

Report of the Head of Planning, Transportation and Regeneration

Address 11 WELBECK COURT WELBECK AVENUE HAYES

Development: Change of use from retail (Use Class A1) to hot food takeaway (Use Class A5), installation of a new duct for kitchen extraction and provision of cycle store

LBH Ref Nos: 73499/APP/2018/1700

Drawing Nos: Ventilation report
P101
P102
Design and Access Statement
Use Classes Survey Along Welbeck Avenue
P201
P202 Rev. A
Noise Impact Assessment Report Rev. 1.0

Date Plans Received: 04/05/2018 **Date(s) of Amendment(s):**

Date Application Valid: 22/06/2018

1. **SUMMARY**

The application seeks planning permission for the change of use of the ground floor from retail (Use Class A1) to hot food takeaway (Use Class A5), involving installation of an extractor flue. The proposal is considered to be acceptable given that the proposal would bring a unit back into active use which would assist the attractiveness of the parade and that external impacts are capable of being controlled.

2. **RECOMMENDATION**

APPROVAL subject to the following:

1 COM3 **Time Limit**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 COM4 **Accordance with Approved Plans**

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, number P202 Rev. A and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and the London Plan (2016).

3 COM24 **Hours of use Hot Food Takeaways**

The premises shall not be used for the preparation or sale of food outside the hours of

08.00 to 22.00 Mondays - Saturdays and 1000 to 2000 Sundays, Public or Bank Holidays.

REASON

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

4 COM25 Loading/unloading/deliveries

The premises shall not be used for deliveries and collections, including waste collections other than between the hours of 08:00 and 18:00, Mondays to Fridays, 08:00 to 13:00 Saturdays and not at all on Sundays and Bank and Public Holidays.

REASON:

To safeguard the amenity of the surrounding area in accordance with Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

5 NONSC Non Standard Condition

A post installation noise assessment shall be carried out and agreed in writing by the Local Planning Authority 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 Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

6 NONSC Non Standard Condition

Prior to first use of the extract system and ducting the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

REASON:

To safeguard the amenity of the surrounding area in accordance with Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

7 NONSC Non Standard Condition

Prior to the commencement of use, full details of the provision to be made for the secure and covered storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided on site prior to the premises being brought into use and thereafter maintained.

REASON

To ensure satisfactory provision is made for the storage of waste and recycling, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

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.

S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
BE5	New development within areas of special local character
BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
LPP 2.15	(2015) Town Centres
NPPF- 7	NPPF-7 2018 - Ensuring the vitality of town centres

3 I2 Encroachment

You are advised that if any part of the development hereby permitted encroaches by either its roof, walls, eaves, gutters, or foundations, then a new planning application may have to be submitted. The validity of this planning permission may be challengeable by third parties if the development results in any form of encroachment onto land outside the applicant's control for which the appropriate Notice under Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 has not been served.

4 I5 Party Walls

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:

carry out work to an existing party wall;

build on the boundary with a neighbouring property;

in some circumstances, carry out groundworks within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "the Party Walls etc. Act 1996 - explanatory booklet" published by the ODPM, available free of charge from the Residents Services Reception Desk, Level 3, Civic Centre, Uxbridge, UB8 1UW.

5 I15 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with:-

A. Demolition and construction works which are audible at the site boundary shall only be carried out between the hours of 08.00 and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank or Public Holidays.

B. All noise generated during such works shall be controlled in compliance with British Standard Code of Practice BS 5228:2009.

C. Dust emissions shall be controlled in compliance with the Mayor of London's Best Practice Guidance 'The Control of dust and emissions from construction and demolition.

D. No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit (www.hillingdon.gov.uk/noise Tel. 01895 250155) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

6 125 Consent for the Display of Adverts and Illuminated Signs

This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992. [To display an advertisement without the necessary consent is an offence that can lead to prosecution]. For further information and advice, contact - Residents Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

7 170 LBH worked applicant in a positive & proactive (Granting)

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, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

3. CONSIDERATIONS

3.1 Site and Locality

The site is an end retail unit in a short parade of shops on the North West side of Welbeck Avenue. There are four units in the parade. Nos 12-13 is two units combined and is used as a local Nisa supermarket (Class A1). No 14 is a community centre (Use Class D1) and the final unit, No. 15, is a charity shop (Class A1). The subject unit is on the southern end of the parade. The parade is three-storey and all units have two-storeys of residential above. The parade sits in the centre of a long terrace of residential properties with two-storey dwellings to either side. The site immediately adjoins No. 10 Welbeck Court, a terraced two-storey dwelling which is separated from the parade by a substantial brick wall

to the front. There is a canopy over the front of the parade. It is noted that the last known use of the application site was as a hairdresser/beauty salon which closed some 24 months ago.

3.2 Proposed Scheme

The application seeks permission for change of use from retail (Use Class A1) to hot food takeaway (Use Class A5), installation of a new duct for kitchen extraction and provision of cycle store. No changes to the shopfront are proposed.

3.3 Relevant Planning History

73499/PRC/2018/25 11 Welbeck Court Welbeck Avenue Hayes

Proposed change of use from retail (Use Class A1) to hot food takeaway (Use Class A5) and installation of new duct for kitchen extractor and new front signage

Decision: 20-03-2018 OBJ

Comment on Relevant Planning History

None.

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.HE1 (2012) Heritage

Part 2 Policies:

S6 Change of use of shops - safeguarding the amenities of shopping areas

S7 Change of use of shops in Parades

BE5 New development within areas of special local character

BE13 New development must harmonise with the existing street scene.

BE15 Alterations and extensions to existing buildings

BE19 New development must improve or complement the character of the area.

OE1 Protection of the character and amenities of surrounding properties and the local area

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

LPP 2.15 (2015) Town Centres

NPPF- 7 NPPF-7 2018 - Ensuring the vitality of town centres

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Internal Consultees

Neighbours were notified on 25/06/2018 and a site notice was displayed on 28/06/2018. By the end of the consultation period 5 objections were received which raised the following issues:

- (1) There is concern that the development will result in the gathering of people outside the unit and that there will be anti-social behaviour and possible crime;
- (2) The development will result in noise and disturbance
- (3) The development will result in odours and smells affecting neighbouring residential properties
- (4) The development will result in litter
- (5) The development will attract vermin
- (6) The site notice was incorrectly displayed and the period for consultation extended.

The matters raised are generally addressed elsewhere in the report. The site notice was correctly displayed and photographic evidence recorded in accordance with procedure. However a local resident observed, after the end of the notice period, that the notice was damaged and unreadable. Since this discovery was after the notice period had passed, it cannot be confirmed that it was not displayed correctly for the duration of the notice period. In addition, neighbours were directly notified in accordance with procedure.

EPU:

No objections to the application and suggest conditions should the application be recommended for approval.

Policy Officer:

The site is located within one of LBH's designated Local Parades. The applicant has provided evidence regarding the existing uses classes of neighbouring shops, which is dated May 2018. As such it is more recent than our own Town Centre Surveys and we are happy to use this information (as long as you also feel its content is accurate). I would note the following however regarding this evidence: Community Centre 14 Welbeck Court Welbeck Avenue. A community centre should be regarded as D1 rather than A1. The proposed change of use represents a loss of one A1 unit within the Welbeck Avenue Parade. As such, Local Plan Part 2 - Saved UDP Policies (2012) Policy S7 needs to be taken into account. In regards to Criteria (i) and (ii), the loss of the vacant hairdressers is not one of the essential uses described in paragraph 8.21 and the remaining units on the parade are use class A1 and D1. Consideration should also be given to the length of time the unit has been vacant, although the exact time-frame has not been stated within the application. Particular consideration should also be given to Policy S6, due to the potential negative externalities associated with the proposed A5 use and the current neighbouring uses (which include residential).

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The proposed development must be assessed against the Development Plan Policies

contained within Hillingdon Local Plan: Part 1, Saved Unitary Development Plan policies, the London Plan 2016, the NPPF and supplementary planning guidance prepared by both LB Hillingdon and the GLA.

As the proposal would result in the loss of a Class A1 unit it has to be assessed against the following key policy considerations. Welbeck Avenue is classified in the saved policies of the Local Plan Part Two as a shopping parade. Policy S6 seeks to safeguard the amenities of shopping areas through consideration of the impacts on visual amenity, frontage design, compatibility with neighbouring uses and road safety.

In terms of Policy S6, the proposal does not include any significant changes to the frontage and is not located within a sensitive area. It is therefore considered to be compliant with policy in terms of visual amenity and frontage design. However, the proposal does include a means of extraction to the rear of the property and there are residential properties to the rear and to the side. Further technical and design submissions should be made at planning application stage.

In terms of Policy S7 the policy sets no specific objective criteria by which the undermining of a parade might be judged. From understanding of the situation the unit is believed to have been vacant for some 24 months which is a considerable period. Whilst no evidence of marketing or other interest over that period has been submitted this vacancy adds weight to justification of loss of the unit from Class A1 use. It is also noted that the previous use was not an essential one, although retention of Class A1 use would, of course, allow an essential use to occupy the unit without further permission. It is also noted that the Nisa store is a double fronted unit used as a local supermarket, which from officer's observations, appeared to be well-used and serves a number of local needs for day to day shopping. Thus, it concluded that based on the longevity of the vacancy and the views expressed by the Policy Officer, that it would be difficult to sustain a refusal based on loss of the unit and that particular consideration needs to be given to the external impacts associated with the proposed use.

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 BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) requires all new development to maintain the quality of the built environment including providing high quality urban design. Local Plan Policy BE13 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.

There are no proposed alterations to the front elevation and extraction flue to the rear relates satisfactorily to the character and appearance of the street scene in this local shopping and residential location.

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.

The proposal includes the installation of an extraction flue to the rear of the property

The Planning Practice Guidance (2014) 'Use of Planning Conditions' notes that when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.

There are no other Class A5 uses in the parade. A number of concerns have been raised by neighbours which are summarised elsewhere in the report.

In terms of potential for smells and noise from the extractor equipment, this will be located to to the rear of the building and some distance from rear upper windows. The Design and Access Statement confirms that this will have the following:

- Baffle filter (to control the grease produced).
- Carbon Filter (for grease and odour control).
- Silencer (for noise reduction).
- Variable Speed Control.

The specific details of the equipment can be controlled by condition. As such the potential noise and smells arising from the proposed development can be suitably mitigated by ensuring that the proposed development would not result in material harm to neighbours in terms of smells and extraction equipment noise.

It is acknowledged that there are concerns that the take-away could result in congregation of youths and that this may result in anti-social behaviour. However, there is no conclusive evidence to indicate that the use would result in such an outcome. It is noted that the parade is separated from the nearest residential property by a large wall and there is a substantial canopy to the front, both of which will assist in both visual and noise separation of the activities. Anti-social behaviour is largely a matter for police as opposed to planning consideration.

There are also concerns expressed by objectors about increased littering. There are bins along the parade and it is considered that this will assist in dealing with this issue.

The applicant proposes the hours of 10am to midnight all week. This is considered to be too extensive in light of the proximity of residential properties and it is recommended that the hours be restricted to between 08.00 to 22.00 Mondays - Saturdays and 1000 to 2000 Sundays, Public or Bank Holidays.

On balance, it is considered that in this case, with conditions to control impacts, that the development would not detract from the residential amenities of occupants of nearby residential properties in accordance with policy OE1 of the Hillingdon Local Plan - Saved UDP Policies (November 2012).

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 UDP 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 of the Local Plan (Part Two) specifies that new development will only be permitted where it is in accordance with the Council's adopted car parking standards. In terms of parking and traffic concerns there is an area of on-street parking directly in front of the parade. This allows customers to pull off the main highway and park up to use the parade. It is not considered that the proposal would have an impact on highway safety. Secure cycle parking for staff is to be provided to the rear of the unit.

7.11 Urban design, access and security

No issues raised.

7.12 Disabled access

No accessibility issues are raised.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, landscaping and Ecology

Not applicable to this application.

7.15 Sustainable waste management

The submitted plans do not include details of refuse storage. However it is considered that if the application were considered acceptable in all other respects, a condition could be imposed to secure details of the refuse storage area.

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

The issues are addressed in the sections above.

7.19 Comments on Public Consultations

The issues raised are covered in the relevant sections of the 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 application seeks planning permission for the change of use of the ground floor from retail (Use Class A1) to hot food takeaway (Use Class A5), involving installation of an extractor flue. The proposal is considered to be acceptable given that the proposal would

bring a unit back into active use which would assist the attractiveness of the parade and that external impacts are capable of being controlled.

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)
Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)
London Plan (2016)
NPPF (2018)

Contact Officer: Cris Lancaster

Telephone No: 01895 250230



Notes:

 Site boundary

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Site Address:

**11 Welbeck Court
 Welbeck Avenue
 Hayes**

**LONDON BOROUGH
 OF HILLINGDON**
 Residents Services
 Planning Section
 Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 250111

Planning Application Ref:
73499/APP/2018/1700

Scale:
1:1,250

Planning Committee:
Central & South

Date:
January 2019

