

Report of the Head of Planning, Green Spaces and Culture

CUMULATIVE ASSESSMENT

- Address 1:** FORMER MASTER BREWER SITE, FREEZELAND WAY
- Development:** Mixed use redevelopment comprising the erection of a 3,543 sq.m foodstore (GIA) (Use Class A1), (inclusive of delivery areas) with 181 car parking spaces and 32 cycle spaces; 3 additional retail units, totalling 1,037 sq.m (GFA) (Use Class A1 to A5); a 100 sq.m safer neighbourhoods unit (Use Class D1); a 7 storey (plus plant level) 84 bedroom hotel (Use Class C1), with 18 car parking spaces and 16 cycle spaces; together with associated highways alterations and landscaping.
- LBH Ref Nos:** 4266/APP/2012/1544
- Drawing Nos:** SEE INDIVIDUAL REPORT
- Date Application Received:** 08-06-12
- Date Application Valid:** 12-06-12
- Address:** FORMER MASTER BREWER SITE, FREEZELAND WAY
- Development:** Erection of 5 part 4, part 5 storey blocks to provide 125 residential units (Use Class C3) with 99 car parking spaces and 150 cycle parking spaces and associated highways alterations, together with associated landscaping (outline application).
- LBH Ref Nos:** 4266/APP/2012/1545
- Drawing Nos:** SEE INDIVIDUAL REPORT
- Address 2:** LAND ADJACENT TO HILLINGDON STATION & SWALLOW INN LONG LANE
- Development:** Demolition of the existing public house and timber yard, and the erection of a mixed use redevelopment comprising a foodstore (7829m<sup>2</sup> GEA) (Use Class A1); a 6 storey 82 bed hotel (Use Class C1); a 720m<sup>2</sup> restaurant/public house facility (Use Class A3/A4); and 107 residential units (Use Class C3), together with reconfiguration of the existing commuter car park, and associated landscaping, car/cycle parking and ancillary works.
- LBH Ref Nos:** 3049/APP/2012/1352

**Drawing Nos:**

SEE INDIVIDUAL REPORT

## **1. SUMMARY**

The Council has before it two schemes, the Spenhill scheme, comprising a full and outline application at the former Master Brewer site and the Bride Hall scheme at the Hillingdon Circus site, both for mixed use development in North Hillingdon. Both schemes propose a comprehensive mixed-use retail-led development incorporating residential, hotel, and in the case of the Spenhill scheme, a community facility and café/ bar. Because of the need to consider the cumulative impacts of the schemes, the applications are being considered together at the same committee meeting.

There are objections to the Bride Hall scheme on its own on traffic grounds. However, to provide for a scenario where the Committee consider that objection not to warrant refusal, it is appropriate to consider if the cumulative impacts of allowing both proposals would be acceptable. This will also assist the applicant in formulating alternative proposals in the future.

Cumulatively, the impact of both schemes together, in terms of retail, air quality and highway considerations is judged to unacceptable.

## **2. PROCEDURAL MATTERS**

Consideration needs to be given as to whether the grant of two planning permissions in this case would be acceptable in planning terms. Of relevance here will be the Development Plan Policies. The existence of other planning applications and planning permissions is a material consideration and as such it is necessary to take account of whether the cumulative impact of these applications would accord with the development plan when making a judgement on the proposals.

Other material considerations should also be taken into account, including the NPPF and PPS4 technical guidance. This deals with matters such as retailscale, the sequential approach to site selection and impact on existing centres and accessibility.

However, if there is evidence that the cumulative impact of both permissions being implemented would be unacceptable in planning terms, then that evidence should be taken into account in dealing with the two applications. In this case, Retail Impact Assessments and Environmental Impact Assessments have been undertaken for both the Bride Hall's and Spenhill's applications. These assessments suggest that the cumulative impact of the two supermarkets together would be likely to have an unacceptable impact on town centres within the relevant catchment areas and this is common ground between the Council and both applicants. However, Officers also consider that the two proposals would result in unacceptable cumulative impacts on highways and air quality as described later in this report.

If it is judged that the two proposals' cumulative impact is unacceptable to the extent that only one permission can therefore be granted, then the approach to be taken is a full comparative assessment of each site against the other, in order to decide which scheme is preferred in planning terms. Any comparative assessment would need to be conducted in accordance with any relevant criteria in the Development Plan and/or against the material facts of the sites proposed. The comparative assessment must be fair and objective, such an assessment has been undertaken and is provided elsewhere on this agenda.

## **3. RELEVANT PLANNING HISTORY**

Since the first submission of applications by Spenhill on the Master Brewer site in July 2011, a planning application has also been submitted in relation to a retail-led development on nearby land to the west (Hillingdon Circus). A request for a Screening Opinion in relation to this proposal was submitted to the Council on 14 October 2011, with an opinion subsequently issued on 1st November 2011. In isolation, it was concluded that the Hillingdon Circus proposals were unlikely to have significant effects in the context of EIA. On balance, however, the Council concluded that the prior submission of the Spenhill applications (submitted in July 2011) required Environmental Impact Assessment of the potential cumulative impacts arising from development on both sites.

The agents for the Spenhill scheme requested a Screening Direction from the Secretary of State (SoS) in order to confirm the situation with regard to the need for EIA in relation to the 2012 applications, in the light of the Hillingdon Circus proposals. The Secretary of State's Direction, dated 3 December 2012 confirmed that the proposals constitute EIA development. Whilst the SoS did not consider there to be any significant environmental effects regarding use of natural resources; production of waste; risk of accidents; or landscapes of historical, cultural or archaeological significance, he did consider that the environment was sensitive in terms of traffic and air quality. In addition, the SoS makes specific reference to the proposed Hillingdon Circus development, and the potentially cumulative impacts from both developments on traffic and air quality. On balance, he therefore concluded that EIA should be carried out in relation to these proposals. A full Environmental Statement has been submitted in support of the Spenhill applications which includes consideration of the cumulative impacts of both developments.

Similarly, agents for the Hillingdon Circus (Bride Hall's) Development submitted a request for a Screening Opinion to the Council on 14th October 2011. An opinion was subsequently issued on 1st November 2011. The Council's opinion acknowledged uncertainty as to the difficulty of interpreting statutory requirements to consider impacts which may be cumulative with other proposals. In isolation, it was concluded that the Bride Hall proposal was "...unlikely to have significant effects in the context of EIA". On balance, however, it concluded that the prior submission of the Development applications (submitted in July 2011) required Environmental Impact Assessment of the potential cumulative impacts arising from development on both sites. A full Environmental Statement has therefore been submitted in support of the Bride Hall application.

#### 4. CONSIDERATIONS

The Secretary of State's (SoS) Direction, dated 3 December 2012 confirmed that the Spenhill proposals constitute EIA development. The SoS makes specific reference to the proposed Hillingdon Circus development, and the potentially cumulative impacts from both developments on traffic and air quality.

Assessing the likely effects of a development require the consideration of other proposed developments that could together produce cumulative effects on the environment. All matters have been considered in terms of cumulative impacts. From this work, it is apparent that the main areas of concern in terms of cumulative impact are considered to be:

- **Transport** – There are known congestion problems in the area including impacts on a regional transport network.
- **Air Quality** – The site is designated an air quality management area due to levels of NO<sub>2</sub> that exceed minimum EU standards.

- **Retail** – Two new supermarkets could have a significant harmful impact on the vitality and viability of other town centres.

This cumulative assessment focuses on these topics, although commentary is provided on other topics where necessary. It is also relevant to note that all three main topics are inherently linked.

#### 4.1 TRANSPORT

The cumulative transport effects of the Hillingdon Circus Mixed Use Redevelopment scheme have been assessed, in addition to the Master Brewer proposed development. The conclusion of the latest cumulative traffic impact assessments i.e. Spenhill and Bride Hall combined, undertaken by SKM, Spenhill's transport consultants, and Vectos, Bride Hall's transport consultants, suggests that the cumulative traffic impact with mitigation will be significantly detrimental.

Considering that:

- The surrounding highway network carries very high volumes of traffic, especially during traffic peak periods, and experiences traffic congestion;
- The Spenhill and Bride Hall developments combined will generate high volumes of traffic, where the highway network is already well congested; and
- Cumulative impact results submitted by both the developers show a significant worsening of junction performance.

There are a number of unknowns in traffic modelling and when risk and impact are considered together, given the potential harm, there is too much uncertainty. It would be highly risky to conclude that the residual cumulative traffic impacts of these two major developments are unlikely to be significant or severe. Officers therefore object to both developments proceeding together based on the adverse impacts on traffic.

#### 4.2 AIR QUALITY

Officers do not agree with the findings of the individual air quality assessments and believe the results are not presented entirely fairly. Officers consider that the baseline figures for both assessments are too low. In addition the conclusions of the assessments are also flawed because they underestimate the level of pollution at key times and at particular locations.

Notwithstanding these concerns, Officers consider that the air quality impact of each development in isolation is likely to be acceptable and can be adequately managed through mitigation (SS106 and conditions). When dealing with isolated impacts, officers are able to use their professional judgement to estimate the level of impact on air quality, notwithstanding the flaws in the studies. In this case, the judgement of Officers is that each scheme in isolation is unlikely to result in an air quality impact that is so adverse as to warrant a refusal. Any such isolated impacts could be managed by the conditions and S106 contributions.

However, given the complexity of the modelling involved in cumulative impact assessments, it would not be prudent for officers to estimate the likely impact of both developments coming forward in circumstances where there are flaws in the modelling and assumptions in both studies. The cumulative impact could give rise to a considerably greater detrimental impact on air quality and the increase in pollution is unlikely to be linear, indeed the increase could be exponential. Given that the cumulative impacts are unknown and cannot be estimated without a robust assessment, it is not possible to assess what, if any, mitigation measures

could ameliorate the cumulative impacts. This uncertainty is reflected by the fact that neither applicant has suggested mitigation measures that would address cumulative impacts.

The Council can broadly accept the findings of the individual applications (ignoring cumulative impact) albeit with some reservations over the methodology and with the exercise of professional judgement as to the likely impacts if the flaws were to be corrected. The relevant conditions would address the concerns. Individually, the flaws in the assessments are noted but the professional judgement of officers is that if the flaws were corrected, the resulting likely conclusions on air quality impact (ignoring cumulative impact) would not warrant refusal because the mitigation measures proposed and to be secured by condition would render the development acceptable.

However, when considering cumulative impacts, the scale and magnitude of both developments combined requires a much greater understanding of the air quality impacts before appropriate conditions and S106 contributions can be determined. The extent of the combined impacts is not sufficiently clearly set out in the cumulative assessments submitted by either applicant. The uncertainty of the impacts is greater in the cumulative situation and the information to support the suitability of both developments proceeding at the same time is insufficient on the part of both applications.

Officers therefore consider that there is no robust evidence that cumulatively the proposals will not cause significant adverse impacts on air quality.

## **4.3 RETAIL**

### **Cumulative Impact Assessment**

Proposals for two supermarkets are currently being considered, and as such it is important to understand the cumulative retail impacts which may arise if both schemes were to be approved and implemented.

Due to the concerns over the reliability of the impact assessment submitted in support of the 'Bride Hall' proposal, officers have placed greater weight on the retail impact assessment submitted as part of the supermarket proposal on the former Master Brewer site as a starting point. To understand cumulative retail impacts on centres and planning investment, officers have simply added together the impacts that could be expected to arise from each store if implemented in isolation.

The dynamics of having two stores in such close proximity to one another would, in reality be much more complex, and may for example result in efficiencies (such as linked trips between the stores). Equally, the cumulative scenario (i.e. both stores are built and operate with the turnovers expected) could also amplify impacts (the appeal of two supermarkets in one location may become a destination for a very much wider catchment than has been envisaged for any individual store). Given the above, officers have taken a pragmatic approach to understanding the cumulative impacts.

### **Cumulative Impacts on Planned Investment**

In respect of the planned investment, it is noted that the extension to the Sainsbury's store in Uxbridge has been planned for some time. Representations submitted on behalf of Sainsbury's confirm that the retailer is 'reviewing the viability of implementing the extension'. choice and range of products at that store.

Assuming that two stores come forward, the impact on the Sainsbury's store in Uxbridge would be in the vicinity of a 37% reduction in trade. That is to say the store would be trading at only 63% of what could be expected.

In assessing the risk to planned investment, it is important to consider whether the Sainsbury's extension is included as a key provision of the development plan. In this regard Local Plan Policy E4, is relevant. The Council's objectives for Uxbridge in order to strengthen its status as a Metropolitan Centre include promoting it as a suitable location for retail development. Whilst Uxbridge performs a significant comparison and service function as a major town centre (turnover in the impact year of £451m), the presence of a major foodstore in the centre is a clear strength of the centre. Prejudicing planned investment in that store would clearly undermine Development Plan policy.

While there is no set requirement to establish 'need' for a retail store, it is important to have an understanding of existing and predicted 'need' order to assess the impact on planned investment (.e.g. will there be sufficient 'need' to ensure the planned investment goes ahead were the current proposals also permitted). In this case given the cannibalisation of sales which would be necessary to support the new stores at Hillingdon Circus, it is not clear that sufficient need exists.

It is also important to recognise that the stores are competing for the same market opportunity and that there is evidence that Sainsbury's in Uxbridge (who have lodged an objection about this very topic) are concerned about the loss of trade which would result if the proposals at Hillingdon Circus come forwards.

The cumulative impact arising from the two current applications at North Hillingdon would together, as a consequence of limited need, result in substantial diversion from the Sainsbury's store, and represent a 'significant adverse' impact.

### **Cumulative Impacts on Centres (convenience impact only)**

The Table below shows the estimated cumulative impact on centres as estimated by officers using the methodology discussed above:

<b>Cumulative Trade Draw %</b>	
<b>Uxbridge</b>	43%
<b>Ruislip</b>	18%
<b>North Hillingdon</b>	19%
<b>Ickenham</b>	5%
<b>South Ruislip</b>	6%

The cumulative impact shown above relates to trade loss in convenience goods sales. Whilst Uxbridge performs a significant comparison and service function as a major town centre the loss of 43% of its convenience goods trade is considered to significantly degrade the vitality and viability of the centre, and is not considered acceptable. There is clear evidence of significant adverse impact on Uxbridge as the focus of retail development in the Borough if two stores were to come forward at North Hillingdon.

The Retail Impact Assessment submitted by both Bride Hall and Spennell make it clear that cumulative impacts would be unacceptable.

Cumulatively these two store proposals taken together, and if implemented, would radically shift the role and function of the North Hillingdon local centre. There is real concern that approving two stores in North Hillingdon would prejudice retail investment in Uxbridge; a centre which Development Plan policy is seeking to strengthen by promoting retail investment.

The NPPF is clear in stating that applications should be refused where there would be a 'significant adverse' impact upon existing centres.

The benefits of the schemes must be taken into account, including regeneration of derelict sites, the one time economic impacts from construction as well as the ongoing benefits of housing and employment etc, which would accrue if both proposals were built.

However, in this case the harm which would result to the Borough's main centre is significant, and on balance, the various benefits of the two schemes do not outweigh the harm in retail impact terms, and objection is raised to the cumulative impacts. Therefore it is considered that to allow permission for both schemes would have a significant and unacceptable impact.

#### **4.4 NOISE**

Noise contour maps are provided in the Spenhill Environmental Statement (ES) appendices shows the changes in noise levels due to cumulative effect. It shows the daytime and night time cumulative effect on proposed residential development blocks A-E (the Spenhill residential proposal). Comparing this with the contour maps in the acoustic report dated 22nd May 2012, this shows the overall cumulative noise effect will only be slight. The façade noise levels on each of the blocks will only change by few decibels. This is something which can be addressed by a noise condition for façade sound insulation.

The Master Brewer assessment also looked at changes in road traffic noise levels and found the cumulative impact to be negligible on existing residential properties in Freezeland Way (i.e. only a 1dB change). Car park noise will also be negligible and can be addressed by the previously recommended condition for a delivery management plan.

It is therefore not considered that the developments would have any unacceptable cumulative noise impacts and no objection is raised in this regard.

#### **4.5 LANDSCAPE AND VISUAL CHARACTER**

The two developments within the Hillingdon Circus area will result in an obvious change to the character of the area, with new retail and commercial buildings, residential blocks, 2 hotels and associated parking and landscape planting. The developments are predicted to have an indirect effect on some of the adjacent townscape character areas due to an increase in activity, arising from the additional retail, commercial and residential uses on the sites.

The predicted cumulative effect would be of high magnitude on a character area of low sensitivity, resulting in a moderate to minor beneficial impact on the Hillingdon Circus character area.

Overall, it is not considered that the developments would result in an adverse impact on the character of Hillingdon Circus which is already dominated by brown field sites, road and rail infrastructure at present.

#### **4.6. OTHER ISSUES**

Officers having carried out a detailed analysis, including a series of workshops, agree with the Secretary of State's Direction that there are unlikely to be any significant cumulative environmental effects regarding use of natural resources; production of waste; risk of accidents; or landscapes of historical, cultural or archaeological significance. It is not considered that there would be any cumulative impacts with respect to the following: Day lighting, sun lighting, overshadowing and solar glare, ecology and nature conservation, ground conditions and contamination, refuse/recycling, surface water drainage and flooding.

#### **5. CONCLUSION**

It is considered that the cumulative impact for both proposals coming forward in terms of traffic generation, retail impact and air quality are unacceptable to the extent that only one permission can therefore be granted. A further comparative assessment will be undertaken to weigh the benefits and harm of the individual schemes.

#### **6. OBSERVATIONS OF BOROUGH SOLICITOR**

##### General

Members must determine planning applications having due regard to the provisions of the development plan so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations (including regional and national policy and guidance). Members must also determine applications in accordance with all relevant primary and secondary legislation.

Material considerations are those which are relevant to regulating the development and use of land in the public interest. The considerations must fairly and reasonably relate to the application concerned.

Members should also ensure that their involvement in the determination of planning applications adheres to the Members Code of Conduct as adopted by Full Council and also the guidance contained in "Probity in Planning, 2009".

##### Planning Conditions

Members may decide to grant planning consent subject to conditions. Planning consent should not be refused where planning conditions can overcome a reason for refusal. Planning conditions should only be imposed where Members are satisfied that imposing the conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Where conditions are imposed, the Council is required to provide full reasons for imposing those conditions.

##### Planning Obligations

Members must be satisfied that any planning obligations to be secured by way of an agreement or undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 are necessary to make the development acceptable in planning terms. The obligations must be directly related to the development and fairly and reasonably related to the scale and kind to the development (Regulation 122 of Community Infrastructure Levy 2010).

##### Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have "due regard" to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different "protected



characteristics". The "protected characteristics" are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The requirement to have "due regard" to the above goals means that members should consider whether persons with particular "protected characteristics" would be affected by a proposal when compared to persons who do not share that protected characteristic. Where equalities issues arise, members should weigh up the equalities impact of the proposals against the other material considerations relating to the planning application. Equalities impacts are not necessarily decisive, but the objective of advancing equalities must be taken into account in weighing up the merits of an application. The weight to be given to any equalities issues is a matter for the decision maker to determine in all of the circumstances."

Members should also consider whether a planning decision would affect human rights, in particular the right to a fair hearing, the right to respect for private and family life, the protection of property and the prohibition of discrimination. Any decision must be proportionate and achieve a fair balance between private interests and the public interest.

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