

Report of the Head of Planning, Sport and Green Spaces

Address KINGS ARMS COURT 109 COLDHARBOUR LANE HAYES

Development: Change of use of part of the ground floor retail unit (Class A1) to a hot food takeaway (Class A5) and associated external alterations, including the installation of ventilation and extraction equipment and associated works

LBH Ref Nos: 10954/APP/2017/2353

Drawing Nos: Supporting Annex B Document for Proposed Ventilation System
5120-BP09
DB349-EX-01
DB349-EX-02
DB349-EX-03
DB349-PRELIM
DB349-GA-05
5120-LP08
Covering Letter/Statement

Date Plans Received: 28/06/2017 **Date(s) of Amendment(s):**

Date Application Valid: 30/06/2017

1. **SUMMARY**

The proposed change of use would only be applied to a modest proportion of the overall retail space and it is not considered it would damage the overall viability of the retail space within the building or the vitality of the wider town centre.

Suitable mitigation measures and planning conditions are recommended to ensure that the proposed use does not detract from the amenities of the occupants of the building and neighbouring sites.

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 5120-BP09, DB349-PRELIM and DB349-GA-05 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 COM5 General compliance with supporting documentation

The development hereby permitted shall not be occupied until the following has been completed in accordance with the specified supporting plans and/or documents:

Supporting Annex B Document for Proposed Ventilation System.

Thereafter the development shall be retained/maintained in accordance with these details for as long as the development remains in existence

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 NONSC Noise affecting residential property

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.

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)

5 NONSC Sound insulation of commercial premises

The development shall not begin until a sound insulation scheme for the control of noise transmission to the adjoining residential 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 surrounding area in accordance with policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

6 NONSC Loading/unloading/deliveries

The premises shall not be used for delivery and the loading or unloading of goods outside the hours of 08:00 and 18:00, Monday to Friday, and between the hours of 08:00 and 13:00 on Saturdays. There shall be no deliveries on Sundays or Bank Holidays.

REASON

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

7 NONSC Delivery Vehicles

No delivery vehicles, including scooters and mopeds, shall be left, parked or stored within the pedestrian area to the front of the unit.

REASON: In order to prevent restriction of movement and undue hazard to pedestrians, in accordance with Policy AM7 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.

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
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
SPD-NO	Noise Supplementary Planning Document, adopted April 2006
LPP 2.15	(2016) Town Centres
LPP 4.7	(2016) Retail and town centre development
LPP 6.13	(2016) Parking
LPP 7.14	(2016) Improving air quality
LPP 7.15	(2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
NPPF1	NPPF - Delivering sustainable development
NPPF2	NPPF - Ensuring the vitality of town centres

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).

4 115 **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.

5

a) A minimum of 1 x 1,100 litre bulk bin should be provided to safely and hygienically contain the waste arising from this type of business.

An additional bin for recycling waste is good practice.

b) The bin(s) should be sited on an area of hard-standing, with a smooth surface, so that it can be washed down with water and disinfectant. The surface should be cambered so the 'run off' flows towards a proper drain.

c) The collectors should not have to cart a bulk bin more than 10 metres from the point of storage to the collection vehicle (BS 5906 standard).

d) The gradient of any path that the bulk bins have to be moved on should ideally be no more than 1:20, with a width of at least 2 metres. The surface should be smooth. If the path is raised above the area where the collection vehicle parks, then a dropped kerb is needed to safely move the bin to level of the collection vehicle.

6 128 **Food Hygiene**

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

7 125 **Consent for the Display of Adverts and Illuminated Signs**

This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992.

To display an advertisement without the necessary consent is an offence that can lead to prosecution.

For further information and advice, contact - Residents Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

3. CONSIDERATIONS

3.1 Site and Locality

The ground floor space subject of the proposed change of use would be partitioned from a wider ground floor area designated for retail use that is itself part of a recently completed 4-storey mixed use building which includes residential units on all levels.

The building occupies the site of the former Kings Arms Public House and is located within Hayes Town Centre. The building, due to its size and positioning, has frontages on three streets, these being Coldharbour Lane to the east, East Way to the north and East Avenue to the west. The ground floor retail space frontage is recessed with the upper storeys of the building projecting forward of it.

Both sides of Coldharbour Lane are flanked by ground floor commercial uses to the south of the site, consisting of a mix of retail outlets, takeaway uses and services. The majority of these buildings are two or three storey and include residential flats above. To the north of the site, commercial use is generally confined to the eastern side of the road whilst the western side of the road is lined by terraces of residential dwellings. Development on East Way and East Avenue predominantly consists of residential dwellings.

3.2 Proposed Scheme

The proposal involves partitioning a 92m² section of the designated ground floor retail area and changing its use from A1 to A5 to allow for it to be occupied by a takeaway. The use class of the remaining 338m² of the retail space would be unaffected. The proposed use would require an extraction system to be installed. External appearance of the building would be largely unchanged although intake and extract grilles would be installed at ground floor level on the eastern elevation, a new door would be formed and an oven extract duct would be installed, largely concealed within the existing service riser but with a projection of 1 metre above the existing flat roof to allow for the dispersal of fumes.

3.3 Relevant Planning History

10954/APP/2011/1997 The Kings Arms P.H. 109 Coldharbour Lane Hayes

Erection of part 2, part 3, part 4 storey building comprising basement parking, mixed use at ground level (430 square metres of non-food retail space and 4 residential units) and a further 1 residential units above ground level (21 residential dwellings total), as well as associated landscaping and refuse storage areas.

Decision: 19-02-2014 Approved

Comment on Relevant Planning History

The overall mixed use development has only recently been completed and the ground floor retail space has not been occupied to this date. Condition 3 of the original approval prohibits the use of the retail unit for food retail, the reason for this restriction being that an

A1 food retail use would encourage Heavy Goods Vehicle movements that would detract from the amenities of neighbouring residents as well as highway safety.

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.E5 (2012) Town and Local Centres

Part 2 Policies:

- 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
- AM7 Consideration of traffic generated by proposed developments.
- AM14 New development and car parking standards.
- BE13 New development must harmonise with the existing street scene.
- SPD-NO Noise Supplementary Planning Document, adopted April 2006
- LPP 2.15 (2016) Town Centres
- LPP 4.7 (2016) Retail and town centre development
- LPP 6.13 (2016) Parking
- LPP 7.14 (2016) Improving air quality
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- NPPF1 NPPF - Delivering sustainable development
- NPPF2 NPPF - Ensuring the vitality of town centres

5. Advertisement and Site Notice

- 5.1 Advertisement Expiry Date:- 24th August 2017**
- 5.2 Site Notice Expiry Date:- Not applicable**

6. Consultations

External Consultees

77 adjoining occupiers consulted. No response received.

Internal Consultees

Highway Officer:

There is no supporting evidence provided but it is unlikely that there will be significant increases in traffic generation as a result of the proposals. There is no mention of any delivery service offered as part of the proposal and I would not like to see scooters/mopeds parked outside the shop so please condition this.

On the basis of the above comments there is no significant highways impact as a result of the proposals.

EPU (Following confirmation of cooking method and mitigation measures):

No objection subject to recommended conditions.

Officer Response: Recommended conditions will be attached.

Waste Strategy:

Comments on good practice for proposed use.

Office Response: Recommendations will be included within an informative.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Paragraph 23 of the National Planning Policy framework (NPPF) states the requirement to promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres.

In respect of the proposed A5 use, it is considered that this is compatible with the town centre environment, where there are a number of similar facilities. The proposal would not remove any existing A1 use as it is part of a new build. Furthermore, the majority of the space provided for retail use within the building would be retained as such. The majority of commercial units within the immediate vicinity of the site are in A1 use, with a small amount of A5 present and, as such, it is not considered that the proposal would result in a coalescence or over-concentration of A5 use which would detract from the viability and vitality of Hayes Town Centre.

It is therefore considered that the proposal would comply with Policy E5 of the Hillingdon Local Plan: Part One - Strategic Policies (2012), Local plan Policies S6 and S7 and London Plan Policies 4.7 and 4.8.

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

The visual impact of the proposal would be minimal as no significant external alterations will be made to the building. The main alteration would be the upper stack of the extractor flue which would emerge at fourth floor roof top height and project 1 metre above it. The

stack would be partially obscured from view from the west by the lift shaft, which it would be similar to in height. From other vantage points within surrounding streets, the visual impact of the stack would be negligible due to its modest height, its positioning towards the centre of the roof and the angle at which views from the street scene would be directed towards it.

It is therefore considered that it would not detract from the visual qualities of the building or the wider street scene and would accord with Policy BE13 of the Local Plan and Policy 7.4 of the London Plan.

7.08 Impact on neighbours

The extraction equipment is largely concealed within the building itself, with the main flue utilising the service riser, and the only significant external feature would be the discharge stack of the flue, which would emerge at roof top height above the fourth storey and project a further 1 metre above it. The stack is sited towards the centre of the roof and would not be within close proximity of any neighbouring windows or external amenity space, thereby preventing any adverse impact. In addition, the modest external proportions of the stack would prevent it from appearing overbearing towards any neighbouring residents.

It is therefore considered that the proposal would be in accordance with Policies BE 20 and BE 21 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (2012) and Policy 7.6 of the London Plan (2016).

It is not considered that the use of the unit itself would be disruptive to nearby residents as it is within the wider town centre where there is an established and accepted level of activity associated with the amount of commercial services on offer. Four car parking spaces, which form part of the wider provision for the overall retail space, would be allocated for its use and it is considered that this is sufficient to accommodate customers without encouraging parking on surrounding residential roads. It is noted that the use of the retail space is currently restricted to non-food A1 retail. This is due to the fact that a space of this size could have been occupied by a grocery store/small supermarket that would require deliveries by large goods vehicles. The applicant has confirmed that no vehicles larger than 7.5 tonne lorries would be used to service the A5 use and it is not considered that it would generate delivery traffic akin to that of a larger scale food retail use.

The proposed use of a 92m² portion of the ground floor retail space as A5 would involve the installation of extraction mechanisms that have the potential to produce noise and odour emissions. The application included details of the extraction systems and mitigation measures to be used to limit noise and odour emissions which have been assessed by the Environmental Protection Unit (EPU). Officers were satisfied that the mechanism could be operated without subjecting neighbouring residents, including the future occupants of the residential units within the mixed use development, from being subjected to unacceptable noise and odour discharged by the extraction system.

The proposed extractor system incorporates noise reduction measures that will prevent unacceptable disturbance of neighbouring residents. A condition requiring noise emissions to be limited would be attached to any approval in order to ensure that noise control measures remain in place throughout the lifetime of the development.

It is therefore considered that the proposal satisfies Policies OE1, OE3 and S6 of the Local Plan and Policies 7.14 and 7.15 of the London Plan.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

It is not considered that the proposal would generate a material increase in traffic above what would be anticipated for the approved A1 use. Given the size of the proposed A5 unit, it is not considered that it would require regular servicing by large HGV's and, as such, would not compromise the specific measures taken to prevent HGV traffic that were secured by condition 3 of the original planning permission.

A condition is recommended to any approval to ensure that no delivery vehicles are left, parked or stored within the pedestrian areas around the unit in the interests of the free movement and safety of pedestrians.

It is therefore considered that the proposal is in accordance with Local Plan Policy AM7.

The use would be allocated a total of 4 designated off street car parking spaces and it is noted that there is also controlled on street car parking available nearby within the town centre.

It is therefore considered that the proposal satisfies the requirements of Local Plan policy AM14 and London Plan Policy 6.13.

7.11 Urban design, access and security

Not applicable to this application.

7.12 Disabled access

The proposed unit would be at ground floor level and include step free access from the street.

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 waste strategy officer has not objected to the development, which includes a waste storage area. An informative setting out good practice for waste management for the proposed use is recommended.

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 in full in section 7.08.

7.19 Comments on Public Consultations

No comments received.

7.20 Planning obligations

There would be no requirement for CIL payments or planning obligations given the size and nature of the proposed scheme.

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

The proposed change of use would only be applied to a modest proportion of the overall retail space and it is not considered it would damage the overall viability of the retail space within the building or the vitality of the wider town centre.

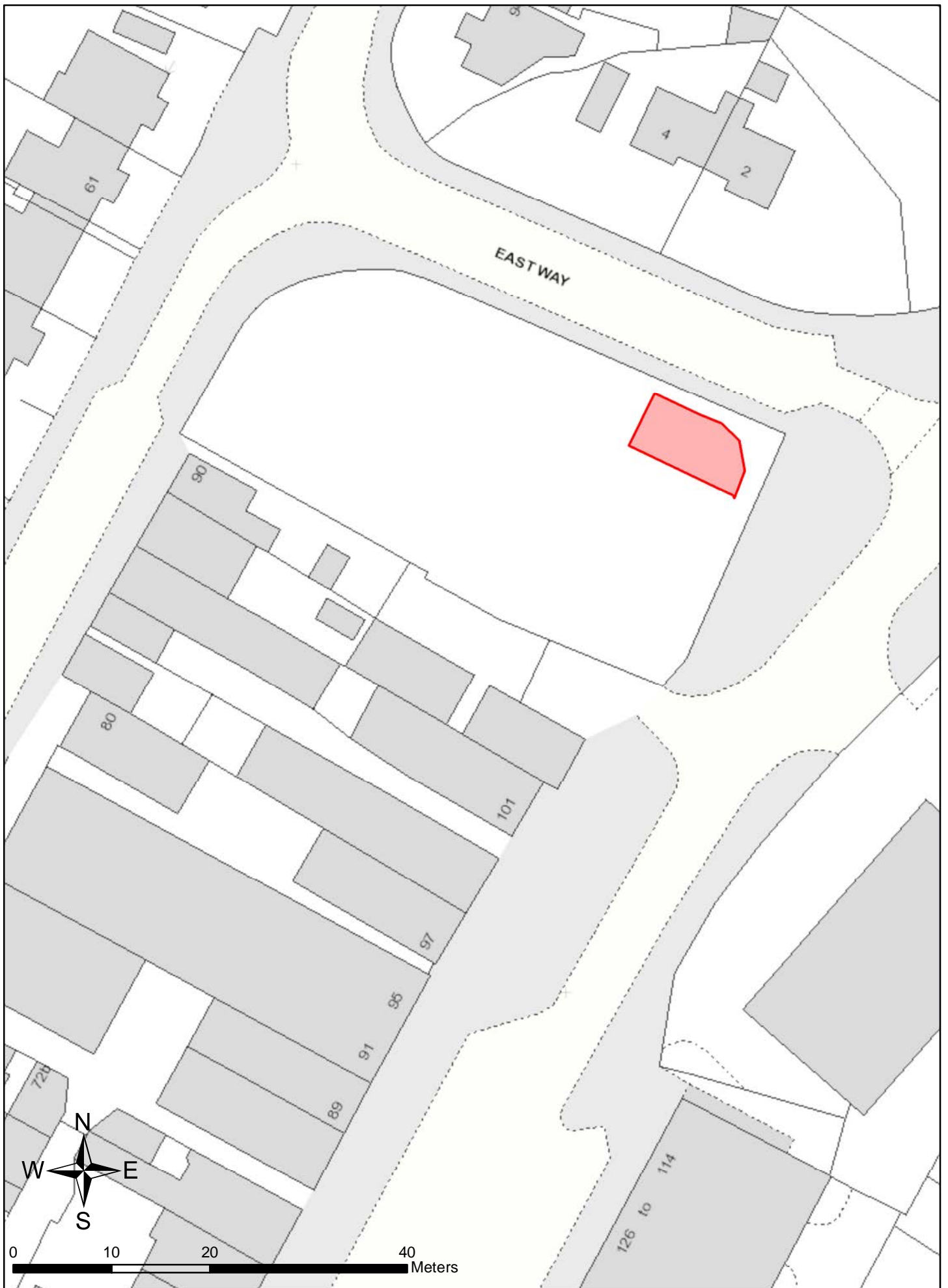
Suitable mitigation measures and planning conditions are recommended to ensure that the proposed use does not detract from the amenities of the occupants of the building and neighbouring sites.

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)
National Planning Policy Framework (NPPF)
London Borough of Hillingdon SPD : Noise (2006)

Contact Officer: James McLean Smith

Telephone No: 01895 250230



Map Notes

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