

Report of the Head of Planning, Sport and Green Spaces

Address 132 UXBRIDGE ROAD HAYES

Development: Change of use from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis)

LBH Ref Nos: 3125/APP/2015/4029

Drawing Nos: P1323 Rev. B
P/1324 Rev. B
P/1322 Rev. B
P/1321 Rev B

Date Plans Received: 30/10/2015 **Date(s) of Amendment(s):**

Date Application Valid: 04/12/2015

1. SUMMARY

The application seeks planning permission for the change of use of the ground floor premises from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis).

Whilst there is no objection to the principle of the change of use, the applicant has failed to adequately address the impact of the proposed extension and change of use on the amenities of occupants of nearby residential properties by way of noise, odour and disturbance and the impact upon highways safety. As such the application is recommended for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

In the absence of a Transport Statement the application has not demonstrated that either sufficient parking for vehicles associated with the use would be provided or sufficient manoeuvring and access arrangements for service delivery vehicles. In addition the application fails to demonstrate that the proposal would not result in an unacceptable rise in traffic in and around the application site. It is considered that the proposal would be detrimental to highway and pedestrian safety contrary to policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and to the Hillingdon's Adopted Parking Standards.

2 NON2 Non Standard reason for refusal

The proposed development has failed to demonstrate that unacceptable levels of noise, disturbance and odour to surrounding residential occupiers would not occur. In the absence of any noise surveys or noise mitigations measures, the proposed development is considered to result in noise and disturbance to the detriment of the amenity of adjoining occupiers, contrary to Policies OE1, OE3 and OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

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) 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.

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.
S7	Change of use of shops in Parades
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
OE5	Siting of noise-sensitive developments
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010

3 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.

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In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. The Council's supports pre-application discussions in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The submission of the additional information required would require further consultation to be undertaken prior to determination which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider the submission of a fresh application incorporating the material amendments set out below which are necessary to enable the Council to fully consider your proposal:

1. The preparation of a Transport Statement to include the number of customers expected and their modes of travel to the proposed A4 and Sui-generis uses. Consideration is also required in relation to the On-street and off-street car parking demand and capacity

throughout the day to demonstrate that the proposals will not adversely impact on local highway conditions.

2. The preparation and submission of a Noise Survey, details of any ventilation and extraction, details of hours of operation and mitigation measures to demonstrate that any potential noise and odour generated from the site could be overcome.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the north east side of Uxbridge Road near its junction with Brookside Road and forms part of a parade of 8 properties comprising commercial units on the ground floor with two floors above in residential use. The application property comprises a retail unit on the ground floor. The foundations have been built for a single storey rear extension, but the walls and roof have not been built. Many of the commercial units in the parade have rear extensions of various sizes and lengths of projection. To the rear lies a service road and beyond lies the rear gardens of 2 Brookside Road and 2-8 (even) Cerne Close. The street scene is commercial in character and appearance and the application site lies within the developed area as identified in the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012).

3.2 Proposed Scheme

The application seeks planning permission for a change of use of the ground floor premises from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis).

The submitted plans show the single storey rear extension which has been commenced by way of the foundation. The further rear extension would provide an additional seating area and shisha lounge. The revised plans indicate that the previously approved rear extension which has commenced, has not been built. The proposed extension which is in addition to the extant consent seeks permission for an additional 66 square metres of floor space. The submitted plans and application forms confirm that there is no existing or proposed on-site parking.

3.3 Relevant Planning History

3125/APP/2003/2495 132-134 Uxbridge Road Hayes

CHANGE OF USE FROM CLASS A1 (RETAIL) TO CLASS A2 (FINANCIAL AND PROFESSIONAL SERVICES) AND RENEWAL OF PLANNING PERMISSION REF.3125L/98/7 DATED 23/10/1998; ERECTION OF SINGLE STOREY REAR EXTENSION TO SHOP FOR STORAGE

Decision: 27-04-2004 Approved

3125/APP/2005/3119 132-134 Uxbridge Road Hayes

ERECTION OF SINGLE STOREY REAR EXTENSION AND INSTALLATION OF A NEW SHOPFRONT

Decision: 28-12-2005 Approved

3125/APP/2009/984 132 Uxbridge Road Hayes
Erection of a single storey rear extension.

Decision: 24-07-2009 Approved

3125/L/98/0742 132-134 Uxbridge Road Hayes
Erection of a single storey rear extension to shop for storage

Decision: 23-10-1998 Approved

Comment on Relevant Planning History

Planning permission was granted for a single storey rear extension under application reference 3125/APP/2009/984. The foundations of this extension have been built. The walls and roof have not started but it is assumed that the development has commenced and this permission is therefore extant.

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.

S7 Change of use of shops in Parades

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

OE5 Siting of noise-sensitive developments

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

12 neighbouring properties were consulted by letter dated 8.12.15 and a site notice was displayed which expired on 7.1.16.

2 letters of objection have been received in addition to 2 petitions of objection raising the following concerns:

1. Loss of retail use
2. Exacerbation of existing rat problem
3. Increased demand for parking
4. Attraction of anti-social behaviour
5. Increased noise and disturbance.
6. Boundary dispute.

Internal Consultees

Highways:

- a. The site has poor public transport accessibility (PTAL=2). Customers of the proposed development will be more reliant upon car use.
- b. Details are required regarding the existing use of the first floor and the existing provision/allocation of car parking between all the uses on this site. Any reduction in car parking provision should be justified.
- c. Details are required regarding the existing and proposed arrangement for servicing arrangement.
- d. A transport statement is required, detailing the number of customers expected and their modes of travel to the proposed A4 and Sui-generis uses. On-street and off-street car parking demand and capacity should also be considered throughout the day to demonstrate that the proposals will not adversely impact on local highway conditions.

EPU:

The premises and particularly the proposed extension are located close to residential properties.

The design of the proposed extension is very open and this could increase the potential for odour and noise to affect nearby residential premises.

The applicant has not provided a noise report or details of how they propose to deal with odour and without this information we are unable to consider this application acceptable.

Access Officer:

No Accessibility issues raised with this application proposal.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Local shopping parades serve an important role in providing convenience shopping that caters for the needs of local residents. Paragraph 8.22 and policy S7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) seeks to ensure that all residential areas are within half a mile of at least five essential shop uses, although not necessarily within the same parade. For some local shopping areas the closure of just one essential shop may be so significant as to precipitate the closure of other shops and the ultimate demise of the centre as a whole. The Local Planning Authority seeks to protect vulnerable parades and corner shops which have a particularly important

role for the local community and to provide opportunities for the establishment of new essential shop uses in existing class A1 premises. Ideally there should be no less than 3 (essential shops) in the smaller parades and a choice of essential shops in the larger parades.

The application site is one of 8 units within the parade (comprising of 4 x A1 retail units, 1 x hot food takeaways, 2 x A3 (Restaurants) and 1 x sui generis use). The application property is one of 4 retail properties in this parade which equates to 50% of the parade in retail use. The change of use of this site would result in the loss of Class A1 retail uses within this parade, however 3 units would be retained in A1 use. As such, the proposal would not harm local convenience shopping provision, in accordance with Policy S7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan 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

Not applicable to this application.

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

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. Furthermore Policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) resist any development which would fail to harmonise with the existing street scene or would fail to safeguard the design of existing and adjoining sites.

The location of the extension is to the rear of a commercial parade, backing onto an access/service road. The proposed external finish of matching brick results in an acceptable development that would not appear out of keeping in its setting. There are a number of substantial extensions to the buildings within this parade and the proposed extension would not appear out of keeping with development within this vicinity. Therefore, the application is considered to be in accordance with Policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

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. In terms of assessing the effects of the proposal on residential amenity, the relevant factors are those of noise, odour and general disturbance.

The nearest residential properties are above and adjacent to the application site. Properties 112-122 Longford Gardens are located 12m to the east of the proposed extension. Properties in Cerne Close to the rear are located approximately 28m away from the proposed extension.

It is estimated that up to approximately thirty (30) people can be accommodated in the proposed extension. The extension is also shown to be mostly glazed in its eastern

elevation with a number of glazed doors in its rear elevation. All are shown on the submitted plans to be openable. The planning application forms do not provide any details of hours of operation. A noise survey, or details of any ventilation and extraction have not been submitted in support of the proposal. Consequently any noise that may be produced in the late evening/night which could transmit together with the smoke and smell from the shisha pipes up and across to surrounding residential properties cannot be assessed. No details of any mitigation measures have been provided with the application to demonstrate that any potential noise and odour generated from the site could be overcome.

As a result it is considered that the proposed extension and use of the site could have a negative impact upon the amenity of nearby residents and occupants through increased noise and disturbance and odour, contrary to Local Plan policy OE1, OE3 and OE5 which strongly resist development which would have an adverse impact upon the amenity of residents through increased noise and odour.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Policy AM7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) considers whether the traffic generated by proposed developments is acceptable in terms of the local highway and junction capacity, traffic flows and conditions of general highway or pedestrian safety.

Policy AM14 states that new development will only be permitted where it is in accordance with the Council's adopted Car Parking Standards.

The submitted planning application forms and plans confirm that there is no existing or proposed on site car parking or servicing. It is however noted that the 2009 planning application form made provision for 6 on site parking spaces to the rear. The current planning application is not supported by a Transport Statement detailing of the number of customers expected and their modes of travel to the proposed A4 and Sui-generis uses. Consideration is also required in relation to the on-street and off-street car parking demand and capacity throughout the day to demonstrate that the proposals will not adversely impact on local highway conditions. The application has not therefore demonstrated that either sufficient parking for vehicles associated with the use would be provided or sufficient manoeuvring and access arrangements for service delivery vehicles. In addition the application fails to demonstrate that the proposal would not result in an unacceptable rise in traffic in and around the application site. It is considered that the proposal would be detrimental to highway and pedestrian safety contrary to policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and to the Hillingdon's Adopted Parking Standards.

7.11 Urban design, access and security

See Section 7.07.

7.12 Disabled access

The Council's Access Officer has no objection to the proposal.

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

There is space within the existing rear service yard to provide refuse and recycling storage.

Should the scheme be considered acceptable in all other respects a condition could be imposed to secure the submission of details in this respect.

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 Section 7.08 above.

7.19 Comments on Public Consultations

The comments by the occupants of nearby properties are addressed in the sections above.

The concern raised in relation to an outstanding boundary dispute is a civil issue and not a material planning consideration.

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

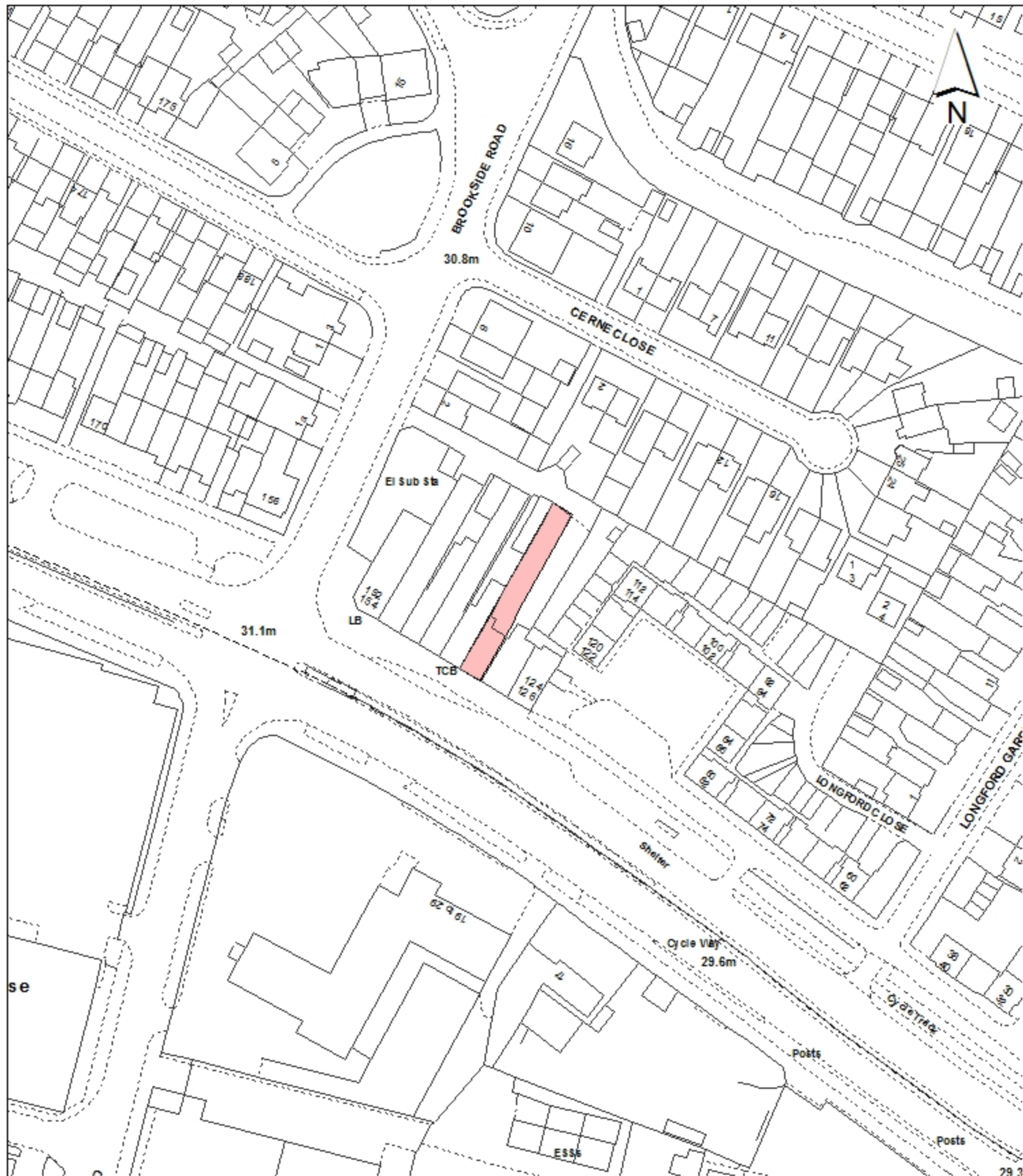
The application seeks planning permission for the change of use of the ground floor premises from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis). Whilst there is no objection to the principle of the change of use, the applicant has failed to adequately address the impact of the proposed extension and change of use on the amenities of occupants of nearby residential properties by way of noise, odour and disturbance and the impact upon highways safety. As such the application is recommended for refusal.

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)
Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)
The London Plan (March 2015)
Hillingdon Design and Accessibility Statement: Accessible Hillingdon
National Planning Policy Framework

Contact Officer: Nicola Taplin

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Notes:

 Site boundary

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**LONDON BOROUGH
OF HILLINGDON**
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Planning Section

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Telephone No.: Uxbridge 250111

Planning Application Ref:

3125/APP/2015/4029

Scale:

1:1,250

Planning Committee:

Central & South

Date:

March 2016



HILLINGDON
LONDON