

Report of the Head of Planning & Enforcement Services

Address 108-110 PEMBROKE ROAD RUISLIP

Development: Variation of condition 5 (hours of use) of planning permission ref: 9488/APP/2009/2609 dated 09/02/2010 for the change of use of car showroom to Class A3 (Restaurant and Cafe.)

LBH Ref Nos: 9488/APP/2010/1507

Drawing Nos: Design & Access Statement
Location Plan to Scale 1:1250
Block Plan to Scale 1:500
013.06.001.01

Date Plans Received: 29/06/2010 **Date(s) of Amendment(s):**
Date Application Valid: 29/06/2010

1. SUMMARY

Planning permission is sought to vary the hours of operation to allow the premises to open at 06.30 hours. It is considered that to allow the premises to open at this time of the morning would lead to noise and disturbance and therefore harm the residential amenities of nearby residents.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal would result in noise and disturbance in the early hours of the morning constituting an un-neighbourly form of development which would result in a material loss of residential amenity, contrary to policies OE1 and OE3 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and 4A.20 of the London Plan 2008.

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

OE1 Protection of the character and amenities of surrounding properties

OE3	and the local area Buildings or uses likely to cause noise annoyance - mitigation measures
LPP 4A.20	London Plan Policy 4A.20 - Reducing Noise and Enhancing Soundscapes

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the south east side of Pembroke Road near its junction with Windmill Avenue and comprises a double fronted unit in use as a car show room. To the north east lies 112 Pembroke Road, a retail unit and to the south west lies 106 Pembroke Avenue, a health centre. This part of Pembroke Road is commercial in character and appearance and the application site lies within the secondary shopping area of the Ruislip Manor Town Centre, as designated in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

Planning permission is sought for the variation of condition 5 of planning permission ref: 9488/APP/2009/2609 for the change of use of the car showroom to a restaurant.

Condition 5 states:

The premises shall only be used for the preparation, sale of food and drink and clearing up between the hours of 08:00 and 23:30. There shall be no staff allowed on the premises outside these hours.

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).

The applicant has advised that the premises would be used as a breakfast and lunch cafe and as such requires an earlier opening time to catch early morning passing trade. It is proposed to vary the above condition to allow the premises to open at 06.30 hours.

3.3 Relevant Planning History

9488/APP/2010/980 108-110 Pembroke Road Ruislip
 Details in compliance with conditions 2 (sound insulation), 3 (access to building), 7 (storage of refuse), 8 (extraction vent) and 9 (control of noise) of planning permission ref: 9488/APP/2009/2609 dated 09/02/2010: Change of use of car showroom to Class A3 (Restaurant and Cafe.)

Decision: 28-09-2010 Approved

9488/E/94/1968 108-110 Pembroke Road Ruislip
 Construction of a vehicular crossover

Decision: 15-03-1995 Approved

Comment on Relevant Planning History

As above.

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:

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
LPP 4A.20	London Plan Policy 4A.20 - Reducing Noise and Enhancing Soundscapes

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

28 adjoining owner/occupiers and the Ruislip Residents' Association have been consulted. 3 letters of objection and a petition with 32 signatures have been received making the following comments:

Letters of objection:

- (i) For reasons of health and fitness and all that is good for your health this application should be declined;
- (ii) The change of use to a restaurant would harm plans to create a cafe facility at 106 Pembroke Road;

Petition:

"We the undersigned, being Members, local residents and friends of the Windmill Studio Centre, 106A Pembroke Road, object to the proposed cafe/restaurant being granted permission to start up in the Manor. We feel the proposed concept of having a Healthy Option Cafe that the Windmill Studio Centre is proposing to offer is something the community would benefit from and therefore hope this objection is recognised and taken into consideration."

Ward Councillor: Raises concerns at a 6.30am opening hour and queries whether a 7.30am start may be more appropriate or whether the Council could condition the earlier evening closure referred to by the applicant.

Internal Consultees

Environmental Protection Unit:

The premises has a residential dwelling above and there are concerns about the potential impacts of the proposed variation in opening hours from cooking odours, mechanical plant noise, patron noise and associated noise from vehicle movements from 06:30 hrs.

Standard hours for A3 and A5 uses are from 08:00 to 23:30 hours as set out in the standard set of planning conditions reference H1/H3.

EPU cannot therefore support a variation to 06:30hrs for this mixed use location.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The principle of the restaurant use was established by the grant of planning permission for the change of use of the premises in February 2010.

7.02 Density of the proposed development

This is not applicable to this application.

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

This is not applicable to this application.

7.04 Airport safeguarding

This is not applicable to this application.

7.05 Impact on the green belt

This is not applicable to this application.

7.06 Environmental Impact

This is not applicable to this application.

7.07 Impact on the character & appearance of the area

This is not applicable to this application.

7.08 Impact on neighbours

In terms of assessing the effects of the proposal on residential amenity, the relevant factors are those of noise, smell and disturbance. The nearest residential properties lie above and adjacent to the application unit.

Planning conditions attached to the planning permission for the change of use to a restaurant, required details of sound insulation between ground and first floor and specification of extract system noise and odour control measures. These conditions were discharged on 28 September 2010.

Notwithstanding this, the operation of the use at such an early hour of the morning is considered to result in disruption to adjoining residents from customers, vehicles and general movement. The standard hours for restaurant uses are between 0800 and 23.00 hours. The applicant has stated that two premises within the vicinity of the application site, 65 and 74 Victoria Road (both cafes) open at 6.30 am. However, there are no planning conditions restricting the hours of use of those premises.

It is therefore considered that the proposal would result in additional noise and disturbance in the early hours of the morning constituting an un-neighbourly form of development, resulting in a material loss of residential amenity, contrary to policies OE1 and OE3 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) and 4A.20 of the London Plan 2008.

7.09 Living conditions for future occupiers

This is not applicable to this application.

7.10 Traffic impact, car/cycle parking, pedestrian safety

This is not applicable to this application.

7.11 Urban design, access and security

This is not applicable to this application.

7.12 Disabled access

This is not applicable to this application.

7.13 Provision of affordable & special needs housing

This is not applicable to this application.

7.14 Trees, Landscaping and Ecology

This is not applicable to this application.

7.15 Sustainable waste management

This is not applicable to this application.

7.16 Renewable energy / Sustainability

This is not applicable to this application.

7.17 Flooding or Drainage Issues

This is not applicable to this application.

7.18 Noise or Air Quality Issues

This is not applicable to this application.

7.19 Comments on Public Consultations

With regards to the third party comments, competition is not a material planning consideration.

7.20 Planning Obligations

This is not applicable to this application.

7.21 Expediency of enforcement action

This is not applicable to this application.

7.22 Other Issues

There are no other relevant issues.

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

This is not applicable to this application.

10. CONCLUSION

For the reasons outlined above, and that the development is contrary to the aforementioned policies of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007), this application is recommended for refusal.



11. Reference Documents

Adopted Hillingdon Unitary Development Plan (Saved Policies September 2007)

Contact Officer: Sonia Bowen

Telephone No: 01895 250230



<p>Notes</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>108 - 110 Pembroke Road Ruislip</p>		<p>LONDON BOROUGH OF HILLINGDON</p> <p>Planning, Environment & Community Services</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p>9488/APP/2010/1507</p>	<p>Scale</p> <p>1:1,250</p>	
	<p>Planning Committee</p> <p>North</p>	<p>Date</p> <p>November 2010</p>	