

Report of the Head of Planning, Sport and Green Spaces

Address UNITS 1-4, RUISLIP RETAIL PARK VICTORIA ROAD RUISLIP

Development: Variation of Condition 11 of planning permission ref. 43510/APP/2000/2485 dated 14/03/2003 to remove the restrictions on the sale of goods that can be sold from Unit 3 and vary restrictions on the goods that can be sold from Units 1, 2 and 4.

LBH Ref Nos: 43510/APP/2012/3176

Drawing Nos: P002 Site Location Plan
Covering Letter dated 21 December 2012
Planning Statement
14538/SK06
14538/SK10
1:1250 scale location plan
Vehicle Tracking Plans
14538/SK19E
123A
Letter dated 30 October 2000
Letter dated 12 December 2000
Letter dated 27 March 2001
Letter from Agent dated 23 April 2013
Email from Agent dated 23 May 2013

Date Plans Received: 21/12/2012 **Date(s) of Amendment(s):**
Date Application Valid: 11/01/2013

1. **SUMMARY**

UPDATED SUMMARY

This application was originally considered by the Major Applications Planning Committee on the 30th October 2013, where the committee determined that the application should be approved subject to a legal agreement and conditions.

Since the original Committee Meeting the applicant has queried the conditions which were imposed on the application. The application is for a variation of conditions and accordingly the conditions imposed should have been consistent with those on the original consent (except those being varied). On further review of the decision it is apparent that the conditions imposed did not match the original consent and in some case would impose additional and unnecessary restrictions on existing and operating retail occupiers.

Accordingly, officers are recommended the application for approval subject to an amended suite of conditions. The conditions now proposed have been carefully checked and are now fully appropriate.

ORIGINAL SUMMARY

The application seeks to vary condition 11 of planning permission ref: 43510/APP/2000/2485, dated 14/03/2003, which restricted the type of goods that could be sold from Units 1-4, Ruislip Retail Park.

The applicant seeks to vary the condition as follows:

i) remove the restriction on the sale of goods from Unit 3 (conditioned as part of ref: 43510/APP/2011/1344) to allow the vacant unit to be used for any purpose within Use Class A1, as currently exists at Unit 1 (Lawful Development Certificate ref: 59190/APP/2012/1528, granted August 2012)

ii) remove the restriction on the sale of fancy goods from Unit 2 and Unit 4

iii) restrict the goods that can be sold from Unit 1.

It is not considered that the amendment would result in any unacceptable impacts on the viability or vitality of existing centres and the proposal would deliver benefits in terms of economic growth and improvements to the amenity of the area and retail park.

Approval is recommended subject to a legal agreement which restricts the amount of gross internal floor area that can be used for open A1 use, and restricts how much gross internal floor area can be used for the sale of convenience goods.

2. RECOMMENDATION

A. That the Council enters into a legal agreement with the applicant under Section 106 of the 1990 Town & Country Planning Act (as amended) or other appropriate legislation to secure:

1: The gross internal floor area authorised for open A1 use shall not exceed 2,564m² within Unit 3.

2: No more than 40% of the gross internal floor area authorised for open A1 use shall be used for the sale of convenience goods within Unit 3.

3. Goods restriction conditions on Units 1, 2 and 4.

4. Neither permission implemented independently of the others.

5. Employment Strategy

B. That officers be authorised to negotiate and agree the detailed terms of the proposed agreement.

C. If the Legal Agreement/s have not been finalised within 3 months, delegated authority be given to the Head of Planning, Green Spaces and Culture to refuse planning permission for the following reason:

'In the absence of adequate controls to restrict the gross internal floor area and convenience goods sale area, the development would cause harm to the vitality and viability of town and local centres. Accordingly, the proposal is contrary to Policy E5 of the Hillingdon Local Plan: Part 1- Strategic Policies (Nov 2012), Policy 2.15 of the London Plan (July 2011) and the NPPF'.

D. That if the application is approved, the following conditions be attached:

1 COM3 Time Limit

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 COM4 Accordance with Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans,

P002 Site Location Plan
14538/SK06
14538/SK10
1:1250 scale location plan
Vehicle Tracking Plans
14538/SK19E
123A

and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and the London Plan (July 2011).

3 NONSC Non Standard Condition

Trees, hedges and shrubs shown to be retained on the approved plan shall not be damaged, uprooted, felled, lopped or topped without the prior written consent of the Local Planning Authority (LPA).

Any trees, hedges and shrubs being severely damaged during construction, seriously diseased or dying shall be replaced by one of a size and species to be agreed in writing with the LPA. Where damage is less severe, a schedule of remedial works necessary to ameliorate the effect of damage by tree surgery, feeding or groundwork shall be agreed in writing with the LPA. New planting should comply with BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs'. Remedial work should be carried out to BS3998 (2010) 'Recommendations for Tree Work' and BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. Such work or planting shall be completed within 8 months of the commencement of the development or such a period as agreed in writing by the LPA.

REASON

To ensure the trees and other vegetation contribute to the amenity of the area in accordance with Policy BE38 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

4 NONSC Non Standard Condition

Prior to works commencing on site, detailed drawing showing the position and type of fencing to protect the entire root areas/crown spread of trees, groups of trees and other vegetation to be retained during construction work, shall be submitted to and approved by the Local Planning Authority. Such fencing should be a minimum height of 1.5 metres and shall be erected prior to any demolition, removal of topsoil, and commencement of

building operations and retained in position until the development is completed. The land so enclosed shall be kept clear of all dumping, materials, machinery and cement mixing and the existing soil levels not altered or disturbed. No fires shall be lit on the land so enclosed.

REASON

To ensure the retention of trees and other vegetation contribute to the amenity of the area in accordance with Policy BE38 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

5 NONSC Non Standard Condition

Before any part of the approved development is commenced, a landscaping scheme shall be submitted to and approved by the Local Planning Authority.

REASON

To ensure the proposed development makes a satisfactory contribution to the preservation and enhancement of visual amenity in the locality in accordance with Policy BE38 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

6 NONSC Non Standard Condition

All planting, seeding and turfing in the approved landscaping scheme shall be completed within eight months of the development commencing (or such period as agreed in writing by the Local Planning Authority) or prior to occupation of the building(s) whichever is the earlier period. The new planting and landscape operations should comply with the requirements specified in BS 3936 (1992) 'Nursery Stock, Part 1, Specification of Trees and Shrubs' and in BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard surfaces)'. Thereafter, areas of amenity space shall be permanently retains and any trees or other planting which die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of development, shall be replaced in the next planting season with others of similar size and species in accordance with the details approved by the Local Planning Authority.

REASON

To ensure the proposed development makes a satisfactory contribution to the preservation and enhancement of visual amenity in the locality in accordance with Policy BE38 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

7 NONSC Non Standard Condition

The roads/turning/loading facilities/sight lines, direction and prohibition signs and parking areas (including the installation of the one way flaps at the Victoria Road access and the marking out of parking spaces) shown on the approved plans shall be constructed/installed prior to occupation of the development, thereafter permanently retain and maintained in good order.

REASON

To ensure the development provides adequate facilities in accordance with Policies AM2, AM7 and AM14 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

8 NONSC Non Standard Condition

Development shall not begin until details and/or samples of all materials, colours and finishes to be used on all external surfaces have been submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure an appropriate appearance in accordance with Policy BE13 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

9 NONSC Non Standard Condition

No mezzanine or upper level floorspaces shall be used for retail purposes until details of access arrangements to the upper level have been submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure that adequate facilities are provided for people with disabilities in accordance with London Plan (July 2011) Policy 7.2.

10 NONSC Non Standard Condition

All facilities provided and designed specifically for people with disabilities shown on the approved plans (to include, where appropriate to this application, reserved/specifically designed parking spaces; ramped kerbs; ramped/level approaches to building entrances; types and dimensions of door and lobby openings at building entrances; residential units designed to wheelchair standard BS5810) shall be provided prior to the occupation of the development and thereafter permanently retains.

REASON

To ensure that adequate facilities are provided for people with disabilities in accordance with London Plan (July 2011) Policy 7.2.

11 COM14 No additional internal floorspace

Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 (or any others revoking and re-enacting this provision with or without modification), no additional internal floorspace shall be created in excess of that area expressly authorised by this permission.

REASON

To enable the Local Planning Authority to assess all the implications of the development and to ensure that adequate parking and loading facilities can be provided on the site, in accordance with Policy E5 of the Hillingdon Local Plan Part One: Strategic Policies (November 2012), Policy LE2 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012), and Policies 2.15 and 4.7 of the London Plan (July 2011) and the National Planning Policy Framework.

12 NONSC Non Standard Condition

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any order revoking and re-enacting that Order with or without modification or the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any order revoking and re-enacting that Order with or without modification units 1, 2 and 4 shall not be used for the retail sale of food (other than refreshments restricted for consumption on the premises by customers), clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and maintenance activities), cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines and books (other than those related to DIY goods, vehicle repair and maintenance), stationery, jewellery, toys, luggage and sports goods.

Unit 3 may be used for any purpose within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

REASON

To accord with existing restrictions on the sale of goods from the premises, to protect the vitality and viability of town and local centres and to encourage retail activity on sites which are more readily accessible by private motor vehicles in accordance with Policy E5 of the Hillingdon Local Plan Part One: Strategic Policies (November 2012), Policy LE2 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012), and Policies 2.15 and 4.7 of the London Plan (July 2011) and the National Planning Policy Framework.

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to GRANT planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

2 I53 Compulsory Informative (2)

The decision to GRANT planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) 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.

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
LE2	Development in designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
LPP 2.15	(2011) Town Centres

3 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 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.

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Where development under the original planning permission has already been completed and conditions relating to that development have already been discharged, the Local Planning Authority will not require the resubmission of details relating to the corresponding condition on this consent.

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises four retail units, forming part of the larger Ruislip Retail Park (totalling 5,855m²). The retail park is located on the southwest corner of the junction of Field End Road and Victoria Road, South Ruislip and falls within the Stonefield Way Industrial and Business Area (IBA).

The current car parking provision for the retail park is 204 spaces (including 10 for disabled drivers). The 4 units in the Retail Park which are part of the applicant's landholding are currently occupied as follows:

Unit 1: Furniture Village
Unit 2: Carpetright
Unit 3: Vacant (formerly occupied by MFI)
Unit 4: Halfords

To the west of the four units is a Wickes DIY Store, which, whilst part of the Ruislip Retail Park, is not part of the applicant's landholding. There are a further 100 spaces in an adjoining car park for the neighbouring Wickes DIY Store. Servicing and deliveries to Units 3 and 4 are provided via Field End Road, whilst servicing access to Units 1 and 2 is provided via Stonefield Way.

Ruislip Retail Park is located in close proximity to a number of other retail outlets and retail parks. Stores include Argos Extra, Homebase, Brantano (on the Victoria Retail Park); Pets at Home, Allied Carpets (on the Brook Retail Park); Currys, DFS, Kwik Fit, Comet (now closed), Rosebys and Bensons Beds as well as a number of car showrooms (including Honda and VW).

Alongside the existing retail units and retail parks located along Victoria Road there are a variety of industrial units, which extend south of Victoria Road along Stonefield Way. This area, including Ruislip Retail Park, extending west to the defined South Ruislip Local Centre and south to the rail line, is designated within the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) as an Industrial and Business Area.

Unit 3 has been vacant following MFI's closure in 2008.

3.2 Proposed Scheme

Planning permission ref: 43510/APP/2000/2485, for the refurbishment of existing retail units, (with new cladding on all elevations, new covered walkway on northern frontage (facing Victoria Road) and changes to service arrangements and car parking with enhanced frontage landscaping, incorporating disused service road) was granted in March 2003. The permission related to Units 1, 2, 3 and 4.

Condition 11 of that consent states:

The premises shall not be used for the retail sale of food (other than refreshments restricted for consumption on the premises by customers), clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and maintenance activities), cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines and books (other than those related to DIY goods, vehicle repair and

maintenance), stationery, jewellery, toys, luggage, sports goods and fancy goods.

REASON

To accord with existing restrictions on the sale of goods from the premises, to protect the vitality and viability of town and local centres and to limit retail activity on sites which are more readily accessible by private motor vehicles than by public transport, bicycles or pedestrians.

An application to vary condition 11 of the above consent in relation to Unit 3, by removing the restriction on the sale of 'fancy goods', was granted in October 2011 (ref: 43510/APP/2011/1344).

The varied condition is as follows:

The premises shall not be used for the retail sale of food (other than refreshments restricted for consumption on the premises by customers), clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and maintenance activities), cosmetics, toiletries, pharmaceutical products, photographic equipment, newspapers, magazines and books (other than those related to DIY goods, vehicle repair and maintenance), stationery, jewellery, toys, luggage and sports goods.

REASON

To accord with existing restrictions on the sale of goods from the premises, to protect the vitality and viability of town and local centres and to limit retail activity on sites which are more readily accessible by private motor vehicles than by public transport, bicycles or pedestrians, in compliance with London Plan Policies 2.15 and relevant policies contained in PPS4: Planning For Sustainable Economic Growth (December 2009). (Numbered Condition 6 on decision notice for 43510/APP/2011/1344).

Therefore, Unit 3 (former MFI) is not restricted from selling fancy goods.

Unit 1 (Furniture Village) can be used for any purpose within Use Class A1. This was confirmed by the Council in Lawful Development Certificate ref: 59190/APP/2012/1528, granted in August 2012.

Unit 2 (Carpentryright) and Unit 4 (Halfords) are restricted from selling fancy goods under condition 11 of planning permission ref: 43510/APP/2000/2485.

The current application is to:

i) remove the restriction on the sale of goods from Unit 3 (conditioned as part of ref: 43510/APP/2011/1344) to allow the vacant unit to be used for any purpose within Use Class A1 (as currently exists at Unit 1)

ii) remove the restriction on the sale of fancy goods from Unit 2 and Unit 4

iii) restrict the goods that can be sold from Unit 1 (which currently has no restrictions)

Units 1, 2 and 4 would be restricted from the retail sale of:

* food (other than refreshments restricted for consumption on the premises by customers),

* clothing and footwear (other than clothing, footwear and accessories intended for use in connection with building and construction, DIY, motor cycling, cycling or vehicle repair and

maintenance activities),
* cosmetics,
* toiletries,
* pharmaceutical products,
* photographic equipment,
* newspapers, magazines and books (other than those related to DIY goods, vehicle repair and maintenance),
* stationery,
* jewellery,
* toys,
* luggage, and
* sports goods

3.3 Relevant Planning History

43510/APP/2000/2485 Mfi, Carpetright And Halfords Victoria Road Ruislip

REFURBISHMENT OF EXISTING RETAIL UNITS, WITH NEW CLADDING ON ALL ELEVATIONS, NEW COVERED WALKWAY ON NORTHERN FRONTAGE (FACING VICTORIA ROAD) AND CHANGES TO SERVICE ARRANGEMENTS AND CAR PARKING WITH ENHANCED FRONTAGE LANDSCAPING, INCORPORATING DISUSED SERVICE ROAD

Decision: 14-03-2003 Approved

43510/APP/2003/1447 Unit 1, Ruislip Retail Park Victoria Road Ruislip

VARIATION OF CONDITION 10 (TO ALLOW FOR INSTALLATION OF MEZZANINE FLOOR TO PROVIDE ADDITIONAL 1,170M² OF FLOORSPACE) TOGETHER WITH DETAILS OF ACCESS TO MEZZANINE AS REQUIRED BY CONDITION 8 OF THE SAME CONSENT OF PLANNING PERMISSION REF.43510/APP/2000/ 2485 DATED 14/03/2003;
REFURBISHMENT OF EXISTING RETAIL UNITS, CLADDING ON ALL ELEVATIONS, NEW COVERED WALKWAY ON NORTHERN FRONTAGE

Decision: 10-09-2003 Approved

43510/APP/2003/1601 Unit 4 Victoria Road Ruislip

VARIATION OF CONDITION 10 (TO ALLOW INSTALLATION OF ADDITIONAL 158 SQUARE METRES OF FLOORSPACE AGAINST THE APPROVED) OF PLANNING PERMISSION REF. 43510/APP/2000/2485 DATED 14/03/2003; REFURBISHMENT OF EXISTING RETAIL UNITS, CLADDING ON ALL ELEVATIONS, NEW COVERED WALKWAY ON NORTHERN FRONTAGE

Decision: 11-09-2003 Approved

43510/APP/2003/797 Mfi, Carpetright And Halfords Victoria Road Ruislip

DETAILS OF LANDSCAPING SCHEME, LANDSCAPING MAINTENANCE, TREE PROTECTION, MATERIALS AND ACCESS IN COMPLIANCE WITH CONDITIONS 2, 3, 4, 7 AND 8 OF PLANNING PERMISSION REF. 43510/APP/2000/2485 DATED 14/03/2003;
REFURBISHMENT OF EXISTING RETAIL UNITS, WITH NEW CLADDING ON ALL ELEVATIONS, NEW COVERED WALKWAY ON NORTHERN FRONTAGE (FACING VICTORIA ROAD) AND CHANGES TO SERVICE ARRANGEMENTS AND CAR PARKING WITH ENHANCED FRONTAGE LANDSCAPING, INCORPORATING DISUSED SERVICE ROAD

Decision: 29-10-2003 Approved

43510/APP/2010/1977 Unit 3, Ruislip Retail Park Victoria Road Ruislip

Variation of condition 11 (restricted sale of goods) of planning permission ref: 43510/APP/2000/2485 dated 14/03/2003: Refurbishment of existing retail units, with new cladding on all elevations, new covered walkway on northern frontage (facing Victoria Road) and changes to service arrangements and car parking with enhanced frontage landscaping, incorporating disused service road.

Decision: 27-01-2011 Withdrawn

43510/APP/2010/1979 Unit 3, Ruislip Retail Park Victoria Road Ruislip

Construction of a 1,810 sq.m mezzanine within Unit 3, Ruislip Retail Park.

Decision: 10-02-2011 Approved

43510/APP/2011/1343 Unit 3, Ruislip Retail Park Victoria Road Ruislip

Variation of condition 6, (to remove restrictions on the sales of goods), of planning permission ref. 43510/APP/2010/1979 dated 10/02/2011: Construction of a 1,810 sq.m mezzanine within Unit 3, Ruislip Retail Park.

Decision: 25-10-2011 Approved

43510/APP/2011/1344 Unit 3, Ruislip Retail Park Victoria Road Ruislip

Variation of condition 11 (to remove restrictions on the sales of fancy goods) of planning permission Ref: 43510/APP/2000/2485 dated 14/03/2003: (Refurbishment of existing retail units, with new cladding on all elevations, new covered walkway on northern frontage (facing Victoria Road) and changes to service arrangements and car parking with enhanced frontage landscaping, incorporating disused service road.

Decision: 25-10-2011 Approved

43510/APP/2012/3179 Unit 3, Ruislip Retail Park Victoria Road Ruislip

Removal of Condition 6 of planning permission ref. 43510/APP/2010/1979 dated 10/02/2011 to allow the sale of any goods within Use Class A1 from Unit 3.

Decision: 29-11-2013 Approved

59190/APP/2012/1528 Unit 1, Ruislip Retail Park Victoria Road Ruislip

Use of Unit 1 for any purpose within Use Class A1 (Application for a Certificate of Lawful Development for a Proposed Use)

Decision: 21-08-2012 Approved

Comment on Planning History

Planning permission ref: 43510/APP/2000/2485, granted in March 2003 imposed a

condition restricting the goods that could be sold from Units 1-4. Since 2003 there have been a number of applications to vary the goods that could be sold from Unit 1 and Unit 3.

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.E5 (2012) Town and Local Centres

Part 2 Policies:

AM7 Consideration of traffic generated by proposed developments.

AM14 New development and car parking standards.

BE13 New development must harmonise with the existing street scene.

LE2 Development in designated Industrial and Business Areas

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

LPP 2.15 (2011) Town Centres

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- 19th February 2013

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Consultation letters were sent to 4 local owners/occupiers and South Ruislip Residents Association. A site notice was also posted. No responses were received.

London Borough of Harrow:

No objection subject to:

1. The applicant has failed to demonstrate that the sequential test and impact assessment for the assessment of retail development as required by paragraphs 24 and 26 of the National Planning Policy Framework 2012 have been satisfied. In the absence of an adequate assessment as to the appropriateness of the site for retail development, the variation of condition 11 of application 43510/APP/2000/2485 to allow for the unrestricted use within Planning Use Class A1 of Unit 3 of the retail park could potentially have an adverse impact upon the vibrancy and vitality of the Rayners Lane and South Harrow district centres of Harrow and nearby neighbourhood parades.

The decision to object to the development proposal has been taken having regard to the National Planning Policy Framework 2012 and the following policies and proposals in The London Plan 2011, the Harrow Core Strategy 2012 and the saved policies of Harrow's Unitary Development Plan 2004, and to all relevant material considerations:

- National Planning Policy Framework 2012
- The London Plan 2011: 4.7, 4.8, 6.3, 7.4
- Harrow Core Strategy 2012: CS1.B/L

- Harrow Unitary Development Plan 2004: D4, T6
- Development Plan Document: Development Management Policies: Policies DM1, DM46, DM54

2. These comments are provided by this Council as a Local Planning Authority affected by the development and are made in response to consultation under the provisions of Article 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

Internal Consultees

INTERNAL

Section 106 Officer:

I consider that if you were minded to approve this application then a deed of variation to the original s106 (dated 3 March 2000) over the land would be required.

Projects & Environmental Planning:

I am not satisfied there is a case to be made with either application.

Firstly the LDC is not transferable from Unit 1 to Unit 3. The general aim will be to discourage A1 retail uses in the Estate as a general principle.

Floorspace

I do not accept the argument that there is no new floorspace to be created.

Whilst the proposal is not for new build it is an application for a change of use within Unit 3. Whilst I do not know the size of the floor plate associated with Unit 1, I am reasonably confident that Unit 3 is a larger Unit. In terms of floorspace size, comments on earlier applications suggested that Unit 3 was 1858 sq.m. Unit 3 also benefits from consent for a mezzanine floor measuring 1810 sq.m. I understand that whilst the mezzanine has not been implemented the area would be 1810 sq.m giving a total of 3668 sq.m nearly doubling the size of Unit 3 and probably at least double the floor space in Unit 1 subject to an A1 consent. Thus if this proposal was to be agreed it would represent a significant expansion of A1 use in Unit 3. For this reason a 'swap' is not acceptable. (There is no indication that the applicant will forgo the consent for the mezzanine floor or if developed to retain a non A1 use.)

In respect of the application to remove 'fancy goods' from the list of restricted goods there is no justification for such a removal. On earlier applications 'fancy goods' were removed from the list of restricted goods on Unit 3 because the Unit had been vacant for a number of years and potential tenants had been lost because of restrictions of this type on the sale of goods. To prevent the loss of future potential tenants it was agreed to remove fancy goods from the list of non saleable items in Unit 3 to assist in securing the satisfactory reuse of the Unit. In short this approval was agreed as an exception. As the adjoining Units are occupied there is no need or requirements to adopt a similar approach for these units.

If the applicant wishes to pursue this application further they should be advised that they are not exempt from complying with National Guidance (NPPF) on town centres.

Firstly they should be asked if they are willing to forfeit the approval of the mezzanine and/or non A1 uses as per the current consented use. If not and as they are proposing to increase retail uses above the default 2500 sq.m where the NPPF advises an impact test is required (it may be possible to reconsider this need if the proposal related only to the ground floor use of Unit 3). The impact test will be required to determine the effect on the vitality and viability of nearby retail centres and shopping parades.

In addition, as this proposal represents an out of centre application and an increase in A1 retail

floorspace then a sequential test should also be undertaken. I do not accept the applicant's claim that there are no sequentially better sites.

At this stage I would recommend refusal on both applications.

Officer comments:

The applicant has agreed to enter into a legal agreement that will restrict the gross internal floor area authorised for open A1 use, and the percentage of the gross internal floor area authorised for the sale of convenience goods within Unit 3. This effectively means the proposals (this application and application ref: 43510/APP/2012/3179) would result in no change to the floorspace available for general A1 use. While additional sale of 'fancy goods' would be permitted, officers do not consider that this limited relaxation would cause an amount of harm which could justify refusal when balanced against the potential harm of the unit (Unit 3) remaining vacant.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application site is located within the Stonefield Way Industrial and Business Area (IBA), and is therefore subject to Policy LE2 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012), which designates Industrial and Business Areas (IBAs) for business, industrial and warehousing purposes (Use Classes B1-B8) and for Sui-Generis uses appropriate in an industrial area.

The application site has been used as Non-Food Retail warehousing (Class A1) since planning permission was granted in August 1986 at appeal (Planning Inspectorate ref: R5510/A/85/36786) for the erection of two single storey retail buildings (one building of 60,000 sq ft to be occupied by MFI (Units 1-4) and one of 29,000 sq ft to be occupied by Wickes).

The use of Units 1-4 as Class A1 Non-Food Retail within the Stonefield Way Industrial and Business Area (IBA) has therefore been firmly established in principle.

Unit 1 has unrestricted A1 use under Lawful Development Certificate ref: 59190/APP/2012/1528 (granted in August 2012) whilst Unit 3 is restricted in the range of goods that can be sold from the unit. Unit 3 has been vacant since 2008 and the applicant advises that due to the restrictions on the range of goods that can be sold, there has been insufficient interest from retailers. The proposal seeks to remove the goods restriction from Unit 3 and re-impose the restriction on Unit 1.

The Council's Policy Team raised concerns in relation to the difference in size between Units 1 and 3 and the fact that a straightforward 'swap' in the range of goods that can be sold from Units 1 and 3 is not possible. Unit 1 has a permitted gross internal floorspace of 2,564m² (including an existing mezzanine) whilst Unit 3 has a permitted gross internal floorspace of 3,668m² (including a mezzanine permitted under planning application ref: 43510/APP/2010/1979, dated 10 February 2011, which has not yet been implemented). Therefore, the permitted floorspace for Unit 3 is 1104m² larger than Unit 1, and so has a larger floorspace to sell A1 no-food retail goods.

Following discussions with the applicant, it was agreed that the Council and Applicant enter a legal agreement to restrict the permitted floorspace in Unit 3 to no more than 2,564m², the amount of floorspace currently permitted in Unit 1, and to ensure that no more than 40% of the gross internal floor area authorised for open A1 use shall be used for the sale of convenience goods.

In relation to Units 2 and 4, the applicant seeks to remove the current restriction on 'fancy'

goods. It is considered that the removal of the 'fancy' goods restriction on Units 2 and 4 would not have a significant detrimental impact on town centre retailers which would be sufficient to justify refusal.

Subject to the legal agreement, it is considered that the variation of condition 11 of planning permission ref: 43510/APP/2000/2485, dated 14/03/2003, to allow the sale of any goods within Use Class A1 from Unit 3, the sale of 'fancy' goods from Units 2 and 4, and to restrict the goods that can be sold from Unit 1, would be acceptable in principle and would not have a detrimental impact on the Ruislip Retail Park.

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

With regard to impact on the character and appearance of the area, this proposal seeks an alteration to a condition restricting the sale of goods at an existing retail unit. As this proposal does not involve any external alterations, the proposal would not harm the appearance of the application property and the street scene, in accordance with Policies BE13 and BE15 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012).

7.08 Impact on neighbours

With regard to impact on residential amenity, the proposal seeks an alteration to a condition restricting the sale of goods at an existing retail park. As the proposal does not involve any external alterations, the proposed development will not have a visual impact on nearby residential properties.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

In terms of additional traffic/shoppers attracted to the retail park, the site is within an established retail location where there are sufficient car parking facilities and also existing arrangements for accessing the site via public transport. There would be no change to the existing car park layout.

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

No objections were received from local residents during the public consultation.

Whilst the concerns raised by the adjoining borough are acknowledged, subject to planning obligations secured by legal agreements, the scheme should not result in harmful retail impacts.

7.20 Planning Obligations

The Retail Park is the subject to a Section 52 Agreement which restricts the range of goods that can be sold from Unit 3 to that specified in condition 11 (Part 7 (Clause 1)) of the Section 52 Agreement). However Part 7 (Clause 2) of the Agreement goes on to state that if any planning permission is granted subsequently for any of the uses prohibited by Clause 1, such planning permission shall vary Clause 1 of the S52 Agreement, to allow those prohibited goods to be sold from the unit. In effect, should the current S73 application be approved, this would automatically vary Clause 1 of the S52 Agreement.

Unit 3 currently has planning permission for a 1,810 sq.m mezzanine (ref: 43510/APP/2010/1979, dated 10 February 2011) and has a permitted floorspace of 3,668m², which is 1104m² larger than the permitted floorspace at Unit 1 (2,564m² gross internal floorspace). Unit 3 is currently restricted from selling certain A1 retail goods and seeks the removal of the current goods restriction to allow for open A1 retail use. Unit 1 already has open A1 retail use and the proposal seeks to re-impose restrictions on what goods can be sold from Unit 1, along with the removal of 'fancy' goods from Units 2 and 4.

The applicant has agreed to enter a legal agreement with the Council with the following heads of terms:

- 1: The Owner shall ensure that the gross internal floor area authorised for open A1 use under the Permission shall not exceed 2,564m².
2. The Owner shall use no more than 40% of the gross internal floor area authorised for open A1 use under the Permission for the sale of convenience goods.
3. Goods restriction conditions on Units 1, 2 and 4.
4. Neither permission implemented independently of the others.

The legal agreement would bind this planning application for Units 1-4 with planning application ref: 43510/APP/2012/3179 (Unit 3) in order to ensure that neither application can be implemented without the other, should consent be granted.

7.21 Expediency of enforcement action

Not applicable to this application.

7.22 Other Issues

Economic Impact:

It is noted that sustainable economic growth is a key consideration under the National

Planning Policy Framework.

At current Unit 3 has been vacant since 2008 (5 years) and as a result of the vacancy has been boarded up for a significant period of time. This has led to some vandalism at the site and in general detracts from the general amenity and environment of the retail park. In turn the applicant has advised that this has led to concerns from other occupiers at the retail park regarding impacts on their trade levels. Bringing the unit back into use would reduce the potential for vandalism at the site and improve the amenity of the retail park overall, this will benefit the retail park as a whole and is a benefit which weighs in favour of the scheme.

The proposal will also assist in bringing the vacant unit back into use which will assist in the creation of jobs and a legal agreement would ensure appropriate measures were in place to encourage employment of local people. The creation of additional jobs is also a benefit which weights in favour of the scheme.

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

The application seeks to vary condition 11 of planning permission ref: 43510/APP/2000/2485 which restricted the type of goods that could be sold from Units 1-4, Ruislip Retail Park.

The applicant seeks to vary the condition as follows:

i) remove the restriction on the sale of goods from Unit 3 (conditioned as part of ref: 43510/APP/2011/1344) to allow the vacant unit to be used for any purpose within Use Class A1, as currently exists at Unit 1 (Lawful Development Certificate ref: 59190/APP/2012/1528, granted August 2012)

ii) remove the restriction on the sale of fancy goods from Unit 2 and Unit 4

iii) restrict the goods that can be sold from Unit 1.

Approval is recommended subject to a legal agreement which restricts the amount of gross internal floor area that can be used for open A1 use, and restricts how much gross internal floor area can be used for the sale of convenience goods.

11. Reference Documents

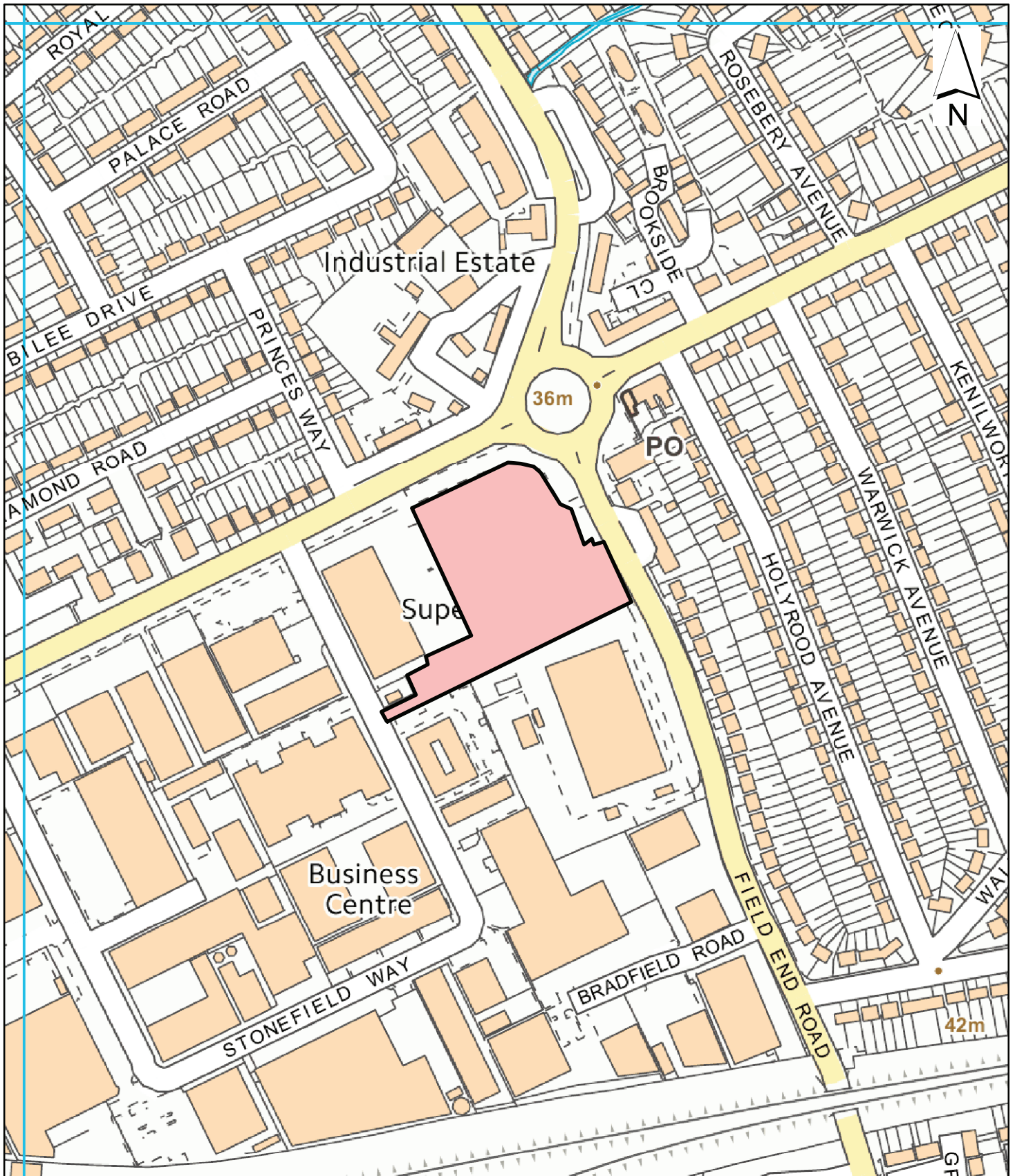
Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)

Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012)

London Plan (July 2011)

Contact Officer: Katherine Mills

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Notes

 Site boundary

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Site Address

**Unit 1-4
 Ruislip Retail Park
 Victoria Road
 Ruislip**

**LONDON BOROUGH
 OF HILLINGDON
 Residents Services**

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 Telephone No.: Uxbridge 250111

Planning Application Ref:
43510/APP/2012/3176

Scale
1:3,500

Planning Committee
Major Application

Date
**January
 2014**



HILLINGDON
 LONDON