

## DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers  
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

**APPROVAL RECOMMENDED: GENERAL**

Select Option

1. No valid planning application objection in the form of a petition of 20 or more signatures, has been received ☐
2. Application complies with all relevant planning policies and is acceptable on planning grounds ☐
3. There is no Committee resolution for the enforcement action ☐
4. There is no effect on listed buildings or their settings ☐
5. The site is not in the Green Belt (but see 11 below) ☐

**REFUSAL RECOMMENDED: GENERAL**

6. Application is contrary to relevant planning policies/standards ☐
7. No petition of 20 or more signatures has been received ☐
8. Application has not been supported independently by a person/s ☐
9. The site is not in Green Belt (but see 11 below) ☐

**RESIDENTIAL DEVELOPMENT**

10. Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha ☐
11. Householder application in the Green Belt ☐

**COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT**

12. Change of use of retail units on site less than 1 ha or with less than 1000 sq m other than a change involving a loss of A1 uses ☐
13. Refusal of change of use from retail class A1 to any other use ☐
14. Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use. ☐

**CERTIFICATE OF LAWFULNESS**

15. Certificate of Lawfulness (for proposed use or Development) ☐
16. Certificate of Lawfulness (for existing use or Development) ☐
17. Certificate of Appropriate Alternative Development ☐

**CERTIFICATE OF LAWFULNESS**

18. ADVERTISEMENT CONSENT (excluding Hoardings) ☐
19. PRIOR APPROVAL APPLICATION ☐
20. OUT-OF-BOROUGH OBSERVATIONS ☐
21. CIRCULAR 18/84 APPLICATION ☐
22. CORPSEWOOD COVENANT APPLICATION ☐
23. APPROVAL OF DETAILS ☐
24. ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where Heads of Terms have already received Committee approval ☐
25. WORKS TO TREES ☐
26. OTHER (please specify) ☐

The delegation powers schedule has been checked. Director of Residents Services can determine this application.

**Case Officer**

**Signature:**

**Date:**

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informatives are satisfactory.

**Team Manager:**

**Signature:**

**Date:**

The decision notice for this application can be issued.

**Director / Member of Senior Management Team:**

**Signature:**

**Date:**

NONE OF THE ABOVE DATES SHOULD BE USED IN THE PS2 RETURNS TO THE ODPM

**Item No.**                      **Report of the Head of Planning, Transportation and Regeneration**

**Address**                      CARTER HOUSE COLHAM MILL ROAD WEST DRAYTON

**Development:**              Change of use of first floor from residential (Use Class C3) to restaurant (Use Class A3)

**LBH Ref Nos:**                **2963/APP/2019/1830**

**Drawing Nos:**              Design and Access Statement  
2019-13CMR-2 Rev. 1.0  
2019-13CMR-1 Rev. 1.0

**Date Plans received :** 31/05/2019

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

**Date Application Valid:** 31/05/2019

## 1. SUMMARY

The application seeks planning permission for a change of use of first floor from Use Class C3 (Dwellings) to Use Class A3 (Restaurants). No external alterations are proposed and subject to the imposition of conditions to secure the hours of operation any extract flues, it is considered that the proposal would not have an unacceptable impact upon the residential amenities of nearby residential properties. The parking layout is considered acceptable and a condition could be applied to secure cycle storage facilities. However, the proposal would result in the loss of 3 residential units which is in conflict with the Council's adopted and emerging planning policies. The applicant has provided justification for the loss of the 3 sub-standard dwellings on the grounds that they have substandard floor areas. Whilst it is accepted that the 3 flats which were granted permission under a recent prior approval application, are substandard in size, this justification cannot be used for the loss of the 3 units.

## 2. RECOMMENDATION

**REFUSAL for the following reasons:**

### 1                      NON2                      Non Standard reason for refusal

The proposal results in the loss of 3 residential units (which could be occupied with or without adaptation) in a sustainable location, resulting in the diminution of the Borough's housing stock, contrary to policy H3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMH1 of the Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019), Policy 3.14 of the The London Plan (2016) and the NPPF.

## 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) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan - The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) and national guidance.

|          |                                                                                                            |
|----------|------------------------------------------------------------------------------------------------------------|
| H3       | Loss and replacement of residential accommodation                                                          |
| AM7      | Consideration of traffic generated by proposed developments.                                               |
| AM14     | New development and car parking standards.                                                                 |
| 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.                                      |
| BE20     | Daylight and sunlight considerations.                                                                      |
| BE21     | Siting, bulk and proximity of new buildings/extensions.                                                    |
| BE24     | Requires new development to ensure adequate levels of privacy to neighbours.                               |
| DMH 1    | Safeguarding Existing Housing                                                                              |
| LDF-AH   | Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010 |
| LPP 3.14 | (2016) Existing Housing                                                                                    |
| NPPF- 5  | NPPF-5 2018 - Delivering a sufficient supply of homes                                                      |

### **3 I59 Councils Local Plan : Part 1 - Strategic Policies**

On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant saved policies (referred to as policies from the Hillingdon Unitary Development Plan - Saved Policies September 2007), then London Plan Policies (2016). On the 8th November 2012 Hillingdon's Full Council agreed the adoption of the Councils Local Plan: Part 1 - Strategic Policies. Appendix 5 of this explains which saved policies from the old Unitary Development (which was subject to a direction from Secretary of State in September 2007 agreeing that the policies were 'saved') still apply for development control decisions.

#### **4**

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. The Council's supports pre-application discussions.

We have however been unable to seek solutions to problems arising from the application as the principal of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

### **3. CONSIDERATIONS**

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

The application property presently comprises of a two storey flat roofed building located on the Northern side of Colham Mill Road, on the corner with Station Road, which lies within the Developed Area and Primary town centre location as identified within the

Hillingdon Local Plan. The building has recently been converted to a cafe at ground floor level with 3 studio flats at first floor level. The building backs onto an elevated section of the mainline overground railway, but it mainly fronts onto and is adjoined to the West by two storey pitched roof residential properties.

### 3.2 Proposed Scheme

The application seeks planning permission for a change of use of first floor from Use Class C3 (Dwellings) to Use Class A3 (Restaurants).

### 3.3 Relevant Planning History

2963/APP/2015/1780      Bristan House Colham Mill Road West Drayton  
Raising of roof to create second floor to allow for 1 x 2-bed self contained flat

**Decision:** 20-07-2015      Refused

2963/APP/2015/3097      Bristan House Colham Mill Road West Drayton  
Three storey building comprising a retail (Use Class A1) unit on the ground floor, 4 x self contained flats and undercroft car parking involving demolition of existing building (Outline Planning Application with All Matters Reserved)

**Decision:** 12-10-2015      Refused                      **Appeal:** 11-03-2016      Dismissed

2963/APP/2015/3643      Bristan House Colham Mill Road West Drayton  
Change of use of ground floor from car showroom (sui generis use) to restaurant/snack bar/cafe (Use Class A3) involving alterations to shopfront

**Decision:** 24-11-2015      Approved

2963/APP/2015/924      Bristan House Colham Mill Road West Drayton  
New windows to front elevation at first floor level

**Decision:** 12-05-2015      Approved

2963/APP/2015/927      Bristan House Colham Mill Road West Drayton  
Change of Use of first floor from offices (Use Class B1) to 3 x studio self contained flats (Use Class C3) (Prior Approval)

**Decision:** 01-05-2015      PRN

2963/APP/2016/4074      First Floor, Bristan House Colham Mill Road West Drayton  
Raising of roof to create 1 x 1 bed self contained flat

**Decision:** 03-01-2017      Refused                      **Appeal:** 17-05-2017      Dismissed

2963/APP/2017/2291      First Floor, Bristan House Colham Mill Road West Drayton  
Installation of external fire door at first floor level and fire escape stair.

**Decision:** 17-08-2017      Approved

2963/APP/2018/1572      Carter House Colham Mill Road West Drayton  
Single storey side extension

**Decision:** 29-06-2018      Refused

2963/M/79/2148

Bristan Motors Ltd Colham Mill Road West Drayton

Continuation of the use of forecourt for the display of cars for sale and the use of the concrete area at the side of the showroom for parking of customers cars

**Decision:** 25-01-1980 ALT

2963/N/83/1156

Bristan Motors Ltd Colham Mill Road West Drayton

Continued use of forecourt for the display of cars for sale and the use of the concrete area at the side of the showroom for parking of customers cars (Retention of planning permission ref. 2963/M/79/2148)

**Decision:** 16-01-1984 Approved

2963/R/86/0286

Bristan Motors Ltd Colham Mill Road West Drayton

Erection of a garage as a car preparation bay ancillary to car sales

**Decision:** 10-04-1986 Approved

### **Comment on Planning History**

The relevant planning history is listed above.

It is noted that The planning history is detailed above. Of note however is condition 7 of planning permission reference 2963/APP/2015/3643 (Change of use of ground floor from car showroom (sui generis use) to restaurant/snack bar/cafe (Use Class A3) involving alterations to shopfront) which required:

The development hereby approved shall not be commenced until details of the parking layout, secure cycle storage and any amendments to the existing crossovers have been submitted to and approved in writing by the Local Planning Authority and the development shall not be occupied until the scheme is implemented in full compliance with the approved measures.

### **REASON**

To ensure that adequate facilities are provided in accordance with Policies AM7, AM9 and AM14, and the parking standards as set out in the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012).

This condition has not been discharged. The submitted plans indicate the provision of three parking spaces to the side.

Officer note: At the time of the site visit, the parking area to the side was heavily used and the area to the front of the building is now covered by an open-side canopy which does not appear on the the submitted plans and does not have planning permission.

## **4. Advertisement and Site Notice**

**4.1** Advertisement Expiry Date:- Not applicable

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

## **5. Comments on Public Consult**

4 neighbouring properties were consulted by letter dated 5.6.19 and a site notice was displayed tot he front of the site which expired on 5.7.19.

Highways Officer:

Proposals comprise the change of use of 3 x studio units at first floor level to Use Class A3 to be used as part of the existing restaurant at ground floor level. As highlighted within the submissions, the current use of the studio units was approved as part of ref, 2963/APP/2015/927 which provided 3 on-plot parking spaces. The floor area to be converted to A3 use measures 56sqm. On this basis and in accordance with Hillingdon Council's car parking standards, an additional parking space should be provided for the restaurant. It appears from the submitted information that the 3 spaces previously allocated for the studio units will now serve the restaurant. This represents an overprovision of 2 parking spaces. In terms of cycle parking, two secure and covered cycle parking spaces should be provided to accommodate the proposals. I trust you as the LPA will secure this by way of condition. Mindful of the above, should you be minded to approve this application, I would have no objections.

Landscape Officer:

The site has been the subject of a number of planning submissions, most recently application ref. 2018/1572. which was refused. The current application seeks to change the use of the first floor from flats to a restaurant. There is little space, or opportunity, for landscape enhancement on the site due to the need for car parking.

RECOMMENDATION: No objection and no need for landscape conditions.

Network Rail

Network Rail has no objection in principle to the above proposal, however, any food waste must be stored correctly to ensure rats are not encouraged.

Notwithstanding the above, due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission. The local authority should include these requirements as planning conditions if these matters have not been addressed in the supporting documentation submitted with this application.

#### SAFETY

Should any external works on this land take place then the applicant will need to undertake engagement with Network Rail's Asset Protection team to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. [assetprotectionwestern@networkrail.co.uk](mailto:assetprotectionwestern@networkrail.co.uk)

#### DRAINAGE

Soakaways/attenuation ponds/septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure.

Proper provision must be made to accept and continue drainage discharging from

Network Rail's property. (The Land Drainage Act) is to be complied with. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Once water enters a pipe it becomes a controlled source and as such no water should be discharged in the direction of the railway.

Full details of the drainage plans are to be submitted for acceptance to the Network Rail Asset Protection Engineer. No works are to commence on site on any drainage plans without the acceptance of the Network Rail Asset Protection Engineers: Network Rail has various drainage standards that can be provided Free of Charge should the applicant/developer engage with Network Rail's Asset Protection Engineers.

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

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

Part 1 Policies:

PT1.BE1 (2012) Built Environment

Part 2 Policies:

|          |                                                                                                            |
|----------|------------------------------------------------------------------------------------------------------------|
| H3       | Loss and replacement of residential accommodation                                                          |
| AM7      | Consideration of traffic generated by proposed developments.                                               |
| AM14     | New development and car parking standards.                                                                 |
| 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.                                      |
| BE20     | Daylight and sunlight considerations.                                                                      |
| BE21     | Siting, bulk and proximity of new buildings/extensions.                                                    |
| BE24     | Requires new development to ensure adequate levels of privacy to neighbours.                               |
| DMH 1    | Safeguarding Existing Housing                                                                              |
| LDF-AH   | Accessible Hillingdon , Local Development Framework, Supplementary Planning Document, adopted January 2010 |
| LPP 3.14 | (2016) Existing Housing                                                                                    |
| NPPF- 5  | NPPF-5 2018 - Delivering a sufficient supply of homes                                                      |

In addition: The Revised Proposed Submission Local Plan Part 2 (LPP2) documents (Development Management Policies, Site Allocations and Designations and Policies Map Atlas of Changes) were submitted to the Secretary of State for examination in May 2018.

The public examination hearing sessions took place over one week in August 2018. Following the public hearing sessions, the examining Inspector advised the Council in a Post Hearing Advice Note sent in November 2018 that he considers the LPP2 to be a plan that could be found sound subject to a number of main modifications.

The main modifications proposed by the Inspector were agreed by the Leader of the Council and the Cabinet Member for Planning, Transport and Recycling in March 2019 and are published for public consultation from 27 March to 8 May 2019.

Regarding the weight which should be attributed to the emerging LPP2,

paragraph 48 of the National Planning Policy Framework (NPPF) 2019 states that 'Local Planning Authorities may give weight to relevant policies in emerging plans according to:

(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

With regard to (a) above, the preparation of the LPP2 is now at a very advanced stage. The public hearing element of the examination process has been concluded and the examining Inspector has indicated that there are no fundamental issues with the LPP2 that would make it incapable of being found sound subject to the main modifications referred to above.

With regard to (b) above, those policies which are not subject to any proposed main modifications are considered to have had any objections resolved and can be afforded considerable weight. Policies that are subject to main modifications proposed by the Inspector will be given less than considerable weight. The weight to be attributed to those individual policies shall be considered on a case by case basis considering the particular main modification required by the Inspector and the material considerations of the particular planning application, which shall be reflected in the report, as required.

With regard to (c) it is noted that the Inspector has indicated that subject to main modifications the LPP2 is fundamentally sound and therefore consistent with the relevant policies in the NPPF.

Notwithstanding the above, the starting point for determining planning applications remains the adopted policies in the Local Plan: Part 1 Strategic Policies and the Local Plan: Part 2 Saved UDP Policies 2012.

## **7. MAIN PLANNING ISSUES**

### **7.1 Impact on the amenities of the occupiers of neighbouring residential properties**

The National Planning Framework has a presumption in favour of sustainable development. However it acknowledges that pursuing sustainable development involves 'seeking positive improvements in the quality of the built environment and peoples's quality of life'.

Policy OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) states that uses that become detrimental to the amenity of the adjoining occupiers or surrounding area will not be approved. Policy OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) requires measures to be undertaken to alleviate potential disturbance where a development is acceptable in principle. Policy OE5 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) requires measures to be undertaken to alleviate potential disturbance where a development is acceptable in principle.

In terms of potential noise and disturbance, the council's EPU section previously raised no objection to the use of the ground floor as a cafe subject to conditions controlling the hours of operation and no ventilation equipment being installed without details being

submitted. This being the case, the proposal is not considered to result in unacceptable noise and disturbance justifying refusal on this ground.

## **7.2 Impact on Street Scene**

Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) requires all new development to maintain the quality of the built environment including providing high quality urban design. Furthermore policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) resist any development which would fail to harmonise with the existing street scene or would fail to safeguard the design of existing and adjoining sites.

The proposal does not involve any external alterations to the building.

## **7.3 Traffic Impact/Pedestrian Safety**

Policy AM7 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012) considers whether the traffic generated by proposed developments is acceptable in terms of the local highway and junction capacity, traffic flows and conditions of general highway or pedestrian safety. Policy AM14 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012) seeks to ensure that all development is in accordance with the Council's adopted Car Parking Standards.

The Council's Highways Officer has advised that the current use of the studio units was approved as part of ref, 2963/APP/2015/927 which provided 3 on-plot parking spaces. The floor area to be converted to A3 use measures 56sqm. On this basis and in accordance with Hillingdon Council's car parking standards, an additional parking space should be provided for the restaurant. It appears from the submitted information that the 3 spaces previously allocated for the studio units will now serve the restaurant. This represents an overprovision of 2 parking spaces. In terms of cycle parking, two secure and covered cycle parking spaces should be provided to accommodate the proposals which can be secured by way of condition.

## **7.4 Carparking & Layout**

See above.

## **7.5 Urban Design, Access and Security Considerations**

The issues are addressed in the sections above.

## **7.6 Other Issues**

Principle of Development.

Adopted Policy H3 of the Hillingdon Local Plan - Saved UDP Policies (November 2012) states:

H3 THE LOSS OF RESIDENTIAL ACCOMMODATION (WHICH COULD BE OCCUPIED WITH OR WITHOUT ADAPTATION) WILL ONLY BE PERMITTED IF IT IS REPLACED WITHIN THE BOUNDARY OF THE SITE. AN INCREASE IN THE RESIDENTIAL ACCOMMODATION WILL BE SOUGHT, SUBJECT TO OTHER POLICIES IN THE PLAN."

Emerging Policy DMH 1 states:

A) The net loss of existing self-contained housing, including affordable housing, will be resisted unless the housing is replaced with at least equivalent residential floorspace."

Policy 3.14 of the London Plan states et al:

"Strategic

A. The Mayor will, and boroughs and other stakeholders should, support the maintenance and enhancement of the condition and quality of London's existing homes.

Planning decisions and LDF preparation

B. Loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace.

C. This policy includes the loss of hostels, staff accommodation and shared accommodation that meet an identified housing need, unless the existing floorspace is satisfactorily re-provided to an equivalent or better standard."

Given the shortage of residential units across London, it is and has been for a considerable period of time a fundamental policy throughout London to safeguard existing housing.

The proposal would result in the loss of 3 residential units (which could be occupied with or without adaptation) which is clearly in conflict with policy H3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMH1 of the Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019), Policy 3.14 of the The London Plan (2016) and the NPPF.

The applicant has provided justification for the change of use on the grounds that the 3 units are of sub-standard size and do not meet the London Plan Housing Standards. However, this in itself is not considered sufficient justification to allow the loss of the residential accommodation and the principle is therefore considered unacceptable.

## **8. Reference Documents**

Hillingdon Local Plan: Part One - Strategic Policies (November 2012)

Hillingdon Local Plan: Part Two London Borough Of Hillingdon Local Plan Part 2 Development Management Policies with Modifications (March 2019)

The London Plan (2016)

The Housing Standards Minor Alterations to The London Plan (March 2016)

Mayor of London's adopted Supplementary Planning Guidance - Housing (March 2016)

Hillingdon Design and Accessibility Statement: Residential Layouts

Hillingdon Design and Accessibility Statement: Residential Extensions

Hillingdon Design and Accessibility Statement: Accessible Hillingdon

National Planning Policy Framework

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