

Report of the Head of Planning, Sport and Green Spaces

Address 212 HIGH STREET HARLINGTON

Development: Proposed change of use from retail (Use Class A1) to Thai Massage Clinic (Use Class D1)

LBH Ref Nos: 1373/APP/2016/4087

Drawing Nos: A3085-01
Location Plan (1:1250)

Date Plans Received: 08/11/2016 **Date(s) of Amendment(s):**

Date Application Valid: 14/11/2016

1. **SUMMARY**

Planning permission is sought for a change of use from change of use from retail (Use Class A1) to Thai Massage Clinic (Use Class D1). The application property is located within a Core Shopping Area and is also in the Harlington Village Conservation Area.

Whilst the proposed change of use would not cause harm to the character and appearance of the street scene and the surrounding Harlington Village Conservation Area or cause harm to residential amenity, there is an objection in principle to the loss of the retail use. The change of use of the unit would undermine the retail function of this core shopping area, contrary to Policy S9 of the Hillingdon Local Plan - Part Two, Saved Policies (November 2012).

The application is therefore recommended for refusal.

2. **RECOMMENDATION**

REFUSAL for the following reasons:

1 NON2 **Non Standard reason for refusal**

The proposal by reason of the loss of a retail unit would erode the retail function and attractiveness of the Harlington Core shopping Area, harming its vitality and viability. The proposal is therefore contrary to Policy S9 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 (March 2015) and national guidance.

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE4	New development within or on the fringes of conservation areas
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.
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
S9	Change of use of shops in Local Centres
NPPF1	NPPF - Delivering sustainable development
NPPF2	NPPF - Ensuring the vitality of town centres

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.

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises a vacant shop unit located within a parade of shops on the western side of High Street, Harlington which lies within a Core Shopping Area. The property is one of 11 three-storey commercial units with maisonettes above behind a service road to the west of the High Street. The opposite side of High Street contains residential properties of mixed styles including a block of flats with a public house on the corner of Cranford Lane. The centre has a pharmacy, small supermarket, two estate agents, a vacant shop, fried chicken take-away, gearbox specialist, convenience store and dry cleaners. The site is located within the Harlington Village Conservation Area and an Archaeological Priority Area as identified in the Hillingdon Local Plan: Part One - Strategic Policies (November 2012).

3.2 Proposed Scheme

Planning permission is sought for a change of use from retail (Use Class A1) to Thai Massage Clinic (Use Class D1).

3.3 Relevant Planning History

1373/APP/2001/267 212 High Street Harlington

CHANGE OF USE FROM CLASS A1 (RETAIL) TO CLASS A3 (RESTAURANT)

Decision: 15-03-2001 Refused **Appeal:** 04-12-2001 Dismissed

1373/APP/2014/1047 212 High Street Harlington

Change of use from retail (Use Class A1) (Shops) to hot food takeaway (Use Class A5) involving installation of extract flue to rear

Decision: 23-07-2014 Refused

1373/APP/2014/1575 212 High Street Harlington

Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5) involving installation of extract flue to rear

Decision: 23-07-2014 Withdrawn

1373/APP/2015/1184 212 High Street Harlington

PROPERTY IS A GROUND FLOOR SHOP IN USE AS A FISH & CHIP RESTAURANT

Decision: 12-05-2015 NFA

1373/APP/2015/236 212 High Street Harlington

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

Decision: 02-04-2015 Refused

1373/B/95/0016 212 High Street Harlington

Change of use from Class A1 (Retail) to Class A3 (takeaway)

Decision: 15-03-1995 Refused

Comment on Relevant Planning History

The application site has been subject to an enforcement investigation in regards to the unauthorised change of use from a retail unit (Use Class A1) to a hot food takeaway (Use Class A5). An Enforcement Notice was served in July 2015 and required the use of the premises as an A5 Hot Food Takeaway to cease.

An appeal against the Enforcement Notice (Planning Inspectorate ref: APP/R5510/C/15/3132397) was dismissed in April 2016 as the Inspector considered that it had not been demonstrated that the change of use from A1 to A5 use would not harm the vitality and viability of the Harlington Core Shopping Area. The Inspector was also not satisfied that the A5 take-away use operated without harming to the living conditions of the occupiers of adjacent premises by causing cooking smells and odour.

Following the appeal determination, the use of the premises as a Hot Food Takeaway

ceased in September 2016 and the unit is now vacant.

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

PT1.BE1 (2012) Built Environment

PT1.HE1 (2012) Heritage

Part 2 Policies:

AM7 Consideration of traffic generated by proposed developments.

AM14 New development and car parking standards.

BE4 New development within or on the fringes of conservation areas

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.

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

S9 Change of use of shops in Local Centres

NPPF1 NPPF - Delivering sustainable development

NPPF2 NPPF - Ensuring the vitality of town centres

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Consultation letters were sent to 7 local owners/occupiers and a site notice was displayed. One response was received objecting on the following grounds:

- i) Already two massage salons in the High Street
- ii) Parking is an issue
- iii) No information on opening hours

Harlington Village Residents Association: No response was received.

Harlington Conservation Area Advisory Panel:

Despite the assertion in this application, we do not believe that planning permission has been

granted for the change of use to a hot food takeaway. The parade of shops of which this property is part is intended to provide a range of goods and services to meet local requirements. We are doubtful that there is sufficient demand for a Thai massage parlour so, were it to be approved, the business would only be successful if most of its clientele came from further away. Although it is well served by bus routes we suspect many customers would arrive by car, exacerbating the already difficult parking. We would like to see the property occupied by a thriving business but are not convinced that the proposed use is likely to be successful. We hope that a more appropriate use will be found.

Officer comments: In regards to the use of the property, the unauthorised A5 use has now ceased; as the authorised use of the unit is A1, the application description has been amended to reflect the authorised A1 use.

Internal Consultees

Conservation Officer: No design comments are forwarded on this application.

Environmental Protection Unit: No objection to the planning application. Please add the control of environmental nuisance from construction work informative.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Policy S9 of the Hillingdon Local plan - Part Two, Saved Policies (November 2012) states that in Local Centres, which includes Harlington, the Local Planning Authority will only grant planning permission for changes of use from Class A1 Shops outside the Core Shopping Areas. The application site is located within the Core Shopping Area of Harlington and thus the proposal is unacceptable in principle.

There are 11 retail units on the Parade and all are occupied. The range of shops within the Parade are typical of providing for the essential every day needs of the local community. There is one other hot food take-away (Harleys Chicken Shop, granted planning permission on appeal in July 2008 (Ref 24726/APP/2007/3230).

Shopping Policy S9 does not allow changes of use from A1 to other uses in local shopping centres. However, the Inspector when allowing the appeal at Harleys Chicken Shop stated:

"The loss of A1 would conflict with Policy S9, however, I found that the centre would retain the base range of essential shops and this conflict (with S9) is outweighed by granting permission for a use that could prove beneficial and accessible to the local community."

However, in considering the principle of the loss of retail in relation to this particular unit, the Inspector, in the appeal against the enforcement notice stated the following:

"5. Policy S9 of the Hillingdon Local Plan Part Two - Saved Policies (Nov 2012) indicates that planning permission will only be granted for the change of use from Class A1 shops to other uses outside of the defined Core Shopping Area of Harlington. The appeal site lies in the designated Core Shopping Area therefore there is a presumption in the development plan against the proposal.

6. Both parties also refer to an appeal decision made in 2008 which relates to a proposal to change the use of another shop in the frontage to a fast food takeaway. Here the Inspector concluded that the conflict with the same saved policy was outweighed by his view that the centre would still retain the base range of essential shops and that a takeaway use could prove beneficial and accessible to the local community. The Inspector specifically noted that at that time there was no other A3 or A5 use in the centre, which he said was unusual

for a centre of this size. I noted at my site visit that the use allowed, a fried chicken take-away, now exists.

7. I also noted at the site visit that there was a range of shops and other commercial premises in the centre as described in paragraph 4 of the appellants statement, and there were no vacant shop premises although the pub opposite the site appeared to be closed.

8. The appellant provides evidence that the shop previously existing at the appeal site was empty between January 2012 and October 2014, when it was bought by the current occupiers, but was actively marketed as a shop in this period leading up to the sale but with no success.

9. Bringing all of these aspects together with my observations at the site visit, it appears to me that the commercial centre of the village is relatively small and currently has a reasonable mixture of retail, commercial and take-away food uses. There were no current signs of a decline in the vitality or viability of the centre, such as demonstrated by vacant units, notwithstanding the appellant's reference to the LB Hillingdon Convenience Goods Retail Study Update 2012 which advises that between 2004 and 2011 there was a reduction of 38% in Harlington centre use floorspace.

10. On balance I conclude on this issue that the loss of a further shop use could have a material effect on the balance of retail and non-retail units and it has not been demonstrated that the change of use to A5 use would not harm the vitality and viability of the centre. On this basis I find that the loss of a further A1 use in conflict with Policy S9 has not been justified to the extent that the policy is outweighed."

This decision was made on the 1st April 2016 and the situation has not changed so dramatically such that the Inspectors conclusions would not now apply. The principle of the loss of retail use is therefore considered unacceptable and contrary to Policy S9 of the Hillingdon Local Plan Part Two - Saved Policies (November 2012).

7.02 Density of the proposed development

Not applicable to this application.

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

The application site is located within the Harlington Village Conservation Area. Policy BE4 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that new developments should retain or enhance the character and appearance of Conservation Areas and those features which contribute to the special architectural qualities.

The Council's Conservation Officer has assessed the application and raises no objection to the change of use. It is therefore considered that the proposed change of use would not impact on the character and appearance of the Harlington Village Conservation Area, and so would comply with Policy BE4 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

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 BE13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

requires developments to harmonise with the existing street scene and other features of the area that are considered desirable to retain or enhance, whilst Policy BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) require alterations and extensions to harmonise with the scale, form, architectural composition and proportions of the original building.

The proposed D1 use as a Thai Massage Clinic would not significantly change the character and appearance of the unit within the parade and so would not cause harm to the street scene. It is therefore considered that the proposed change of use from Use Class A1 to Use Class D1 complies with Policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.08 Impact on neighbours

Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that uses that would become detrimental to the amenity of the adjoining occupiers or surrounding area would not be approved. Policy OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) requires measures to be undertaken to alleviate potential disturbance where a development is acceptable in principle.

The application property is located within a parade of shops within the Core Shopping Area of Harlington. The Council's Environmental Protection Unit has assessed the application and raises no objection to the proposed change of use in terms of potential noise and disturbance, or opening hours. The proposed change of use would therefore be acceptable in regards to its impact on neighbours and would comply with Policies OE1 and OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

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 Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) seeks to ensure that all development is in accordance with the Council's adopted Car Parking Standards.

The proposal would not provide any off-street car or cycle parking. The scheme is considered to not result in any adverse impact on traffic, pedestrian safety or car parking provision given its location within a parade of shops and the adequate short term parking provision within the surrounding area. It is therefore considered that the proposed change of use complies with Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.11 Urban design, access and security

Urban design:
See Section 7.03 of this report.

Access and security:
The proposed change of use from A1 to D1 use would not impact on the existing access and security arrangements.

7.12 Disabled access

There would be no change to the existing entrance to the property which provides level access to the building, and so there would not be an issue in regards to accessibility.

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

See Section 7.08 of this report.

7.19 Comments on Public Consultations

One response was received during the public consultation. Issues relating to the use of the property, parking and opening hours have been discussed elsewhere in this report.

7.20 Planning obligations

Not applicable to this application.

7.21 Expediency of enforcement action

The application property is currently vacant following compliance with the Planning Enforcement Notice, served in July 2015, after the dismissal of an appeal against the Enforcement Notice (Planning Inspectorate ref: APP/R5510/C/15/3132397) in April 2016.

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

Planning permission is sought for a change of use from change of use from retail (Use Class A1) to Thai Massage Clinic (Use Class D1). The application property is located within a Core Shopping Area and is also in the Harlington Village Conservation Area.

Whilst the proposed change of use would not cause harm to the character and appearance of the street scene and the surrounding Harlington Village Conservation Area or cause harm to residential amenity, there is an objection in principle to the loss of the retail use. The change of use of the unit would undermine the retail function of this core shopping area, contrary to Policy S9 of the Hillingdon Local Plan - Part Two, Saved Policies (November 2012).

The application is therefore 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)

National Planning Policy Framework

Contact Officer: Katherine Mills

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Notes:

 Site boundary

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Site Address:

**212 High Street
 Harlington**

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

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

Planning Application Ref:

1373/APP/2016/4087

Scale:

1:1,250

Planning Committee:

Central & South

Date:

March 2017



HILLINGDON
 LONDON