

Report of the Head of Planning, Transportation and Regeneration

Address 692 UXBRIDGE ROAD HAYES

Development: Change of use from retail (Use Class A1) to a mixed use comprising restaurant and hot food takeaway (Use Classes A3 and A5) with installation of flue to rear

LBH Ref Nos: 33394/APP/2019/2306

Drawing Nos: ART/2019/CU692UR/SPLP
ART/2019/CU692UR/EE
ART/2019/CU692UR/PE
ART/2019/CU692UR/ELPL Rev. B

Date Plans Received: 09/07/2019 **Date(s) of Amendment(s):**

Date Application Valid: 12/07/2019

1. SUMMARY

The application seeks planning permission for the change of use from retail (Use Class A1) to a mixed use comprising restaurant and hot food takeaway (Use Classes A3 and A5) with installation of flue to rear.

It is considered that the proposal would not result in a detrimental impact on the visual amenities of the street scene and surrounding area, would have an acceptable impact on the neighbouring properties and would not result in a detrimental impact on highway safety. However, due to the loss of a retail unit it is considered that it would harm the vitality and attractiveness of Uxbridge Road Town Centre and would be contrary to Policy S11 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy DMTC 2 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019).

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal, by reason of the loss of a retail unit within the primary shopping area of the Uxbridge Road Town Centre and the use proposed, would erode the retail function of the area, harming the vitality and viability of the centre. The proposal is therefore contrary to Policy S11 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012), Policy DMTC 2 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019) and Policy 2.15 of the London Plan (2016).

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.
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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
DMTC 2	Primary and Secondary Shopping Areas
DMTC 4	Amenity and Town Centre Uses
LDF-AH	Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010
LPP 2.15	(2016) Town Centres
NPPF- 7	NPPF-7 2018 - Ensuring the vitality of town centres

3 I59 Councils Local Plan : Part 1 - Strategic Policies

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

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

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the 'Saved' UDP 2007, Local Plan Part 1, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service. We have however been unable to seek solutions to problems arising from the application as the principal of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

3. CONSIDERATIONS

3.1 Site and Locality

The application relates to a ground floor retail unit located within a row a three-storey terraced properties. The unit shares the building with No.694 Uxbridge Road. The application property forms part of a row of shops and it is currently vacant.

The site lies within the Primary Shopping Area of Uxbridge Road Town Centre and the Developed Area as identified within the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

3.2 Proposed Scheme

The application is seeking planning permission to change the use of the ground floor from retail (Use Class A1) to a mixed use comprising restaurant and hot food takeaway (Use Classes A3 and A5) with installation of flue to rea.

3.3 Relevant Planning History

33394/83/0787 692 Uxbridge Road Hayes

Single storey rear extension to shop for ancillary storage purposes.

Decision: 01-07-1983 Approved

33394/A/95/0753 692 Uxbridge Road Hayes

Alterations to premises involving the raising of the roof at the rear part of existing shop

Decision: 13-06-1995 Approved

Comment on Relevant Planning History

None relevant.

4. Planning Policies and Standards

The Local Plan Part 2 Draft Proposed Submission Version (2015) was submitted to the Secretary of State on 18th May 2018. This comprises of a Development Management Policies document, a Site Allocations and Designations document and associated policies maps. This will replace the current Local Plan: Part 2 - Saved UDP Policies (2012) once adopted.

The document was submitted alongside Statements of Proposed Main and Minor Modifications (SOPM) which outline the proposed changes to submission version (2015) that are being considered as part of the examination process.

Submission to the Secretary of State on 18th May 2018 represented the start of the Examination in Public (EiP). The public examination hearings concluded on the 9th August 2018. The Inspector submitted a Post Hearing Advice Note outlining the need to undertake a final consultation on the updated SOPM (2019) only. The Council undertook this consultation between 27th March 2019 and 8th May 2019. All consultation responses have been provided to the Inspector for review, before the Inspector's Final Report is published to conclude the EiP process.

Paragraph 48 of the NPPF (2019) outlines 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).

On the basis that the public hearings have concluded and the Council is awaiting the final Inspector's Report on the emerging Local Plan: Part 2, the document is considered to be in the latter stages of the preparation process. The degree to which weight may be attached to each policy is therefore based on the extent to which there is an unresolved objection being determined through the EiP process and the degree of consistency to the relevant policies in the NPPF (2019).

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.

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

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

S11 Service uses in Primary Shopping Areas

DMTC 2 Primary and Secondary Shopping Areas

DMTC 4 Amenity and Town Centre Uses

LDF-AH Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010

LPP 2.15 (2016) Town Centres

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

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Nine neighbouring properties were notified of the proposal on 16/07/2019. A site notice was also displayed which expired on 07/08/2019.

No responses were received.

Internal Consultees

None.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Policy S11 of the adopted Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that planning permission will be granted for Class A3 Food and Drink uses in Primary Shopping Areas where the remaining retail facilities are adequate to accord with 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. Policy DMTC 2 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019) states that in Primary Shopping areas the Council will allow restaurants if 70% of the frontage is A1 and it would not result in a separation of more than 12 metres of A1.

The immediate neighbouring properties are currently used as A1 and so the proposal would not result in a separation of more than 12 metres of A1. However, the 2016 shopping survey shows that the retail percentage within the primary shopping frontage of this town centre is 54.3% which falls considerably short of the 70% requirements and the proposal would reduce this further. Although it is noted that the unit is currently vacant no evidence regarding any marketing of the unit has been submitted or any evidence to show length of vacancy, to demonstrate whether the loss of A1 could be considered acceptable. However, it should be noted that the the 2016 shopping survey shows that the vacancy levels within the primary frontage are fairly low at 7.3%.

In summary therefore, the proposed change of use is considered unacceptable in principle given that the proposed loss of the retail unit would erode the retail function and attractiveness of the primary shopping area of this part of Uxbridge Road Town Centre, to the detriment of its vitality and viability. The proposal is therefore contrary to Policy S11 of the adopted Hillingdon Local Plan - Saved UDP Policies (November 2012) and Policy DMTC 2 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019).

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

The only external alteration would be the installation of the extraction flue at the rear. There are similar vents along the rear of the row of shows and it is considered that it would not appear out of keeping with the surrounding area. As such, it is considered that the proposal would comply with Policy BE13 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.

The first floor of the building is in residential use. The proposal includes the installation of an extract flue to the rear of the unit. No details have been submitted in respect of this flue and so it has not been possible to fully assess whether the flue would result in an unacceptable impact upon the residential amenities of occupants of the residential properties above the retail units along Uxbridge Road. However, it is important to note that the National Planning Policy Framework at paragraph 186 states that Local planning authorities should approach decision-taking in a positive way, and at paragraph 187 that Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.

As such, given the type of use and its location within a town centre, subject to conditions controlling the hours of use, the provision of sound insulation, and details of the extraction flue it is considered that the proposal would not impact unduly on the surrounding residential occupiers.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Policies AM2 and AM7 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) state that all proposals for development will be assessed against their contribution to traffic generation and their impact on congestion and the present and potential availability of public transport and its capacity to meet increase demand. Policy AM14 seeks to ensure developments comply with the Council's Parking Standards.

It is considered that due to the location of the application site, the proposal would not result in an increase in vehicular activity within the area. There is sufficient parking within the area which is controlled. Subsequently, it is considered that the proposal would not exacerbate congestion or parking stress and would not raise any highway safety concerns in accordance with Policies AM2, AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

7.11 Urban design, access and security

No urban design, access and security issues raised for this application.

7.12 Disabled access

The access would not be altered as part of the proposal and the Council's Access officer has not raised any concerns.

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

Policy OE3 states buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact can be mitigated.

The first floor of the building is in residential use. The proposal includes the installation of an extract flue to the rear of the unit. No details have been submitted in respect of this flue and so it has not been possible to fully assess whether the flue would result in an unacceptable impact upon the residential amenities of occupants of the residential properties above the retail units along Uxbridge Road. However, it is important to note that the National Planning Policy Framework at paragraph 186 states that Local planning authorities should approach decision-taking in a positive way, and at paragraph 187 that Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.

As such, given the type of use and its location within a town centre, subject to conditions controlling the hours of use, the provision of sound insulation, and details of the extraction flue it is considered that the proposal would not impact unduly on the surrounding residential occupiers.

7.19 Comments on Public Consultations

No responses have been received.

7.20 Planning obligations

Not applicable to this application.

7.21 Expediency of enforcement action

Not applicable to this application.

7.22 Other Issues

None.

8. Observations of the Borough Solicitor

General

Members must determine planning applications having due regard to the provisions of the development plan so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations (including regional and national policy and guidance). Members must also determine applications in accordance with all relevant primary and secondary legislation.

Material considerations are those which are relevant to regulating the development and use of land in the public interest. The considerations must fairly and reasonably relate to the application concerned.

Members should also ensure that their involvement in the determination of planning applications adheres to the Members Code of Conduct as adopted by Full Council and also the guidance contained in Probity in Planning, 2009.

Planning Conditions

Members may decide to grant planning consent subject to conditions. Planning consent should not be refused where planning conditions can overcome a reason for refusal. Planning conditions should only be imposed where Members are satisfied that imposing the conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Where conditions are imposed, the Council is required to provide full reasons for imposing those conditions.

Planning Obligations

Members must be satisfied that any planning obligations to be secured by way of an agreement or undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 are necessary to make the development acceptable in planning terms. The obligations must be directly related to the development and fairly and reasonably related to the scale and kind to the development (Regulation 122 of Community Infrastructure Levy 2010).

Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have due regard to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The requirement to have due regard to the above goals means that members should consider whether persons with particular protected characteristics would be affected by a proposal when compared to persons who do not share that protected characteristic. Where equalities issues arise, members should weigh up the equalities impact of the proposals against the other material considerations relating to the planning application. Equalities impacts are not necessarily decisive, but the objective of advancing equalities must be taken into account in weighing up the merits of an application. The weight to be given to any equalities issues is a matter for the decision maker to determine in all of the circumstances.

Members should also consider whether a planning decision would affect human rights, in particular the right to a fair hearing, the right to respect for private and family life, the protection of property and the prohibition of discrimination. Any decision must be proportionate and achieve a fair balance between private interests and the public interest.

9. Observations of the Director of Finance

Not applicable to this application.

10. CONCLUSION

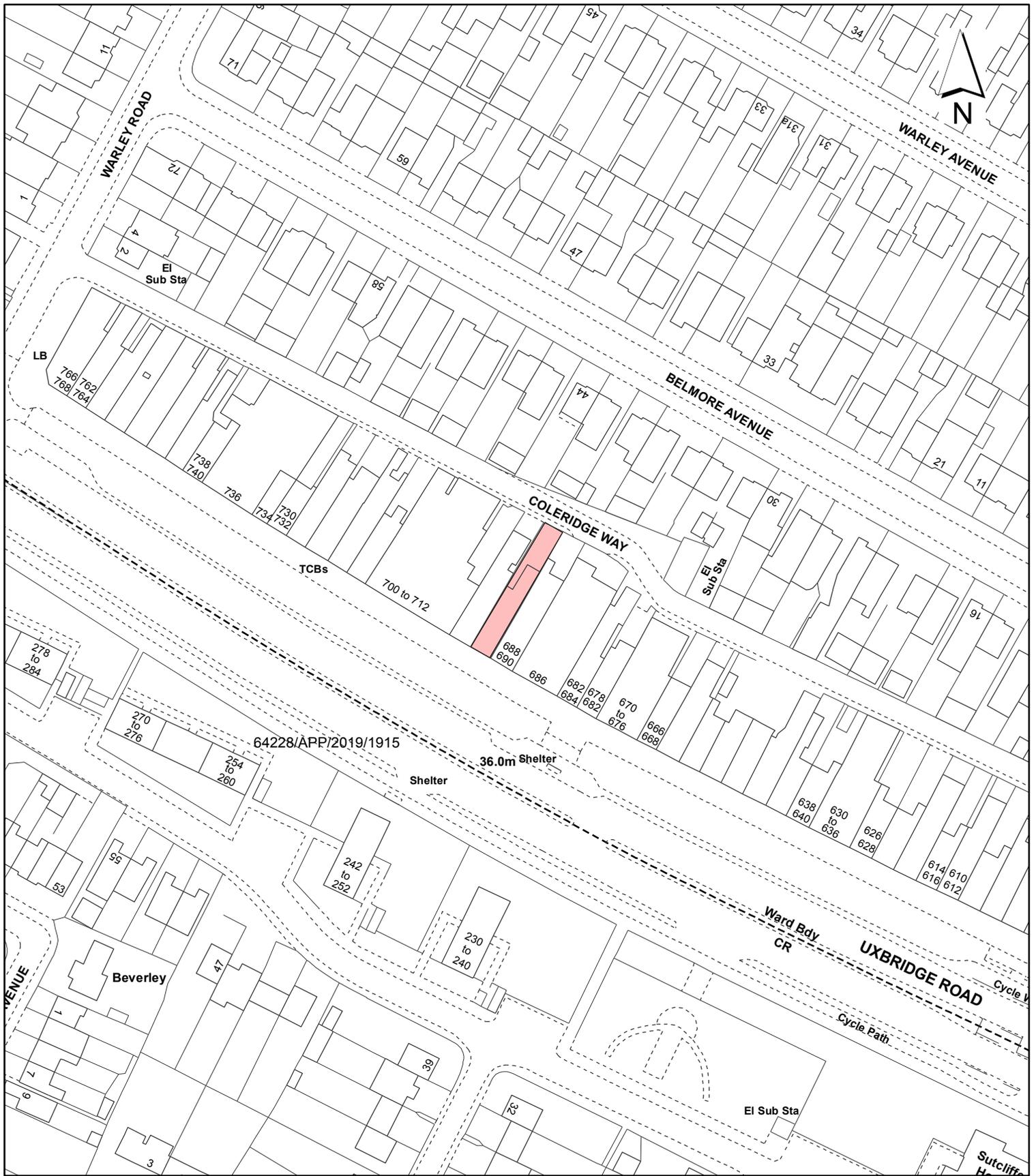
It is considered that the change of use of the property from retail to a mixed use comprising restaurant and hot food takeaway (Use Classes A3 and A5) would harm the vitality and attractiveness of Uxbridge Road Town Centre and would be contrary to Policy S11 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy DMTC 2 of the Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019).

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)
Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)
Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019)
The London Plan (2016).
Hillingdon Design and Accessibility Statement: Accessible Hillingdon
National Planning Policy Framework.

Contact Officer: Charlotte Spencer

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Notes:

 Site boundary

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Site Address:

692 Uxbridge Road

Planning Application Ref:

33394/APP/2019/2306

Planning Committee:

Central & South

Scale:

1:1,250

Date:

October 2019

LONDON BOROUGH OF HILLINGDON
 Residents Services
 Planning Section

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



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