

## Report of the Head of Planning & Enforcement Services

**Address** 43 - 45 SWAKELEYS ROAD ICKENHAM

**Development:** Change of use from Class A1 (Retail) to Class A2 (Financial and Professional Services) for use as a betting office.

**LBH Ref Nos:** 809/APP/2010/1988

**Drawing Nos:** Location Plan - 1:1250  
CORI 411/AS01/A

**Date Plans Received:** 25/08/2010                      **Date(s) of Amendment(s):**

**Date Application Valid:** 26/08/2010

### 1. **SUMMARY**

The application relates to the change of use of an existing vacant retail unit (Use Class A1) to a Betting Shop (Use Class A2). The site is within Ickenham Local Centre but situated outside the core area. Outside these core areas, the relevant policy states that change of use from A1 (retail) will only be granted where sufficient a choice of local shops remain. The site is situated approximately 35m from this core area and there is still considered to be a sufficient number of essential local shops serving the catchment area (with over 50% of the 20 commercial units still within A1 use).

It is therefore not considered that the loss of this A1 (shop) use would have a negative effect on this local centre, as an adequate choice of retail facilities would still remain and subject to appropriate conditions relating to hours of operation and noise control, the proposal would not conflict with any other of the relevant adopted policies within the Hillingdon Unitary Development Plan (Saved Policies September 2007).

the application is therefore recommended for approval, subject to conditions.

### 2. **RECOMMENDATION**

**APPROVAL subject to the following:**

#### 1            T8                      **Time Limit - full planning application 3 years**

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            OM1                      **Development in accordance with Approved Plans**

The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the Local Planning Authority.

#### REASON

To ensure that the external appearance of the development is satisfactory and complies with Policy S6 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

**3 NONSC Hours of operation**

The premises shall not be used outside the hours of 08:30 hrs and 22:00 hrs on any day.

**REASON**

To safeguard the residential amenity of the occupiers and nearby properties in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies September 2007).

**4 NONSC Delivery and Waste Collections**

The premises shall not be used for deliveries and collections, including waste collections, outside the hours of 0700 hrs and 1900 hrs, Monday to Saturday and not at all on Sundays or Bank/public Holidays.

**REASON**

To safeguard the residential amenity of the occupiers and nearby properties in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies September 2007).

**5 NONSC Noise of plant and machinery**

No air extraction system or any plant/machinery shall be used on the premises until a scheme for the control of noise emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include such combination of measures as may be approved by the LPA. Thereafter, the scheme shall be implemented and maintained in full compliance with the approved measures.

**REASON**

To safeguard the residential amenity of the occupiers and nearby properties in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies September 2007).

**6 NONSC sound insulation**

No development shall take place until details of a sound insulation scheme to control noise transmission to adjoining dwellings/premises have been submitted to and approved in writing by the local planning authority. The use shall not commence until the approved scheme has been approved and it shall thereafter be retained.

**Reason:**

To safeguard the residential amenity of the occupiers and nearby properties in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies September 2007).

**INFORMATIVES**

**1 152 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            153            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) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance.

BE4	New development within or on the fringes of conservation areas
S6	Change of use of shops - safeguarding the amenities of shopping areas
S9	Change of use of shops in Local Centres
S10	Change of use of shops in Local Centres - criteria for permitting changes of use outside core areas
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
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
LPP 3D.1	London Plan Policy 3D.1 - Supporting Town Centres.
LPP 3D.3	London Plan Policy 3D.3 - Maintaining and Improving Retail Facilities.

## **3            11            Building to Approved Drawing**

You are advised this permission is based on the dimensions provided on the approved drawings as numbered above. The development hereby approved must be constructed precisely in accordance with the approved drawings. Any deviation from these drawings requires the written consent of the Local Planning Authority.

## **4            13            Building Regulations - Demolition and Building Works**

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced. For further information and advice, contact - Planning & Community Services, Building Control, 3N/01 Civic Centre, Uxbridge (Telephone 01895 250804 / 805 / 808).

## **5            16            Property Rights/Rights of Light**

Your attention is drawn to the fact that the planning permission does not override property rights and any ancient rights of light that may exist. This permission does not empower you to enter onto land not in your ownership without the specific consent of the owner. If you require further information or advice, you should consult a solicitor.

## **6            115            Control of Environmental Nuisance from Construction Work**

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with: -

A) Demolition and construction works should only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank and Public Holidays.

B) All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228: 1984.

C) The elimination of the release of dust or odours that could create a public health nuisance.

D) No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit, 3S/02, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel.01895 277401) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

## **7            134            Building Regulations 'Access to and use of buildings'**

Compliance with Building Regulations 'Access to and use of buildings' and Disability Discrimination Act 1995 for commercial and residential development.

You are advised that the scheme is required to comply with either:-

- The Building Regulations 2000 Approved Document Part M 'Access to and use of buildings', or with
- BS 8300:2001 Design of buildings and their approaches to meet the needs of disabled people - Code of practice. AMD 15617 2005, AMD 15982 2005.

These documents (which are for guidance) set minimum standards to allow residents, workers and visitors, regardless of disability, age or gender, to gain access to and within buildings, and to use their facilities and sanitary conveniences.

You may also be required make provisions to comply with the Disability Discrimination Act 1995. The Act gives disabled people various rights. Under the Act it is unlawful for employers and persons who provide services to members of the public to discriminate against disabled people by treating them less favourably for any reason related to their disability, or by failing to comply with a duty to provide reasonable adjustments. This duty can require the removal or modification of physical features of buildings provided it is reasonable.

The duty to make reasonable adjustments can be effected by the Building Regulation compliance. For compliance with the DDA please refer to the following guidance: -

- The Disability Discrimination Act 1995. Available to download from [www.opsi.gov.uk](http://www.opsi.gov.uk)
- Disability Rights Commission (DRC) Access statements. Achieving an inclusive environment by ensuring continuity throughout the planning, design and management of building and spaces, 2004. Available to download from [www.drc-gb.org](http://www.drc-gb.org).
- Code of practice. Rights of access. Goods, facilities, services and premises. Disability discrimination act 1995, 2002. ISBN 0 11702 860 6. Available to download from

www.drc-gb.org.

· Creating an inclusive environment, 2003 & 2004 - What it means to you. A guide for service providers, 2003. Available to download from www.drc-gb.org.

This is not a comprehensive list of Building Regulations legislation. For further information you should contact Building Control on 01895 250804/5/6.

## 8

It is noted (following the site visit) roller shutters have been applied to the existing premises. These would require planning permission and no planning records have been found in relation to the same. In Conservation Areas, solid shutters will not be considered acceptable in any circumstance and internal open-mesh type screens and other visually permeable shutters must be used. External shutters will only be considered when strictly necessary and their design is considered appropriate. No information has been supplied for roller shutters in relation to the currently submitted schemes and therefore it is recommended these unauthorised shutters are removed.

### 3. CONSIDERATIONS

#### 3.1 Site and Locality

The application site is on the south side of Swakeleys Road and comprises a ground floor commercial unit with a residential flat above. To the front there is a wide footway, with metered parking provided on the edge of the vehicular highway. This side of the highway (south) is commercial in character and appearance, although there are residential properties on the north side of the road and to the rear of the site. The site is within Ickenham Local Centre and Ickenham Village Conservation Area, as identified in the Hillingdon Unitary Development Plan (UDP) (Saved Policies September 2007).

#### 3.2 Proposed Scheme

The proposal involves the change of use of the unit from Class A1 (Retail) to Class A2 (Financial and Professional Services) for use as a betting shop. This application does not involve any external alterations to the building.

There are two further applications running concurrently with this proposal -

· 809/ADV/2010/58 - Installation of new externally illuminated fascia and projecting signs to the frontage.

· 808/APP/2010/2045 - New shopfront, air-conditioning units and satellite dish to the rear.

This application is also reported to committee.

#### 3.3 Relevant Planning History

809/ADV/2010/58                      43-45 Swakeleys Road Ickenham

Installation of 1, internally illuminated fascia sign to front and 1, internally illuminated projecting sign to front.

**Decision:**

809/APP/2010/2045      43-45 Swakeleys Road Ickenham

New shopfront, air conditioning units to rear and Installation of 2 satellite dishes to rear.

**Decision:**

**Comment on Relevant Planning History**

None

**4. Planning Policies and Standards**

**UDP / LDF Designation and London Plan**

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

Part 1 Policies:

Part 2 Policies:

- BE4            New development within or on the fringes of conservation areas
- S6             Change of use of shops - safeguarding the amenities of shopping areas
- S9             Change of use of shops in Local Centres
- S10            Change of use of shops in Local Centres - criteria for permitting changes of use outside core areas
- 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
- AM7           Consideration of traffic generated by proposed developments.
- AM14          New development and car parking standards.
- LPP 3D.1      London Plan Policy 3D.1 - Supporting Town Centres.
- LPP 3D.3      London Plan Policy 3D.3 - Maintaining and Improving Retail Facilities.

**5. Advertisement and Site Notice**

**5.1**    Advertisement Expiry Date:- **6th October 2010**

**5.2**    Site Notice Expiry Date:-      Not applicable

**6. Consultations**

**External Consultees**

41 neighbours were consulted and no responses have been received.

Ickenham Residents' Association were consulted, and the following comments were received -

We wish to record our concerns in respect of several aspects of the above three Planning

**North Planning Committee - 27th October 2010**

**PART 1 - MEMBERS, PUBLIC & PRESS**

applications.

1. First and foremost the Village does not need a second Betting Shop. We assume that this application is for the relocation of the present Betting Shop to these larger premises. If it is NOT and this is in fact for a second Betting Shop, we would wish to record our objection to this proposal.

2. We are also concerned at the loss of an A1 Retail outlet with its conversion to A2. However we have been assured, assuming that this is the transfer of a Betting shop from one premise to another, that the then vacant shop, currently with an A2 License will not need Planning permission to revert to an A1 License.

3. We raise this issue in an attempt to make it easier for any such subsequent sale, and potential new owner of the vacated property, to operate a properly licensed A1 Retail Outlet to maintain the viability of the Village as a shopping centre.

(Note: Further comments received on signage are not relevant to this application.)

### **Internal Consultees**

Environmental Protection unit (EPU)

No objections are raised to this development, subject to the following conditions:

Noise

Hours of opening

H1 The premises shall not be used outside the hours of 08:30 hrs and 22:00 hrs on any day.

Reason: To safeguard the amenity of surrounding areas.

Delivery and waste collections;

H2 The premises shall not be used for deliveries and collections, including waste collections, outside the hours of 0700 hrs and 1900 hrs, Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: To safeguard the amenity of surrounding areas.

Air handling units require prior approval;

N12 No air extraction system or any plant/machinery shall be used on the premises until a scheme for the control of noise emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include such combination of measures as may be approved by the LPA. Thereafter, the scheme shall be implemented and maintained in full compliance with the approved measures.

Reason: To safeguard the amenity of surrounding areas.

Sound insulation scheme

No development shall take place until details of a sound insulation scheme to control noise transmission to adjoining dwellings/premises have been submitted to and approved in writing by the local planning authority. The use shall not commence until the approved scheme has been approved and it shall thereafter be retained.

Reason: To safeguard the amenity of surrounding areas.

Construction Informative

Should planning permission be granted, please ensure the following informative is added in respect of the construction phase;

Construction Site Informative:

Pursuant to the Control of Pollution Act 1974, the Clean Air Act 1993, the Environmental Protection Act 1990 and any other relevant legislation, you are advised as follows:

(i) Demolition and construction works which are audible at the site boundary should only be carried out between the hours of;

- 0800 and 1800 on Monday to Friday
- 0800 and 1300 on Saturday.

No such work must be carried out on Sundays and Bank Holidays. All noise generated during such works must be controlled in compliance with British Standard 5228;

- (ii) Measures must be taken to eliminate the release of dust caused by the works that may create a statutory nuisance (a useful reference is the Best Practice Guidance - The control of dust and emissions from construction and demolition, Greater London Authority, November 2006);
- (iii) No bonfires on the site shall be allowed to take place at any time.

Conservation and Urban Design Officer This is a shop unit within the Ickenham Village Conservation Area. From a conservation point of view, the proposal would not be considered detrimental to the character and appearance of the area, and would be acceptable.

CONCLUSION: Acceptable.

## **7. MAIN PLANNING ISSUES**

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

The Local Planning Authority will resist proposals that would result in the loss of A1 (Retail) uses in the core areas and will examine closely similar proposals for other parts of these centres.

Policy S6 states that changes of use applications will be granted where; a frontage of design appropriate to the surrounding area is maintained or provided; the use would be compatible with neighbouring uses and will not cause unacceptable loss of amenity to nearby residential properties; and would have no harmful effect on road safety or worsen traffic congestion.

Policy S9 states that in Local Centres the Local Planning Authority will only grant planning permission to change the use from Class A1 shops outside the core areas. Policy S10 states outside these core areas, change of use will only be granted if the centre as a whole includes sufficient essential shops uses sufficient in number, range and type to serve the surrounding residential area, the proposed use provides a local service, and the proposal accords with policy S6 (above).

The site is outside the core area of the Local Centre and comprises a ground floor commercial unit. The boundary to the core area of the Local Centre is approximately 35m to the east, and ends just before the Village Hall. Given the close proximity of the site to the core area, which provides a sufficient range of essential shops and that outside this core area, over 50% of the units still maintain an A1 (Retail) use, it is not considered that the loss of this unit to an A2 use (financial and professional services) would result in a detrimental impact on the existing local centre. It is also noted that the proposed use would still provide a local service to the centre. As such, it is considered there would still be an appropriate choice of shops within this Local Centre, and the proposal, once implemented, would bring a vacant unit back into use, thereby bringing further vitality to the centre and providing associated employment opportunities.

As such the proposal is considered to comply with Policies S9 and S10 of the Hillingdon UDP (Saved Policies, September 2007) and Policy 3D.2 and Policy 3D.3 of The London Plan (2008).

### **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 application is situated within Ickenham Conservation Area, however the proposal only



relates to the change of use and does not involve any alterations to the exterior of the building (these are being dealt with under separate applications 809/APP/2010/2045 and 809/ADV/2010/58). As such, this proposal is not considered to have an impact on the conservation area.

**7.04 Airport safeguarding**

Not applicable to this application.

**7.05 Impact on the green belt**

Not applicable to this application.

**7.06 Environmental Impact**

Not applicable to this application.

**7.07 Impact on the character & appearance of the area**

The proposal relates to the change of use of the unit from A1 (Retail) to A2 (financial and professional services). External alterations to the shop front are being dealt with under a separate application on this agenda.

**7.08 Impact on neighbours**

Policy OE1 of the UDP (Saved Policies September 2007) 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 Environmental Protection Unit has commented on this application and has suggested a number of conditions should be applied relating to control of; hours of operation; extract ventilation systems; noise control; and deliveries, to safeguard the amenity of residents and the surrounding area. Subject to these appropriate conditions being applied, the proposal is considered to accord with Policies OE1 and OE3 of the UDP (Saved Policies September 2007).

**7.09 Living conditions for future occupiers**

Not applicable to this application

**7.10 Traffic impact, car/cycle parking, pedestrian safety**

The site is situated on Swakeleys Road, and does not have any off street parking available for customers. However, it is not considered the traffic generation between A1 (retail) and A2 (financial and professional services) would be significantly worsened if the proposal received permission and in addition in this, metered parking has now been introduced to the front of this site, and therefore on-street, short stay, parking is generally available. The proposal would therefore comply with AM7 and AM14 of the UDP (Saved Policies September 2007).

**7.11 Urban design, access and security**

Not applicable to this application

**7.12 Disabled access**

This application is for change of use only and any alterations to the building as being dealt with under application 808/APP/2010/2045 (new shopfront, air-conditioning units and satellite dish).

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

Not applicable to this application

**7.14 Trees, Landscaping and Ecology**

Not applicable to this application - the application is for change of use only and is situated within an existing commercial area.

**7.15 Sustainable waste management**

Not applicable to this application - the application is for change of use only and it is not

considered the difference between the existing A1 (retail) use and the proposed A2 (financial and professional services) use would be materially different to warrant additional controls being applied in relation to this issue.

**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**

With regard to points 1, 2, 5 and 6, there is an existing betting shop at No 67 Swakeleys Road, however, it is noted this is run by the applicants and confirmation has been received that if the application is successful this existing business at No 67 would be relocated to the application site. Although it is noted that No 67 would still have an authorised A2 (financial and professional Service) use, although it is further considered this would allow for the unit to change to an A1 use without requiring the benefit of planning permission.

Point 3 and 4 relate to the current advertisement application (809/ADV/2010/58)

**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**

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

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

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

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

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

**9. Observations of the Director of Finance**

Not applicable to this application

**10. CONCLUSION**

This application relates to a change of use of the existing A1 Retail unit to an A2 betting shop use. No external alterations are proposed as part of this application (these are being dealt with under separate applications 809/ADV/2010/58 - Installation of new externally illuminated fascia and projecting signs to the frontage and 809/APP/2010/2045 - New shopfront, air-conditioning units and satellite dish to the rear).

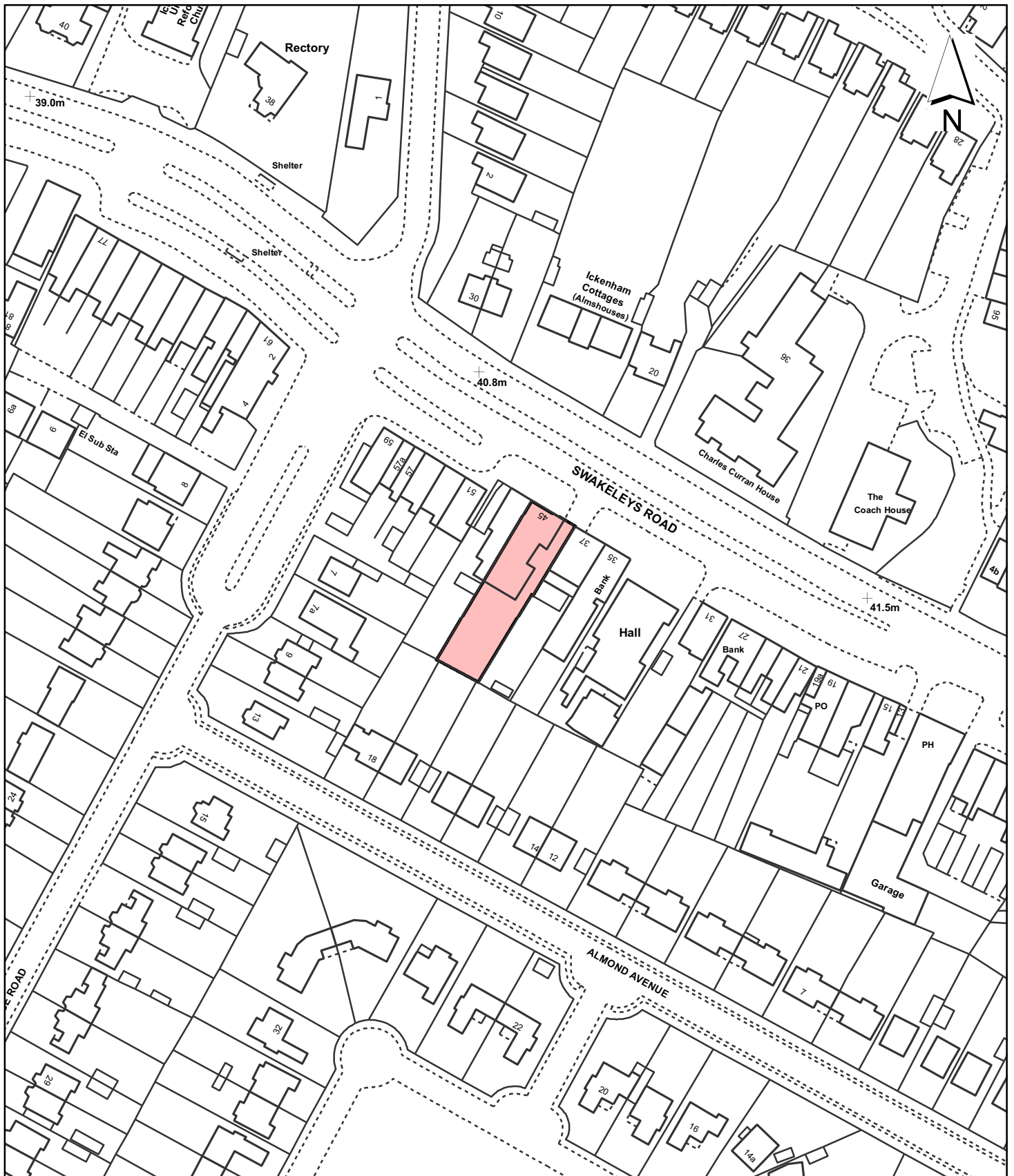
The application site is outside the core area of the Local Centre, comprising a vacant unit, and the proposed use is not considered to result in an adverse impact to highway safety. Furthermore, it is noted that there is still a good choice of A1 retail units within this commercial area and the proposed use would still provide a local service. As such, subject to appropriate safeguarding conditions, the application is recommended for approval.


**11. Reference Documents**

Unitary Development Plan (Saved Policies September 2007)  
London Plan Policies (2008)

**Contact Officer:** Catherine Hems

**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). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown Copyright. All rights reserved. London Borough of Hillingdon 100019283 2009</p>	<p>Site Address</p> <p><b>43 - 45 Swakeleys Road</b></p> <p><b>Ickenham</b></p>		<p><b>LONDON BOROUGH OF HILLINGDON</b></p> <p><b>Planning, Environment &amp; Community Services</b></p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p><b>809/APP/2010/1988</b></p>	<p>Scale</p> <p><b>1:1,250</b></p>	
	<p>Planning Committee</p> <p><b>North</b></p>	<p>Date</p> <p><b>October 2010</b></p>	



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