

## Report of the Head of Planning, Transportation and Regeneration

**Address** UNIT 240A, INTU UXBRIDGE HIGH STREET UXBRIDGE

**Development:** Change of use of part of Unit 240A from retail (Use Class A1) to restaurant/cafe (Use Class A3)

**LBH Ref Nos:** 74688/APP/2019/955

**Drawing Nos:** AL(01)1010 Rev. P02  
AL(01)1011 Rev. P02  
AL(01)1009 Rev. P02  
AL(01)1008 Rev. P02  
AL(01)1028 Rev. P05  
AL(01)0942 Rev. P07  
KONE\_MonoSpace\_500\_2019-07-25

**Date Plans Received:** 19/03/2019      **Date(s) of Amendment(s):** 19/03/2019  
**Date Application Valid:** 19/03/2019      25/07/2019

### 1. SUMMARY

The application seeks planning permission for a change of use of part of Unit 240A from Unit 240A from retail (Use Class A1) to restaurant/cafe (Use Class A3). The proposed change of use would not, on balance, undermine the retail function of the shopping area and the principle of development is considered acceptable. No external alterations are proposed and the proposal is not considered to give rise to a loss of amenity. The application is recommended for approval subject to the receipt of no adverse comments by the end of the consultation period.

### 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, numbers AL(01)1009 P02; AL(01)1011 P02; AL(01)0924: P07; AL(01)1028: P05 and KONE\_MonoSpace\_500\_2019-07-25 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).

### 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.

BE4	New development within or on the fringes of conservation areas
BE13	New development must harmonise with the existing street scene.
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
DMTC 1	Town Centre Development
DMTC 2	Primary and Secondary Shopping Areas
DAS-SF	Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010

**3** I59 **Councils Local Plan : Part 1 - Strategic Policies**

On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant saved policies (referred to as policies from the Hillingdon Unitary Development Plan - Saved Policies September 2007), then London Plan Policies (2016). On the 8th November 2012 Hillingdon's Full Council agreed the adoption of the Councils Local Plan: Part 1 - Strategic Policies. Appendix 5 of this explains which saved policies from the old Unitary Development (which was subject to a direction from Secretary of State in September 2007 agreeing that the policies were 'saved') still apply for development control decisions.

**4** I25 **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).

**5** I26 **Retail Development - Installation of a Shopfront**

You are advised that planning permission will be required for the installation of a shopfront at these premises. For further information and advice, contact - Residents Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

### **3. CONSIDERATIONS**

#### **3.1 Site and Locality**

The application site comprises Unit 240A which is a retyail unit within Intu Uxbridge, currently occupied by Waterstones Booksellers Ltd. Waterstones plan to reduce the size of its store from 729sqm to 417sqm, allowing for a new food and drink unit to be created, extending to 312sqm. This unit would be occupied by Cote Brasserie, a chain of brasseries serving authentic French dishes. Unit 240A is set across two floors, with access from the upper and lower mall levels within intu Uxbridge and from the High Street. After the units have been separated, Waterstones would be accessed internally from the shopping centre and Cote Brasserie will be accessed from the High Street.

The application site is located within the Primary Shopping Area (PSA) of Uxbridge Town Centre, the Old Uxbridge/Windsor Street Conservation Area and an Archaeological Priority Area as identified within the Hillingdon Local Plan - Saved UDP Policies (November 2012).

#### **3.2 Proposed Scheme**

The application seeks planning permission for a change of use of part of Unit 240A from retail (Use Class A1) to restaurant/cafe (Use Class A3).

#### **3.3 Relevant Planning History**

##### **Comment on Relevant Planning History**

Planning permission for intu Uxbridge, which includes Unit 240A, was approved in November 1996 (LPA ref: 42966/AH/96).

A Section 106 Agreement (dated 27 November 1997) is associated with this permission. The Agreement states that:

"Not less than eighty per centum (80%) of the Retail Floor Space shall be used as retail space within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 PROVIDED THAT for the purposes of this clause space used for purposes ancillary to retail use within such Use Class A1 shall itself be treated as being used for purposes within such Use Class A1 PROVIDED ALSO THAT for the avoidance of doubt this obligation shall not be construed as a positive obligation to trade."

#### **4. Planning Policies and Standards**

The Revised Proposed Submission Local Plan Part 2 (LPP2) documents (Development Management Policies, Site Allocations and Designations and Policies Map Atlas of Changes) were submitted to the Secretary of State for examination in May 2018.

The public examination hearing sessions took place over one week in August 2018. Following the public hearing sessions, the examining Inspector advised the Council in a Post Hearing Advice Note sent in November 2018 that he considers the LPP2 to be a plan that could be found sound subject to a number of main modifications.

The main modifications proposed by the Inspector were agreed by the Leader of the Council and the Cabinet Member for Planning, Transport and Recycling in March 2019 and are published for public consultation from 27 March to 8 May 2019.

Regarding the weight which should be attributed to the emerging LPP2, paragraph 48 of the National Planning Policy Framework (NPPF) 2019 states that 'Local Planning Authorities may give weight to relevant policies in emerging plans according to:

(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

With regard to (a) above, the preparation of the LPP2 is now at a very advanced stage. The public hearing element of the examination process has been concluded and the examining Inspector has indicated that there are no fundamental issues with the LPP2 that would make it incapable of being found sound subject to the main modifications referred to above.

With regard to (b) above, those policies which are not subject to any proposed main modifications are considered to have had any objections resolved and can be afforded considerable weight. Policies that are subject to main modifications proposed by the Inspector will be given less than considerable weight. The weight to be attributed to those individual policies shall be considered on a case by case basis considering the particular main modification required by the Inspector and the material considerations of the particular planning application, which shall be reflected in the report, as required.

With regard to (c) it is noted that the Inspector has indicated that subject to main modifications the LPP2 is fundamentally sound and therefore consistent with the relevant policies in the NPPF.

Notwithstanding the above, the starting point for determining planning applications remains the adopted policies in the Local Plan: Part 1 Strategic Policies and the Local Plan: Part 2 Saved UDP Policies 2012.

### **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:

BE4 New development within or on the fringes of conservation areas

BE13 New development must harmonise with the existing street scene.

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

S11	Service uses in Primary Shopping Areas
DMTC 1	Town Centre Development
DMTC 2	Primary and Secondary Shopping Areas
DAS-SF	Shopfronts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010

## 5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **29th August 2019**

5.2 Site Notice Expiry Date:- Not applicable

## 6. Consultations

### External Consultees

19 Neighbouring properties were consulted by letter dated 25.3.19 and a site notice was displayed to the front of the site which expired on 26.4.19.

5 letters of objection have been received raising concerns about the loss of the bookshop floorspace and questioning the need for yet another restaurant in Uxbridge Town Centre.

1 letter of support has been received for the proposal.

### Internal Consultees

Highways Officer:

The application has been reviewed by the Highway Authority who are satisfied that the proposal would not discernibly exacerbate congestion or parking stress, and would not raise any notable highway safety concerns, in accordance with policies AM2, AM7 and AM14 of the Development Plan (2012) and policies 6.3,6.9, and 6.13 of the London Plan (2016).

Access Officer:

The proposed Change of Use would result in the subdivision of Unit 240A which is currently occupied by Waterstones bookshop.

In its current format, unit is accessed directly from the High Street which enters the unit at lower ground. A second entrance provides access from within the Intu Centre to the upper ground level. A lift is provided internally to facilitate ease of access between these two levels, as well as to the first floor. All customer areas are at present fully accessible.

Indicative floor plan layouts received from Leslie Jones Architecture show that the customer lift would be provided within Waterstones, thus retaining current levels of accessibility.

However, within the proposed A3 unit, lift access is not proposed to the new mezzanine floor. A new staircase would be formed to allow access by staff to the kitchen, storage, ancillary areas, and to the newly formed toilets. All customer seating would be provided on the ground floor, along with a fully accessible customer toilets.

The proposed A3 layout is considered to be acceptable at this time in terms of satisfying Equality Act 2010 requirements, however, the mezzanine floor should be constructed to allow an enclosed platform lift to be installed should the needs of the business, or indeed a future occupier, change at some future point.

A suitable planning condition should be attached to any grant of planning permission to require lift access within the bookshop. An additional planning condition should require details to demonstrate that a future lift could be installed within the proposed A3 unit.

Conclusion: acceptable, subject to the application of suitable planning conditions.

Officer Comment: Plans have been received showing the position and details of a proposed lift. Thus condition 2 would cover this issue.

## **7. MAIN PLANNING ISSUES**

### **7.01 The principle of the development**

Saved Policy S11 of the UDP states that planning permission will be granted for Class A3 uses in Primary Shopping Areas (PSAs) where the remaining retail facilities adequately maintain the function of the shopping centre and will not result in a separation of Class A1 uses or concentration of non-retail uses which might harm the vitality and viability of the centre. The policy goes on to state that the Council will also regard Class A3 uses as acceptable at ground floor level within the shopping frontages of PSAs. Emerging Local Plan Policy DMTC 4 confirms proposals for restaurants will be allowed provided they would not result in an over concentration of such uses.

Saved UDP policy S11 contains criteria by which the function and vitality of the retail centre can be assessed. These seek to retain at least 70% of the primary shopping frontage in retail use and prevent a separation of units within Use Class A1 of more than 12 metres. The emerging Local Plan: Part 2 Development Management Policies - Revised Proposed Submission Version (2015) is at an advanced stage of being adopted therefore it should be cited as a material consideration when assessing the application.

Policy DMTC2 of the Local Plan: Part 2 Development Management Policies - Revised Proposed Submission Version (2015) states that in primary shopping areas, the Council will support the ground floor use of premises for retail, financial and professional activities and restaurants, cafes, pubs and bars provided that a minimal of 70% of the frontage is retained in Class A1; Use Class A5 hot food takeaways are limited to a maximum of 15% of the frontage; the proposed use will not result a separation of more than 12 metres between A1 retails uses; and the proposed use does not result in a concentration of non retail uses which could be considered to cause harm to the vitality and viability of the town centre.

Policy DMTC4 of the Local Plan: Part 2 Development Management Policies - Revised Proposed Submission Version (2015) states that proposals for restaurants and hot food takeaways will only be supported provided that they:

- i) would not result in adverse cumulative impacts due to an unacceptable concentration of such uses within one area;
- ii) would not cause unacceptable disturbance or loss of amenity to nearby properties by reason of noise, odour, emissions, safety and security, refuse, parking or traffic congestion; and
- iii) would not detrimentally affect the character and function of an area by virtue of the proposed use or visual impact.

The application site is within the Uxbridge Town Centre and Primary Shopping Area. In accordance with the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and the emerging Local Plan: Part 2 Development Management Policies - Revised Proposed Submission Version (2015), the Local Planning Authority's aim is to retain a minimum of 70% of primary area frontage in Class A1. The Local Planning Authority will resist proposals that would result in the loss of Class A1 shop use in core areas and will examine very closely similar proposals for other parts of these centres. The principle for a change of use from A1 to a non-A1 use in a primary frontage can be established if there are adequate retail facilities to maintain the character and function of the shopping centre.

The most recent shopping survey for Uxbridge Town Centre (October 2016) confirmed that the retail percentage in the primary shopping frontage was 67%. If the proposed development is granted permission, this figure will fall further below the threshold, and would be contrary to Policy S11 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) and Policy DMTC2 of the Local Plan: Part 2 Development Management Policies - Revised Proposed Submission Version (2015).

The applicant has put forward some justification for a departure to the Council's adopted planning policies. On either side of the proposed Class A3 unit, is a Snappy Snaps to the north (Class A1) and a Flight Centre to the south (Class A1) which indicates that the new unit fronting the High Street will not cause a separation of units within Use Class A1 of more than 12 metres.

Class A3 uses increase footfall and activity and this will enhance the performance of the shopping centre by attracting shoppers and by offering an enhanced range of food and drink facilities. Waterstones, the current occupier, has identified their current floorspace as surplus to their requirements and wish to reduce the size of their unit to ensure the store remains successful.

The applicant has provided details of an appeal decision dated 15/02/2012, relating to nearby premises at 198-200 High Street, Uxbridge (Ref:67860/APP/2011/1446) is also a material planning consideration. The Inspector's decision noted that national and regional policy and guidance is generally supportive of the location of a Class A use in town centre locations and the Inspector found that the proposed food and drink use would be unlikely to harm the vitality and viability of Uxbridge town centre.

In terms of the S106 agreement at intu Uxbridge, the applicant has advised that currently 9.2% of the retail floorspace within intu Uxbridge is occupied by non-Class A1 uses. This would rise to 10.2% should planning permission be granted for the proposal. The proportion of A1 floorspace is therefore currently 90.8% and this would fall to 89.8% as a result of the proposals. The proportion of floorspace retained in Class A1 use would therefore remain significantly above the 80% required by the S106 Agreement.

It is considered that it would be reasonable to consider whether sufficient justification is provided to establish a departure from the Council's adopted and emerging planning policies which seek to protect the retail function of town centres. As referred to above, the proposed Class A3 unit would not cause a separation of units within Use Class A1 of more than 12 metres. That new unit would provide an active frontage that would not be of detriment to the surrounding uses. It is necessary to raise awareness of the challenge facing high streets and the particular pressure the retail sector continues to face. Uxbridge has already witnessed a significant number of high street retailer failures. When the

Chimes shopping centre opened some 15 years or so again having a flagship Waterstones (A1) of the scale and prominence of the Uxbridge store was very much required. However the book retail market is a great example of a sector that has been significantly impacted by both internet sales and new technology that now enables written material to be accessed on mobile devices. The need for the Waterstones (A1) of the current size in INTU is no longer viable or from the perspective of the retailer viable. However the A1 use of part of the site would still be retained, albeit in a more modest form. It is considered, on balance, that the proposed change of use would not undermine the retail function of the shopping area and the principle of development is considered acceptable.

#### **7.02 Density of the proposed development**

Not applicable to this application.

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

Whilst the application site is located within the Old Uxbridge / Windsor Street Conservation Area; and an Archaeological Priority Area, no external alterations are proposed within 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**

Not applicable to this application.

#### **7.08 Impact on neighbours**

In terms of assessing the effects of the proposal on residential amenity, the potential impacts that may arise with the proposed use are those of noise, odour, parking, refuse, litter and general disturbance. Thus Policy OE1 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) states 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 siting or appearance; storage; traffic generation; noise and vibration or the emission of dust, smell or other pollutants.

Similarly, buildings or uses which have the potential to cause noise annoyance will only be permitted under Policy OE3 if the impact is mitigated within acceptable levels by engineering or layout measures.

There are no residential properties in close proximity to the application site. and the the Council's Environmental Protection Unit have raised no objection to the proposal.

Accordingly, the proposal complies with Policies OE1 and OE3 Hillingdon Local Plan (November 2012).

#### **7.09 Living conditions for future occupiers**

Not applicable to this application.

#### **7.10 Traffic impact, Car/cycle parking, pedestrian safety**

Not applicable to this application.

#### **7.11 Urban design, access and security**

No issues are raised

#### **7.12 Disabled access**

No accessibility issues are raised. In its current format, the unit is accessed directly from



the High Street which enters the unit at lower ground. A second entrance provides access from within the Intu Centre to the upper ground level. A lift is provided internally to facilitate ease of access between these two levels, as well as to the first floor. All customer areas are at present fully accessible.

Floor plan layouts have been received which show that the customer lift could be provided within Waterstones, thus retaining current levels of accessibility. The proposed A3 layout is considered to be acceptable at this time in terms of satisfying Equality Act 2010 requirements. The mezzanine floor should be constructed to allow an enclosed platform lift to be installed should the needs of the business, or indeed a future occupier, change at some future point.

#### **7.13 Provision of affordable & special needs housing**

Not applicable to this application.

#### **7.14 Trees, landscaping and Ecology**

Not applicable to this application.

#### **7.15 Sustainable waste management**

Not applicable to this application.

#### **7.16 Renewable energy / Sustainability**

Not applicable to this application.

#### **7.17 Flooding or Drainage Issues**

Not applicable to this application.

#### **7.18 Noise or Air Quality Issues**

Not applicable to this application.

#### **7.19 Comments on Public Consultations**

The issues are addressed in the sections above.

#### **7.20 Planning obligations**

Not applicable to this application.

#### **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 of part of Unit 240A from Unit 240A from retail (Use Class A1) to restaurant/cafe (Use Class A3). The proposed change of use would not, on balance, undermine the retail function of the shopping area and the principle of development is considered acceptable. No external alterations are proposed and the proposal is not considered to give rise to a loss of amenity. The application is recommended for approval.

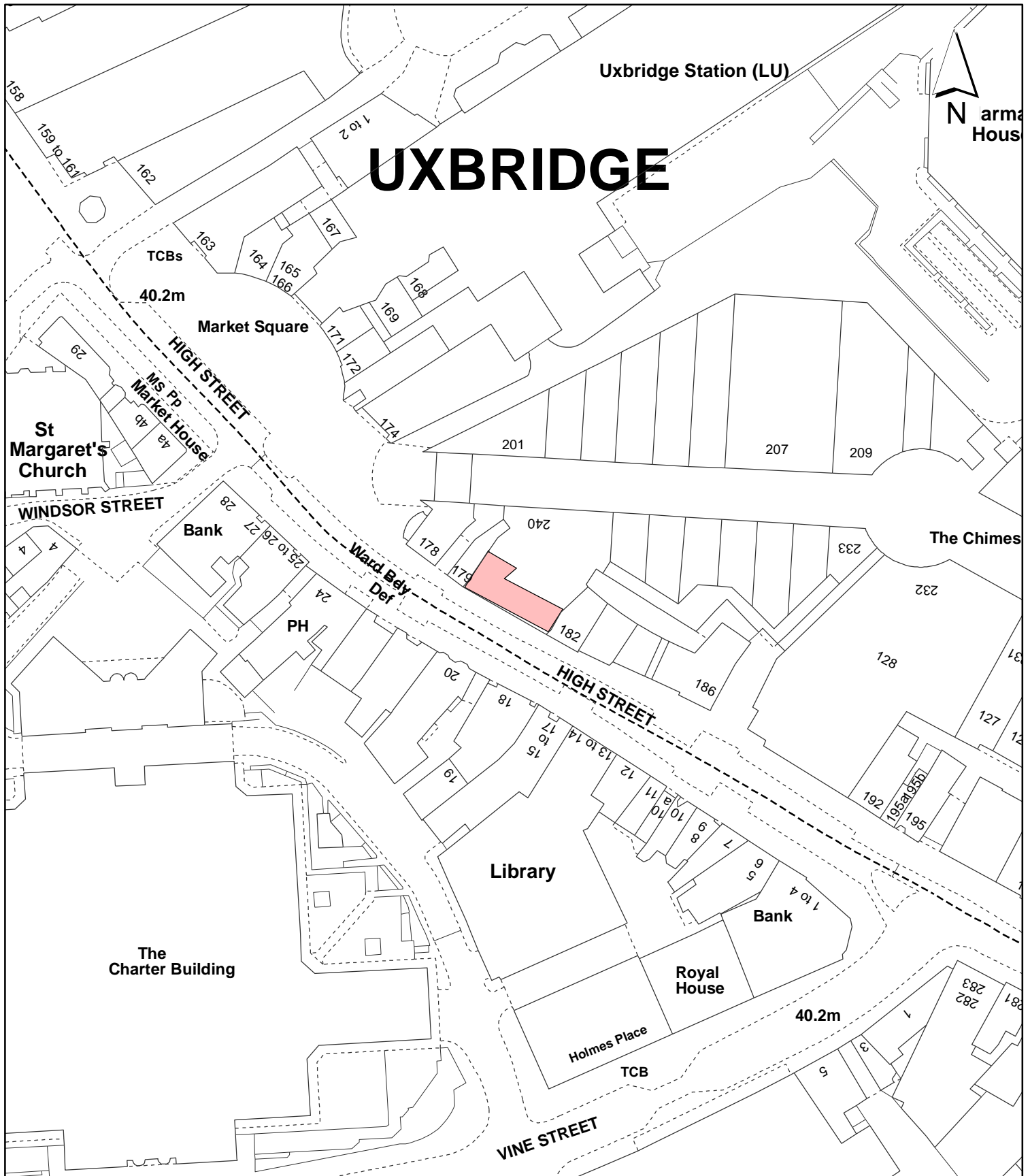
## **11. Reference Documents**



Hillingdon Unitary Development Plan (Saved Policies September 2007).  
Supplementary Planning Document 'Accessible Hillingdon'.

The London Plan (March 2016).  
National Planning Policy Framework (March 2012).

**Contact Officer:** Nicola Taplin

**Telephone No:** 01895 250230



<p><b>Notes:</b></p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>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).</p> <p>Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2018 Ordnance Survey 100019283</p>	<p>Site Address:</p> <p style="text-align: center;"><b>Unit 240A Intu Uxbridge High Street</b></p>		<p><b>LONDON BOROUGH OF HILLINGDON</b> Residents Services Planning Section Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p> <p style="text-align: center;"> <b>HILLINGDON</b> LONDON</p>
	<p>Planning Application Ref:</p> <p style="text-align: center;"><b>74688/APP/2019/955</b></p>	<p>Scale:</p> <p style="text-align: center;"><b>1:1,000</b></p>	
	<p>Planning Committee:</p> <p style="text-align: center;"><b>Central &amp; South</b></p>	<p>Date:</p> <p style="text-align: center;"><b>July 2019</b></p>	