

Report of the Head of Planning, Sport and Green Spaces

Address 1 EASTBURY ROAD NORTHWOOD

Development: Variation of condition 5 (Opening Hours) of planning permission ref: 1095/APP/2014/3713 dated 30/01/2015 to allow extended opening hours (Change of use from Use Class A1 (Shops) to Use Class A3 (Restaurant) involving, installation of new shopfront, outdoor seating to front and installation of extraction fan to rear associated works)

LBH Ref Nos: 1095/APP/2015/404

Drawing Nos:

Date Plans Received: 03/02/2015

Date(s) of Amendment(s):

Date Application Valid: 04/02/2015

1. **SUMMARY**

Planning permission for the change of use from Use Class A1 (Shops) to Use Class A3 (Restaurant) involving the installation of extraction/ventilation ducts to the rear elevations was approved under application 1095/APP/2014/3713 including condition 5, which states 'The premises shall not be used except between 07:00 to 11:00 hours on any day'.

This application seeks an amendment to that condition to: 'The premises shall not be open to the public except between 7am to midnight on any day'. This extends the opening hours and also allows the premises to be used for general operational purposes, such as cashing up and cleaning, when not open to the public. The building is located close to the station at the end of a row of commercial premises. Above the unit are offices and the nearest residential is across the junction at Rowland Place. This is a high street location and not particularly sensitive. Therefore on balance it is considered that the proposed amendment is acceptable.

2. **RECOMMENDATION**

APPROVAL subject to the following:

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**

Notwithstanding the details shown for the extraction unit the development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans

2617.02.06 Received 10/11/2014

2617.01.06

2617.03.03

2617.04.03 Received 10/11/2014

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 (March 2015).

3 NONSC Non Standard Condition

The proposed development hereby approved shall not be commenced until further details of the extract ventilation system and odour control equipment including details of colour, materials, any noise levels, vibration levels, and external ducting, have been submitted to and approved by the local planning authority and the equipment so approved has been installed. The approved extract ventilation system equipment and odour control equipment shall be operated at all times when cooking is carried out and maintained in accordance with the manufacturer's instructions. The external ducting shall be removed as soon as possible when no longer required.

REASON: To protect the amenities of the surrounding occupiers and to ensure that the proposal complies with Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012).

4 NONSC Non Standard Condition

No development shall take place until a scheme for the storage and collection of refuse and waste has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- i) Plans and elevations to show the location of refuse storage area to the rear of the building;
- ii) Details of the collection of refuse and waste from the site.

REASON

To safeguard the amenity of the occupants of surrounding properties in accordance with policy OE1 Hillingdon Local Plan: Part Two Saved UDP Policies (March 2015)

5 COM22 Operating Hours

The premises shall not be open to the public except between:-
[0700 and midnight] on any day.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policy OE3 Hillingdon Local Plan: Part Two Saved UDP Policies (March 2015)

6 NONSC Non Standard Condition

There shall be no loading or unloading of vehicles, including the collection of waste from the premises, outside the hours of 0700 and 1800 hours, Monday to Friday, and between the hours of 0700 and 1300 hours on Saturdays and at no time on Sundays, Public or Bank Holidays.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policy OE3 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012).

INFORMATIVES

1 159 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.

2 152 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).

3 153 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 (March 2015) 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.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
BE26	Town centres - design, layout and landscaping of new buildings
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
S6	Change of use of shops - safeguarding the amenities of shopping areas
S12	Service uses in Secondary Shopping Areas
DAS-SF	Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010

4

The Equality Act 2010 seeks to protect people accessing goods, facilities and services from discrimination on the basis of a 'protected characteristic', which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustments can be incorporated with relative ease. The Act states that service providers

should think ahead to take steps to address barriers that impede disabled people.

5

You are advised that a license would be required for the siting of tables and chairs on the public highway. Further details of the application process and requirements can be found at <http://www.hillingdon.gov.uk/article/19040/Tables-and-chairs-licence>

6

You are advised that a late night refreshment license would be required to supply hot food or drink between the hours of 11pm and 5am. A license would also be required should the premises wish to sell alcohol. Further details of the application process and requirements can be found at <http://www.hillingdon.gov.uk/article/21471/Apply-for-a-Premises-licence>

7

You are advised that this is a decision on a planning application which has been reached under the provisions of the Town and Country Planning Act 1990 (as amended).

This decision does not prejudices the decision of the Local Authority on any future licensing applications which may be made under the Licensing Act 2003 (as amended), which would have to be considered separately having regard to the relevant provisions of that legislation.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on a prominent corner plot on the northern side of the traffic light controlled junction of Eastbury Road and Green Lane. To the west are the railway lines and to the south Northwood Station. To the north is a car park separating the building from the doctor's surgery to the rear. To east are two rows of shops offering a mix of facilities, with offices and residential above.

The site was formerly a blockbuster video hire shop with offices above.

The application site lies within Northwood Town Centre and the Green Lane Secondary Shopping Area. It is also within the 'Developed Area' as identified in the Hillingdon Local Plan: Part One - Strategic Policies (November 2012).

3.2 Proposed Scheme

The proposal is for the variation of condition No.5 (Opening Hours) of planning permission ref: 1095/APP/2014/3713 dated 30/01/2015 to allow extended opening hours (Change of use from Use Class A1 (Shops) to Use Class A3 (Restaurant) involving, installation of new shopfront, outdoor seating to front and installation of extraction fan to rear associated works)

Condition 5, as approved reads:

"The premises shall not be used except between 07:00 to 11:00 hours on any day."

This application seeks to amend this to the following:

"The premises shall not be open to the public except between:-
[0700 and midnight] on any day."

This application therefore seeks a change of the closing time from 11pm to midnight on all days.

It should be noted that this planning application originally sought permission to allow closing on Fridays and Saturdays at 1am. Following concerns raised, this has been changed by the applicants to allow closing at midnight on all days.

3.3 Relevant Planning History

1095/APP/2014/3713 1 Eastbury Road Northwood

Change of use from Use Class A1 (Shops) to Use Class A3 (Restaurant) involving, installation of new shopfront, outdoor seating to front and installation of extraction fan to rear associated works

Decision: 26-01-2015 Approved

Comment on Relevant Planning History

1095/APP/2014/3713 - Change of use from Use Class A1 (Shops) to Use Class A3 (Restaurant) involving, installation of new shopfront, outdoor seating to front and installation of extraction fan to rear associated works (approved).

It should be noted that the reason for imposing condition 5 was policy OE3 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012). As such, consideration of matters relating to this application should be limited to one of whether the proposed change would result in unacceptable noise impacts.

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.BE1 (2012) Built Environment

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.

BE15 Alterations and extensions to existing buildings

BE19 New development must improve or complement the character of the area.

BE26 Town centres - design, layout and landscaping of new buildings

BE38 Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.

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

OE3 Buildings or uses likely to cause noise annoyance - mitigation measures

S6 Change of use of shops - safeguarding the amenities of shopping areas

S12	Service uses in Secondary Shopping Areas
DAS-SF	Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

The following neighbours were consulted for a period of 21 days expiring on the 2 March 2015 as follows: -

- Northwood Kiosk
- 1A Eastbury Road
- 1 Rowland Place
- 3 Eastbury Road
- 56A Green Lane
- 54A Green Lane
- 13 Rowland Place
- 65C Green Lane
- 19 Grove Road
- 2 Carew Lodge

No responses have been received from the above properties, which are the closest to the site.

12 additional responses have been received from residents of the Northwood Area identifying the following issues:

- i) Objection to the Licensing application for the Black Soda restaurant in Station Approach as Northwood would become a destination for late/early hours drinking leading to problems with public disorder and noise nuisance in the town centre and beyond
- ii) Objection to the Burger Restaurant opening later leading to Northwood becoming a destination for late/early hours drinking leading to problems with public disorder and noise nuisance in the town centre and beyond
- iii) This area is mainly populated by retired people and families with school age children. These are hardly the types to frequent an Entertainment Bar all day and well into the night.
- iv) There are numerous eating places in Northwood and several fast food type viz: kebab shop a few doors away and two Chinese takeaways. There is no need for any restaurants or bars of the kind proposed especially if they are going to remain open until the early hours attracting undesirable elements from elsewhere
- v) The proposed outdoor seating at this busy junction will pose a major safety risk to pedestrians and patrons
- vi) A burger bar with late night opening will not enhance the area. This type of bar would attract clientele that would detract from the village atmosphere and create trouble

2 petitions of objection have also been received raising concerns in respect of noise, nuisance and public disorder.

London Underground Infrastructure Protection - No objection

Northwood Residents Association - NRA has made several requests to the Council for information on permitted opening hours of similar businesses in the Green Lane area but regrettably such information has not been forthcoming. We therefore comments on the basis of such information as is known to us. We object on the grounds that the daily closing times requested are far too late and would give rise to possible noise/disturbance at night which could affect the amenity of the area.

(Officer Comment: Officers have checked with the Council's Licensing Team who have advised that the requested information has been provided. No further comments have been received since this time)

Thames Water Utilities - No objection.

Internal Consultees

Environmental Protection - This premises is located close to the station at the end of a row of commercial premises. Above the unit are offices and the nearest residential is across the junction at Rowland Place. This is a high street location and not particularly sensitive. We therefore have no objection to the application.

Flood Water Management - no response

Access Officer - No accessibility issues

Conservation and Urban Design - No comments

Highways - No response

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The principle of the development as a restaurant (A3) use was assessed under application 1095/APP/2014/3713 and found acceptable and in accordance with Policy S6 and Policy S12 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

The wording of condition 5 is such that the main consideration is limited to noise and that a refusal on any other grounds could not be sustained. However, as set out in the National Planning Practice Guidance Noise section makes clear in paragraph 2 that noise issues can override other planning concerns , but neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

The economic benefit and the benefits to the vitality and viability of bring the long vacant unit into use therefore needs to be taken into consideration as part of the proposal. The need to provide operating hours which facilitate the long term viability within the current retail market is also a relevant consideration.

Officers have looked at the opening hours in the local areas for food outlets. There are no unlicensed venues which sell fast food beyond midnight, and none which open until 1am as originally sought by the applicants.

The Regal Kebab and Fish and Chip shop (63 Green Lane) opens until midnight, seven days a week. This is the nearest comparable venue to the application site. Based on the concerns of anti-social behaviour raised by local residents and the hours of opening of the

Regal Kebab and Fish and Chip shop, Officers sought to secure the same closing time at the application site as the 63 Green Lane premises. The applicants have agreed to close at midnight on all days and the scheme has been revised accordingly. A condition setting out these specific opening hours is proposed to be added to any future consent issued.

In this case the benefits of the proposal in these respects weigh in favour of granting the proposal, particularly given the findings set out within the noise section of this report.

7.02 Density of the proposed development

Not applicable

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

Not applicable

7.04 Airport safeguarding

Not applicable

7.05 Impact on the green belt

Not applicable

7.06 Environmental Impact

Not applicable

7.07 Impact on the character & appearance of the area

Not applicable

7.08 Impact on neighbours

Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that uses that become detrimental to the amenity of the adjoining occupiers or surrounding area will not be approved. Policy OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that new development or uses which have the potential to cause noise annoyance will only be permitted if measures can be undertaken to alleviate the potential disturbance where a development is acceptable in principle.

The Environmental Protection Unit raised no objection to the original application and although limitation to hours of operation were considered, as there are no immediate residential neighbours such restrictions were not considered necessary. They have further advised that the premises are located close to the station at the end of a row of commercial premises. Above the unit are offices and the nearest residential premises are across the junction at Rowland Place. This is a high street location which is not considered as sensitive to noise and is the location where one would normally expect to find retail uses and economic activity. They therefore have no objection to the application.

It is further noted that a license would be required for the proposals in two respects:

- 1) for the placing of tables and chairs as they are on the highway and the hours at which table and chairs can be present on the public highway; and
- 2) for Late night refreshment . This being the provision of hot food or drink to the public, for consumption on or off the premises, between 11pm and 5am or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access.

The Licensing Objectives are:

- the prevention of crime and disorder,
- public safety,
- prevention of public nuisance (which can include noise), and
- the protection of children from harm.

The National Planning Practice Guidance noise section at para 6 indicates that:
'When proposed developments could include activities that would be covered by the licensing regime, local planning authorities should consider whether the potential for adverse noise impacts will be addressed through licensing controls (including licence conditions). Local planning authorities should not however presume that licence conditions will provide for noise management in all instances and should liaise with the licensing authority.'

Planning consent and Licensing are not mutually exclusive. However, the current application is such that the sole matter arising from the proposal (noise impacts at night) does fall within the realms of prevention of public nuisance and is one of the specific issues which Late Night Refreshment licenses are intended to deal with.

The Council's Environmental Protection Unit does not raise any issues which would require additional conditions or control above those provided for by the Licensing Act. Further, the Licensing Act provides much greater flexibility in dealing within these issue, insofar as there is flexibility to not only determine if a license should be granted, but to amend licenses and conditions to address issues which may arise.

Therefore on balance it is considered that the proposed amendment is acceptable.

7.09 Living conditions for future occupiers

Not applicable

7.10 Traffic impact, car/cycle parking, pedestrian safety

Not applicable

7.11 Urban design, access and security

Not applicable

7.12 Disabled access

Not applicable

7.13 Provision of affordable & special needs housing

Not applicable

7.14 Trees, Landscaping and Ecology

Not applicable

7.15 Sustainable waste management

Not applicable

7.16 Renewable energy / Sustainability

Not applicable

7.17 Flooding or Drainage Issues

Not applicable

7.18 Noise or Air Quality Issues

Not applicable

7.19 Comments on Public Consultations

Officers have carefully considered local representations and concerns regarding late night behaviour. A midnight closing time would allow the venue to serve those leaving drinking establishments during or after 'normal licensing hours'. A 1am closing time is intended to target late license drinking and would constitute 'late night refreshment'.

In making a balanced decision which pays due regard to commercial viability and the amenity of surrounding residents, it is considered that a midnight closing time would limit

the impact on local residents whilst allowing the business to viably trade. The 1am closing time was considered to be the principle concern for local residents and this is no longer proposed as part of this planning application.

7.20 Planning Obligations

Not applicable

7.21 Expediency of enforcement action

Not applicable

7.22 Other Issues

Issues i and iii) appear to relate to a licensing application for the Black Soda restaurant, which is a separate issue and not relevant to this proposal.

Issues ii) and iv) relate mainly to the principle of an additional fast food restaurant in the area. The principle of the development has already been established and does not fall to be considered under this application.

Issues ii, iv and vi) also raise concerns about public disorder, and the village atmosphere. Public disorder arising from the operation over the original consent would be a matter most appropriately dealt with under the Licensing Act. It is not considered that the introduction of a restaurant facility within an existing derelict retail unit would detract from the area, indeed the proposal would bring the unit back into use which would potentially enhance the viability and vitality of the centre in accordance with national planning guidance.

Issue v) relates to the safety of the outdoor seating area. This was considered under the original application and was considered acceptable. It does not fall to be considered under this application.

8. Observations of the Borough Solicitor

General

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

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

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

Planning Conditions

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

Planning Obligations

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

Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have due regard to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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

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

9. Observations of the Director of Finance

None

10. CONCLUSION

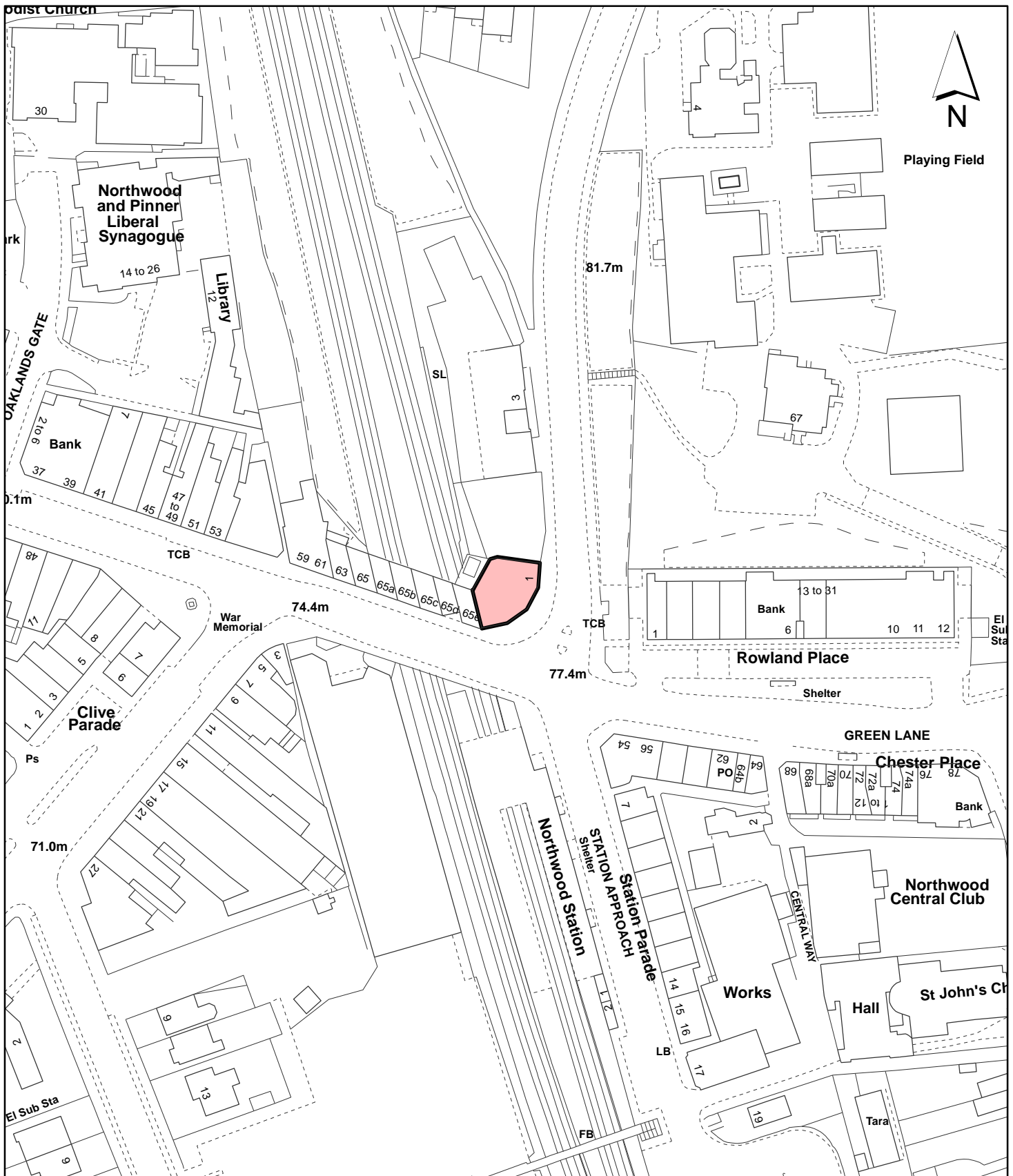
The proposal complies the development plan and is therefore recommended for approval.



11. Reference Documents

Hillingdon Local Plan Part 1 - Strategic Policies (November 2012).
Hillingdon Local Plan Part 2.
The London Plan (March 2015).
Supplementary Planning Document 'Accessible Hillingdon'.
National Planning Policy Framework.

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<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).</p> <p>Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2015 Ordnance Survey 100019283</p>	<p>Site Address</p> <p style="text-align: center;">1 Eastbury Road Northwood</p>		<p>LONDON BOROUGH OF HILLINGDON</p> <p>Residents Services Planning Section</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p style="text-align: center;">1095/APP/2015/404</p>	<p>Scale</p> <p style="text-align: center;">1:1,250</p>	 HILLINGDON LONDON
	<p>Planning Committee</p> <p style="text-align: center;">North</p>	<p>Date</p> <p style="text-align: center;">April 2015</p>	