

## Report of the Head of Planning & Enforcement Services

**Address** FORMER B&Q SITE UXBRIDGE ROAD HAYES

**Development:** Variation of condition 12 (to extend the opening hours of the store) of planning permission ref. 51508/APP/2008/2927 dated 16/04/2010 : (Single storey canopy to front entrance, refurbishment and variation of condition of planning permission ref. 51508/96/1907 dated 16/04/1997 to allow use as an Asian supermarket, comprising 1,606sq.m main retail area, 69sq.m cafe area, 690sq.m bulk goods warehouse, 1,141sq.m goods storage area, and the utilisation of the former Garden Centre trading area as a 425sq.m covered trading area for fruit and vegetables. The proposal includes changes to the external appearance of the existing building, existing parking layout, boundary treatments, external lighting and associated bin storage/compactors)

**LBH Ref Nos:** 51508/APP/2011/963

**Drawing Nos:** Design & Access Statement  
Location Plan 1:1250  
Letter dated 6/10/08  
A(00)-01  
A(00)-02  
A(00)-00  
Planning Statement and Retail Impact Assessment  
Design & Access Statement  
Draft Travel Plan  
Transport Assessment  
A(10)-01 Rev B  
A(10)-10 Rev B  
A(10)-11 Rev A

**Date Plans Received:** 19/04/2011

**Date(s) of Amendment(s):**

**Date Application Valid:** 27/04/2011

### 1. SUMMARY

Planning permission was granted in April 2010, for the change of use of the former B&Q store off Uxbridge Road in Hayes, for use as an Asian Supermarket (ref:51508/APP/2008/2927). This application seeks the variation of condition 12 of that consent, which restricts operating hours. The reason for that condition is to safeguard the amenity of nearby residents, particularly with regard to potential noise from the site.

The site has been subject to longer opening hours following grant of a temporary period for six months, to assess the impact this would have. The Environmental Protection Unit has confirmed they have not received any complaints from local residents within this period and therefore have not raised an objection to the proposal.

The applicant has submitted a Design and Access Statement and supporting letter in order to justify the proposal, contending that this condition is inconsistent with condition 13, relating to delivery hours; restricts other activities at the site, related to the operation of the store; harms the ability of the store to compete with other supermarkets in the

area; and throughout the six months when the store has benefited from the extended opening hours there have been no complaints of noise or disturbance.

In relation to the current hours of operation, the applicant's arguments are noted, particularly in relation to the restriction this places on other uses of the site, such as stocktaking, cleaning, etc, which are unlikely to generate excessive noise. It is not considered that the additional opening hours proposed would lead to a significant increase in noise or disturbance to the nearest residential occupiers. Therefore, approval is recommended for the extended trading hours.

## **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 M2 External surfaces to match existing building**

The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

#### **REASON**

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing building in accordance with Policy BE15 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

### **3 M3 Boundary treatment - details**

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced. Development shall be carried out in accordance with the approved details.

#### **REASON**

To safeguard the visual amenities of the area in accordance with Policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

### **4 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 BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

### **5 OM11 Floodlighting**

No floodlighting or other form of external lighting shall be installed unless further details are submitted to and approved in writing by the Local Planning Authority. Such details

shall include location, height, type and direction of light sources, hours of illumination and intensity of illumination and automatic light shut off system for the use of floodlights for the car park or as otherwise required for security purpose. Any lighting that is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.

**REASON**

To safeguard the amenity of surrounding properties in accordance with policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and in the interests of highway safety and London Plan (February 2008) Policy 4B.1.

**6 NONSC Screening to the outdoor sales area**

Prior to the commencement of development, detailed drawings, including the proposed materials to be used, in respect of the proposed screening to the frontage of the outdoor sales/canopy area shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approval.

**REASON**

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing building in accordance with policy BE15 of the Hillingdon Unitary Development Plan (Saved Policies September 2007).

**7 NONSC Service and Delivery Management Plan**

Prior to the commencement of development, details of a Delivery and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approval. The plan shall incorporate measures to minimise the impact of the development on local congestion levels, including measures to minimise vehicle deliveries during am and pm peak hours.

**REASON**

To encourage out of hours/off peak servicing to help mitigate the site's contribution to local congestion levels in compliance with Policy AM2 of the Hillingdon Unitary Development Plan (saved Policies September 2007).

**8 H10 Parking/Turning/Loading Arrangements - Commercial Devs.**

The roads/turning/loading facilities/sight lines and parking areas (including the marking out of parking spaces) and bicycle stands shown on the approved plans shall be constructed prior to occupation of the development, thereafter permanently retained and used for no other purpose.

**REASON**

To ensure that the loading, roads, turning facilities and parking areas are satisfactorily laid out on site in accordance with Policies AM3 and AM14 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 3C of the London Plan. (February 2008).

**9 H13 Installation of gates onto a highway**

No gates shall be installed which open outwards over the highway/footway. The gates shall be locked outside the hours of use specified under Condition 12 and deliveries under Condition 13.

**REASON**

To ensure that pedestrian and vehicular safety is not prejudiced in accordance with Policies AM3 and AM8 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 3C of the London Plan. (February 2008).

**10 N11 Control of plant/machinery noise**

No plant or 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 be fully implemented before the development is occupied/use commences and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

**REASON**

To safeguard the amenity of the surrounding area in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 4A.20 of the London Plan (February 2008).

**11 N12 Air extraction system - noise and odour**

No air extraction system shall be used on the premises until a scheme for the control of noise and odour emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is occupied/the use commences and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

**REASON**

To safeguard the amenity of the occupants of surrounding properties in accordance with policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policy 4A.20 of the London Plan (February 2008).

**12 NONSC Hours of operation**

Retail sales shall not take place outside the hours of 08.00 to 21.00 Monday to Saturday and 10.00 to 18.00 Sundays and Bank Holidays.

**REASON**

To safeguard the amenity of surrounding areas in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

**13 NONSC Delivery and Loading hours**

The premises shall not be used delivery and the loading or unloading of goods (to include waste collections) outside the hours of 0700 and 1900, Monday to Friday, and between the hours of 0700 and 1700 on Saturdays. No deliveries or loading shall take place on Sundays or Bank Holidays.

**REASON**

To safeguard the amenity of surrounding areas in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Polices September 2007).

**14 TL1 Existing Trees - Survey**

Prior to any work commencing on site, an accurate survey plan at a scale of not less than 1:200 shall be submitted to and approved in writing by the Local Planning Authority. The plan must show:-

(i) Species, position, height, condition, vigour, age-class, branch spread and stem diameter of all existing trees, shrubs and hedges on and immediately adjoining the site.

- (ii) A clear indication of trees, hedges and shrubs to be retained and removed.
- (iii) Existing and proposed site levels.
- (iv) Routes of any existing or proposed underground works and overhead lines including their manner of construction.
- (v) Detailed drawings showing the position and type of fencing to protect the entire root areas/crown spread of trees and other vegetation to be retained during construction work.

#### REASON

To enable the Local Planning Authority to assess the amenity value of existing trees, hedges and shrubs and the impact of the proposed development on them and to ensure that the development conforms with Policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

#### **15 TL2 Trees to be retained**

Trees, hedges and shrubs shown to be retained on the approved plan shall not be damaged, uprooted, felled, lopped or topped without the prior written consent of the Local Planning Authority.

If any retained tree, hedge or shrub is removed or severely damaged during construction, or is found to be seriously diseased or dying another tree, hedge or shrub shall be planted at the same place and shall be of a size and species to be agreed in writing by the Local Planning Authority and shall be planted in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

Where damage is less severe, a schedule of remedial works necessary to ameliorate the effect of damage by tree surgery, feeding or groundwork shall be agreed in writing with the Local Planning Authority. New planting should comply with BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs'. Remedial work should be carried out to BS 3998 (1989) 'Recommendations for Tree Work' and BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. The agreed work shall be completed in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

#### REASON

To ensure that the trees and other vegetation continue to make a valuable contribution to the amenity of the area in accordance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and to comply with Section 197 of the Town and Country Planning Act 1990.

#### **16 TL3 Protection of trees during site clearance and development**

Prior to the commencement of any site clearance or construction work, detailed drawings showing the position and type of fencing to protect the entire root areas/crown spread of trees, hedges and other vegetation to be retained shall be submitted to the Local Planning Authority for approval. No site clearance works or development shall be commenced until these drawings have been approved and the fencing has been erected in accordance with the details approved. Unless otherwise agreed in writing by the Local Planning Authority such fencing should be a minimum height of 1.5 metres. The fencing shall be retained in position until development is completed. The area within the approved protective fencing shall remain undisturbed during the course of the works and in particular in these areas:

1. There shall be no changes in ground levels;

2. No materials or plant shall be stored;
3. No buildings or temporary buildings shall be erected or stationed.
4. No materials or waste shall be burnt; and.
5. No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the Local Planning Authority.

#### REASON

To ensure that trees and other vegetation to be retained are not damaged during construction work and to ensure that the development conforms with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

#### **17 TL5 Landscaping Scheme - (full apps where details are reserved)**

No development shall take place until a landscape scheme providing full details of hard and soft landscaping works has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The scheme shall include: -

- Planting plans (at not less than a scale of 1:100),
- Written specification of planting and cultivation works to be undertaken,
- Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate,
- Implementation programme.

The scheme shall also include details of the following: -

- Proposed finishing levels or contours,
- Means of enclosure,
- Car parking layouts,
- Other vehicle and pedestrian access and circulation areas,
- Hard surfacing materials proposed,
- Compactors and structures (such as play equipment, furniture, refuse storage, signs, or lighting),
- Existing and proposed functional services above and below ground (e.g. drainage, power cables or communications equipment, indicating lines, manholes or associated structures),

#### REASON

To ensure that the proposed development will preserve and enhance the visual amenities of the locality in compliance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

#### **18 TL6 Landscaping Scheme - implementation**

All hard and soft landscaping shall be carried out in accordance with the approved landscaping scheme and shall be completed within the first planting and seeding seasons following the completion of the development or the occupation of the buildings, whichever is the earlier period.

The new planting and landscape operations should comply with the requirements specified in BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs' and in BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. Thereafter, the areas of hard and soft landscaping shall be permanently retained.

Any tree, shrub or area of turfing or seeding shown on the approved landscaping scheme which within a period of 5 years from the completion of development dies, is removed or

in the opinion of the Local Planning Authority becomes seriously damaged or diseased shall be replaced in the same place in the next planting season with another such tree, shrub or area of turfing or seeding of similar size and species unless the Local Planning Authority first gives written consent to any variation.

**REASON**

To ensure that the landscaped areas are laid out and retained in accordance with the approved plans in order to preserve and enhance the visual amenities of the locality in compliance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

**19 TL7 Maintenance of Landscaped Areas**

No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.

**REASON**

To ensure that the approved landscaping is properly maintained in accordance with policy BE38 of the Hillingdon Unitary Development Plan (September 2007).

**20 NONSC Risk Assessment**

Prior to the commencement of development a Risk Assessment and Method Statement outlining all works to be carried out adjacent to the water must be submitted and approved in writing by the local planning authority in consultation with British Waterways. The risk assessment shall also include details of the proposed safety equipment along the canal frontage, which shall be installed prior to first occupation of the development hereby permitted.

**REASON**

To ensure the safety to the users of the adjacent canal and the canal itself, in accordance with Policy BE38 of Unitary Development Plan Saved Policies (September 2007).

**21 NONSC Landscaping canal side**

No development shall take place on site until full details of the proposed landscaping scheme, to include screening of the building and external vegetable market from the Grand Union Canal, have been submitted to and approved in writing by the Local Planning Authority in consultation with British Waterways. The landscaping scheme should include reference to plant species types, surface treatments, fences and walls, any signage and information boards together with the means of on-going maintenance for a five year period. The approved landscaping scheme shall be implemented by the first planting scheme after the development commences.

**REASON**

In the interest of preserving open views to and from the canal, the living environment for future residents and enhancing the canal setting, in accordance with Policy BE38 of Unitary Development Plan Saved Policies 2007.

**22 NONSC Structural Integrity of Waterway wall**

Prior to the commencement of the development hereby approved a survey of the condition of the waterway wall, and a method statement and schedule of the repairs

identified as part of the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with British Waterways. Any heritage features and materials identified by the survey shall be made available for inspection by British Waterways and where appropriate, preserved in-situ or reclaimed and re-used elsewhere on site or on a nearby waterway wall. The repair works identified shall be carried out in accordance with the method statement and repairs schedule by a date to be agreed in the repairs schedule.

#### REASON

In the interest of the structural integrity of the waterway wall, waterway heritage, navigational safety and visual amenity, in accordance with Policy BE38 of Unitary Development Plan Saved Policies 2007.

#### **23 NONSC Freight by water**

Before development is commenced, a feasibility study shall be carried out to assess the potential of a wharf on the canal edge and for moving freight by water during the construction cycle (waste and bulk materials) and following occupation of the development (waste and recyclables). The use of waterborne transport shall be maximised during the construction of the development unless the above assessment demonstrates that such use of the canal is not physically or economically feasible.

#### REASON

To encourage the use of the canal for transporting waste and bulk materials in accordance with Blue Ribbon Network Policies 3C.25 and 4C.8 of the London Plan 2008 and Policy AM18 of the Unitary Development Plan Saved Policies 2007.

#### **24 NONSC Trolley Traps**

Prior to the commencement of development, details of a trolley trap to prevent shopping trolleys entering the canal, public highway and any access points into the site and in accordance with the initiative launched by British Waterways to encourage supermarkets to better manage the use shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the retail store.

#### REASON

To prevent the abandonment of shopping trolleys on the canal and associated anti-social behaviour, to the detriment of Health and Safety and the character and appearance of the canal environment in accordance with Policy BE39 of the Unitary Development Plan Saved Policies September 2007.

#### **25 NONSC Electric charging points for electric vehicles**

Prior to commencement of the development hereby approved, details of the installation (including location and type) of at least two secure electric vehicle charging points within the car park must be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charger points shall be installed prior to occupation of the development and retained for the lifetime of the building.

#### REASON

To comply with London Plan Policy 4A.3 and to encourage sustainable travel.

#### **26 NONSC Screening of the compactors**

Notwithstanding plans hereby submitted, and before any work commences on site, further details of landscaped screening for the compactors shall be submitted to and



approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approval.

**REASON**

To safeguard the visual amenities of the canal setting, in accordance with Policy BE38 of the Unitary Development Plan Saved Policies 2007.

**27 H16 Cycle Storage - details to be submitted**

Prior to commencement of the development, details of covered and secure cycle storage provision for a minimum of 30 cycle parking spaces (for use by staff and visitors) shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage areas shall be completed in accordance with the agreed scheme prior to the occupation of the development and thereafter permanently retained.

**REASON**

To ensure the provision and retention of facilities for cyclists to the development and hence the availability of sustainable forms of transport to the site in accordance with Policy AM9 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 3C of the London Plan (February 2008).

**28 NONSC Waste Management Strategy**

Prior to the commencement of development, a waste strategy shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approval. The plan shall include details of;

- a) waste management and maintenance from the site and;
- b) any form of screening (planting and fencing) to be incorporated to stop any refuse coming into the canal from the site

**REASON**

To ensure that refuse from the site does not enter the canal which can adversely affect its appearance as well as ecology, in accordance with Policy BE38 of Unitary Development Plan Saved Policies 2007.

**29 OM14 Secured by Design**

The development hereby approved shall incorporate measures to minimise the risk of crime and to meet the specific security needs of the application site and the development. Details of security measures shall be submitted and approved in writing by the Local Planning Authority before development commences. Any security measures to be implemented in compliance with this condition shall reach the standard necessary to achieve the 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO).

**REASON**

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000, and to reflect the guidance contained in Circular 5/94 'Planning Out Crime' and the Council's SPG on Community Safety By Design.

**30 NONSC retail sales area**

No retail sales shall occur outside of the indoor and outdoor sales area as shown on the approved plans.

#### REASON

To safeguard the visual amenities of the area and to restrict retail sale of goods in accordance with Policy BE13 of Unitary Development Plan Saved Policies and in compliance with Planning Policy Statement 6: Planning for Town Centres.

#### **31 DIS1 Facilities for People with Disabilities**

All the facilities designed specifically to meet the needs of people with disabilities that are shown on the approved plans shall be provided prior to the occupation of the development and thereafter permanently retained.

#### REASON

To ensure that adequate facilities are provided for people with disabilities in accordance with Policies AM13 and R16 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (February 2008) Policies 3A.13, 3A.17 and 4B.5.

#### **32 DIS2 Access to Buildings for People with Disabilities**

Development shall not commence until details of access to building entrances (to include ramped/level approaches, signposting, types and dimensions of door width and lobby openings) to meet the needs of people with disabilities have been submitted to and approved in writing by the Local Planning Authority. The approved facilities should be provided prior to the occupation of the development and shall be permanently retained thereafter.

#### REASON

To ensure that people with disabilities have adequate access to the development in accordance with Policies AM13 R16 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan Policies (February 2008) Policies 3A.13, 3A.17 and 4B.5.

#### **33 DIS4 Signposting for People with Disabilities**

Signplates, incorporating a representation of the Universal Wheelchair Symbol, should be displayed to indicate the location of convenient facilities to meet the needs of people with disabilities. Such signplates should identify or advertise accessible entrances to buildings, reserved parking spaces, accessible lifts and lavatory accommodation, manageable routes through buildings and availability of additional services. Signs for direction and location should have large characters or numerals and clearly contrast with the background colour.

#### REASON

To ensure that people with disabilities are aware of the location of convenient facilities in accordance with Policy AM13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

#### **34 DIS3 Parking for Wheelchair Disabled People**

Development shall not commence until details of 10% of the total parking provision for wheelchair disabled people have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until all the approved details have been implemented and thereafter these facilities shall be permanently retained.

#### REASON

To ensure that people in wheelchairs are provided with adequate car parking and convenient access to building entrances in accordance with Policy AM5 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

Note: wheelchair users are not the only category of people who require a 'disabled' parking space. A Blue Badge parking space can also be used by people who have a mobility impairment (full-time wheelchair users account for only a small percentage of this category) including elderly people, visually impaired people having a sighted driver, children having bulky equipment such as oxygen cylinders that have to be transported with them, etc.

**35 NONSC Non Standard Condition**

Materials and/or equipment deposited outside of the retail building shall not be stacked or deposited to a height exceeding 2 metres above existing ground level.

**REASON**

In order to safeguard the visual amenities of the area in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan Policy (February 2008) 4B.1.

**36 NONSC Non Standard Condition**

Notwithstanding hereby submitted plans, a vehicle auto tracks (including HGVs) shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development demonstrating that delivery vehicles turning left through the main gates can satisfactorily manoeuvre through the car park.

**REASON**

To ensure that the site can accommodate delivery vehicles and without prejudice to the safety and free flow of traffic on the adjacent highway, in accordance with Policy AM2 of the Unitary Development Plan Saved Policies 2007.

**37 NONSC Non Standard Condition**

The premises shall not be used for any purpose on Public Holidays (which are not also Bank Holidays).

**REASON**

To safeguard the amenity of surrounding areas in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

**INFORMATIVES**

**1 I52 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 I53 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.

OL11	Green Chains
EC1	Protection of sites of special scientific interest, nature conservation importance and nature reserves
EC3	Potential effects of development on sites of nature conservation importance
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.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE25	Modernisation and improvement of industrial and business areas
BE32	Development proposals adjacent to or affecting the Grand Union Canal
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
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
LE2	Development in designated Industrial and Business Areas
AM1	Developments which serve or draw upon more than a walking distance based catchment area - public transport accessibility and capacity considerations
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
LPP 3D.11	London Plan Policy 3D.1 - Supporting Town Centres
LPP 3D.3	London Plan Policy 3D.3 Maintaining and Improving Retail Facilities.
LPP 4A.3	London Plan Policy 4A.3 - Sustainable Design and Construction.

### **3 I14B Compliance with Legislation Administered by EPU**

The Council's Environmental Protection Unit (EPU) advises that, pursuant to the Control of Pollution Act 1974, the Clean Air Acts 1956/1968, Public Health Act(s) and other relevant legislation, you must ensure that the following are complied with where applicable:-

(i) 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 or Bank Holidays. All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228 : 1984;

(ii) The elimination of the release of dust or odours caused by works, that may create a public health nuisance;

(iii) No bonfires that create dark smoke or nuisance to local residents;

(iv) Notification to EPU of the installation of a boiler with a rating 55,000 to 1.25 million Btu/hr and/or the construction of a chimney serving a furnace with a minimum rating of 1.25 million Btu/hr;

(v) Notification to EPU of the siting of any external machinery (eg. air conditioning);

(vi) EPU (and Planning Services) to be consulted if additional plant/machinery is to be installed or existing machinery replaced.

#### **4**

Any access from the towpath, closures of the towpath or scaffolding over-sailing British Waterway's land or water during the construction must be agreed in writing with British Waterways before development commences. Please contact Ben Loader in British Waterways London's Estate Team on 020 7985 7288 for further information.

#### **5**            I28            **Food Hygiene**

The Council's Commercial Premises Section should be consulted prior to the use of the premises so as to ensure compliance with the Food Safety Registration Regulations 1990, Hygiene (General) Regulations 1970, The Food Act 1984, The Health and Safety at Work Act 1974 and any other relevant legislation. Contact: - Commercial Premises Section, 4W/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Telephone 01895 250190).

#### **6**

The applicant/developer is advised to contact third party works engineer, in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' 'Code of Practice for Works affecting British Waterways'.

#### **7**

You are advised that should a scheme for Closed Circuit Television (CCTV) be proposed for the site, you should liaise with the Metropolitan Police Crime Prevention Officer to ensure that this is compatible with the Council's CCTV system.

#### **8**            I15            **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 or Bank 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.

#### **9**

The applicant is advised that the site is restricted to sale of goods to those of Asian origin. The restriction is secured through a S106 Agreement.

#### **10**

You are advised that this approval in no way overrides your requirement to accord with relevant Trading Law.

#### **11**

You are advised that where appropriate the Council will be minded to consider any details which have previously been submitted and approved in relation to conditions on planning permission 51508/APP/2008/2927 dated 16/04/2010 to be equally applicable and acceptable in relation to the corresponding conditions on this permission.

#### **12**

You are advised that this permission related to the amendment of condition 12 of 51508/APP/2008/2927 dated 16/04/2010 and has been considered on the basis of the plans provided within that application. The application does not constitute approval of any alternative drawings not referenced within the decision notice.

### **3. CONSIDERATIONS**

#### **3.1 Site and Locality**

The application site comprises an approximately 1.2 hectare site, which accommodates the former B&Q warehouse and associated car park, located on the southern side of Uxbridge Road in Hayes. It forms a small part of a much larger site comprising the warehouse building and ancillary car parking area. Planning permission has recently been granted for the use of the building as an Asian Supermarket, this permission has now been implemented and the site is now operating. The wider site is bounded to the north by Uxbridge Road, beyond which are warehouse style buildings occupied by Shurguard Self-Storage; to the east the site is bounded by the Grand Union Canal, beyond which are residential properties in Bankside; and to the south and west are industrial and commercial buildings.

The site falls within the Springfield Road Industrial and Business Area as shown on the Hillingdon Unitary Development Plan Proposals Map and also forms part of the Hayes/West Drayton Corridor. The adjacent Grand Union Canal is designated as a Nature Conservation Site of Metropolitan or Borough Grade I Importance and forms the legislative boundary between the London Borough of Hillingdon and the London Borough of Ealing. Uxbridge Road is designated as a London Distributor Road.

#### **3.2 Proposed Scheme**

This application seeks to replace condition 12 of planning permission ref: 51508/APP/2008/2927 dated 16/04/10 which allowed alterations and refurbishment of the existing building for use as an Asian supermarket.

Condition 12 of that consent states:

"The premises shall not be used outside the hours of 0800 and 2000, Monday to Friday, and between the hours of 0800 and 1800 on Saturdays. The premises shall not be used outside the hours of 1000 and 1700 on Sundays and Bank Holidays (hours of opening should be in keeping with hours stated in Trading Law).

## REASON

To safeguard the amenity of surrounding areas in accordance with Policies OE1 and OE3 of the Hillingdon Unitary Development Plan (Saved Policies September 2007)."

This application seeks to vary that condition to restrict retail sales to between the hours of 08.00 and 21.00 Monday to Saturday and 10.00 and 18.00 Sundays and Bank Holidays.

### 3.3 Relevant Planning History

51508/APP/2010/1416 Former B&Q Site Uxbridge Road Hayes

For a period of six months from the date of this permission, retail sales shall not take place outside the hours of 08.00 to 21.00 Monday to Saturday and 10.00 to 18.00 Sundays and Bank Holidays. Thereafter, retail sales shall not take place outside the hours of 08.00 to 20.00 Monday to Friday, 08.00-18.00 Saturdays and 10.00 to 17.00 Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority (Variation of condition 12 (opening hours) of planning permission ref: 51508/APP/2008/2927 dated 16/04/2010: single-storey canopy to front entrance, refurbishment and use as an Asian supermarket)

**Decision:** 15-10-2010 Approved

51508/APP/2010/641 Former B&Q Site Uxbridge Road Hayes

Erection of canopy, relocation of cold storage unit and provision of WC facilities.

**Decision:** 10-06-2010 Approved

### Comment on Relevant Planning History

The site was part of an area transferred from Ealing to Hillingdon in the late 1980s. The store was built following planning permission granted on appeal in November 1985, and the following condition was attached:

'The premises shall be used for the retailing of DIY home and garden improvement and car maintenance products, building materials and building merchants goods only and for no other purpose within Class 1 of the schedule to the Town & Country (Use Classes) Order 1972.'

Planning permission (Ref. 51508/96/1907) to vary this condition was approved on 16/04/1997, and this allowed an extended range of goods to be sold (excluding food). On 16 April 2010 planning permission was granted for the use of the site as an Asian supermarket comprising 1,606m<sup>2</sup> main retail area, 69m<sup>2</sup> cafe area, 690m<sup>2</sup> bulk goods warehouse, 1,141m<sup>2</sup> goods storage area, and the utilisation of the former garden centre trading area as a 425m<sup>2</sup> covered trading area for fruit and vegetables. That application comprised the erection of a single-storey canopy to the front entrance and refurbishment of the building (ref: 51508/APP/2008/2927).

On 10 June 2010 planning permission was granted for the erection of a canopy, relocation of a cold storage unit and provision of WC facilities (ref: 51508/APP/2010/641).

Planning permission ref no. 51508/APP/2010/1416, sought permission, for a period of six months from the date of that permission, to allow retail sales to place between the hours of 08.00 to 21.00 Monday to Saturday and 10.00 to 18.00 Sundays and Bank Holidays. Thereafter, retail sales would not take place outside the hours of 08.00 to 20.00 Monday to Friday, 08.00-18.00 on Saturdays and 10.00 to 17.00 Sundays and Bank Holidays,

unless otherwise agreed in writing by the Local Planning Authority (Variation of condition 12 (opening hours) of planning permission ref: 51508/APP/2008/2927 dated 16/04/2010: single-storey canopy to front entrance, refurbishment and use as an Asian supermarket). This application was approved on the 15th October 2010.

#### **4. Planning Policies and Standards**

Supplementary Planning Guidance Noise

##### **UDP / LDF Designation and London Plan**

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

Part 1 Policies:

PT1.10 To seek to ensure that development does not adversely affect the amenity and the character of the area.

Part 2 Policies:

OL11 Green Chains

EC1 Protection of sites of special scientific interest, nature conservation importance and nature reserves

EC3 Potential effects of development on sites of nature conservation importance

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.

BE21 Siting, bulk and proximity of new buildings/extensions.

BE25 Modernisation and improvement of industrial and business areas

BE32 Development proposals adjacent to or affecting the Grand Union Canal

BE38 Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.

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

LE2 Development in designated Industrial and Business Areas

AM1 Developments which serve or draw upon more than a walking distance based catchment area - public transport accessibility and capacity considerations

AM7 Consideration of traffic generated by proposed developments.

AM14 New development and car parking standards.

LPP 3D.11 London Plan Policy 3D.1 - Supporting Town Centres

LPP 3D.3 London Plan Policy 3D.3 Maintaining and Improving Retail Facilities.

LPP 4A.3 London Plan Policy 4A.3 - Sustainable Design and Construction.

#### **5. Advertisement and Site Notice**

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable



## **6. Consultations**

### **External Consultees**

Consultation letters were sent to 123 local owner/occupiers. 2 responses have been received which make the following comments

1. I cannot see any reasonable objection to this proposal other than; the tannoy system is very intrusive now, hopefully that would not be allowed the extended hours; and hopefully the owners will take care of the wildlife that use the canal, by not cutting the undergrowth during nesting season, etc.
2. I would like to appeal against this as it will create extra traffic on the Uxbridge Road and also extra noise. As it is we get noise until late at night and this will make it worse.

LONDON BOROUGH OF EALING - No response received.

ENVIRONMENT AGENCY- No comments to make on this application

BRITISH WATERWAYS No comments to make on the extended opening hours

### **Internal Consultees**

ENVIRONMENTAL PROTECTION UNIT - The applicant seeks to vary condition 12 of planning permission ref:

51508/APP/2010/1416 dated 15th October 2010, following a six month permission allowed for temporary extended trading hours to monitor whether the scheme will adversely impact on residential amenity by way of noise disturbance from trading activities.

I have reviewed the covering letter submitted by CGMS consulting and details of the design and access statement. I can confirm that the Environmental Protection Unit have not received any complaints of disturbance from the store during the extended temporary operating hours. Therefore I have no objection to the condition being varied as applied.

## **7. MAIN PLANNING ISSUES**

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

The principle of allowing a supermarket at this site was established by planning permission ref: 51508/APP/2008/2927 dated 16/04/10.

### **7.02 Density of the proposed development**

Not applicable to this type of application

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

Not applicable to this type of application

### **7.04 Airport safeguarding**

Not applicable to this type of application

### **7.05 Impact on the green belt**

Not applicable to this type of application

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

Not applicable to this type of application

### **7.08 Impact on neighbours**

The nearest residential properties are located approximately 40m away to the east in Bankside, and 65m to the north west at the junction of Uxbridge Road and Delamere Road. The main impact of the proposal on residential amenity is considered to be the potential noise impacts associated with the longer trading hours proposed. This issue is addressed in part 7.18 of the report.

#### **7.09 Living conditions for future occupiers**

Not applicable to this type of application

#### **7.10 Traffic impact, Car/cycle parking, pedestrian safety**

Given that the proposed extended trading hours are outside peak travel times, and would spread the vehicle movements to/from the site throughout the day, it is not considered that the proposal would have any significant impact on the surrounding road network. It is further noted, no objection was raised by the Council's Highway Engineer to the previous application for the same proposal, albeit for a temporary permission (51508/APP/2010/1416). The proposal would therefore comply with Policy AM7 of the UDP Saved Policies (September 2007).

#### **7.11 Urban design, access and security**

Not applicable to this type of application

#### **7.12 Disabled access**

Not applicable to this type of application

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

Not applicable to this type of application

#### **7.14 Trees, landscaping and Ecology**

Not applicable to this type of application

#### **7.15 Sustainable waste management**

Not applicable to this type of application

#### **7.16 Renewable energy / Sustainability**

Not applicable to this type of application

#### **7.17 Flooding or Drainage Issues**

Not applicable to this type of application

#### **7.18 Noise or Air Quality Issues**

The wording of condition 12 restricts the use of the premises, outside specified times, throughout the week. The applicant argues that this would restrict essential out of hours trading activities, such as cleaning, shelf filling, setting up before opening, staff training, maintenance, closing down and cleaning at the end of the trading day, etc, which are fundamental to most stores. It is suggested that this restriction is so severe that it would significantly affect the operation of the store. It is not considered that these activities are likely to give rise to significant noise or disturbance, which is likely to be audible from outside the site. Most activity, largely attributable to a small outdoor sales area, and vehicle movements, would take place during trading hours.

Accordingly, it is not considered that the variation of the condition to restrict trading hours only, would give rise to a significant increase in noise or disturbance sufficient to justify refusal. The nearest residential properties are located approximately 40m away to the east in Bankside, and 65m to the north west at the junction of Uxbridge Road and Delamere Road. Properties in Delamere Road, which are located beyond the Grand Union Canal, overlook the rear of building. The main operational area of the building, and the store entrance, are located on the north and west sides of the building. Whilst service access is provided to the rear of the building, this is restricted by a separate condition. Accordingly, it is not considered likely that the extended hours would have a significant impact on the residential amenity of the occupiers of these properties. The nearest properties to the northwest are located beyond the busy four lane wide Uxbridge Road and significant hedge/tree screening along the site's northern boundary. Given the distance and screening provided, it is not considered likely that the proposal would have a significant impact on the residential amenity of occupants of these properties.

The site has been subject to longer opening hours following grant of a temporary period for six months, to assess the impact this would have. The Environmental Protection Unit has confirmed they have not received any complaints from local residents within this period and therefore have not raised an objection to the proposal. As such the proposal is considered to accord with policies OE1 and OE3 of the UDP Saved Policies (September 2007).

#### **7.19 Comments on Public Consultations**

With regard to point 1, the tannoy system does not form part of this application and further to discussions with the Environmental Protection Unit, it is confirmed should a nuisance be found due to the use of a tannoy system at the site this would be more appropriately dealt with under the Environmental Protection Act 1990. The remaining points are addressed in the full report.

#### **7.20 Planning obligations**

Not applicable to this type of application

#### **7.21 Expediency of enforcement action**

Not applicable

#### **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

## **10. CONCLUSION**

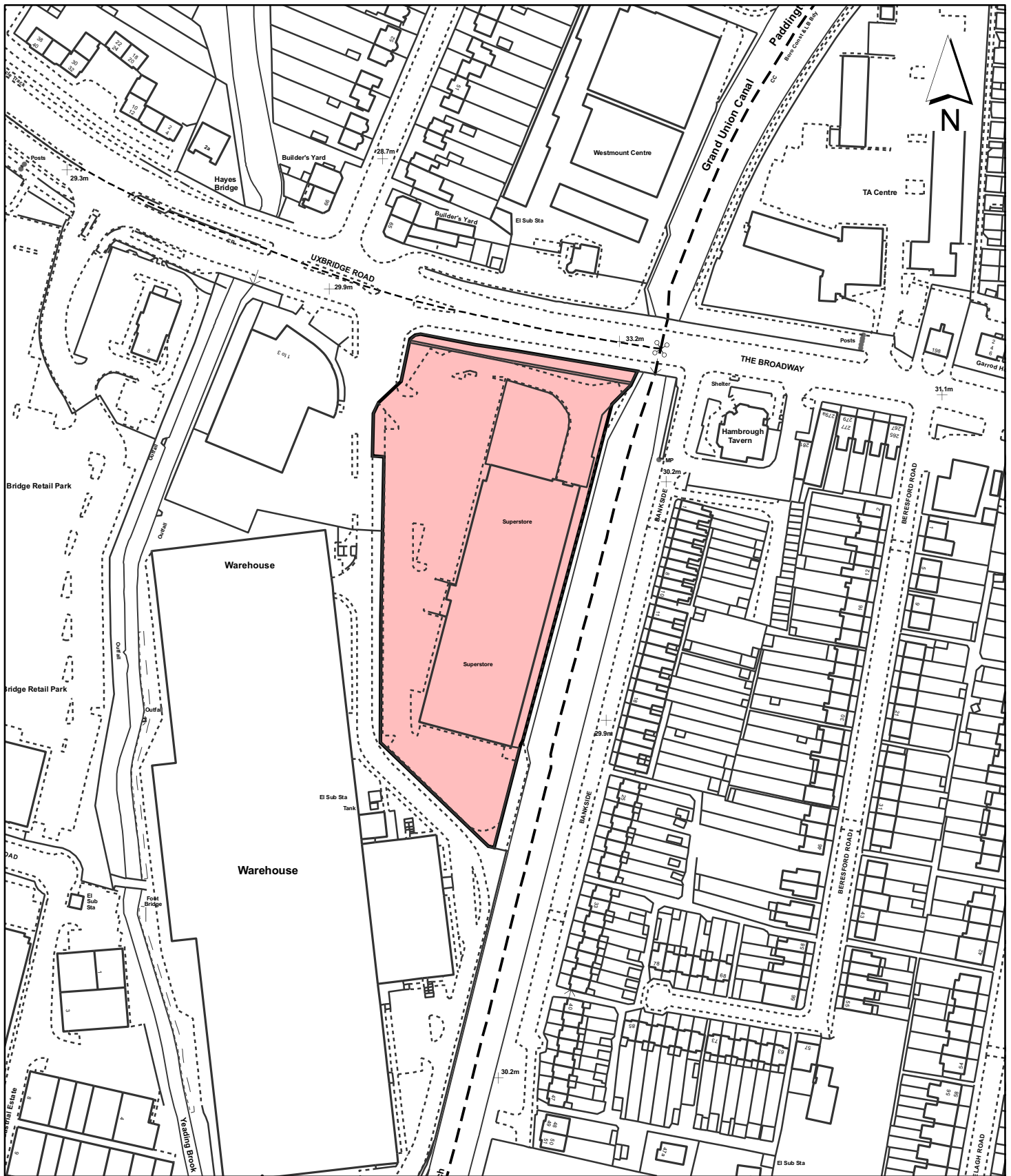
It is not considered that the additional opening hours proposed would be likely to lead to a significant increase in noise or disturbance to the nearest residential occupiers, particularly given the temporary nature of the proposal. There would be no adverse impact on the local highway network and, notably, no objections have been received. The proposal complies with relevant UDP policies and, accordingly, approval is recommended.

## **11. Reference Documents**

Hillingdon Unitary Development Plan Saved Policies September 2007  
London Plan (Consolidated with Alterations since 2008)  
Supplementary Planning Guidance - Noise

**Contact Officer:** Catherine Hems

**Telephone No:** 01895 250230



**Notes**



Site boundary

For identification purposes only.

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Site Address

**Former B&Q Site  
Uxbridge Road  
Hayes**

Planning Application Ref:

**51508/APP/2011/963**

Planning Committee

**Central and South**

Scale

**1:2,000**

Date

**July 2011**

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

Civic Centre, Uxbridge, Middx. UB8 1UW  
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