

Report of the Head of Planning, Sport and Green Spaces

Address 98 COWLEY ROAD UXBRIDGE

Development: Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5) involving alterations to elevations

LBH Ref Nos: 8504/APP/2016/3871

Drawing Nos: Design and Access Statement
ASEA/2016/316/PP/01
Specification for Kitchen Extract Ventilator
ASEA/2016/316/PP/03 Rev. A
ASEA/2016/316/PP/02 Rev. A
ASEA/2016/316/PP/04 Rev. E

Date Plans Received: 19/10/2016

Date(s) of Amendment(s):

Date Application Valid: 04/11/2016

1. SUMMARY

The application seeks planning permission for the change of use from retail (Use Class A1) to hot food takeaway (Use Class A5) involving alterations to elevations. It is considered that the principle of the proposed change of use of the site is acceptable as it would retain the majority of the frontage of this parade in retail use. It is also considered that the proposal would not be harmful to the visual amenity of the site or its wider setting, nor, subject to conditions requiring the submission and approval of details relating to the proposed flue and any plant and the restriction of operating hours, would it cause harm to the amenity of nearby residents.

Accordingly, the application is recommended for approval.

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 ASEA/2016/316/PP/03 Rev. A and ASEA/2016/316/PP/04 Rev. B 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 5 dB 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 Unitary Development Plan.

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 of the Hillingdon Unitary Development Plan.

5 COM24 Hours of use Hot Food Takeaways

The premises shall not be used for the preparation or sale of food outside the hours of 08.00 to 23.00.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policy OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

6 COM25 Loading/unloading/deliveries

The premises shall not be used for the delivery and loading or unloading of goods, including the collection of refuse and recycling, outside the hours of 08:00 and 20:00, Monday to Friday, and between the hours of 08:00 and 13:00 on Saturdays. No deliveries shall take place on Sundays, Bank Holidays or Public Holidays.

REASON:

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

7 COM9 Landscaping (car parking & refuse/cycle storage)

No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority providing details of the siting and design of refuse/recycling storage. Thereafter the development shall be carried out and maintained in full accordance with such details as are approved.

REASON

To ensure that the proposed development will preserve and enhance the visual amenities of the locality and provide adequate facilities in compliance with policies BE13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and 5.17 of the London Plan (2015)

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.

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.
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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
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 (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 15 Party Walls

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:

carry out work to an existing party wall;

build on the boundary with a neighbouring property;

in some circumstances, carry out groundworks within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "the Party Walls etc. Act 1996 - explanatory booklet" published by the ODPM, available free of charge from the Residents Services Reception Desk, Level 3, Civic Centre, Uxbridge, UB8 1UW.

6 115 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.

7 128 Food Hygiene

The Council's Commercial Premises Section should be consulted prior to the use of the premises so as to ensure compliance with the Food Safety Registration Regulations 1990, Hygiene (General) Regulations 1970, The Food Act 1984, The Health and Safety at Work Act 1974 and any other relevant legislation. Contact: - Commercial Premises Section, 4W/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Telephone 01895 250190).

3. CONSIDERATIONS

3.1 Site and Locality

The application relates to a two storey end of terrace property located on the Eastern side of Cowley Road. Situated at the end of a small shopping parade, the ground floor unit of the property is occupied by a newsagent/off license while residential accommodation is provided at first floor level. The site is located within a developed area as identified in the Hillingdon Local Plan (November 2012).

3.2 Proposed Scheme

The application seeks planning permission for the change of use from retail (Use Class A1) to hot food takeaway (Use Class A5) involving alterations to elevations.

3.3 Relevant Planning History

8504/ADV/2014/88 98 Cowley Road Uxbridge
Installation of 1 internally illuminated ATM sign (Retrospective)

Decision: 01-12-2014 Approved

8504/ADV/2016/99 98 Cowley Road Uxbridge
Installation of 1 internally illuminated fascia sign, 1 internally illuminated projecting hanging sign and 1 non-illuminated fascia sign.

Decision: 29-12-2016 Approved

8504/APP/2014/3552 98 Cowley Road Uxbridge
Installation of ATM and alteration to existing roller shutter to front (Retrospective)

Decision: 01-12-2014 Approved

Comment on Relevant Planning History

The following planning history is considered to be of relevance to this application site:-

8504/ADV/2016/99 - Installation of 2 x internally illuminated fascia signs and 1 x internally illuminated projected hanging sign - Submitted for consideration.

8504/APP/2014/3552 - Installation of ATM and alteration to existing roller shutter to front (Retrospective). Approved

8504/ADV/2014/88 - Installation of 1 internally illuminated ATM sign (Retrospective) Approved.

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.
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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
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

4 neighbouring properties were consulted by letter dated 9.11.16 and a site notice was displayed at the site which expired on 9.12.16.

3 letters of objection have been received raising the following concerns:

1. Over-concentration and existing numbers of take-aways within the parade and nearby locality.
2. The development would increase noise, litter and rats in the area.

Officer comment: The issues raised are covered in the main body of the report.

Internal Consultees

Highways Officer:

The site is located in a parade of shops on a slip road off the main Cowley Road. There are not significant differences in car parking demand for A1 and A5 uses. The site is in a Parking Management Area including pay and display. As such no objections are raised on highway grounds.

EPU:

The applicant has provided some details of the extract plant including some noise information however this information is not adequate. We will need full details of plant filters, silencers, fittings etc and it will need to achieve 5dB below background. We will also need details of any other plant such as chillers or air conditioning. No objection subject to conditions requiring details of air extraction systems to control noise and odour; Noise emitted from plant or machinery being at least 5 dB below the existing background noise level; Operating hours restrictions and a condition requiring the restriction of deliveries and refuse collection.

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 12 units within the parade (a small parade presently comprising of 9 x A1 retail units and 3 x hot food takeaways). The application property is one of 9 retail properties in this parade which equates to 75% of the parade in retail use. The change of use of this site would still leave 8 units within retail use providing a range of essential shops including two newsagents/off licence, a butchers and a chemist. 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. Local Plan Policy BE13 states that development will not be permitted if the layout and appearance fail to harmonise with the existing street scene or other features in the area which the Local Planning Authority considers it desirable to retain or enhance.

The existing shopfront would remain, whilst it is proposed to replace the signage. These are minor alterations which would be in keeping with the commercial nature and appearance of the parade. It is considered that the location of the storage for refuse and collection would be appropriately sited to the side/rear of the building behind the existing fence where it would not be readily visible from the public realm.

Due to the nature of the proposal it is considered that an extractor duct would be required. The submitted plans show the location of a flue to the side of the building. Given the commercial nature of the site and the immediate area, it is considered that the principle of an extractor duct in this location would be acceptable, however a condition relating to final details of the flue is still recommended, to ensure that the final specification of the installed system is acceptable with regard to noise and odour.

Overall it is considered that the proposal would not result in harm to the visual amenity of the site and its wider setting.

7.08 Impact on neighbours

In terms of assessing the effects of the proposal on residential amenity, the relevant factors are in respect of noise, odour and general disturbance. Given the minor nature of the alterations to the shopfront it is considered that there would be no harm to the amenity of nearby residents through loss of daylight or overbearing impact. Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states permission will not be granted for uses which are likely to become detrimental to the character or amenities of surrounding properties.

The Council's Environmental Protection Unit has been consulted on the application and has raised no objection subject to the imposition of conditions requiring details of air extraction systems to control noise and odour; Noise emitted from plant or machinery being at least 5 dB below the existing background noise level; Operating hours restrictions and a condition requiring the restriction of deliveries and refuse collection.

The main impact of the proposed use is likely to be on the residential properties immediately above the application and adjoining site. However, given the existence of similar uses within the parade, operating to similar hours to that recommended for this application, it is considered that the impact on adjoining residential uses, in terms of noise and disturbance would be such as to justify refusal.

Subject to the imposition of conditions the proposal accords with Local Plan Policies OE1, OE3 and OE5.

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 UDP 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 of the Local Plan (Part Two) specifies that new development will only be permitted where it is in accordance with the Councils adopted car parking standards.

The application site is located in a parade of shops on a slip road off the main Cowley Road. There is no off street parking provided at the site. The Council's Highways Officer has raised no objection to the proposed change of use given that there are not significant differences in car parking demand for A1 and A5 uses. Furthermore the application site is located in a Parking Management Area including pay and display. As such, the proposal is considered acceptable in accordance with Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.11 Urban design, access and security

No issues raised.

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**
- The plan shows that there would be sufficient space at the side/rear to provide facilities for waste storage. A condition is recommended requiring full details of the waste storage in accordance with the Council's Policies.
- 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 covered in other sections of the report above.
- 7.19 Comments on Public Consultations**
- The issues raised 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

No applicable to this application.

10. CONCLUSION

It is considered that the principle of the proposed change of use of the site is acceptable as it would retain the majority of the frontage of this parade in retail use. It is also considered that the proposal would not be harmful to the visual amenity of the site or its wider setting, nor, subject to conditions requiring the submission and approval of details relating to the proposed flue and any plant and the restriction of operating hours, would it cause harm to the amenity of nearby residents.

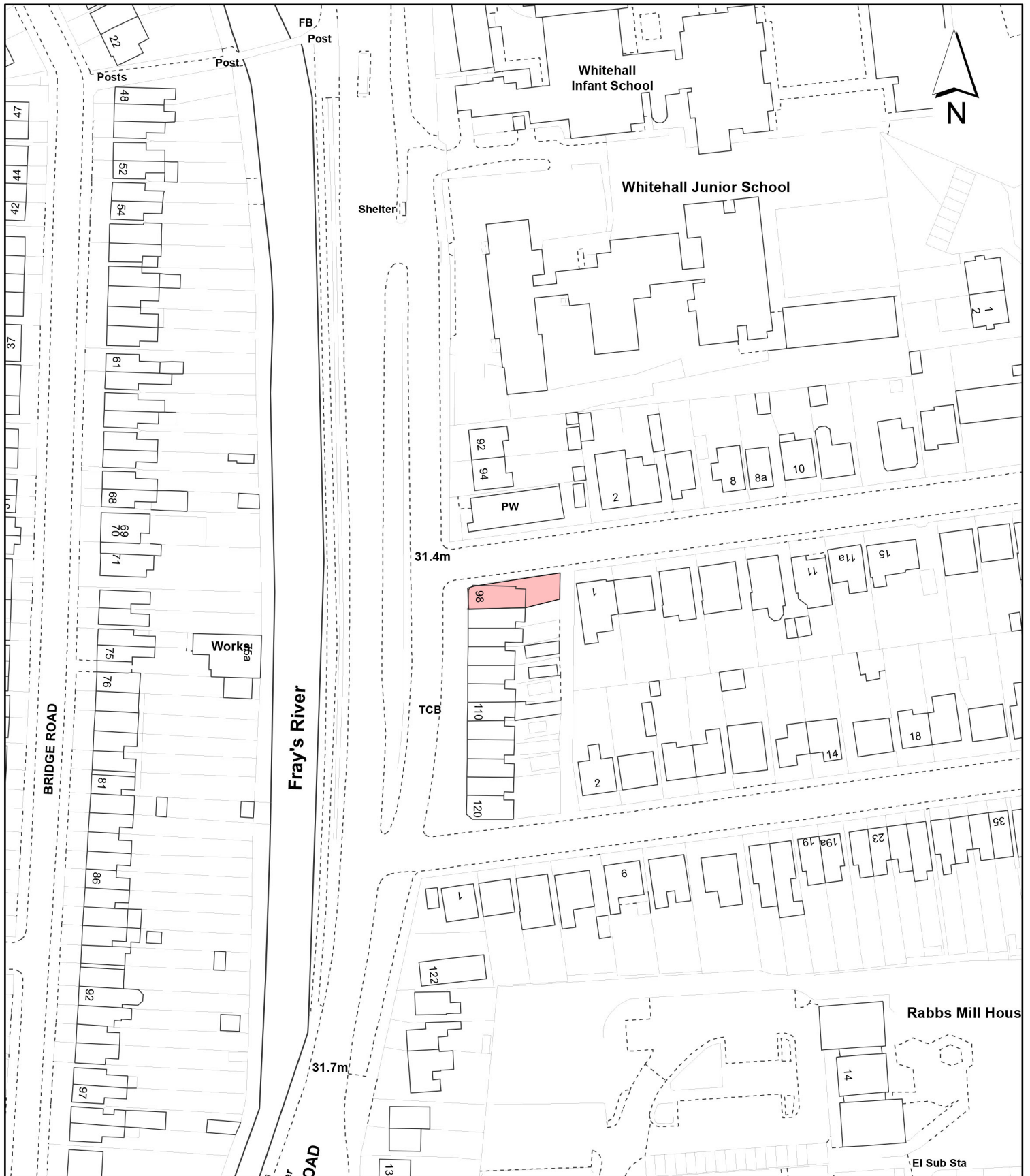
Accordingly, the application is recommended for approval.

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

Contact Officer: Nicola Taplin

Telephone No: 01895 250230



Notes:

 Site boundary

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Site Address:

98 Cowley Road

Planning Application Ref:

8504/APP/2016/3871

Planning Committee:

Central & South

Scale:

1:1,250

Date:

January 2017

LONDON BOROUGH OF HILLINGDON

Residents Services Planning Section

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



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