

Report of the Head of Planning, Transportation and Regeneration

Address HALLS BUSINESS CENTRE, UNIT 1C PUMP LANE HAYES

Development: Change of use from warehouse (Use Class B8) to a mixed use comprising restaurant and shisha lounge (Use Class A3/Sui Generis)

LBH Ref Nos: 73938/APP/2018/2388

Drawing Nos: 01PL-302-01 Rev. A
01PL-301-01 Rev. A
01PL-300-01 Rev. A

Date Plans Received: 27/06/2018

Date(s) of Amendment(s): 12/07/2018

Date Application Valid: 18/07/2018

1. SUMMARY

The site lies within the Pump Lane, Hayes Industrial and Business Area (IBA) identified within the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) as a location for new industrial and warehousing development. This is an existing building, which is seeking to change the use from warehouse (Use Class B8) to a mixed use comprising restaurant and shisha lounge (Use Class A3/Sui Generis).

It is considered that the proposal fails to provide off street parking provision for the proposed restaurant/shisha lounge and therefore the development is considered to be deficient in car parking provision with regard to the Council's approved car parking standards, leading to on-street parking to the detriment of public and highway safety. The proposal also results in a loss of industrial/warehousing space within an IBA and hence the change of use is not acceptable in principle.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The application site falls within the Pump Lane, Hayes Industrial and Business Area and such areas are designated for business, industrial and warehousing purposes (Use Classes B1 Business, B2 Industry & B8 Warehousing) and for appropriate sui generis uses. The application has failed to demonstrate that the proposed alternative uses do not conflict with the policies and objectives of the development plan and therefore fails to justify the proposed alternative uses of the site contrary to Policy 4.4 of the London Plan (2016) and Policy LE2 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012).

2 NON2 Non Standard reason for refusal

The proposal has not demonstrated that sufficient off street parking/manoeuvring arrangements would be provided, and therefore the development is considered to result in substandard car parking provision, leading to on-street parking/queuing to the detriment of public and highway safety and contrary to Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012) and to Hillingdon's Adopted Parking Standards as set out in the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012).

INFORMATIVES

1 I52 **Compulsory Informative (1)**

The decision to REFUSE 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 REFUSE 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.

LE2	Development in designated Industrial and Business Areas
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.
BE15	Alterations and extensions to existing buildings
BE25	Modernisation and improvement of industrial and business areas
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
OE5	Siting of noise-sensitive developments
LPP 4.4	(2016) Managing Industrial Land and Premises
NPPF- 6	NPPF-6 2018 - Building a strong, competitive economy

3 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 (2016). 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.

4 I71 **LBH worked applicant in a positive & proactive (Refusing)**

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the 'Saved' UDP 2007, Local Plan Part 1, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service.

We have however been unable to seek solutions to problems arising from the application as the principal of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

3. **CONSIDERATIONS**

3.1 Site and Locality

The proposed site comprises a two storey flat roof building that is an industrial unit. The site is located to the South of Pump Lane, with the main entrance to the building from a small road located just off Pump Lane. The site is towards the very end of the Halls Business Centre, which is also the only exit from the industrial unit for vehicles. A majority of the site is covered by car parking spaces, and is very narrow in nature.

The existing building is surrounded by hard landscaping, and is characterised by commercial units. The predominant character of the area and the immediate neighbouring properties provide automobile repair servicing facilities, window glazing or wholesale businesses. The immediate opposite warehouse to the application site is a wholesaler named Natco Foods, which provides cash and carry goods for businesses in the local area.

The site lies within The Pump Lane, Hayes Industrial and Business Area (IBA) identified by the LPA as a location for new industrial and warehousing development.

3.2 Proposed Scheme

The application seeks planning consent for the change of use from warehouse (Use Class B8) to a mixed use comprising restaurant and shisha lounge (Use Class A3/Sui Generis).

3.3 Relevant Planning History

Comment on Relevant Planning History

No history associated with the site.

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.E1 (2012) Managing the Supply of Employment Land

PT1.BE1 (2012) Built Environment

Part 2 Policies:

LE2 Development in designated Industrial and Business Areas

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.

BE15 Alterations and extensions to existing buildings

BE25 Modernisation and improvement of industrial and business areas

OE3 Buildings or uses likely to cause noise annoyance - mitigation measures

OE5 Siting of noise-sensitive developments

LPP 4.4 (2016) Managing Industrial Land and Premises

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

8 neighbouring properties were consulted via letter dated 20.07.18 and a further site notice was displayed which expired on 21.08.18.

By the end of the 21 day consultation period neighbouring units have objected to the proposed scheme. In total 2 objections have been recorded, with concerns regarding the following issues:

1. Incorrect location plan.
2. Enclosed environments are illegal for smoking/smoking shisha.
3. Toilets that would open directly into the food preparation area would be inappropriate and unhygienic.
4. Blocking of private road access to other units.
5. Customers to the proposed shisha lounge and restaurant parking on the access road, causing obstruction to the other businesses on the road.
6. Obstructive manoeuvring due to the limited space.
7. Anti-social behaviour as a result of business nature.
8. Inappropriate type of use in an area predominantly industrial.
9. The one way entrance and exit to the industrial estate is already congested, such a unit would worsen the issues of congestion.
10. Parking spaces.
11. Neighbourhood safety.

Planning officer comments: The agent has been contacted to amend the location plan submitted with the application. Amended plans have been received correctly identifying the location. With respect to the other planning issues raised, these are covered in the relevant sections below.

Internal Consultees

HIGHWAYS:

The application site is located off Pump Lane and is situated within the Halls Business Centre. I note that this section of road is not maintained by the London Borough of Hillingdon as Highway Authority

Proposals seek a change of use of an existing storage building (Use Class B8) to a mixed use Restaurant and Shisha Lounge (Use Class A3/Sui Generis). No details of existing or proposed levels of parking have been submitted with this application. On this basis, it is assumed that the proposals will not provide any parking provision to accommodate the number of customers that will frequent the site.

Given the lack of parking associated with the proposals, and that waiting restrictions along Pump Lane are in force between 8am-6pm (Mon-Sat), it is expected that customer parking linked to the site will be displaced onto Pump lane itself. The proposals are therefore deemed detrimental to the safety and convenience of the highway network.

ENVIRONMENTAL PROTECTION UNIT:

I have taken a look through the submitted documentation and do not have any objections to the development. In saying that the applicant has not submitted information on the environmental output of the proposed kitchen extract system that will be required and how the premises will be run.

With that in mind I suggest the following should you be mindful to grant the application:

Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of the external noise level emitted from plant/ machinery/ equipment and mitigation measures as appropriate. The measures shall ensure that the external noise level emitted from plant, machinery/ equipment will be lower than the lowest existing background noise level by at least 5dBA, by 10dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. A post installation noise assessment shall be carried out where required to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To safeguard the amenity of the surrounding area in accordance with policy OE1 of the Hillingdon Unitary Development Plan.

Prior to commencement of the development, a Servicing Management Plan shall be submitted to and approved in writing by the Council. Details shall include times and frequency of deliveries and collections, vehicle movements, silent reversing methods, location of loading bays, quiet loading/unloading measures, etc.

Reason: To ensure that the amenity of occupiers of the development site/surrounding premises is not adversely affected by noise in accordance with policy OE1 of the Hillingdon Unitary Development Plan.

Prior to commencement of the use, details shall be submitted to and approved in writing by the Council, of the installation, operation, and maintenance of the odour abatement equipment and extract system, including the height of the extract duct and vertical discharge outlet, in accordance with the 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' January 2005 by DEFRA. Approved details shall be implemented prior to the commencement of the use and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by cooking odour, in accordance with policy OE1 of the Hillingdon Unitary Development Plan.

ACCESS OFFICER:

I have considered the detail of this change of use application which appears to involve no structural alterations to the existing building. No further comments are therefore provided. However, the following informative should be attached to any grant of planning permission: 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.

Conclusion: acceptable.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application site falls within the Pump Lane, Hayes Industrial and Business Area (IBA) identified within the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012). It also forms part of the strategic Hayes Industrial Area which is designated as a Preferred Industrial Location in the London Plan. Policy LE2 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states:

LE2 INDUSTRIAL AND BUSINESS AREAS (IBAs) ARE DESIGNATED FOR BUSINESS, INDUSTRIAL AND WAREHOUSING PURPOSES (USE CLASSES B1-B8) AND FOR SUI GENERIS USES APPROPRIATE IN AN INDUSTRIAL AREA. THE LOCAL PLANNING AUTHORITY WILL NOT PERMIT DEVELOPMENT FOR OTHER USES IN INDUSTRIAL AND BUSINESS AREAS UNLESS IT IS SATISFIED THAT:-

- (i) THERE IS NO REALISTIC PROSPECT OF THE LAND BEING USED FOR INDUSTRIAL OR WAREHOUSING PURPOSES IN THE FUTURE; AND
- (ii) THE PROPOSED ALTERNATIVE USE DOES NOT CONFLICT WITH THE POLICIES AND OBJECTIVES OF THE PLAN.
- (iii) THE PROPOSAL BETTER MEETS THE PLAN'S OBJECTIVES PARTICULARLY IN RELATION TO AFFORDABLE HOUSING AND ECONOMIC REGENERATION.

Thus, it is clear that Industrial and Business Areas (IBAs) are designated for business, industrial and warehousing purposes (use classes B1-B8) and it is for the applicant to demonstrate that there is no realistic prospect of the land being used for industrial or warehousing purposes in the future, that the proposed alternative use does not conflict with the policies and objectives of the plan and that the proposal better meets the plan's objectives particularly in relation to affordable housing and economic regeneration.

The applicant has not presented any evidence to show that there is no realistic prospect of the land being used for industrial or warehousing purposes currently or in the future.

This scheme is not considered of such significance that it would facilitate the economic regeneration of the site or wider area, result in significant increases in employment or meet the council's affordable housing objectives.

The proposal would not fall within a use class generally deemed as being acceptable within an IBA. There are no compelling reasons why the proposed use/s should be considered acceptable on this site. Accordingly, it is considered that the proposal fails to comply with UDP Policy LE2.

7.02 Density of the proposed development

Not applicable to this application.

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

Not applicable to this application.

7.04 Airport safeguarding

Not applicable to this application.

7.05 Impact on the green belt

Not applicable to this application.

7.07 Impact on the character & appearance of the area

Policy BE13 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that development will not be permitted if the layout and appearance fail to harmonise with the existing street scene or other features in the area which the Local Planning Authority considers it desirable to retain or enhance.

The proposal involves the infilling of the front elevation and rear elevation of the application site. A shutter system is currently used by all warehouses within the business centre and is a feature suitable for such uses. The proposed development would involve the entire front elevation at single storey level to be covered by shutters, where, currently, there are two door and two large shutters. To the rear elevation of the property, some brickwork will be replaced with two shutter doors measuring 3 m in width and 4 m in height. Although not shown as entrances to the shisha lounge, these are potential entrance/exit facilities and will open up onto the rear of warehouses on Pump Lane. It is considered that the physical alterations to the building will respect the architectural integrity of the host building and would not have a negative impact upon the visual amenity of the site or the surrounding area in compliance with Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and policies BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.08 Impact on neighbours

Policy OE1 states permission will not be granted for uses which are likely to become detrimental to the character or amenities of surrounding properties and Policy OE3 states buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact can be mitigated. In terms of assessing the effects of the proposal on residential amenity, the relevant factors are those of noise, odour and general disturbance.

The application site is situated on a busy industrial road used by heavy goods vehicles and close to a railway line. The entrance and car parking facilities to Halls Business Centre are narrow and very busy. It is noted from the application form that the operational hours for both the shisha lounge and restaurant will be from 14:00 till 1:45 every day of the week, including bank holidays/public holidays. Concerns are raised in terms of the noise and disturbance resulting from this use of the site until 1.45 am. No noise report or details of any mitigation measures have been provided with the application to demonstrate that any potential noise and odour generated from the site could be overcome. However, given that there are no residential properties within close vicinity of the site, a refusal on this basis is not considered to be justified.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Policy AM7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) considers whether the traffic generated by proposed developments is acceptable in terms of the local highway and junction capacity, traffic flows and conditions of general highway or pedestrian safety.

Policy AM14 states that new development will only be permitted where it is in accordance with the Council's adopted Car Parking Standards.

The site of the restaurant and shisha lounge has a single vehicular access off Pump Lane that leads to a car park with the capacity for approximately 50 cars. This car park is shared among the warehouses, predominantly serving customers of Natco Foods. The site has a PTAL value of 0 (worst) which suggests there will be a strong reliance on private cars for trip making to and from the site. There are no parking restrictions along Hall's Business Centre, which is a private road. This application is for the use of approximately 150 sq.m of the building for the use of a Shisha Lounge open from 14:00 to 1.45 am every day of the week with 5 full-time and 5 part-time employees.

The Council's Highways Officer has advised that this section of road is not maintained by

the London Borough of Hillingdon as Highway Authority. Whilst on site visit it was also clear that the car parking was cramped and difficult to manoeuvre in and out, considering the exit and entrance is the same. The principle use of the car parking area and road is to serve the warehouses, there is no separation and all parking lots are shared between the entire business unit. No details of existing or proposed levels of parking have been submitted with this application. As such, the applicant fails to provide sufficient parking spaces for the traffic that would be generated by the operation of a restaurant/shisha lounge. Given the lack of parking associated with the proposal, and that waiting restrictions along Pump Lane are in force between 8am-6pm (Mon-Sat), it is expected that customer parking linked to the site will be displaced onto Pump lane itself. The proposals are therefore deemed detrimental to the safety and convenience of the highway network.

Therefore the development is considered to be deficient in car parking provision with regard to the Council's approved car parking standards, leading to on-street parking to the detriment of public and highway safety and therefore contrary to policy AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and the Council's Car Parking Standards.

7.11 Urban design, access and security

These issues are covered in other sections of the report.

7.12 Disabled access

The access officer has not raised objection to the proposal, but has suggested an informative, in the event of an approval.

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

Not applicable to this application.

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

Not applicable to this application.

7.19 Comments on Public Consultations

The issues raised have been covered in the main report.

7.20 Planning obligations

Not applicable to this application.

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 site lies within the Pump Lane, Hayes Industrial and Business Area (IBA) identified within the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) as a location for new industrial and warehousing development. This is an existing building, which is seeking to change the use from warehouse (Use Class B8) to a mixed use comprising restaurant and shisha lounge (Use Class A3/Sui Generis).

It is considered that the proposal fails to provide off street parking provision for the proposed restaurant/shisha lounge and therefore the development is considered to be deficient in car parking provision with regard to the Council's approved car parking standards, leading to on-street parking to the detriment of public and highway safety. The proposal also results in a loss of industrial/warehousing space within an IBA and hence the change of use is not acceptable in principle.

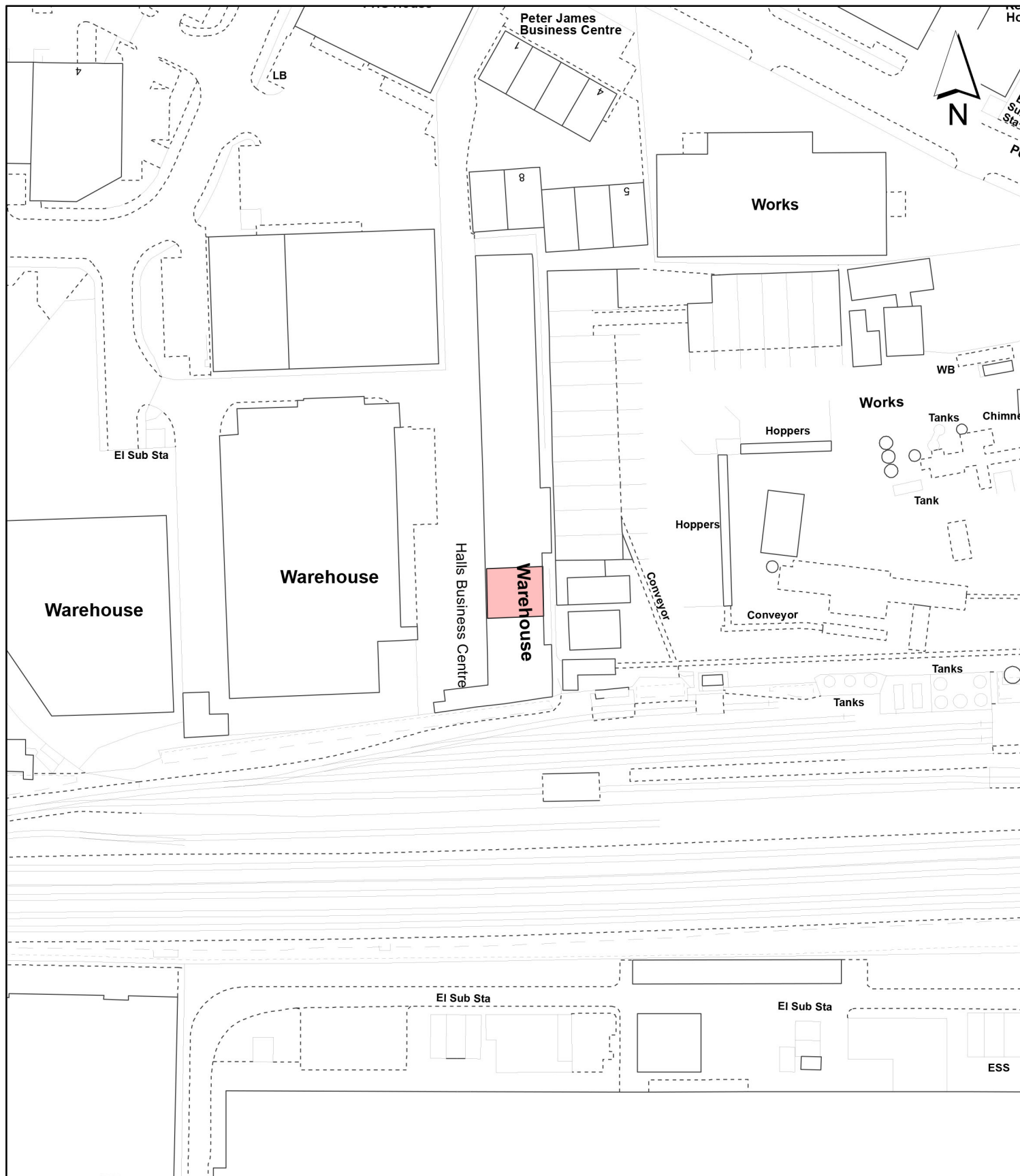
Accordingly, the application is recommended for refusal.

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 (2018)
Shisha Bars, Lounges and Cafes in Hillingdon (September, 2017)

Contact Officer: Nurgul Kinli

Telephone No: 01895 250230



Notes:

 Site boundary

For identification purposes only.

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.

© Crown copyright and database rights 2018 Ordnance Survey 100019283

Site Address:

**Halls Business Centre
Unit 1C
Pump Lane**

Planning Application Ref:

73938/APP/2018/2388

Planning Committee:

Central & South

Scale:

1:1,250

Date:

October 2018

**LONDON BOROUGH
OF HILLINGDON**

**Residents Services
Planning Section**

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



HILLINGDON
LONDON