

Report of the Head of Planning, Sport and Green Spaces

Address 140 RYEFIELD AVENUE HILLINGDON

Development: Change of use from retail (Use Class A1) to a mixed use comprising restaurants/hot food takeaway (Use Class A3/A5) involving installation of an extract duct to the side

LBH Ref Nos: 29498/APP/2016/3975

Drawing Nos: Design and Access Statement
Ventilation and Extraction Statement:
140 RYE/FPA1 Rev. B
140 RYE/FPA2 Rev. B
140 RYE/FPA3 Rev. B
140 RYE/FPA5 Rev. B

Date Plans Received: 28/10/2016 **Date(s) of Amendment(s):** 28/10/2016
Date Application Valid: 03/11/2016

1. **SUMMARY**

The application relates to a change of use of an existing vacant retail unit to mixed use comprising restaurant/hot food takeaway and the installation of an extract duct to the side.

The site is within a small shopping parade within the developed area as identified in the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012). Policies S6 and S7 states change of use from retail will only be granted where a sufficient choice of local shops remain. This unit is currently vacant and a survey undertaken during the site visit confirmed that if the proposed use were to be implemented, a sufficient number of essential local shops serving the catchment area would still be available.

Therefore, it is considered that the loss of this shop use would not have a negative effect on this commercial area and subject to appropriate conditions relating to hours of operation and noise control, deliveries, and waste management, the proposal would not conflict with any of the relevant Adopted policies within the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

Therefore subject to conditions the application is recommended for approval.

2. **RECOMMENDATION**

APPROVAL subject to the following:

1 HO1 **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 HO2 **Accordance with approved**

The development hereby permitted shall not be carried out except in complete

accordance with the details shown on the submitted plans, numbers 140 RYE/FPA1 Rev. B, 140 RYE/FPA2 Rev. B and 140 RYE/FPA3 Rev. B.

REASON

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

3 N11 Control of plant/machinery noise

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 Local Plan: Part Two - Saved UDP Policies (November 2012).

4 N12 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. The approved scheme shall then be fully implemented before the development is occupied/the use commences and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

REASON

To safeguard the amenity of the occupants of surrounding properties in accordance with policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and London Plan (2016) Policy 7.15

5 NONSC Non Standard Condition

No customers shall be present on the premises, nor shall the premises be used for the preparation or sale of food, other than between the following hours:

1100 hours and 2200 hours Mondays to Thursday

1100 hours and 2300 hours on Fridays and Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

REASON

To safeguard the residential amenity of the occupiers of nearby properties in accordance with Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

6 NONSC Non Standard Condition

There shall be no deliveries to site or unloading of goods, or collection of refuse and recycling, outside the hours of 0800 and 1800, Monday to Friday, and between the hours of 0800 and 1300 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).

INFORMATIVES

1 152 **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).

2 153 **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.
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.
S6	Change of use of shops - safeguarding the amenities of shopping areas
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
AM14	New development and car parking standards.
LPP 2.15	(2016) Town Centres
LPP 4.8	(2016) Supporting a Successful and Diverse Retail Sector and related facilities and services
LPP 5.3	(2016) Sustainable design and construction
NPPF2	NPPF - Ensuring the vitality of town centres

3 159 **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 12 **Encroachment**

You are advised that if any part of the development hereby permitted encroaches by either its roof, walls, eaves, gutters, or foundations, then a new planning application may have to be submitted. The validity of this planning permission may be challengeable by third parties if the development results in any form of encroachment onto land outside the

applicant's control for which the appropriate Notice under Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 has not been served.

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.

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises the ground floor of an end of terrace building situated on the South-Western side of Ryefield Avenue, Hillingdon. The surrounding area falls within an unprotected shopping parade which is made up predominantly of commercial use on the ground floor and residential to the upper floors. To either side of the shopping parade, rows of two storey terraced residential units dominate the street scene.

3.2 Proposed Scheme

Planning permission is sought for a change of use from retail (Use Class A1) to a mixed use comprising restaurants/hot food takeaway (Use Class A3/A5) involving installation of an extract duct to the side. The site benefits from a large service yard consisting of two single storey outbuildings which do not form part of the application.

3.3 Relevant Planning History

29498/ADV/2016/103 140 Ryefield Avenue Hillingdon

Installation of 1 x internally illuminated fascia sign.

Decision: 29-12-2016 Approved

29498/APP/2015/1596 140 Ryefield Avenue Hillingdon

Change of use from retail (Use Class A1) to provide 1 x 2-bed flat (Use Class C3) (Prior Approval)

Decision: 30-06-2015 Refused

29498/C/97/1251 140 Ryefield Avenue Hillingdon

Change of use from Retail (Class A1) to Hot Food Takeaway (Class A3) and installation of extractor duct

Decision: 03-07-1998 Refused

Comment on Relevant Planning History

The site benefits from an extensive planning history, including recently the approval of new advertising fascia to the front elevation.

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:

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.

S6 Change of use of shops - safeguarding the amenities of shopping areas

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
AM14	New development and car parking standards.
LPP 2.15	(2016) Town Centres
LPP 4.8	(2016) Supporting a Successful and Diverse Retail Sector and related facilities and services
LPP 5.3	(2016) Sustainable design and construction
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

A total of 10 adjoining and nearby neighbouring properties were consulted via letter dated 07.11.16.

Two responses received objecting on the following grounds:

1. Too many food outlets proportionately, as well as rodents/anti social behaviour and lack of parking.
2. There is already a Chinese takeaway, Indian Takeaway and Kebab Shop in the parade.
3. Parking is already at limit with cars parked on road. In addition to being on a busy bus route is dangerous to pedestrians.
4. Another takeaway is not needed and if approved will lose the good will of the community.

Internal Consultees

Environmental Protection Unit: Raised no objections subject to conditions.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The Local Planning Authority's aim is to retain the retail function of all shopping areas to meet the needs of the area each serves. Shops grouped conveniently together assist the process of search for and comparison of goods and hence attract shoppers. As such the Local Planning Authority will exercise strict control over the loss of shops to other uses.

Policy S6 states that change of use will be granted where; a frontage of design appropriate to the surrounding area is maintained or provided; the use would be compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties; and would have no harmful effect on road safety or worsen traffic congestion.

The proposal would not involve any external alterations to the property. A number of neighbouring properties have raised concerns about the proposal having an adverse impact upon highway safety and due to the restricted parking within the area. However, given the authorised retail use of the site and the proposed limited opening hours of the cafe, it is considered that the proposal would not lead to an increased demand for parking within the vicinity and is considered not to have an adverse effect on highway safety.

Therefore, the proposal would comply with the criteria listed in Policy S6 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

Policy S7 establishes the criteria where service uses would be permitted in parades and states that change of use from A1 use will only be granted if the parade retains sufficient essential shop uses to provide a range and choice of shops appropriate to the size of the parade and to its function in the Borough, and that the surrounding residential area is not deficient in essential shop uses. The supporting text to this policy comments that the Local Planning Authority seeks to protect vulnerable parades which are particularly important for the local community and provide opportunities for the establishment of new essential shop uses in existing Class A1 premises. Therefore, as many essential shop uses as possible will be protected, and ideally there should be no less than three in smaller parades and a choice of essential shops in larger parades and in local centres.

The application property is located within a small parade of 14 units. Two of the units are currently occupied and used as takeaways (A3 use) with one in A5 use. Given that 8 A1 units would be retained if this cafe were to be established it is considered that the loss of this vacant A1 unit would not result in a loss of the retail vitality of this small shopping parade. As such the proposal is considered to comply with Policy S7 of the adopted Hillingdon Local Plan: Part Two - Saved UDP 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 rear of the building where they 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/rear 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 appropriate 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 of an acceptable level.

Subject to the imposition of conditions the proposal accords with Policies OE1, OE3 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

There is no off-street car parking for this site, however, there is limited on-street parking available. It is considered that the traffic generation between the A1 and A3 uses would not be significantly different. The proposal would therefore comply with Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.11 Urban design, access and security

Not applicable to this application.

7.12 Disabled access

Not applicable to 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

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

Discussed within Impact on Neighbours section.

7.19 Comments on Public Consultations

Issues relating to the use, parking and traffic have been addressed within the body of the report and it is not considered that the proposal would result in any increase in anti-social activity.

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

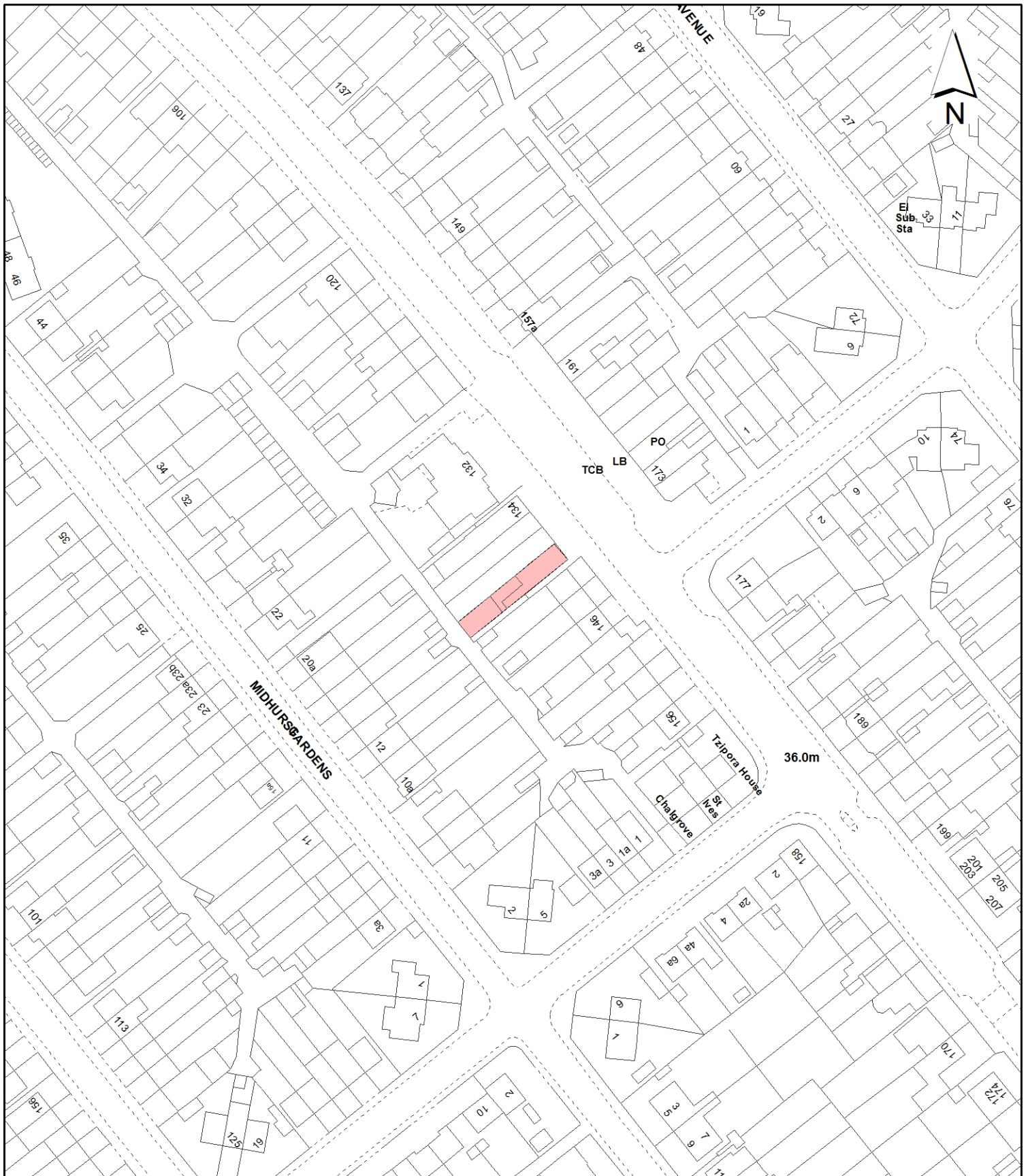
This application relates for change of use of the existing A1 Retail unit to an A3/A5 (Restaurants/Hot Food Takeaway) involving installation of extraction duct to rear. There are no external changes proposed other than the installation of an extraction flue. The application site is located within a local parade of shops and comprises a vacant unit. The proposed use is considered to not result in any adverse impact to highway safety. Furthermore, it is noted that there is still a good choice of A1 retail units within this commercial area and the proposed use would still provide a local service. Therefore, subject to appropriate safeguarding conditions, the proposal would not result in any adverse impact and is therefore 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)

Contact Officer: Naim Poptani

Telephone No: 01895 250230



Notes:

 Site boundary

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Site Address:

140 Ryefield Avenue

LONDON BOROUGH OF HILLINGDON
 Residents Services
 Planning Section

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

Planning Application Ref:

29498/APP/2016/3975

Scale:

1:1,250

Planning Committee:

Central & South

Date:

March 2017



HILLINGDON
 LONDON