

Report of the Corporate Director of Planning & Community Services

Address 76 & 78 VICTORIA ROAD RUISLIP

Development: Change of use from Class A1 (Shops) to Class D2 (Assembly and Leisure) for use as a gymnasium.

LBH Ref Nos: 43997/APP/2009/1404

Drawing Nos: Design and Access Statement
L691/1 Rev. B
Letter from Agent dated 11th November 2009

Date Plans Received: 26/06/2009 **Date(s) of Amendment(s):** 26/06/2009
Date Application Valid: 09/07/2009 11/11/2009

DEFERRED ON 27th October 2009 FOR FURTHER INFORMATION .

Members will recall that this application was deferred from the North Planning Committee meeting held on 27 October 2009 to enable further information to be obtained from the applicant to overcome concerns around the term 'unrestricted gym use', noise and the lack of showering facilities within the proposed unit.

The applicant has provided additional information on the operation of the proposed business and has advised that the business will sell gym related and beauty products. These will include clothing, such as baseball caps, gym bags, water bottles and other fitness related accessories. Beauty products would comprise a range of creams, lotions and gels. A window display would be installed comprising a low level platform and shelving with one or more mannequins to display examples of the clothing range. The shopfront would be screened from the gym by backboards to prevent a view from the street into the gym itself.

In addition, the applicant plans to give local home-workers who cannot afford a retail unit an outlet for their creations. These items would not necessarily be directed to the business, but would need to sit comfortably with the ambience the business is trying to create. The applicant has also provided an amended plan showing the layout of the locker/changing rooms, which now show shower facilities.

In addressing the matter relating to 'unrestricted use', the applicant is willing to accept an approval being made personal to the named owners of the business.

With regards to noise, this could be overcome by attaching suitable conditions limiting hours of operation and requiring sound insulation between floors and within new partitions, should planning permission be granted.

Conclusion:

It is considered that suitable conditions restricting the use within class D2, making the planning permission personal to the applicant, hours of use and sound insulation would overcome the concerns raised by Members. However, Policy S11 states that the change of use from class A1 to non-class A1 uses in primary frontages is acceptable where there remains adequate retail facilities to accord with the character and function of the shopping centre in order to maintain the vitality and viability of the town centre, but that such changes of use should be limited to

uses within Classes A2, A3, A4 and A5.

The most recent shopping survey shows that the loss of these two units would reduce the primary retail frontage to 66.9%, which is below the 70% as stated in policy S11; a level that maintains the retail character and function of the shopping centre.

It is acknowledged that the proposed business would incorporate an ancillary retail element. The applicant has also advised that there maybe opportunity to display and sell non-business related goods from home-workers who cannot afford a retail unit, however, there is no guarantee that this additional retail element would be introduced.

Given the above, officers consider that the proposed change of use will harm the vitality and attractiveness of the Ruislip Manor Town Centre as the proposed use would further erode the retail character and function of the shopping centre and would result in an over concentration of non-shop uses within this part of the primary frontage, contrary to policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

This application is, therefore, recommended for refusal for the reasons stated in Section 2 of the original report, which is set out below. However, members intimated at the Committee meeting of the 27th October that they may wish to approve the application. Should this be the case then the following conditions are recommended:

1. 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. The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the Local Planning Authority.

REASON

To ensure that the external appearance of the development is satisfactory and complies with Policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3. The use hereby permitted shall be carried on only by Martine Aston and/or Marshall Davison. The use shall cease when the premises cease to be occupied by Martine Aston and/or Marshall Davison and all materials and equipment brought on to the premises in connection with the use shall be removed.

REASON

The proposed use is contrary to the Council's planning policies but the particular circumstances of the applicant warrant an exception being made to the Council's Saved Policies September 2007.

4. The premises shall only operate between the hours of 08:00 and 23:00. There shall be no staff allowed on the premises outside these hours.

REASON

To safeguard the residential amenity of the occupiers and nearby properties, in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies September

2007).

5. 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 Saturday 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).

6. Development shall not commence until details of access to building entrances and w.c. facilities (to include ramped/level approaches, signposting, types and dimensions of door width and lobby openings) to meet the needs of people with disabilities 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 adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan Policies (February 2008) Policies 3A.13, 3A.17 and 4B.5.

7. The development shall not begin until a sound insulation scheme for the control of noise transmission to the adjoining dwellings/premises has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is occupied/use commences and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

REASON

To safeguard the amenity of the occupants of surrounding properties 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).

8. Prior to the commencement of works on site, full details of the provision to be made for the secure and covered storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided on site prior to the premises being brought into use and thereafter maintained.

REASON

To ensure satisfactory provision is made for the storage of waste and recycling, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

9. No development shall take place until details of the height, position, design and materials of any air conditioning equipment 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 Unitary Development Plan Saved Policies (September 2007).

10. No air conditioning equipment shall be used on the premises until a scheme for the control of noise emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is occupied/use commences and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

REASON

In order to safeguard the amenities of adjoining properties in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

11. A window display appropriate to a shopping parade shall be provided prior to the commencement of the use for which permission is hereby granted and shall be permanently retained thereafter.

REASON

To ensure the appearance of the frontage is appropriate to the shopping area and assists in maintaining its vitality in accordance with Policy S6 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (February 2008) Policy 3D.3.

1. SUMMARY

Planning permission is sought for the change of use of the premises from retail to a gymnasium. It is considered that the proposed change of use will harm the vitality and attractiveness of Ruislip Manor Town Centre as the proposed use would further erode the retail character and function of the shopping centre and would result in an over concentration of non-shop uses within this part of the primary frontage.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposed loss of the retail units would further erode the retail function and attractiveness of the primary shopping area of the Ruislip Manor Town centre, to the detriment of its vitality and viability. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

2 NON2 Non Standard reason for refusal

The proposal would result in a concentration of non-retail uses within this part of the primary shopping frontage which would be detrimental to the vitality and viability of the Ruislip Manor Shopping Centre. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

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.

| | |
|-------|---|
| 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. |
| 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 |
| CACPS | Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007) |

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the south west side of Victoria Road and comprises a double frontage retail unit on the ground floor with rear extensions and residential units above on two floors accessed from the rear. To the north east lies 74 Victoria Road, a hot food take away use on the ground floor with residential above and to the south east lies 80 Victoria Road, a restaurant on the ground floor with residential above. The rear of the properties on this side of the road back onto a service road. Also at the rear are a number of staircases providing access to the first floor residential units above the shops. The street scene is commercial in character and appearance and the application site lies within the primary shopping centre of the Ruislip Manor Town Centre, as identified in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

Planning permission is sought for the change of use of the ground floor retail unit to a gymnasium within class D2. The proposed use would operate under a franchise known as 'Gymophobics,' which helps women mainly within the 40+ age group to lose weight. No external alterations are proposed.

The Gym would provide a waiting area, reception and exercise circuit equipment. The gym would operate by appointment only, would employ 2 full time and 3 part time staff and would operate between the hours of 0800-2000 Monday to Fridays and 0900 to 1400 on Saturdays, Sundays and Bank Holidays.

3.3 Relevant Planning History

43997/89/2313 76 & 78 Victoria Road Ruislip
Change of use from A1 retail to A2 Bank or Building Society

Decision: 22-03-1990 Refused

Comment on Relevant 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:

Part 2 Policies:

| | |
|-------|---|
| 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. |
| 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 |
| CACPS | Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007) |

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

54 adjoining owner/occupiers and the Ruislip Residents' Association have been consulted. 1 letter in support and a petition with 161 signatories against the proposal have been received.

Letter of support:

- (i) The gym on the main road would be more inviting than the existing gym on Manor Way;
- (ii) A local gym would save patrons money on petrol and car costs which is beneficial to the environment.

Petition:

"We the undersigned, being members, local residents and friends of Optimum Gym, object to the proposed gym being granted permission to start up in the Manor. There is not enough trade to sustain two gyms and the inclusion would mean the possible closure for one of them. We would

welcome a discussion to this end as a result of this petition."

- (iii) There is an existing gym in Manor Way which is sufficient. Two gyms fighting for business in the locality will lead to them closing down;
- (iv) More retail shops are needed to maintain variety and fight the economic downturn;
- (v) There is insufficient demand in the area for two gyms;
- (vi) The proposal would lead to on street parking

Metropolitan Police CPDA: No comments received

Ruislip Chamber of Commerce: No comments received.

Internal Consultees

Policy and Environmental Planning:

The proposal site is within the primary frontage of Ruislip Manor Minor Town Centre. Policies S6 and S11 are key considerations. Paragraph 8.26 of the UDP seeks to retain at least 70% of primary frontage in A1 use. Recent data from 2008 shows A1 and vacant A1 units account for 68% of the primary frontage in Ruislip Manor. The loss of the existing use would undermine the range of goods and services available within the centre and consequently the vitality and viability of the centre.

This application is unacceptable in policy terms, being contrary to the UDP target of 70% A1 use in primary shopping frontages.

Environmental Protection Unit:

No objections subject to conditions relating to operating hours, control of noise from the site, sound insulation and deliveries.

Highways Officer

In accordance with the design and access statement there will be 10 items of exercise equipment with the usage no more than 30 minutes per session. The facility will operate on an appointment system.

On street parking is available with restrictions at certain times of the day to discourage commuter parking. Nearest underground station is Ruislip Manor and with bus routes 114, 398 and H13. There is also a public car park at the station.

There are proposals for a shop and stop parking scheme to encourage a greater turn over of parking spaces on which residents will be consulted in about a month's time.

No objections are raised on highway grounds.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Paragraph 8.24 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) defines primary shopping areas as areas which are 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 about 12m which is broadly the width of two typical shop fronts. Class A1 shops should remain the predominant use in primary areas and the Local Planning Authority will expect at least 70% of the frontage to

be in class A1 use.

Policy S11 establishes states that the change of use from class A1 to non-class A1 uses in primary frontages is acceptable where there remains adequate retail facilities to accord with the character and function of the shopping centre in order to maintain the vitality and viability of the town centre, but that such changes of use should be limited to uses within Classes A2, A3, A4 and A5.

The Council's most recent shopping survey, undertaken in July 2009, shows that retail uses within class A1 within the primary frontage of the Ruislip Manor Town Centre is at 68% (including vacant retail units). It is acknowledged that the application units are vacant. However it is not known how long they have remained vacant or whether attempts have been made to let the units as retail units. Notwithstanding this, the application premises have the potential to provide retail uses to maintain the retail character, variety and choice in the town centre and furthermore, the proposed use is not considered to be a use that is appropriate within a primary shopping frontage, as defined in Policy S11. As such, the loss of the application premises would further erode the retail character, vitality and viability of the Ruislip Manor Town Centre.

The application premises are flanked by non-retail uses, both 74 and 80 Victoria Road are restaurants. The loss of the application property would result in a 17.5m long break in the retail frontage between nos. 70-72 and 82 Victoria Road, which are retail units. 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.

Overall, it is considered that the proposed change of use will harm the vitality and attractiveness of Ruislip Manor Town Centre as the proposed use would further erode the retail character and function of the shopping centre and would result in an over concentration of non-shop uses within this part of the primary frontage, contrary to policy S11 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007)

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

This is not applicable to this application.

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 elevational alterations are proposed and therefore the proposal would not harm the appearance of the street scene, in accordance with policies BE13, BE15 and BE19 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 the application premises. No details of mechanical equipment such as air conditioning units have been submitted. It is considered that planning conditions requiring details of the mechanical equipment, the installation of appropriate sound attenuation and

insulation between floors 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

No off-street parking spaces are associated with the application site. The application site has a PTAL score of 3 and the on street parking is available with restrictions at certain times of the day to discourage commuter parking. The nearest underground station, Ruislip Manor, is within easy walking distance and a number of bus routes, 114, 398 and H13, also serve the area. Furthermore, there is also a public car park at the station. Given this it is not considered that the proposal would result in undue on-street parking and the Council's Highways officer does not raise objection to the proposal.

7.11 Urban design, access and security

This is addressed at section 07.07

7.12 Disabled access

This matter can be addressed by way of condition/s in the event of permission being granted.

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 matter can be addressed by way of condition/s in the event of permission being granted.

7.19 Comments on Public Consultations

Points (i) and (ii) are noted. Points (iv) and (vi) are addressed in the report. The remaining points relate to competition which is not a material planning consideration.

7.20 Planning Obligations

This is not applicable to this application.

7.21 Expediency of enforcement action

This is not applicable to this application.

7.22 Other Issues

None

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

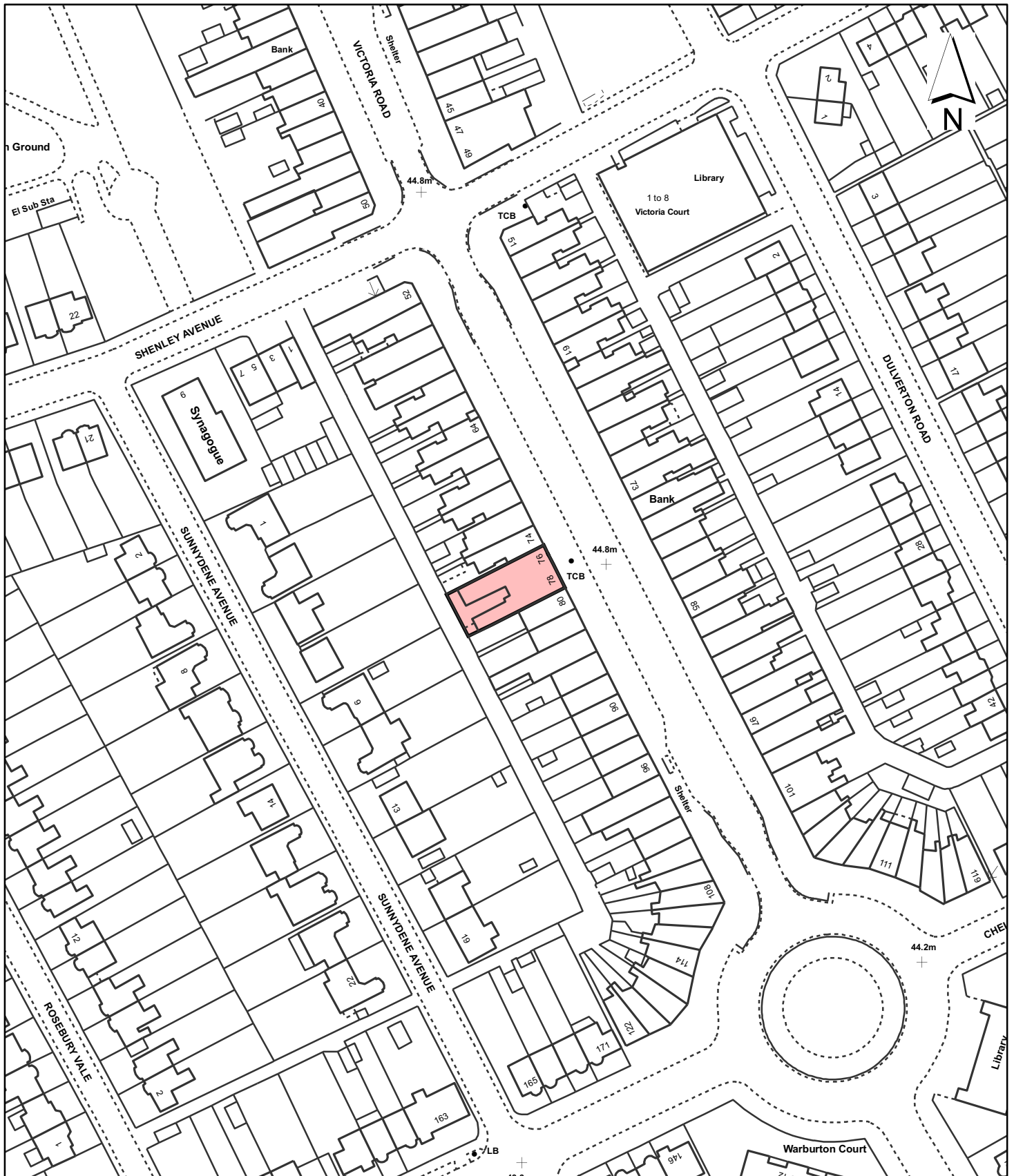
For the reasons outlined above and that the proposal would be contrary to the aforementioned policies of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007), this application is recommended for refusal.

11. Reference Documents


Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

Contact Officer: Sonia Bowen

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Notes

 Site boundary

For identification purposes only.

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Site Address

**76 - 78 Victoria Road
Ruislip**

Planning Application Ref:

43997/APP/2009/1404

Planning Committee

North

Scale

1:1,250

Date

October 2009

**LONDON BOROUGH
OF HILLINGDON
Planning &
Community Services**

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