

Report of the Head of Planning, Sport and Green Spaces

Address 184 HIGH STREET UXBRIDGE

Development: Change of use from retail (Use Class A1) to a mixed use of restaurant/hot food takeaway (Use Class A3/A5) involving installation of extraction fan and ductwork to rear and provision of outdoor seating to front

LBH Ref Nos: 42966/APP/2015/3977

Drawing Nos: 415/200
415/201
344/001
415/202
Proposed Outdoor Furniture
415/203
Location Plan (1:1250)
415/100
Fan specification
Planning Statement
Grease Box Specification
Supporting Photographs
Land use plan
Noise Assessment

Date Plans Received: 26/10/2015

Date(s) of Amendment(s):

Date Application Valid: 05/11/2015

1. SUMMARY

The application seeks planning permission for the change of use from retail (Use Class A1) to a mixed use of restaurant/hot food takeaway (Use Class A3/A5) involving installation of extraction fan and ductwork to rear and provision of outdoor seating to front. The proposal fails to comply with Policy S11 given that the most recent shopping survey demonstrates that the retail percentage of the shopping frontage has already fallen below the required 70% threshold. The proposed change of use is considered unacceptable in principle given that the proposed loss of the retail unit would erode the retail function and attractiveness of the primary shopping area of this part of Uxbridge Town Centre, to the detriment of its vitality and viability. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012).

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal, by reason of the loss of a retail unit within the primary shopping area of the Uxbridge Town Centre, would erode the retail function of the area, harming the vitality and viability of the centre. The proposal is therefore contrary to Policy S11 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012) and Policy 2.15 of the London Plan (2015).

INFORMATIVES

1 I59 **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 (2015). 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 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).

3 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) 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 (2015) and national guidance.

BE4	New development within or on the fringes of conservation areas
BE8	Planning applications for alteration or extension of listed buildings
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
BE28	Shop fronts - design and materials
BE29	Advertisement displays on business premises
S11	Service uses in Primary Shopping Areas
DAS-SF	Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LPP 2.15	(2015) Town Centres
NPPF	National Planning Policy Framework
NPPF1	NPPF - Delivering sustainable development
NPPF2	NPPF - Ensuring the vitality of town centres

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises of a retail unit on the northern side of High Street within the Primary shopping area of Uxbridge Town Centre and within the Old Uxbridge/ Windsor Street Conservation Area. The building has a traditional red brick facade.

3.2 Proposed Scheme

The application seeks planning permission for a change of use from retail (Use Class A1) to

a mixed use of restaurant/hot food takeaway (Use Class A3/A5) involving installation of extraction fan and ductwork to rear and provision of outdoor seating to front.

3.3 Relevant Planning History

Comment on Relevant Planning History

There is no recent planning history of relevance to this application.

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

PT1.HE1 (2012) Heritage

Part 2 Policies:

BE4 New development within or on the fringes of conservation areas

BE8 Planning applications for alteration or extension of listed buildings

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

BE28 Shop fronts - design and materials

BE29 Advertisement displays on business premises

S11 Service uses in Primary Shopping Areas

DAS-SF Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006

LPP 2.15 (2015) Town Centres

NPPF National Planning Policy Framework

NPPF1 NPPF - Delivering sustainable development

NPPF2 NPPF - Ensuring the vitality of town centres

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **9th December 2015**

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

14 neighbouring properties were consulted by letter dated 6.11.15 and a site notice was displayed to the front of the site which expired on 11.12.15.

One letter of objection has been received from a neighbouring property raising concerns about the outside seating area potentially blocking access to the first floor flats above and the resultant noise

resulting from hours of operation.

A further comment has been received raising concerns that the proposal fails to use the up to date survey date in respect of town centre uses.

Internal Consultees

Conservation Officer: No objection.

EPU:

No objection in principle subject to a number of conditions to secure additional details of the proposed plant at this premises to include full details of the extract system including any filtration and fixings; Details of the flue top, details of any other plant to be installed eg refrigeration or air conditioning plant including noise levels.

Access Officer - No objection subject to an informative (Equality Act 2010).

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Policy S11 of the adopted Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) states that planning permission will be granted for Class A3 Food and Drink uses) in Primary Shopping Areas where the remaining retail facilities are adequate to accord with the function of the shopping centre and will not result in a separation of Class A1 uses or concentration of non-retail uses which might harm the vitality and viability of the centre.

For this reason, the policy contains two criteria by which the function and vitality of the retail centre can be assessed. These seek respectively to retain at least 70% of the shopping frontage in retail uses and prevent a separation of Class A1 units of more than 12 metres. Whilst it is noted that Policy S11 was originally adopted a long time prior to the publication of the National Planning Policy Framework and the London Plan (2015), it is consistent with the aims of both and, in particular paragraph 23 of the National Planning Policy Framework, which encourages local planning authorities to set out policies that make clear which uses will be permitted in primary frontages.

The most recent shopping survey for Uxbridge town centre (carried out in June 2014) confirmed that the retail percentage (including vacant Class A1 units) in the Primary Shopping frontage was 66.1% (of 2564.84 metres) and this represented 65.7% of 268 units. It is noted in the planning statement accompanying the application that the applicant has not used the most up to date town centre shopping survey data.

The proposal fails to comply with Policy S11 given that the most recent shopping survey demonstrates that the retail percentage of the shopping frontage has already fallen below the required 70% threshold. The change of use would result in the A1 retail frontage reduced to 65.9% and units to 65.29%. In summary therefore, the proposed change of use is considered unacceptable in principle given that the proposed loss of the retail unit would erode the retail function and attractiveness of the primary shopping area of this part of Uxbridge Town Centre, to the detriment of its vitality and viability. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012).

7.02 Density of the proposed development

Not applicable to this application

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

The site lies within the Old Uxbridge/Windsor Street Conservation Area. The advice within policy BE4 of the Hillingdon Local Plan requires development to preserve or enhance the special character of the Heritage Asset. Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) requires all new development to maintain the quality of the built environment including providing high quality urban design. Similarly Policy BE13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) seeks to ensure that development will not be permitted if the appearance fails to harmonise with the existing street scene or other features of the area.

The proposal does not include alterations to the shopfront or signage and as such, is considered to relate satisfactorily to the character and appearance of the street scene and Conservation Area. The Conservation Officer has raised no objection to the proposal. The application is therefore considered acceptable in accordance with Policies BE1 and HE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and Policies BE4 and BE13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), preserving the character and appearance of the Old Uxbridge Conservation Area.

7.04 Airport safeguarding

Not applicable to this application.

7.05 Impact on the green belt

Not applicable to this application.

7.07 Impact on the character & appearance of the area

The issues are addressed in the section above.

7.08 Impact on neighbours

Policy OE1 states permission will not be granted for uses which are likely to become detrimental to the character or amenities of surrounding properties and policy OE3 states buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact can be mitigated.

The application contains a noise assessment. The Council's Environmental Protection Officer has not raised an objection to the application subject to a number of safeguarding conditions being applied relating to the hours of operation, details of extract ventilation systems, odour control and noise,

Therefore, if the proposal were considered acceptable in all other respects, subject to these conditions the proposal is considered to accord with policies OE1 and OE3 of the Hillingdon Local plan - Saved UDP Policies (November 2012).

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

It is considered that the proposal would not give rise to any harm in terms of traffic impact or pedestrian safety in this central location.

There is no off street car parking immediately associated with this unit and there is no scope for parking immediately outside of the premises. The existing access and servicing arrangement would remain as per the existing retail uses.

In this respect, it is considered that there would be no conflict with policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012).

7.11 Urban design, access and security

The proposed change of use does not give rise to any urban design or access/security issues. Any licensing issues would be subject to compliance with separate legislation.

7.12 Disabled access

The Council's Access Officer has raised no objection to the proposal subject to an informative regarding the Equality Act 2010.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, landscaping and Ecology

Not applicable to this application.

7.15 Sustainable waste management

Not applicable to this application.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

Not applicable to this application.

7.18 Noise or Air Quality Issues

The issues are addressed in the section above.

7.19 Comments on Public Consultations

The comments are addressed in the report above.

7.20 Planning obligations

Not applicable to this application.

7.21 Expediency of enforcement action

Not applicable to this application.

7.22 Other Issues

No other issues raised.

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

Not applicable to this application.

10. CONCLUSION

The application seeks planning permission for the change of use from retail (Use Class A1) to a mixed use of restaurant/hot food takeaway (Use Class A3/A5) involving installation of extraction fan and ductwork to rear and provision of outdoor seating to front. The proposal fails to comply with Policy S11 given that the most recent shopping survey demonstrates that the retail percentage of the shopping frontage has already fallen below the required 70% threshold. The proposed change of use is considered unacceptable in principle given that the proposed loss of the retail unit would erode the retail function and attractiveness of the primary shopping area of this part of Uxbridge Town Centre, to the detriment of its vitality and viability. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012).

11. Reference Documents

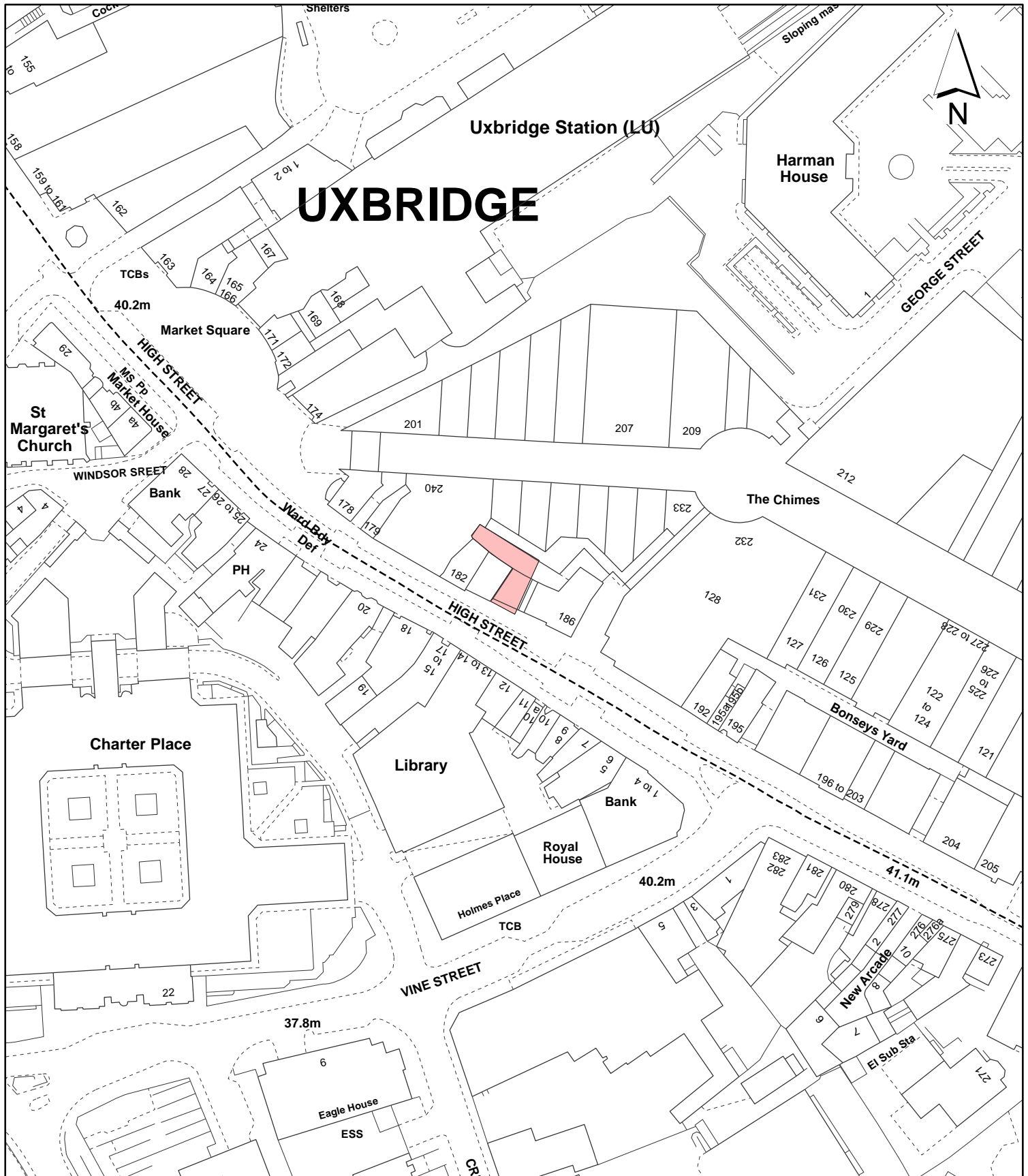
Hillingdon Local Plan: Part One - Strategic Policies (November 2012)

Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

London Plan (2015)
NPPF

Contact Officer: Nicola Taplin

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Notes:

 Site boundary

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Site Address:

**184 High Street
 Uxbridge**

**LONDON BOROUGH
 OF HILLINGDON**
 Residents Services
 Planning Section

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

Planning Application Ref:

42966/APP/2015/3977

Scale:

1:1,250

Planning Committee:

Central and South

Date:

February 2016



HILLINGDON
 LONDON