A1 operation and by Santander to the southeast, which is an A2 operation.

The change of use would lead to a continuous non-A1 frontage of more than 12 metres, which is greater than is recommended within the subtext to the policy. However, this needs to be considered having regard to the intention of the policy, which is to prevent interruptions to the retail frontage which might harm vitality, for example by creating a separation of the Town Centre and reducing footfall to certain area. In this case the site is located between The Mall, Uxbridge Tube/Bus Station and The Chimes which are key hubs within the Town Centre attracting and generating pedestrian. Given this location it is not considered that the proposal would result in an unacceptable separation of retail uses or result in any harmful impact on the vitality or viability of the retail destination.

There has also been a recent appeal decision concerning 'Bella Italia' in the High Street. Case Officers refused a change of use from A1 to A3 use. Quite simply the Appeal Inspector in allowing their appeal against the refusal said that he was not convinced that with such a thriving retail centre as Uxbridge that applications for alternative uses should be refused strictly because of the frontage constraint. The Inspector felt that this policy criteria must be balanced against wider considerations of a proposals contributions to the vitality and viability of the town centre.

Therefore, the proposed change of use of the premises to A2 use is considered to be in compliance with Policies S6 and S11 of the adopted UDP (Saved Policies September 2007) and would be acceptable in principle.

7.02 Density of the proposed development

Not applicable to this type of development.

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

The site lies within the Old Uxbridge/Windsor Street Conservation Area and forms part of the Grade II listed Uxbridge Underground Station building. No external alterations are being proposed at this point and as such the proposal would not have an impact on the Conservation Area. The Council's Heritage officer has not raised any objections in principle to the change of use. Listed Building matters will be addressed under the concurrent Listed Building Application.

7.04 Airport safeguarding

No airport safeguarding issues arise from the proposal.

7.05 Impact on the green belt

The site is not located in the Green Belt.

7.07 Impact on the character & appearance of the area

No external changes are being proposed and as such the proposal will have no impact on the character and appearance of the area.

7.08 Impact on neighbours

The site is located in the heart of the town centre by the Underground Station, with no residential properties in close proximity. The site is also located close to taxi ranks and public houses (Baroosh and Three Tuns) both of which are open until 11pm, with Baroosh being able to open until 1am on Fridays and Saturdays.

With respect to the impact on residential amenity there are no residential flats above. It should also be noted that the site is surrounded by Public Houses which open later than the 10pm the use is proposed to open until. The scheme is therefore considered acceptable in this regard.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

AM2 states that all proposals for development will be assessed against their contribution to traffic generation and their impact on congestion and the present and potential availability of public transport and its capacity to meet increased demand.

Given the site's location in a town centre, the proposed change of use would not affect the current parking provision and is therefore considered acceptable.

7.11 Urban design, access and security

There are no urban design, access or security issues arising from the proposed change of use.

7.12 Disabled access

It is considered that the proposed development would be accessible to all and would comply with the Hillingdon Design and Accessibility Statement Accessible Hillingdon.

7.13 Provision of affordable & special needs housing

This is not applicable to this type of application.

7.14 Trees, landscaping and Ecology

This is not applicable to this type of application.

7.15 Sustainable waste management

Details of refuse storage have not been provided. However, the site is served by a service yard to the rear where bin stores are located. Given this, and the fact the proposed A2 is likely to generate less refuse, it is considered that the proposed development could provide adequate refuse storage facilities. A condition is recommended requiring details of this to be submitted prior to commencement.

7.16 Renewable energy / Sustainability

This is not applicable to this type of application.

7.17 Flooding or Drainage Issues

This is not applicable to this type of application.

7.18 Noise or Air Quality Issues

No noise or air quality issues are considered to arise from the proposed development.

7.19 Comments on Public Consultations

In relation to the objection received

7.20 Planning obligations

This is not applicable to this type of application.

7.21 Expediency of enforcement action

None.

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

10. CONCLUSION

The change of use would not cause unacceptable harm to the vitality and viability of the Primary Shopping Area as a retail destination and would ensure a vibrant mix of retail uses would be provided within the Town Centre. The change of use would not have an

unacceptable impact on the residential amenity of the neighbouring occupiers and the application is recommended for approval.

11. Reference Documents

Hillingdon Local Plan: Part 1 Strategic Policies November 2012

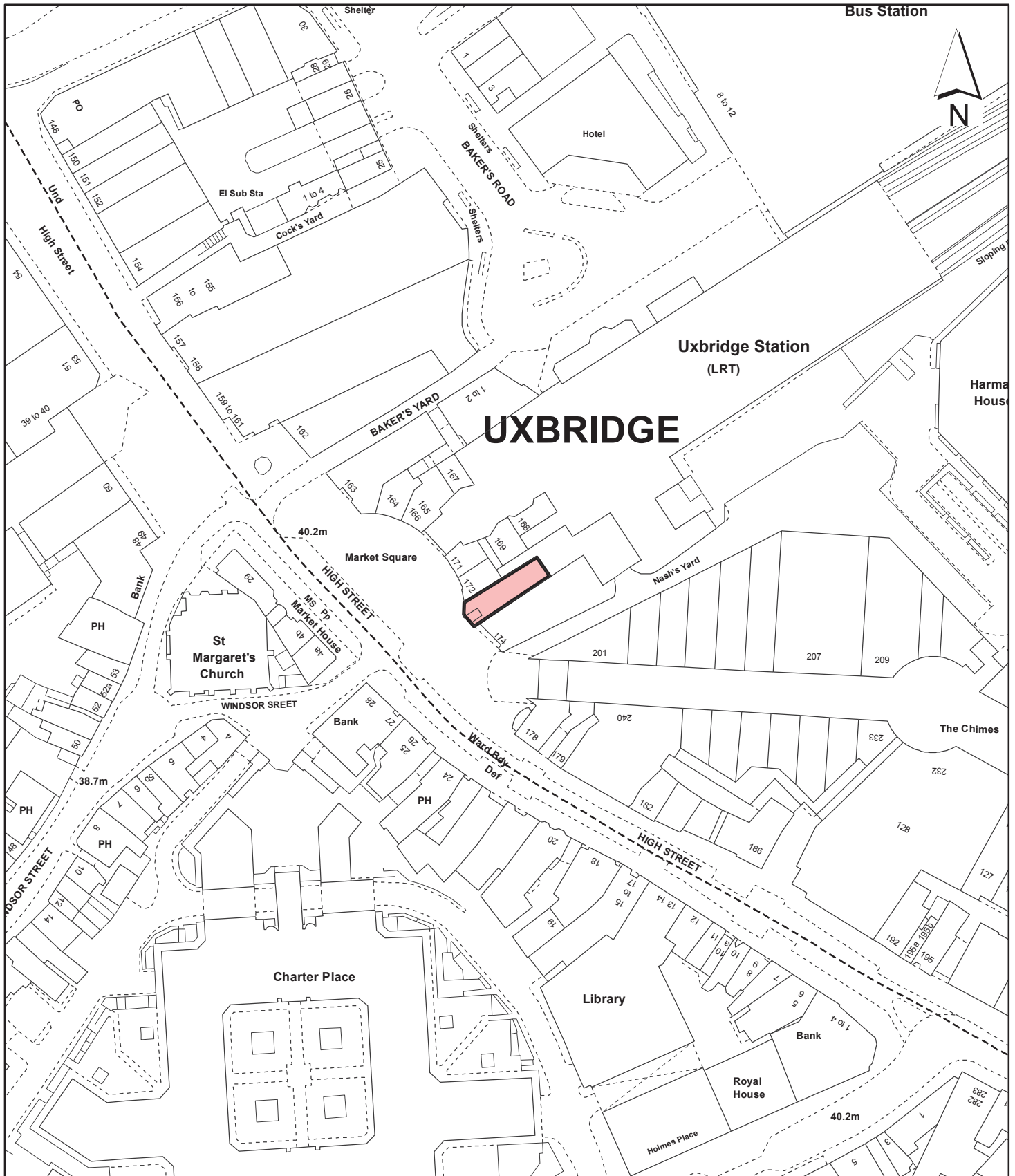
The Local Plan: Part 2.

The London Plan 2011.

National Planning Policy Framework (March 2012).

Contact Officer: Matt Kolaszewski

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UXBRIDGE

Notes



Site boundary

For identification purposes only.

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Site Address

**173 High Street
Uxbridge**

**LONDON BOROUGH
OF HILLINGDON
Residents Services**

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

Planning Application Ref:

2104/APP/2012/2084

Scale

1:1,250

Planning Committee

Central and South

Date

**December
2012**



HILLINGDON
LONDON