

Report of the Head of Planning, Sport and Green Spaces

Address UNIT 116, INTU UXBRIDGE HIGH STREET UXBRIDGE

Development: Change of use of part of Unit 116 from retail (Class A1) to restaurant/Cafe (Class A3) to create four Class A3 units with High Street frontage, as well as external alterations

LBH Ref Nos: 54171/APP/2016/3897

Drawing Nos: Design and Access Statement
Planning Statement (Ref: 06854/12/PW/MW),
3596-AP(02)0999 Rev. P01
3596-AP(02)0998 Rev. P01
3596-AP(05)1602 Rev. P01
3596-AP(02)1000 Rev. P01
3596-AP(02)1001 Rev. P01
3596-AP(02)1002 Rev. P01
3596-AP(02)1003 Rev. P01
3596-AP(02)1004 Rev. P01
3596-AP(02)1005 Rev. P01
3596-AP(02)1006 Rev. P01
3596-AP(02)1007 Rev. P01
3596-AP(04)1500 Rev. P01
3596-AP(04)1501 Rev. P01
3596-AP(04)1502 Rev. P01
3596-AP(04)1503 Rev. P01
3596-AP(04)1504 Rev. P01
3596-AP(05)1600 Rev. P01
3596-AP(05)1601 Rev. P01
3596-AP(06)1700 Rev. P01

Date Plans Received: 21/10/2016

Date(s) of Amendment(s):

Date Application Valid: 21/10/2016

1. SUMMARY

This planning application is for the change of use of part of Unit 116, Intu which is currently occupied by Debenhams which falls within use class A1 (retail) to use class A3 (food and drink). The application site is located on Uxbridge High Street which is within the primary shopping area (PSA) of Uxbridge town centre.

The loss of use class A1 floorspace within a PSA is not strictly consistent with paragraph 8.26 of the Hillingdon Local Plan (November, 2012). Although the proposed change of use does not strictly comply with local guidance, the proposal is consistent with the regional and national policy and guidance which recognises the role of town centres and promotes a vibrant and diverse retail sector that supports the future of a town centre.

The setting of the nearby listed buildings at nos. 273 and 220-221 High Street have been considered and the proposal is not considered to result in harm to the setting of the nearby listed buildings and nor would the proposal harm the Old Uxbridge/Windsor Street Conservation Area. Subject to appropriate conditions the proposal would not cause

unacceptable impacts on residential amenity and there are no specific traffic, highway related or parking concerns identified with the proposal.

It is considered that the proposed change of use would not result in demonstrable harm to the existing retail shopping provision and thus function of the town centre as a whole. The benefits to the vitality of the centre would in this situation outweigh any harm and as such it is recommended that planning consent is granted.

2. RECOMMENDATION

APPROVAL subject to the following:

1 COM3 Time Limit

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 COM4 Accordance with Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 3596-AP(04)1500 Rev. P01, 3596-AP(04)1501 Rev. P01, 3596-AP(04)1502 Rev. P01, 3596-AP(04)1503 Rev. P01, 3596-AP(04)1504 Rev. P01, 3596-AP(05)1600 Rev. P01, 3596-AP(05)1601 Rev. P01, 3596-AP(05)1602 Rev. P01 and 3596-AP(06)1700 Rev. P01 and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan: Part Two Saved UDP Policies (November, 2012) and the London Plan (2016).

3 COM17 Control of site noise rating level

The rating level of noise emitted from the plant and/or machinery hereby approved shall be at least 5dB below the existing background noise level. The noise levels shall be determined at the nearest residential property. The measurements and assessment shall be made in accordance with British Standard 4142 "Method for rating industrial noise affecting mixed residential and industrial areas".

REASON

To safeguard the amenity of the surrounding area in accordance with Policy OE1 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

4 COM20 Air extraction system noise and odour

No air extraction system shall be used on the premises until a scheme for the control of noise and odour emanating from the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented and maintained in full compliance with the approved measures.

REASON

To safeguard the amenity of the occupants of surrounding properties in accordance with policy OE1 Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012)

INFORMATIVES

1 I52 **Compulsory Informative (1)**

The decision to GRANT planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

2 I53 **Compulsory Informative (2)**

The decision to GRANT planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan - The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) and national guidance.

| | |
|----------|----------------------------------------------------------------------------------------------|
| BE13 | New development must harmonise with the existing street scene. |
| BE28 | Shop fronts - design and materials |
| BE4 | New development within or on the fringes of conservation areas |
| S11 | Service uses in Primary Shopping Areas |
| S6 | Change of use of shops - safeguarding the amenities of shopping areas |
| LPP 2.15 | (2016) Town Centres |
| LPP 4.7 | (2016) Retail and town centre development |
| LPP 4.8 | (2016) Supporting a Successful and Diverse Retail Sector and related facilities and services |

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 I47 **Damage to Verge - For Council Roads:**

The Council will recover from the applicant the cost of highway and footway repairs, including damage to grass verges.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

For further information and advice contact - Highways Maintenance Operations, Central Depot - Block K, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB3 3EU (Tel: 01895 277524).

5 I15 **Control of Environmental Nuisance from Construction Work**

Nuisance from demolition and construction works is subject to control under The Control

of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with:-

A. Demolition and construction works which are audible at the site boundary shall only be carried out between the hours of 08.00 and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank or Public Holidays.

B. All noise generated during such works shall be controlled in compliance with British Standard Code of Practice BS 5228:2009.

C. Dust emissions shall be controlled in compliance with the Mayor of London's Best Practice Guidance 'The Control of dust and emissions from construction and demolition.

D. No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit (www.hillingdon.gov.uk/noise Tel. 01895 250155) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises part of Unit 116 within Intu Uxbridge which is currently occupied by Debenhams department store (use class A1). The unit is spread across two floors, with access from the upper and lower mall levels and from within the Intu shopping centre and the High Street.

The application site lies within the Primary Shopping Area (PSA) of Uxbridge Town Centre. It is located at the south-eastern end of Intu Uxbridge shopping centre and forms an anchor unit.

The application site falls within the Old Uxbridge/Windsor Street Conservation Area, which extends northwards along the High Street. Unit 116 is not a listed building.

3.2 Proposed Scheme

The proposal seeks to change the use of part of Unit 116 (use class A1) to form 4no. units (use class A3).

The proposed 4no. units (use class A3) would comprise GIA of 1,330 sqm which represents the loss of 14% of the current unit (use class A1). The remainder of the unit will continue to maintain a significant presence within the primary shopping area.

3.3 Relevant Planning History

54171/A/99/3105 Debenhams, 116 The Chimes Shopping Centre High Street Uxbridge
Installation of shop signage

Decision: 18-05-2000 Approved

54171/ADV/2000/125 Debenhams,116 The Chimes Shopping Centre High Street Uxbridge
INSTALLATION OF VARIOUS SIGNS INCLUDING GRAPHICS TO WINDOWS

Decision: 17-05-2001 Refused

54171/ADV/2001/123 Debenhams,116 The Chimes Shopping Centre High Street Uxbridge
REVISED ARTWORK TO PARTS OF EXISTING OBSCURED GLAZING ON SHOP FRONT

Decision: 12-03-2009 NFA

54171/ADV/2007/46 Debenhams,116 The Chimes Shopping Centre High Street Uxbridge
INSTALLATION OF VARIOUS INTERNALLY ILLUMINATED REPLACEMENT STORE /
SHOPPING CENTRE SIGNAGE.

Decision: 14-06-2007 Approved

Comment on Relevant Planning History

Ref: 57204/APP/2014/4219 - Unit 223-224, Intu Uxbridge High Street
Description: Change of use from retail (use Class A1) to restaurant (use Class A3)
Decision: Approved 11/03/2015

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.E4 (2012) Uxbridge
- PT1.E5 (2012) Town and Local Centres
- PT1.HE1 (2012) Heritage

Part 2 Policies:

- BE13 New development must harmonise with the existing street scene.
- BE28 Shop fronts - design and materials
- BE4 New development within or on the fringes of conservation areas
- S11 Service uses in Primary Shopping Areas
- S6 Change of use of shops - safeguarding the amenities of shopping areas

- LPP 2.15 (2016) Town Centres
LPP 4.7 (2016) Retail and town centre development
LPP 4.8 (2016) Supporting a Successful and Diverse Retail Sector and related facilities and services

5. Advertisement and Site Notice

- 5.1 Advertisement Expiry Date:- **23rd December 2016**
5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

8 neighbouring occupiers were consulted between 30/11/2016 and 21/12/2016. A press notice was published on 07 December 2016. No representations were made to this application.

Internal Consultees

Environmental Protection Unit

Raised no objection provided details of the extraction unit to be installed is submitted and agreed in writing before the relevant part of the development commences.

Highways

The Highways Officers have raised no objection to the application as there is no increase in floorspace. Owing to potential changes in changes to the levels, the Highways Officers have requested the applicant to enter into a Section 278 Agreement separately.

Planning Policy

The officer noted that the primary frontage is below the 70% threshold sought to be maintained within planning guidance and this will reduce further. There will also be a slight reduction in the quantum of floorspace. However, the area concerned is currently dead space and the proposals will significantly increase vitality and viability in accordance with the NPPF. Furthermore, it is significant that this is on the border of the secondary frontage.

In light of the fact that the majority of floorspace occupied by Debenhams (use class A1) would remain, it is considered that the proposal would not demonstrably harm the overall function of the town centre as a result of the change of use of this part of the existing unit and as such the overall benefit proposed by the scheme outweighs the harm.

Conservation Officer

Raised no objection to the proposed frontage, the Officer noted that there is no area on the proposed glazed shop frontages defined for signage it is assumed future occupiers will not have any fascia signs. No issues or further concerns raised.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Policy S11 of the adopted Hillingdon Local Plan (November 2012) states that planning permission will be granted for use class A3 in Primary Shopping Areas where the

remaining retail facilities adequately maintain 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.

The policy contains 2no. 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 units within use class A1 of more than 12 metres. The most recent shopping survey for Uxbridge town centre (October 2016) confirmed that the retail percentage in the Primary Shopping frontage was 67%. As such, if this permission were granted the overall percentage of use class A1 units within the shopping frontage would fall further below 70%.

The existing unit is occupied by Debenhams which currently consists of of 9,823 sqm Gross Internal Area (GIA) within use class A1. There is also currently an element of food and drink within this part of the retail unit. The proposed units would comprise GIA of 1,330 sqm (Use Class A3) and as such 14% of the floorspace that is in use class A1 within the application site is being lost. The frontage is occupied by inactive frontage in this part of the High Street as the main entrance to the store is located within the Intu shopping centre. The proposal would result in the loss of further retail floorspace, however the introduction of 4 units, within Use Class A3, fronting Uxbridge High Street would add vitality to this part of the High Street and the viable use would continue to preserve the role of the town centre.

An appeal decision dated 15/02/2012 relating to nearby premises at 198-200 High Street, Uxbridge (Ref: 67860/APP/2011/1446) is also a material planning consideration. The Inspector's decision noted that national and regional policy and guidance is generally supportive of the location of a Class A use in town centre locations and the Inspector found that the proposed food and drink use would be unlikely to harm the vitality and viability of Uxbridge town centre.

The applicant makes the case that proposal would result in the strengthening of this existing restaurant/dining/leisure offer and alongside other such uses to the Intu particularly the cinema above and create a strong hub of complimentary uses providing a destination within the High Street and Uxbridge as a whole. It is noted that such destinations are a common part of many modern retail destinations which serve to attract visitors to the centres and therefore increase their vitality and viability overall.

As such, whilst the proposed change of use does not strictly comply with local guidance, the proposal is consistent with Policy 4.7 of the London Plan 2016 and the aims of Paragraph 23 of the National Planning Policy Framework (NPPF) (2012) which recognises the role of town centres as the heart of their communities and promotes a vibrant and diverse retail sector that support the future of a town centre.

It is considered that the proposed change of use would not result in demonstrable harm to the existing retail shopping provision and thus function of the town centre as a whole. The benefits to the vitality of the centre would in this situation outweigh any harm and therefore the principle of development is deemed acceptable.

7.02 Density of the proposed development

Not applicable to this application

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

Section 66 of the Planning (Listed Buildings and Conservation Areas Act) 1990 sets out the statutory duty of Local Planning Authorities in regard to development affecting listed buildings:-

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

The setting of the nearby listed buildings at nos. 273 and 220-221 High Street have been considered and the proposal is unlikely to result in harm to the setting of the nearby listed buildings given that it closely matches the existing High Street elevation.

Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 states the statutory duty of Local Planning Authorities in regard to development affecting conservation areas 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

Policy S6 considers whether such changes of use of Class A1 premises are detrimental to visual amenity in conservation areas and whether a design frontage appropriate to the area is maintained. This is provided also that the proposed use is compatible with the neighbouring uses, with no loss of amenity to residential properties by reason of disturbance, noise, smell, fumes, parking and traffic (etc.) and that there is no effect on road safety these may be permitted.

The site lies within the Old Uxbridge/Windsor Street Conservation Area. The current scheme proposes to retain the glazed openings and proportions that currently exist. Any advertisement would be subject to separate advertisement consent, as such the proposal would not result in harm to the setting of the Old Uxbridge/Windsor Street Conservation Area and is therefore considered acceptable.

7.04 Airport safeguarding

Not applicable to this application

7.05 Impact on the green belt

Not applicable to this application

7.06 Environmental Impact

Not applicable to this application

7.07 Impact on the character & appearance of the area

See section 07.03 above.

7.08 Impact on neighbours

In terms of assessing the effects of the proposal on residential amenity, the potential impacts that may arise with the proposed use are those of noise, odour, parking, refuse, litter and general disturbance. Thus Policy OE1 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) states that permission will not normally be granted for uses and associated structures which are likely to become detrimental to the character or amenities of surrounding properties or the area generally because of siting or appearance; storage; traffic generation; noise and vibration or the emission of dust, smell or other pollutants.

Similarly, buildings or uses which have the potential to cause noise annoyance will only be permitted under Policy OE3 if the impact is mitigated within acceptable levels by engineering or layout measures.

There are no residential properties in close proximity to the application site. and the the Council's Environmental Protection Unit have raised no objection to the proposal.

Accordingly, the proposal complies with Policies OE1 and OE3 Hillingdon Local Plan (November 2012).

7.09 Living conditions for future occupiers

Not applicable to this application

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The site is located within a major shopping centre location close to bus stops and the railway station. The availability of public transport and of car parking space within the town centre to cater for the limited traffic generated by the proposed use is unlikely to be prejudice or otherwise worsen existing conditions for pedestrian or highway safety in the immediate vicinity. It is thus in accordance with Policies AM7 and AM14 of the OE1 and OE3 (amenities), Hillingdon Local Plan (November 2012).

7.11 Urban design, access and security

Urban design issues are covered above and security would remain as existing.

7.12 Disabled access

No issues raised.

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

No objections raised. Controlled through the use of conditions.

7.19 Comments on Public Consultations

None received.

7.20 Planning obligations

Not applicable to this application

7.21 Expediency of enforcement action

Not applicable to this application

7.22 Other Issues

None.

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 change of use to Class A3 in this location is considered acceptable in terms of its impact on the shopping function of the town centre, the new shopfront proposal would not be detrimental to the visual amenity of the conservation area, the proposed use is compatible with the neighbouring uses, with no loss of amenity to residential properties and

there are no identified traffic, highways related or parking concerns as a result of the proposal.

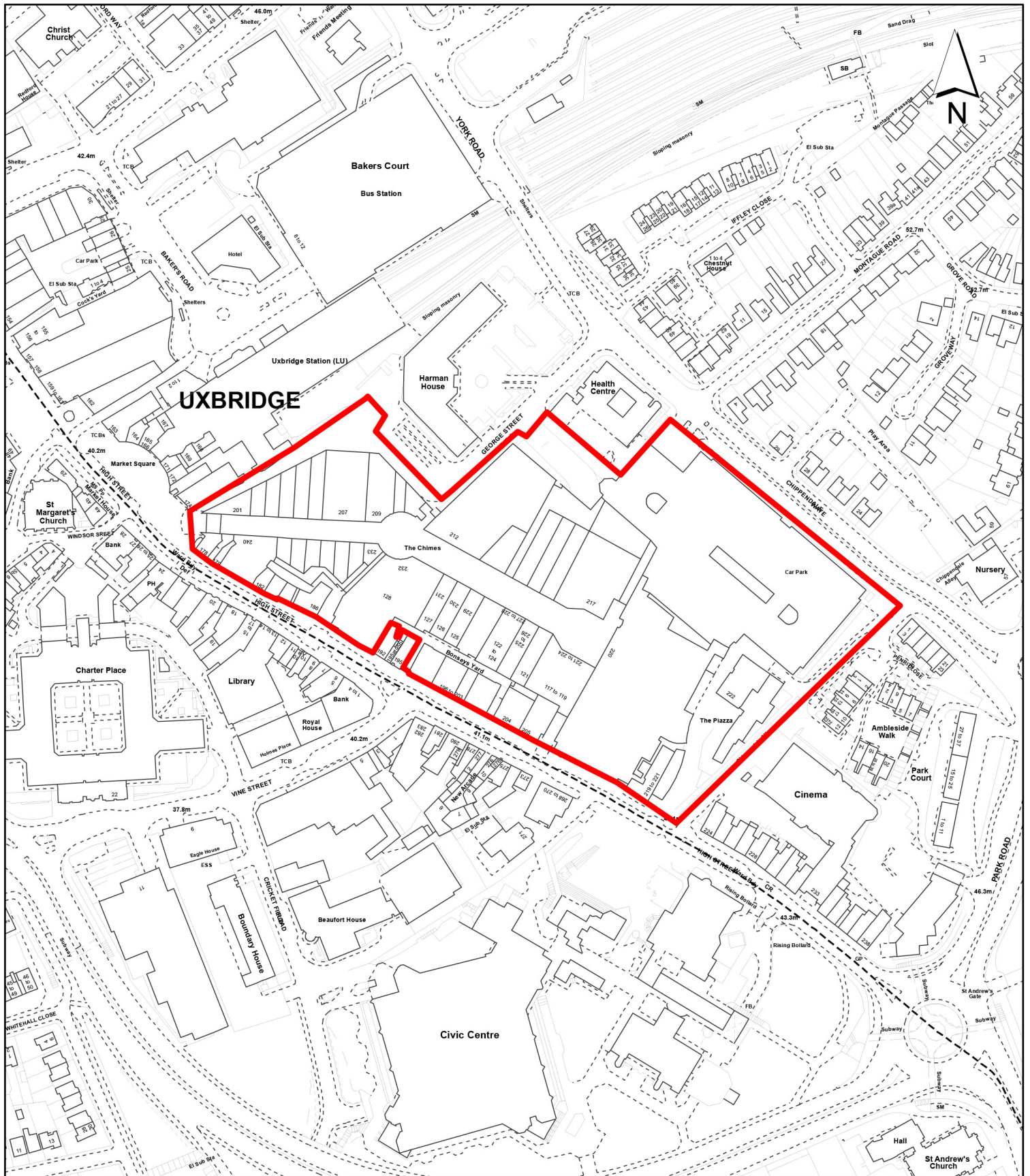
The proposal is, thus, considered to accord with the objectives of Policies S6 (shopping areas) and S11 (PSA) of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and OE1 and OE3 (amenities), AM7 and AM14 (traffic/parking) complies with Hillingdon Local Plan (November 2012) . The proposal also accords with Policy 2.16, 4.7, 4.8 and 4.9 of the London Plan (2016) and Paragraphs 23 and 25 of the NPPF (2012)

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)
Hillingdon Local Plan (November 2012)
The London Plan (2016)
Hillingdon Design and Accessibility Statement: Noise
Hillingdon Design and Accessibility Statement: Air
Hillingdon Design and Accessibility Statement: Accessible Hillingdon
National Planning Policy Framework

Contact Officer: Zenab Haji-Ismael

Telephone No: 01895 250230



Notes:

 Site boundary

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Site Address: **Unit 116,
 INTU Uxbridge
 High Street**

Planning Application Ref:
54171/APP/2016/3897

Planning Committee:
Central & South

Scale:
1:2,500

Date:
January 2017

**LONDON BOROUGH
 OF HILLINGDON**
 Residents Services
 Planning Section
 Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 250111

