

Report of the Head of Planning, Sport and Green Spaces

Address 1190 UXBRIDGE ROAD HAYES

Development: Use of forecourt and office of former petrol station as a hand car wash and valeting business

LBH Ref Nos: 3976/APP/2017/3729

Drawing Nos: Location Plan (1:1250)
Contamination Investigation
Analytical Report No. 17-12928
011/P/001c
011/E/S/002a

Date Plans Received: 11/10/2017 **Date(s) of Amendment(s):**

Date Application Valid: 11/10/2017

1. **SUMMARY**

The proposed use is considered acceptable for the site and the wider location, subject to conditions controlling hours of operation.

The applicant has provided a satisfactory level of detail to demonstrate that concerns raised in relation to potential land contamination matters that resulted in the refusal of previous applications have been responsibly addressed.

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 011/P/001c and 011/E/S/002a 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 COM5 **General compliance with supporting documentation**

The development hereby permitted shall be completed in accordance with the specified supporting documents:

Contamination Investigation and
Analytical Report No. 17-12928;

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

REASON

To ensure that the development complies with the objectives of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012).

3 COM22 Operating Hours

The premises shall not be used except between 08:00 and 18:00 on any given day.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with Policy OE 3 Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012)

4 COM31 Secured by Design

Within 3 months of the date of this permission, the operation shall achieve 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO).

REASON

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000, to reflect the guidance contained in the Council's SPG on Community Safety By Design and to ensure the development provides a safe and secure environment in accordance with London Plan (2016) Policies 7.1 and 7.3.

5 B14A Screen Fencing

Details of impermeate screening which shall be installed in positions to be agreed in writing with the Local Planning Authority, shall be provided within 2 months of the date of this approval and installed within 4 months of the date of this approval. The screening shall thereafter remain in place for the lifetime of the approved development.

REASON

In the interests of highway and pedestrian safety and to protect the amenities of neighbouring residents in accordance with Policies AM 7 and OE 1 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and Policies 6.10 and 6.12 of the London Plan (2016).

6 OM15 General Litter/Waste

Within 2 months of the date of this permission, a scheme detailing the method of disposal, storage and collection of litter and waste materials, generated by the business and/or discarded by patrons, shall be 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 OE 1 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012).

7 DRC2 Surface Water Drainage

Details of measures to prevent surface water generated by the car wash being discharge

onto the public highway shall be submitted to, and approved, within 2 months of the date of this decision. The approved measures shall thereafter be installed and maintained in working condition for the lifetime of the proposed use.

REASON

In the interests of highway and pedestrian safety in accordance with Policy AM 7 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and Policies 6.10 and 6.12 of the London Plan (2016).

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.

AM7	Consideration of traffic generated by proposed developments.
AM8	Priority consideration to pedestrians in the design and implementation of road construction and traffic management schemes
AM14	New development and car parking standards.
BE10	Proposals detrimental to the setting of a listed building
BE13	New development must harmonise with the existing street scene.
BE18	Design considerations - pedestrian security and safety
BE19	New development must improve or complement the character of the area.
LE4	Loss of existing industrial floorspace or land outside designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
OE2	Assessment of environmental impact of proposed development
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
OE8	Development likely to result in increased flood risk due to additional surface water run-off - requirement for attenuation measures
OE11	Development involving hazardous substances and contaminated land - requirement for ameliorative measures
LPP 5.12	(2016) Flood risk management
LPP 5.13	(2016) Sustainable drainage
LPP 5.14	(2016) Water quality and wastewater infrastructure
LPP 5.21	(2016) Contaminated land
LPP 6.10	(2016) Walking

LPP 6.12	(2016) Road Network Capacity
LPP 6.11	(2016) Smoothing Traffic Flow and Tackling Congestion
LPP 6.13	(2016) Parking
LPP 7.15	(2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
LPP 7.3	(2016) Designing out crime
LPP 7.4	(2016) Local character
NPPF	National Planning Policy Framework

3

All businesses are required by law to have a trade waste agreement for removal of their waste by a recognised trade waste carrier, in accordance with Section 34 of the Environmental Protection Act 1990 which also requires adequate provision for waste storage and arrangements for waste collections between 8am - 6pm Monday to Friday, where parking restrictions allow.

A trade effluent agreement may be required for discharging polluted water to the public sewer. Enquiries should be made to The Thames Water Authority on tel. 0911 506 5942

3. CONSIDERATIONS

3.1 Site and Locality

The application site consists of a former petrol filling station located on the northern side of Uxbridge Road, which is a dual carriageway and a London Distributor Road. The site is currently being used by a hand car wash business. The original canopy roof has been retained and the main car washing area is positioned beneath it. The canopy is attached to a two-storey flat roof building which houses offices although the building does not appear fully occupied at present. A metal shed of similar height is attached to this building and is currently in use as an MOT and car servicing centre.

There are two vehicular access points, one directly from Uxbridge Road to the south and the second from Hayes End Road to the east.

The wider surrounding area consists of mixed use development, including retail units, with offices or residential use on upper floors, residential dwellings and flats and light industrial and distribution buildings.

3.2 Proposed Scheme

The proposal involves the regularisation and retention of the car wash use which currently occupies the site. No additional works are proposed.

3.3 Relevant Planning History

3976/ADV/2012/96 1190 Uxbridge Road Hayes

Installation of 6 x non-illuminated fascia signs, 2 x non- illuminated hoarding signs and vinyl sign:

Decision: 30-01-2013 Refused

Appeal: 17-09-2013 Allowed

3976/APP/2012/2664 1190 Uxbridge Road Hayes

Change of use of petrol filling station and offices (Use Class A2 - Financial and Professional Services) to use as a hand carwash/valeting business and credit hire specialists (Retrospective).

Decision: 30-01-2013 Refused

Appeal: 15-05-2014 Dismissed

3976/APP/2015/199 1190 Uxbridge Road Hayes

Change of use of petrol filling station and offices (Use Class A2 - Financial and Professional Services) to use as a hand carwash/valeting business (Retrospective).

Decision: 21-04-2017 Refused

Comment on Relevant Planning History

Previous applications for the retention of the car wash use have been refused for the sole reason that it had not been fully demonstrated that the site had been sufficiently decontaminated following its use as a petrol station and the resultant concern that contaminants would be washed from the site into surrounding drains or soak into neighbouring land. The Inspector stated in 2014:

"9. There would be a cost to carry out investigations to assess contamination and possible remediation. It is appreciated that the businesses could be shut down and staff made redundant in current hard economic times but these considerations would not outweigh the potential significant harm if pollution was occurring. I attach great significance to this harm because pollution could have occurred over an extended period of time given that car wash/valeting uses commenced around May 2012 according to the application. The end of the appellant's tenancy agreement with his landlord might provide an opportunity for action on the possible site contamination but the issues raised here would require more immediate resolution given the significant safety risk to existing development in the area and the use of this site by the public. Finally, it would be unreasonable to impose a condition to resolve this matter in accordance with the relevant tests of paragraph 206 of the National Planning Policy Framework because of the uncertainties about the extent of contamination and remediation required.

10. In conclusion, the development has the potential to be materially harmful through ground contamination and consequently the proposal would conflict with LP Policies OE1 and OE11. For the reasons given above, and having consideration to other matters raised, I conclude that this appeal should be dismissed."

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.EM8 (2012) Land, Water, Air and Noise

Part 2 Policies:

AM7	Consideration of traffic generated by proposed developments.
AM8	Priority consideration to pedestrians in the design and implementation of road construction and traffic management schemes
AM14	New development and car parking standards.
BE10	Proposals detrimental to the setting of a listed building
BE13	New development must harmonise with the existing street scene.
BE18	Design considerations - pedestrian security and safety
BE19	New development must improve or complement the character of the area.
LE4	Loss of existing industrial floorspace or land outside designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
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OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
OE8	Development likely to result in increased flood risk due to additional surface water run-off - requirement for attenuation measures
OE11	Development involving hazardous substances and contaminated land - requirement for ameliorative measures
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LPP 7.15	(2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
LPP 7.3	(2016) Designing out crime
LPP 7.4	(2016) Local character
NPPF	National Planning Policy Framework

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

A site notice was displayed adjacent to the site. In addition, owners and occupiers of neighbouring properties were sent letters informing them of the application and inviting comments.

Four letters of objection received. In summary:-

The car wash is noisy and stays open long hours. Pollution and litter has spread onto the street and neighbouring properties. Vehicles drive on, and park on the footpath, causing a danger to pedestrians. Spray goes on to the footpath and is particularly dangerous in the winter when it forms ice and causes a hazard. The site is also used for car sales and crashed cars are stored to the rear of the site.

Internal Consultees

ENVIRONMENTAL PROTECTION UNIT:

The contaminated land information that shows a low risk of contamination if the land itself was being developed. As the ground is not being disturbed for development there will be no need to set specific conditions in relation to land contamination for this application.

However a site like this should be restricted to set hours of operation.

HIGHWAYS:

There have been previous refusals on this type of application in the past but not on highway grounds. It is unlikely that the traffic generated by the proposals will be greater than the existing legal use.

I do have concerns about overspray that car washes which are close to footpaths generate to pedestrians so please condition some barrier to overspray.

I am also concerned that there is a mechanism in place to deter water being taken onto the highway so some form of drainage system needs to be in place.

There is also the problem of long hours of operation under the existing operation which needs to be conditioned given nearby residential uses.

On the basis of the above comments and with relevant conditions in place I do not have significant highway concerns over this proposal.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The site is located within an established built-up area, where there is a presumption in favour of sustainable development, subject to compliance with relevant planning policies.

The site has already been developed and is therefore brownfield land.

Both the former and current use are regarded as sui generis. As such, they do not benefit from any permitted changes of use in order to allow full planning scrutiny, given the unique nature of the uses and the impacts they produce. The use of the site as a car wash does not, therefore, result in the loss of any A1 use.

The previous use provided employment and, as such, it is considered that Policy LE4 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), which relates to loss of employment uses outside of designated Industrial and Business Areas (IBA's) should be resisted. In this instance, the current use provides a comparable level of employment and, as such, the change of use is considered to comply with this Policy.

7.02 Density of the proposed development

Not applicable as the application is not for residential development.

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

The site is not within a Conservation Area. The nearest Listed Building is The Angel Public House which is on the opposite side of the road and is Grade II Listed. Also close by, to the north on Hayes End Road, are the garden walls and buildings at Laburnum Villa and Springwell House, which are Locally Listed and Grade II Listed respectively.

Given that the car wash use has not introduced any new buildings onto the site, it is considered that the setting of any of these Listed Buildings has not been compromised.

The development therefore complies with Local Plan Policy BE10.

7.04 Airport safeguarding

Not applicable given the location and nature of the development.

7.05 Impact on the green belt

No impact due to the location and nature of the development.

7.07 Impact on the character & appearance of the area

The car wash represents a commercial use taking place on an established commercial premises. The change of use has not involved the addition of any buildings or significant structures and the main visual impact of the use is the presence of cars on the forecourt, which is not considered to be dissimilar to what would be expected had the site remained in use as a petrol station. It is also noted that car washing facilities, including open air jet washes, are a common ancillary feature found at operating petrol stations.

It is noted that there have been unauthorised advertisements present on the site in the past. However, advertising is not the subject of this application and, any advertising on site that requires approval, would have to be granted advertisement consent under a separate application or face enforcement action being taken.

The level of noise generated is also consistent with that which may be expected during the operation of a petrol station, consisting principally of movements of vehicles and the operation of hoses and vacuums which generate a similar level of noise as the operation of petrol pumps would have in the past.

The use is compatible with the surrounding mixed use area. It contributes towards the existing mix and does not appear disruptive or out of keeping with the nature of surrounding development.

It is therefore considered that the development accords with Policies BE13 and BE19 of the Local Plan and Policy 7.4 of the London Plan (2016).

7.08 Impact on neighbours

The use involves the open air operation of vehicles and machinery as well as the presence of staff on site. It is not considered that the level of noise emanating from the site would be substantially different to that expected should the site have continued operating as a petrol station. However, given the open air nature of the use and the proximity to residential dwellings, it is considered that the hours of operation of the business should be controlled in order to prevent unacceptable levels of disruption outside of core business hours.

Given the open nature of the site, screening should be provided in accordance with details to be submitted to and approved by the Council, in order to prevent spray, dirt and dust from

straying into nearby residential properties.

It is therefore considered that, subject to control by relevant planning conditions, the development satisfies Policies OE1 and OE3 and London Plan Policies 7.4 and 7.15.

7.09 Living conditions for future occupiers

Not applicable as the use of the site is not residential.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The Council's Highway Engineers have assessed the application and do not consider that the use as a car wash generates levels of traffic that are significantly different to that associated with the former use of the site as a petrol station. Existing access/egress points remain in use.

Concern was raised that water spray may stray over the highway, causing a hazard to pedestrians and motorists. Similarly, concern was raised regarding the discharge of surface water onto the highway. This could be controlled through the use of sympathetic screening and drainage measures which can be secured by way of planning conditions.

Subject to compliance with conditions, the development would accord with Policies AM7 and AM14 of the Local Plan and Policies 6.10 and 6.12 of the London Plan.

7.11 Urban design, access and security

A condition will be attached to any approval to ensure that secured by design standards are incorporated and maintained.

7.12 Disabled access

Not applicable to this application.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, landscaping and Ecology

The site does not possess any existing landscaping nor is it deemed suitable for landscape planting.

7.15 Sustainable waste management

A condition requiring details of waste management for the operation to be submitted to, and approved, by the Council shall be attached to any approval. Given that the use is already in operation, these details will be required within 2 months of the decision date.

Subject to compliance with this condition, the development would satisfy Policy OE1 of the Local Plan.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

Given the nature of the proposed use, details of measures taken to prevent surface water discharging onto the highway will be required to be submitted to, and approved, by the Council within 2 months of the date of any approval given.

Subject to compliance with this condition, the development would be compliant with Policy OE 8 of the Local Plan.

7.18 Noise or Air Quality Issues

The site is located within a mixed use area where commercial activities take place throughout the course of the day. The proximity to residential dwellings and flats is noted

and, as such, a condition would be attached to any approval to restrict hours of use so as to prevent disturbance towards neighbouring residents in the form of noise and light outside of general working hours.

Subject to compliance with this condition, the development would meet the requirements of Local Plan Policy OE1 and London Plan Policy 7.15.

7.19 Comments on Public Consultations

The application relates to use of the premises as a car wash only and does not purport to approve any other uses that may be taking place on site.

Comments regarding noise and hours of operation are noted and a condition will be attached to any approval to control hours of use.

Conditions will be attached to any approval given to secure screening to prevent water discharge onto the neighbouring highway and to ensure that a responsible waste management scheme is provided and maintained on site.

The Council's Highway Engineers are satisfied with the access arrangements for the use. Driver behaviour on entering and leaving the site cannot be controlled by planning conditions but would be subject to highway enforcement.

7.20 Planning obligations

The scale and nature of the proposal does not warrant the provision of any measures or contributions that would need to be secured by legal agreement.

7.21 Expediency of enforcement action

The car wash use is already in operation and has been subject to investigation by Planning Enforcement, resulting in the submission of this planning application.

An enforcement notice has been served and would be acted on in the event of this application being refused.

7.22 Other Issues

CONTAMINATED LAND:

Previous applications have been refused as it had not been demonstrated that measures to remove contaminants from the land had been taken or that the possibility of contaminants being washed from the site onto surrounding land and into water courses had been assessed.

The current application includes a comprehensive Contamination Investigation Report which has been assessed by the Council's Environmental Protection Unit and found to be acceptable. The report confirms that there are no contaminants remaining from the previous petrol station use and that all buried petrol tanks have been fully decommissioned by qualified engineers.

As such, it is considered that the objections previously raised have now been addressed and that the development therefore complies with Local Plan Policies OE1 and OE11 and Policy 5.21 of the London Plan.

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

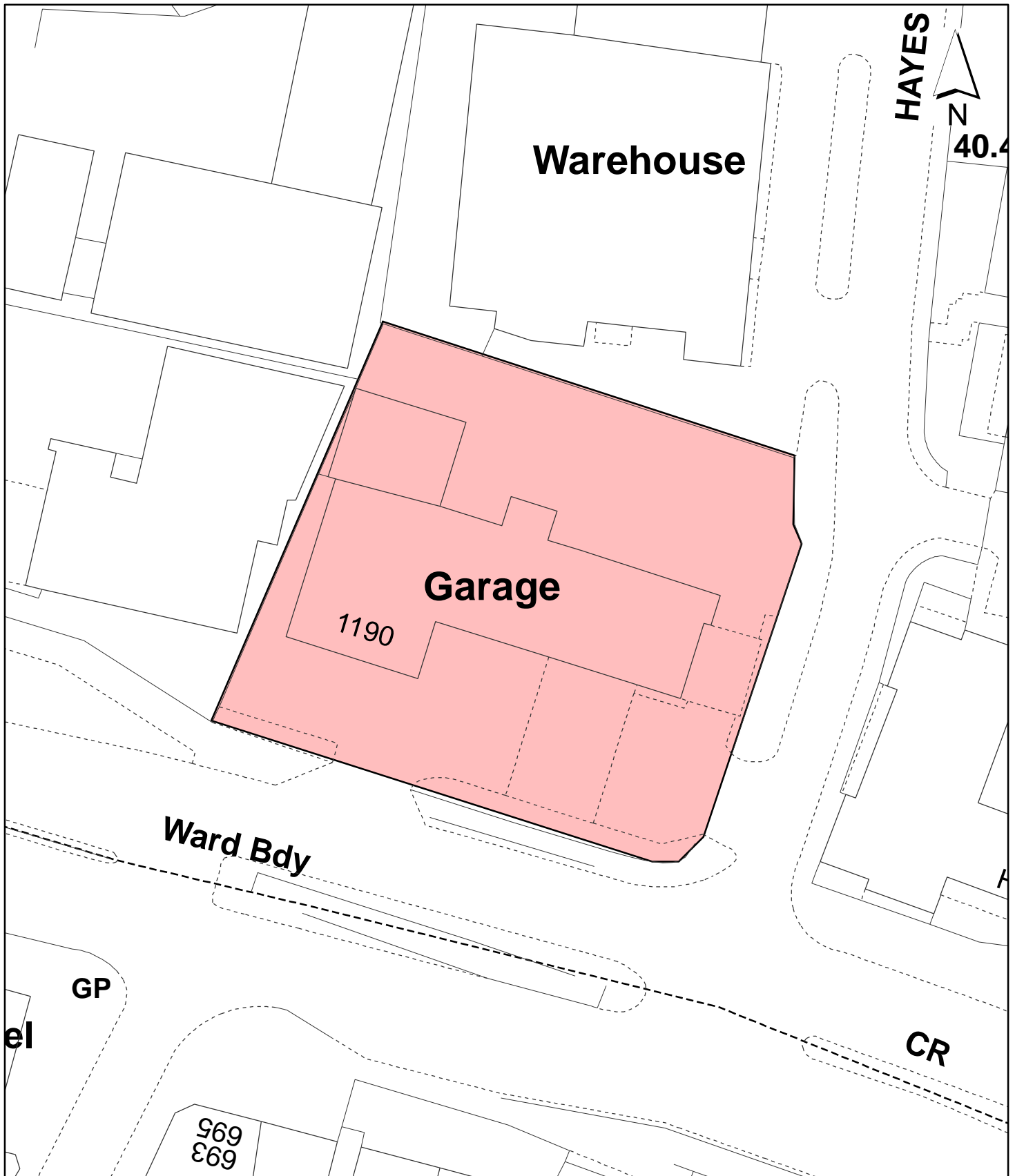
The applicant has overcome previous objections to the scheme by demonstrating that the use would not result in the risk of discharge of contaminants onto neighbouring land and into watercourses.


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 Noise SPD
National Planning Policy Framework (NPPF)

Contact Officer: James McLean Smith

Telephone No: 01895 250230



<p>Notes</p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2013 Ordnance Survey 100019283</p>	<p>Site Address</p> <p>1190 Uxbridge Road</p>		<p>LONDON BOROUGH OF HILLINGDON</p> <p>Residents Services</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p>3976/APP/2017/3729</p>	<p>Scale</p> <p>1:500</p>	
	<p>Planning Committee</p> <p>Central and South</p>	<p>Date</p> <p>February 2018</p>	