

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

**Address** 86 VICTORIA ROAD RUISLIP

**Development:** Change of use from retail (Use Class A1 to a mixed use comprising retail, restaurant and hot food takeaway Use Classes A1/A3/A5), involving installation of extractor fan to rear and internal alterations

**LBH Ref Nos:** 28709/APP/2017/3180

**Drawing Nos:** Design and Access Statement  
AR-P02  
AR-P03  
AR-P06  
AR-P05  
AR-P04  
AR-P01

**Date Plans Received:** 31/08/2017                      **Date(s) of Amendment(s):** 31/08/0017

**Date Application Valid:** 18/09/2017

### 1. SUMMARY

The application relates to the ground floor unit of a three storey mid-terrace property located on the South West side of Victoria Road. The unit is part of a shopping parade.

The application seeks permission for the change of use of an existing A1 (Shops) unit to a mixed Use Classes A1/A3/A5 (involving installation of extractor fan to rear and internal alterations.) The A1 use at present is a sandwich bar, which the agent advises wished to diversify is food and drink offer to enable commercial viability. The internal alterations include the provision of a new disabled toilet.

The proposed change of use would retain Class A1 usage in the Primary Shopping Area and, on balance, with a restricted element of Class A3/A5 use, would not be detrimental to the continued operation of the town centre as a retail destination.

### 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 AR-P03;04;06 and the details of the air extraction system given in 17\_0806\_FUL-ANTI\_VIBRATION\_MOUNT\_SPECIFICATION-318 and 17\_0806\_FUL-EXTRACTOR\_SPECIFICATION\_SHEET-318050

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 NONSC Non Standard Condition**

The premises shall be used solely as as mixed A1/A3/A5 use and at no time shall become A3 or A5 use only, without the prior written approval of the Local Planning Authority.

REASON

To protect the retailing function of the Primary Shopping Area, in the interests of the policy set out in the National Planning Policy Framework and policies SE6 and SE11 of the Hillingdon Unitary Development Plan Saved Policies (November 2012)

**4 NONSC Non Standard Condition**

No food deliveries shall be dispatched from the site.

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)

**5 COM23 Hours of Use (Restaurant etc.)**

The premises shall not be open for customers outside the following hours: -  
[0800 to 2300], Mondays - Fridays  
[0800 to 2300] Saturdays  
[1000 to 2200] 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)

**6 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)

**7 COM17 Control of site noise rating level**

The rating level of the noise emitted from the site shall be at least 5dB below the existing background noise level. The noise levels shall be determined at the nearest residential windows immediately above no. 86 Victoria Road. The measurements and assessment shall be made in accordance to the latest 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 Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012)

## INFORMATIVES

### 1 159 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. 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.

### 2 152 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).

### 3 153 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 (July 2011) and national guidance.

AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
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.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
H7	Conversion of residential properties into a number of units
HDAS-LAY	Residential Layouts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LPP 3.3	(2011) Increasing housing supply
LPP 3.4	(2011) Optimising housing potential
LPP 3.5	(2011) Quality and design of housing developments
OE1	Protection of the character and amenities of surrounding properties and the local area

### 4

The applicant is advised that permission will be needed for any replacement shopfront or external advertisements.

## 3. CONSIDERATIONS

### **3.1 Site and Locality**

The application relates to a three storey mid-terrace property located on the South West side of Victoria Road. The ground floor of the unit has a glazed frontage and is currently in use as a breakfast bar with inside seating. The unit forms part of a retail parade with glazed shop fronts at ground floor level and residential accommodation provided above. The site is flanked by a nail bar on one side and a Thai massage parlour on the other. The remainder of the parade comprises a mix of retail, restaurants and take-away premises.

### **3.2 Proposed Scheme**

The application seeks permission for the change of use of an existing A1 (Shops) unit to a mixed Use Class A1( retail) A5 (Hot Food Takeaway) including the installation of an extractor fan. No other external changes are proposed. Any proposal to alter the shopfront or new advertisements would be subject of applications in their own right.

### **3.3 Relevant Planning History**

#### **Comment on Relevant Planning History**

None.

## **4. Planning Policies and Standards**

Policy S6 of the Hillingdon Local Plan: Part Two - UDP Saved Policies (November 2012) states:

To safeguard the amenities of shopping areas, the Local Planning Authority will grant permission for changes of use of class A1 shops if:

- i) The proposal will not be detrimental to the visual amenity where the premises forms part of a locally listed building or are located within a conservation area.
- ii) A frontage of a design appropriate to the surrounding is maintained or provided.
- iii) The proposed use is compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties by reason of disturbance, noise, smell, fumes, parking or traffic related problems.
- iv) Has no harmful effect on road safety and does not worsen traffic congestion or disrupt bus operations.

Policy S11 of the Hillingdon Local Plan: Part Two - UDP Saved Policies (November 2012) states:

In primary shopping areas, the local planning authority will grant permission where it is satisfied that:

- a) The remaining retail activities are adequate to accord with the character and function of the shopping centre and to provide for the needs of modern retailing including customer interests.
- b) The proposed use will not result in a separation of class A1 uses or a concentration of non-retail uses which might harm the viability or vitality of the centre.

Paragraph 8.26 also adds the following in regards to what constitutes a concentration of non-retail uses, which might harm the viability or vitality of the town centre:

"The Local Planning Authority will consider the range and number of retail outlets in the centre and their suitability for modern retailing in assessing the adequacy of the remaining

retail facilities. Primary areas appear to be vulnerable if Class A1 shops form less than 70% of the total frontage length and the Local Planning Authority will therefore seek to maintain at least 70% of the primary area frontage in Class A1 use and generally to avoid concentrations of service uses in both primary and secondary areas. The Local Planning Authority intends to prevent avoidable interruptions to the frontage by dispersing service uses within shopping areas and limiting the length of continuous frontage in non-retail use. It will therefore take particular care in the siting of non-retail uses in relation to existing and unavoidable frontage interruptions. As a guideline, it will normally seek to prevent a separation or an increase in the separation of Class A1 units of more than about 12 m, that is broadly the width of two typical shop fronts. "

The emerging Local Plan: Part Two - Development Management Policies (October 2015) proposes to take a variation of this policy forward. Policy DMTC 2: Primary and Secondary Shopping Areas outlines the following:

"A) In primary shopping areas, the Council will support the ground floor use of premises for retail, financial and professional activities and restaurants, cafes, pubs and bars provided that:

i) a minimum of 70% of the frontage is retained in retail Use Class A1 use;

The 2016 Ruislip Manor Town Centre Shopping Survey showed that the level was already below this percentage (56%). The property is currently in use as a breakfast bar/ sandwich bar with customer seating. Functionally the proposal will have little impact on the way the property operates but will allow the owners to serve hot food.

The property is not a locally listed building or located within a conservation area.

The frontage design is not to be altered. Any external alterations, with the exception of the extraction system, would require separate consents and can therefore be controlled.

The proposed use is compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties by reason of disturbance, noise, smell, fumes, parking or traffic related problems. The extractor would be positioned a significant distance from residential properties and would be fitted with 2 silencers.

The proposal will have no harmful effect on road safety and does not worsen traffic congestion or disrupt bus operations.

In order to protect the primary use for Class A1 purposes, it would appear reasonable in this case to allow a mixed use, retaining Class A1 use but allowing for an element of Class A3/A5 use. A condition will be imposed that no delivery service will be permissible from the site. Therefore, the change of use would not be considered to have a detrimental impact on the vitality and viability of the town centre as a shopping destination.

#### **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:

AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
BE15	Alterations and extensions to existing buildings
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LPP 3.5	(2011) Quality and design of housing developments
OE1	Protection of the character and amenities of surrounding properties and the local area

## **5. Advertisement and Site Notice**

**5.1** Advertisement Expiry Date:- Not applicable

**5.2** Site Notice Expiry Date:- Not applicable

## **6. Consultations**

### **External Consultees**

Neighbours were notified on 20/09/2017 and a site notice was displayed on 28/09/2017.

By the end of the consultation period no objections or comments were received.

### **Internal Consultees**

Environmental Protection Unit - no comments.

## **7. MAIN PLANNING ISSUES**

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

The NPPF presumes in favour of sustainable development with a goal to creating a prosperous economy and ensuring the vitality of town centres. Paragraph 23 states, amongst other things, that Councils should define primary shopping areas which make clear which uses should be permitted and that sites should be allocated to accommodate the scale and type of retail, leisure, commercial office, tourism, cultural, community and residential development needed in town centres. The NPPF therefore, on the one hand, seeks to prioritise areas of retail, but on the other hand, promotes all uses within town centres. The policy principle is a balanced consideration. The saved Local Plan policies are restrictive but can only be considered applicable to the extent that they comply with the NPPF, which presumes in favour of sustainable development. Policies S6 and S11 do not state a presumption against development but, rather, set out criteria for assessment, and if

complied with, then planning permission will be granted. The proposal would not result in the cessation of Class A1 use and appropriate conditions can ensure that Class A1 use will not cease without further permission being needed. It is considered, in this instance, that the proposed change of use and provision of a mixed use would be acceptable in principle.

**7.02 Density of the proposed development**

Not applicable.

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

Not applicable.

**7.04 Airport safeguarding**

Not applicable.

**7.05 Impact on the green belt**

Not applicable.

**7.07 Impact on the character & appearance of the area**

The only external change is a means of extraction to be fitted on an existing rear extension. This has a low impact on the appearance of the area and is characteristic of the type of feature found in this service area to the rear of the shopping parade.

**7.08 Impact on neighbours**

The only external change is the erection of a flue on the rear extension of the property. This is of modest visual appearance and it is not considered that it would detract from the visual amenities that occupiers of flats above the parade might reasonably expect to enjoy. The Environmental Protection Officer did not comment. However, the flue will be subject to control under Environmental Health legislation in terms of noise and other emissions.

**7.09 Living conditions for future occupiers**

Not applicable.

**7.10 Traffic impact, car/cycle parking, pedestrian safety**

The application is for the change of use and extension of an existing development and is considered not to have any impact in terms of traffic or pedestrian safety in the area.

There are no existing parking spaces provided within the curtilage of the site and the proposal does not include any details of additional parking at the site. However, given its town centre location, it is not considered that there will be any adverse impacts.

**7.11 Urban design, access and security**

Reference is made elsewhere to the flue which is the only external change.

**7.12 Disabled access**

No changes are proposed.

**7.13 Provision of affordable & special needs housing**

Not applicable.

**7.14 Trees, Landscaping and Ecology**

No issues arise.

**7.15 Sustainable waste management**

No issues arise.

**7.16 Renewable energy / Sustainability**

No issues arise.

**7.17 Flooding or Drainage Issues**

No issues arise.

### **7.18 Noise or Air Quality Issues**

No issues arise.

### **7.19 Comments on Public Consultations**

No comments were received.

### **7.20 Planning Obligations**

Not applicable.

### **7.21 Expediency of enforcement action**

Not applicable.

### **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**

None.

#### **10. CONCLUSION**

The NPPF presumes in favour of sustainable development with a goal to creating a prosperous economy and ensuring the vitality of town centres. The NPPF therefore, on the one hand, seeks to prioritise areas of retail, but on the other hand, promotes all uses within town centres. The policy principle is a balanced consideration. The saved Local Plan policies are restrictive but can only be considered applicable to the extent that they comply with the NPPF, which presumes in favour of sustainable development. Policies S6 and S11 do not state a presumption against development but, rather, set out criteria by which planning permission will be judged/granted.

The proposed means of extraction is small and is located on a single storey rear extension in an area where this type of structure is typically found. It has a low impact in street scene terms.

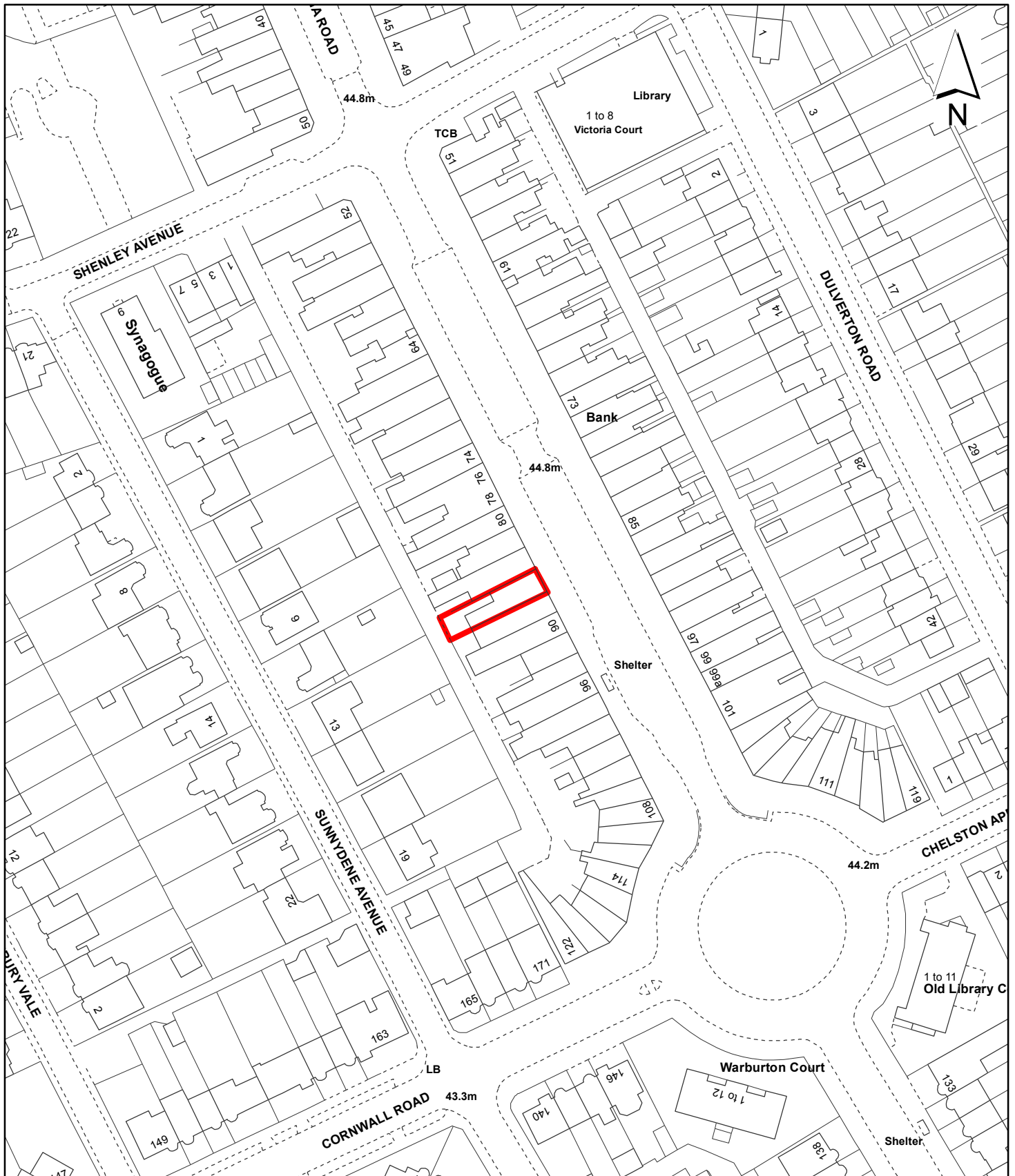
The proposal would not result in the cessation of Class A1 use and appropriate conditions can ensure that Class A1 use will not cease without further permission being needed. It is considered, in this instance, that the proposed change of use and provision of a mixed use would be acceptable in principle. As such, it is recommended that conditional planning permission be granted.

#### **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  
Ruislip Manor Town Centre Shopping Survey 2014

**Contact Officer:** Cris Lancaster

**Telephone No:** 01895 250230



**Notes**

 Site boundary

For identification purposes only.

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Site Address

**86 Victoria Road**

Planning Application Ref:

**28709/APP/2017/3180**

Planning Committee

**North Application**

Scale

**1:1,250**

Date

**January 2018**

**LONDON BOROUGH OF HILLINGDON**

**Residents Services**

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



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