

Report of the Head of Planning, Sport and Green Spaces

Address BETWEEN 40 AND 42A, AND REAR OF 42 AND 42A STATION ROAD
HAYES

Development: Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5), involving installation of extract flue.

LBH Ref Nos: 65794/APP/2017/842

Drawing Nos: Design and Access Statement
Chimney Fan RSHT Technical Details
PL-01
PL-04
PL-03
PL-02

Date Plans Received: 07/03/2017 **Date(s) of Amendment(s):**
Date Application Valid: 07/03/2017

1. **SUMMARY**

The application seeks retrospective planning permission for the change of use from retail (Use Class A1) to hot food takeaway (Use Class A5), involving installation of extract flue. The proposal is considered on balance to be acceptable given that a retail use would be retained within the application site and that the proposal would not erode the retail function and attractiveness of the primary shopping area of this part of Hayes Town Centre,

2. **RECOMMENDATION**

APPROVAL subject to the following:

1 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 PL-01, PL-02, PL-03 and PL-04 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).

2 COM24 **Hours of use Hot Food Takeaways**

The premises shall not be used for the preparation or sale of food outside the hours of:-
10.00 to 23.00 Mondays - Fridays
10.00 to 23.00 Saturdays
10.00 to 23.00 Sundays, Public or Bank Holidays.

REASON

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

3 NONSC Non Standard Condition

Within three months of the date of this planning permission, 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 (LPA). The scheme shall include such combination of measures as may be approved by the LPA. Thereafter, and within 3 months of the written approval of the LPA, 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 Local Plan: Part Two - Saved UDP Policies (November 2012)

4 NONSC Non Standard Condition

Within three months of the date of this planning permission, a noise survey/acoustic report shall be submitted to and approved in writing by the Local Planning Authority (LPA). The scheme shall include such combination of land separation, vibration control techniques and other measures, as are agreed by the Local Planning Authority. An Environmental Noise Survey will need to be carried out by a suitably qualified acoustic consultant and must be carried out to the standards laid out in BS 4142: 1997 (Method for rating industrial noise affecting mixed residential and industrial areas). Thereafter, and within 3 months of the written approval of the LPA, 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 Local Plan: Part Two - Saved UDP Policies (November 2012)

5 A16 Refuse and Open Air Storage

Within three months of the date of this planning permission, details of on-site refuse storage (including any open air storage facilities) for waste material shall be submitted to and approved by the Local Planning Authority (LPA). Thereafter, and within 3 months of the written approval of the LPA, such facilities shall be provided and thereafter permanently retained.

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)

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.

S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE27	Advertisements requiring express consent - size, design and location
BE28	Shop fronts - design and materials
BE29	Advertisement displays on business premises
DAS-SF	Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LPP 2.15	(2015) Town Centres
NPPF1	NPPF - Delivering sustainable development
NPPF2	NPPF - Ensuring the vitality of town centres

3 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.

4 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.

5 115 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 an open sided building to the rear of of No.s 40 and 42a Station Road, and was probably originally used for ancillary storage to the commercial units on the frontage. The site can be accessed via a narrow access way between Nos. 40 and 42a which has been enclosed and is now being used as a cafe. The application site is within Primary Shopping Area of Hayes Town Centre as identified in the Hillingdon Local Plan - Saved UDP Policies (November 2012). It is noted that the photographs submitted with the application relate to the former unauthorised use a a car valet business. It is noted at the site visit that the application site would retain an element of A1 use with the 2 gift shops and florists with the remainder of the area being used as A5 use.

3.2 Proposed Scheme

The application seeks planning permission for the change of use from Use Class A1 (Shops) to Use Class A5 (Hot Food Takeaways), involving installation of extraction flue.

3.3 Relevant Planning History

65794/ADV/2009/33 Land Between 40 And 42a, And Rear Of 42 And 42a Station Road Hillingdon
Installation of 2 non illuminated fascia signs and 1 non illuminated projecting sign

Decision: 09-07-2009 SD

65794/ADV/2009/7 Land Between 40 And 42a And Rear Of 42 And 42a Station Road Hillingdon
Advertisement sign.

Decision: 26-03-2009 NFA

65794/APP/2009/1002 Land Between 40 And 42a, And Rear Of 42 And 42a Station Road Hillingdon
Change of use of rear yard to car wash (Sui Generis).

Decision: 03-08-2009 Refused

65794/APP/2009/483 Land Between 40 And 42a, And Rear Of 42 And 42a Station Road Hayes
Change of use from Class A1 Retail to Sui Generis Car wash.

Decision: 29-04-2009 NFA

65794/APP/2016/3653 Between 40 And 42a, And Rear Of 42 And 42a Station Road Hayes
Change of use from Use Class A1 (Shops) to Use Class A3 (Restuarants), involving installation
extraction flue (Retrospective).

Decision: 19-12-2016 Refused

Comment on Relevant Planning History

65794/APP/2016/3653 - The application seeks retrospective planning permission for the change of use from Use Class A1 (Shops) to Use Class A3 (Restuarants) involving installation of extraction flue was refused for the following reason:-

The proposal, by reason of the loss of a retail unit within the primary shopping area of the HayesTown Centre, would erode the retail function of the area, harming the vitality and viability of the centre. The proposal is therefore contrary to Policy S11 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Polices (November 2012) and Policy 2.15 of the London Plan (2016).

65794/APP/2009/1002 - Change of use of rear yard to car wash (Sui Generis) was refused for the following reasons:

1. In the absence of any proposed mitigation measures regarding the control of noise and other emissions from the site in relation to the nearby residential properties, the application has failed to demonstrate that the development will safeguard the amenities of those properties. The proposal is therefore contrary to Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies, September 2007).

2. The proposal would result in the intensification of use of an existing vehicular access and has not demonstrated that sufficient off-street waiting space and manoeuvring space would be provided within the application site. Therefore the development is considered likely to result in on-street parking /queuing and general condition prejudicial to pedestrian and highway safety and contrary to policies AM7 and AM14 of the Hillingdon Unitary Development Plan (Saved Polices September 2007) and to the Hillingdon's Adopted Parking Standards (Hillingdon UDP, Saved Policies, September 2007).

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:

S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE27	Advertisements requiring express consent - size, design and location
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5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

6 Neighbouring properties were consulted by letter dated 10.3.17 and a site notice was displayed to the front of the site which expired on 25.4.17.

A 128 signature petition of support has been received in connection with the application. Although this gives a postcode for each signatory, it does not give their full address.

Internal Consultees

Highways Officer:

This application is for the change of use from a small shop to a Hot Food Takeaway at a site in Station Road Hayes. The road is a classified road and is part of the Station Road Improvement Scheme where public realm works are proceeding. There are existing waiting restrictions outside the site. There is short term on-street car parking available nearby. The application is likely to result in small increases in traffic activity. There are more employees and the takeaway will operate 7 days per week. I do not have significant highway concerns over the application.

EPU: No response received. However in connection with the previous application reference 65794/APP/2016/3653 the EPU Officer requested the following conditions:

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 scheme shall include such combination of measures as may be approved by the LPA. 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.

Sound insulation of commercial/entertainment premises

The development shall not begin until a sound insulation scheme for the control of noise transmission to the adjoining premises has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include such combination of sound insulation and other measures as may be approved by the LPA. 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.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Policy S11 of the adopted Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) states that planning permission will be granted for Class A3 Food and Drink uses) in Primary Shopping Areas where the remaining retail facilities are adequate to accord with 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.

For this reason, the policy contains two 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 Class A1 units of more than 12 metres. Whilst it is noted that Policy S11 was originally adopted a long time prior to the publication of the National Planning Policy Framework and the London Plan (2015), it is consistent with the aims of both and, in particular paragraph 23 of the National Planning Policy Framework, which encourages local planning authorities to set out policies that make clear which uses will be permitted in primary frontages.

The most recent shopping survey for Hayes town centre (carried out in June 2014) confirmed that the retail percentage (including vacant Class A1 units) in the Primary Shopping frontage was 56.7% (of 732.5 metres) and this represented 58% of 102 units.

The applicant has provided additional information in respect of this current application which confirms that a retail element would be retained at the application site. There are 4 small retail units comprising of 2 gift shops and 2 florist shops, with the rear most element being proposed to be changed to a hot food take-away/cafe. A number of tables are also laid out to the side of the entrance internally providing a seating area to customers. Given the small scale nature of the proposed hot food takeaway use and the retention of the 4 retail units within the application site, it is considered that the proposal would not, on balance, erode the retail function and attractiveness of the primary shopping area of this part of the Town Centre. The proposal is therefore compliant with the intent of Policy S11 of the adopted Hillingdon Local Plan - 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 alterations to the front elevation and extract flue to the rear relate satisfactorily to the character and appearance of the street scene in this town centre location.

7.08 Impact on neighbours

Policy OE1 states permission will not be granted for uses which are likely to become detrimental to the character or amenities of surrounding properties and policy OE3 states buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact can be mitigated.

The proposal includes the installation of an extract flue to the rear of the unit. Manufacturers details have been submitted in respect of this flue. It is important to note that the National Planning Policy Framework at paragraph 186 states that Local planning authorities should approach decision-taking in a positive way, and at paragraph 187 that Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.

The Planning Practice Guidance (2014) notes that when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.

On balance, it is considered that in this case, with conditions to control impacts, that the development would not detract from the residential amenities of occupants of nearby residential properties in accordance with policy OE1 of the Hillingdon Local Plan - 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 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 Council's Highways Officer has confirmed that no objection is raised in terms of the impact that the change of use would have on highway and pedestrian safety. The application site is located within Hayes Town Centre with a PTAL score of 5 (Very good). The proposals are likely to generate more pedestrian activity than the existing use but this is a Town Centre location. Subject to conditions requiring details of refuge storage the application is considered acceptable in highway safety terms.

7.11 Urban design, access and security

No issues raised.

7.12 Disabled access

- No accessibility issues are 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 submitted plans do not include details of refuse storage. However it is considered that if the application were considered acceptable in all other respects, a condition could be imposed to secure details of the refuse storage area.
- 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 addressed in the sections above.
- 7.19 Comments on Public Consultations**
- No issues raised.
- 7.20 Planning obligations**
- Not applicable to this application.
- 7.21 Expediency of enforcement action**
- This is an application for retrospective permission. Should members decide to refuse the application then the expediency of enforcement action will need to be considered and would be the subject of a separate report.
- 7.22 Other Issues**
- Since the end of August 2015 applications which are for development which was not authorised need to be assessed as to whether the unauthorised development was intentional. If so, then this is a material planning consideration. In this case officers have no indication that this was an intentional breach of planning control.

8. Observations of the Borough Solicitor

General

Members must determine planning applications having due regard to the provisions of the development plan so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations (including regional and national policy and guidance). Members must also determine applications in accordance with all relevant primary and secondary legislation.

Material considerations are those which are relevant to regulating the development and use of land in the public interest. The considerations must fairly and reasonably relate to the application concerned.

Members should also ensure that their involvement in the determination of planning applications adheres to the Members Code of Conduct as adopted by Full Council and also the guidance contained in Probity in Planning, 2009.

Planning Conditions

Members may decide to grant planning consent subject to conditions. Planning consent should not be refused where planning conditions can overcome a reason for refusal.

Planning conditions should only be imposed where Members are satisfied that imposing the conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Where conditions are imposed, the Council is required to provide full reasons for imposing those conditions.

Planning Obligations

Members must be satisfied that any planning obligations to be secured by way of an agreement or undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 are necessary to make the development acceptable in planning terms. The obligations must be directly related to the development and fairly and reasonably related to the scale and kind to the development (Regulation 122 of Community Infrastructure Levy 2010).

Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have due regard to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The requirement to have due regard to the above goals means that members should consider whether persons with particular protected characteristics would be affected by a proposal when compared to persons who do not share that protected characteristic. Where equalities issues arise, members should weigh up the equalities impact of the proposals against the other material considerations relating to the planning application. Equalities impacts are not necessarily decisive, but the objective of advancing equalities must be taken into account in weighing up the merits of an application. The weight to be given to any equalities issues is a matter for the decision maker to determine in all of the circumstances.

Members should also consider whether a planning decision would affect human rights, in particular the right to a fair hearing, the right to respect for private and family life, the protection of property and the prohibition of discrimination. Any decision must be proportionate and achieve a fair balance between private interests and the public interest.

9. Observations of the Director of Finance

Not applicable to this application.

10. CONCLUSION

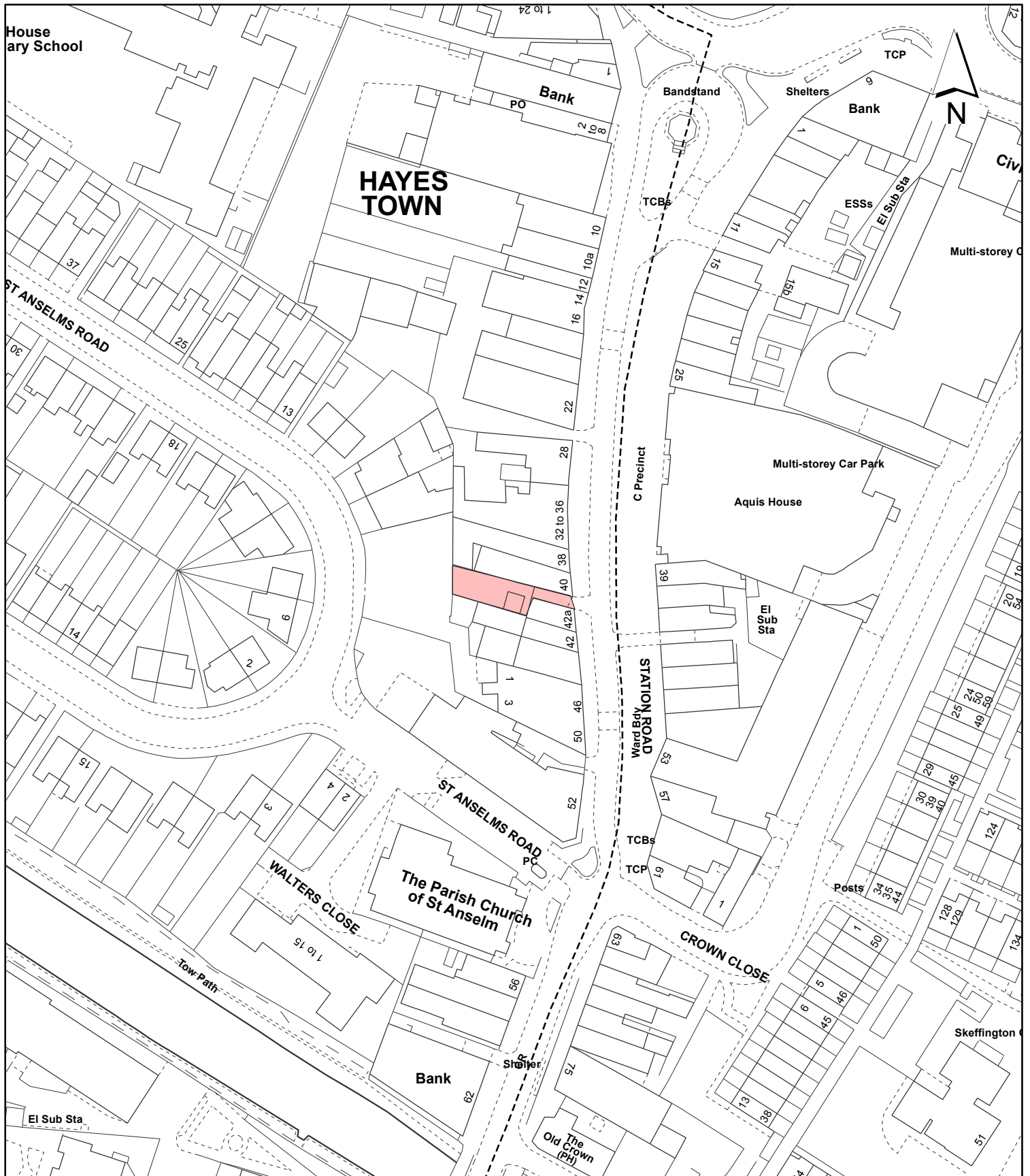
The application seeks retrospective planning permission for the change of use from retail (Use Class A1) to hot food takeaway (Use Class A5), involving installation of extract flue. The proposal is considered on balance to be acceptable given that a retail use would be retained within the application site and that the proposal would not erode the retail function and attractiveness of the primary shopping area of this part of Hayes Town Centre.

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)
Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)
London Plan (2016)
NPPF

Contact Officer: Nicola Taplin

Telephone No: 01895 250230



Notes:

 Site boundary

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Site Address:

**Land Between 40 & 42A,
 And Land To The Rear Of 42 & 42A,
 Station Road**

**LONDON BOROUGH
 OF HILLINGDON**

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

Planning Application Ref:
65794/APP/2017/842

Scale:
1:1,250

Planning Committee:
Central & South

Date:
May 2017



HILLINGDON
 LONDON