

Report of the Corporate Director of Planning & Community Services

Address 80 HIGH STREET RUISLIP

Development: Change of use from Class A1 Retail to Gaming Arcade (Sui Generis) (Dual planning application with ref.3862/APP/2009/653.)

LBH Ref Nos: 34237/APP/2009/652

Drawing Nos: Design and Access Statement
AB-RUI-80-001 Rev. A

Date Plans Received: 31/03/2009 **Date(s) of Amendment(s):**

Date Application Valid: 31/03/2009

1. SUMMARY

The proposed change of use would result in an unacceptable length of continuous frontage of non-retail uses which would be harmful to the character, function, vitality and viability of the Ruislip Town Centre.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal by reason of the increase in the width of the interruption of the retail frontage would erode the retail function and attractiveness of the Ruislip Town centre, harming its character, function vitality and viability. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and policy 3D.3 of the London Plan 2008.

INFORMATIVES

1 I52 Compulsory Informative (1)

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

2 I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance.

BE4	New development within or on the fringes of conservation areas
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings

BE27	Advertisements requiring express consent - size, design and location
OE1	Protection of the character and amenities of surrounding properties and the local area
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
LPP 3D.3	London Plan Policy 3D.3 - Maintaining and Improving Retail Facilities.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the south west side of High Street, Ruislip, near its junction with Ickenham Road and Midcroft, and comprises a vacant retail unit on the ground floor with two upper floors in residential use. The street scene is predominantly commercial in character and appearance and the application site lies with the Primary Shopping Area of the Ruislip Town Centre and the Ruislip Village Conservation Area as designated in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007). The application site is also covered by an Archaeological Priority Area.

3.2 Proposed Scheme

Planning permission is sought for the change of use of a vacant retail unit to an amusement arcade involving a use swap with 70 High Street, resulting in 70 High Street becoming a retail unit and 80 High Street becoming an amusement arcade. No external alterations are proposed.

The planning application for the change of use from retail to an amusement arcade at 70 High Street (3862/APP/2009/653) can be found elsewhere on this agenda.

3.3 Relevant Planning History

Comment on Relevant Planning History

There are no relevant planning decisions relating to this application property.

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

Part 2 Policies:

BE4	New development within or on the fringes of conservation areas
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings

BE27	Advertisements requiring express consent - size, design and location
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LPP 3D.3	London Plan Policy 3D.3 - Maintaining and Improving Retail Facilities.

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **20th May 2009**

5.2 Site Notice Expiry Date:- **20th May 2009**

6. Consultations

External Consultees

54 adjoining owner/occupiers have been consulted. The application has also been advertised as a development that affects the character and appearance of the Ruislip Village Conservation Area. 1 letter of objection has been received making the following comments:

- (i) This current and the application at 80 High Street should be refused as a games arcade is a blight on the High Street;
- (ii) The amusement centre would be relocating to a more prominent location which would make matters worse; and
- (iii) The applicant has failed to comply with condition 2 of the Inspectors' decision letter which requires a retail front window display to be retained.

Ruislip Village Conservation Panel: No comments received

Ruislip Residents Association:

You will recall the concerns expressed by the Association at the time of the original application for an Amusement Arcade at No 70 (Ref 3862/APP/2005/1086). These were set out in letters to both the Council and the Planning Inspectorate, and our view has not changed.

With regard to the current applications we have further concerns:

1. Since the applicant's Appeal on No.70 was upheld in July 2006, both of the current application sites have been included in the extended Conservation Area. One of our objections to the previous application at No.70 was the proximity of the original site to the then Conservation Area. The Inspector appeared to dismiss this as a reason for refusal, stating the activity would be low key. Since then however the applicant has obtained a licence to allow the unit to be split into two, and for the installation of additional machines, some of which, we understand, pay out substantial prize money.

As the unit at No. 80 is of a considerably larger floor area than that at No.70 the continuation of and enlargement of a similar operation would be in conflict with both a low key activity and the Council's policy regarding Amusement Arcades in Conservation Areas.

2. In Condition 2 of the Appeal Decision dated 13 July 2006 there was a specific requirement regarding the installation of a shop front as shown on the application plans. In an email to Cllr Stone dated 20/09/06 David Thackeray stated that the owner intended to comply with that requirement within two weeks. We are not aware that this work was ever completed and perhaps you would confirm the current status.

3. We note that each application refers to the other one assuming that both would be implemented if approved. We trust that the application at No 80 will be refused but in the unfortunate event the Council was obliged to grant consent then, conditions would be applied requiring that:

- (a) The proposed operation at No.80 would require closure of the Amusement Arcade at No.70
- (b) At No.80 a suitable shop front must be approved and installed before the premises are opened as an Amusement Arcade.

English Heritage (Archaeology): No comments received

Ruislip Chamber of Commerce:

'We feel that the change of use from A1 retail to Sui Generis in respect of 80 High Street is totally unacceptable as it would allow Agora Amusements to move into what is at present an A1 retail unit in a prime High Street position. As you know, the Chamber objected to the change of use allowing the Amusement arcade to open in 70 High Street but this move would make their premises much more visible and we feel would be detrimental to the ambience of the High Street'

Metropolitan Police (Crime Prevention): No comments received.

Internal Consultees

Urban Design/Conservation:

This is a property within the Ruislip Village Conservation Area.

This application is acceptable. There are no external or internal alterations proposed. The high street is a characterised mainly by commercial uses, and proposal is acceptable in design terms.

Environmental Protection Unit:

No objections subject to planning conditions relating to hours of operation, deliveries and control of noise.

Councillor Phillip Corthorne:

I support the objections of the RRA, since the larger footprint, and the existence of the conservation area make the continuation of such an enterprise on the new site inappropriate.

Although this was approved on appeal in 2006, I think the council needs to take a similar position to the last occasion given the changes in circumstances.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

With regards to the proposed change of use to an amusement arcade, Paragraph 8.24 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) defines primary shopping areas as 'the focus of retail activity in the centres and states that they are either already generally dominated by retail shops or are areas which the Local Planning

Authority considers have prime retail potential'. Paragraph 8.26 states that as a guideline, the Council will normally seek to prevent a separation or an increase in the separation of class A1 units of more than approximately 12m, which is broadly the width of two typical shop fronts. Class A1 shops should remain the predominant use in primary shopping areas and the Local Planning Authority will expect at least 70% of the frontage to be in class A1 use.

The 2009 shopping survey shows that out of 69 units within the primary area of the Ruislip Town Centre, 43 units (62.3%) are in retail use. This equates to 61.1% of the retail frontage. Therefore, the primary shopping area is already operating below 70% and any loss of retail use would further harm the vitality and viability of the centre.

The proposed change of use would result in the loss of a retail unit. However, this application involves a use swap with 70 High Street, involving the change of use of that property from an amusement arcade to a retail unit and as such, overall, there would be no net loss of retail frontage in the primary shopping area of the Ruislip Town Centre. Furthermore, the applicant is willing to enter into a legal agreement to ensure that prior to the commencement of the proposed use at the application property, 70 High Street is changed to a retail unit which would involve the cessation of the current lawful use and all structures and equipment associated with that use being removed from the premises.

With regards to separation of retail uses, adjoining the application site to the north is 78 High Street, a retail unit, while to the south west lies 82/84 High Street, a bank. The proposed change of use to a non shop use would result in a 19m long break in the retail frontage between nos.78 and 86 High Street. On this basis, the proposed change of use would result in an unacceptable concentration of non-retail uses to the detriment of the vitality and viability of the town centre contrary to policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

On the appropriateness and compatibility of the proposed use as an amusement arcade, attention is drawn to an appeal decision relating to the change of use of 70 High Street from a class A2 use to an amusement arcade. In allowing the appeal, the Inspector states at paragraph 9:

"It would be reasonable to expect a complementary activity to be an integral part of the town centre experience, in the same way as a restaurant, cafe or food take-aways. There would be proper cause for concern if other uses were not visited on shopping trips."

Paragraphs 10 & 11 goes on to state:

"From the evidence given at the inquiry this type of leisure centre has been accepted elsewhere as part of a primary shopping area as being complementary to the range of retail uses, in the same way as a cafe or public house would offer a degree of rest or recreation for people whilst they are out shopping. Such uses therefore contribute to attracting visitors and generating spend in the centre.

In support of the appeal, the findings of various surveys of amusement centres in other parts of the country were tabled which show that the majority of customers visit as part of a general shopping trip. That is, it is an activity which for a number of people is part of, or at least incidental to, a shopping trip. In my view, given the appearance of the premises and the nil effect on the proportion of retail frontage and the pattern of use, this type of amusement centre is not likely to harm the character of the Ruislip shopping area."

It is acknowledged that 80 High Street has a larger floorspace than 70 High Street and as such could have a greater impact in the centre in terms of its activities/intensification. However, given the Inspectors comments, it is not considered that a refusal on the grounds of inappropriateness of, or incompatibility with, the character and function of the shopping centre or have an adverse impact on the character and appearance of the Ruislip Village Conservation Area, would be sustained at appeal.

However, it is important to note that in the above referenced appeal, the proposed change of use did not result in a reduction in the level of retail frontages or result in a separation of non-shop uses exceeding 12m. In this particular case, the proposed change of use is contrary to the latter. The Inspector states in paragraph 14 that "What is important therefore is to have regard to the purpose of the policy (S11). The policy's aim is to safeguard the character, function, vitality and viability of the Ruislip primary shopping area."

With this in mind, the proposal would clearly be contrary to policy S11 as it would result in creating a lengthy and continuous interruption of non-shop uses which would be harmful to the character, function, vitality and viability of the shopping centre. As such, the proposed change of use would adversely affect the character and function of the Ruislip Primary Shopping Area, contrary to policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and policy 3D.3 of the London Plan 2008.

7.02 Density of the proposed development

This is not applicable to this application.

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

The application site lies within an Archaeological Priority Area. However, given the nature of the proposed development, no archaeological remains would be affected.

7.04 Airport safeguarding

This is not applicable to this application.

7.05 Impact on the green belt

This is not applicable to this application.

7.06 Environmental Impact

This is not applicable to this application.

7.07 Impact on the character & appearance of the area

No external alterations are proposed and therefore the proposal would not harm the appearance of the street scene and the character and appearance of the Ruislip Village Conservation Area, in accordance with policies BE4, BE13, BE15 and BE27 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.08 Impact on neighbours

In terms of assessing the effects of the proposal on residential amenity, the relevant factors are those of noise, smell and disturbance. The nearest residential properties lie above and adjacent to the application unit. The proposed use is not considered to generate additional noise over and above that of a retail unit. It is therefore considered that planning conditions requiring details of the ventilation equipment and the imposition of limitations on hours of operation and deliveries would be sufficient to maintain the residential amenity of the occupiers of adjoining and nearby residential properties, should planning permission be granted. The proposal would therefore comply with policies OE1 and S6 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.09 Living conditions for future occupiers

This is not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

The Council's Parking Standards (Annex 1, adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) requires 1 space per 25sqm for shop uses. This requirement is the same for non-shop uses. As no additional floorspace is proposed, no additional parking spaces are required. As such, the proposal would not result in a significant increase in on-street parking and would comply with policies AM7(ii) and AM14 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and the Council's Parking Standards (Annex 1, adopted Hillingdon Unitary Development Plan, Saved Policies, September 2007).

7.11 Urban design, access and security

This is addressed at section 07.07.

7.12 Disabled access

This is not applicable to this application.

7.13 Provision of affordable & special needs housing

This is not applicable to this application.

7.14 Trees, Landscaping and Ecology

This is not applicable to this application.

7.15 Sustainable waste management

This is not applicable to this application.

7.16 Renewable energy / Sustainability

This is not applicable to this application.

7.17 Flooding or Drainage Issues

This is not applicable to this application.

7.18 Noise or Air Quality Issues

This is not applicable to this application.

7.19 Comments on Public Consultations

The issue of compliance with previous appeal conditions (concerning a shop frontage) is not relevant to this current application. All other issues are addressed in the report.

7.20 Planning Obligations

The proposal involves a use swap with 70 High Street which could be secured by way of a legal agreement should planning permission be granted.

7.21 Expediency of enforcement action

This is not applicable to this application.

7.22 Other Issues

There are no other relevant issues.

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

As there are no S106 or enforcement issues involved, the recommendations have no financial implications for the Planning Committee or the Council. The officer recommendations are based upon planning considerations only and therefore, if agreed by the Planning Committee, they should reduce the risk of a successful challenge being made at a later stage. Hence, adopting the recommendations will reduce the possibility of unbudgeted calls upon the Council's financial resources, and the associated financial risk to the Council.

10. CONCLUSION

For the reasons outlined above and that the proposal would be contrary to the aforementioned policies of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007), this application is recommended for refusal.

11. Reference Documents


Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007)

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Notes

 Site boundary

For identification purposes only.

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Site Address

**80 High Street
Ruislip**

Planning Application Ref:
34237/APP/2009/652

Planning Committee
North

Scale
1:1,250

Date
November 2009

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