

Report of the Head of Planning, Sport and Green Spaces

Address 73 SWAKELEYS ROAD ICKENHAM

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

LBH Ref Nos: 52680/APP/2012/3209

Drawing Nos: Photographs
Location Plan to Scale 1:1250
Block plan to Scale 1:500
2356
Design, Access and Impact Statement

Date Plans Received: 28/12/2012 **Date(s) of Amendment(s):**
Date Application Valid: 28/12/2012

1. SUMMARY

The application is for a change of use of the premises from retail (Class A1) to a take-away (Class A5). The site is outside the core area of the Local Centre and is currently in A1 (retail) use, albeit vacant. It is considered that the proposed take-away use would have a detrimental effect on the amenity of the surrounding residential occupiers and as such, the application is recommended for refusal

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposed use and hours of operation would have a detrimental impact on the amenities of adjoining residential occupiers by reason of noise and disturbance, contrary to Policies OE1, OE3, S6 and S10 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

INFORMATIVES

1 I59 Councils Local Plan : Part 1 - Strategic Policies

On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant saved policies (referred to as policies from the Hillingdon Unitary Development Plan - Saved Policies), then London Plan Policies. On the 8th November 2012 Hillingdon's Full Council agreed the adoption of the Councils Local Plan: Part 1 - Strategic Policies. Appendix 5 of this explains which saved policies from the old Unitary Development (which was subject to a direction from Secretary of State in September 2007 agreeing that the policies were 'saved') still apply for development control decisions.

2 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).

3 153 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan (November 2012) 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
S9	Change of use of shops in Local Centres
S10	Change of use of shops in Local Centres - criteria for permitting changes of use outside core areas
BE4	New development within or on the fringes of conservation areas
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.
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

3. CONSIDERATIONS

3.1 Site and Locality

The application site is on the southern side of Swakeleys Road and comprises a ground floor retail unit with a residential flat above. To the front there is a wide footway, with metered parking provided on the edge of the vehicular highway. This southern side of the highway is commercial in character and appearance, although there are residential properties on the north side of the road and to the rear of the site.

The site is within Ickenham Local Centre and Ickenham Village Conservation Area as identified as identified in the adopted Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

3.2 Proposed Scheme

The application seeks a change of use of an existing pet Shop to a hot food take away use.

The proposed change of use would comprise 83 square metres of floorspace and would provide a customer area, a staff room, cold store, freezer room, counter and cold display. 3 employees would be employed on a full time basis and the unit is proposed to operate from 11am to midnight, 7 days a week.

An extract outlet area is shown on the plans to the rear of the property. However there are no further details of extract ducting or ventilation. No parking is provided on the basis that there is a direct bus route and parking outside of the premises.

3.3 Relevant Planning History

Comment on Relevant Planning History

There is no relevant planning history.

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

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

Part 1 Policies:

PT1.BE1 (2012) Built Environment

Part 2 Policies:

- S6 Change of use of shops - safeguarding the amenities of shopping areas
- S9 Change of use of shops in Local Centres
- S10 Change of use of shops in Local Centres - criteria for permitting changes of use outside core areas
- BE4 New development within or on the fringes of conservation areas
- 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.
- 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

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **6th February 2013**

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

10 neighbours were consulted and a site notice was erected adjacent the site, expiring on 6th February 2013. 9 individual letters and a petition with 132 signatures have been received. The objections can be summarised as follows:

1. Noise and Disturbance
2. Odours from Cooking
3. 11am-Midnight opening hours
4. Food Waste
5. 7 takeaways in the vicinity and area is already saturated
6. Potential anti-social behaviour and increased policing
7. Traffic
8. Fan Outlet would affect quality of life
9. The current use has been closed for 6 months

Ickenham Residents Association: The statement that the shop had been closed for a year is not correct. It is in fact less than 6 months.

There are already 22 restaurants/cafes or hot food takeaway establishments (out of a total of 37 retail shops) in the shopping parade along Swakeleys Road, Glebe Avenue and High Road + West Ruislip Station, listed as follows:

Swakeleys Road

- 1 Wenzel's Bakery and Takeaway
- 2 Fry Days Fish and Chips Takeaway
- 3 The Tichenham Inn Public House
- 4 Maison de Soleil Cafe
- 5 Roc Cottage Chinese Restaurant Takeaway
- 6 Birothi Indian Restaurant Takeaway
- 7 Lotus House Chinese Restaurant Takeaway
- 8 Muffins Sandwich Bar CLOSED

Long Lane

- 9 Coach & Horses Public House
- 10 Chaplin's Restaurant
- 11 Fresh Bites

Glebe Avenue

- 12 Blue Saffron Indian take away
- 13 Peking Palace Chinese take away
- 14 Iced 'n' Sliced cafe
- 15 No. 2 Glebe Avenue / MAPLESTONE Change of Use for hot takeaway approved (2771/APP/2012/2062)

High Road

- 16 Soldiers Return Public House
- 17 Old Fox Public House

High Road / West Ruislip Station

- 18 Dominos Pizza, Great Central Parade,
- 19 Darjeeling Tandoori, Great Central Parade,
- 20 Ickenham Rendezvous
- 21 Ickenham Fish Bar
- 22 Pakora East India Takeaway (next to West Ruislip Station)

Plus two Petrol Stations (one in Long Lane and one in High Road) with shop outlets and facilities for takeaway food.

With the threat of a possible supermarket at the Hillingdon Circus junction we consider that another hot food outlet would reduce the opportunity for more useful shops to be opened in Ickenham to protect residents local choice.

The Association strongly objects to this planning application.

Internal Consultees

Urban Design:

The proposed changes are mostly internal and as such these would not have an impact on the conservation area. It is felt, however, that the proposed use would generate litter and waste which would have a detrimental impact on the street scene of the area. This should be appropriately considered and conditioned from a planning point of view. Any changes to the signage should be subject to advertisement consent.

Conclusion: Acceptable with conditions.

Environmental Protection Unit:

I have reviewed this application, there is no information about odour and noise mitigation measures. Thus conditions relating to details of any air extraction system, noise levels and a sound insulation scheme controlling noise transmission to the adjoining dwellings are recommended.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Policy S9 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that in Local Centres, the Local Planning Authority will only grant planning permission to change the use from Class A1 shops outside the core areas.

The site is outside the core area of the Local Centre and therefore no objection would be raised to the principle of the proposal, subject to meeting the specified criteria in Policy S10 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

The application is located within Ickenham Local Centre. A Local Centre should have local shops and services within a walking distance and a full range and choice of services and essential shop uses local for people who do not live or work near a Town Centre.

In accordance with Policy S10, outside core areas, planning permission will be granted from a change of use from A1 if:

- i. The centre as a whole includes essential local shop uses sufficient in number, range and type to serve the surrounding residential area;
- ii. The proposed use provides a local service; and
- iii. The proposal accords with Policy S6.

At present the parade comprises 11 units, and should the change of use be granted for A5 use, the resultant breakdown would be as follows:

54% of A1 (6 units)
27% of D2 (3 units)
9% of A2 (1 units)
9% of A5 (1 unit)

Therefore it is considered that the proposed change of use within the designated Local Centre of Ickenham would not result in the undue loss of a retail unit and would not undermine the attractiveness of the Local Centre in terms of the number and range of shops needed to carry out its function, in accordance with part (i) of Policy S10.

Policy S6 states that changes of use applications will be granted where i) a frontage of design appropriate to the surrounding area is maintained or provided; ii) the use would be compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties; and iii) would have no harmful effect on road safety or worsen traffic congestion.

There are no external alterations proposed to the frontage as part of this application, and therefore the proposal would comply with the first criteria, and loss of residential amenity has been dealt with in Section 7.08 above and is considered to be unacceptable. With regards to highway considerations this has been considered in Section 7.20 above and is considered acceptable. Therefore the proposal would fail to comply with the criteria listed in Policies S10 and S6 of the Hillingdon Local Plan: Part Two - Saved UDP Policies

(November 2012).

7.02 Density of the proposed development

Not applicable to this application.

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

As detailed elsewhere in the report the proposed development would not have a detrimental impact on the appearance and character of Ickenham Village Conservation Area.

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

Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) requires all new development to maintain the quality of the built environment including providing high quality urban design. Policies BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) seek to ensure that new development complements and improves the character and amenity of the area. Policy BE4 requires new developments within Conservation Areas to preserve or enhance the character and appearance of the Conservation Area.

The proposed development is located within Ickenham Village Conservation Area, however there are no external alterations proposed as part of this application and the existing shop frontage will be retained. Therefore the proposal would comply with Policies BE13, BE19 and BE4 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.08 Impact on neighbours

Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that uses that become detrimental to the amenity of the adjoining occupiers or surrounding area will not be approved. Policy OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that new development or uses which have the potential to cause noise annoyance will only be permitted if measures can be undertaken to alleviate the potential disturbance where a development is acceptable in principle.

The site is located in a part of the local shopping area which does not have any late opening uses, which could be a cause of noise and disturbance. Given this situation, the proposed use would introduce a use whose operations are likely to result in noise and disturbance over and above the existing situation. This would be compounded by the proposed hours of operation, which in this location are considered to be unsociable. Overall it is considered that the proposed use would be detrimental to nearby residential occupiers, particularly those above and adjoining the application site, by way of noise, disturbance and potential smells. Officers, taking into account the location of the proposed A5 unit consider that it would not be appropriate to condition details which would enable the development to be acceptable. Therefore the proposed development would be contrary to Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

The site is situated on Swakeleys Road, and does not have any off street parking

available for customers. However, metered parking is available to the front of this site, and therefore on-street, short stay, parking is generally available. The proposal would therefore comply with Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.11 Urban design, access and security

Not applicable to 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

No trees are present on the site.

7.15 Sustainable waste management

Policy 5.6 of the London Plan requires development to have regard to and contribute to a reduction in waste produced. This could have been conditioned had the scheme been recommended favourably.

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

Please refer to Section 07.08 above.

7.19 Comments on Public Consultations

The comments made by the individual responses are noted and are considered within the main 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

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

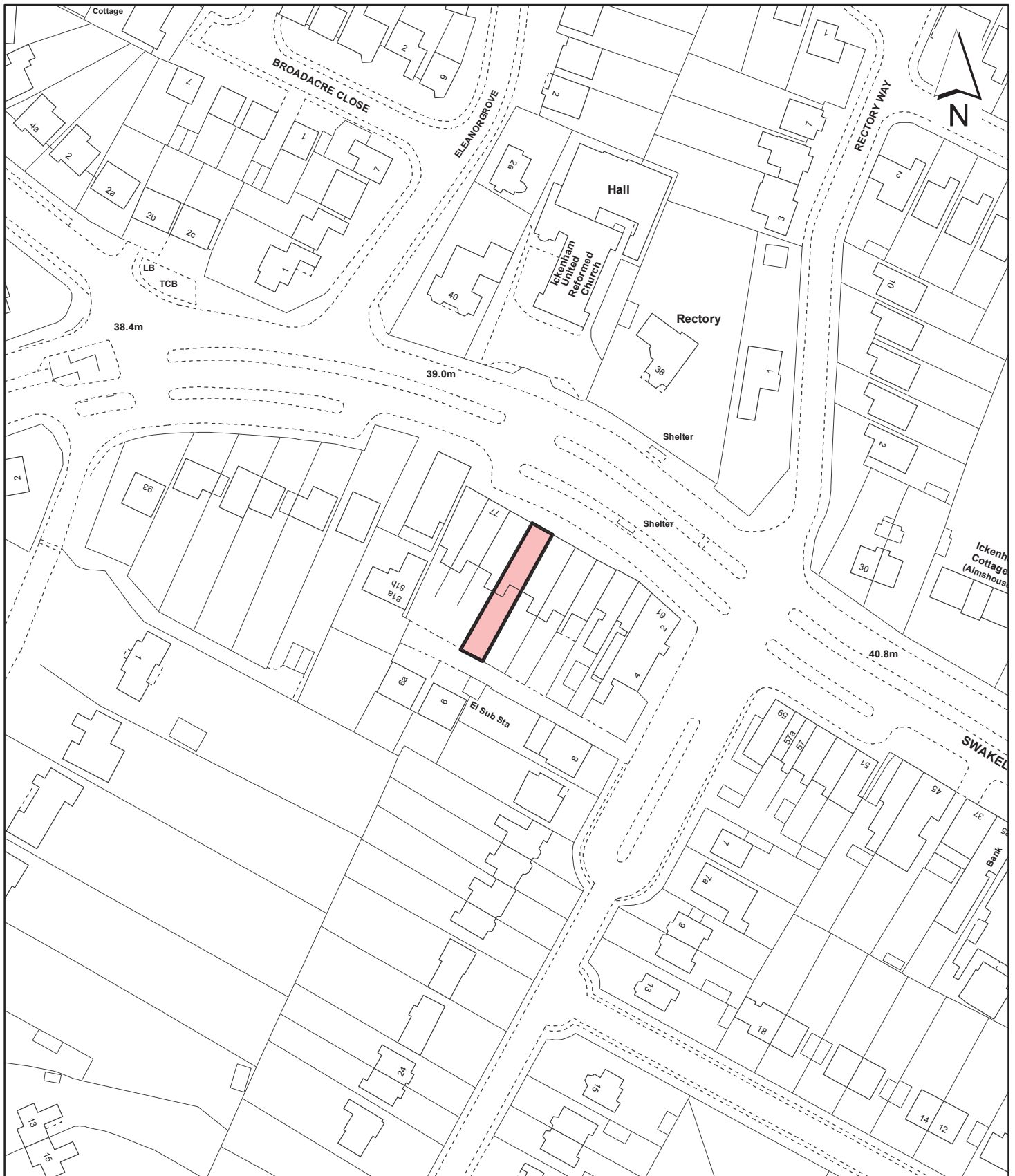
It is considered that overall the scheme is contrary to the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012). The application is therefore recommended for refusal.

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)
Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)
The London Plan 2011
National Planning Policy Framework

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Notes

 Site boundary

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Site Address

**73 Swakeleys Road
Ickenham**

**LONDON BOROUGH
OF HILLINGDON
Residents Services**

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

Planning Application Ref:
52680/APP/2012/3209

Scale
1:1,250

Planning Committee
North

Date
**April
2013**



HILLINGDON
LONDON