

Report of the Head of Planning, Transportation and Regeneration

Address 1190 UXBRIDGE ROAD HAYES

Development: Use of forecourt and office of former petrol station as a hand car wash and valeting business

LBH Ref Nos: 3976/APP/2017/3729

Drawing Nos: Contamination Investigation August 2017
Petrol Tank Decommissioning Certificate
011/P/001c
011/E/S/002a
Location Plan (1:1250)

Date Plans Received: 11/10/2017 **Date(s) of Amendment(s):**

Date Application Valid: 11/10/2017

1. SUMMARY

The proposed scheme is for the regularisation and retention of an existing hand car wash and valeting business located at the application site. The proposed use is considered acceptable for the site and the wider location, subject to conditions controlling hours of operation and waste water spray.

However, the applicant has not provided a satisfactory level of detail to demonstrate that concerns raised in relation to potential land contamination matters that resulted in the refusal of previous applications have been responsibly addressed.

The proposal does not comply with Policy EM8 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies OE1 and OE11 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMEI 12 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies With Modifications (March 2019) and Policy 5.21 of the London Plan (2016).

The application is therefore recommended for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal, for the continued use of the site as a hand car wash and valeting business, fails to provide sufficient information in regards to existing subsurface land contamination resulting from the previous use as a petrol filling station and the current use as an unauthorised car wash use, thereby failing to accord with Policy EM8 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies OE1 and OE11 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMEI 12 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies With Modifications (March 2019) and Policy 5.21 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.
BE18	Design considerations - pedestrian security and safety
BE19	New development must improve or complement the character of the area.
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
OE8	Development likely to result in increased flood risk due to additional surface water run-off - requirement for attenuation measures
OE11	Development involving hazardous substances and contaminated land - requirement for ameliorative measures
DMEI 10	Water Management, Efficiency and Quality
DMEI 12	Development of Land Affected by Contamination
DMHB 11	Design of New Development
SPD-NO	Noise Supplementary Planning Document, adopted April 2006
LPP 5.12	(2016) Flood risk management
LPP 5.13	(2016) Sustainable drainage
LPP 5.14	(2016) Water quality and wastewater infrastructure
LPP 5.21	(2016) Contaminated land
LPP 6.10	(2016) Walking
LPP 6.12	(2016) Road Network Capacity
LPP 6.13	(2016) Parking
LPP 7.3	(2016) Designing out crime
LPP 7.4	(2016) Local character
LPP 7.15	(2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
NPPF- 2	NPPF-2 2018 - Achieving sustainable development
NPPF- 8	NPPF-8 2018 - Promoting healthy and safe communities

3. CONSIDERATIONS

3.1 Site and Locality

The application site consists of a former petrol filling station located on the northern side of

Uxbridge Road, which is a dual carriageway and a London Distributor Road. The site is currently being used by a hand car wash business. The original canopy roof has been retained and the main car washing area is positioned beneath it. The canopy is attached to a two-storey flat roof building which houses offices although the building does not appear fully occupied at present. A metal shed of similar height is attached to this building and is currently in use as an MOT and car servicing centre.

There are two vehicular access points, one directly from Uxbridge Road to the south and the second from Hayes End Road to the east.

The wider surrounding area consists of mixed use development, including retail units, with offices or residential use on upper floors, residential dwellings and flats and light industrial and distribution buildings.

3.2 Proposed Scheme

The proposal involves the regularisation and retention of the car wash use which currently occupies the site. No additional works are proposed.

3.3 Relevant Planning History

3976/ADV/2012/96 1190 Uxbridge Road Hayes

Installation of 6 x non-illuminated fascia signs, 2 x non- illuminated hoarding signs and vinyl sign

Decision: 30-01-2013 Refused **Appeal:** 17-09-2013 Allowed

3976/APP/2012/2664 1190 Uxbridge Road Hayes

Change of use of petrol filling station and offices (Use Class A2 - Financial and Professional Services) to use as a hand carwash/valeting business and credit hire specialists (Retrospective)

Decision: 30-01-2013 Refused **Appeal:** 15-05-2014 Dismissed

3976/APP/2015/199 1190 Uxbridge Road Hayes

Change of use of petrol filling station and offices (Use Class A2 - Financial and Professional Services) to use as a hand carwash/valeting business (Retrospective).

Decision: 21-04-2017 Refused

Comment on Relevant Planning History

The application site is the subject of an enforcement investigation into the use of the forecourt and office of the former petrol station as a hand car wash and valeting business. An Enforcement Notice against the unauthorised development was served in September 2014.

An appeal against the enforcement notice (Planning Inspectorate ref: APP/R5510/C/14/2227601) was determined in January 2015. The Planning Inspector varied the enforcement notice, removing the requirement to remove all equipment and office furniture from the office in connection with the carwash and valeting business. The enforcement notice was upheld in all other aspects.

Previous applications for the retention of the car wash use have been refused for the sole

reason that it had not been fully demonstrated that the site had been sufficiently decontaminated following its use as a petrol station and the resultant concern that contaminants would be washed from the site into surrounding drains or soak into neighbouring land. The Inspector stated in 2014:

"9. There would be a cost to carry out investigations to assess contamination and possible remediation. It is appreciated that the businesses could be shut down and staff made redundant in current hard economic times but these considerations would not outweigh the potential significant harm if pollution was occurring. I attach great significance to this harm because pollution could have occurred over an extended period of time given that car wash/valeting uses commenced around May 2012 according to the application. The end of the appellant's tenancy agreement with his landlord might provide an opportunity for action on the possible site contamination but the issues raised here would require more immediate resolution given the significant safety risk to existing development in the area and the use of this site by the public. Finally, it would be unreasonable to impose a condition to resolve this matter in accordance with the relevant tests of paragraph 206 of the National Planning Policy Framework because of the uncertainties about the extent of contamination and remediation required.

10. In conclusion, the development has the potential to be materially harmful through ground contamination and consequently the proposal would conflict with LP Policies OE1 and OE11. For the reasons given above, and having consideration to other matters raised, I conclude that this appeal should be dismissed."

This current application seeks retrospective planning permission for the continued use of the forecourt and office of the former petrol station as a hand car wash and valeting business.

4. Planning Policies and Standards

1.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

1.2 The Development Plan for the London Borough of Hillingdon currently consists of the following documents:

The Local Plan: Part 1 - Strategic Policies (2012)

The Local Plan: Part 2 - Saved UDP Policies (2012)

The London Plan - Consolidated With Alterations (2016)

1.3 The National Planning Policy Framework (NPPF) (2019) is also a material consideration in planning decisions, as well as relevant supplementary planning documents and guidance.

Emerging Planning Policies

1.4 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).

Draft London Plan (Consolidated with Changes July 2019)

1.5 The GLA consulted upon a draft new London Plan between December 2017 and March 2018 with the intention of replacing the previous versions of the existing London Plan. The Plan was subject to examination hearings from February to May 2019, and a Consolidated Draft Plan with amendments was published in July 2019. The Panel of Inspectors appointed by the Secretary of State issued their report and recommendations to the Mayor on 8th October.

1.6 The Mayor is currently considering the Panel report and recommendations and is preparing an 'Intend to Publish' version of the London Plan, which will be sent to the Secretary of State alongside with a schedule of the panel's recommendation and the Mayor's response to them. It is envisaged the Intend to 'Publish version' of the Plan will be sent to the Secretary of State by the end of the year.

1.7 Until the stages outlined above are passed only limited weight should be attached to the new London Plan. Some greater weight can be attached to policies, which have been found acceptable by the Panel (either expressly or by no comment being made) or are subject to only minor amendment. However, anything that remains subject to the Inspector's recommendations can only attract very limited weight until the Mayor has published his report. The weight will then increase as unresolved issues are overcome through the completion of the outstanding statutory process.

Proposed Submission Local Plan Part 2 with Main Modifications (March 2019)

1.8 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.

1.9 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.

1.10 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 were published for public consultation from 27 March to 8 May 2019.

1.11 The Council received the Inspector's Final Report on 22 October 2019. The Inspector concluded that, subject the Main Modifications set out in the Appendix to the report, the LPP2 is a sound plan that can be adopted. The examination of the Local Plan is therefore now complete and the Council is in the process of preparing for the formal adoption of the LPP2 in accordance with the statutory requirements. Formal adoption is scheduled for January 2020.

1.12 When applying paragraph 48 of the NPPF the Council's approach to the weight that should be afforded to the LPP2 until formal adoption will be that all policies, including those incorporating the main modifications, hold substantial weight. This is due to the LPP2 being at the most advanced stage of preparation, the resolution of outstanding objections through the Inspector's Report and confirmation that the LPP2 is consistent with the NPPF.

1.13 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 until the LPP2 is formally adopted.

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.EM8 (2012) Land, Water, Air and Noise

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.
- BE18 Design considerations - pedestrian security and safety
- BE19 New development must improve or complement the character of the area.
- OE1 Protection of the character and amenities of surrounding properties and the local area
- OE3 Buildings or uses likely to cause noise annoyance - mitigation measures
- OE8 Development likely to result in increased flood risk due to additional surface water run-off - requirement for attenuation measures
- OE11 Development involving hazardous substances and contaminated land - requirement for ameliorative measures
- DMEI 10 Water Management, Efficiency and Quality
- DMEI 12 Development of Land Affected by Contamination
- DMHB 11 Design of New Development
- SPD-NO Noise Supplementary Planning Document, adopted April 2006
- LPP 5.12 (2016) Flood risk management
- LPP 5.13 (2016) Sustainable drainage
- LPP 5.14 (2016) Water quality and wastewater infrastructure
- LPP 5.21 (2016) Contaminated land
- LPP 6.10 (2016) Walking
- LPP 6.12 (2016) Road Network Capacity
- LPP 6.13 (2016) Parking
- LPP 7.3 (2016) Designing out crime
- LPP 7.4 (2016) Local character
- LPP 7.15 (2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
- NPPF- 2 NPPF-2 2018 - Achieving sustainable development
- NPPF- 8 NPPF-8 2018 - Promoting healthy and safe communities

5. Advertisement and Site Notice

- 5.1 Advertisement Expiry Date:- Not applicable
- 5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

A site notice was displayed adjacent to the site. In addition, owners and occupiers of neighbouring properties were sent letters informing them of the application and inviting comments.

Six objections have been received. In summary:

- i) The car wash is noisy and stays open long hours.
- ii) Pollution and litter on site and has spread onto the street and neighbouring properties.
- iii) Anti-social behaviour by staff
- iv) Vehicles drive on, and park on the footpath, causing a danger to pedestrians. Spray goes on to the footpath and is particularly dangerous in the winter when it forms ice and causes a hazard.
- v) The site is also used for car sales and crashed cars are stored to the rear of the site.

Environment Agency:

We object to the proposed development as submitted because it involves the use of a non-mains foul drainage system in a publicly sewered area but no justification has been provided for an alternative method of foul sewage disposal, and the application has not supplied adequate information to demonstrate that the risks of pollution posed to surface water quality can be safely managed.

We recommend that the application should be refused on this basis for the following reasons.

Reasons

The National Planning Policy Framework paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. The first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. In this instance the applicant has:

- failed to indicate the means of disposal of foul water
- failed to indicate the means of how surface water run-off and trade effluent will be dealt with

Overcoming our objection

To overcome our objection the applicant should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

- Formally approach the sewerage undertaker or serve notice regarding a connection under section 98, section 104 or section 106 of the Water Industry Act 1991, as appropriate.
- Provide details of the terms upon which the sewerage undertaker is willing to enter into an agreement under section 104.
- Provide details of the undertakings, security and payment required by the sewerage undertaker under section 98 of the Water Industry Act 1991. They must provide these together with confirmation that the applicant considers these to be reasonable and does not intend to appeal against them; OR
- Provide details of the reasons given by the sewerage undertaker if it has refused connection under section 106 of the WIA 1991 and confirmation that they have appealed against this decision; OR
- Demonstrate that it is not reasonable to connect to the public foul sewer.
- Where it is not reasonable to connect to the public foul sewer, demonstrate that they have considered requesting that the sewerage undertaker adopt their proposed system.

Lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the Water Industry Act 1991. In these cases, if an applicant decides to apply for a water discharge permit for private treatment facilities, in such circumstances and we may refuse to issue the permit.

Advice to applicant

We endorse the efficient use of water, especially in new developments. Our Water Demand Management Team can provide information and advice on any aspect of water conservation including water saving technologies. New developments could take economic advantage of these technologies and should be considered. Wide spread use of these and other technologies that ensure efficient use of natural resources could support the environmental benefits of future proposals and could help attract investment to the area.

For non residential development we recommend this development meets the following standard to promote water efficiency:

Where the development is being assessed against BREEAM:

- Building(s) should achieve the maximum number of water credits in accordance with the requirements of the relevant BREEAM scheme with the exception of credits awarded for greywater/rainwater systems. These systems should be installed where cost effective and the system is designed to ensure that energy use and carbon emissions are minimised.

Where the development is not being assessed against BREEAM:

- Building(s) should meet the 'Good Practice' level of the AECB Water Standards.

Further advice can be obtained from our website at Environment Agency - Save Water, and from BRE Environmental Assessment Method and AECB Water Standards.

The Environment Agency will not comment on the details of the development nor discharge any planning conditions requiring adherence to the code as a CSH/BREEAM assessor should provide documents to the local planning authority to prove compliance. In the case of the AECB standards, the developer could provide the local planning authority with a checklist using page 7 and 8 of the standard.

If you wish to discharge effluent after appropriately treating it to groundwater or surface water please contact the Environment Agency (Tel: 03708 506506) as a permit under the Environmental Permit Regulations will be required.

A trade effluent consent or a trade effluent agreement with your water and sewerage company must be obtained before you discharge trade effluent to a public foul sewer or a private sewer that connects to a public foul sewer.

Officer comments:

Whilst the objection from the Environment Agency is noted, it fails to identify a specific risk and is entirely based on a precautionary approach. There is most likely a mains connection available in this instance which the Council can insist on a connection to, and that a suitable drainage solution is available. It is therefore considered that a condition requiring full details of the drainage (foul and surface water to be agreed prior to commencement of development) would be adequate in this instance.

Internal Consultees

Environmental Protection Unit:

The contaminated land information that shows a low risk of contamination if the land itself was being developed. As the ground is not being disturbed for development there will be no need to set specific

conditions in relation to land contamination for this application.

However a site like this should be restricted to set hours of operation.

Contaminated Land Officer:

I have reviewed the following available documentation within records:

Site Investigation Information:

- Report title: Contamination Investigation at 1190 Uxbridge Road, Hayes; Reference: RML 6443; Dated: August 2017; Prepared by: Risk Management Limited.
- Analytical Report Number: 17-12928; Details: 1190 Uxbridge Road, Hayes, UB4 8JE; Prepared by: The Environmental Laboratory Limited.

Tank Decommissioning Information:

- Uplift / Transfer Certificate; Produced by: E&S (part of Adler & Allen Group)
- Hazardous Waste Consignment Note; Produced by Adler & Allen / E&S
- Tank Information Document: Foam filling of 3x Underground Fuel Storage Tanks: By: Lees Industrial Services Limited.

Based on details within the submitted Contamination Investigation report there is, in my opinion, insufficient evidence to confirm that land within or beyond the property boundary is not currently being adversely impacted by the presence of a hand carwash facility at the premises.

The report and other information does not include dimensional details of the underground storage tanks (UST); their locations; nor depths to the base of each tank.

The report does however indicate that only relatively shallow depths were achieved during formation of six hand excavated pits and three machine driven boreholes including respective monitoring installations within the boreholes, all of which were introduced as part of the ground investigation.

There is a possibility that whilst the site was an operational filling station and prior to emptying and decommissioning of the UST's and supply lines, there may have been leakages of fuels into the ground. Any leaked fuel may still be present as non-degraded free phase product and/or partially degraded hydrocarbons beneath the tanks, it is also possible that products may be migrating/have migrated at depth beyond the positions of the tanks.

With further regards to Underground Storage Tanks (USTs) The Environment Agency recommends the removal of all USTs that are unlikely to be reused.

Also adding,

"Once the tanks and associated pipelines have been removed, samples of soil and groundwater should be taken to check for subsurface contamination.

If soil or groundwater contamination is found, additional investigations (possibly including a risk assessment) should be carried out to determine the need for remediation".

There is also evidence that quantities of waste water from the washing processes may be permeating the underlying ground strata via various pathways (e.g. cracks, joints and penetrations etc) within the concrete surfaces. It is also likely that the waste waters are contaminated with a variety of hydrocarbon products (e.g. oils etc from vehicles), including various inorganic and organic chemical cleaning products and additives used for vehicle washing.

It is also possible that fugitive waste waters may be mobilising any contaminants, (which results of

chemical analyses show to be present within the ground), towards other onsite and offsite receptors including: soils; groundwaters; drains; and sewers etc where accumulations of contaminants may occur. A further important factor is that available mapping indicates the site overlies a Secondary A Aquifer within the Superficial Deposits (Sands and Gravels of the Boyne Hill Gravel Member) at the site.

Some of the details within responses to earlier consultations appear to be continuing to be applicable at the site, and therefore it is my recommendation that a suitable approach should be adopted to encourage the site owners to revisit the earlier report and details to confirm land condition and as required address any identified significant risks associated with any identified land contamination that may be present at the site. A structured risk assessment approach should be adopted in accordance with the newly introduced Land Contamination: Risk Assessment (LCRM) documentation from the Environment Agency.

Highways:

There have been previous refusals on this type of application in the past but not on highway grounds. It is unlikely that the traffic generated by the proposals will be greater than the existing legal use.

I do have concerns about overspray that car washes which are close to footpaths generate to pedestrians so please condition some barrier to overspray.

I am also concerned that there is a mechanism in place to deter water being taken onto the highway so some form of drainage system needs to be in place.

There is also the problem of long hours of operation under the existing operation which needs to be conditioned given nearby residential uses.

On the basis of the above comments and with relevant conditions in place I do not have significant highway concerns over this proposal.

Trees/Landscape Officer:

This site is occupied by a commercial garage and forecourt at the junction of Uxbridge Road and Hayes End Road. There are no trees or other soft landscape features on the site and no tree/landscape planning constraints affecting the site.

Comment

No trees will be affected by the proposal. There will be little change to the current use of the site and - short of a redevelopment of the site - little scope for landscape enhancement.

RECOMMENDATION

No objection and no need for landscape conditions.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The site is located within an established built-up area, where there is a presumption in favour of sustainable development, subject to compliance with relevant planning policies.

The site has already been developed and is therefore brownfield land.

Both the former and current uses are regarded as sui generis. As such, they do not benefit from any permitted changes of use in order to allow full planning scrutiny, given the unique nature of the uses and the impacts they produce. The use of the site as a car wash does

not, therefore, result in the loss of any A1 use.

The previous use provided employment and, as such, it is considered that Policy LE4 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), which relates to loss of employment uses outside of designated Industrial and Business Areas (IBA's) should be resisted. In this instance, the current use provides a comparable level of employment and, as such, the change of use is considered to comply with Policy LE4 of the Hillingdon Local Plan: Part Two - Saved UDP 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

The site is not within a Conservation Area. The nearest Listed Building is The Angel Public House (Grade II Listed) which is on the opposite side of the road. Also close by, to the north on Hayes End Road, are the garden walls and buildings at Laburnum Villa and Springwell House, which are Locally Listed and Grade II Listed respectively.

Given that the car wash use has not introduced any new buildings onto the site, it is considered that the setting of any of these Listed Buildings has not been compromised.

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 car wash represents a commercial use taking place on an established commercial premises. The change of use has not involved the addition of any buildings or significant structures and the main visual impact of the use is the presence of cars on the forecourt, which is not considered to be dissimilar to what would be expected had the site remained in use as a petrol station. It is also noted that car washing facilities, including open air jet washes, are a common ancillary feature found at operating petrol stations.

It is noted that there have been unauthorised advertisements present on the site in the past. However, advertising is not the subject of this application and, any advertising on site that requires approval, would have to be granted advertisement consent under a separate application or face enforcement action being taken.

The level of noise generated is also consistent with that which may be expected during the operation of a petrol station, consisting principally of movements of vehicles and the operation of hoses and vacuums which generate a similar level of noise as the operation of petrol pumps would have in the past.

The use is compatible with the surrounding mixed use area. It contributes towards the existing mix and does not appear disruptive or out of keeping with the nature of the surrounding development.

It is therefore considered that the development accords with Policies BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy 7.4 of the London Plan (2016).

7.08 Impact on neighbours

The use involves the open air operation of vehicles and machinery as well as the presence of staff on site. It is not considered that the level of noise emanating from the site would be

substantially different to that expected should the site have continued operating as a petrol station. However, given the open air nature of the use and the proximity to residential dwellings, it is considered that the hours of operation of the business should be controlled in order to prevent unacceptable levels of disruption outside of core business hours.

Given the open nature of the site, screening should be provided in accordance with details to be submitted to and approved by the Council, in order to prevent spray, dirt and dust from straying into nearby residential properties.

It is therefore considered that, subject to control by relevant planning conditions, the development satisfies Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and London Plan Policies 7.4 and 7.15 (2016).

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The Council's Highway Engineer has assessed the application and considers that the use as a car wash would not generate levels of traffic significantly different to that associated with the former use of the site as a petrol station. Existing access/egress points from Uxbridge Road and from Hayes End Road will remain in use.

Concern was raised that water spray may stray over the highway, causing a hazard to pedestrians and motorists. Similarly, concern was raised regarding the discharge of surface water onto the highway. This can be controlled through the use of sympathetic screening and drainage measures, to be secured by way of conditions on any consent granted.

Subject to appropriate measures to prevent excess water from the car wash causing harm to pedestrians and motorists, the development would accord with Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy 6.12 of the London Plan (2016).

7.11 Urban design, access and security

Urban Design:
See Section 7.07 of this report.

Access and Security:

Access to the site is via two existing access/egress points; whilst there is no separation between pedestrian and vehicle access, given the nature of the use as a 'drive-thru' car wash the access is considered acceptable. In order to ensure that the site has adequate security measures, a Secure by Design condition would be included on any consent granted.

7.12 Disabled access

Not applicable to this application.

7.13 Provision of affordable & special needs housing

Not applicable to this application.

7.14 Trees, landscaping and Ecology

The site does not possess any existing landscaping nor is it deemed suitable for landscape planting.

7.15 Sustainable waste management

In order to secure compliance with Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), a condition requiring details of waste management

for the operation to be submitted to, and approved, by the Council would be required on any consent granted.

7.16 Renewable energy / Sustainability

Not applicable to this application.

7.17 Flooding or Drainage Issues

Paragraph 170 of the National Planning Policy Framework (2018) seeks to prevent new and existing development from resulting in unacceptable levels of water pollution; development should help to improve local environmental conditions, including water quality.

Policy EM8 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) seeks to safeguard and improve all water quality (ground and surface water). Policy OE8 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) seeks to ensure that developments within urban areas do not result in an increased flood risk from additional surface water run-off and that appropriate attenuation measures are used.

Policy DMEI 10 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies With Modifications (March 2019) seeks to ensure that developments are provided with appropriate sustainable drainage systems, reduce surface water run-off rates, avoid pollution of the water environment, use water efficiency measures and demonstrate that there is sufficient capacity in the water and wastewater infrastructure network.

Policy 5.12 of the London Plan (2016) seeks to address current and future flood issues and minimise flood risks whilst Policy 5.13 of the London Plan (2016) states that sustainable urban drainage systems should be used and that surface water run-off is managed as close to its source as possible and in line with the drainage hierarchy. Policy 5.14 of the London Plan (2016) seeks to ensure the provision of that adequate and appropriate wastewater infrastructure, and to protect and improve water quality.

The proposal is for the use of the site as a hand car wash and valeting business. The Environment Agency was consulted on the application and raised an objection to the proposal as it involves the use of a non-mains foul drainage system in a publicly sewered area.

Whilst the objection from the Environment Agency is noted, it fails to identify a specific risk and is entirely based on a precautionary approach. There is most likely a mains connection available in this instance which the Council can insist on a connection to, and that a suitable drainage solution is available. It is therefore considered that full details of the drainage (foul and surface water to be agreed prior to commencement of development), provided by way of a condition on any consent granted would be acceptable in this instance.

As such, it is considered that the use of the site as a car wash and valeting business would not have a detrimental impact on drainage and water quality, and is therefore in accordance with Policy EM8 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policy OE8 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMEI 10 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies With Modifications (March 2019) and Policies 5.12, 5.13 and 5.14 of the London Plan (2016).

7.18 Noise or Air Quality Issues

The site is located within a mixed use area where commercial activities take place

throughout the course of the day. The proximity to residential dwellings and flats is noted and, as such, a condition would be attached to any approval to restrict hours of use so as to prevent disturbance towards neighbouring residents in the form of noise and light outside of general working hours.

Subject to compliance with this condition, the development would meet the requirements of Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and London Plan Policy 7.15 (2016).

7.19 Comments on Public Consultations

The application relates to use of the premises as a car wash only and does not purport to approve any other uses that may be taking place on site.

Comments regarding noise and hours of operation are noted and a condition would be attached to any approval to control hours of use. Any issues of anti-social behaviour would be dealt with through separate legislation.

Conditions would be attached to any approval given to secure screening to prevent water discharge onto the neighbouring highway and to ensure that a responsible waste management scheme is provided and maintained on site.

The Council's Highway Engineers are satisfied with the access arrangements for the use. Driver behaviour on entering and leaving the site cannot be controlled by planning conditions but would be subject to highway enforcement.

7.20 Planning obligations

The scale and nature of the proposal does not warrant the provision of any measures or contributions that would need to be secured by legal agreement.

7.21 Expediency of enforcement action

The car wash use is already in operation and has been subject to investigation by Planning Enforcement, resulting in the submission of this planning application.

An enforcement notice has been served and was varied in January 2015 following an appeal (Planning Inspectorate Ref: APP/R5510/C/14/2227601); the enforcement notice would be acted on in the event of this application being refused.

7.22 Other Issues

Contaminated Land:

Previous applications have been refused as it had not been demonstrated that measures to remove contaminants from the land had been taken or that the possibility of contaminants being washed from the site onto surrounding land and into water courses had been assessed.

The current application includes a Contamination Investigation Report. The report has been assessed by the Council's Contaminated Land Officer who considers that there is insufficient evidence to confirm that land within or beyond the property boundary is not currently being adversely impacted by the presence of a hand car wash facility at the premises.

The report and other information submitted with the application does not include dimensional details of the underground storage tanks (UST); their locations; nor depths to the base of each tank.

Whilst the report indicated that only relatively shallow depths were achieved during formation of six hand excavated pits and three machine driven boreholes including respective monitoring installations within the boreholes, all of which were introduced as part of the ground investigation, there is a possibility that prior to emptying and decommissioning of the underground storage tanks (UST) and supply lines, fuel may have leaked into the ground whilst the site was an operational filling station. It is therefore possible that there may be instances of leaked fuel products located at depth beyond the positions of the tanks.

In addition, the use of the site as a car wash results in waste water from the washing process which is likely to be contaminated with a variety of hydrocarbon product, and may be permeating the underlying ground strata.

Therefore, further investigation into the condition of the soil and groundwater would be required in order to fully ensure that existing subsurface land contamination has been identified and that appropriate measures to address any identified significant risks associated with any identified land contamination that may be present at the site are put into place.

As such, the development fails to comply with Policy EM8 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies OE1 and OE11 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DME1 12 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies With Modifications (March 2019) and Policy 5.21 of the London Plan (2016).

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 proposed scheme is for the regularisation and retention of an existing hand car wash and valeting business located at the application site. The proposed use is considered acceptable for the site and the wider location, subject to conditions controlling hours of operation and waste water spray.

However, the applicant has not provided a satisfactory level of detail to demonstrate that concerns raised in relation to potential land contamination matters that resulted in the refusal of previous applications have been responsibly addressed.

The proposal does not comply with Policy EM8 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies OE1 and OE11 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMEI 12 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies With Modifications (March 2019) and Policy 5.21 of the London Plan (2016).

The application is therefore recommended for refusal.

11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)

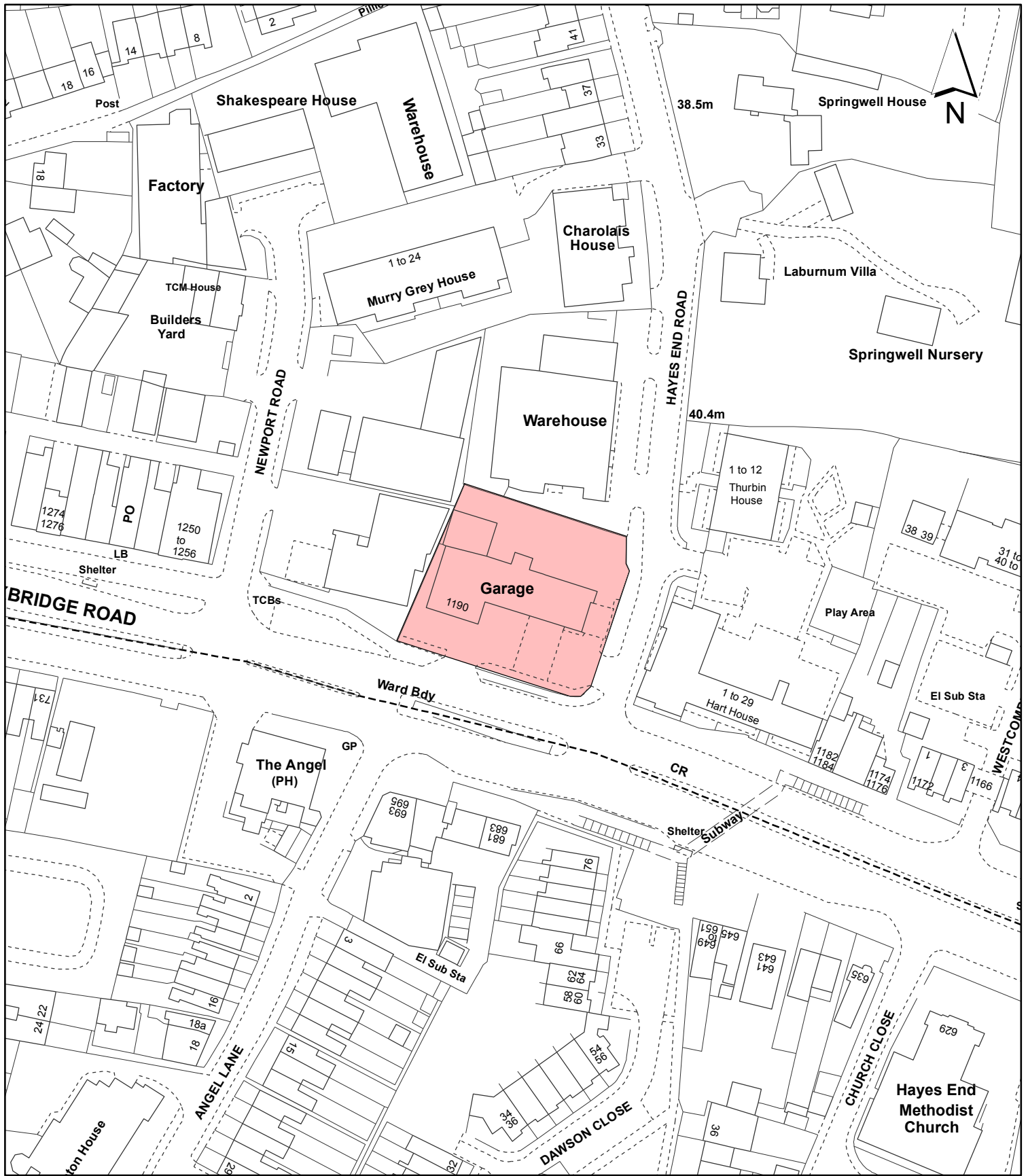
Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012)

Emerging Hillingdon Local Plan: Part Two - Development Management Policies With

Modifications (March 2019)
The London Plan (2016)
Hillingdon Noise SPD
National Planning Policy Framework (NPPF)

Contact Officer: Katherine Mills

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Notes:

 Site boundary

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 Telephone No.: Uxbridge 01895 250111

Planning Application Ref:
3976/APP/2017/3729

Scale:
1:1,250

Planning Committee:
Central & South

Date:
December 2019

