

Report of the Head of Planning, Transportation and Regeneration

Address 132 UXBRIDGE ROAD HAYES

Development: Change of use from retail (Use Class A1) to a mixed use comprising restaurant (Use Class A3) with single storey rear extension, and shelter for use as a Shisha Lounge (Use Class A3/Sui Generis)

LBH Ref Nos: 3125/APP/2019/545

Drawing Nos: Location Plan (1:1250)
09B
02B
03B
Environmental Noise Survey (Ref: 18326.PCR.01 Rev.A)
01C
04B
05C
06B
07B
08B
Transport Statement

Date Plans Received: 13/02/2019

Date(s) of Amendment(s):

Date Application Valid: 26/02/2019

1. SUMMARY

The application seeks planning permission for a change of use from retail (Use Class A1) to a mixed use comprising restaurant (Use Class A3) with single storey rear extension, and shelter for use as a Shisha Lounge (Use Class A3/Sui Generis). The application follows the dismissal on appeal of application Ref: 3125/APP/2016/2172 where the Inspector upheld the Council's reasons for refusal. This revised application is supported by a Environmental Noise Survey and Transport Statement. However, it is considered that the applicant has failed to adequately address the impact of the proposed extension and change of use, on the amenities of occupants of nearby residential properties by way of noise, odour and disturbance and the impact upon highway safety. The application is therefore recommended for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposed development has failed to robustly demonstrate that unacceptable levels of noise, disturbance and odour to surrounding residential occupiers would not occur. In the absence of any noise surveys or noise mitigation measures, the proposed development is considered to result in noise and disturbance to the detriment of the amenity of adjoining occupiers, contrary to Policies OE1, OE3 and OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

2 NON2 Non Standard reason for refusal

The proposed development has failed to robustly demonstrate that sufficient parking for

vehicles associated with the use would be provided or sufficient manoeuvring and access arrangements for service delivery vehicles. In addition the application fails to demonstrate that the proposal would not result in an unacceptable rise in traffic in and around the application site. It is considered that the proposal would be detrimental to highway and pedestrian safety contrary to policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and to the Hillingdon's Adopted Parking Standards.

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.

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
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
S7	Change of use of shops in Parades
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
OE5	Siting of noise-sensitive developments
LPP 5.12	(2016) Flood risk management
LPP 5.13	(2016) Sustainable drainage
LPP 5.15	(2016) Water use and supplies

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.

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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. This is a resubmission of a previously refused scheme, where the Inspectors Report identified issues to be addressed, which were reflected in the reasons for refusal, allowing the opportunity to address those issues within this submission.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the North East side of Uxbridge Road near its junction with Brookside Road and forms part of a parade of 8 properties comprising commercial units on the ground floor with two floors above in residential use. The application property comprises a retail unit on the ground floor. The foundations have been built for a single storey rear extension, but the walls and roof have not been built. Many of the commercial units in the parade have rear extensions of various sizes and lengths of projection. To the rear lies a service road and beyond lies the rear gardens of 2 Brookside Road and 2-8 (even) Cerne Close. The street scene is commercial in character and appearance and the application site lies within the developed area as identified in the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012).

3.2 Proposed Scheme

The application seeks planning permission for a change of use from retail (Use Class A1) to a mixed use comprising restaurant (Use Class A3) with single storey rear extension, and shelter for use as a Shisha Lounge (Use Class A3/Sui Generis).

3.3 Relevant Planning History

3125/APP/2003/2495 132-134 Uxbridge Road Hayes

CHANGE OF USE FROM CLASS A1 (RETAIL) TO CLASS A2 (FINANCIAL AND PROFESSIONAL SERVICES) AND RENEWAL OF PLANNING PERMISSION REF.3125L/98/7 DATED 23/10/1998; ERECTION OF SINGLE STOREY REAR EXTENSION TO SHOP FOR STORAGE

Decision: 27-04-2004 Approved

3125/APP/2005/3119 132-134 Uxbridge Road Hayes

ERECTION OF SINGLE STOREY REAR EXTENSION AND INSTALLATION OF A NEW SHOPFRONT

Decision: 28-12-2005 Approved

3125/APP/2009/984 132 Uxbridge Road Hayes

Erection of a single storey rear extension.

Decision: 24-07-2009 Approved

3125/APP/2015/4029 132 Uxbridge Road Hayes

Change of use from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis)

Decision: 09-03-2016 Refused

3125/APP/2016/2172 132 Uxbridge Road Hayes

Change of use from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis)

Decision: 20-09-2016 Refused **Appeal:** 01-03-2017 Dismissed

3125/APP/2018/1096 132 Uxbridge Road Hayes

Single storey rear extension for use in conjunction with the existing retail use of the premises.

Decision: 04-06-2018 Refused

3125/L/98/0742 132-134 Uxbridge Road Hayes

Erection of a single storey rear extension to shop for storage

Decision: 23-10-1998 Approved

74252/APP/2018/3678 132-134 Uxbridge Road Hayes

Change of use from Use Class A1 (Shops) to Use Class A3 (Restaurants and Cafes), single storey rear extension and canopy to rear, to include a shisha lounge to the rear.

Decision: 09-01-2019 Withdrawn

Comment on Relevant Planning History

3125/APP/2018/1096 - Single storey rear extension for use in conjunction with the existing retail use of the premises was refused for the following reason:

1. The proposed development has failed to demonstrate that unacceptable levels of noise and disturbance to surrounding residential occupiers would not occur. In the absence of any noise surveys or noise mitigation measures, the proposed development is considered to result in noise and disturbance to the detriment of the amenity of adjoining occupiers, contrary to Policies OE1, OE3 and OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

3125/APP/2016/2172 - Change of use from retail (Use Class A1) to a mixed use comprising drinking establishment and single storey rear extension for use as a Shisha Lounge (Use Class A4/Sui Generis) was refused for the following reasons:-

1. The proposed development has failed to demonstrate that unacceptable levels of noise, disturbance and odour to surrounding residential occupiers would not occur. In the absence of any noise surveys or noise mitigation measures, the proposed development is considered to result in noise and disturbance to the detriment of the amenity of adjoining occupiers, contrary to Policies OE1, OE3 and OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

2. In the absence of a Transport Statement the application has not demonstrated that either sufficient parking for vehicles associated with the use would be provided or sufficient manoeuvring and access arrangements for service delivery vehicles. In addition the application fails to demonstrate that the proposal would not result in an unacceptable rise in traffic in and around the application site. It is considered that the proposal would be detrimental to highway and pedestrian safety contrary to policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and to the Hillingdon's Adopted Parking Standards.

An appeal was subsequently dismissed. The appeal inspector concluded:

"In my judgement, the appeal proposal has the potential to have a significant adverse effect on the living conditions of surrounding residents by reason of noise and odour. These issues have not been addressed by the appellant and there is nothing to demonstrate that the harmful impacts would be adequately mitigated. "

With regard to highway issues the Inspector confirmed:

"The Council has also raised concerns regarding servicing arrangements for the proposed use. Deliveries would be via the lane to the rear of the parade. This is shared by other units in the row, but it is wide enough for commercial vehicles to service the appeal premises. Larger vehicles may need to reverse into the lane from Brookside Road but this would be no different to the existing retail use and would not materially impact on highway safety.

Notwithstanding this, there is insufficient information to persuade me that there would be compliance with Policy AM7 of the UDP insofar as it seeks to ensure that traffic generation does not prejudice the free flow of traffic or conditions of general highway or pedestrian safety. "

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

Part 2 Policies:

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
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
S7	Change of use of shops in Parades
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
OE5	Siting of noise-sensitive developments
LPP 5.12	(2016) Flood risk management
LPP 5.13	(2016) Sustainable drainage
LPP 5.15	(2016) Water use and supplies

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 by letter dated 28.2.19 and a site notice was displayed at the site which expired on 1.4.19.

98 letters of objection have been received raising concerns about the suitability of a shisha lounge use in close proximity to residential properties and schools. This shisha bar and restaurant is not going to reflect well with the local Sikh community, nearby religious Sikh school as it is against their religion to smoke. This venue will only encourage youngsters to start smoking. Smoking is one of the things that the Health Department are trying restrict, as it is very costly to the government as a whole.

Internal Consultees

Highways Officer:

The application site is located along the A4020 (Uxbridge Road) which forms part of the Councils Classified Road Network. Within the vicinity of the site, the road makes use of a 40mph speed limit and benefits from pedestrian footways, street lighting and waiting restrictions in the form of single yellow lines Mon-Sat (8am-6.30pm). The road accommodates a layby directly adjacent to the site frontage and also provides public transport links within walking distance of the site.

Proposals include a single storey rear extension and change of use of an existing retail premises (Use Class A1) in order to accommodate a mixed use restaurant (Use Class A3) and shisha lounge with covered smoking area in the rear garden (Use Class A4/Sui Generis).

Policy AM14 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012) seeks to ensure that all development is in accordance with the Councils adopted Car Parking Standards. In this particular instance, all forms of parking are to be justified within a Transport Statement which

has been submitted.

The proposed site will provide 119 square metres of ground floor space. It is understood that the first floor will be used as office provision (Use Class B1). Whether this is an existing situation has not been detailed. Nevertheless, it is envisaged that parking demand linked to the office would take place during daytime working hours which is not expected to conflict with parking associated with the restaurant/shisha lounge which is most likely to take place in the late afternoon and evening times.

The site would provide seven parking spaces, two towards the rear of 132 and five towards the rear of 130 Uxbridge Road all in a tandem arrangement. Access to these car parks will take place through Brookside Road via an existing shared access. It should be noted that the most western space to the rear of 132 would conflict with the site entrance gate. It is presumed that the entrance gate would remain open throughout the operational hours of the site.

To support the proposals, the applicant has submitted a Transport Assessment which includes details of a parking survey in the form of the widely known 'Lambeth Methodology'. Surveys are shown to be carried out on Monday 4th and Tuesday 5th February 2019 which show available capacity along the highway within relative walking distance to the site. The submitted TS has further provided data linked to a similar site in the Ealing Borough. Data used was collected on a Wednesday evening.

Whilst the submitted TS concludes with the proposals whilst adding to parking stress along the network will not give rise to highway safety impacts, it is considered the assessments have not been carried out on a worst case scenario basis. It is assumed that the site will most likely attract patrons at the end of the working week, typically Fridays and Saturdays. Associated data in aid of this scheme should therefore be provided on these days where peak parking demand for this site is most likely to take place.

I would therefore request that this information is provided in order to determine whether on-street parking linked to the site would exacerbate parking stress within the local area thus giving rise to highway safety implications. Until I am in receipt of this information, I would recommend that this application is refused.

EPU Officer:

I have read through the submitted acoustic report 18326.PCR.01 Revised A. The previous planning application reference 74252/APP/2018/3678 gave approval for the proposed kitchen extract system Plasmaclean Electrostatix PCL 7500 and recommendations for discharge termination point of 1 metre above the eaves of the main building. BS 8233 applies to the design of new buildings, or refurbished buildings undergoing a change of use, but does not provide guidance on assessing the effects of changes in the external noise levels to occupants of an existing building. It is guidance on noise levels particularly from road, rail and aircraft noise and not that associated with with speech and social activity. In outdoor play and recreational areas people often communicate with raised or very loud voices, speech varies and cannot be controlled with the same accuracy as mechanical noise sources.

The applicant has stated that noise levels from up to 44 patron is approximately 40 dB(A) at 1 metre, this is under worst case scenarios. Unfortunately noise disturbance from talking and social activity varies considerably and raised voices even by 10 people or 2 can cause annoyance and serious disturbance because of its unpredictable and intermittent nature. Noise nuisance in open external areas is preferably controlled through fixed hours of operations and specified numbers of patrons. Therefore my conclusions are that customer noise is likely to be detrimental to the adjoining property at the rear if the proposal is approved. Therefore I recommend that this part of the application is refused.

If approval is recommended please add following condition:

The external noise level emitted from plant, machinery or equipment at the development hereby approved shall 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.

Reason: To safeguard the amenity of the surrounding area in accordance with policy OE1 of the Hillingdon Unitary Development Plan. The extract duct shall discharge at 1 metre above the eaves.

In terms of odour, this type of activity is more difficult to control , because it can not be controlled through mechanically filtration or suitable odour arrestment plant, as it is a people based activity, and like smoking legislation this is carried out in an open or partial open structure. The preventative measure against odour nuisance would be to have distance between the activity taking place and the sensitive neighbouring premises but there is no guidance on this other than the current Smoking legislation which only refers to it being a open structure and other dimensions.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Local shopping parades serve an important role in providing convenience shopping that caters for the needs of local residents. Paragraph 8.22 and policy S7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) seeks to ensure that all residential areas are within half a mile of at least five essential shop uses, although not necessarily within the same parade. For some local shopping areas the closure of just one essential shop may be so significant as to precipitate the closure of other shops and the ultimate demise of the centre as a whole. The Local Planning Authority seeks to protect vulnerable parades and corner shops which have a particularly important role for the local community and to provide opportunities for the establishment of new essential shop uses in existing class A1 premises. Ideally there should be no less than 3 (essential shops) in the smaller parades and a choice of essential shops in the larger parades.

The application site is one of 8 units within the parade (comprising of 4 x retail units, 1 x hot food takeaways, 2 x restaurants and 1 x sui generis use). The application property is one of 4 retail properties in this parade which equates to 50% of the parade in retail use. The change of use of this site would result in the loss of a retail uses within this parade, however 3 units would be retained in such use. As such, the proposal would not harm local convenience shopping provision, in accordance with Policy S7 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012).

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. Furthermore Policies BE13 and BE15 of the Hillingdon

Local Plan: Part Two - Saved UDP Policies (November 2012) resist any development which would fail to harmonise with the existing street scene or would fail to safeguard the design of existing and adjoining sites.

The location of the extension is to the rear of a commercial parade, backing onto an access/service road. The proposed external finish of matching brick results in an acceptable development that would not appear out of keeping in its setting. There are a number of substantial extensions to the buildings within this parade and the proposed extension would not appear out of keeping with development within this vicinity. Therefore, the application is considered to be in accordance with Policies BE13 and BE15 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 nearest residential properties are above and adjacent to the application site. Properties 112-122 Longford Gardens are located 12 m to the East of the proposed extension. Properties in Cerne Close to the rear are located approximately 28m away from the proposed extension.

In considering this issue on the appeal relating to the previous application the Inspector stated:

"7. Officers from the Council's Environmental Protection Unit have advised that the extension would not be compliant with smoke free legislation. I can only consider the plans that are in front of me. However, it seems probable that the shutters would need to be left open whilst the premises were in use to ventilate the tobacco smoke. This would allow the general hubbub within the building and aroma from shisha pipes to transmit to surrounding dwellings and gardens, to the detriment of the occupiers of these properties.

8. Other than specifying that trading hours would be between 7pm and 11pm, the appellant has given no explanation as to how the business would be operated. Crucially, there is no information within the application as to how the above noise and odour impacts would be satisfactorily addressed. Neither have any details been provided of ventilation and extraction for the kitchen associated with the dining area.

9. Policy BE1 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) states that all new development should seek to protect the amenity of surrounding land and buildings, particularly residential properties. Saved Policy OE1 of the London Borough of Hillingdon Unitary Development Plan (1998) (UDP) explains that permission will not normally be granted for uses and associated structures which are likely to become detrimental to the character or amenities of surrounding properties or the area generally, because of factors such as noise and smell, unless sufficient measures are taken to mitigate the impact. Saved Policy OE3 states that buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact is mitigated within acceptable levels by engineering, lay-out [sic] or administrative measures.

10. In my judgement, the appeal proposal has the potential to have a significant adverse effect on the living conditions of surrounding residents by reason of noise and odour. These

issues have not been addressed by the appellant and there is nothing to demonstrate that the harmful impacts would be adequately mitigated. For this reason, I find that the proposal would be contrary to the aforementioned development plan policies."

In attempting to address this issue the applicant has submitted a Noise Impact Assessment which concludes that calculations show that noise emissions from the proposed shisha lounge would fully meet requirements of BS8233:2014 and it has been ensured that the amenity of nearby residential receivers will be protected.

The Council's EPU Officer has however advised that "in outdoor play and recreational areas people often communicate with raised or very loud voices, speech varies and cannot be controlled with the same accuracy as mechanical noise sources. The applicant has stated that noise levels from up to 44 patron is approximately 40 dB(A) at 1 metre, this is under worst case scenarios. Unfortunately noise disturbance from talking and social activity varies considerably and raised voices even by 10 people or 2 can cause annoyance and serious disturbance because of its unpredictable and intermittent nature. Noise nuisance in open external areas is preferably controlled through fixed hours of operations and specified numbers of patrons. Therefore my conclusions are that customer noise is likely to be detrimental for the adjoining property at the rear if the proposal is approved."

As such, the proposal fails to robustly demonstrate that the proposed extension and use of the site would not have a negative impact upon the amenity of nearby residents and occupants through increased noise and disturbance and odour, contrary to Local Plan policies OE1, OE3 and OE5 which strongly resist development which would have an adverse impact upon the amenity of residents through increased noise and odour.

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.

In considering this issue on the appeal relating to the previous application the Inspector stated:

"11. The appellant provides no reliable estimate as to the likely capacity of the ground floor premises. However, in comparison to retail use the number of persons present at any one time is likely to be considerably greater. I daresay that a proportion of these customers would arrive on foot from local residential areas. The appellant is also hoping to attract guests from the hotel directly opposite. Nonetheless, on the balance of probability some of the patrons would arrive by car - notwithstanding the appellant's anti drink-drive policy.

12. Although the premises have a large area of hardstanding to the rear, they do not benefit from any formal parking provision. Whilst the submitted plans show two parking spaces for staff and deliveries, all customers would need to park their vehicles off-site.

13. The appellant contends that there is ample parking in the nearby retail park and within the grounds of the hotel. However, these car parks are in private ownership and I have

seen no written agreements relating to their use. Furthermore, both car parks are gated and therefore I cannot be certain that they would be available at the times required, particularly later in the evening.

14. The Design and Access Statement states that the owner of 126 Uxbridge Road has offered land for off-street parking. However, there is nothing in writing to verify this and it is unclear how such provision could be properly secured in the absence of a legal agreement. Moreover, I am not convinced that this would be a practical or desirable arrangement given the unsurfaced nature of the access.

15. It is also suggested that customers would be able to use local side roads. There are no parking restrictions along Springfield Road and Brookside Road and therefore this possibility cannot be ruled out. However, there is no parking survey to demonstrate that there is spare on-street capacity at the times when the premises would be open. Accordingly, I cannot be confident that indiscriminate parking would not occur to the detriment of the safety and convenience of road users and local residents.

16. The Council has also raised concerns regarding servicing arrangements for the proposed use. Deliveries would be via the lane to the rear of the parade. This is shared by other units in the row, but it is wide enough for commercial vehicles to service the appeal premises. Larger vehicles may need to reverse into the lane from Brookside Road but this would be no different to the existing retail use and would not materially impact on highway safety.

17. Notwithstanding this, there is insufficient information to persuade me that there would be compliance with Policy AM7 of the UDP insofar as it seeks to ensure that traffic generation does not prejudice the free flow of traffic or conditions of general highway or pedestrian safety."

This current application is supported by a Transport Statement. The Council's Highways Officer has advised that the site would provide seven parking spaces, two towards the rear of 132 and five towards the rear of 130 Uxbridge Road all in a tandem arrangement. Access to these car parks will take place through Brookside Road via an existing shared access. It should be noted that the most western space to the rear of 132 would conflict with the site entrance gate. It is presumed that the entrance gate would remain open throughout the operational hours of the site.

To support the proposals, the applicant has submitted a Transport Assessment which includes details of a parking survey in the form of the widely known 'Lambeth Methodology'. Surveys are shown to be carried out on Monday 4th and Tuesday 5th February 2019 which show available capacity along the highway within relative walking distance to the site. The submitted TS has further provided data linked to a similar site in the Ealing Borough. Data used was collected on a Wednesday evening.

Whilst the submitted TS concludes with the proposals, whilst adding to parking stress along the network, will not give rise to highway safety impacts, it is considered the assessments have not been carried out on a worst case scenario basis. It is assumed that the site will most likely attract patrons at the end of the working week, typically Fridays and Saturdays. Associated data in aid of this scheme should therefore be provided on these days where peak parking demand for this site is most likely to take place.

As such the application has failed to robustly demonstrate that the proposal would not

result in an unacceptable rise in traffic in and around the application site. It is considered that the proposal would be detrimental to highway and pedestrian safety contrary to policies AM7 and AM14 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and to the Hillingdon's Adopted Parking Standards.

7.11 Urban design, access and security

The issues are addressed in the sections above.

7.12 Disabled access

No accessibility concerns are raised in respect of this application.

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

Should the application be considered acceptable in all other respects a conditions requiring the submission of details in respect of sustainable waste management could be imposed.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

The site is identified at risk of surface water flooding on the Environment Agency Flood Maps. It is therefore important all developments in this area contribute to manage the risk from surface water, and reduce the run off from their site. The Council's Floodwater Management Officer has advised that should the application be considered acceptable in all other respects a condition requiring a sustainable water management scheme would need to be imposed.

7.18 Noise or Air Quality Issues

The issues are addressed in the section above.

7.19 Comments on Public Consultations

The planning concerns raised in the letters of objection are addressed in the sections above.

7.20 Planning obligations

The Council adopted its own Community Infrastructure Levy (CIL) on August 1st 2014 and the Hillingdon CIL charge for residential developments is £95 per square metre of additional floorspace. This is in addition to the Mayoral CIL charge of £60 per sq metre.

7.21 Expediency of enforcement action

Not applicable to this application.

7.22 Other Issues

No other issues raised.

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 a change of use from retail (Use Class A1) to a mixed use comprising restaurant (Use Class A3) with single storey rear extension, and shelter for use as a Shisha Lounge (Use Class A3/Sui Generis). The application follows the

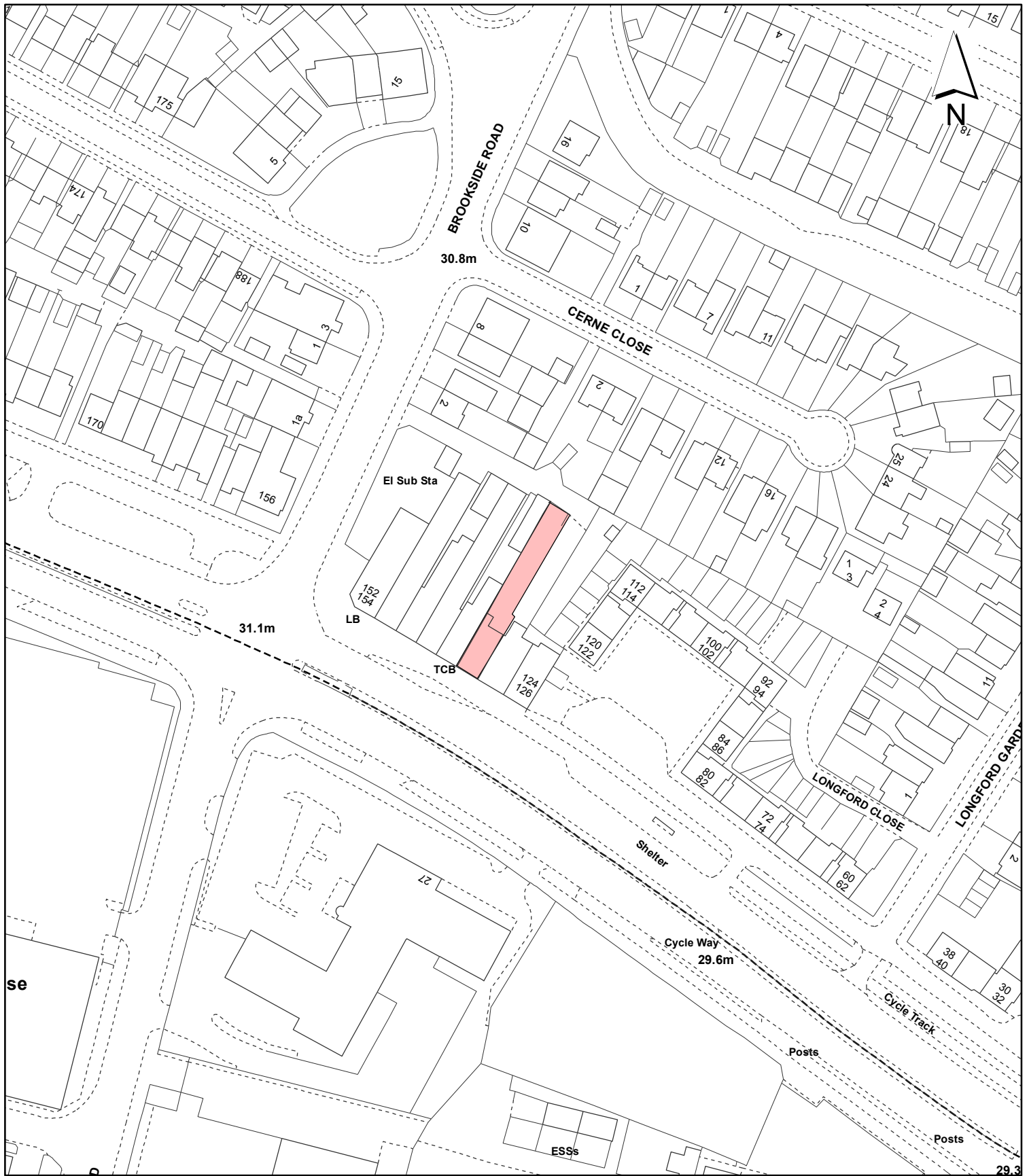
dismissal on appeal of application Ref: 3125/APP/2016/2172 where the Inspector upheld the Council's reasons for refusal. This revised application is supported by a Environmental Noise Survey and Transport Statement. However, it is considered that the applicant has failed to adequately address the impact of the proposed extension and change of use, on the amenities of occupants of nearby residential properties by way of noise, odour and disturbance and the impact upon highway safety. The application is therefore 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 (March 2016)
Hillingdon Design and Accessibility Statement: Accessible Hillingdon
National Planning Policy Framework

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Notes:

 Site boundary

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Planning Application Ref:

3125/APP/2019/545

Scale:

1:1,250

Planning Committee:

Central & South

Date:

June 2019



HILLINGDON
 LONDON