

WRITTEN REPRESENTATIONS APPEAL STATEMENT APPEAL MADE UNDER SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990

APPELLANT : MR PAUL ANASTASI

SITE ADDRESS : 5-7 HERCIES ROAD, UXBRIDGE, UB10 9LS

PROPOSAL : CHANGE OF USE FROM USE CLASS E TO MIXED USE OF
CLASS E AND SUI GENERIS (MASSAGE AND BEAUTY
SHOP) AND MERGING SHOP NOS. 5-7 & 9-11 INTO ONE
SINGLE UNIT

APPLICATION : 78371/APP/2023/3322

APP. DATE : 16 NOVEMBER 2023

DECISION DATE : 16 JANUARY 2022



Date: Feb 2024 (Rev.1.0)

OPS Chartered Surveyors

17 Garvin Avenue, Beaconsfield, Buckinghamshire, HP9 1RD

M: 07881 457903 | E: info@ops-surveyors.co.uk

CONTENTS

1. THE APPEAL SITE AND SURROUNDINGS
2. RELEVANT PLANNING HISTORY
3. PLANNING POLICIES
4. COMMENTS ON REFUSAL REASON
5. CONCLUSIONS

1.0 The Appeal Site and Surroundings

- 1.1 The appeal site relates to 2 mid-terraced properties located on the South of Hercies Road, Hillingdon. The site is located just outside of the North Hillingdon Local Centre and forms part of a parade of shops on the junction of Hercies Road and Long Lane.
- 1.2 The appeal property is not listed or within a conservation area.

2.0 Relevant Planning History

- 2.1 74068/APP/2018/3376 9-11 HERCIES ROAD HILLINGDON MIDDLESEX:
Change of use from retail (Use Class A1) to a mixed-use comprising retail and
massage/beauty parlour (Use Class A1/Sui Generis) and merging of the two
units into one single unit
Decision: 11-12-2018 Approval
- 2.2 44476/A/97/1681 9 HERCIES ROAD HILLINGDON: Change of use from Class
A1 (Retail) to Class A3 (hot food takeaway)
Decision: 28-01-1998 Refusal
- 2.3 44476/90/0813 9 HERCIES ROAD HILLINGDON: Change of use from
hairdressers to takeaway restaurant
Decision: 07-08-1990 Refusal

3.0 Relevant Planning Policies

3.1 The following Local Plan Policies are considered relevant to the application:

Part 1 Policies: PT1.BE1 (2012) Built Environment

Part 2 Policies: DMHB 11 Design of New Development

DMHB 12 Streets and Public Realm

DMHB 13 Shopfronts

DMHB 15 Planning for Safer Places

DMT 2 Highways Impacts

DMT 6 Vehicle Parking

DMTC 3 Maintaining the Viability of Local Centres and Local Parades

LPP D5 (2021) Inclusive design

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

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

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

The Local Plan: Part 2 - Development Management Policies (2020)

The Local Plan: Part 2 - Site Allocations and Designations (2020)

The West London Waste Plan (2015)

The London Plan (2021)

3.4 Material Considerations:

The National Planning Policy Framework (NPPF) (2023) is also a material consideration in planning decisions, as well as relevant supplementary planning documents and guidance.

4.0 Comments on Refusal Reasons

- 4.1 This section outlines the LPA's single reason for refusing the planning application and references the relevant policies cited:

In the absence of detailed drawings illustrating the works required to alter the shop frontage to align with the change of operation internally, the applicant has failed to demonstrate that the proposed development would not result in significant harm upon the character and appearance of the area. The development is therefore contrary to Policies DMHB 11, DMHB 12 and DMHB 13 of the Hillingdon Local Plan : Part Two - Development Management Policies (2020)

- 4.2 The LPA refused the application due to the absence of detailed drawings showing the shop frontage modifications in response to the internal change of use. They believe this lack of information hinders their ability to assess the potential impact on the area's character and appearance. Consequently, they deem the proposal to be contrary to specific policies in the Hillingdon Local Plan.
- 4.3 It's crucial to clarify that the LPA raised no objections regarding:
- Impact on neighbouring properties
 - Internal access
 - Highway safety, access, and parking
 - Amenity impact on neighbouring residents (though they acknowledge Policy DMHB 11 primarily targets new developments)
 - Principle of development

The Proposed Development

- 4.4 This proposal seeks to change the use of shop numbers 5-7 and 9-11 from Class E to a mixed-use of Class E and Sui Generis (Massage and Beauty Shop). The units will be merged into a single unit without any external alterations.

The Appellant's Case

- 4.5 The appellant opted not to include elevation drawings in the application as the proposed changes are internal and do not involve any external modifications. This approach aligns with the LPA's usual practice, as evidenced by a similar precedent case at 9-11 Hercies Road UB10 9LS (copy attached as APPENDIX 1 & 2).
- 4.6 The appellant understands from the LPA's officer report highlights the absence of drawings showing how the shop frontage will be redesigned to reflect the internal change of use. While acknowledging the potential for limited modifications, the LPA emphasises the need for details demonstrating how the frontage will inform customers about the new business, considering the existing use was a photography studio. This could potentially lead to confusion for potential customers.
- 4.7 While acknowledging the LPA's concern regarding modifications to the shop frontage, the appellant respectfully disagrees with their position of mandating such changes concurrently with the change of use application. The LPA has not provided clear evidence or policy justification to support this requirement. Furthermore, any proposed external changes to the shopfront could either be conditioned or through a separate planning application for advertisement.
- 4.8 Policy DMHB 11 primarily focuses on design considerations for new developments and alterations, not changes of use without external modifications. Therefore, this policy is not applicable to the current proposal and should not be a reason for refusal.
- 4.9 Policy DMHB 12 emphasises integration and positive contribution to the public realm, primarily through elements like design and accessibility. Given the absence of proposed external changes, a minimal impact on the public realm

is anticipated. The proposal is expected to comply with all other relevant policies.

4.9 Considering Policy DMHB 12 and its focus on the public realm, the appellant emphasises that the absence of significant signage or window display changes minimizes any potential negative visual impact on the streetscape's harmony.

4.10 Regarding public realm usage, the anticipated clientele for the new business (walk-in or pre-booked) is similar to the existing use. This suggests minimal alterations to the overall character and usage patterns of the surrounding area.

4.11 In conclusion, the lack of external modifications associated with the proposed change of use is unlikely to cause any significant negative effects on factors like amenity, daylight, visual character, or public realm usage, under Policies DMHB 11 & 12.

4.12 Inapplicability of Policy DMHB 13:

The appellant argues that Policy DMHB 13 is not applicable to this appeal for the following reasons:

i) Focus on new shop fronts - the policy explicitly targets "new shop fronts," whereas the proposal involves a change of use within the existing frontage.

ii) No design element alterations - the existing shop front's design, proportions, materials, and detailing will remain unchanged, addressing none of the elements regulated by the policy.

iii) Preserved streetscape - the unaltered shop front ensures no impact on the visual character or perception of the streetscape, maintaining the building's overall appearance and integration within the surrounding area.

4.13 Unnecessary Hurdle:

Applying Policy DMHB 13 in this case, where there are no physical shop front modifications, creates an unnecessary and irrelevant hurdle for the change of use application. It's crucial to distinguish between policies governing the design of new building elements and those regulating the use of existing structures.

4.14 Inconsistency and breach of NPPF:

The LPA previously acknowledged the absence of required elevation plans in a similar case (9-11 Hercies Road). Refusing the current application based on

unnecessary requirements appears inconsistent with their prior decision. This refusal also potentially breaches the NPPF's paragraph 38, which emphasises a positive and proactive approach by local planning authorities to support developments that benefit the area.

4.15 Perceived Unfairness:

The appellant feels the LPA has not fulfilled its duty to ensure fair assessment, consistent decision, and reasonable behaviour as per the NPPF requirements. This perception is further supported by the separate cost application submitted for the inspector's consideration.

5.0 Conclusions

- 5.1 This statement has presented the appellant's views and arguments regarding the LPA's refusal based on policies DMHB 11, DMHB 12, and DMHB 13. As demonstrated above, the appellant believes these policies are not applicable to the proposed change of use due to the absence of external modifications.
- 5.7 In consideration of all presented arguments, the proposed change of use poses no significant harm to the area's character and appearance. Furthermore, the proposal aligns with the relevant policies outlined in the Local Plan, the London Plan, and the NPPF. The absence of any substantial arguments against granting permission suggests that the appeal should be successful.

APPENDICES:

APPENDIX 1 – 9-11 Hercies Road Plans

APPENDIX 2 – 9-11 Hercies Road Decision Notice

APPENDIX 3 – 5-7 Hercies Road Drawings

APPENDIX 4 – 5-7 Hercies Road Application Form

APPENDIX 5 – 5-7 Hercies Road CIL Form

APPENDIX 6 – 5-7 Hercies Road DAS

APPENDIX 7 – INVALID LETTER

APPENDIX 8 – Newspaper cutout

APPENDIX 9 – Support Letter

APPENDIX 10 – Revised Location Plan Rev.1.0A

APPENDIX 11 – Decision notice for appeal application

APPENDIX 12 – Officer report for appeal application

APPENDIX 13 – Officer report for 9-11 Hercies Road

APPENDIX 14 – Email correspondence with LPA officer dated 28.01.23

APPENDIX 15 – Email correspondence with LPA officer dated 06.12.23

APPENDIX 16 – Email correspondence with LPA officer dated 25.01.24

APPENDIX 17 – Acknowledgement Letter for 9-11 Hercies Road