

Report of the Head of Planning, Sport and Green Spaces

Address 843 UXBRIDGE ROAD HAYES

Development: Change of use from use class A1 (Shops) to use class A3 (Restaurants and Cafes) to include folding canopy to rear and folding outdoor shelter for use as 'shisha lounge (Sui generis) (Retrospective application).

LBH Ref Nos: 630/APP/2013/1190

Drawing Nos: ID/843UR/13A
ID/843UR/13B
Design and Access Statement

Date Plans Received: 09/05/2013 **Date(s) of Amendment(s):**

Date Application Valid: 14/05/2013

1. SUMMARY

Retrospective planning permission has been sought for a change of use of the ground floor premises from a retail (Class A1) unit to a cafe (Class A3) with a folding canopy and external sheltered seating area in the form of a marquee to the rear yard.

Since the application was submitted, the marquee described in the proposal has been removed in compliance with an enforcement notice served upon the applicant in April, who is now operating an "open air" shisha lounge. The Council is therefore taking further action in respect of the unauthorised material change of use being carried on at the premises but the proposal has been assessed nonetheless.

The change of use of the site has resulted in the loss of a retail unit to the front which is unacceptable in principle. It is also considered that the proposed marquee at the rear of the site, which is used when raining but removable, has led to an over-intensification in the use of the whole site resulting in harm to the amenity of nearby residents through increased noise disturbance and odour. It is also considered that the marquee is harmful to the visual amenity of the site and the surrounding area.

Accordingly, this re-submitted application is recommended for refusal reasons stated below:

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 **Non Standard reason for refusal**

The change of use of the site by reason of the loss of a retail unit within this parade would erode the retail function and attractiveness of the area, harming the vitality and viability of the parade to the detriment of the Local Community. The proposal is therefore contrary to Policy S7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

2 NON2 **Non Standard reason for refusal**

The development results in an over intensification of the site and generates unacceptable levels of noise and general disturbance to the detriment of the amenities of nearby

residential properties and the quality of their living environment. The proposal is therefore contrary to Policies OE1, OE3 and OE5 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

3 NON2 Non Standard reason for refusal

The development by reason of its siting, design, layout, size, site coverage and materials, results in a cramped development of the site, which is visually incongruous and overdominant, therefore failing to harmonise with the established character of the surrounding area. The development is therefore contrary to Policies BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

4 NON2 Non Standard reason for refusal

The development has failed to provide adequate cycle parking provision in accordance with the Council's adopted standards, and therefore the proposal is contrary to Policy AM7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan 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.

AM13	AM13 Increasing the ease of movement for frail and elderly people and people with disabilities in development schemes through (where appropriate): - (i) Dial-a-ride and mobility bus services (ii) Shopmobility schemes (iii) Convenient parking spaces (iv) Design of road, footway, parking and pedestrian and street furniture schemes
AM14	New development and car parking standards.
AM7	Consideration of traffic generated by proposed developments.
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
CACPS	Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
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.
BE20	Daylight and sunlight considerations.

BE21	Siting, bulk and proximity of new buildings/extensions.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
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
OE5	Siting of noise-sensitive developments
S7	Change of use of shops in Parades
SPD-NO	Noise Supplementary Planning Document, adopted April 2006
SPG-AQ	Air Quality Supplementary Planning Guidance, adopted May 2002
LPP 4.8	(2011) Supporting a Successful and Diverse Retail Sector

3 159 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 September 2007), 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.

3. CONSIDERATIONS

3.1 Site and Locality

The application site forms part of a two storey block located on the south side of Uxbridge Road in Hayes near its junction with West Drayton Road. It comprises of No. 843, a ground floor commercial unit of 48 square metres currently in use as a sandwich and soft drink cafe / shisha cafe, with a registered HMO on the first and second floors (No. 841). The site falls within a designated shopping parade of seven units as identified in the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

To the rear of the building and within the site is an area of land (approx. 20 metres x 7 metres) most of which is covered by the sheltered seating area (marquee), which is also the subject of this application. Beyond the fenced rear boundary of the site and running behind the parade is an unmade private access from Uxbridge Road. At the front of the parade there are several parking bays within the service road that runs parallel to Uxbridge Road.

The adjoining properties are occupied by a cafe (No. 839) and a retail shop (No. 847) at ground floor both with residential accommodation above (Nos. 837 & 845).

3.2 Proposed Scheme

Planning permission is sought retrospectively for the change of use of the ground floor from a retail unit (Class A1) to a cafe (Class A3), for a canopy attached to the rear of the main building and for retention of the marquee enclosure described above. The internal cafe floorspace comprises of a counter, a small seating area, a WC and store rooms.

There is a small shed attached to the rear wall of the building.

The marquee shelter for the outdoor seating area is approximately 6 metres wide, 12m deep, with a maximum height to the ridge of 3.75 metres and a small area of uncovered timber decking at one end. It provides a covered seating floor area of 73 sq. m. and has an estimated capacity for up to 50 people consuming food, drinking and/or shisha pipe smoking.

Both the canopy and marquee shelter are made of a green fabric material, the shelter being supported on a tubular frame with wheel and bracket footings, thus is not fixed but demountable and movable. There is plastic coated sheeting fixed to the posts on the outside of the boundary fences with both of the adjoining properties.

The proposal is to open the premises to customers from 1000 to 2200 hours on all days.

Within the rear part of the yard, which is accessible from the service road via a gate and along a passageway, is a small storage area for two refuse bins.

3.3 Relevant Planning History

630/A/88/3063 843 Uxbridge Road Hayes
Installation of internally illuminated projecting box sign.

Decision: 29-06-1988 Approved

630/APP/2001/1146 843 Uxbridge Road Hayes
CHANGE OF USE FROM SHOP TO A ONE- BEDROOM FLAT

Decision: 07-11-2001 Approved

630/APP/2004/1376 843 Uxbridge Road Hayes
CHANGE OF USE OF GROUND FLOOR FROM CLASS A1 (SHOP) TO CLASS C3
(RESIDENTIAL) AND CONVERSION OF WHOLE BUILDING TO A 10-BEDROOM HOUSE IN
MULTIPLE OCCUPATION.

Decision: 14-07-2004 Refused

630/APP/2005/1634 841-843 Uxbridge Road Hayes
CHANGE OF USE OF GROUND FLOOR FROM CLASS A1 (RETAIL SHOP) TO CLASS C3
(RESIDENTIAL) AND CONVERSION OF WHOLE BUILDING TO AN EIGHT-BEDROOM
HOUSE IN MULTIPLE OCCUPATION (ADULT ONLY)

Decision: 01-08-2005 Refused

630/APP/2008/3025 843 Uxbridge Road Hayes
Erection of a single storey detached outbuilding at the rear for use as a store room

Decision: 11-02-2009 Refused

630/APP/2009/1583 843 Uxbridge Road Hayes

Change of use from Class A1 (Shops) to use as a launderette (Sui Generis), and new plant room building at rear.

Decision: 25-08-2009 NFA

630/APP/2012/60 843 Uxbridge Road Hayes

Change of use from Use Class A1 (Shops) to Use Class A3 (Restaurants and Cafes) and two signs including installation of sheltered outdoor seating, canopy and shed to rear (Retrospective application).

Decision: 17-04-2012 Refused

Comment on Relevant Planning History

The site was formerly used as a newsagent with rear amenity space prior to the current unauthorised use of the premises as a cafe and the associated erection of a canopy, wooden decking and marquee to the rear of the building being brought to the Council's attention in September 2011. The marquee/outbuilding was laid out as a permanent development with tables, chairs and television screens where customers consumed food/drink purchased in the shop and smoked shisha pipes.

The Central & South Planning Committee duly authorised the serving of enforcement notices to demolish the rear extension and remove the projecting advertisement box signs from the front elevation.

The planning application submitted to seek retrospective change of use of the premises and retention of the unauthorised structures and signs under ref. 630/APP/2012/60 was refused permission in May 2012 for the following reasons:

1. The change of use of the site by reason of the loss of a retail unit within this parade would erode the retail function and attractiveness of the area, harming the vitality and viability of the parade to the detriment of the Local Community. The proposal is therefore contrary to Policy S7 of the Borough's adopted Unitary Development Plan (Saved Policies September 2007);
2. The development results in an over intensification of the site and generates unacceptable levels of noise and general disturbance to the detriment of the amenities of nearby residential properties and the quality of their living environment. The proposal is therefore contrary to Policies OE1, OE3 and OE5 of the Hillingdon Unitary Development Plan (Saved Policies September 2007);
3. The development by reason of its siting, design, layout, size, site coverage and materials, results in a cramped development of the site, which is visually incongruous and overdominant, therefore failing to harmonise with the established character of the surrounding area. The development is therefore contrary to Policies BE13 and BE19 of the Hillingdon Unitary Development Plan (Saved Policies September 2007);
4. The development has failed to provide adequate cycle parking provision in accordance with the Council's adopted standards, and therefore the proposal is contrary to Policy AM7 of the Unitary Development Plan (Saved Policies September 2007);

5. The projecting signs by reason of their position and cluttered appearance constitute an intrusive and discordant feature out of keeping with the prevailing pattern of shop signage in this locality. The signs therefore cause harm to the character and appearance of the street scene, contrary to Policies BE27 and BE29 of the Unitary Development Plan (Saved Policies September 2007) and to the guidance within HDAS Supplementary Planning Document "Shopfronts and Signage".

The current proposals are different from this in that the marquee structure erected to the rear of the premises is not fixed, but is mounted on wheels/brackets and can thus be fully taken down or moved. The shelter has been removed since the current application was submitted in compliance with the Council's recent service of an enforcement notice.

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:

- AM13 AM13 Increasing the ease of movement for frail and elderly people and people with disabilities in development schemes through (where appropriate): -
(i) Dial-a-ride and mobility bus services
(ii) Shopmobility schemes
(iii) Convenient parking spaces
(iv) Design of road, footway, parking and pedestrian and street furniture schemes
- AM14 New development and car parking standards.
- AM7 Consideration of traffic generated by proposed developments.
- LDF-AH Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
- CACPS Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
- 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.
- BE20 Daylight and sunlight considerations.
- BE21 Siting, bulk and proximity of new buildings/extensions.
- BE23 Requires the provision of adequate amenity space.
- BE24 Requires new development to ensure adequate levels of privacy to neighbours.
- 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
- OE5 Siting of noise-sensitive developments

S7	Change of use of shops in Parades
SPD-NO	Noise Supplementary Planning Document, adopted April 2006
SPG-AQ	Air Quality Supplementary Planning Guidance, adopted May 2002
LPP 4.8	(2011) Supporting a Successful and Diverse Retail Sector

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 no. neighbouring and nearby occupiers were consulted (20.5.2013) and in addition a site notice was displayed on 22.5.2013. There have been two objections received with the following concerns and comments:

Parking

- there are seven shops and flats in the parade including a taxi cab office (No. 825), solar system sales (No. 831), a restaurant (No. 833), two cafes (Nos. 839 & 843), a spares supplier (No. 845) and a hairdresser (No. 851) all of which require more parking spaces;
- parking in Uxbridge Road and across cycle lane is a problem; driveway to No. 849 is constantly blocked by Shisha customers resulting in threatening behaviour and police being called.
- parking on Uxbridge Road (double yellow lines);

Anti-Social Behaviour

- nuisance, anti-social and destructive behaviour;
- cafe is open from 7pm to 2 or 3am (lock-ins after hours) with associated anti-social behaviour (including gambling, drugs, drinking) especially at weekends. Many individuals then drive away from the premises (one accident in summer of 2012 when driver hit a parked car which mounted the pavement)
- consumption of alcohol on premises (bottles dumped/smashed on driveway adjacent to No. 849);

Refuse/waste/litter

- rubbish dumped outside shop (at No. 849) including soft drink bottles, plastic cups and takeaway food packaging;
- blocked sewer overflows confirmed by Thames Water contractors as resulting from charcoals, fat deposits (probably from another restaurant in this row);

Environmental nuisance (odours/noise etc.)

- cafe is open from 7pm to 2 or 3am (lock-ins after hours) leading to noise, smell (pungent aroma of special form of hashish infused with tobacco and flavoured charcoals);
- windows have to be kept closed during summer months due to smell of smoked substances and excessive noise from the yard until early hours (including TV screens at high volume);
- abandoned vehicle outside shop with food waste/rubbish used by customers;
- problems with rats in cafe and at rear of premises.

Enforcement

- marquee erected in rear yard since May 2011; Existing marquee has been in place since January 2013 and has never been stowed away - it is fixed to the side fencing and the gap between this and the canopy permanently covered by fabric;

- original marquee was dismantled plus decking and furniture removed but replaced by the existing steel framed green canopy with tables (owner is now being prosecuted at court in June for failure to comply with EN);
- Momtaz shisha continues but has been refused permission and licence to operate as a cafe selling food and beverages and causes nuisance to business and community;

Other (Non-material considerations)

- existing cafe business has been relocated from further along Uxbridge Road due to complaints;
- unsafe electrical and gas connections to marquee;
- homeless person (illegal immigrant?) living in caravan using electricity from shisha cafe;
- adjacent property being re-developed - building work to install fridges (possibly as part of Momtaz cafe expansion?)

A petition (with approximately 300 signatures) has also been received in support of the proposal (on 24.7.2013). This describes the Momtaz Shisha cafe premises as the perfect place to meet people, relax, eat, drink and smoke shisha in a peaceful environment, providing a cultural service lacking in Hillingdon and bringing life to the area. The outside space is required in order to comply with smoking regulations and the cafe provides jobs for 5no. staff, bringing customers to other businesses in the area, including regular international and local students (from Brunel University). We want you ("the Council") to grant planning permission for the canopy and seating area use.

Internal Consultees

Highways Officer - No off street parking is indicated, however parking is available on Uxbridge Road in a lay by which forms part of the adopted public highway. No objections are raised on highway grounds.

Environmental Protection Unit - no further comments but has previously stated (under ref. 630/APP/2012/60) that unable to support the application for the following reasons:

1. Smoke free compliance - premises comprises a shelter to the rear which is deemed to be "smoke free" under the regulations made under the Health Act 2006. It is therefore not currently deemed lawful for the use proposed to be made of the sheltered outdoor seating;
2. Licensing Act 2003 requirements - premises does not hold a Premises Licence and is not required to do so whilst there are no alcohol sales, no late night refreshments, nor the playing of live or recorded music;
3. Noise - following opening in May or June of 2011, EPU received allegations of noise nuisance in August, September and October of 2011, with the premises allegedly opening until 0200 hours on occasion (no noise nuisance was witnessed and I note the proposed hours are no later than 2300 hours.
4. Fire Safety - London Fire Brigade have advised that the premises has been deemed to be broadly compliant with requirements as at an inspection on the 2nd February 2012.
5. Accommodation at 841 Uxbridge Road, above the premises - this is a house in multiple occupation (HMO) and not in fact for the sole use of staff at the premises.

In conclusion, support this proposal based on the proposed hours, the absence of amplified musical entertainments nor alcohol sales. However, the proposed outdoor sheltered sitting area is not compliant and therefore presents a public health hazard until remedial action is taken to bring it in to compliance. EPU therefore recommends refusal of this current proposal.

Access Officer- No objection, subject to informative with reference to the Equality Act 2010 which

seeks to protect people accessing goods, facilities and services from discrimination on the basis of a "protected characteristic", which includes those with a disability.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Local shopping parades serve an important role in providing convenience shopping that caters for the needs of local residents. Policy S7 of the adopted Hillingdon Local Plan : Part Two - Saved Unitary Development Plan Policies (November 2012) seeks to ensure that all residential areas are within half a mile of at least five essential shop uses, although not necessarily within the same parade.

For some local shopping areas the closure of just one essential shop may be so significant as to precipitate the closure of other shops and the ultimate demise of the centre as a whole. The Council thus seeks to protect vulnerable parades and corner shops which have a particularly important role for the local community and to provide opportunities for the establishment of new essential shop uses in existing class A1 premises. Ideally there should be no less than 3 (essential shops) in the smaller parades and a choice of essential shops in the larger parades.

The application site was one of three A1 retail units within the parade (a small parade of 7 units). This equated to 42.8% of the parade in retail use. The change of use of this site has resulted in only 28% of the parade now in Class A1 retail. This equates to only two A1 units remaining in the parade, one of which is a hairdresser and the other is a retailer selling parts for motor vehicles, neither of which are considered to be "essential" shops. Prior to its change of use the unit was used as a newsagent.

Moreover, the change of use of the site means that five adjoining units are not in retail use. There is already an existing take-away in the parade (No. 833-835) and a cafe (No. 837-839).

It is noted that prior to its change of use the newsagent was vacant, however, no evidence has been provided by the applicant to demonstrate that the site had been marketed as a retail unit for an extensive period of time and therefore the fact that it was vacant does not overcome the concerns set out above.

As such, the loss of this retail unit would harm local convenience shopping provision, contrary with Policy S7 of the adopted Hillingdon Local Plan: Part Two - Saved Unitary Development Plan 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

Not applicable to this application.

7.04 Airport safeguarding

Not applicable to this application.

7.05 Impact on the green belt

Not applicable to this application.

7.07 Impact on the character & appearance of the area

Hillingdon Local Plan: Part Two Policy BE13 states that development will not be permitted if the layout and appearance fail to harmonise with the existing street scene or other features in the area which the Local Planning Authority considers it desirable to retain or enhance.

The rear of the premises has been extensively developed by the erection of the rear canopy and marquee which has been furnished as a permanent area/room with tables, chairs and sofas. The development extends over the entire rear area of the premises and the overall design, use of materials and extensive scale fail to harmonise or compliment the original building.

The marquee and the other structures are considered to result in a visually intrusive development, which are detrimental to amenity and character of the area and contrary to Policies BE13, BE15 and BE19 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

7.08 Impact on neighbours

In terms of assessing the effects of the proposal on residential amenity, the relevant factors are those of noise, odour, parking, refuse, litter and general disturbance.

The nearest residential properties are above and adjacent to the application site. It is not proposed to install a ventilation duct to the rear of the property and the applicants state that the unit is used for the preparation and consumption of only cold food and drinks.

The marquee provides a large seating area with the potential to serve up to 50 customers at any one time. This has led to greater intensification of the use of the site compared to the previous use as an A1 retail unit meant that there would be fewer customers at any one time and they were restricted to within the main building.

Following the opening of the cafe in May or June of 2011, the Environmental Protection Unit received allegations of noise nuisance in August, September and October of 2011. Many other objections have also been received from residents in relation to the use of the site since then which have highlighted issues relating to noise and disturbance as well as odour, in addition to other incidents notified to the police.

No details of any mitigation measures have been provided with the application to demonstrate that the noise and odour generated from the site could be overcome.

As a result it is considered that the use of the site has a negative impact upon the amenity of nearby residents and occupants through increased noise and disturbance and odour. This is contrary to Hillingdon Local Plan: Part Two Policies OE1, OE3 and OE5 which strongly resist development which would have an adverse impact upon the amenity of residents through increased noise and odour.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The site is located within a sustainable location close to bus stops and many customers living nearby who are likely to walk to the cafe. The premises is part of a row of shops and flats with marked parking bays which could be utilised for deliveries, and patrons parking.

However, it is considered likely that the peak traffic and car parking associated with the site is likely to be outside the normal highway network peak periods and at times when other retail units have ceased trading. Given this and the availability of the car parking space outside the site, it is considered that no additional off-street parking spaces are required for the site.

The provision of cycle parking can not be secured by way of condition as there is no

available land to provide cycle storage. The absence of this provision on site is not considered acceptable and objection is raised to the scheme in this regard.

7.11 Urban design, access and security

Not applicable to this application.

7.12 Disabled access

The Council's Access Officer considers the development to be acceptable, involving a straightforward change of use with no material difference in terms of accessibility for disabled persons including wheelchair users. In this case, there are no accessibility improvements that could reasonably be required within the remit of planning and therefore the proposal is in accordance with the objectives of Hillingdon Local Plan: Part Two Policy AM13 in this regard.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, landscaping and Ecology

Not applicable to this application.

7.15 Sustainable waste management

No objection is raised in terms of refuse storage.

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

CVomplaints have been recieved in relation to noise, disturbance and odours from the use of the premises affecting residential amenity. These issues have been considered in full in section 7.08 of the report. In essence objection is raised to the scheme due to noise and odours.

7.19 Comments on Public Consultations

The issues and concerns raised by neighbours have been summarised elsewhere in this report and dealt with under the relevant headings and reason for refusal with the exception of those considered to be non-material planning considerations.

7.20 Planning obligations

None identified.

7.21 Expediency of enforcement action

Since the application was submitted, the marquee and associated equipment described in the proposal have been removed in compliance with an enforcement notice served upon the applicant, who is now operating an "open air" shisha lounge. The Council is therefore taking further action in respect of the unauthorised material change of use being carried on at the premises.

7.22 Other Issues

All material considerations have been assessed elsewhere in the report.

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

None.

10. CONCLUSION

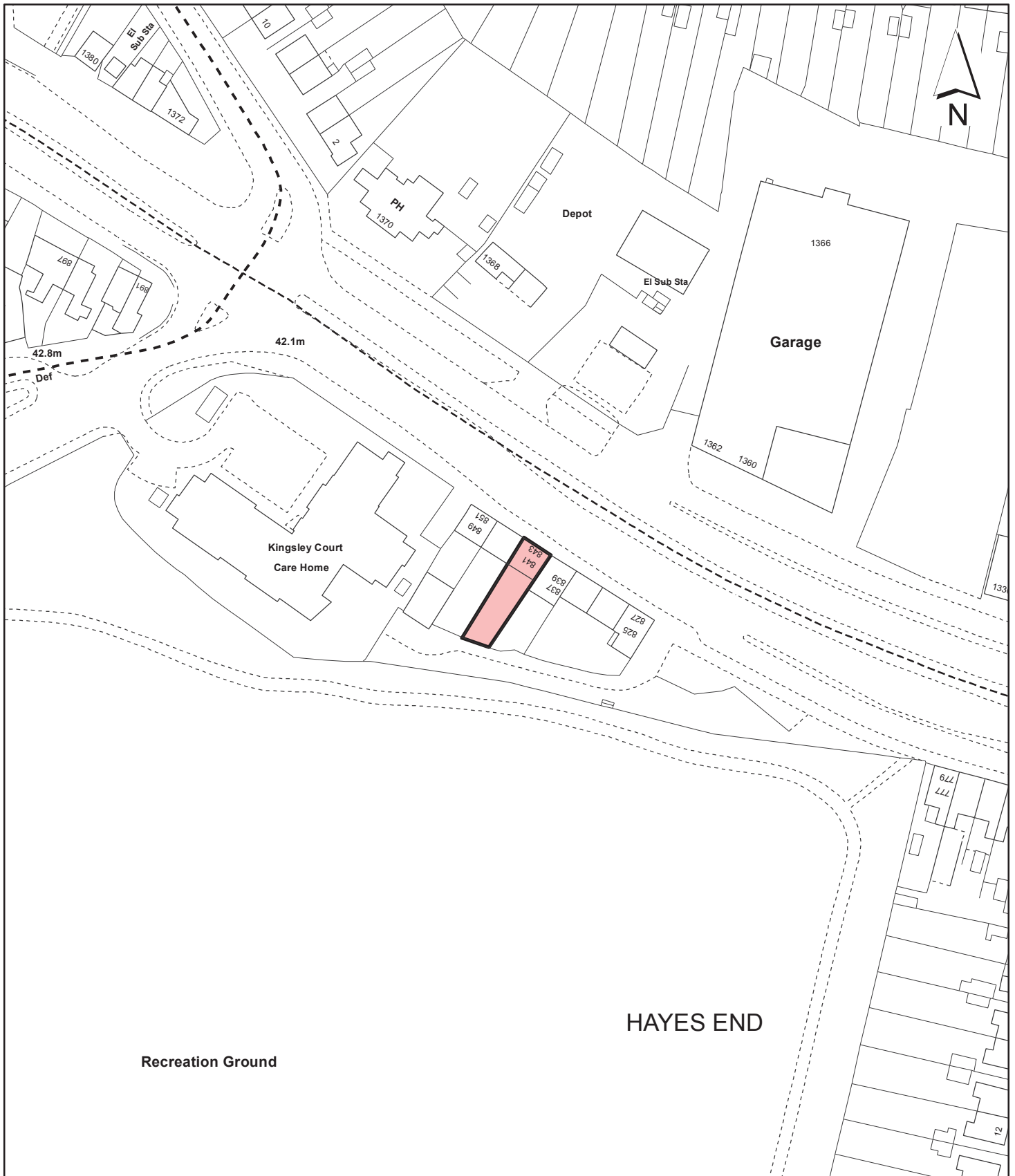
The change of use of the site has resulted in the unacceptable loss of a retail unit which is unacceptable in principle. It is also considered that the marquee to the rear of the site has led to an over intensification of the site resulting in harm to the amenity of the nearby residents through increased noise and disturbance and increased odour. It is also considered that the marquee is harmful to the visual amenity of the site and the surrounding area. The development is therefore contrary to Hillingdon Local Plan: Part Two Policies S7, BE13, BE19, OE1, OE3 and OE5.

11. Reference Documents

Hillingdon Local Plan Part 1 - Strategic Policies (November 2012).
Hillingdon Local Plan Part 2.
The London Plan (July 2011).
Supplementary Planning Document 'Accessible Hillingdon'.
National Planning Policy Framework.

Contact Officer: Daniel Murkin

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Notes

 Site boundary

For identification purposes only.

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Site Address

**843 Uxbridge Road
Hayes**

**LONDON BOROUGH
OF HILLINGDON
Residents Services**

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

Planning Application Ref:

630/APP/2013/1190

Scale

1:1,250

Planning Committee

Central & South

Date

**August
2013**



HILLINGDON
LONDON