

Report of the Head of Planning & Enforcement

Address 91-97 HIGH ROAD ICKENHAM

Development: Change of use of first and second floors from Class B2 industrial use to 4 four-bedroom flats with side/rear external access staircase and rear first floor walkway and installation of new rear first floor walkway and staircase (Part Retrospective Application).

LBH Ref Nos: 14964/APP/2009/896

Drawing Nos: Design and Access Statement
BP/1616/ICK/10
BP/1616/ICK/11
BP/1616/ICK/12
BP/1616/ICK/06
BP/1616/ICK/07
BP/1616/ICK/70
BP/1616/ICK/09 Rev. B/04/10
BP/1616/ICK/13 Rev. E/04/10

Date Plans Received: 29/04/2009

Date(s) of Amendment(s): 29/04/2009

Date Application Valid: 08/06/2009

08/06/2009

19/04/2010

1. SUMMARY

This application seeks part retrospective permission to convert the first and second floors within this retail parade from a printers (Class B2) to residential use to provide 4 four-bedroom flats and retain an external side staircase and rear first floor walkway and install a new rear staircase. The first and second floors are currently in use as HMO accommodation which is unauthorised.

This application would authorise the removal of the B2 industrial use of the first and second floors from this predominantly residential area. Also, as the ground floor of the premises have already been converted from the original general industrial use to uses that are more compatible with residential use (Use Classes A1 and A3), the flats would now provide suitable living accommodation. Although the flats lack private amenity space, guidance advises that above shops, applications need to be viewed flexibly. In this instance, small shared balcony areas are provided and the development would provide similar accommodation to other residential accommodation within the parade. The staircase and walkway do not harm the visual amenities of the area nor have they resulted in any unacceptable loss of privacy to surrounding residential occupiers. A revised car parking layout has been provided. Although with a rear staircase, the accessibility of the rear yard area is improved, it is considered that the proposed car parking layout would be unworkable with at least two of eight spaces not being accessible once existing and proposed stairs are considered and the scheme makes inadequate provision for waste/recycling storage. The scheme is recommended accordingly.

2. RECOMMENDATION

1 NON2 Non Standard reason for refusal

The proposed car parking layout, given the siting of existing and proposed stairs/fire accesses would not be capable of implementation/full use of all the spaces and the proposal makes inadequate provision for the storage of refuse/recycling. The development would therefore be likely to generate additional on-street car parking, prejudicial to conditions of pedestrian and highway safety, contrary to policies AM7(ii) and AM14 of the adopted Hillingdon Unitary development Plan Saved Policies (September 2007).

2 NON2 Non Standard reason for refusal

The development is estimated to give rise to a significant number of children of school age and additional provision would need to be made in the locality due to the shortfall of places in schools serving the area. Given that a legal agreement at this stage has not been offered or secured, the proposal is considered to be contrary to Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and the adopted London Borough of Hillingdon Planning Obligations Supplementary Planning Document (July 2008).

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) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance.

BE13	New development must harmonise with the existing street scene.
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
H8	Change of use from non-residential to residential
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
HDAS	Residential Layouts Accessible Hillingdon
CACPS	Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
OE5	Siting of noise-sensitive developments

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the northwest side of High Road, Ickenham and comprises the eastern part of a two/three storey retail parade (Nos. 81 to 97) with the second floor largely being contained within the roof, which includes projecting gable features and dormers in the front elevation and dormers at the rear. The ground floor units at Nos. 91 to 93 High Road are in Class A1 retail use as a Tesco Express, with the ground floor units at Nos. 95 and 97 being in use as restaurants. Previously, the whole of Nos. 91 to 97 High Road was in use as part of a commercial printers (Class B2) which included the upper floors being used as ancillary office space. These upper floors, the subject of this application, have been converted to HMO accommodation, without the necessary planning permission, accessed by means of a rear first floor walkway across the flat roofs of the ground floor units, via a side external staircase and passageway from High Road. The remainder of the terrace consists of commercial uses on the ground floor, with ancillary storage/office use and residential units above.

The north-western boundary of the application site abuts The Greenway, with a three storey block of ground floor flats with two storey maisonettes above to the northeast (Nos. 183 - 199 High Road). On the opposite side of the High Road, the former American Air base is being re-developed, mainly for residential with the West Ruislip Underground Station sited some 200m to the east. The rest of the surrounding area is predominantly residential. The site forms part of a retail parade as designated in the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

3.2 Proposed Scheme

Part retrospective planning permission is sought for the change of use of the first and second floors from Class B2 (general industrial) to Class C3 (residential) to allow use as 4 four-bedroom flats. Permission is also sought to retain an external side staircase and altered access to the first floor. The external access stairs are attached to the northeast flank wall of the building, towards the rear and have a depth of 6.9m, rising to a height of 3.7m above ground level to provide access to the flats on an elevated walkway with 1m high railings above the existing flat roofs of the existing single storey rear commercial elements/extensions. The provision of the external staircase has enabled the flats to be accessed independently from the ground floors. The rear service yard would provide 4 off-street car parking spaces for the commercial units and 4 off-street car parking spaces for the flats, together with bin and cycle storage provision. Also, an additional external staircase is proposed, to provide direct access to the rear yard area from the existing first floor walkway.

3.3 Relevant Planning History

Comment on Relevant Planning History

The site has an extensive planning history. The relevant history relating to the upper floors is as follows:

14964/APP/2006/2429 - Retention of the change of use from office to four 3-bedroom flats at first and loft levels and installation of external access stairs was refused on 23/11/06 on the grounds of the residential use not affording adequate amenity above an industrial use and lack of a S106 agreement to provide additional education facilities. An appeal was subsequently dismissed.

14964/APP/2007/560 - Installation of an external staircase was refused on 25/05/07 on the grounds of the staircase would allow independent use and therefore facilitate the retention of the existing substandard form of residential accommodation, above a general

Class B2 industrial use and the external means of access was considered substandard.

14964/APP/2007/1178 for the change of use of four existing first/second floor office units to four 3-bedroom flats (incorporating roofspace accommodation) with side/rear external access staircase and rear terrace was refused on 04/05/07 on grounds of providing substandard accommodation above an industrial use and the staircase would allow independent use and therefore facilitate the retention of the existing substandard form of residential accommodation.

The latest part retrospective application (14964/APP/2008/1245) for a change of use of first/second floor office units to 4, four-bedroom flats with a side/rear external staircase and rear terrace was refused on the 26/08/08 for the following reasons:

1. The existing flats, due to their location above an authorised general industrial (B2) use on the ground floor and the potential for noise disturbance and other disturbances associated with such a use, constitute a substandard form of accommodation, detrimental to the living conditions of future occupants. As such, the development is contrary to policies OE1, OE3 and B8 of the adopted Hillingdon Unitary Development Plan Saved Policies September 2007.
2. The proposed external staircase would enable independent access to the unauthorised first floor flats. This would facilitate the retention of the unauthorised use, which due to their location above an authorised general industrial (B2) use on the ground floor and the potential for noise disturbance and other disturbances associated with such a use, constitute a substandard form of accommodation, detrimental to the living conditions of future occupants. As such, the development is contrary to policies OE1, OE3 and H8 of the adopted Hillingdon Unitary Development Plan Saved Policies September 2007.
3. The development is estimated to give rise to a significant number of children of school age and additional provision would need to be made in the locality due to the shortfall of places in schools serving the area. Given that a legal agreement at this stage has not been offered or secured, the proposal is considered to be contrary to Policy R17 of the Unitary Development Plan Saved Policies September 2007.

As regards the ground floor, the following applications are relevant:

63005/APP/2007/1175 at 97 High Road, Ickenham for the subdivision of ground floor to form a separate unit and change of use from class B2 (general industry) to class A3 (restaurant, snack bar, cafe) for use as a restaurant with installation of a new shop front and flue was approved on 29/06/07.

63006/APP/2007/1176 at 91-93 High Road, Ickenham for the sub-division of ground-floor to form a separate unit and change of use from class B2 (general industry) to class A1 (shops) for use for retail purposes and installation of a new shop front was approved on 29/06/07.

63007/APP/2007/1177 at No.95 High Road, Ickenham for the sub-division of ground-floor and change of use from class B2 (general industry) to class A3 (restaurants, snack bars, cafes) for use as a restaurant and installation of a new shop front was approved on 29/06/07.

Also, it is noted that planning application ref: 58425/APP/2004/348 at No.81 High Road, at the other end of the parade for the erection of a single storey rear extension and change

of use from Class A1 to a Class A3 restaurant was allowed on appeal. This scheme also resulted in the residential accommodation only being served by an external staircase from the ground to the first floor.

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

BE13	New development must harmonise with the existing street scene.
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
H8	Change of use from non-residential to residential
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
HDAS	Residential Layouts Accessible Hillingdon
CACPS	Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
OE5	Siting of noise-sensitive developments

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

12 neighbouring properties have been consulted.

Original Plans:

Two petitions and four individual responses (two from same objectors) have been received.

One petition, with 38 signatories makes the following comments:

- (i) The scheme has gone ahead despite being refused planning permission and without compliance with Building regulations and Health and Safety Legislation;
- (ii) Use of staircase and flat roofs involves overlooking of surrounding properties and gardens;
- (iii) The staircase steelwork overhangs the adjacent land not in applicant's ownership;
- (iv) Refuse facilities have not been provided and waste and refuse is scattered over the pavement

on a regular basis;

(v) Insufficient car parking will exacerbate existing problems of lack of parking experienced with the opening of Tesco and commuter parking for West Ruislip Station. This will be made worse with the opening of cafe facilities;

(vi) Works are out of character;

(vii) Works do not conform with the DDA. Access statements have not been submitted. The scheme discriminates against disabled persons letting the properties;

(viii) Adjoining/adjacent owners have not been notified.

(ix) Developers of the US Air force base have seriously increased housing densities with no improvements to infrastructure. Further accommodation will add to over-development with associated loss of budget business accommodation.

The other petition, organised by the Ickenham Residents' Association has 72 signatories and states:

'We, the undersigned, fully support the Ickenham Residents' Association in their objective of ensuring that the wishes of its members as well as the wishes of the people of Ickenham in general, are heard and understood by the London Borough of Hillingdon's North Planning Committee, when considering the proposal at the above address by voicing concerns, and asking the North Planning Committee to listen to the Association's comments.'

The individual respondents make the following points:

(i) This is a retrospective application, following 4 previous refusals, with the flats having been occupied for approximately 12 months.

(ii) No amenity space for tenants.

(iii) Proposal does not improve area, contrary to policies BE13 and BE19.

Hung out washing in particular creates slum like appearance, out of character with area.

(iv) External staircase has direct view into main bedroom window and rear garden of No. 199 The Greenway, less than 3m away from bedroom and overlooks No. 22 The Greenway.

(v) Scheme due to siting, appearance, traffic generation, congestion, noise and vibration, including use of staircase is harmful to residential amenity, contrary to policies OE1 and H7.

(vi) Inadequate waste facilities, causing littering and rat problem,.

(vii) External staircase overhangs boundary of No. 199 The Greenway but have been advised by the London Borough of Hillingdon that this is a civil matter but legal advice received was that unable to take legal action as overhang is de-minimus.

(viii) Refuse provision at rear involves circuitous route for residents, along the High Road and back round The Greenway. In practice, this will not happen and rubbish is left at the side, blocking the side access.

(ix) For similar reasons, the proposed car parking at the rear is inconveniently located for residents, and results in people climbing on fence/trespassing on neighbouring property to access the staircase rather than walking round the front to access the High Road. Other residents in The Greenway also do this as a shortcut, increasing risk of damage/vandalism, crime and loss of privacy to my property. Unable to increase height of fence due to overhanging staircase. Side staircase should be removed, and rear staircase installed.

(x) Inadequate car parking provision for 4 -bedroom properties and ground floor commercial uses. Layout is also not safe, particularly as some drivers may possibly be under the influence of alcohol from the restaurants. This will exacerbate existing parking problems.

(xi) No disabled parking provision.

(xii) Staircase cannot accommodate ambient disabled people.

(xiii) External staircase will be only means of access to premises and has not been built in accordance with relevant building or fire regulations and is therefore a safety risk, resulting in substandard form of accommodation, contrary to H7 (iii).

(xiv) Lack of leisure and community facilities is contrary to policy R17.

(xv) Rear of the building is being converted into two small business units, again without planning permission.

Ward Councillor:

I am extremely concerned about the parking situation on this site. Parking on this site will be chaotic, despite our efforts to regularise it.

Ickenham Residents' Association:

First Response dated 29th June 2009:

'The previous application 2008/1245 was for the same Change of Use, this time round leaving out the roofspace accommodation, and we feel the Schedule of Reasons 1, 2 and 3 for refusal dated 26.08.09 remains unchanged. The Association objects to this new application.'

Second Response dated 17th October 2009:

'We refer to our letter dated 29 June 2009 in which we recorded our further objection to the above application and enclose our petition asking to address our concerns about this application before the North Planning Committee.'

These upstairs rooms are still classed for office use only and permission to convert them into flats has been refused several times. Despite the lack of planning permission, it appears that the offices have already been converted into flats, which we understand are already registered as HMOs, and the external staircase has already been constructed in such a way as to overlook neighbouring properties, giving significant loss of privacy. The works are ongoing and we understand that serious concerns as to the safety and design of the works have already been raised with you by local residents. We urge Building Control Services to take control of this situation as a matter of urgency.

Further, there are no adequate parking arrangements in an area already struggling to cope with the parking pressures of the restaurant (soon to be 2 restaurants), Domino Pizza and Tesco Express. 1 space per flat will simply encourage significant additional on-road parking. Given their HMO status, the 4-bed flats are likely to be occupied by up to 4 independent individuals or couples creating the possibility of 16 or more additional vehicles.

The lack of refuse facilities is also a concern given the numbers already occupying the premises.

We therefore urge you to once again recommend this application for refusal and insist upon enforcement action being taken to return the properties to offices, in line with the current permission, and so correct this flagrant breach of planning permission.'

Revised Plans:

12 neighbouring properties and the Ickenham Residents' Association have been consulted on the revised plans. Three letters have been received, two from the same objector, one of the letters stating that it represents a considerable group of local residents. In addition to the re-iteration of previous comments, the further responses make the following additional points:-

Individual objections:

- (i) There appears to be an addition to the Oriental Takeaway referenced C1 on the plans which has been built without planning permission and has no foundations;
- (ii) Revised plans a delaying tactic;

- (iii) Submitted plans do not show rear elevation of Tescos as built and is misleading. There are steps and handrail at the rear so only 3 spaces exist at the rear, the plans show 4 and these spaces only used by Tesco as part of their lease agreement. Refuse bins also stored here. No staff parking for commercial uses and inadequate space for deliveries/servicing resulting in increased use of adjoining roads for parking/turning, adding to use made by adjoining commercial uses;
- (iv) Staircase is not shown on car parking plan. There appears to be not enough space for the resident's parking and would be further obstructed by the new staircase. This space would be used to service the restaurants. Risk of conflict and injury;
- (v) Bin storage is inadequate for 2 restaurants and 4 families;
- (vi) Bicycle stand is a shed with a sloping roof, built without permission and foundations and unsuited to support a staircase;
- (vii) Car parking has already been allocated to restaurants and Tescos. Application submitted by the Indian and Chinese Restaurant differ to those of the flats. Suggests owner of the flats has no intention in complying with any planning application and provide parking for the flats;
- (viii) Proposed staircase will overlook adjoining private spaces and a children's nursery;
- (ix) Having staircase at the side and rear will increase numbers using it as a shortcut from the rear to High Street, increasing risk of anti-social behaviour including theft, damage and vandalism to property, litter in garden, noise and overlooking of bedroom and garden. As access unacceptable, permission should be refused;
- (x) Not acceptable for developers to disregard safety, flaunt planning policies, submit inaccurate plans and build what they like;
- (xi) New staircase appears very narrow and steep for public use, not in accordance with disabled access standards;
- (xii) Lighting needed on stairs as otherwise their use would be dangerous, would disturb neighbours;
- (xiii) Staircase, close to asbestos roof and over flammable material storage areas would be dangerous;
- (xiv) Flats partly used by transient builders who park vans in rear yard. Refuse storage area would be blocked and increase in litter and oil leaks;
- (xv) Down pipes discharge into rear yard, making it slippery;
- (xvi) Housing Department under the delusion that permission has been granted for this change of use;
- (xvii) One of restaurants does not have planning permission;
- (xviii) Extraction vent from Asian restaurant has been installed which is a fire risk and environmentally unacceptable with noise and odours;
- (xix) There are breaches of former planning applications, such as siting of extract flues;
- (xx) Hillingdon Building Control claimed approved Inspector was working on this project, but this is false.

Ickenham Residents' Association:

- (i) Extremely frustrated at the whole series of applications and apparent disregard in relation to current planning guidelines;
- (ii) Tesco Express now on site that will aggravate existing parking problems;
- (iii) Auctioneer's literature complicates the whole issue;
- (iv) The staircase and walkways appear much greater in size which will be very obstructive and unappealing in the street scene.

Internal Consultees

Highways Engineer:

The site is located on the north-western side of High Road, approximately 27m northeast of its junction with The Greenway. High Road is a Classified Road (B466) and is designated as a Local Distributor Road in the Council's Unitary Development Plan.

West Ruislip Station is a short distance to the northeast and the area is also served by buses.

Parking in front of the parade of shops 81-97 is restricted by single yellow line restrictions, which operate between 8am-9.30am and 4.30pm-6.30pm Monday to Friday, and 8am-9.30am on Saturday. A continuous parking bay is marked in front of the shops outside the restricted hours. Parking at the junction of High Road and The Greenway is prohibited by 'at any time' restrictions, which continue on both sides in The Green up to its junction with the north-eastern arm of The Greenway. It is unrestricted to park on the north-eastern arm of The Greenway rear of the application site, where parking has been observed to be congested.

The site has a commercial element on the ground floor consisting of a Tesco express store and two restaurants and a residential element above consisting of 4x4 bedroom flats. The submitted plans show 4 off-street car parking spaces at the rear of the Tesco store for the commercial element and 4 car parking spaces and 8 cycle parking spaces for the residential element at the rear of the restaurants. Some of the parking spaces are in front/close to the fire exits, which should be avoided. A bin storage area is also shown at the rear of the site but the applicant has not specified if this would be used for the residential or commercial element of the site. The proposed bin storage is assumed to be for the residential element. Currently, 5 no. four wheeled bins related to the commercial element of the site are placed within the rear hard standing area. Due to the two staircases, 1 existing at the rear of the Tesco store and 1 proposed for the flats above, and the need to accommodate commercial refuse storage, three car parking spaces could not practically be used, reducing the off-street car parking provision to 5 (3 spaces for the flats and 2 spaces for the commercial element). In addition the proposed residential car parking, staircase to the flats, and single storey rear extension would affect the rear servicing area of the ground floor.

Four bedroom flats are family units and therefore 3 spaces are not considered adequate in this case. The ground floor consists of a Tesco store and two restaurants, the reduction of the parking spaces to 2 is not considered acceptable given their parking and servicing requirements. The planning permissions granted previously require 2 parking spaces for the restaurants in addition to the parking spaces for the Tesco store.

Consequently, in light of the above considerations, the application is recommended to be refused, as it is considered to be contrary to the Council's policy AM14.

EPU:

It is noted that 91-93 High Road (A1) is occupied by Tesco Express and 95-97 (A3) by Punjabi Cuisine Ltd likely to be trading in the near future as Planet Bollywood.

Both premises below the application site have recently granted permissions including conditions restricting collections (of waste) and deliveries to the daytime period. 95-97 is likely to benefit from a Premises Licence allowing regulated entertainment such as live and recorded music until 23:00hrs.

I do not wish to object to this application.

Access Officer:

In assessing this application, reference has been made to London Plan Policy 3A.5 (Housing Choice) and the Council's Supplementary Planning Document 'Accessible Hillingdon' adopted January 2010.

However, having considered the detail of the existing site and the constraints it presents in terms of accessibility, it would be unreasonable to apply the above policy and/or require the applicant to

provide access for disabled people to the first floor. The building is fundamentally inaccessible and predates the legislation that requires developers to consider the needs of disabled people. I therefore have no further comments to make on this application.

Education Services: An education contribution of £38,492 is sought.

Waste Services: The plans do not indicate bin provision and are vague on a bin store area. Details of bin storage are required. All units should also have a food waste grinder included as standard.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The development seeks permission to bring the upper floors of this part of the parade into residential use, which appears to have been their historic use, albeit tied to the ground floor uses with full height internal staircases. There is no objection to the loss of the industrial use in terms of Policy LE4, given the clear potential for conflict with the amenity of surrounding residential occupiers by reason of noise generation, vibration, potential for smells and fumes and other general disturbance resulting from an industrial use in such close proximity to adjoining residential properties. Furthermore, there is no objection in principle in creating additional residential uses within this residential area. As such, the proposal is considered to comply with policies BE19 and LE4 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.02 Density of the proposed development

As this scheme is to change the use of part of an existing building, residential density is not strictly relevant as this applies to new build schemes. However, with 35 units per hectare (u/ha) and 235 habitable rooms per hectare (hr/ha) the scheme is within the density guidelines of the London Plan which requires that new housing within a suburban setting and a PTAL score of 3 to generally be in the range of 150 - 250 habitable rooms per hectare (hr/ha) and 35 - 65 units per hectare (u/ha).

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

Not applicable to this development.

7.04 Airport safeguarding

Not applicable to this development.

7.05 Impact on the green belt

Not applicable to this development.

7.06 Environmental Impact

Not applicable to this development.

7.07 Impact on the character & appearance of the area

The only external alterations to the building that have resulted from the change of use have been the installation of an external staircase and rear walkway. The staircase is set back on the side elevation of the parade so that it would not be readily visible from the High Road. The staircase and rear walkway with their associated railings can be seen from The Greenway, however, such features are typical at the side/rear of parade buildings. An external rear staircase is also found on this parade, at No. 81 High Road which was allowed on appeal. The existing and proposed staircases and walkways would either be sufficiently set back from the road frontages and/or be viewed against the back drop of existing buildings so that they would not appear unduly detrimental to the visual amenities of the street scene or the surrounding area. No objections are raised on design grounds to the additional proposed staircase and walkway at the rear, which would match the design of the existing staircase and walkway. The development therefore complies with Policies BE13 and BE19 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.08 Impact on neighbours

The proposed change of use represents a significant improvement for surrounding residential occupiers in terms of the potential for noise and general disturbance as compared to the authorised Class B2 industrial use of these premises.

The use of the external staircase, being sited towards the rear of the side elevation of the parade would not permit any overlooking of the front and rear elevations of Nos. 183 to 199 High Road, the adjoining block of flats/maisonettes. The only side windows on this block facing the application site are three small obscure glazed windows, one on each floor. The adjoining building itself is therefore not overlooked. Amenity space for the ground floor units in this block is provided at the front, adjoining the High Road. The staircase does permit views over the amenity space of No. 199, the adjoining ground floor flat. This amenity space is already overlooked by Nos. 193 and 199, the two maisonettes above, but the staircase would exacerbate the situation, albeit intermittently, mainly as residents exited the flats. However, it is considered that had this application not been recommended for refusal, a condition requiring an appropriate screen on the side of the staircase would effectively prevent the loss of privacy from the use of the external stairs and with an appropriate design, would not appear unduly unsightly or intrusive, given its siting adjacent to an existing flank elevation of a three storey parade.

As regards the rear walkway, design guidance advises that in order to safeguard the privacy of adjoining neighbours, properties and their private amenity areas, taken to be the 3m depth of rear garden immediately adjoining the rear elevation should not be overlooked within a 21m distance. In this instance, the existing walkway is sited over 30m from the nearest residential boundary in The Greenway. Also, although the new rear staircase would bring the new staircase within 21m, the breach is marginal and the staircase would only be within a 21m distance of the end of the rear gardens of Nos.2 and 22 The Greenway, which would be fully compliant with design guidance as the properties themselves and their private patio areas would remain sufficiently remote so as not to be overlooked within the 21m distance. The existing and proposed walkways and staircases, given their siting, would not permit views into adjoining first floor property windows in the parade. It is therefore considered that had the application not been recommended for refusal, subject to a condition requiring a side screen to the side external staircase, the development would not result in a loss of privacy to surrounding residential occupiers, in accordance with policy BE24 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and relevant guidance in the Council's HDAS: 'Residential Layouts'.

Although the use of the metal staircase has the potential to generate noise and vibration, such staircases are a traditional means of providing access to first floor units in parades. A similar external staircase was also approved on appeal at No. 81 at the other end of the parade. As such, no objections can be raised to the staircase in terms of policy OE1 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.09 Living conditions for future occupiers

In terms of the accommodation provided, the units would be self-contained with their own access and internal staircases to access the second floor bedrooms. All facilities are self-contained and habitable rooms have adequate outlook. Three of the flats would have an internal floor area of 95sq.m., with the end unit having a floor area of 98sq.m., satisfying the Council's 87sq.m. minimum standard for 4 bedroom flats.

The rear walkway would pass close to the first floor windows of the proposed flats but the nearest windows would serve kitchens.

The Council's guidance at paragraph 4.19 for new build schemes states that non-family flats above shops do not have to provide external amenity space. With 4 bedrooms, these units would provide family housing. However, each flatted pair share a 19sq.m. area of external amenity space sited between the first floor projecting wings of the parade. It is considered that this space, although not ideal, does provide at least a small amenity area and a place to dry clothes. Furthermore, adjoining units in the parade do not provide any amenity space and are of a comparable size.

The most recent application (14964/APP/2008/1245) was refused due to concerns regarding the living space being provided above an established general industrial use and lack of a S106 contribution. At that time, although various permissions for change of use of the ground floor had been granted, they had not been implemented. The agents did send an e-mail at the time which stated that construction work in accordance with the implementation of the approved retail use at Nos. 91-93 High Road was currently being undertaken and leases had also been signed in respect of the ground floors at Nos. 95 and 97 High Road. However, the officers report considered that there was no vehicle for ensuring that the approved schemes were implemented via either conditions or legal obligations. The current situation differs in that the ground floor approvals at Nos. 91 to 97 have now all been implemented for A1 and A3 uses. As such, ground floor uses are now more compatible with residential use and reasonably typical within retail parades. It is considered that planning permission to use the first and second floors for residential use can no longer reasonably be withheld on this ground.

Policy H7(iii) refers to residential units above ground floors having internal staircases. The flats do have individual internal staircases between the first and second floors. The external access from ground to first floor requires an external staircase. It is not considered that a reason for refusal based on this would be upheld at appeal.

It is therefore considered that the accommodation provided does now provide suitable living accommodation, in accordance with policies BE19, OE1 and OE3 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.10 Traffic impact, car/cycle parking, pedestrian safety

The proposed scheme shows 4 off-street car parking spaces being provided for the shops and 4 spaces for the 4 flats. Revised plans have also been submitted which amend the car parking layout and show an additional staircase accessing the rear yard area from the rear walkway, avoiding the somewhat circuitous route whereby occupiers of the flats have to walk around the whole parade to access car parking at the rear. Although this level of provision has generally been agreed as part of other permissions on this site, it appears that the current use of the site would not allow all of these spaces to be provided. A rear concrete stair providing rear staff access/fire escape to the Tesco store has involved the loss of one of the parking spaces, and another space would effectively be removed by the need for the store to provide refuse storage without blocking the rear access. The proposed rear staircase would also restrict access to one of the flat's parking spaces. The Council's Highway Engineer advises that 5 car parking spaces would not be adequate to serve both the commercial and residential elements on this site. In addition, a combination of a single storey rear extension that has been built, the proposed siting of the new staircase in relation, together with the residential parking would restrict rear servicing of the site.

As such, it is considered that the application be refused, as it is contrary to policies AM7 and AM14 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2009).

7.11 Urban design, access and security

See Section 7.07

7.12 Disabled access

The Access Officer advises that given the inherent nature of the existing accommodation, the building is fundamentally inaccessible for disabled people. No provision in terms of disabled access/Lifetime Homes standards is required.

7.13 Provision of affordable & special needs housing

Not applicable to this development.

7.14 Trees, Landscaping and Ecology

Not applicable to this development.

7.15 Sustainable waste management

The submitted plans show provision being made for refuse at the rear of the site. It is considered that this provision is inadequate and this forms part of the reason for refusal.

7.16 Renewable energy / Sustainability

Not applicable to this development.

7.17 Flooding or Drainage Issues

Not applicable to this development.

7.18 Noise or Air Quality Issues

If the application had not been recommended for refusal, a condition requiring the submission and implementation of a noise insulation scheme could have been attached. As such, the scheme complies with policy OE1 and OE3 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

7.19 Comments on Public Consultations

As regards the specific comments raised by the petitioners, the works carried out on site, without the necessary planning permission, have been carried out at the applicant's own risk. Compliance with Building Regulations and Health and Safety Legislation is not a planning matter (Point (i)). Points (ii), (iv), (v), (vi) and (vii) have been dealt with in the main report. As regards point (iii), issues of encroachment is a civil matter and not material to the consideration of the planning merits of the case. As regards point (viii) all relevant neighbouring properties have been consulted. In terms of point (ix), as a S106 has not been secured as part of this application, the proposal is not considered to have made an adequate contribution to the improvement of local facilities, commensurate with the scale of development.

As regards individual responses, point (i) is noted. Points (ii), (iii), (iv), (v), (vi), (viii), (ix), (x), (xi), (xii) and (xiv) have been dealt with in the main report. Point (vii) is dealt with at point (iii) made by the petitioner's above. As regards point (xiii), compliance with the building and fire regulations is not dealt with through planning legislation. As regards point (xv), this is not correct.

7.20 Planning Obligations

Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) is concerned with securing planning obligations to supplement the provision recreation open space, facilities to support arts, cultural and entertainment activities, and other community, social and education facilities through planning obligations in conjunction with other development proposals. These UDP policies are supported by more specific supplementary planning guidance.

Given the nature of the development, only a contribution towards education provision would be required. Education Services advise that a contribution of £38,492 is required for

nursery, primary, secondary and post-16 space. As the application is being recommended for refusal, no legal agreement to address this issue has been secured. Therefore, the proposal fails to comply with Policy R17 of the UDP Saved Policies (September 2007) and it is recommended the application should be refused on this basis.

7.21 Expediency of enforcement action

This issue would need to be considered as part of a further report to committee.

7.22 Other Issues

Not applicable to this development.

8. Observations of the Borough Solicitor

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are 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).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

9. Observations of the Director of Finance

Not applicable to this development.

10. CONCLUSION

The development would allow the residential re-use of the upper floors in this part of the retail parade. It is considered that the accommodation would now provide acceptable living space, given that the ground floor use has changed from general industrial to retail (Class A1) and restaurant (Class A3) uses that are more compatible with residential use. Furthermore, the development, including the access arrangements, have not been detrimental to the visual amenities of the area and although the use of the external staircase does involve some loss of privacy to the adjoining amenity area of the adjoining ground floor flat, this is not so significant to justify a reason for refusal, given the existing overlooking of the flats above and had the application not been recommended for refusal,

a condition would have required side screening to be provided. However, it is considered that the parking arrangements are not satisfactory as 3 of the 8 spaces would not be capable of use and the proposed refuse storage/recycling provision is inadequate. The scheme is recommended for refusal.

11. Reference Documents

London Plan (February 2008)

Hillingdon Unitary Development Plan Saved Policies (September 2007)

Hillingdon Design and Accessibility Statement: 'Residential Layouts' and 'Accessible Hillingdon'

Hillingdon Supplementary Planning Document, July 2007: Planning Obligations


Letters making representations

Contact Officer: Richard Phillips

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. All rights reserved. London Borough of Hillingdon 100019283 2008

Site Address	
91-97 High Road, Ickenham	
Planning Application Ref:	Scale
14964/APP/2009/896	1:1,250
Planning Committee	Date
North	July 2009

LONDON BOROUGH OF HILLINGDON

Planning & Community Services

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



HILLINGDON
LONDON