

## Report of the Head of Planning, Sport and Green Spaces

**Address** 308 KINGSHILL AVENUE HAYES

**Development:** Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5), installation of extract duct and alterations to rear elevation

**LBH Ref Nos:** 24844/APP/2017/1548

**Drawing Nos:** ASEA/2017/356/PP/01  
ASEA/2017/356/PP/03  
ASEA/2017/356/PP/02  
ASEA/2017/356/PP/04  
Design and Access Statement  
Specification for Kitchen Extract Ventilation

**Date Plans Received:** 28/04/2017 **Date(s) of Amendment(s):**

**Date Application Valid:** 28/04/2017

### 1. SUMMARY

The application relates to change of use only and does not involve any exterior alterations to the building, save the installation of an extract duct to the rear and as such the existing frontage would be maintained. Subject to appropriate safeguarding conditions the proposal would be considered compatible with neighbouring uses, and due to the existing siting (within a commercial parade) it is not considered to result in an adverse impact on highway safety. It is considered that should the application receive permission, the parade would still have an appropriate level and choice of shops, and therefore is considered to comply with Policies S6 and S7 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

### 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/2017/356/PP/03 and ASEA/2017/356/PP/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).

#### 3 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. 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 Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012)

**4 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 Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012)

**5 COM25 Loading/unloading/deliveries**

The loading or unloading of vehicles, including the collection of waste/refuse/recycling (but excluding takeaway food deliveries and collections), shall only occur during the following hours; 08:00 hrs to 18:00 hrs Monday to Friday, 08:00 to 13:00 Saturdays and not at all on Sundays, Bank or Public 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)

**6 OM15 General Litter/Waste**

No development shall take place until a scheme detailing the method of disposal, storage and collection of litter and waste materials, generated by the business and/or discarded by patrons, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a description of the facilities to be provided and the methods for collection of litter within and in the vicinity of the premises. The approved scheme shall be implemented in full thereafter.

**REASON**

To ensure that adequate provision is made for the disposal of litter and waste, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with Policy OE1 of the Hillingdon Local Plan - Saved UDP Policies (November 2012).

**7 H16 Cycle Storage - details to be submitted**

No part of the development hereby permitted shall be commenced until details of covered and secure cycle storage for 2 bicycles have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided in accordance with the approved details prior to the occupation of the development and thereafter permanently retained.

**REASON**

To ensure the provision and retention of facilities for cyclists to the development and hence the availability of sustainable forms of transport to the site in accordance with

Policy AM9 of the Hillingdon Local Plan - Saved UDP Policies (November 2012).

**8 H6 Car parking provision - submission of details**

The development hereby approved shall not be commenced until details of the parking arrangements to show the provision of 2 car parking spaces have been submitted to and approved in writing by the Local Planning Authority. The parking arrangements should include details of any delivery vehicles/motorcycles. The facilities shall be provided in accordance with the approved details prior to the occupation of the development and thereafter permanently retained.

**REASON**

To ensure that adequate facilities are provided in accordance with Policies AM14, AM15 and the parking standards as set out in the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012).

**9 OM5 Provision of Bin Stores**

No part of the development shall be occupied until the covered waste and recycling facilities shown on drawing reference ASEA/2017/356/PP/03 have been provided in accordance with the approved details and thereafter the facilities shall be permanently retained.

**REASON**

To ensure a satisfactory appearance and in the interests of the amenities of the occupiers and adjoining residents, in accordance with Policy OE3 of the Hillingdon Local Plan - 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) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance

AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
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

**3 147 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).

**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](http://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 is on the North side of Kingshill Avenue. The unit forms part of a 3 storey parade, with commercial at ground floor and residential above. To the front there is a wide footway and limited street side parking is available. This side of the street is commercial in character and appearance, although facing the parade, on the opposite side of the road are residential properties. The application site lies within a 'Parade', as identified in the Hillingdon Local Plan: Part Two - Saved UDP Policies (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 rear elevation to include the installation of an extract duct.

#### 3.3 Relevant Planning History

24844/ADV/2017/55      308 Kingshill Avenue Hayes

Installation of 1 internally illuminated fascia sign and 1 internally illuminated projecting sign

**Decision:**

24844/APP/2004/1036      308 Kingshill Avenue Hayes

ERECTION OF A SINGLE-STOREY REAR EXTENSION

**Decision:** 10-06-2004      Refused

24844/APP/2004/2171      308 Kingshill Avenue Hayes

ERECTION OF SINGLE STOREY REAR EXTENSION FOR RETAIL PURPOSES

**Decision:** 28-09-2004      Approved

#### Comment on Relevant Planning History

A separate application for advertisement consent is submitted for consideration under application reference 2488/ADV/2017/55.

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

## 5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

## 6. Consultations

### External Consultees

7 neighbouring properties were consulted by letter dated 5.5.17 and a site notice was displayed to the front of the site which expired on 6.6.17.

By the close of the consultation period, one response had been received. This expresses concern at the competition the proposed use would bring.

Officer Response: This is not considered to be a material planning consideration.

### Internal Consultees

Highways Officer:

This application is for the change of use of an existing shop to provide a hot food takeaway premises. Kingshill Avenue is a classified road on the Council road network. The existing shop is part of the Kingshill Avenue retail centre with car parking available immediately adjacent to the site. There is a wide footpath outside the front entrance and a service road at the rear of the building. The site has a PTAL value of 1b (poor) and there is likely to be a strong reliance on private cars for trip making. The proposal is to replace the existing retail unit with a hot food takeaway business operating from 11:00 to 23:00, 7 days per week. The traffic generation of the existing and proposed uses is likely to be similar so there is no significant traffic impact. The DAS suggests there will be a delivery service. I would not like to see any motorcycles parked outside the premises at any time if this is the form of delivery service offered (condition). The layout plan shows a refuse and recycling bin store at the rear of the premises. There are no secure covered cycle parking spaces shown on the layout plan so please condition 2 spaces. On the basis of the above comments I do not have

significant highway concerns over this application.

EPU

No objection subject to condition relating to control of noise from plant/machinery.

## **7. MAIN PLANNING ISSUES**

### **7.01 The principle of the development**

The Local Planning Authority seeks to protect vulnerable parades which are particularly important to the community and to provide opportunities for the establishment of new essential shop uses in existing A1 premises.

Policy S6 states changes of use applications 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.

Policy S7 states changes of uses in parades will only be permitted if the parade retains sufficient essential shops to provide a choice appropriate to the size of the parade, the surrounding area is not deficient in essential shop uses, and the proposal accords with policy S6 (above).

Kingshill Avenue comprises a parade of approximately 24 commercial units at ground floor with residential units above (although of the commercial units there are 3 double units). Currently the parade comprises 13 units still maintaining an A1 use. It is noted this unit is currently vacant. As such it is considered should the proposal receive permission, there would still be an appropriate choice of shops within the parade, and furthermore, it would bring an existing vacant unit back into commercial use along with its associated employment opportunities and therefore would be considered acceptable in this instance.

### **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. Furthermore policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) resist any development which would fail to harmonise with the existing street scene or would fail to safeguard the design of existing and adjoining sites.

The application proposes the installation of an extract duct to the rear. Given its location, this duct would not be visible from the street front, although it would be visible from the adjacent properties to the rear. However, this element is considered to be in-keeping with the commercial nature of the existing building.

The extract duct would be set sufficiently far (some 6m) from residences located above the ground floor shops that it would not cause such harm to the outlook of these residences as to warrant refusal of the application. In addition, because of the parapet atop the rear of the ground floor element, the flues would not be highly visible from properties to the North.

In this instance, the proposal is considered to accord with Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and Policies BE13 and BE15 of the Hillingdon Local Plan - Saved UDP Policies (November 2012).

#### **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 duct to the rear of the building, located on the rear extension

The Environmental protection officer has considered this application and has suggested conditions should be applied relating to control of hours of operation, extract ventilation systems and odour control and deliveries, to safeguard the amenity of residents and the surrounding area.

Subject to these conditions, and given the location of the unit within a commercial parade where there are other late evening uses in operation, it is considered that the proposal would not impact on the amenities of adjoining occupiers as to warrant a refusal.

#### **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 2 - 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 2 - Saved UDP Policies (November 2012) seeks to ensure that all development is in accordance with the Council's adopted Car Parking Standards.

The Council's Highways Officer has advised that the site has a PTAL value of 1b (poor) and there is likely to be a strong reliance on private cars for trip making. However, the traffic generation of the existing and proposed uses is likely to be similar so there is no significant traffic impact. The Design and Access Statement suggests there will be a delivery service and the Highways Officer has advised that any motorcycles should not be parked outside the premises at any time and this should be controlled by way of condition. The layout plan shows a refuse and recycling bin store at the rear of the premises. There would be a need to provide secure covered cycle storage at the site and 2 parking spaces which could be provided to the rear. It is recommended that a condition be imposed to secure these spaces.

Subject to appropriate conditions, the application is considered acceptable in accordance with policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012).

#### **7.11 Urban design, access and security**

The application is for change of use and installation of extract ducts to the rear. Therefore



- the application does not involve any alterations to the frontage of the building
- 7.12 Disabled access**  
No issues are raised in terms of 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**  
The submitted plans include the provision of a 1100 litre refuse and recycling bin to the rear of the site which would be accessed from the rear service yard. The waste management would therefore be acceptable and could be secured by way of condition.
- 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**  
These matters have been considered under 'impact on neighbours'.
- 7.19 Comments on Public Consultations**  
The issues raised in terms of noise, odour, refuse storage impacts have been addressed in the report and conditions are recommended to ensure amenity is not affected by odours from the proposed use. The competitive relationship between other restaurants is not a material planning consideration.
- 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**

Not applicable to this application.

#### **10. CONCLUSION**

The application relates to change of use only and does not involve any exterior alterations to the building, save the installation of an extract duct to the rear and as such the existing frontage would be maintained. Subject to appropriate safeguarding conditions the proposal would be considered compatible with neighbouring uses, and due to the existing siting (within a commercial parade) it is not considered to result in an adverse impact on highway safety. It is considered that should the application receive permission, the parade would still have an appropriate level and choice of shops, and therefore is considered to comply with Policies S6 and S7 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

#### **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:

**308 Kingshill Avenue**

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

Planning Application Ref:  
**24844/APP/2017/1548**

Scale:  
**1:1,250**

Planning Committee:  
**Central & South**

Date:  
**July 2017**



**HILLINGDON**  
 LONDON