

## 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/2016/2172

**Drawing Nos:** 09/215/500  
09/215/501 Rev. A  
09/215/502

**Date Plans Received:** 06/06/2016 **Date(s) of Amendment(s):**

**Date Application Valid:** 05/07/2016

### 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).

The application is a re-submission of application reference 3125/APP/2015/4029. The current application is supported by a Design and Access statement which confirms hours of operation and brief parking arrangements. 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. The application is therefore recommended for refusal.

### 2. **RECOMMENDATION**

**REFUSAL for the following reasons:**

#### 1 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 mitigation 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).

#### 2 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.

## 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 - The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) 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.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
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
LPP 5.12	(2016) Flood risk management
LPP 5.13	(2016) Sustainable drainage
LPP 5.15	(2016) Water use and supplies

### 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 (2016). 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.

### 4

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 the 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).

#### **3.3 Relevant Planning History**

3125/APP/2015/4029      132 Uxbridge Road Hayes

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)

**Decision:** 09-03-2016      Refused

#### **Comment on Relevant Planning History**

3125/APP/2015/4029 - 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) was refused for the following reasons:-

1. 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. 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).

#### **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.
- BE20 Daylight and sunlight considerations.
- BE21 Siting, bulk and proximity of new buildings/extensions.
- BE24 Requires new development to ensure adequate levels of privacy to neighbours.
- 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
- LPP 5.12 (2016) Flood risk management
- LPP 5.13 (2016) Sustainable drainage
- LPP 5.15 (2016) Water use and supplies

#### **5. Advertisement and Site Notice**

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

## 6. Consultations

### External Consultees

9 neighbouring properties were consulted by letter dated 6.7.16 and a site notice was displayed to the front of the site which expired on 5.8.16.

1 letter of objection has been received which states:

There has been previous application made for the same purposes and were refused on the following grounds:

- 1) The parking around here is already stressed to the limits.
- 2) There are too many food outlets i.e Restaurants which have led to increased rat infestation.
- 3) People who use these, especially in the later part of evening get drunk and use the back alleys to relieve themselves.
- 4) On many occasions there has been fights breaking out at the back alleys, which have led to serious injury, this can be verified by the police.
- 5) This shisha bar & restaurant is not going to reflect well with the local Sikh community, nearby religious Sikh school as it is against their religion to smoke. This venue will only encourage youngsters to start smoking. Smoking is one of the things that the Health Dept are trying to restrict, as it is very costly to the government as a whole.
- 6) Rejection of this application is the only and right outcome.

### Internal Consultees

Highways Officer:

The site has a PTAL of 2. In the absence of reliable details of the customer catchment area it can be assumed that their mode of travel would predominantly be by car. Details have not been provided of the existing provision/allocation of car parking between all uses on this site. Any reduction in parking provision should be justified. Details are required of servicing arrangements, and if served from the rear alley demonstrate its suitability via auto tracks for the anticipated delivery vehicles. A Transport Statement is required detailing the numbers of customers expected, their catchment area and mode of travel. On street and off street car parking demand and capacity should be considered during the opening hours of the proposed use to demonstrate that the proposed uses will not adversely impact on the local highway conditions.

Availability of car parking at No 126, in the retail car park in Springfield Road, and in the hotel car park opposite (under construction) is being suggested by the applicant. Evidence of spare capacity and details of any written agreements permitting the applicant to use these car parks would be required.

EPU:

This proposed rear extension with shutters would not be compliant with the smoke free legislation.

The applicant has not provided any details as to how they propose to control noise and odour from the premises and protect nearby residential premises.

They will also need to provide details of the ventilation and extraction for the restaurant.

Floodwater Management Officer:

The site is identified at risk of surface water flooding on the Environment Agency Flood Maps. It is therefore important all developments in this area contribute to manage the risk from surface water, and reduce the run off from their site. The following condition is therefore requested:

Prior to commencement, a scheme for the provision of sustainable water management shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall clearly demonstrate how it incorporates sustainable urban drainage (SuDs) in accordance with the hierarchy set out in Policy 5.15 of the London Plan and will:

- i. provide information on all SuDs features including the method employed to delay and control the surface water discharged from the site and:
  - ii. provide a management and maintenance plan for the lifetime of the development of arrangements to secure the operation of the scheme throughout its lifetime. Including appropriate details of Inspection regimes, appropriate performance specification. The scheme shall also demonstrate the use of methods to minimise the use of potable water through water collection, reuse and recycling and will:
  - iii. provide details of water collection facilities to capture excess rainwater;
  - iv. provide details of how rain and grey water will be recycled and reused in the development.
- Thereafter the development shall be implemented and retained/maintained in accordance with these details for as long as the development remains in existence.

#### REASON

To ensure that surface water run off is controlled and is handled as close to its source as possible to ensure the development does not increase the risk of flooding in compliance with Policy EM6 of the Hillingdon Local Plan: Part One - Strategic Policies (Nov 2012), Policies 5.12, 5.13 and 5.15 of The London Plan (2016), the National Planning Policy Framework (March 2012) and the Planning Practice Guidance (March 2014).

### **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 retail units, 1 x hot food takeaways, 2 x 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 a retail uses within this parade, however 3 units would be retained in such 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 design and access statement confirms that the premises would be operational in the evening 7pm-11pm.

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 would have a negative impact upon the amenity of nearby residents and occupants through increased noise and disturbance and odour, contrary to Local Plan policies 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 previous application was refused on the grounds that the applicant had 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 failed to demonstrate that the proposal would not result in an unacceptable rise in traffic in and around the application site. The current application is supported by a brief planning design and access statement which confirms that the use of the premises would be in the evening. The Highways Officer has advised that details have not been provided of the existing provision/allocation of car parking between all uses on this site. Any reduction in parking provision should be justified. Details are required of servicing arrangements, and if served from the rear alley demonstrate its suitability via auto tracks for the anticipated delivery vehicles. A Transport Statement is required detailing the numbers of customers expected, their catchment area and mode of travel. On street and off street car parking demand and capacity should be considered during the opening hours of the proposed use to demonstrate that the proposed uses will not adversely impact on the local highway conditions. Availability of car parking at No 126, in the retail car park in Springfield Road, and in the hotel car park opposite (under construction) is being suggested by the applicant. Evidence of spare capacity and details of any written agreements permitting the applicant to use these car parks would be required.

The revised application has therefore failed to overcome the previous reason for refusal relating to traffic generation and parking. 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.

#### **7.11 Urban design, access and security**

The issues are addressed in the sections above,

#### **7.12 Disabled access**

NO accessibility concerns are raised in respect of this application.

#### **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**

Should the application be considered acceptable in all other respects a conditions requiring



the submission of details in respect of sustainable waste management could be imposed.

#### **7.16 Renewable energy / Sustainability**

Not applicable to this application.

#### **7.17 Flooding or Drainage Issues**

The site is identified at risk of surface water flooding on the Environment Agency Flood Maps. It is therefore important all developments in this area contribute to manage the risk from surface water, and reduce the run off from their site. The Council's Floodwater Management Officer has advised that should the application be considered acceptable in all other respects a condition requiring a sustainable water management scheme would need to be imposed.

#### **7.18 Noise or Air Quality Issues**

The issues are addressed in the section above.

#### **7.19 Comments on Public Consultations**

The planning concerns raised in the letter of objection are addressed in the sections 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 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).

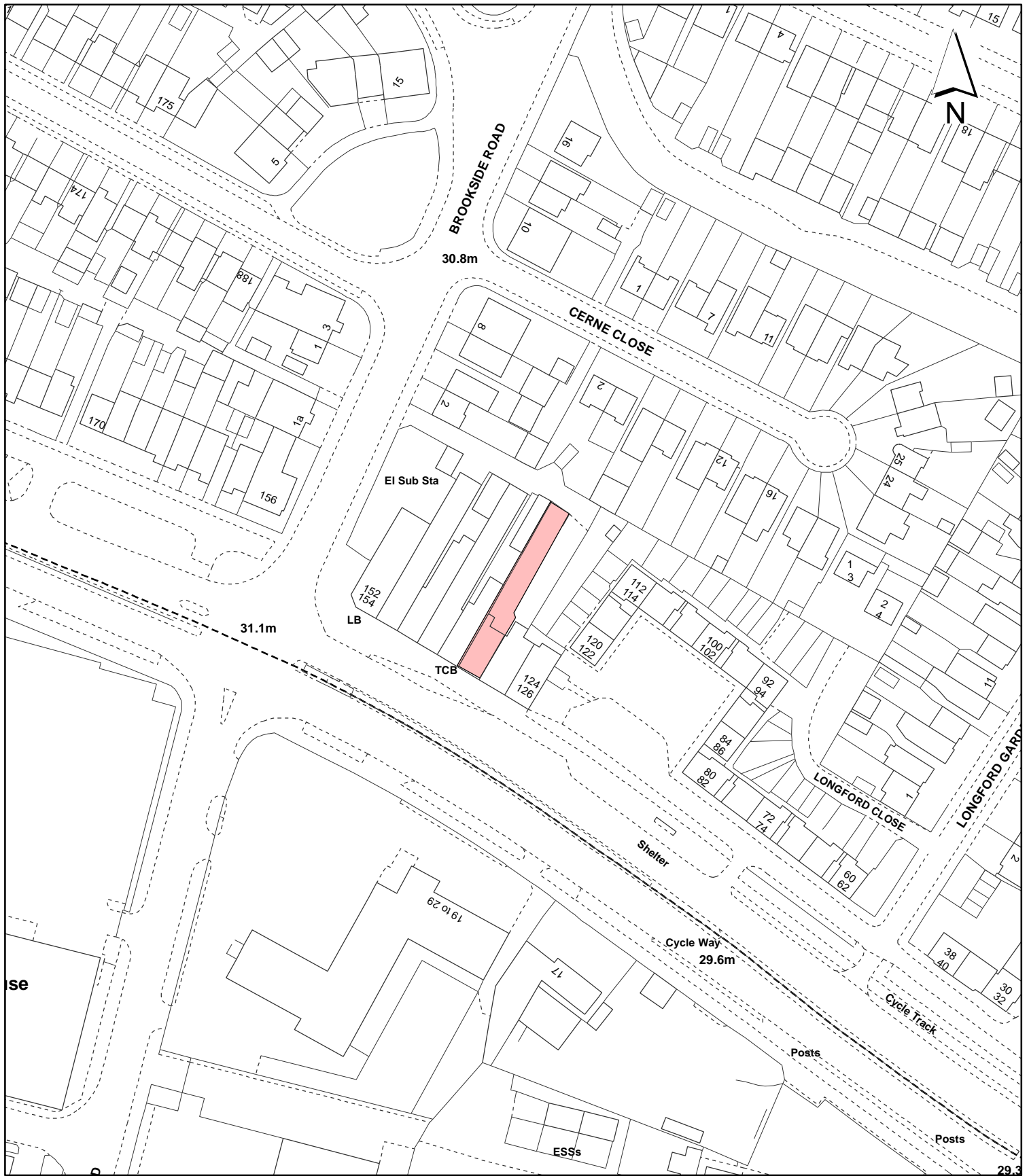
The application is a resubmission of application reference 3125/APP/2015/4029. The current application is supported by a Design and Access statement which confirms hours of operation and brief parking arrangements. Whilst there is no objection to the principle of the change of use, the applicant has 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.

#### **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 2016)  
Hillingdon Design and Accessibility Statement: Accessible Hillingdon  
National Planning Policy Framework

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**Notes:**

 Site boundary

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Site Address:

**132 Uxbridge Road  
 Hayes**

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

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

Planning Application Ref:

**3125/APP/2016/2172**

Scale:

**1:1,250**

Planning Committee:

**Central & South**

Date:

**September 2016**



**HILLINGDON**  
 LONDON