

Report of the Head of Planning, Sport and Green Spaces

Address 36 GREEN LANE NORTHWOOD

Development: Change of use from retail (Use Class A1) to a mixed use comprising retail, restaurant/cafe and hot food takeaway (Use Classes A1/A3) (Retrospective)

LBH Ref Nos: 324/APP/2017/3602

Drawing Nos: Planning Statement
001
Location Plan

Date Plans Received: 05/10/2017 **Date(s) of Amendment(s):** 05/10/0017

Date Application Valid: 16/11/2017

2. RECOMMENDATION

APPROVAL subject to the following:

1 HO2 Accordance with approved

The development hereby permitted shall be retained in complete accordance with the details shown on the submitted plans, number 01

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).

2 NONSC Non Standard Condition

The premises shall be used solely as as mixed A1/A3 use and at no time shall become Class A3 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)

3 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)

4 COM20 Air extraction system noise and odour

No air extraction system shall be used on the premises until external details and 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)

5 COM17 Control of site noise rating level

The rating level of the noise emitted from the site from any means of mechanical extraction 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 I59 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 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).

3 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 (July 2011) and national guidance.

4

Access for people with disabilities - The Equality Act 2010 seeks to protect people accessing goods, facilities and services from discrimination on the basis of a 'protected characteristic', which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustment can be incorporated with relative ease. The Act states that service providers should think ahead to take steps to address barriers that impede disabled people.

5

The applicant is advised that permission will be needed for any replacement shopfront, external means of extraction (for which conditions are imposed) or external advertisements. In this regard it is noted that advertisements appear to have been displayed without express consent. This has been undertaken at the applicants risk and the Council cannot rule out Enforcement Action being undertaken if the matter is not rectified.

6 I28 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).

3. **CONSIDERATIONS**

3.1 **Site and Locality**

The application site is located towards the Southern side of Green Lane. It comprises a shop on the ground floor of a two storey, brick built building. The shop is accessed via Green Lane which is a major distributor road providing good access for deliveries and emergency vehicle access.

The site lies within the Northwood Green Lane Town Centre, is within the Primary Shopping Area and also within the Northwood Town Centre Conservation Area as identified in the policies of the of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012). The surrounding shopping frontage has a mix of A-class uses.

3.2 **Proposed Scheme**

Retrospective planning permission is sought for the change of use of the unit from Class A1 (Retail) to a mixed use Class A1 (Retail) and A3 (Restaurants).

3.3 **Relevant Planning History**

324/A/86/0439 36 Green Lane Northwood
Alterations to elevation (P)

Decision: 06-05-1986 Approved

324/APP/2006/829 36 Green Lane Northwood
CHANGE OF USE FROM CLASS A1 (SHOPS) TO CLASS A3 (RESTAURANTS, SNACK BAR, CAFES).

Decision: 06-06-2006 Refused

Comment on Planning History

Planning permission was refused in 2006 for change of use from Class A1 to Class A3. The reason for refusal was;-

'The proposed loss of this retail unit would further erode the retail character and function of this primary shopping area and result in an over concentration of non-shop uses harming the vitality and viability of the Green Lane Primary Shopping Area. The proposal is therefore contrary to Policy S11 of the Borough's adopted Unitary Development Plan'

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

Part 2 Policies:

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **20th December 2017**

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

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.

In allowing appeal ref: APP/R5510/W/15/3002584 at 316-318 High Street Harlington on 13 May 2015 for a retrospective change of Use form A1 to A3 the inspector found that:

'I also saw on my visit that the combined restaurant area in the front of Nos. 316 and 318 was attractively laid out and had large display windows that afford pleasing views into the restaurant. The grounds of appeal say that the business is thriving, makes a positive contribution to the vitality and viability of the area and has not generated any objections or complaints from local residents. From all that I have seen and read I have no reason to dispute these comments.

Overall, I conclude that the proposed change of use would be more likely to enhance than harm the vitality and viability of the Northwood Green Lane Town Centre. Moreover, any technical conflict with Local Plan Policy S9 is clearly outweighed by the material considerations of Government policy and the particular circumstances of this case, both as outlined in the above reasons.'

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

The site lies within the Northwood Town Centre Conservation Area as identified in the policies of the of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012). The Conservation and Urban Design Officer has no objections.

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

Policy BE13 ensures that development harmonises with the existing street scene or other features of the area which are considered desirable to retain or enhance. Policy BE19 ensures that development complements or improves the amenity or character of the area. The Conservation Officer has raised issues concerning the advertisements (which fall under separate but complimentary control). The fascia sign and projecting box signs appear to have been changed in 2016 and do not form part of this application.

7.08 Impact on neighbours

There are no proposed changes to the exterior of the building, either to the front or the rear. No ventilation ductwork is currently required to properly deal with extraction of kitchen smells and gases, because the premises only serves light meals such as pre-cooked meals, salads, sandwiches and cakes. The Environmental Protection Officer did not comment. It is recommended that conditions should be included to respond to the position where a mechanical means of extraction to be proposed.

7.09 Living conditions for future occupiers

Not applicable.

7.10 Traffic impact, car/cycle parking, pedestrian safety

Policies AM2 and AM7 state that all proposals for development will be assessed against their contribution to traffic generation and their impact on congestion and the present and potential availability of public transport and its capacity to meet increased demand.

Given the site's location within a town centre, with good access to public transport, it is considered that the change of use would not adversely impact on current parking provision within the area.

7.11 Urban design, access and security

The application concerns a change of use only and does not raise any urban design issues in its own right. Advertisements are subject to separate but complementary control.

7.12 Disabled access

The Access Officer has not raised any concerns.

7.13 Provision of affordable & special needs housing

Not applicable.

7.14 Trees, Landscaping and Ecology

Not applicable.

7.15 Sustainable waste management

Not applicable.

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

Subject to a suitable informative to deal with any means of mechanical ventilation were this to be added in due course, no adverse issues arise.

7.19 Comments on Public Consultations

One comment supporting the application was received.

7.20 Planning Obligations

Not applicable.

7.21 Expediency of enforcement action

If the recommendation is not accepted, it is considered that the matter should be passed to the Council's Enforcement Officer for consideration of formal Enforcement Action. The application is retrospective and advertisements have been displayed without the necessary consent.

7.22 Other Issues

No other issues arise.

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.

No exterior changes are proposed. There have been unauthorised advertisements erected and the applicant has been alerted to this and invited to submit an application. If this is not forthcoming, it is recommended that the matter be referred to Enforcement for consideration of formal action.

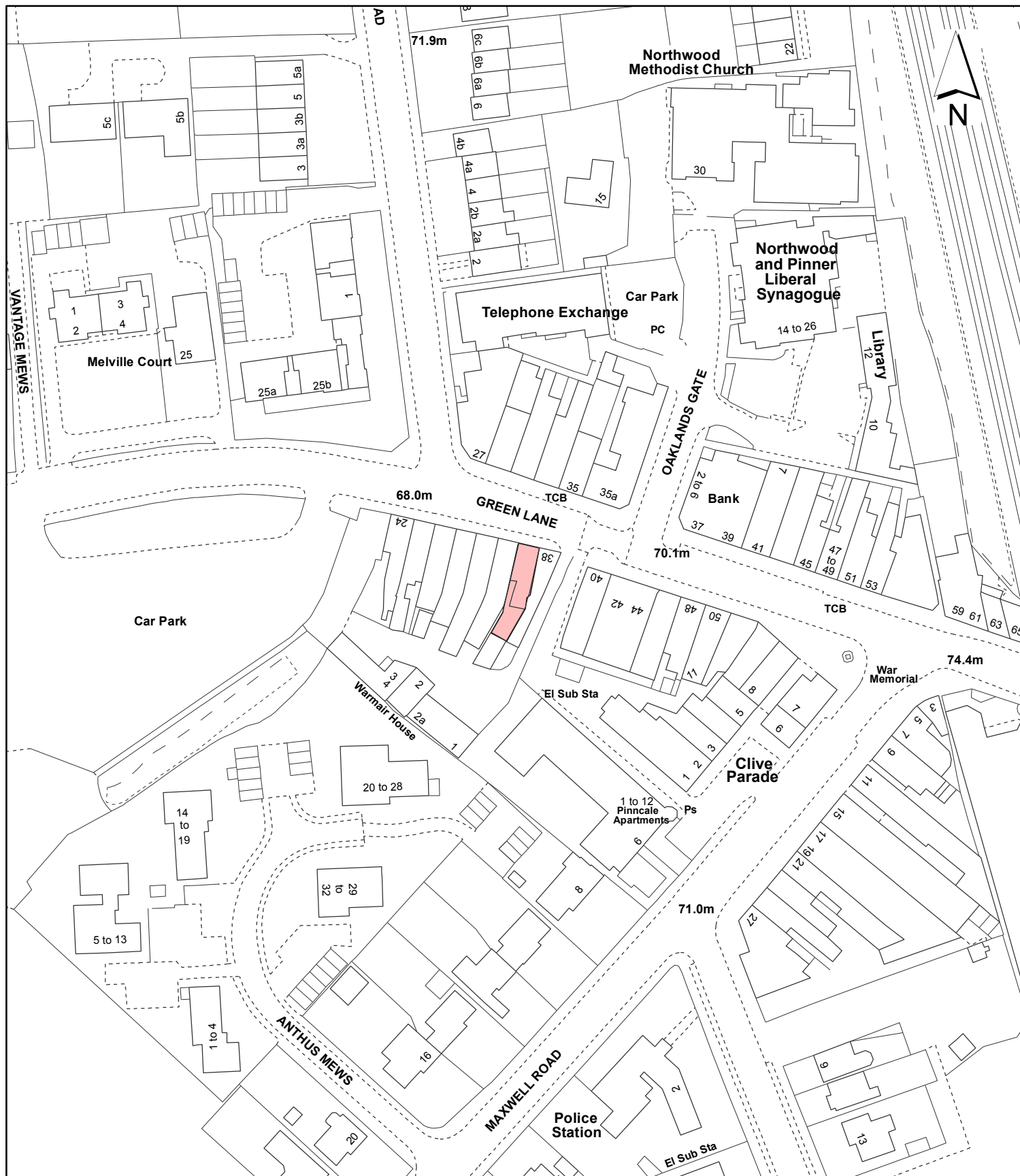
The proposal would not result in the cessation of Class A1 use and appropriate conditions can ensure that Class A1 use will not cease without further permission being needed. It is considered, in this instance, that the proposed change of use and provision of a mixed use would be acceptable in principle.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

11. Reference Documents

Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).
The London Plan 2016
Supplementary Planning Document 'Accessible Hillingdon'.
National Planning Policy Framework.

Contact Officer: Cris Lancaster

Telephone No: 01895 250230



Notes:

 Site boundary

For identification purposes only.

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Site Address:

**36 Green Lane
Northwood**

Planning Application Ref:

324/APP/2017/3602

Planning Committee:

North

Scale:

1:1,250

Date:

April 2018

**LONDON BOROUGH
OF HILLINGDON**

**Residents Services
Planning Section**

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



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