

Report of the Head of Planning, Sport and Green Spaces

Address UNIT 3, RUISLIP RETAIL PARK VICTORIA ROAD RUISLIP

Development: 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.

LBH Ref Nos: 43510/APP/2012/3179

Drawing Nos: PP-001 Site Location Plan
Covering Letter dated 21 December 2012
Planning Statement
Letter from Agent dated 23 April 2013
Email from Agent dated 23 May 2013
PP-004 REV A Proposed Site Plan
PP-003 Existing Ground Floor Plan, Section & Elevation
PP-005 Proposed Ground Floor Plan, Section & Elevations
PP-002 REV A Existing Site Plan

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 remove condition 6 of planning permission ref: 43510/APP/2010/1979, dated 10 February 2011, which restricts the type of goods which can be sold from Unit 3, Ruislip Retail Park. The removal of condition 6 would allow Unit 3 to sell any goods within Use Class A1.

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 under the Permission shall not exceed 2,564m² within Unit 3.

2. No more than 40% of the gross internal floor area authorised for open A1 use under the Permission 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,

PP-001 Site Location Plan

PP-002 REV A Existing Site Plan

PP-003 Existing Ground Floor Plan, Section & Elevation

PP-004 REV A Proposed Site Plan
PP-005 Proposed Ground Floor Plan, Section & Elevations

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

The mezzanine floor space hereby permitted shall not be used to form a separate unit, but shall be used solely in conjunction with the existing ground level floor space.

REASON

To enable the Local Planning Authority to assess the implications of the intensification of the use of the floorspace in the context of the relevant development plan policies for retail development, specifically in terms of its impact on traffic, car parking and other environmental issues in accordance with Policies AM2, AM7, AM14 and OE1 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

4 NONSC Non Standard Condition

Development shall not commence until details of the location and dimensions of the lift to the mezzanine have been submitted to and approved in writing by the Local Planning Authority. The approved facilities should be provided prior to the occupation of the development and shall be permanently retained thereafter.

REASON

To ensure that people with disabilities have adequate access to the development in accordance with Policy R16 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012) and London Plan (February 2008) Policies 3A.13, 3A.17 and 4B.5.

5 OM19 Construction Management Plan

Prior to development commencing, the applicant shall submit a demolition and construction management plan to the Local Planning Authority for its approval. The plan shall detail:

- (i) The phasing of development works
- (ii) The hours during which development works will occur (please refer to informative 6 for maximum permitted working hours).
- (iii) A programme to demonstrate that the most valuable or potentially contaminating materials and fittings can be removed safely and intact for later re-use or processing.
- (iv) Measures to prevent mud and dirt tracking onto footways and adjoining roads (including wheel washing facilities).
- (v) Traffic management and access arrangements (vehicular and pedestrian) and parking provisions for contractors during the development process (including measures to reduce the numbers of construction vehicles accessing the site during peak hours).
- (vi) Measures to reduce the impact of the development on local air quality and dust through minimising emissions throughout the demolition and construction process.
- (vii) The storage of demolition/construction materials on site.

The approved details shall be implemented and maintained throughout the duration of the demolition and construction process.

REASON

To safeguard the amenity of surrounding areas in accordance with Policy OE1 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

6 DIS1 Facilities for People with Disabilities

All the facilities designed specifically to meet the needs of people with disabilities including the disabled parking bays that are shown on the approved plans shall be provided prior to the occupation of the development and thereafter permanently retained.

REASON

To ensure that adequate facilities are provided for people with disabilities in accordance with Policy AM15 and R16 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012)) and London Plan (July 2011) Policies 3.1 and 7.2.

7 MCD13 Extraction Vent or Chimney

No development shall take place until details of the height, position, design and materials of any chimney or extraction vent to be provided in connection with the development have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out until the vent/chimney has been installed in accordance with the approved details. Thereafter the vent/chimney shall be permanently retained and maintained in good working order for so long as the use continues.

REASON

In order to safeguard the amenities of adjoining properties in accordance with Policy OE1 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012)) and London Plan (July 2011) Policies 7.1 and 7.14.

8 SUS1 Energy Efficiency Major Applications (full)

The measures to reduce the energy demand and carbon dioxide emissions of the development contained within the submitted report entitled Energy Report Ref: BWLLP/17684/A5/SM/jp dated 16 September 2010, comprising the exclusive use of low energy light fittings, shall be integrated into the development and thereafter permanently retained and maintained.

REASON

To ensure that the development incorporates appropriate energy efficiency measures in accordance with policies 5.1, 5.3, 5.4, 5.5, 5.7 and 5.9 of the London Plan (July 2011).

9 NONSC Non Standard Condition

The car parking areas, including marked out parking spaces, loading and servicing facilities for the Ruislip Retail Park shall be retained and made available for users of Unit 3 for its lifetime.

REASON

To ensure pedestrian and vehicular safety and convenience and to ensure adequate off-street parking, and loading facilities in compliance with Policies AM7, AM14 and AM15 of the Hillingdon Local Plan: Part One - Saved Policies UDP (2012).

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) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) 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 I25 Consent for the Display of Adverts and Illuminated Signs

This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992. [To display an advertisement without the necessary consent is an offence that can lead to prosecution]. For further information and advice, contact - Planning & Community Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

4 I25A The Party Wall etc. Act 1996

On 1 July 1997, a new act, The Party Wall etc. Act 1996, came into force.

This Act requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:-

- 1) carry out work to an existing party wall;
- 2) build on the boundary with a neighbouring property;
- 3) in some circumstances, carry out groundworks within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations or planning controls. Building Control will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by Building Control should be taken as removing the necessity for the building owner to comply fully with the Act.

5 I14 Installation of Plant and Machinery

The Council's Commercial Premises Section and Building Control Services should be consulted regarding any of the following:-

The installation of a boiler with a rating of 55,000 - 1¼ million Btu/hr and/or the construction of a chimney serving a furnace with a minimum rating of 1¼ million Btu/hr;

The siting of any external machinery (eg air conditioning);

The installation of additional plant/machinery or replacement of existing machinery.

Contact:- Commercial Premises Section, 4W/04, Civic Centre, High Street, Uxbridge,

UB8 1UW (Tel. 01895 250190). Building Control Services, 3N/01, Civic Centre, High Street, Uxbridge, UB8 1UW (tel. 01895 250804 / 805 / 808).

6 115 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with: -

A) Demolition and construction works should only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank and Public Holidays.

B) All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228: 1984.

C) The elimination of the release of dust or odours that could create a public health nuisance.

D) No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit, 3S/02, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel.01895 277401) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

7 16 Property Rights/Rights of Light

Your attention is drawn to the fact that the planning permission does not override property rights and any ancient rights of light that may exist. This permission does not empower you to enter onto land not in your ownership without the specific consent of the owner. If you require further information or advice, you should consult a solicitor.

8

Your attention is drawn to conditions 3, 4 and 7 which must be discharged prior to the commencement of works. You will be in breach of planning control should you commence these works prior to the discharge of these conditions.

9 134 Building Regulations 'Access to and use of buildings'

Compliance with Building Regulations 'Access to and use of buildings' and Disability Discrimination Act 1995 for commercial and residential development.

You are advised that the scheme is required to comply with either:-

- The Building Regulations 2000 Approved Document Part M 'Access to and use of buildings', or with
- BS 8300:2001 Design of buildings and their approaches to meet the needs of disabled people - Code of practice. AMD 15617 2005, AMD 15982 2005.

These documents (which are for guidance) set minimum standards to allow residents, workers and visitors, regardless of disability, age or gender, to gain access to and within buildings, and to use their facilities and sanitary conveniences.

You may also be required make provisions to comply with the Disability Discrimination Act 1995. The Act gives disabled people various rights. Under the Act it is unlawful for employers and persons who provide services to members of the public to discriminate against disabled people by treating them less favourably for any reason related to their disability, or by failing to comply with a duty to provide reasonable adjustments. This duty can require the removal or modification of physical features of buildings provided it is reasonable.

The duty to make reasonable adjustments can be effected by the Building Regulation compliance. For compliance with the DDA please refer to the following guidance: -

- The Disability Discrimination Act 1995. Available to download from www.opsi.gov.uk
- Disability Rights Commission (DRC) Access statements. Achieving an inclusive environment by ensuring continuity throughout the planning, design and management of building and spaces, 2004. Available to download from www.drc-gb.org.
- Code of practice. Rights of access. Goods, facilities, services and premises. Disability discrimination act 1995, 2002. ISBN 0 11702 860 6. Available to download from www.drc-gb.org.
- Creating an inclusive environment, 2003 & 2004 - What it means to you. A guide for service providers, 2003. Available to download from www.drc-gb.org.

This is not a comprehensive list of Building Regulations legislation. For further information you should contact Building Control on 01895 250804/5/6.

10

The applicant is encouraged to produce and implement a Green Travel Plan which relates to the whole unit and sets targets for sustainable travel arrangements and a commitment to achieving the travel plan objectives.

11

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 is a 1,858m² retail unit, one of four retail outlets, 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: Application Site. 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

The applicant seeks to remove condition 6 of planning permission ref: 43510/APP/2010/1979, dated 10 February 2011, for the construction of a 1,810 sq.m mezzanine within Unit 3.

Condition 6 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 in compliance with London Plan Policies 2A.8 and 3D.1 and relevant policies contained in PPS4: Planning For Sustainable Economic Growth (December 2009).

An application to vary condition 6 of the above consent, by removing the restriction on the sale of 'fancy goods', was granted in October 2011 (ref: 43510/APP/2011/1343).

The varied condition 6 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 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 Policy 2.151 and relevant policies contained in PPS4: Planning For Sustainable Economic Growth (December 2009).

The removal of condition 6 would allow Unit 3 to sell any goods within Use Class A1.

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/2012/3176 Units 1-4, Ruislip Retail Park Victoria Road Ruislip

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.

Decision:

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

None

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 removal of condition 6 of application 43510/APP/2010/1979 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

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. This effectively means the proposals (this application and application ref: 43510/APP/2012/3176) 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 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 Unit 3 as Class A1 Non-Food Retail within the Stonefield Way Industrial and Business Area (IBA) has therefore been firmly established in principle.

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 for the sale of goods 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.

Subject to the legal agreement, it is considered that the removal of condition 6 of planning permission ref: /APP/2010/1979, dated 10 February 2011, to allow for Unit 3 to sell any goods within Use Class A1 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.

7.07 Impact on the character & appearance of the area

With regard to impact on the character and appearance of the area, this proposal seeks the removal of 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 the removal of 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

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. It is considered that removing the restriction on the type of goods that can be sold at Unit 3 would not have a detrimental impact on the amount of traffic/shoppers attracted to the retail park. 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 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. 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.

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

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

2: No more than 40% of the gross internal floor area authorised for open A1 use under the Permission 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

The legal agreement would bind this planning application for Unit 3 with planning application ref: 43510/APP/2012/3176 (Units 1-4) 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 remove condition 6 of planning permission ref: 43510/APP/2010/1979, dated 10 February 2011, which restricts the type of goods which can be sold from Unit 3, Ruislip Retail Park. The removal of condition 6 would allow Unit 3 to sell any goods within Use Class A1.

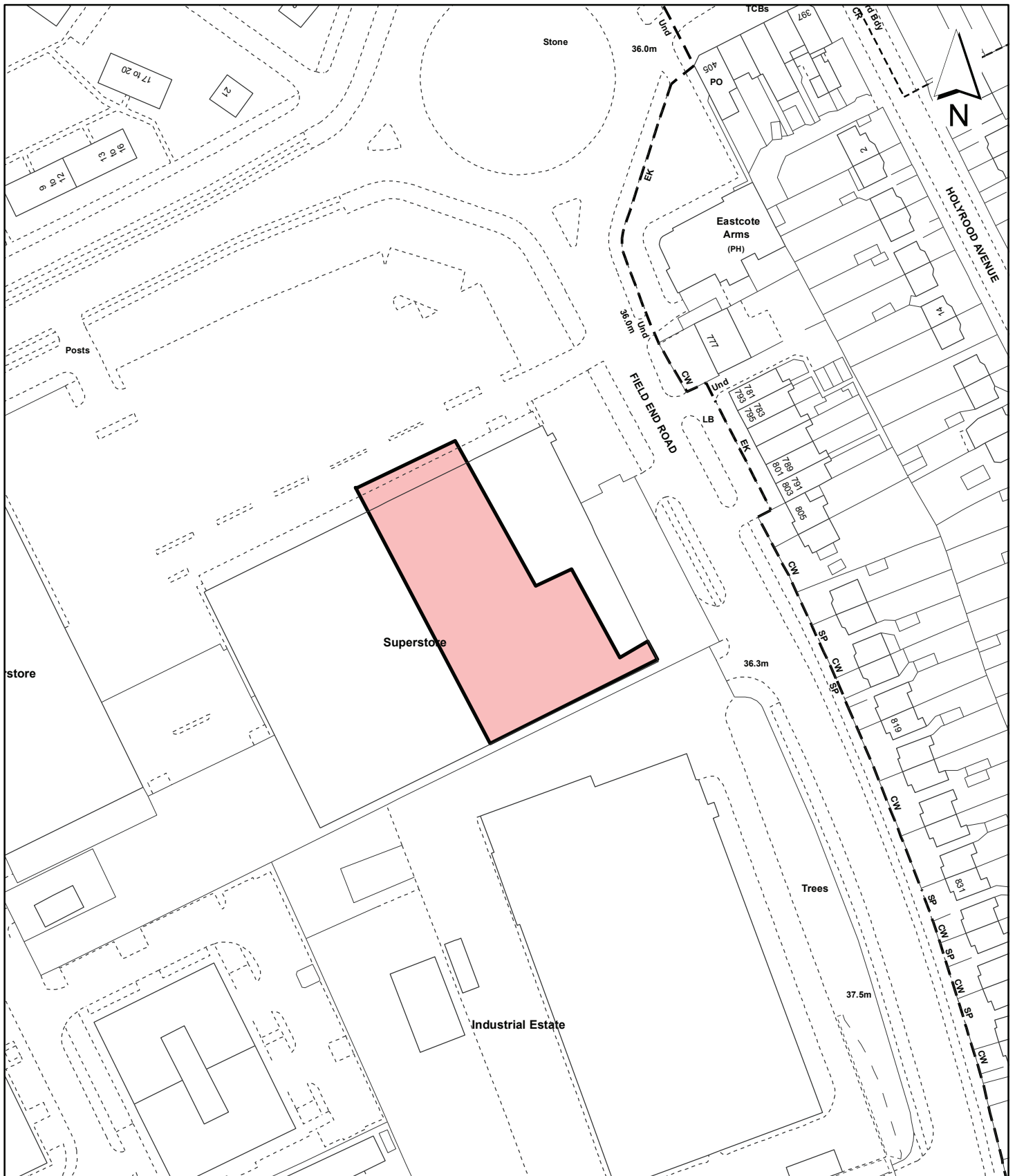
Approval is recommended subject to a legal agreement which restricts the amount of gross internal floor area that can be used for open A1 use, and restricts how much gross internal floor area can be used for the sale of convenience goods.

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

Telephone No: 01895 250230



<p>Notes</p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2013 Ordnance Survey 100019283</p>	<p>Site Address</p> <p style="text-align: center;">Unit 3 Ruislip Retail Park Victoria Road Ruislip</p>		<p style="text-align: center;">LONDON BOROUGH OF HILLINGDON Residents Services</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p style="text-align: center;">43510/APP/2012/3179</p>	<p>Scale</p> <p style="text-align: center;">1:1,250</p>	
	<p>Planning Committee</p> <p style="text-align: center;">Major Application</p>	<p>Date</p> <p style="text-align: center;">January 2014</p>	