

Report of the Head of Planning & Enforcement Services

Address 165 NORTH HYDE ROAD HAYES

Development: Change of ground floor from Class A1 (Retail) to Class A3 (Restaurants and Cafes) for use as fast food restaurant with new extract duct to rear.

LBH Ref Nos: 17357/APP/2011/18

Drawing Nos: Exist Plan and Elev PL03 Rev A
Prop Plan and Elev PL04
PL02
PL01

Date Plans Received: 05/01/2011 **Date(s) of Amendment(s):** 05/01/2011
Date Application Valid: 20/01/2011 19/01/2011

1. SUMMARY

Planning permission is sought for the change of use of a retail unit to a fast food restaurant. The proposed change of use will not harm convenience shopping for local residents and as such would not harm the vitality and character of the shopping parade.

While no issue is taken with the change of use, there are concerns over the ability of the proposal to adequately accommodate refuse and recycling storage which would be associated with the proposal. Given the site constraints objection is raised to the scheme in this regard.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposal has failed to provide adequate waste storage facilities, in a suitable location, in accordance with the councils adopted standards, and therefore the proposal is contrary to policy OE1 of the Unitary Development Plan Saved Policies (September 2007) and policy 4A.22 of the London Plan (February 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.

BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
LPP 4A.22	Spatial policies for waste management

3. CONSIDERATIONS

3.1 Site and Locality

The application site is located on the south side of North Hyde Road between the junctions of Roseville Road and Wyre Grove and forms part of a terrace of 16 units forming a parade of shops, comprising ground floor commercial units with first floor residential units above, some accessed from the rear, and a two storey rear extension. The application property comprises a ground floor retail unit with a rear extension and lies opposite a pedestrian crossing.

The buildings and structures to the rear of the application premises significantly constrain the space to the rear of the premises to narrow alleyways.

To the east lies 167-9 North Hyde Road, a GP practice, and to the west lies 163 North Hyde Road, a betting office. To the rear of the terrace lies a service road. This part of North Hyde Road is predominantly residential in character and appearance, with the parade of shops providing convenience shopping for local residents, and the application site lies within the 'Developed Area' as identified in the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

3.2 Proposed Scheme

Planning permission is sought for the change of use of the ground floor vacant retail unit to a restaurant within class A3 and installation of an extract flue on the eastern facing flank wall of the two storey side extension.

The proposed flue would measure 0.5m wide and extend 1m above the eaves of the roof. The existing metal staircase leading to the first floor flat entrance would be shifted 0.8m to be attached to the inner flank wall of the extension at 167 North Hyde Road, to accommodate the proposed extract duct.

3.3 Relevant Planning History

17357/PRE/2003/179 165 North Hyde Road Hayes
TP PRE-CORRES. CHANGE OF USE

Decision:

Comment on Relevant Planning History

The site has a long and varied planning history, however there are no planning decisions directly relevant to this proposal.

UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
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
S6	Change of use of shops - safeguarding the amenities of shopping areas
S7	Change of use of shops in Parades
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
LPP 4A.22	Spatial policies for waste management

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

23 adjoining owner/occupiers have been consulted. 1 letter of objection has been received making the following comments:

- (i) There are enough food outlets in the parade;
- (ii) The proposal will lead to an increase in litter; and
- (ii) the proposal will be adjacent to a crossing and as such may harm highway and pedestrian safety as vehicles may park in front of the premises.

Officer comments: These are addressed in the report.

These issues are addressed in the main body of the report report.

Hillingdon Chamber of Commerce: No comments received.

BAA: No safeguarding objections

Thames Water:

Sewerage: Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above application

Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. We further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses. Further information on the above is available in a leaflet, 'Best Management Practices for Catering Establishments' which can be requested by telephoning 020 8507 4321

With regard to water supply, this comes within the area covered by Veolia Water Company. For your information the address to write to is - Veolia Water Company The Hub, Tamblin Way, Hatfield Herts, AL10 9EZ - Tel - 0845 782 3333.

Internal Consultees

Environmental Protection Unit:

No objections subject to conditions relating to plant and machinery, noise, external lighting, restriction on the hours for delivering and waste collection, restriction on the hours of operation.

Environmental Protection Unit - Contamination:

The application site is located on the former National Filling Factory. It is noted that this is a change of use application, and no ground works appear to be indicated. However, it may still be advisable to include a contamination informative as a precaution.

Waste Management:

I would make the following comments on the above application regarding waste management.

a) The application is for a restaurant and cafe. One x 1,100 litre type of bulk bin is needed to safely and hygienically contain the waste arising from this type of business. This design of bin has dimensions given in the table below:-

Bin Size: 1,100 litre Eurobin / Height: 1,370mm / Depth: 990mm / Width: 1,260mm

Additional bins for recycling waste may also be required.

b) The bulk bin should be sited on an area of hard-standing, with a smooth surface, so that it can be washed down with water and disinfectant. The surface should be cambered so the run off follows towards a proper drain.

c) The collectors should not have to cart a bulk bin more than 10 metres from the point of storage to the collection vehicle (BS 5906 standard). The collection crew would therefore need to access the rear of the shop. Alternatively the owners would have to present the bulk bin at an agreed collection point on the allocated day.

d) The gradient of any path that the bulk bins have to be moved on should ideally be no more than 1:20, with a width of at least 2 metres. The surface should be smooth. If the path is raised above the area where the collection vehicle parks, then a dropped kerb is needed to safely move the bin to level of the collection vehicle.

Highways:

No objections to the proposal.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application site forms part of a local shopping parade; nos. 141 to 171 odd. Local shopping parades serve an important role in providing convenience shopping that caters for the needs of local residents.

Policy S6 of the London Borough of Hillingdon Unitary Development Plan (Saved Policies September 2007) states that change of use 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.

While there is not an objection in terms of the impact of the proposal on the street scene, the rear flue/chimney would adjoin the residence above the shop and be immediately adjacent to the rear stairs leading to the upstairs residence.

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.

Policy S7 establishes the criteria where service uses would be permitted in parades and states that change of use from A1 will only be granted if the parade retains sufficient essential shop uses to provide a range and choice of shops appropriate to the size of the parade and to its function in the Borough and that the surrounding residential area is not deficient in essential shop uses.

The supporting text to this policy comments that the Local Planning Authority seeks to protect vulnerable parades which are particularly important for the local community and provide opportunities for the establishment of new essential shop uses in existing Class A1 premises. Therefore, as many essential shop uses as possible will be protected, and ideally there should be no less than three in smaller parades and a choice of essential shops in larger parades and in local centres should be retained.

Paragraph 8.22 and policy S7 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) seeks to ensure that all residential areas are within half a mile of a least 5 essential shop uses, although not necessarily within the same parade. For some local shopping areas the closure of just one essential shop may be so significant as to precipitate the closure of other shops and the ultimate demise of the centre as a whole. The LPA seeks to protect vulnerable parades and corner shops which have a particularly important role for the local community and to provide opportunities for the establishment of new essential shop uses in existing class A1 premises. Ideally there should be no less

than 3 (essential shops) in the smaller parades and a choice of essential shops in the larger parades.

The shopping parade comprises the following uses:

- 141 Travel Agent (A2)
- 143 Take Away (A5)
- 145 Electrical Store (A1)
- 147 Grocer (A1)
- 149 Newsagent (A1)
- 151 Butcher (A1)
- 153 Off Licence (A1)
- 155 Salon (A1)
- 157 Driving School (Sui Generis)
- 159 Takeaway (A5)
- 161 Takeaway (A5)
- 163 Betting Office (A2)
- 165 PA Hire (A1)
- 167-9 Solicitors (A2)
- 171 Vacant (A1)

There are at least 3 essential shop uses in the centre - nos. 147, 149 and 151 North Hyde Road. As such, the loss of this retail unit would not harm local convenience shopping provision or the vitality and function of this shopping parade, in accordance with policy S7 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.07 Impact on the character & appearance of the area

No alterations are proposed on the front elevation of the unit and therefore the proposal would not harm the appearance of the street scene.

There are no material changes to the bulk and massing of this building and the open look shopfront would be maintained to the street and therefore it is not considered the change of use of the ground floor of the building would result in a material impact on the appearance of the street scene or result in the loss of light or outlook as a result of the change of use.

With regard to the design and appearance of the proposed extraction flue to the rear, this structure, given its position, height and general bulk would be visible when viewed from the rear window of and stairs leading to the residential flat above the application site.

It must be noted that to the rear of the site are buildings and structures which infill the majority of space. The design and appearance of these structures and the rear of the application site are of little architectural merit. Given that the appearance of this area to the rear of the premises is significantly compromised, it is not considered the flue would cause such harm as to warrant refusal.

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 Officer has raised no objection to the operational effectiveness of the extract duct proposed and has suggested a number of conditions should the Council be minded to approve the application relating to the control of noise and disturbance; the

extract ventilation system etc to safeguard the amenity of residents and the surrounding area.

With regard to the extract duct it is considered the height of the duct will ensure the extracted fumes would not present an adverse amenity issue in terms of air pollution.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The proposal restaurant use would not lead to an increase in traffic generation given its proposed use and location within a parade of shops. The application site lies opposite a pedestrian crossing with its the 'zig-zag' white lines, both of which will prevent parking outside of the unit. As such, it is not considered that the proposal will harm highway and pedestrian safety.

The Council's Parking Standards (Annex 1, adopted Hillingdon Unitary Development Plan (Saved Policies September 2007) requires 1 space per 25sqm for non-shop uses. This requirement is the same for shop uses. As no additional floorspace is proposed, no additional parking spaces are required. As such, the proposal would not result in a significant increase in on-street parking and would comply with policies AM2, AM7(ii) and AM14 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.11 Urban design, access and security

The existing stairway access to the upper floor flat will be retained albeit slightly relocated to accommodate the extraction duct. As has been discussed in section 7.07, the design of the flue would not enhance the appearance of the building or improve the outlook from the upstairs flat or the rear access to it, and is not considered to be acceptable.

7.12 Disabled access

No external alterations are proposed to the existing shopfront. However, the existing shopfront has an at grade shop entrance which will allow wheelchair access. It is not considered that refusal of the scheme could be sustained for this reason.

7.15 Sustainable waste management

No details of refuse storage has been provided. Given the red line site essentially wraps around the building it is not clear that there would be anywhere to locate a suitable bin store within the red line application site.

Additionally, there are significant space constraints to the rear of the building and it is not clear that there would be room (even beyond the red line) where adequate covered and secure waste and recycling facilities could be provided. Objection is raised to the scheme in this regard.

7.18 Noise or Air Quality Issues

The siting of the proposed extraction duct has already been addressed above. The Environmental Health Officer has raised no objections to the siting of the extraction duct. As such, the proposal would comply with policy OE1 of the adopted Hillingdon Unitary Development Plan (Saved Policies September 2007).

7.19 Comments on Public Consultations

With regards to third party comments, these have been addressed in the report.

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'.

10. CONCLUSION

The application site is within a parade and is an A1 shop, taking into account UDP policy S7 it is not considered that there should be an objection to the loss of a shop in this parade.

The hours of operation as well as noise and disturbance could be controlled and limited by planning condition. However issues exist in relation to the refuse storage facilities and waste collection.

It is not evident that there is space within the site to locate refuse and recycling facilities. Given the space constraints to the rear of the premises is it not clear that any alternative location for bins storage exists beyond the red line site. In the absence of adequate refuse and recycling facilities the scheme is recommended for refusal.

11. Reference Documents

Hillingdon Unitary Development Plan Saved Policies (September 2007).
London Plan (February 2008)

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Notes



Site boundary

For identification purposes only.

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Site Address

**165 North Hyde Road
Hayes**

Planning Application Ref:
17357/APP/2011/18

Planning Committee
Central and South

Scale

1:1,250

Date

July 2011

**LONDON BOROUGH
OF HILLINGDON**
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Environment, Education
& Community Services

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