

Report of the Corporate Director of Planning & Community Services

Address 70 HIGH STREET RUISLIP

Development: Change of use from Gaming Arcade (Sui Generis) to Class A1 Retail (Dual planning application with ref.34237/APP/2009/652.)

LBH Ref Nos: 3862/APP/2009/653

Drawing Nos: Design and Access Statement
AB-RUI-70-003 Rev. A

Date Plans Received: 31/03/2009

Date(s) of Amendment(s):

Date Application Valid: 31/03/2009

1. SUMMARY

Planning permission is sought for the change of use from an amusement arcade to a retail unit involving a use swap with 80 High Street, Ruislip. The proposed change of use would re-enforce the retail offer and would not result in a reduction in the retail character and function of the shopping centre.

2. RECOMMENDATION

APPROVAL subject to the following:

1 T8 Time Limit - full planning application 3 years

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 NONSC Non Standard Condition

The premises shall not be used for deliveries and collections, including waste collections other than between the hours of 08:00 and 18:00, Mondays to Fridays, 08:00 to 13:00 Saturdays and not at all on Sundays and Bank and Public Holidays.

REASON

To safeguard the amenity of surrounding areas, in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 4A.20 of the London Plan (February 2008).

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

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
S1	New retail development within the shopping hierarchy
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.

3 I1 **Building to Approved Drawing**

You are advised this permission is based on the dimensions provided on the approved drawings as numbered above. The development hereby approved must be constructed precisely in accordance with the approved drawings. Any deviation from these drawings requires the written consent of the Local Planning Authority.

4 I3 **Building Regulations - Demolition and Building Works**

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced. For further information and advice, contact - Planning & Community Services, Building Control, 3N/01 Civic Centre, Uxbridge (Telephone 01895 250804 / 805 / 808).

5 I6 **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.

6 I15 **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.

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises the ground floor of a two storey mid terraced building located on the south west side of High Street Ruislip, near its junction with Ickenham Road and Midcroft. The ground floor is currently in use as an amusement centre, granted planning permission under appeal in July 2006. The upper floor is 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 from an amusement arcade to a retail unit involving a use swap with 80 High Street, which is currently a retail unit, 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 centre at 80 High Street can be found elsewhere on this agenda.

3.3 Relevant Planning History

3862/APP/2005/1086 70 High Street Ruislip

CHANGE OF USE FROM BANK PREMISES (CLASS A2) TO USE AS AMUSEMENT CENTRE (SUI GENERIS)

Decision: 01-07-2005 Refused

Appeal: 13-07-2006 Allowed

Comment on Relevant Planning History

The above application was refused at the North Planning Committee on 21st June 2005 for

the following reason:

"The proposed change of use would have an adverse impact on the character and vitality of the Primary Shopping Area of the Ruislip Shopping centre and is therefore contrary to Policy S11 of the Hillingdon Unitary Development Plan."

An appeal was lodged and subsequently allowed in July 2006.

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
S1	New retail development within the shopping hierarchy
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.

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

51 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 the 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'

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 characterised mainly by commercial uses, and proposal is acceptable in design terms.

Environmental Protection Unit:

Application is acceptable with conditions.

Officer Comment: This is an A1 use class so there should be no need for conditions unless connected to an A1 use.

Policy & Environmental Planning:

Application is acceptable with conditions.

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 change in circumstances.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Planning permission is sought for the change of use from an amusement arcade to a retail unit and relates to the planning application at 80 High Street, Ruislip (34237/APP/2009/652) for the change of uses from retail to an amusement arcade, which is also on this agenda. The applicant proposes a use swap between the two uses.

With regards to the proposed change of use to a shop, 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 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. However, the proposal involves a change of use to retail use which is encouraged under policies S1 and S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

As such, the proposed change of use would not result in a reduction in the character and function of the Ruislip Primary Shopping Area or lead to an unacceptable concentration of non-retail uses to the detriment of the vitality and viability of the town centre.

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 for A1 retail is not considered to generate additional noise over and above the current use. It is therefore considered that a limitation on the hours of deliveries would be sufficient to maintain the residential amenity of the occupiers of adjoining and nearby residential properties. 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 third party comments generally relate to the change of use at 80 High Street (34237/APP/2009/652) which can be found elsewhere on this agenda. Although it is acknowledged that the two applications are intrinsically linked, the proposed change of use to a retail unit complies with the Council's policies to maintain the viability and vitality of shopping centres and to encourage a strong retail offer.

Should planning permission be granted, condition 2 of the Inspector's decision notice which seeks the installation of a shop window for the display of retail goods would no longer be relevant.

7.20 Planning Obligations

The proposed change of use to a retail unit is acceptable under the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007). However, the proposal involves a use swap with 80 High Street, Ruislip (34237/APP/2009/652), which is also on this agenda. A legal agreement is therefore necessary to ensure that the retail use at 70 High Street is implemented prior to the commencement of the proposed use at 80 High Street as an amusement arcade, should planning permission be granted for both applications.

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 given that the development complies with the aforementioned policies of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007), this application is recommended for approval.

11. Reference Documents


Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007)

Contact Officer: Sonia Bowen

Telephone No: 01895 250230



Notes

 Site boundary

For identification purposes only.

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.

© Crown Copyright. All rights reserved. London Borough of Hillingdon 100019283 2009

Site Address	
70 High Street Ruislip	
Planning Application Ref:	Scale
3862/APP/2009/653	1:1,250
Planning Committee	Date
North	November 2009

**LONDON BOROUGH
OF HILLINGDON**

**Planning &
Community Services**

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

