

Report of the Head of Planning, Sport and Green Spaces

Address 103 PARK ROAD UXBRIDGE

Development: Variation of condition 5 of planning permission 32648/APP/2010/1408 (Change of use from Class A1 (Shops) to Class A5 (Hot food takeaway) and installation of extraction flue to rear) to extend the opening hours from 08.00 and 18.00 on all days to 10.30 and 23.30 (Mondays to Saturdays) and between 11.00 and 23.00 (Sundays)

LBH Ref Nos: 32648/APP/2013/1142

Drawing Nos: AULAKH/PLAN/01

Date Plans Received: 03/05/2013

Date(s) of Amendment(s):

Date Application Valid: 24/05/2013

1. SUMMARY

Planning permission was granted in February 2011 for the change of use from a shop to a take-away and the installation of a flue to the rear of the premises subject to a condition which restricts the hours of operation to between the hours of 0800 and 1800 on all days. There is an allowance of 30 minutes made outside of these times for setting and clearing up.

The proposal is to vary the current permitted opening hours of the take-away use to 1030 and 2330 (Mondays to Saturdays) and between 1100 and 2300 (Sundays). This change has been considered and whilst it may be reasonable to allow limited evening opening hours for part of the week in this edge of centre location, the introduction of late opening hours on all days of the week would clearly be unacceptable in what is primarily a residential area.

In particular there are identifiable potential associated problems of odours, noise and disturbance, that would be difficult to control and are likely to be exacerbated by introducing longer trading hours. The result would be to the detriment of the amenities and living conditions of adjoining and nearby residential occupiers who would no longer enjoy the use of their dwellings at all times.

The Council has previously taken enforcement action relating to an odour nuisance from the kitchen extraction system installed at these premises. However, the new owner has recently altered the height of the extraction flue and painted it black for which retrospective approval has now been granted and is thus considered satisfactory in terms of both its performance and appearance.

Nonetheless, there are other conditions which relate to the control of the take-away operations that have never been discharged including schemes for sound insulation, the control of amplified noise, the disposal, storage and collection of litter/waste, the arrangements for litter bins and accesses to the building to meet the needs of disabled persons. The Council's Planning Enforcement Team are currently investigating these issues. It is not considered that any extension of hours could be considered while such conditions remain outstanding.

The proposal is accordingly recommended for refusal as being detrimental to residential

amenities and thus contrary to Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policy OE1.

2. **RECOMMENDATION**

REFUSAL for the following reasons:

1 NON2 **Non Standard reason for refusal**

The proposed increase in opening hours would be detrimental to the residential amenities of adjoining and nearby occupiers by reason of increased noise and disturbance. The proposal is thus contrary to Policy OE1 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012).

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) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (July 2011) and national guidance.

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| 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 |
| AM7 | Consideration of traffic generated by proposed developments. |

3. **CONSIDERATIONS**

3.1 **Site and Locality**

The application site is located on the north west side of Park Road and comprises the ground floor of a two storey terraced property with a two storey rear outrigger and a part single storey rear extension. It also incorporates an archway which provides vehicular access to lock-up garages to the rear of the yard and pedestrian access to 103a Park Road, which has its entrance door within the archway. An extraction flue, painted black, has been installed on the rear elevation above the ground floor roof venting over one metre above the eaves of the main roof.

To the southwest lies 101 Park Road, a ground floor retail unit with residential accommodation above, accessed from within the archway. To the northeast lies 105 Park Road, a two storey end of terrace property. The street scene is residential in character and appearance, comprising a mix of detached, semi-detached and terraced properties

and the application site lies within the North Uxbridge Area of Special Local Character, as identified in the adopted Hillingdon Local Plan. Nos. 101, 103 and 105 Park Road are locally listed buildings.

3.2 Proposed Scheme

The proposal is for extension of the permitted hours of operation to allow for the serving of customers between 1030 and 2330 hours (on Mondays to Saturdays) and between 1100 and 2300 hours (on Sundays). The applicant states that the business is suffering seriously due to the current limited opening hours in place, which are controlled under condition 5 of planning permission 32648/APP/2011/1408, dated 14th February 2011, which states:

The premises shall not be used for the preparation or sale of food between the hours of 1800 hours and 0800 hours. REASON: To prevent an increase in on-street demand for parking to the detriment of highway and pedestrian safety and to safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policies AM2, AM7 and OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

Condition 11 of the permission states that no persons shall be permitted to be on the premises between the hours of 1800 hours and 0800 hours with an allowance of up to 30 minutes either side of these times for closing and opening. All other conditions would remain in place.

3.3 Relevant Planning History

32648/82/1493 103 Park Road Uxbridge
Change of use to Retail use 62sq.m.(P)

Decision: 27-01-1983 Refused

32648/APP/2008/1092 103 Park Road Uxbridge
CHANGE OF USE FROM CLASS A2 (FINANCIAL AND PROFESSIONAL SERVICES) TO CLASS A5 (TAKEAWAYS) AND ERECTION OF AN EXTERNAL EXTRACTOR FLUE TO REAR/SIDE.

Decision: 08-07-2008 Refused

32648/APP/2010/1408 103 Park Road Uxbridge
Change of use from Class A1 (Shops) to Class A5 (Hot food takeaway) and installation of extraction flue to rear.

Decision: 04-02-2011 Approved

32648/APP/2012/1609 103 Park Road Uxbridge
Variation of condition 5 (Opening Hours) of planning permission ref 32648/APP/2010/1408 dated 04/02/2011 to extend the opening hours to 06.00 to 23.00 (Change of use from Class A1 (Shops) to Class A5 (Hot food takeaway) and installation of extraction flue to rear.)

Decision: 25-09-2012 Refused

32648/APP/2012/2545 103 Park Road Uxbridge

Details pursuant to condition 4 of Planning Permission 32648/APP/2010/1408 dated 04/02/2011 (Change of use from Class A1 (Shops) to Class A5 (Hot food takeaway) and installation of extraction flue to rear.)

Decision: 13-12-2012 Refused

32648/APP/2013/1350 103 Park Road Uxbridge

Details pursuant to condition 4 of Planning Permission 32648/APP/2010/1408 dated 04/02/2011 (Change of use from Class A1 (Shops) to Class A5 (Hot food takeaway) and installation of extraction flue to rear.)

Decision: 11-07-2013 Approved

32648/G/94/1070 103 Park Road Uxbridge

Change of use from Class A1 (Retail) to Class A2 (Financial and Professional Services) and erection of a single storey side extension

Decision: 14-12-1994 Approved

Comment on Relevant Planning History

A planning application (ref: 32648/APP/2008/1092) for the change of use from Class A2 (Financial and Professional Services) to Class A5 (Takeaways) and erection of an external extractor flue to rear/side, was initially refused in July 2008.

Planning permission was subsequently granted (under ref: 32648/APP/2010/1408) in February 2011 for the change of use from Class A1 (shop) to Class A5 (Hot Food Take Away) with an external extract flue above the roof of the part single storey rear extension, attached to the rear wall of the building projecting some 1 metre above the eaves of the main roof and bin stores along the rear section of the flank wall of the premises.

An application seeking to vary the hours of opening to between 0600 and 2300 hours (on all days) was refused (under ref: 32648/APP/2012/1609) in September 2012. Details of the extraction flue required by condition 4 of the take away permission (under ref: 32648/APP/2010/1408 dated February 2011) were approved under ref: 32648/APP/2013/1350 in July 2013.

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:

OE1 Protection of the character and amenities of surrounding properties and the local

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| | 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 |
| 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

14 neighbouring and nearby occupiers were consulted (29.5.2013/3.6.2013) and a site notice displayed (31.5.2013). 13 representations together with a petition with 44 signatures have been received objecting on the following grounds:

1. Location:

- a. residential area
- b. plenty of hot food takeaways in the High Street

2. Noise & disturbance:

- a. noise disruption until 2300 hours all week (gathering of youths)
- b. will attract drunks from pub (possible fights/criminal behaviour)
- c. people sitting on garden walls eating
- d. will create excessive late night noise from cars stopping (doors banging etc.)

3. Odours:

- a. smell of cooked food permeates back gardens/open windows/washing
- b. odours are nauseating

4. Parking:

- a. parking limited to one bay (limited to residents permit or pay and display)
- b. inconsiderate parking across residents' drives (leads to double parking and potential accidents on busy road with fast traffic)
- c. increased demand for parking (inconvenient to residents) in Park Road and neighbouring streets.

5. Litter/Waste:

- a. food cartons and waste dumped on pavement/in front gardens/on the street etc.
- b. increase in rubbish (already overflows from the local shop)

6. Other:

- a. encourages students to eat unhealthy food
- b. cottages are locally listed (take away not in keeping with local character)
- c. increase in vermin (refuse sacks already ripped open by foxes at night)
- d. hours would deprive Right to Privacy of residents
- e. owner has failed to abide by conditions of use granted
- f. reduces house prices
- g. chimney flue is unsightly

Internal Consultees

ENVIRONMENTAL PROTECTION UNIT:

Objection is raised to the requested hours of operation, in this primarily a residential area on that basis the noise generated from the use of the proposed premises between the hours of 0600 and 2300 hours on all days of the week would very likely cause a disturbance and be detrimental to the enjoyment and amenity of nearby residential properties. It may be reasonable to allow limited evening opening hours for part of the week.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The current use of the premises as a take away was established under the permission granted in February 2011 subject to various conditions requiring approval of details on a number of aspects of the operation prior to its commencement.

These details included a scheme for the control of noise and amplified music; the position and design of a chimney/extraction flue; the disposal and storage of waste and litter (including notices for customers and provision of litter bins); and the provision of suitable access to building entrances. With the exception of the odour extraction system, it is noted that none of these conditions have been sought to be discharged. However the use has recently re-commenced under new ownership and has already operated beyond the permitted hours, a matter that has been referred to the Council's Enforcement Team for investigation and monitoring.

The hours of operation (open to customers) and for the loading and unloading of vehicles (0800-1800 hours Mondays to Fridays & 0800-1300 Saturdays) were specified in separate conditions. The principle of extended opening hours has therefore been assessed below in terms of the potential impacts on the local area.

7.02 Density of the proposed development

Not applicable to this application.

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

Not applicable to this application.

7.04 Airport safeguarding

Not applicable to this application.

7.05 Impact on the green belt

Not applicable to this application.

7.06 Environmental Impact

Not applicable to this application.

7.07 Impact on the character & appearance of the area

Not applicable to this application.

7.08 Impact on neighbours

Hillingdon Local Plan: Part Two - Saved UDP Policy OE1 states that permission will not be granted for uses which are likely to become detrimental to the character or amenities of surrounding properties or the area generally because of noise and vibration or the emission of dust, smell or other pollutants.

The surrounding area is residential in character and appearance. There are residential properties above and adjacent to the application property. The extraction flue is located to the rear and projects above the eaves of the roof, thus designed to expel all cooking fumes away from the adjoining residential properties. The original installed flue was the subject of a nuisance investigation, but this has now been altered and is considered

satisfactory in both its performance and appearance.

The comments received from residents relate to several aspects of the take away use and operation including those which are subject to standard planning controls imposed by conditions. Notwithstanding these controls, the proposed extension of opening hours on all days of the week to include Sundays is likely to exacerbate any existing nuisances. Potentially therefore, residents could be further affected in particular by customer and vehicle noise late at night in an area which already sees many people leaving town on their way home.

In view of the number of objections received from residents in this out of town centre location, the absence of some details of the use and the advice of the Council's Environmental Protection Unit in these matters, the extension of hours sought is considered both excessive and unacceptable. Further consideration may be given in due course to extended opening hours on two or three nights of the week, but for these reasons the current proposal is considered contrary to Local Plan Policy OE1.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Hillingdon Local Plan: Part Two - Saved UDP Policy AM7 considers whether the traffic generated by proposals is acceptable and in particular if it would prejudice the free flow of traffic or conditions of general highway or pedestrian safety.

Park Road is a Classified B road, and the site lies close to traffic lights. Traffic is normally free flowing and relatively fast in the vicinity of the site. The take away use undoubtedly generates additional traffic compared to that associated with the previous shop use.

That said, on street parking in the area is controlled during daytime hours, and a number of private crossovers exist in the immediate vicinity of the site. As the premises currently only has permission to operate between 0800 and 1800 hours, the existing parking restrictions within the lay by and in surrounding streets are self-enforcing. Outside of these times, when more of the limited on street parking becomes available the capacity exists for accommodating the number of customers likely to arrive by car, therefore, no objection is raised on this matter.

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

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

Not applicable to this application.

7.19 Comments on Public Consultations

With regards to third party comments these can be divided into those relating to the principal identified impact of having extended hours of operation adjacent to a residential area, particularly late evenings, which is customer noise and disturbance; and those making reference to other associated problems that are subject to separate controls such as air pollution, litter and parking. Those relating to planning matters are addressed elsewhere in this report.

The other comments on the reasons given for longer business hours and whether there is such a need in this location are noted though not they do no form material planning considerations in the determination of this application.

7.20 Planning obligations

Not applicable to this application.

7.21 Expediency of enforcement action

Not applicable to this application

7.22 Other Issues

Not applicable to this application.

8. Observations of the Borough Solicitor

Not applicable to this application.

9. Observations of the Director of Finance

Not applicable to this application.

10. CONCLUSION

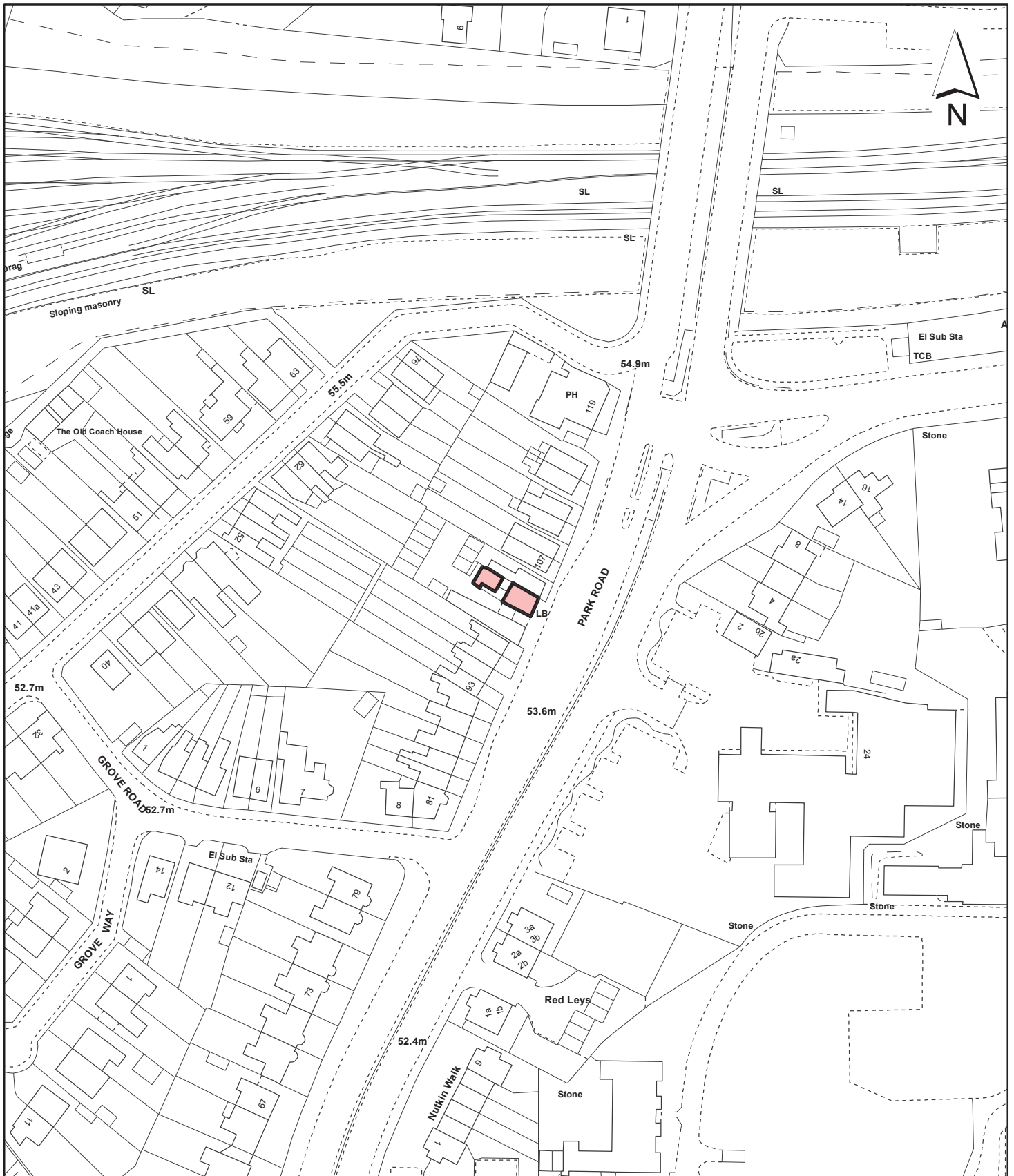
For the reasons outlined above, and that the development is contrary to the aforementioned policies of the Hillingdon Local Plan, this application is recommended for refusal.



11. Reference Documents

Hillingdon Local Plan (November 2012);
The London Plan (July 2011);
National Planning Policy Framework.

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| <p>Notes</p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2013 Ordnance Survey 100019283</p> | <p>Site Address</p> <p style="text-align: center;">103 Park Road Uxbridge</p> | | <p>LONDON BOROUGH OF HILLINGDON</p> <p>Residents Services</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p> |
| | <p>Planning Application Ref:</p> <p style="text-align: center;">32648/APP/2013/1142</p> | <p>Scale</p> <p style="text-align: center;">1:1,250</p> |  <p>HILLINGDON LONDON</p> |
| | <p>Planning Committee</p> <p style="text-align: center;">Central & South</p> | <p>Date</p> <p style="text-align: center;">August 2013</p> | |