

Planning Appeal Statement

Unit 5A The Old Dairy, Ruislip, London

Certificate of Lawfulness for Use as a
Tanning Salon

by CarneySweeney

Date: January 2022



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1.0 Introduction

- 1.1.1 On behalf of SLI UK Real Estate Fund, Carney Sweeney submit this planning appeal with regard to the recent refusal of the London Borough of Hillingdon Council to approve application ref: 72422/APP/2021/3867, relating to the Certificate of Lawful Development for the proposed use of Unit 5A as a 'Class E' Tanning Salon.



2.0 Background

- 2.1.1 The Certificate of Lawful Use or Development application relevant to this appeal was made on the 15th October 2021 to the Council of the London Borough of Hillingdon. The application was registered on the 18th October 2021 and assigned the reference number 72422/APP/2021/3867.
- 2.1.2 The application comprised the application forms, an accompanying covering letter, a plan identifying the existing Unit 5 and a separate plan identifying the part of the unit to be used as a tanning salon in red (to be known as Unit 5A) (see **Appendix A**). It is Unit 5A which is subject of the application and this subsequent appeal.
- 2.1.3 The application was refused on the 13th December 2021 by the Council of the London Borough of Hillingdon as the Local Planning Authority.
- 2.1.4 The given reason for refusal, as stated on the decision notice (see **Appendix B**) indicates:

"The proposal involves a change of use from restaurant (use class E as detailed in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) to tanning salon. Insufficient evidence has been submitted by the applicant to demonstrate that a tanning salon would fall within use class E of the Order. Therefore the Local Planning Authority considers that a tanning salon would fall within the sui generis use class. As such, the proposal is considered to constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) and the proposed change of use is not one which is permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore, the proposal would result in the subdivision of a planning unit that would be considered to constitute development under Section 55 of the Town and Country Planning Act 1990 (as amended). The proposal therefore requires full planning permission".



3.0 Site and Surrounds

- 3.1.1 The appeal site is formed of a small 197 sqm commercial unit to be known as Unit 5A, located within the Old Dairy in Ruislip, HA4 0FY. The Old Dairy is a mixed-use commercial retail / leisure park on the former Express Dairy site that was completed in early 2017.
- 3.1.2 The Old Dairy comprises a mix of retail and commercial uses including a Cineworld cinema, Asda and various restaurants (e.g. Starbucks and Smokin Buns). An Aldi supermarket and a B&M Home Store are located adjacent to the site to the north.
- 3.1.3 Neighbouring the Old Dairy commercial area to the east is a residential area which consists of 132 homes developed at a similar time as the retail/commercial development. Further to the east is Victoria Road which is lined with residential properties and commercial uses in the vicinity of the site.
- 3.1.4 The appeal site is highly accessible in terms of public transport links, with the closest tube station being South Ruislip (0.4 miles). The closest bus stop is West Mead (Stop R) and Angus Drive (Stop H), both within approximately 160 metres of the appeal site. Both bus stop provides service bus number 114 (Ruislip - Mill Hill).



4.0 Planning History

4.1.1 Planning permission was originally granted on the 24th December 2014 under ref: 66819/APP/2014/1600 (see item 5 of the planning history schedule at **Appendix C**) for:

“Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.”

4.1.2 A series of applications were then submitted to discharge the various planning conditions of this permission from February 2015 onwards (see items 7 to 22, 24, 28, 34, 38 to 46, 51, 53 and 54 of **Appendix C**). Non-material amendments were approved to the above permission in 2015 and 2016 – see items 29, 30, 31, 36 and 37 of **Appendix C**. It is clear from the planning history that it is planning permission 66819/APP/2014/1600 which was implemented in respect of the retail/commercial development.

4.1.3 While a s73 application was approved in February 2016 under ref: 66819/APP/2015/3653, this related to the residential part of the development only and is not relevant to the current proposals which affect only the commercial part of the site. See item 27 of **Appendix C**.

4.1.4 The appeal unit was originally granted planning permission for Class A3 (restaurants and cafés) use under planning permission ref: 66819/APP/2014/1600. The unit was subsequently occupied by Chiquito’s restaurant, a Class A3 occupier.

4.1.5 During May 2021, a non-material amendment application was sought to allow for the sub-division of Unit 5 to create 2 units and associated external shopfront alterations (ref: 66819/APP/2021/1206). The submission made clear that the internal sub-division element did not form ‘development’ as defined under Section 55 of the Town and County Planning Act 1990 (as amended) (TCPA), and was submitted in respect of the external alterations only. This application was however refused on 7th May 2021 (see **Appendix D** – plans, decision notice and officers report) by the LPA on the grounds that:

“The proposed works constitute development under Sec 55 of the Act and require an application for full planning permission. The proposed subdivision of unit 5 to create an additional commercial unit and the associated works does not constitute a non material amendment under section 96A TCPA 1990. The potential impacts therefore need to be considered against development plan policies”.



- 4.1.6 This position was/is contested, as internal alterations such as the introduction of internal sub-dividing walls clearly do not amount to 'development' under Section 55(2) of the TCPA 1990. A subsequent full planning application was later submitted and approved for alterations to the shopfront to include the introduction of an additional set of doors and two new signage areas during August 2021 (ref: 73596/APP/2021/2058), therefore relating to the external works only. This application was approved on 13th August 2021 (see **Appendix E** – plans, decision notice and officers report).
- 4.1.7 As discussed in detail within the following sections, a Certificate of Lawful Use or Development (ref: 72422/APP/2021/3886) was submitted to confirm whether the host site (Unit 5A) falls within Use Class E and that the proposed tanning salon also falls within Class E and thus can lawfully occupy the unit. It is this certificate application which is subject of this appeal.



5.0 Use Classes

5.1.1 The Town and County Planning (Use Classes) (Amendment) (England) Regulations 2020 (hereafter referred to as the “2020 Regulations”) came into force on the 1st of September 2020¹. Prior to these regulations coming into force, use classes in England were governed by The Town and Country Planning (Use Classes) Order 1987 (as amended) (“the 1987 Order”).

5.1.2 The 1987 Order included within its schedule the definition of the various classes of development including, at Part A, the definition of Class A1 (shops), Class A2 (financial and professional services) and Class A3 (food and drink). Class A1 provided for ten very specific uses where the sale, display or service was to visiting members of the public. Class A2 likewise provided for three specific uses where the service provided was to visiting members of the public. Class A3 was more broadly worded as “Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises.”

5.1.3 Article 7 of the 2020 Regulations states that:

“For the purposes of the Use Classes Order, if a building or other land is situated in England, and is being used for the purpose of one of the following classes which were specified in Part A or B of the Schedule to that Order on 31st August 2020, as—

(a) Class A1 (Shops),

(b) Class A2 (Financial and professional services),

(c) Class A3 (Restaurants and cafes), or

(d) Class B1 (Business),

that building or other land is to be treated, on or after 1st September 2020, as if it is being used for a purpose specified within Class E (Commercial, business and service) in Schedule 2 to that Order.”

5.1.4 It is clear, and apparently undisputed by the LPA, that Unit 5 at the Old Dairy was granted permission for use within Class A3 and was occupied (by Chiquitos restaurant) for that purpose and that, by virtue of Article 7 of the 2020 Regulations, now falls within Class E.

5.1.5 Article 10(3) of the 2020 Regulations states that:

“Subject to the provisions of this Order, where a building or other land is situated in England and is

¹ It is pertinent to note that in deciding whether it was lawful for the Secretary of State (SoS) to reform planning legislation, by making statutory instruments to adjust the scope of changes of use in development management without carrying out a strategic environmental assessment, the Court of Appeal concluded on the 20th December 2021, that the SoS did not act unlawfully and that the appeal was dismissed. The changes to the Use Classes Order introduced under these regulations therefore currently remain in place.



used for a purpose of any class specified in—

(a) Part B or C of Schedule 1, or

(b) Schedule 2,

the use of that building or that other land, or if specified, the use of part of that building or the other land (“part use”), for any other purpose of the same class is not to be taken to involve development of the land.”

5.1.6 It is clear, therefore, that use of Unit 5 for any other purpose within Class E would not be taken to involve the development of land.

5.1.7 The 2020 Regulations revoked, inter alia, Part A (and therefore Class A3) of the 1987 Order and, by virtue of Article 13, inserted a new ‘Schedule 2’. It is Schedule 2 which introduces the new Class E (Commercial, Business and Service) and provides the following definition:

“Use, or part use, for all or any of the following purposes—

...(c) for the provision of the following kinds of services principally to visiting members of the public—

(i) financial services,

(ii) professional services (other than health or medical services), or

(iii) any other services which it is appropriate to provide in a commercial, business or service locality”

5.1.8 It is trite law that uses not falling with specified use classes are considered *sui generis*. Tanning salons were generally regarded as being a *sui generis* use prior to the 2020 Regulations. The 1987 Order specified a number of uses which are excluded from its schedules at Article 3(6). This has been amended from time to time and Article 10(7) of the 2020 Regulations made further amendments in this regard such that the full list of specifically excluded uses now comprises use:

(a) as a theatre,

(b) as an amusement arcade or centre, or a funfair,

(c) for the washing or cleaning of clothes or fabrics in coin-operated machines or on premises at which the goods to be cleaned are received direct from the visiting public,

(d) for the sale of fuel for motor vehicles,

(e) for the sale or display for sale of motor vehicles,

(f) for a taxi business or business for the hire of motor vehicles,

(g) as a scrapyard, or a yard for the storage or distribution of minerals or the breaking of motor vehicles.



- (h) for any work registrable under the Alkali, etc. Works Regulation Act 1906,
 - (i) hostel,
 - (j) waste disposal installation,
 - (k) retail warehouse club,
 - (l) nightclub,
 - (m) casino,
 - (n) betting office,
 - (o) pay day loan shop,
 - (p) as a public house, wine bar, or drinking establishment,**
 - (q) as a drinking establishment with expanded food provision,**
 - (r) as a hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises,**
 - (s) as a venue for live music performance,**
 - (t) a cinema,**
 - (u) a concert hall,**
 - (v) a bingo hall,**
 - (x) a dance hall.**
- (those in bold added by the 2020 Regulations).

- 5.1.9 It is notable that tanning salons are not on the above list of specifically excluded uses.
- 5.1.10 The Explanatory Memorandum to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (**Appendix F**) highlights that the use class changes represent; *“a complete overhaul to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands”* (paragraph 7.1).
- 5.1.11 With regard to Class E, the Explanatory Memorandum explains the Regulations; *“... create a new broad ‘Commercial, business and service’ use class (Class E) which incorporates the previous shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices (B1) use classes. Uses such as gyms, nurseries and health centres (previously in use classes D1 Non-residential institutions and D2 Assembly and leisure) and other uses which are suitable for a town centre area are also included in the class. This new class allows for a mix of uses to reflect changing retail and business models. It therefore, recognises that a building may be in a number of uses concurrently or that a building may be used for different uses at different times of the day. Changes to another use, or mix of uses, within this class do not require planning permission. Bringing these uses together and allowing movement between them will give businesses greater freedom to adapt to changing circumstances and to respond*



more quickly to the needs of their communities” (paragraph 7.3) (Carney Sweeney underlining added).

- 5.1.12 The January 2021 Impact Assessment of the Reform of the Use Classes Order (**Appendix G**) indicates that: *“While these reforms to the use classes are primarily designed to help support vibrant, mixed use town centres, they apply to all uses of land and buildings, in town centres and elsewhere, across England”* (Page 7).
- 5.1.13 It continues to note; *“Businesses (commercial property owners and businesses) will benefit from increased planning certainty and reduced planning requirements on the premises that will no longer require planning permission to change use. This allows for business owners to better align their risk profiles and bring forward new uses for buildings that may otherwise have been delayed or abandoned”* (page 3).
- 5.1.14 In addition; *“In a COVID-19 context, granting businesses more flexibility will make it easier for commercial properties to adapt. COVID-19 and the resulting public health measures have led to a collapse of demand for goods and services in the UK economy”*.
- 5.1.15 It is therefore clear from the above that the intention of the introduction of Class E was to establish a broad use class to extend flexibility, create certainty and reduce planning requirements for commercial property owners and businesses.



6.0 Appeal Precedent and Procedural Guidance

6.1 Appeals

6.1.1 The Tanfastic, Ellison Street, Jarrow NE32 3UH Appeal Ref: APP/A4520/W/20/3263803 is relevant to this appeal (see **Appendix H**). The rationale behind the appeal was that the approved planning permission restricted the use of Unit 2 to a tanning salon only, such that planning permission would be required for any change to another use within Class E of the UCO. The appellant sought to remove the restrictive condition, on the basis that it did not meet the tests for conditions set out within paragraph 55 of the National Planning Policy Framework and in Planning Practice Guidance.

6.1.2 The following paragraphs are of pertinence with regard to this appeal case:

Paragraph 3 indicated – *“The Council considers that both the tanning salon and hand car wash fall within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (UCO)”*

Paragraph 10 – *“Moreover, I am particularly mindful that the clear intention of the recent changes to the UCO is to make it easier for all of the uses within Class E to seamlessly change without needing planning permission, regardless of location. **That this could lead to Class E uses outside town centres is not in itself justification for the condition because the implications have been considered nationally in the regulations. It is reasonable to contend that if greater control was desired outside town centres then the regulations would reflect this.** In any event, at some 164m² in floor space, Unit 2 is not large. The Council has not presented any evidence to demonstrate how and why its use for any other purpose within Class E would be harmful to the viability and vitality of the Jarrow Town Centre”.*

6.2 Procedural Guide: Certificate of lawful use or development appeals – England

6.2.1 The Government have published the above guidance (updated 13 October 2021) in order to assist LPAs and appellants. One issue upon which guidance is provided relates to the onus of proof. Paragraph 1.2.3 states: *“The onus of proof is on an appellant for appeals where the ground that an existing use or development has become ‘lawful’ through the passage of time is pleaded (not relevant in LB LDC appeals). The test to be achieved is ‘on the balance of probability’ (a lesser requirement than ‘beyond a reasonable doubt’).”* It is notable that this statement specifically relates to appeals the use or development has become ‘lawful’ through the passage of time. This is not the case in this appeal.

6.2.2 Paragraph 1.3.1 states: *“When refusing an application for an LDC ..., the local planning authority should consider carefully whether it has a sufficiently strong case for doing so, on the basis of the material*



before it.” While the LPA consider that insufficient information was submitted in support of the application, it is incumbent on the LPA to consider all material before it which the LPA for an area can reasonably be expected to have access to and detailed knowledge of. This must surely include the 1987 Order (as amended), the 2020 Regulations, the supporting information explaining the 2020 Regulations and the operation of businesses within its area. As will be seen, these basic elements of information are all that is required to justify grant of the Certificate.

- 6.2.3 Paragraph 1.4.1 states that: *“While the LPA should always co-operate with an LDC applicant asking for information about the planning status of the land by making records readily available they need not go to great lengths to show that the subject of the application is or is not lawful. Having said that, it is however best practice for the local planning authority to have constructive discussions with applicants for an LDC and, if it has any concerns, give the applicant the opportunity to amend the application before it is decided. This should help to avoid the need to appeal, especially appeals where the local planning authority has failed to make a decision.” We do not consider that taking account of the information referenced above constitutes ‘great lengths’.* Furthermore, it should be noted that no contact was received from the LPA whatsoever during consideration of the application, with no further information or clarification having been sought.



7.0 Grounds of Appeal

7.1.1 The given refusal reason for planning permission ref: 72422/APP/2021/3867 is:

“The proposal involves a change of use from restaurant (use class E as detailed in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) to tanning salon. Insufficient evidence has been submitted by the applicant to demonstrate that a tanning salon would fall within use Class E of the Order. Therefore the Local Planning Authority considers that a tanning salon would fall within the sui generis use class. As such, the proposal is considered to constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) and the proposed change of use is not one which is permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore, the proposal would result in the subdivision of a planning unit that would be considered to constitute development under Section 55 of the Town and Country Planning Act 1990 (as amended). The proposal therefore requires full planning permission”.

7.1.2 Class E (Commercial, Business and Service) is defined in Schedule 2, Part A (c) of the 2020 Regulations which includes for the provision of the following kinds of services principally to visiting members of the public (inter alia) *“(iii) any other services which it is appropriate to provide in a commercial, business or services in the locality.”* Whilst it is accepted that prior to the introduction of the 2020 Regulations, tanning salons were generally categorised as a sui generis use, the introduction of Class E now provides an intentionally broad class of use incorporating the former Classes A1, A2, A3, B1, D1 and D2 *“and other uses which are suitable for a town centre area”* (para 7.3 of the Explanatory Memorandum at **Appendix F**). It follows, therefore, that decision makers must consider afresh whether uses, including uses previously categorised as sui generis, now fall within the broad parameters of Class E.

7.1.3 Furthermore, by adding to the list of excluded uses (see para 5.1.8 relating to Article 10(7) of the 2020 Regulations above), it is clear that the Government has considered where uses which might be deemed as suitable for a town centre need to be taken out of broad definition of Class E. It is notable that tanning salons are not among the list, and thus are not specifically excluded.



- 7.1.4 Tanning salons offer artificial tanning services and usually specialise in one type of tanning which is either UV-bed light tanning, also known as sunbeds, or booth spray tan application. Sunbed/indoor ultraviolet (UV) tanning is a common activity for people of all ages and has benefits when used in the treatment of certain skin conditions. Tanning salons are open to members of the public and customers can walk in during business hours to access the tanning service without the need for appointment – an appointment is only needed to avoid disappointment if the salon is busy. The facilities are therefore open to visiting members of the public. It is considered that such a service is *“appropriate to provide in a commercial, business or service locality”*.
- 7.1.5 The appropriateness of the use is demonstrated by the existence of approximately 12 tanning salons in Hillingdon, half being located within designated town centres with the remaining half located in commercialised areas surrounded by other commercial and local retail facilities (see **Appendix I**). As noted in the Impact Assessment of the Reform of the Use Classes Order (**Appendix G**): *“While these reforms to the use classes are primarily designed to help support vibrant, mixed use town centres, they apply to all uses of land and buildings, in town centres and elsewhere, across England”* (Page 7).
- 7.1.6 There is no evidence to suggest that these operations are “inappropriate” in their current settings. Indeed, it is hard to conceive of what an objection might relate to, given that tanning salons give rise to no emissions, are quiet and contemplative environments, are open during regular business hours and help generate footfall. While we have not widened our search beyond the confines of Hillingdon for the purpose of **Appendix I**, had we done so, we would have expected to find hundreds of other examples of tanning salons located in commercial, business or service areas, operating without complaint. We strongly assert that such uses are entirely appropriate within such localities and thus fall within Class E(3)(c) by definition.
- 7.1.7 The LPA have provided no evidence to counter this position. They do not state why they consider tanning salons to remain as *sui generis* uses, or on what basis they are considered to be inappropriate to commercial, business or service locality. Indeed, contrary to the Government guidance referred to in the preceding section, the LPA appears not to have considered if it had a sufficiently strong case for refusing the application. Furthermore, the LPA appear not to have sought to understand the rationale for the Government bringing Use Class E into effect, that being increasing flexibility and decreasing planning burdens on businesses. In view of this, it is considered that the LPA have behaved unreasonably.



7.2 Other Matters

- 7.2.1 The supporting Officer Report relating to the appealed application (**Appendix J**) states in its final paragraph that:

“Furthermore, it would appear that the proposal would result in the subdivision of a planning unit, whereby the LPA has previously advised in its decision on application 66819/APP/2021/1206 that the subdivision and associated physical alterations would constitute development under S55 of the Town and Country Planning Act and would require planning permission. A subsequent planning application relating to shop front alterations did not include a change of use/subdivision and it is noted the 'red line' on the relevant location plan related only to the shop front”.

- 7.2.2 As set out in Section 4, above, alterations to the shopfront to include the introduction of an additional set of doors and two new signage areas (to facilitate subdivision of Unit 5) were approved in August 2021 (LPA ref: 73596/APP/2021/2058). Furthermore, Section 55 of the TCPA 1990, states that:

“The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;”

- 7.2.3 It is absolutely plain, therefore, that the subdivision of the unit would not constitute development under s55 of the Act and would not require planning permission providing the external physical alterations were carried out in accordance with permission 73596/APP/2021/2058. The planning officer’s comment in this final paragraph is therefore incorrect and irrelevant.



8.0 Conclusions

8.1.1 To summarise:

- Unit 5 was granted Class A3 use as part of the original development of the site and has been occupied as a restaurant prior to falling vacant. It is clear that Unit 5 is currently a Class E Commercial, Business and Service use under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. This appears to be undisputed by the LPA.
- Class E was specifically introduced to create increased flexibility (compared to that which existed in the 1987 Order) and to reduce the planning burden on businesses and owners. The use class relates and applies to all land within England, regardless of whether that land is within a designated centre or elsewhere.
- Class E was specifically framed to be a 'broad' use class, in contradiction to the previous use Classes A1, A2 and A3. It is therefore incumbent for decision makers to consider whether uses previously taken to be *sui generis*, now fall within Class E.
- The Government, in drafting the 2020 Regulations and the broad Class E considered it necessary to take certain uses out of that Class. 23 such uses have been taken out of Class E, including 8 uses excluded by the 2020 Regulations. Tanning salons are not among the excluded uses.
- Tanning salon operations naturally falls within the new Class E. They are open to visiting members of the public, provide a service and are 'appropriate to provide in a commercial, business or service locality'. This is demonstrated by the South Tyneside Appeal, where the Inspector takes no issue with the LPA's and appellant's agreed position on this point. However, it is perhaps even more clearly demonstrated by the 12 tanning salons operating in commercial, business or service localities within the London Borough of Hillingdon itself without issue or complaint.
- It is clear that the Old Dairy shopping centre is an existing 'commercial, business or services' locality and predominately comprises Class E use where the addition of a tanning salon would be entirely appropriate and would allow a vacant use to be brought back into economic use.
- Notwithstanding the LPA's assertion to the contrary, the subdivision of Unit 5 to form Unit 5A does not comprise development requiring planning permission by virtue of permission having been granted for the required external alterations and the internal subdivision being



excluded from planning control by s55(2) of the principal Act.

- The LPA have simply not engaged with the application before them, and also did not engage with the applicant in order to seek clarification of further information. While the onus of proof rests with the applicant, the covering letter coupled with a simple understanding of the workings of the Use Class Order as amended were all that was required to conclude positively in this case.
- The test to be achieved is 'on the balance of probability' (a lesser requirement than 'beyond a reasonable doubt'). Given the nature of tanning salon operations and the specifically broad framing of the new Class E, this test is surely met.
- The LPA have behaved unreasonably in failing to engage with this matter and have failed to apply the correct test. Costs are sought as a result.

8.1.2 In conclusion, this appeal should be allowed and costs awarded.



Appendix A – Planning application submission LPA
application ref: 72422/APP/2021/3867



Brunel House
2 Fitzalan Road
Cardiff
CF24 0EB

peter.waldren@carneysweeney.co.uk

15 October 2021

Planning Department
Hillingdon Council
Civic Centre
High Street
Uxbridge
UB8 1UW

Dear Sir/Madam,

UNIT 5, THE OLD DAIRY, VICTORIA ROAD, SOUTH RUISLIP, MIDDLESEX, HA4 0HF

APPLICATION FOR A CERTIFICATE OF LAWFUL PROPOSED USE

We write on behalf of our client, SLI UK Real Estate Fund, in support of an application for a Certificate of Lawful Proposed Use.

The application has been submitted via the Planning Portal website (ref: PP-10302979) and comprises the following documents:

- This accompanying letter
- Completed application forms
- Unit 5 Location Plan (ref: LP-01)
- Unit 5A lease plan (ref: EFE-01)

The statutory application fee of £231 has been submitted via the Planning Portal.

The purpose of this application is to seek clarity as to whether a tanning salon (to be operated by Indigo Sun, a national operator of such facilities) can lawfully occupy part of Unit 5 on the Old Dairy development in South Ruislip without the need for a change of use application.

Unit 5 was previously occupied by Chiquito's restaurant, a Class A3 food and drink operator under the terms of the Town and Country Planning (Use Classes) Order 1987, prior to the Use Classes Amendment Regulations 2020 coming into force. The use class was originally granted planning permission under ref: 66819/APP/2014/1600, which included "...5 x restaurant units (Class A3)...".

The unit now falls within Class E (Commercial, Business and Service, including use for food and drink which is mostly consumed on the premises) of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

The use class of tanning salons were commonly previously held to be *sui generis*. However, Class E includes:

"(c) for the provision of the following kinds of service principally to visiting members of the public – ...



(iii) any other services which it is appropriate to provide in a commercial, business or service locality..."

Tanning salons commonly occupy retail and secondary retail areas, alongside commercial, business and service uses. They are clearly appropriate to such locations and, as such, will not fall within Use Class E. Accordingly, the current and proposed use of Unit 5 now fall within Class E.

Changes of use within a use class does not constitute 'development' under Section 55(2)(f) of The Town and Country Planning Act 1990.

We therefore respectfully request that the Council supports this application and grants the requested Certificate without delay in order to allow the part of the unit (to be known as unit 5A) to be lawfully occupied by a new tenant.

Yours sincerely



Peter Waldren
Director
CarneySweeney





London Borough of Hillingdon, Residents Services, 3N Civic Centre, High Street, Uxbridge, Middlesex UB8 1UW
Tel: 01895 250230 Web: www.hillingdon.gov.uk

Application for a Lawful Development Certificate for a Proposed use or development.
Town and Country Planning Act 1990: Section 192, as amended by section 10 of the Planning and
Compensation act 1991.

Town and Country Planning (Development Management Procedure) (England) Order 2015

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

1. Site Address

Number	5
Suffix	
Property name	
Address line 1	Old Dairy Lane
Address line 2	
Address line 3	
Town/city	Ruislip
Postcode	HA4 0FY
Description of site location must be completed if postcode is not known:	
Easting (x)	511008
Northing (y)	185678
Description	

2. Applicant Details

Title	
First name	
Surname	C/O Agent
Company name	SLI UK Real Estate Fund c/o abrdn
Address line 1	C/O Agent
Address line 2	C/O Agent
Address line 3	C/O Agent
Town/city	C/O Agent

2. Applicant Details

Country	C/O Agent	
Postcode	C/O Agent	
Are you an agent acting on behalf of the applicant?		☒ Yes ☐ No
Primary number	07519911394	
Secondary number		
Fax number		
Email address	peter.waldren@carneysweeney.co.uk	

3. Agent Details

Title	Mr
First name	Peter
Surname	Waldren
Company name	CarneySweeney Planning
Address line 1	Brunel House
Address line 2	2 Fitzalan Road
Address line 3	
Town/city	Cardiff
Country	
Postcode	CF24 0EB
Primary number	07519911394
Secondary number	
Fax number	
Email	peter.waldren@carneysweeney.co.uk

4. Description of Proposal

Does the proposal consist of, or include, the carrying out of building or other operations?

☐ Yes ☒ No

Does the proposal consist of, or include, a change of use of the land or building(s)?

☒ Yes ☐ No

If Yes, please give a full description of the scale and nature of the proposed use, including the processes to be carried out, any machinery to be installed and the hours the proposed use will be carried out

Certificate of lawfulness to confirm Unit 5, The Old Dairy is within Use Class E, that the proposed tanning salon is within Use Class E and that the tanning salon can lawfully occupy Unit 5.

Opening hours:
9am to 10pm Monday - Sunday

If Yes, please fully describe the existing or the last known use, with the date when this use ceased

Class E (Commercial, Business and Service)

Has the proposal been started?

☐ Yes ☒ No

5. Grounds for Application

Information about the existing use(s)

Please explain why you consider the existing or last use of the land is lawful, or why you consider that any existing buildings, which it is proposed to alter or extend are lawful

Please see Accompanying Letter.

Please list the supporting documentary evidence (such as a planning permission) which accompanies this application

Unit 5 Location Plan (ref: LP-01)
Unit 5A Lease Plan (ref: EFE-01)
Accompanying Letter

Select the use class that relates to the existing or last use. Please note that following changes to Use Classes on 1 September 2020, the list includes the now revoked Use Classes A1-5, B1, and D1-2 that should not be used in most cases. Also, the list does not include the newly introduced Use Classes E and F1-2. To provide details in relation to these or any 'Sui Generis' use, select 'Other' and specify the use where prompted. See help for more details on Use Classes.

Other

Other

Class E (Commercial, Business and Service)

Information about the proposed use(s)

Select the use class that relates to the proposed use. Please note that following changes to Use Classes on 1 September 2020, the list includes the now revoked Use Classes A1-5, B1, and D1-2 that should not be used in most cases. Also, the list does not include the newly introduced Use Classes E and F1-2. To provide details in relation to these or any 'Sui Generis' use, select 'Other' and specify the use where prompted. See help for more details on Use Classes.

Other

Other

Class E (Commercial, Business and Service)

Is the proposed operation or use ☒ Permanent ☐ Temporary

Why do you consider that a Lawful Development Certificate should be granted for this proposal?

Please see Accompanying Letter

6. Site Information

Title number(s)

Please add the title number(s) for the existing building(s) on the site. If the site has no title numbers, please enter "Unregistered"

Title Number	AGL357406
--------------	-----------

Energy Performance Certificate

Do any of the buildings on the application site have an Energy Performance Certificate (EPC)? ☐ Yes ☒ No

7. Further information about the Proposed Development

What is the Gross Internal Area (square metres) to be added by the development? 0.00

Number of additional bedrooms proposed 0

Number of additional bathrooms proposed 0

8. Vehicle Parking

Does the site have any existing vehicle/cycle parking spaces or will the proposed development add/remove any parking spaces? ☐ Yes ☒ No

9. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land? ☒ Yes ☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- ☒ The agent
- ☐ The applicant
- ☐ Other person

10. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? ☐ Yes ☒ No

11. Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

It is an important principle of decision-making that the process is open and transparent. ☐ Yes ☒ No

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?

12. Interest in the Land

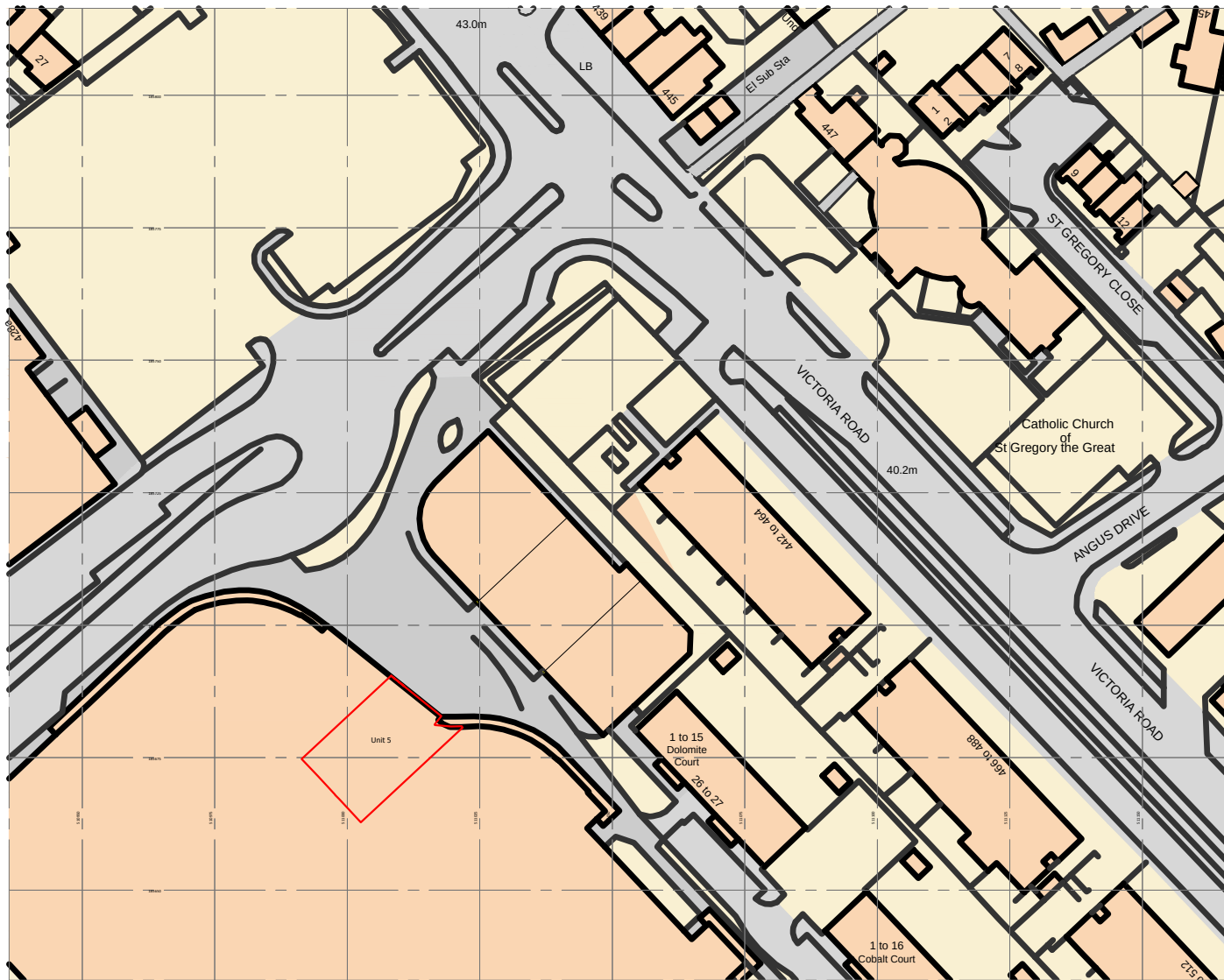
Please state the applicant's interest in the land

- ☒ Owner
- ☐ Lessee
- ☐ Occupier
- ☐ Other

13. Declaration

I/we hereby apply for a Lawful Development Certificate as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them. ☒

Date (cannot be pre-application)



Ordnance Survey, (c) Crown Copyright 2018. All rights reserved. Licence number 100022432

legend:

revisions:

A	ref.comments.	date.	by.	chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

drawing title:

Location Plan

1:1250 / 0 10 20 30 40

site address:

Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

drg status:

drg no: LP-01 rev: - scale@a4: 1:1250

drawn by: MB chk'd: TW date: 15 03 2021

London
020 7125 0112

Esher
01372 469 985

Manchester
0161 260 0500

Edinburgh
0131 357 2543

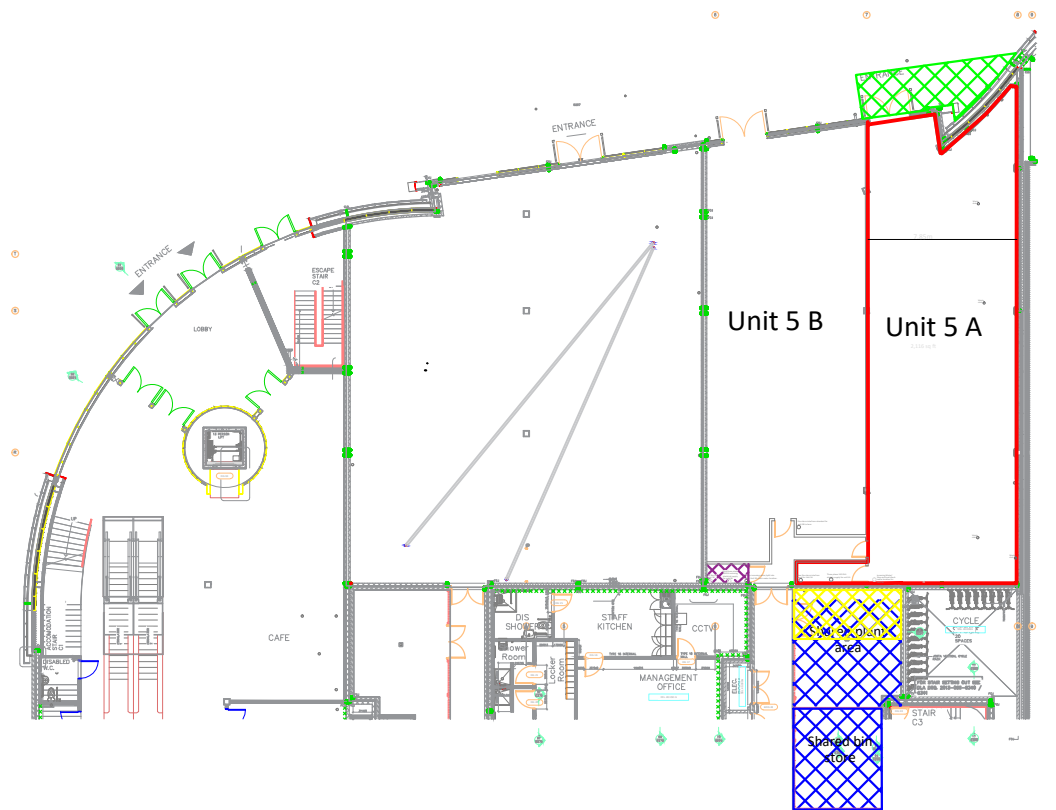
Warwick House,
1 Claremont Lane, Esher, Surrey. KT10 9DP

info@paragonbc.co.uk
www.paragonbc.co.uk

building & project consultants
**para
gon**



All dimensions to be checked on site.



legend:

- External seating
- Shared plant area and bin store
- Incoming telecoms
- Demise
- Area to be kept free and unobstructed

revisions:

A	ref.comments.	date.	by. chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

drawing title:

Lease Plan

1:1250 / 0 10 20 30 40

All dimensions to be checked on site.

site address:

Unit 5A
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

drg status:

drg no: EFE-01	rev: -	scale@a4: 1.400
drawn by: MB	chk'd: TW	date: 17.06.2021

London
020 7125 0112

Esher
01372 469 985

Manchester
0161 260 0500

Edinburgh
0131 357 2543

Warwick House,
1 Claremont Lane, Esher, Surrey. KT10 9DP

info@paragonbc.co.uk
www.paragonbc.co.uk



Appendix B - Decision Notice LPA application ref:
72422/APP/2021/3867





**Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015
ARTICLE 39**

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Mr Peter Waldren
Brunel House
2 Fitzalan Road
Cardiff
CF24 0EB

Ref: 72422/APP/2021/3867

The Council of the London Borough of Hillingdon as the Local Planning Authority, hereby **REFUSE** the application for a Certificate of Lawfulness of Proposed Development under Section 192 of the above Act.

Description of development: To confirm whether the host site falls within Use Class E and that the proposed tanning salon can lawfully occupy the unit (Certificate of Lawful Development for a Proposed Use).

Location of development: FORMER FRANKIE & BENNY'S UNIT, 5 OLD DAIRY LANE, RUISLIP,

Date of Application: 18 October 2021

Plan Numbers: See attached Schedule of Plans

The grounds for the Council's decision are listed on the attached schedule:-

Head of Planning, Transportation and Regeneration

Date: 13 December 2021

Notes: Your attention is drawn to the attached sheet which sets out the rights of applicants who are aggrieved by the decision of the Local Planning Authority.

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015
ARTICLE 39

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Ref: 72422/APP/2021/3867

SCHEDULE

The grounds for the Council's decision are as follows:-

Reason for Refusal

- 1 · The proposal involves a change of use from restaurant (use class E as detailed in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) to tanning salon. Insufficient evidence has been submitted by the applicant to demonstrate that a tanning salon would fall within use class E of the Order. Therefore the Local Planning Authority considers that a tanning salon would fall within the sui generis use class. As such, the proposal is considered to constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) and the proposed change of use is not one which is permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore, the proposal would result in the subdivision of a planning unit that would be considered to constitute development under Section 55 of the Town and Country Planning Act 1990 (as amended). The proposal therefore requires full planning permission.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

END OF SCHEDULE

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015
ARTICLE 39

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Ref: 72422/APP/2021/3867

EFE-01 - received 15 Oct 2021

LP-01 - received 15 Oct 2021

Covering Letter - received 15 Oct 2021

**RIGHTS OF APPLICANTS AGGRIEVED BY DECISION
OF LOCAL PLANNING AUTHORITY**

TOWN AND COUNTRY PLANNING ACT 1990

Application for Certificate of Lawfulness

Notes

If you are aggrieved by the decision of the Local Planning Authority to refuse an application for a certificate under Sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) or to refuse it in part, you may appeal to the Department of Communities and Local Government (DCLG), under Section 195 of the Act (as amended).

Notice of appeal must be given in writing to the Planning Inspectorate, 3/02 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel; - 0117 372 8428).

Appeal forms can be downloaded from the Planning Inspectorate's website at

<http://www.planning-inspectorate.gov.uk>. Copies of all relevant documents, including the application, the notice of decision and all plans, drawings and correspondence, must be supplied to the Inspectorate.

You are advised to consult the brief official guide and appeals, published by the Department of Communities and Local Government (DCLG), this and appeal forms can be obtained from the Planning Inspectorate on request.

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

Appendix C - Planning History Schedule for the wider Old Dairy site



LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 1

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
1	66819/APP/2013/1467	Demolition of existing buildings and redevelopment of site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), 4 x shop units (Class A1 and/or A2), and residential development consisting of 104 units (21 x 1-bed flats, 67 x 2-bed flats, 12 x 3-bed houses, 4 x 4-bed houses), together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.
	Decision	Decision Date
	Refusal (P)	11/02/2014
	Case Officer	<i>AFL</i>
2	66819/APP/2013/3199	Application for Prior Notification of Proposed Demolition at the Arla Dairy Site.
	Decision	Decision Date
	Prior Approval N/Req	18/11/2013
	Case Officer	<i>AFL</i>
* 3	66819/DE/2013/35	Demolition of existing buildings
	Decision	Decision Date
	Case Officer	<i>STH</i>
* 4	66819/IN/2014/24	Mixed scheme consisting of a foodstore, cafe, 11 screen cinema, 5 restaurants & undercroft car park
	Decision	Decision Date
	Accept Initial Not.	27/01/2014
	Case Officer	<i>KT</i>
5	66819/APP/2014/1600	Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.
	Decision	Decision Date
	Approval	24/12/2014

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 2

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE

DESCRIPTION

Case Officer MKO

6	66819/PRC/2014/130	Residential development of 163 units	PRC
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Decision	Decision Date
Pre-App Advice Given	15/10/2015

Case Officer MM

7	66819/APP/2015/153	Details pursuant to Condition 23 (Shopping Trolley Storage) of planning permission ref: 66819/APP/2014/1600 for the mixed use redevelopment of the Former Arla Food Depot.	DET
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Decision	Decision Date
Approval	24/02/2015

Case Officer PHI

8	66819/APP/2015/152	Details pursuant to Condition 9 (Contamination) of planning permission ref: 66819/APP/2014/1600 for the mixed use redevelopment of the Former Arla Food Depot.	DET
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Decision	Decision Date
Approval	24/04/2015

Case Officer EDL

9	66819/APP/2015/150	Details pursuant to partial discharge of Conditions 6 (Levels) and 18 (Facilities for Disabled and Elderly People) relating to commercial elements of planning permission ref: 66819/APP/2014/1600 for the mixed use redevelopment of the Former Arla Food Depot.	DET
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Decision	Decision Date
Approval	16/03/2015

Case Officer PHI

10	66819/APP/2015/149	Details pursuant to Condition 4 (Phasing - commercial development) of planning permission ref: 66819/APP/2014/1600 for the mixed use redevelopment of the Former Arla Food Depot.	DET
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Decision	Decision Date
Approval	20/02/2015

LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 3

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE

DESCRIPTION

Case Officer PHI

11	66819/APP/2015/161	Details pursuant to partial discharge of Condition 16 (Bird Hazard Management) relating to the commercial phase of planning permission ref: 66819/APP/2014/1600 for the mixed use redevelopment of the Former Arla Food Depot.	DET
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Decision	Decision Date
Approval	23/02/2015

Case Officer PHI

12	66819/APP/2015/350	Description: Details in part-compliance with conditions 7 (Landscaping) except part 7.6.a and 6 (Levels) relating to part of the proposed pedestrian link from Long Drive to Block A; only as they relate to the commercial phase of planning permission 66819/APP/2014/1600 dated 24-12-14.	DET
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Decision	Decision Date
Approval	20/04/2015

Case Officer EDL

13	66819/APP/2015/351	Details in part-compliance with conditions 15 (Sustainable Water Management) and condition 7 (Landscaping) as it related to 7.6.a only; only as they relate to the commercial phase of planning permission 66819/APP/2014/1600 dated 24-12-14.	DET
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Decision	Decision Date
Approval	06/05/2015

Case Officer EDL

14	66819/APP/2015/456	Details pursuant to condition 34 (HS2 Foundations and below ground structures) of planning permission 66819/APP/2014/1600 dated 24th Dec 2014 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works)	DET
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Decision	Decision Date
Approval	14/05/2015

Case Officer EDL

LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
15 66819/APP/2015/529	Details pursuant to condition 26 (Delivery Noise Management Plan) of planning permission 66819/APP/2014/1600 dated 24.12.14 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works) Decision Decision Date Approval 22/05/2015 Case Officer EDL	DET
16 66819/APP/2015/596	Partial discharge of condition 5 (Materials; commercial phase only) of planning permission 66819/APP/2014/1600 dated 24.12.14 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works) Decision Decision Date Approval 15/04/2015 Case Officer EDL	DET
17 66819/APP/2015/594	Discharge of condition 12 (Carbon Reduction) and partial discharge of Condition 14 (Energy plant and Air Quality) of planning permission 66819/APP/2014/1600 dated 24.12.14 for 'Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works.' Decision Decision Date Approval 22/05/2015 Case Officer EDL	DET
18 66819/APP/2015/1083	Details pursuant to condition 15 (Drainage) for the Residential Phase of planning permission 66819/APP/2014/1600 dated 24.12.14 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works)	DET

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 5

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE		DESCRIPTION	
		Decision	Decision Date
		Approval	06/11/2015
		Case Officer EDL	
19	66819/APP/2015/1075	Details pursuant to condition 6 (Ground Levels) of planning permission 66819/APP/2014/1600 dated 24.12.14 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works)	DET
		Decision	Decision Date
		Approval	07/08/2015
		Case Officer EDL	
20	66819/APP/2015/1187	Partial Discharge of Conditions relating to residential development for conditions 4 (Phasing and Implementation Plan), 7 (Landscaping), 12 (Energy Assessment), 13 (Code for Sustainable Homes), 16 (Bird Hazard Management Plan) and 33 (Sound Insulation) of planning permission 6819/APP/2014/1600 dated 24/12/14 for; Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.	DET
		Decision	Decision Date
		Approval	21/10/2015
		Case Officer KD	
21	66819/APP/2015/1188	Partial Discharge of Conditions relating to residential development for conditions 5 (materials) of planning permission 6819/APP/2014/1600 dated 24/12/14 for; Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.	DET
		Decision	Decision Date
		Approval	21/10/2015
		Case Officer KD	

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 6

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
22	66819/APP/2015/1234	Partial Discharge of Condition 9 (Land Contamination) relating to residential phase of planning permission ref:66819/APP/2014/1600 dated 24/12/14 for; Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. Decision Decision Date Approval 21/10/2015 Case Officer <i>KD</i>
23	66819/APP/2015/2065	Erection of a foodstore (Class A1) including ancillary customer cafe and petrol filling station, cinema (Class D2), restaurants (Class A3) and residential development together with access, servicing, car parking and landscaping arrangements and other associated works. Decision Decision Date Withdrawn (P) 03/09/2015 Case Officer <i>ATW</i>
24	66819/APP/2015/3225	Partial discharge of condition 5 (Materials; commercial phase only) of planning permission 66819/APP/2014/1600 dated 24.12.14. (Proposal for alterations to black rainscreen cladding material previously approved under application 66819/APP/2015/596.) Decision Decision Date Approval 03/11/2015 Case Officer <i>CBA</i>
* 25	66819/PC/2015/132	flooding inconection with demolition of buildings Decision Decision Date * Case Officer <i>NTH</i>
* 26	66819/IN/2015/484	163 new build residential Decision Decision Date Accept Initial Not. 29/09/2015 Case Officer <i>KFE</i>

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
27	66819/APP/2015/3653	AMD
	S73 application seeking variation of conditions 2 (approved plans) and 3 (approved documents) of planning permission ref. 66819/APP/2014/1600 dated 24th December 2014 for: Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. Changes sought: 1) Increase of total units on the site from 132 to 163 and associated design/ elevation changes. 2) Changes to the approved Energy Strategy. Decision Decision Date Approval 09/02/2016 Case Officer CBA	
28	66819/APP/2015/4038	DET
	Details of play equipment in compliance with condition 32 of planning permission 6819/APP/2014/1600 dated 24/12/14 for; Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.(Residential Phase) Decision Decision Date Approval 17/03/2016 Case Officer KD	
29	66819/APP/2015/4104	NMA
	Application for a non-material amendments to the residential elements of planning permission reference: 66819/APP/2014/1600 (redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works), comprising amendments to wheelchair adaptable apartments, building A, building B, building C, building E and building H Decision Decision Date Approval 07/12/2015 Case Officer CBA	

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 8

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
30	66819/APP/2015/4404	APPLICATION FOR A NON MATERIAL AMENDMENT TO PLANNING PERMISSION REFERENCE 66819/APP/2014/1600 (REDEVELOPMENT OF THE SITE TO PROVIDE A FOODSTORE WITH ANCILLARY CAFE (CLASS A1) AND ANCILLARY PETROL FILLING STATION, CINEMA (CLASS D2), 5 X RESTAURANT UNITS (CLASS A3), AND RESIDENTIAL DEVELOPMENT CONSISTING OF 132 UNITS, TOGETHER WITH NEW VEHICLE AND PEDESTRIAN ACCESSES, CAR PARKING, SERVICING AREAS, LANDSCAPING ARRANGEMENTS, AND OTHER ASSOCIATED WORKS) PROPOSED AMENDMENTS TO INCLUDE: INTRODUCTION OF "CLICK AND COLLECT" PARKING SPACES; CHANGES TO SPRINKLER TANK, PLANT/PUMP ROOM, ESCAPE STAIR CASES AND INTRODUCTION OF A LIFT; ADDITIONAL TROLLEY BAY AND RELOCATION OF DISPLACED CAR PARKING SPACES; DELETION OF THE HOME DELIVERY AREA TO THE REAR SERVICE YARD; AND DELETION OF ROOF LIGHTS Decision Decision Date Approval 18/12/2015 Case Officer CBA
31	66819/APP/2016/1012	Non material amendment to application 66819/APP/2014/1600 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works) for alterations to the link artwork wall Decision Decision Date Approval 08/06/2016 Case Officer CBA
32	66819/ADV/2016/52	Proposed building and directional signage associated with 'ASDA' store Decision Decision Date Approval 11/08/2016 Case Officer CBA
* 33	66819/IN/2016/420	Fit out to form new retail store and associated works for Asda Ltd Decision * Decision Date Accept Initial Not. 13/05/2016 Case Officer NTH

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 9

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
34	66819/APP/2016/2516	Non material amendment to application 66819/APP/2016/1400 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.) to make various amendments to the hard and soft landscaping within the site including changes to fencing, surfacing and planting
		NMA
	Decision	Decision Date
	Refusal (P)	27/07/2016
	Case Officer	CBA
35	66819/ADV/2016/63	Installation of a single illuminated "The Old Dairy" sign.
		ADV
	Decision	Decision Date
	Approval	28/09/2016
	Case Officer	CBA
36	66819/APP/2016/2594	Non-Material Amendment to planning permission ref. 66819/APP/2014/1600 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works) to make amendments to parking and cycle stands.
		NMA
	Decision	Decision Date
	Withdrawn (P)	02/08/2016
	Case Officer	CBA
37	66819/APP/2016/2595	Non-Material Amendment to planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.) to amend the trolley details approved as part of condition 23.
		NMA
	Decision	Decision Date
	Withdrawn (P)	02/08/2016
	Case Officer	CBA

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
38 66819/APP/2016/2602	Details pursuant to conditions 10 (contaminated land remediation) and 19 (car parking allocation) of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 (Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works) Decision Decision Date Refusal (P) 02/09/2016 Case Officer CBA	DET
39 66819/APP/2016/2830	Details pursuant to condition 28 (air extraction system for ASDA) of planning permission ref. 66819/APP/2014/1600 (Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works) Decision Decision Date Approval 17/11/2016 Case Officer CBA	DET
40 66819/APP/2016/2958	Details pursuant to part of condition 7 (landscaping - commercial element only) of planning permission Ref: 66819/APP/2014/1600 dated 24-12-2014 (Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (Class A3) and residential development consisting of 132 units together with new vehicular and pedestrian accesses, car parking, servicing areas, landscaping arrangements and other associated works) Decision Decision Date Approval 27/09/2016 Case Officer CBA	DET
41 66819/APP/2016/3019	Details pursuant to part of condition 7 (Landscaping: Other structures, car parking and cycle storage), 19 (car parking allocation - commercial only) and 23 (shopping trolley storage) of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.'	DET

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

Page 11

UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE		DESCRIPTION	
		Decision	Decision Date
		Approval	03/10/2016
		Case Officer CBA	
42	66819/APP/2016/3575	Details pursuant to condition 28 (Flues/air conditioning) for Cineworld and Restaurant Unit 1 (nandos) of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.	DET
		Decision	Decision Date
		Approval	21/11/2016
		Case Officer CBA	
43	66819/APP/2016/4001	Details pursuant to condition part of condition 7 (landscaping - planting scheme parts 7.1a, b and c) of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.	DET
		Decision	Decision Date
		Approval	09/01/2017
		Case Officer CBA	
44	66819/APP/2016/4031	Details pursuant to condition 28 (Noise and odour from flues/air conditioning) for Bella Italia planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. Condition 27 & 28	DET
		Decision	Decision Date
		Refusal (P)	06/01/2017
		Case Officer CBA	

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
45	66819/APP/2016/4119	Details pursuant to Condition 10 (Contaminated land remediation) of application 66819/APP/2014/1600 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works'.
	Decision	Decision Date
	Approval	12/01/2017
	Case Officer	CBA
46	66819/APP/2016/4182	Details pursuant to condition 28 (Flues/air conditioning) for Nandos of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.
	Decision	Decision Date
	Refusal (P)	12/01/2017
	Case Officer	CBA
47	66819/ADV/2016/108	Installation of a three internally illuminated "Asda" signs
	Decision	Decision Date
	Approval	27/04/2017
	Case Officer	MKO
* 48	66819/FP/2016/458	Fitting out of recently completed developers warm shell to form multi screen cinema
	Decision	Decision Date
	Conditional Approval	27/01/2017
	Case Officer	AKA

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
49 66819/APP/2016/4560	Details pursuant to conditions 7 (Landscaping) and 29 (children's play area) of planning permission ref. 66819/APP/2015/3653 dated 05/10/2015 for 'Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. Changes sought: 1) Increase of total units on the site from 132 to 163 and associated design/ elevation changes. 2) Changes to the approved Energy Strategy.' Decision Decision Date Approval 07/07/2017 Case Officer <i>ZHI</i>	DET
50 66819/ADV/2017/8	Display of 3 static LED illuminated signs Decision Decision Date Approval 06/03/2017 Case Officer <i>ZHI</i>	ADV
51 66819/APP/2017/518	Details pursuant to condition 7 (landscaping) of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014: Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. Decision Decision Date Approval 12/04/2017 Case Officer <i>JAC</i>	DET
52 66819/ADV/2017/21	5m high x 1.85m wide totem sign located at the commercial site entrance adjoining the site roundabout. Decision Decision Date Approval 12/04/2017 Case Officer <i>JAC</i>	ADV

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE		DESCRIPTION	
53	66819/APP/2017/851	Details pursuant to conditions 10 (Remediation Measures) and 11 (Contaminated Soil) relating to Blocks B, C & D only of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 'Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.	DET
		Decision Approval	Decision Date 22/05/2017
		Case Officer MKO	
54	66819/APP/2017/961	Details pursuant to conditions 27 (Mechanical Plant) and 28 (Air Extraction Equipment), in relation to Unit 5 only, of planning permission ref. 66819/APP/2014/1600 dated 24-12-2014 (Redevelopment of the site to provide a foodstore with ancillary cafe (class A1) and ancillary petrol filling station, cinema (class D2), 5 x restaurant units (class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works)	DET
		Decision Approval	Decision Date 08/06/2017
		Case Officer MKO	
55	66819/ADV/2017/40	One internally illuminated fascia sign	ADV
		Decision Approval	Decision Date 25/05/2017
		Case Officer KMI	
56	66819/ADV/2017/73	2 No. Non-illuminated fascia panels with applied vinyl graphics to be applied to the face of existing brick pillar at site entrance from Long Drive.	ADV
		Decision Refusal (P)	Decision Date 31/08/2017
		Case Officer JAC	
57	66819/APP/2017/2448	Details pursuant to the partial discharge of Condition 18 (Car Parking Allocation and Management Plan) of planning permission Ref: 66819/APP/2015/3653	DET

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE		DESCRIPTION	
		Decision Approval	Decision Date 28/12/2017
		Case Officer JAC	
58	66819/APP/2018/167	Submission of details pursuant to partial discharge (relating to residential element of development only) of conditions 6 (existing and proposed ground levels) and 17 (amenity areas and accessible play equipment) as attached to approved planning application 66819/APP/2015/3653.	DET
		Decision Approval	Decision Date 13/04/2018
		Case Officer JAC	
59	66819/PRC/2018/111	Request for an S106 compliance check	PRC
		Decision Pre-App Meeting Held	Decision Date 23/11/2018
		Case Officer NJW	
60	66819/ADV/2018/75	Installation of various signage.	ADV
		Decision Approval	Decision Date 12/03/2019
		Case Officer CSP	
61	66819/PRC/2019/236	S106 Compliance	PRC
		Decision Pre-App Meeting Held	Decision Date 02/01/2020
		Case Officer NJW	

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LONDON BOROUGH OF HILLINGDON
SUMMARY OF HISTORY FOR SITE 66819 TO 25-11-2021

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UNIT 5A, OLD DAIRY LANE RUISLIP

REFERENCE	DESCRIPTION	
62 66819/APP/2021/1206	Non material ammendment to planning consent 66819/APP/2015/3653 dated 09-02-16 for the Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. The amendments to the planning consent comprise of the sub-division of Unit 5 to create 2 units and associated external shopfront alterations Decision Decision Date Refusal (P) 07/05/2021 Case Officer CBR	NMA
* 63 66819/FP/2021/178	internal fitout of unit to form sunbed salon Decision Decision Date Approval 13/07/2021 Case Officer AVE	FP

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Appendix D – Plans, decision notice and officers report
application ref: 66819/APP/2021/1206





Miss Inaayah Anjum
Tetra Tech
5th Floor Longcross Court
47 Newport Road
Cardiff CF24 0AD

Application Ref:
66819/APP/2021/1206

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

REFUSAL OF PLANNING PERMISSION

The Council of the London Borough of Hillingdon as the Local Planning Authority within the meaning of the above Act and associated Orders **REFUSES** permission for the following:-

Description of development:

Non material amendment to planning consent 66819/APP/2015/3653 dated 09-02-16 for the Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.

The amendments to the planning consent comprise of the sub-division of Unit 5 to create 2 units and associated external shopfront alterations

Location of development: Unit 5, The Old Dairy Site Victoria Road Ruislip

Date of application: 16 April 2021

Plan Numbers: See attached Schedule of plans

Permission is refused for the reason(s) listed on the attached schedule:-

Head of Planning, Transportation and Regeneration

Date: 7 May 2021

- NOTES:
- (i) Please also see the informatives included in the Schedule of Reasons.
 - (ii) Should you wish to appeal against this decision please read the attached sheet which explains the procedure.

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

REFUSAL OF PLANNING PERMISSION

Application Ref: 66819/APP/2021/1206

SCHEDULE OF REASONS

- 1 . The proposed works constitute development under Sec 55 of the Act and require an application for full planning permission. The proposed subdivision of unit 5 to create an additional commercial unit and the associated works does not constitute a non-material amendment under section 96A TCPA 1990. The potential impacts therefore need to be considered against development plan policies.

INFORMATIVES:

- 1 . 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. We have made available detailed advice in the form of our statutory policies from the Local Plan Part 1, Local Plan Part 2, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service.

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.

END OF SCHEDULE

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

REFUSAL OF PLANNING PERMISSION

Application Ref.No.: 66819/APP/2021/1206

SCHEDULE OF PLANS

Unit 5 The Old Dairy Ruislip - Proposed Front Elev - received 25 Mar 2021

Unit 5 The Old Dairy Ruislip - Location Plan - received 25 Mar 2021

Unit 5 The Old Dairy Ruislip - Existing and Propos - received 25 Mar 2021

210323 Unit 5 Old Dairy NMA Cover Letter1. - received 25 Mar 2021

Unit 5 The Old Dairy Ruislip - Existing Front Elev - received 25 Mar 2021

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the office of the First Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from the Planning Inspectorate at Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel 0117 372 8424). Appeal forms can be downloaded from the Planning Inspectorate's website at www.Planning-inspectorate.gov.uk

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal.

Further details are available at www.gov.uk/government/collections/casework-dealt-with-by-inquiries

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of an appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices.

If either the local planning authority or the officer of the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

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	UNIT 5, THE OLD DAIRY SITE VICTORIA ROAD RUISLIP
Development:	Non material ammendment to planning consent 66819/APP/2015/3653 dated 09-02-16 for the Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. The amendments to the planning consent comprise of the sub-division of Unit 5 to create 2 units and associated external shopfront alterations
LBH Ref Nos:	66819/APP/2021/1206
Drawing Nos:	Unit 5 The Old Dairy Ruislip - Proposed Front Elev Unit 5 The Old Dairy Ruislip - Location Plan Unit 5 The Old Dairy Ruislip - Existing and Propos 210323 Unit 5 Old Dairy NMA Cover Letter1. Unit 5 The Old Dairy Ruislip - Existing Front Elev
Date Plans received :	16/04/2021
Date(s) of Amendment(s):	
Date Application Valid:	16/04/2021

1. DETAILS

Section 96A(4) of the Town and Country Planning Act (1990) provides Local Planning Authorities with the power to make non material changes to planning permissions. The Act states that 'a Local Planning Authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material' and 'in deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.'

This NMA seeks limited additional revisions that relate to Unit 5, which include:

- Sub-division of Unit 5 to create two new units (Unit 5a and Unit 5b);
- Introduction of additional set of doors to serve Unit 5b; and
- Introduction of two new signage areas

Whilst it is accepted that the change of use of the unit within the same use class would not require full planning consent the creation of an additional unit following the subdivision of the existing unit is not considered to be non-material. The associated works required to create an entrance into the new unit and new signage areas indicated on the front would also require planning consent given that the previous consent was implemented. Taking these points into consideration the amendment is not non material under section 96A TCPA 1990.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Non Standard reason for refusal

The proposed works constitute development under Sec 55 of the Act and require an

application for full planning permission. The proposed subdivision of unit 5 to create an additional commercial unit and the associated works does not constitute a non-material amendment under section 96A TCPA 1990. The potential impacts therefore need to be considered against development plan policies.

INFORMATIVES

1 I71 LBH worked applicant in a positive & proactive (Refusing)

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. We have made available detailed advice in the form of our statutory policies from the Local Plan Part 1, Local Plan Part 2, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service.

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. Local Plan Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

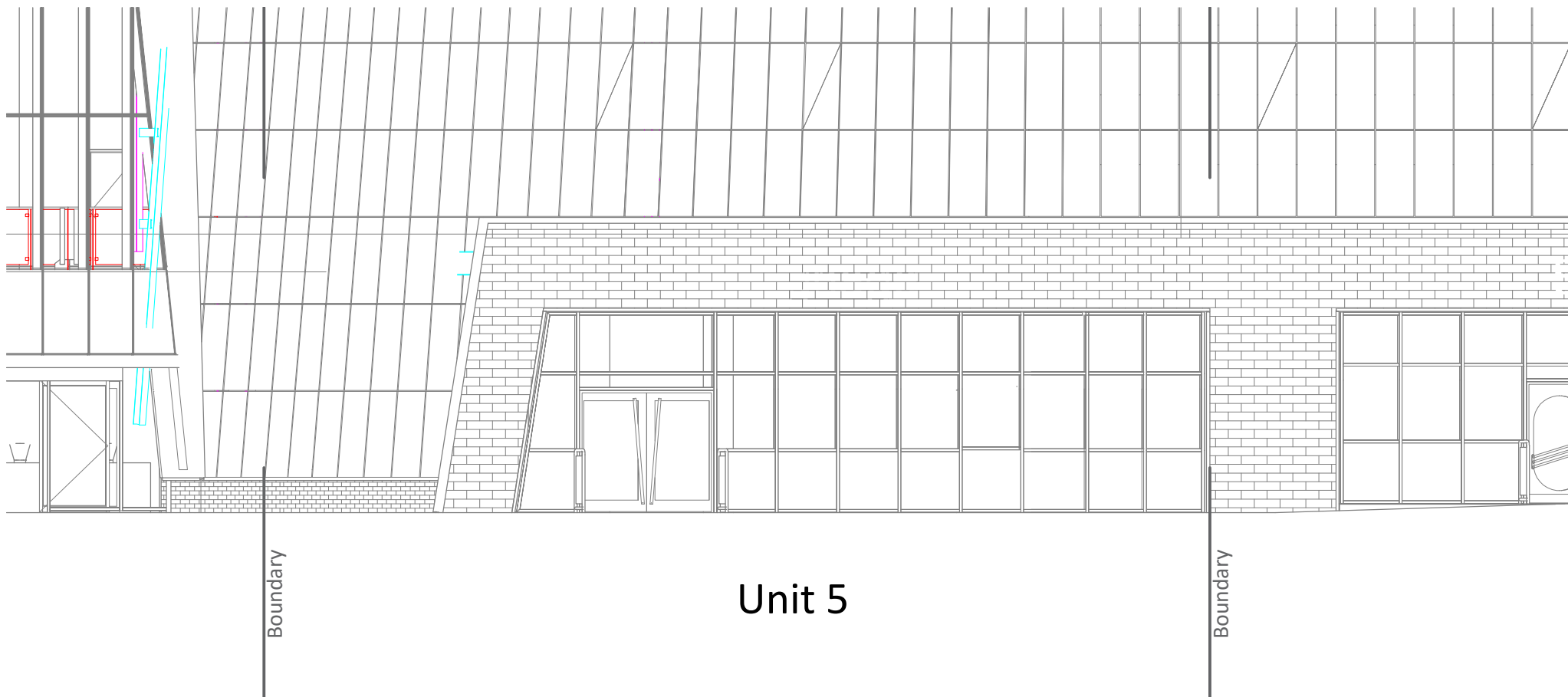
DMT 1 Managing Transport Impacts

DMT 2 Highways Impacts

DMT 6 Vehicle Parking

Contact Officer: Christopher Brady

Telephone No: 01895 250230



legend:

revisions:

drawing title:

Existing Front Elevation

site address:

Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

A
ref.comments. date. by. chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

1:1250 / 0 10 20 30 40

drg status:

drg no: EFE-01 rev: - scale@a4: 1:100
drawn by: MB chk'd: TW date: 15 03 2021

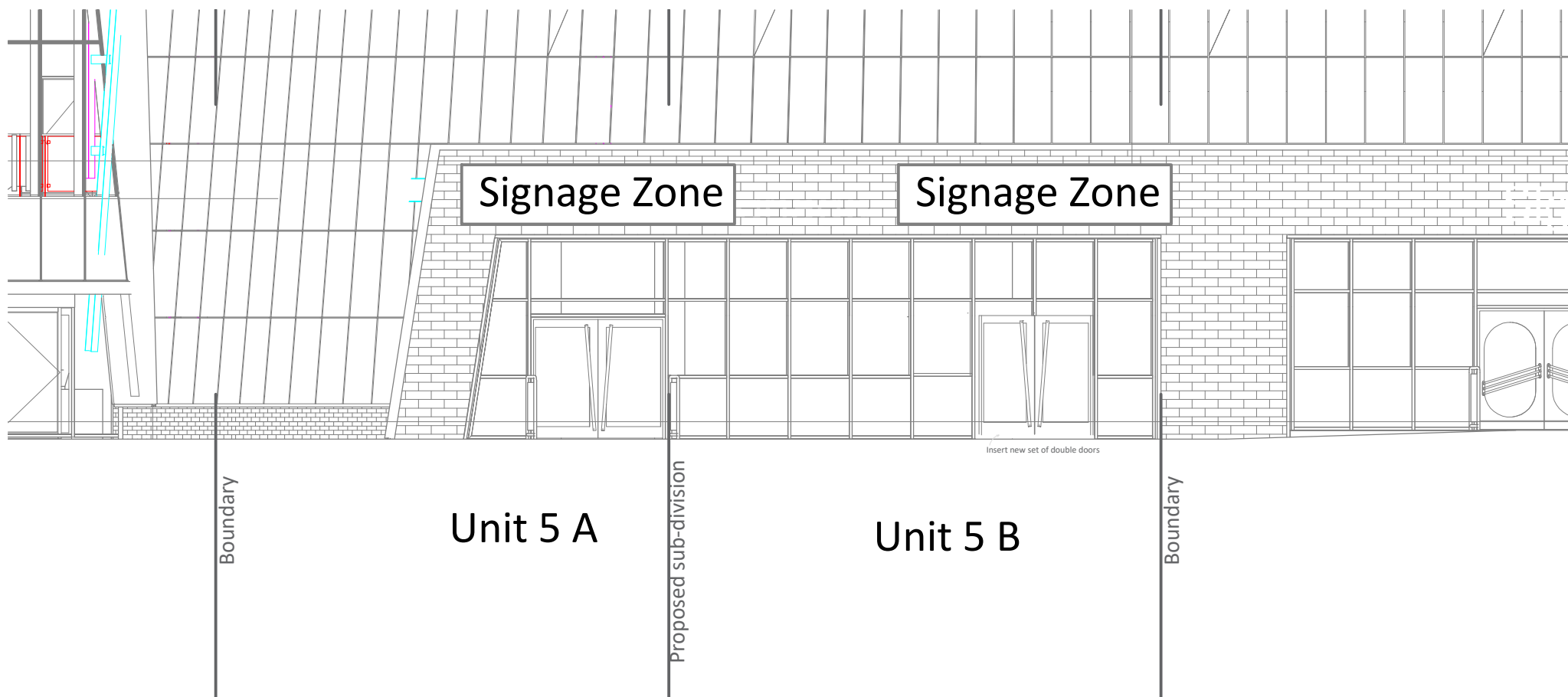
All dimensions to be checked on site.

London
020 7125 0112
Esher
01372 469 985
Manchester
0161 260 0500
Edinburgh
0131 357 2543

building & project consultants
**para
gon**

Warwick House,
1 Claremont Lane, Esher, Surrey. KT10 9DP
info@paragonbc.co.uk
www.paragonbc.co.uk





legend:

revisions:

drawing title:

site address:

A
ref.comments. date. by. chk.

**Proposed Front Elevation
(Sub-division)**

**Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU**

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

1:1250 / 0 10 20 30 40

drg status:

drg no: PFE-01 rev: - scale@a4: 1:100
drawn by: MB chk'd: TW date: 15 03 2021

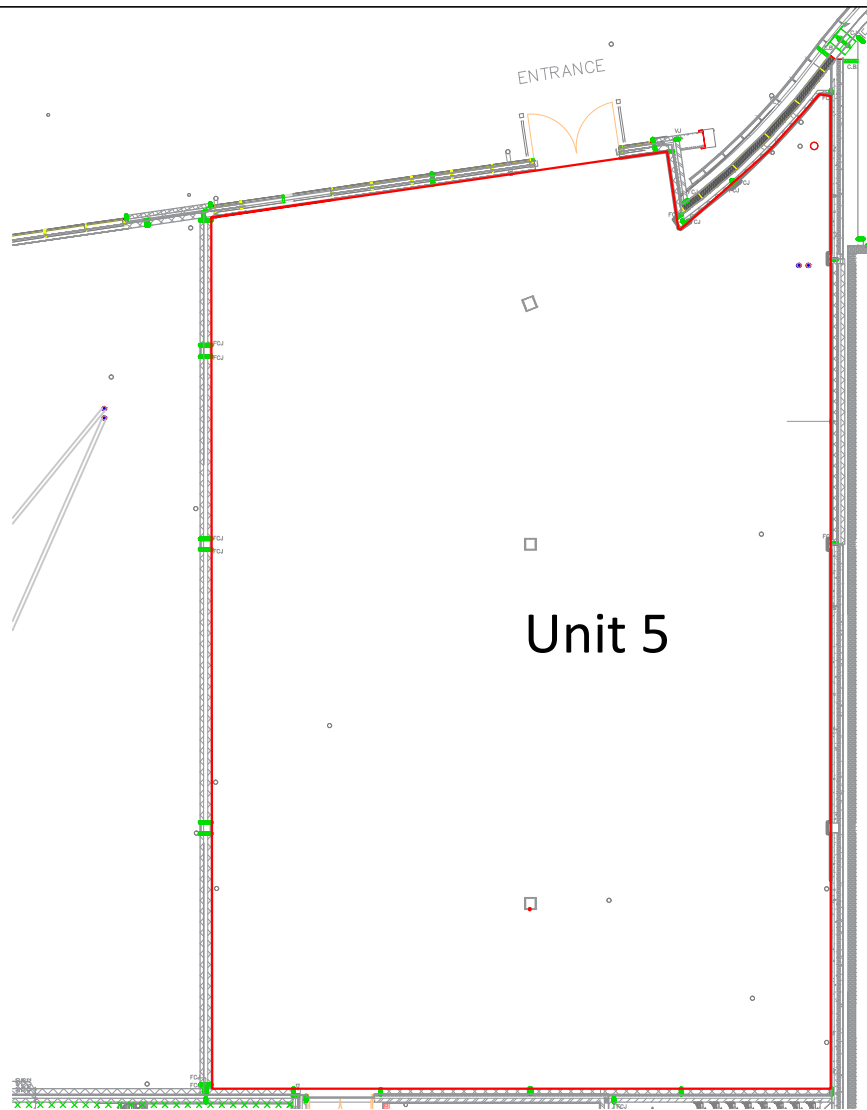
All dimensions to be checked on site.

London
020 7125 0112
Esher
01372 469 985
Manchester
0161 260 0500
Edinburgh
0131 357 2543

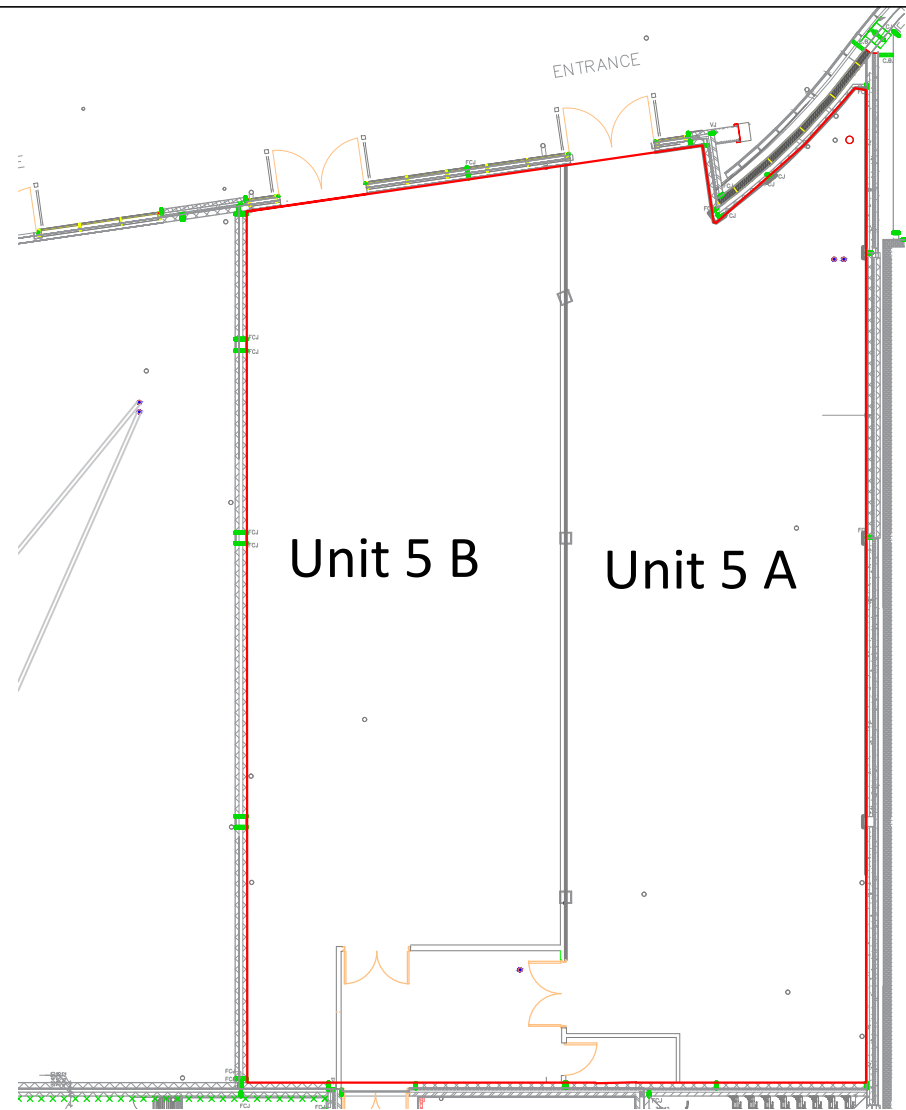
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1 Claremont Lane, Esher, Surrey. KT10 9DP
info@paragonbc.co.uk
www.paragonbc.co.uk





Existing Floor Plan



Proposed Floor Plan (Sub-division)

legend:

revisions:

drawing title:

Existing and Proposed Floor Plan

site address:

Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

London
020 7125 0112

Esher
01372 469 985

Manchester
0161 260 0500

Edinburgh
0131 357 2543

Warwick House,
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A	ref.comments.	date.	by.	chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

1:1250 / 0 10 20 30 40

All dimensions to be checked on site.

drg status:

drg no: EP-01

drawn by: MB

rev: -

chk'd: TW

scale@a4: 1.200

date: 15 03 2021

Appendix E – Plans, decision notice and officers report
application ref: 73596/APP/2021/2058





Miss Louise Darch
Tetra Tech Planning
5th Floor Longcross Court
47 Newport Road
Cardiff CF24 0AD

Application Ref:
73596/APP/2021/2058

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

GRANT OF PLANNING PERMISSION

The Council of the London Borough of Hillingdon as the Local Planning Authority within the meaning of the above Act and associated Orders **GRANTS** permission for the following:-

Description of development:

Alterations to shopfront to include the introduction of an additional set of doors and two new signage areas

Location of development: Unit 5 The Old Dairy Old Dairy Lane Ruislip

Date of application: 18 June 2021

Plan Numbers: See attached Schedule of plans

Permission is subject to the condition(s) listed on the attached schedule:-

Head of Planning, Transportation and Regeneration

Date: 13 August 2021

- NOTES:
- (i) Please also see the informatives included in the Schedule of Conditions.
 - (ii) Should you wish to appeal against any of the conditions please read the attached sheet which explains the procedure.
 - (iii) This decision does not convey any approval or consent which may be required under any by-laws, building regulations or under any Act other than the Town and Country Planning Act 1990 (as amended).

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

GRANT OF PLANNING PERMISSION

Application Ref: 73596/APP/2021/2058

SCHEDULE OF CONDITIONS

- 1 . 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 . The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers EP-01 Rev. B and PFE-01 Rev. B and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

- 3 . 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 and shall thereafter be retained as such.

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 DMHB 11 of the Hillingdon Local Plan Part 2 (2020)

INFORMATIVES:

- 1 . The decision to GRANT/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 . The decision to GRANT/REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020) 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.

Part 1 Policies:

Part 2 Policies

DMT 2	Highways Impacts
DMHB 11	Design of New Development
DMHB 13	Shopfronts
LPP D4	

SCHEDULE OF CONDITIONS

LPP D5 (2021) Delivering good design
 (2021) Inclusive design

- 3 . On this decision notice policies from the Councils Local Plan: Part 1 - Strategic Policies appear first, then relevant Local Plan Part 2 (2020), then London Plan Policies (2016). Hillingdon's Full Council adopted the Hillingdon Local Plan: Part 1 - Strategic Policies on 8 November 2012 and the Hillingdon Local Plan Part 2 on 16 January 2020.
- 4 . The Council will recover from the applicant the cost of highway and footway repairs, including damage to grass verges.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

For further information and advice contact - Highways Maintenance Operations, Central Depot - Block K, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB3 3EU (Tel: 01895 277524).

For Private Roads: Care should be taken during the building works hereby approved to ensure no damage occurs to the verge of footpaths on private roads during construction. Vehicles delivering materials to this development shall not override or cause damage to a private road and where possible alternative routes should be taken to avoid private roads. The applicant may be required to make good any damage caused.

- 5 . This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992. [To display an advertisement without the necessary consent is an offence that can lead to prosecution]. For further information and advice, contact - Residents Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

END OF SCHEDULE

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

GRANT OF PLANNING PERMISSION

Application Ref.No.: 73596/APP/2021/2058

SCHEDULE OF PLANS

LP-01 Rev. B - received 21 May 2021

EP-01 Rev. B - received 21 May 2021

PFE-01 Rev. B - received 21 May 2021

EFE-01 - received 21 May 2021

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the office of the First Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal.

Further details are available at www.gov.uk/government/collections/casework-dealt-with-by-inquiries

As this is a decision to refuse planning permission for a Commercial Appeals Service application if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at the Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.co.uk/info/200207/appeals

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of an appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices.

If either the local planning authority or the officer of the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

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 UNIT 5 THE OLD DAIRY OLD DAIRY LANE RUISLIP

Development: Alterations to shopfront to include the introduction of an additional set of doors and two new signage areas

LBH Ref Nos: **73596/APP/2021/2058**

Drawing Nos: LP-01 Rev. B
EP-01 Rev. B
PFE-01 Rev. B
EFE-01

Date Plans received : 18/06/2021

Date(s) of Amendment(s):

Date Application Valid: 18/06/2021

1. SUMMARY

The application seeks planning permission for a new signage area and additional set of doors.

The proposed development would be acceptable from a character and appearance perspective. The signage zones would require advertisement consent. The principle location of the signage would be acceptable but officers have not assessed the merits of the advertisement as part of this full planning application. The assessment has not considered the sub-division of the unit as this does not form part of the proposal.

2. RECOMMENDATION

APPROVAL subject to the following:

1 COM3 Time Limit

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 COM4 Accordance with Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers EP-01 Rev. B and PFE-01 Rev. B and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

3 COM7 Materials (Submission)

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 and shall thereafter be retained as such.

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 DMHB 11 of the Hillingdon Local Plan Part 2 (2020)

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to GRANT/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 GRANT/REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020) 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.

DMT 2 Highways Impacts

DMHB 11 Design of New Development

DMHB 13 Shopfronts

LPP D4 (2021) Delivering good design

LPP D5 (2021) Inclusive design

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 Local Plan Part 2 (2020), then London Plan Policies (2016). Hillingdon's Full Council adopted the Hillingdon Local Plan: Part 1 - Strategic Policies on 8 November 2012 and the Hillingdon Local Plan Part 2 on 16 January 2020.

4 I47 Damage to Verge - For Council Roads:

The Council will recover from the applicant the cost of highway and footway repairs, including damage to grass verges.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

For further information and advice contact - Highways Maintenance Operations, Central Depot - Block K, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB3 3EU (Tel: 01895 277524).

For Private Roads: Care should be taken during the building works hereby approved to ensure no damage occurs to the verge of footpaths on private roads during construction. Vehicles delivering materials to this development shall not override or cause damage to a private road and where possible alternative routes should be taken to avoid private roads. The applicant may be required to make good any damage caused.

5 I25 Consent for the Display of Adverts and Illuminated Signs

This permission does not authorise the display of advertisements or signs, separate consent for which may be required under the Town and Country Planning (Control of Advertisements) Regulations 1992. [To display an advertisement without the necessary consent is an offence that can lead to prosecution]. For further information and advice, contact - Residents Services, 3N/04, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel. 01895 250574).

3. CONSIDERATIONS

3.1 Site and Locality

The subject unit forms part of a wider redevelopment site that provides a foodstore with ancillary cafe and ancillary petrol filling station, cinema, 5 x restaurant units and residential units, together with vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.

The host unit is currently in use as a restaurant - Chiquito (Class Eb)

The site is within a critical drainage zone with the area to the front within a surface water flood zone.

3.2 Proposed Scheme

The application seeks planning permission for external shopfront alterations to the existing restaurant (Class Eb) to include the introduction of an additional set of doors and two new signage areas.

It should be noted that the application is not subject to internal subdivision of the existing unit. The proposed signage areas are only being assessed for principle purposes and will need to be assessed as part of an advertisement planning application.

3.3 Relevant Planning History Comment on Planning History

66819/APP/2021/1206 - Non-material amendment to planning consent 66819/APP/2015/3653 dated 09-02-16 for the Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. The amendments to the planning consent comprise of the sub division of Unit 5 to create 2 units and associated external shopfront alterations - Refused 07/05/2021 for the following reasons:

1.The proposed works constitute development under Sec 55 of the Act and require an application for full planning permission. The proposed subdivision of unit 5 to create an additional commercial unit and the associated works does not constitute a non-material amendment under section 96A TCPA 1990. The potential impacts therefore need to be considered against development plan policies.

66819/APP/2015/3653 - S73 application seeking variation of conditions 2 (approved plans) and 3 (approved documents) of planning permission ref. 66819/APP/2014/1600 dated 24th December 2014 for: Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together

with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.

Changes sought:

1) Increase of total units on the site from 132 to 163 and associated design/elevation changes.

2) Changes to the approved Energy Strategy.

Approved - 02/09/2016

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

9 neighbouring properties were consulted on 24/06/2021. By the end of the public consultation, no comments were raised by the occupiers consulted.

Highways Officer - No objection

Access Officer:

The proposal comprising an additional set of doors within the existing shopfront has been reviewed with no concerns raised from an accessibility perspective, subject to the following condition attached to any approval:

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 an Accessible and Inclusive development for everyone in accordance with London Plan Policy D5.

Officer Comment: The host site and the area towards the front appears relatively flat. In order to provide any building entrances/ramps, this would form outside of the red line area to which would not be permitted. Furthermore, this application is not for the sub-division or creation of a new unit and is for ancillary purposes to the existing unit. The arrangement would be copied over and therefore it is considered, on balance, that the proposal would be acceptable on accessibility grounds.

6. Local Plan Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

DMT 2 Highways Impacts

DMHB 11 Design of New Development

DMHB 13	Shopfronts
LPP D4	(2021) Delivering good design
LPP D5	(2021) Inclusive design

In addition:

7. MAIN PLANNING ISSUES

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

Given the nature of development proposed, no concerns would be raised regarding neighbour amenity.

7.2 Impact on Street Scene

The Hillingdon Local Plan: Part One Strategic Policy BE1 seeks a quality of design in all new development that enhances and contributes to the area in terms of form, scale and materials; is appropriate to the identity and context of the townscape; and would improve the quality of the public realm and respect local character.

Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) advises that all development will be required to be designed to the highest standards and incorporate principles of good design. It should take into account aspects including the scale of the development considering the height, mass and bulk of adjacent structures; building plot sizes and established street patterns; building lines and streetscape rhythm and landscaping. It should also not have an adversary impact on the amenity, daylight and sunlight of adjacent properties and open space.

The proposal would copy over an existing set of doors to the other side.

The existing sign would be replaced with two signs. The principle of this would be acceptable although an advertisement application (with details of the signage) would need to be submitted to consider the impact of the signage.

The materials of the new doors would match the existing which is positive.

As such, the proposal would be acceptable from a character and appearance perspective.

7.3 Traffic Impact/Pedestrian Safety

Given the nature of development proposed, no concerns would be raised regarding traffic/pedestrian safety.

7.4 Carparking & Layout

The parking provision would remain unaffected by the proposal.

7.5 Urban Design, Access and Security Considerations

See above.

7.6 Other Issues

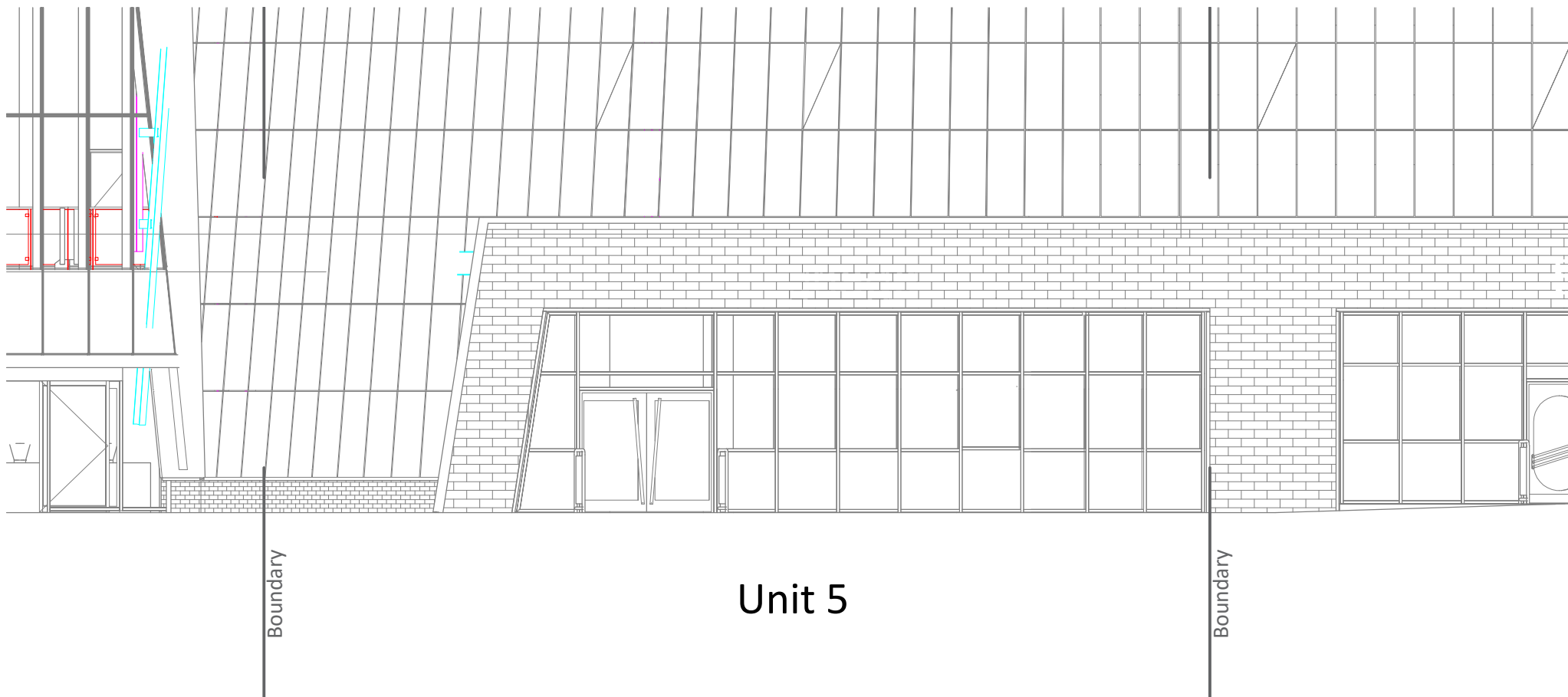
None.

8. Reference Documents

Hillingdon Local Plan Part One: Strategic Policies (2012).
Hillingdon Local Plan Part Two: Development Management Policies (2020)
The London Plan (2021)
National Planning Policy Framework;

Contact Officer: Jimill Patel

Telephone No: 01895 250230



legend:

revisions:

A	ref.comments.	date.	by.	chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

drawing title:

Exisiting Front Elevation

1:1250 / 0 10 20 30 40

site address:

Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

drg status:

drg no: EFE-01	rev: -	scale@a4: 1:100
drawn by: MB	chk'd: TW	date: 15 03 2021

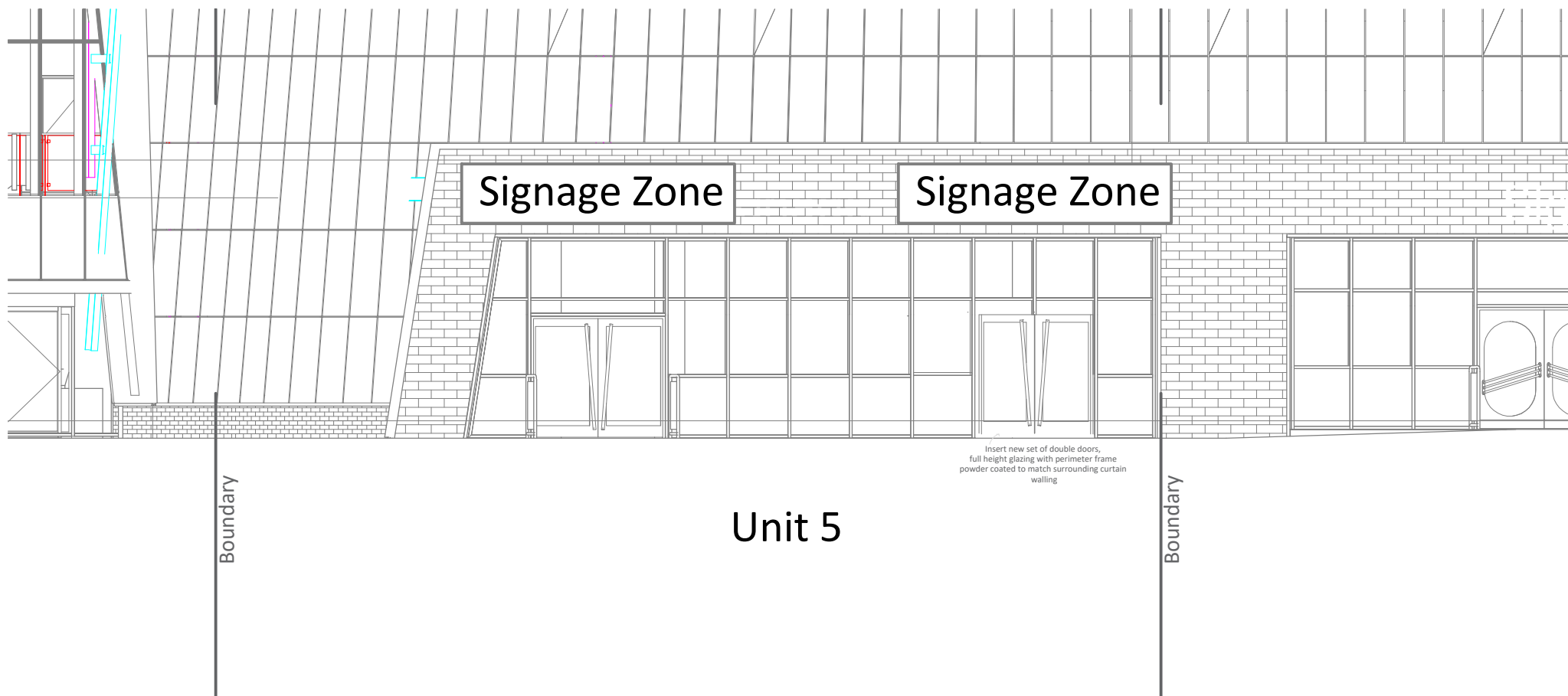
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Warwick House,
1 Claremont Lane, Esher, Surrey. KT10 9DP
info@paragonbc.co.uk
www.paragonbc.co.uk



All dimensions to be checked on site.



legend:

revisions:

A	ref.comments.	date.	by.	chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

drawing title:

Proposed Front Elevation

1:1250 / 0 10 20 30 40

site address:

Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

drg status:

drg no: PFE-01	rev: B	scale@a4: 1:100
drawn by: MB	chk'd: TW	date: 15 03 2021

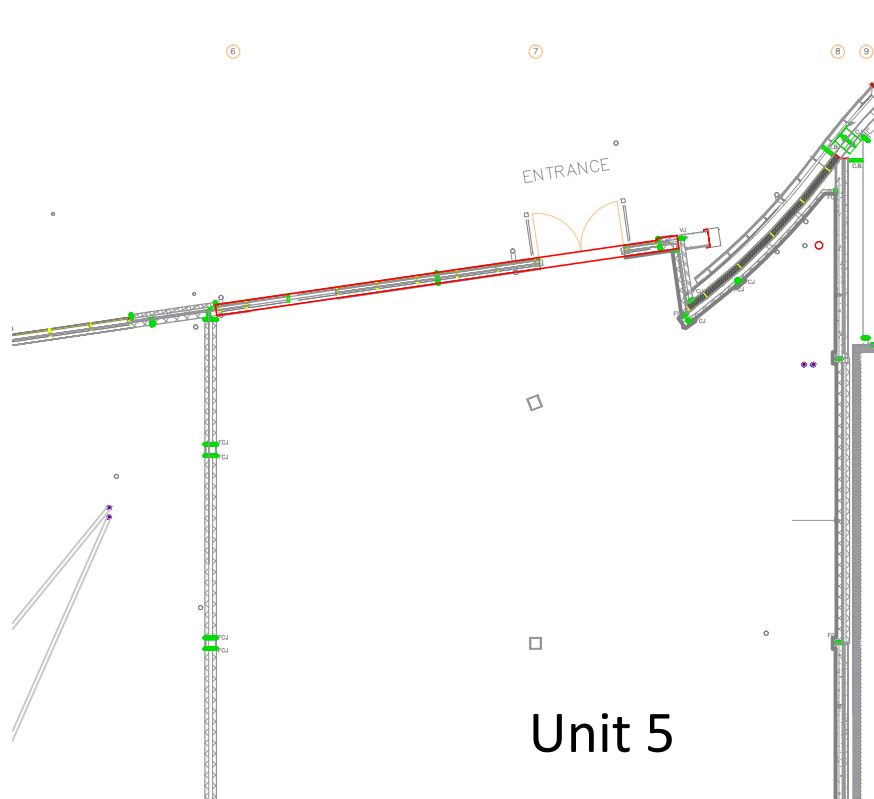
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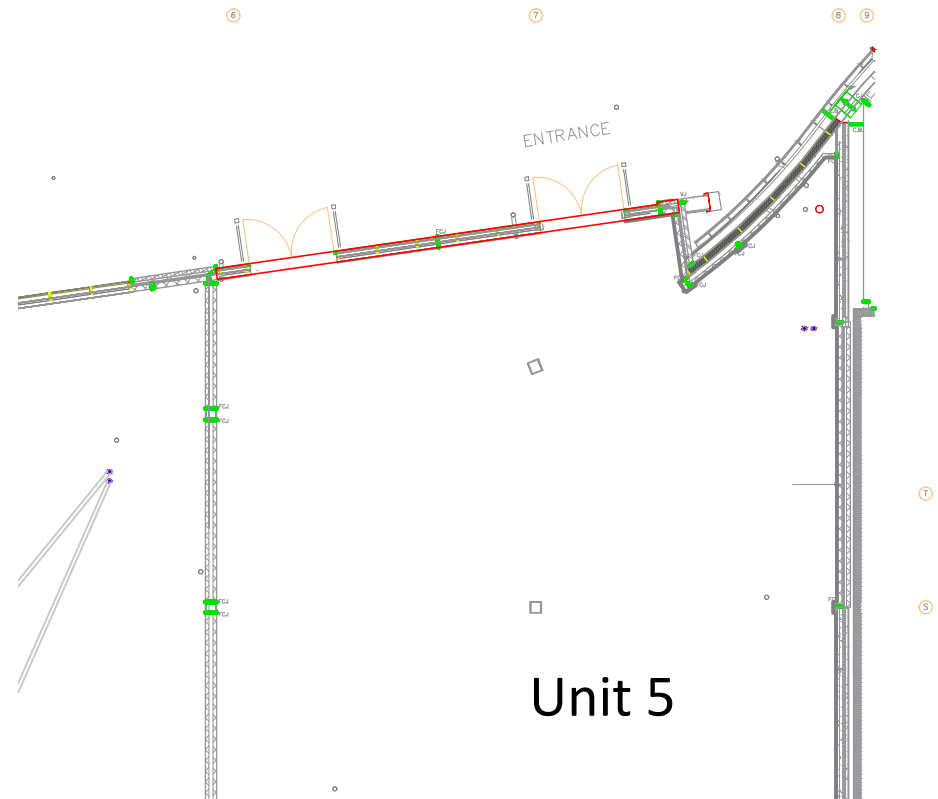


All dimensions to be checked on site.



Unit 5

Existing Floor Plan



Unit 5

Proposed Floor Plan

legend:



Planning application boundary

revisions:

A	ref.comments.	date.	by.	chk.

scale bars: (in metres unless indicated)

1:200 / 0 1 2 3 4 5 6 7

drawing title:

Existing and Proposed Floor Plan

1:1250 / 0 10 20 30 40

All dimensions to be checked on site.

site address:

Unit 5
The Old Dairy Site
Victoria Road
Ruislip
HA4 0EU

drg status:

drg no: EP-01 rev: B scale@a4: 1.200

drawn by: MB chk'd: TW date: 15 03 2021

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Appendix F - Explanatory Memorandum to the Town
and Country Planning (Use Classes) (Amendment)
(England) Regulations 2020



EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (USE CLASSES) (AMENDMENT)
(ENGLAND) REGULATIONS 2020

2020 No. 757

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Town and Country Planning (Use Classes) Order 1987 (1987/764) (the Use Classes Order) as it applies to England. The Use Classes Order groups different uses of buildings and other land into use classes. A change of use within a single use class is not considered to be development and therefore does not require planning permission. The changes made by these Regulations create new use classes in relation to England contained in the new Schedule 2 to the amended Order.

3. Matters of special interest to Parliament

Matters of special interest to the [Joint Committee on Statutory Instruments]

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Planning permission is required for ‘development’ as defined in section 55 of the Town and Country Planning Act 1990 (the 1990 Act). The making of a material change in the use of any building or other land is normally defined as ‘development’ and therefore requires planning permission.
6.2 However, section 55(2)(f) of the 1990 Act allows the Secretary of State to make an order which groups different uses of buildings and other land into use classes. A

change of use within a single use class is not considered to be development and therefore does not require planning permission.

- 6.3 The Use Classes Order applies nationally across England and Wales. However, there are differences between the use classes in place in England and Wales.
- 6.4 The Schedule to the Use Classes Order sets out use classes which are grouped into four main typologies. These are: A classes which cover retail and food and drink consumption; B classes which cover places of work like offices and manufacturing; C classes which cover places of residence and D classes which cover institutions and leisure uses. These Regulations amend and simplify the system of use classes in England by creating new use classes which are contained in the new Schedule 2 to the Use Classes Order: namely, Class E (Commercial, Business and Service), Class F.1 (Learning and Non-residential institutions) and Class F.2 (Local community). It also moves certain uses which were in the Schedule to the Use Classes Order into regulation 3(6) (namely, uses which cannot be included in a specified class). It makes consequential amendments to the Use Classes Order and other related legislation. This instrument also makes transitional and savings provision with respect to other related planning legislation: the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596) and with respect to planning applications which have been submitted prior to the coming into force of this instrument. These Regulations amend the Use Classes Order in reliance on section 105 of the Deregulation Act 2015 (c.20).

7. Policy background

What is being done and why?

- 7.1 The current Use Classes Order was introduced in 1987 and has been amended a number of times since. However, the government considers that it requires a complete overhaul to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands. This is particularly important at the present time as town centres seek to recover from the economic impact of Coronavirus. Modern high streets and town centres have changed so that they now seek to provide a wider range of facilities and services, including new emerging uses, that will attract people and make these areas viable now and in the future.
- 7.2 These Regulations amend and simplify the system of use classes in England.
- 7.3 They create a new broad 'Commercial, business and service' use class (Class E) which incorporates the previous shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices (B1) use classes. Uses such as gyms, nurseries and health centres (previously in use classes D1 Non-residential institutions and D2 Assembly and leisure) and other uses which are suitable for a town centre area are also included in the class. This new class allows for a mix of uses to reflect changing retail and business models. It therefore, recognises that a building may be in a number of uses concurrently or that a building may be used for different uses at different times of the day. Changes to another use, or mix of uses, within this class do not require planning permission. Bringing these uses together and allowing movement between them will give businesses greater freedom to adapt to changing circumstances and to respond more quickly to the needs of their communities.

- 7.4 These Regulations also create new ‘Learning and non-residential institutions’ (F1) and ‘Local community’ (F2) use classes to ensure that those uses which are important to local communities can be protected through the planning system. Changes of use within each of these classes do not require planning permission. However, other material changes of use do require planning permission ensuring that such changes of use can be fully considered by the local planning authority and residents.
- 7.5 The ‘Learning and non-residential institutions’ use class (F1) incorporates those uses from the former D1 Non-residential institutions use class which are more likely to involve buildings which are regularly in wider public use such as schools, libraries and art galleries.
- 7.6 The ‘Local community’ use class (F2) groups together those uses from the former D2 use class which provide for group activities of a more physical nature – swimming pools, skating rinks and areas for outdoor sports. It also includes the use of buildings where this is principally by the local community. The class also recognises the importance of small, local shops in meeting the day to day shopping needs of local communities, particularly in rural communities, large residential estates and outside main shopping areas generally. Therefore, alongside community social facilities, the F2 class includes what would be considered shops servicing the essential needs of local communities. This is defined as a shop mostly for the sale of a range of essential dry goods and food to visiting member of the public where there is no commercial class retail unit within 1000 metres and the shop area is no larger than 280m². This provides some protection for such shops while placing those shops found on high streets and town centres in the new ‘commercial’ class.
- 7.7 The residential (C classes), General industrial (B2) and Storage and distribution (B8) use classes remain unchanged (except for a new cross reference in B2 to the new ‘commercial’ class).
- 7.8 The revisions to the Use Classes Order also provide for the need for local consideration of some uses. The former A4 Drinking establishments and A5 Hot food takeaway use classes have been removed. We recognise that changes of use to or from these uses can give rise to important local considerations, for example, to ensure that local pubs can be protected or to prevent the proliferation of hot food takeaways. We have therefore, included these uses in the list of uses which are specifically identified in the Use Classes Order (see Article 3(6)) as uses which do not now fall within any use class. We have also taken this approach with cinemas, concert, dance and bingo halls which fell within the former D2 use class. This will mean that changes to and from these uses will be subject to full local consideration through the planning application process.
- 7.9 These reforms are primarily aimed at creating vibrant, mixed use town centres by allowing businesses greater freedom to change to a broader range of compatible uses which communities expect to find on modern high streets, as well as more generally in town and city centres. **They apply to all uses of land and buildings across England.**
- 7.10 There are a number of permitted development rights which grant general planning permission allowing changes of use between the former use classes without the need to submit a planning application. These regulations provide transitional provisions which retain the effect of the permitted development right based on the classes that were in place prior to these regulations coming into force. A building or use will continue to be subject to any permitted development rights that it was entitled to on or

before 31 August 2020. These transitional provisions will remain in place until 31 July 2021 when new, revised permitted development rights will be introduced. These savings provisions also apply to relevant Article 4 Directions.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This statutory instrument amends The Town and Country Planning (Use Classes) Order 1987 (as amended by S.I. 1991/1567, 1992/610, 1992/657, 1994/724, 1995/297, 1999/293, 2005/84, 2006/220, 2006/1282, 2010/653, 2011/988, and 2015/597). There are other amendments not relevant to this instrument. There are no current plans to consolidate this legislation.

10. Consultation outcome

- 10.1 In October 2018, the government undertook a public consultation ([Planning reform: supporting the high street and increasing the supply of new homes](#)) including proposals on updating the Use Classes Order to reflect changing high streets and make them more resilient. The consultation ran from 29 October until 14 January 2019. It was open to everyone with an interest in the matter.
- 10.2 A total of 276 responses were received in relation to the high street use classes proposals. Respondents came from a wide range of interested parties from across the public and private sectors, as well as from the general public.
- 10.3 More than half of the respondents agreed that changes to the A use classes would support the high street, and of the 211 who expressed a preference there was considerable support to simplify the A1(Shops) use class to accommodate new and emerging retail models. Responses considered that retaining a separate, simplified A1 use class would allow local areas to manage change to create and maintain flourishing high streets, while recognising that retail models continue to evolve. It was recognised that merging the A1 (shops), A2 (financial and professional services) and A3 (restaurants and cafes) use classes means that there could be change to restaurant use without any local consideration of the potential impacts from longer opening hours and increased noise and odours. It could lead to a proliferation and increased concentration of restaurants, including fast food restaurants, in an area with an impact on the health of local residents and local amenity. There was also a concern that it would limit the ability of local communities to shape their high streets as set out in local or neighbourhood plans.
- 10.4 Following that consultation, the government [announced](#) that it would amend the A1 (shops) use class to ensure it captured current and future retail models and include clarification on the ability of (A) use classes to diversify and incorporate ancillary uses.
- 10.5 However, in response to the economic impact of Coronavirus on our high streets and those premises in A1 and A3 use in particular, the government has decided to go further and to introduce these more wide-reaching reforms to the change of use rules.

Given the pressing need to support town centres, these reforms have been implemented without further public consultation.

11. Guidance

- 11.1 Planning practice guidance will be updated to reflect these changes before they come into effect on 1 September 2020.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies of the greater freedoms provided by Class E is to reduce the cost and time burden of having to submit a planning application in more cases. Class F2 should also provide protection for buildings used by community based charities and voluntary bodies.

- 12.2 The impact on the public sector should be a reduction in administrative cost and time of processing planning applications for change of use, where the development would previously have come forward through an application.

- 12.3 In recognition of the urgency to support economic renewal, this legislation has been brought forward at pace. An interim assessment of impact has been provided alongside the instrument. A full Regulatory Impact Assessment will be produced in due course and submitted for independent verification against any Business Impact Target set under the requirements of the Small Business, Enterprise and Employment Act 2015.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 Overall, the impact of the changes is deregulatory. The changes to the uses classes are largely deregulatory in effect, helping to reduce bureaucracy and cost in the planning system.
- 13.3 Changes to save time and resources are likely to benefit small businesses more when compared to larger business as they have less resource available. As such, small businesses have not been exempted from the effects of this measure.

14. Monitoring & review

- 14.1 This measure will be monitored as part of the Government's package of planning reforms to support economic recovery, with changes made accordingly to ensure the intended outcomes. The Government has announced that it will be considering major and wide-ranging reforms of the planning system.

15. Contact

- 15.1 Julie Shanahan at the Ministry of Housing, Communities and Local Government (Tel: 0303 444 3378 or e-mail: julie.shanahan@communities.gov.uk) can be contacted with any queries on this instrument.
- 15.2 Lucy Hargreaves, Deputy Director for Planning - Development Management, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

- 15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

Appendix G – Impact Assessment of the Reform of the Use Classes Order January 2021



Title: Reform of the Use Classes Order IA No: DCLG-5044(1) RPC Reference No: RPC-CLG-5044(1) Lead department or agency: MHCLG Other departments or agencies:	Impact Assessment (IA)			
	Date: 21 January 2021			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary Legislation			
				Contact for enquiries: Maria Darby 0303 444 1463
Summary: Intervention and Options				RPC Opinion: Green

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
£m 111.1	£m 111.1	-£m 12.9	

What is the problem under consideration? Why is government intervention necessary?

High streets and town centres have been increasingly struggling, including as customers switch to online shopping or look for more, or different experiences from their high streets. The government has considered how planning changes to use classes and permitted development rights could help support vibrant high streets that provide a mix of retail, commercial and other uses. The Covid-19 emergency and its broader economic impact, has led to government to consider more wider reaching reform to use classes to help deliver a key priority to help support vibrant, mixed use town centres and help them recover from the impacts of the COVID-19 restrictions. These measures have therefore been introduced at pace in light of this to stimulate economic activity and support high streets and town centres.

What are the policy objectives and the intended effects?

The aim of this measure is to support high streets and town centres and boost economic recovery, by introducing a new 'Commercial, Business and Service' use class. This provides significantly greater flexibility for premises to move between uses within this new use class, or a mix of such uses, to meet rapidly changing market demands, without the cost or time of submitting a planning application. It supports high streets and communities by helping to reduce the number of shops left empty and drawing in additional footfall to use such uses.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The Government is committed to supporting our high streets and town centres. In response to the 2018 consultation, *Planning reform: supporting the high street and increasing the delivery of new homes*, the government announced that it would amend the shops use class to ensure it captures current and future retail models and include clarification on the ability of the retail and services use classes to diversify and incorporate ancillary uses. However, given the economic impact of Covid-19, the Government has now decided that wider reaching reform to the Use Classes Order is needed to help support high streets and town centres and allow more flexible use of existing buildings. Separate to this, the government has taken action to support high streets through the High Street Fund, and as a result of Covid-19 business rates discounts and cash grants.

Will the policy be reviewed? No. If applicable, set review date:

Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Christopher Pincher Date:

21/01/2021

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 82.1	High: 140.1	Best Estimate: 111.1

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0		5.4	46.2
High	0.0		5.4	46.2
Best Estimate	0.0		5.4	46.2

Description and scale of key monetised costs by 'main affected groups'

This measure is deregulatory and will not create a cost to business.

Local authorities will lose the planning fees paid by applicants. It is estimated that this reduction in planning fees will amount to £46.2 million.

Other key non-monetised costs by 'main affected groups'

There may be externalities imposed on the local community such as a loss of amenity or an increase in noise from different types of uses or differing opening hours.

Building owners may opt to change use without the need for a planning application, displacing existing uses from operating in that building. There is therefore potential for a negative impact on some individual businesses which might be lost through change of use to more profitable uses.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0		15.1	128.3
High	0.0		21.9	186.3
Best Estimate	0.0		18.5	157.3

Description and scale of key monetised benefits by 'main affected groups'

Overall, the changes to the Use Classes Order are deregulatory. Businesses will have greater freedom to adapt and diversify their business helping them to remain viable as market conditions change. The reforms mean that fewer changes of use will require an application for planning permission. This will benefit businesses by removing the costs of preparing and submitting applications.

Local planning authorities will benefit from having to determine fewer planning applications for changes of use. This will save time and resources which can be used elsewhere.

It is estimated that between 8,300 and 10,900 planning applications and prior approvals will be avoided every year to 2030. Between 2020 and 2030, we estimate £46.2m will be saved in planning fees and £64.8m of benefits will be derived from the time savings of applicants. Local authorities will benefit from no longer reviewing these planning applications and prior approvals. It is assumed this is equal to the loss of planning fee revenue, £46.2m, but this could be greater. This analysis may therefore underestimate the benefits of the change to use class orders.

Other key non-monetised benefits by 'main affected groups'

The primary aim of the reforms is to create vibrant, mixed use high streets and town centres. Communities will benefit from greater choice and convenience of having a wider range of services and facilities located in the same area. Communities may benefit from more high street and town centre premises being repurposed rather than left vacant with the corresponding impact that has on the amenity of the area.

Businesses will have greater freedom to adapt and diversify their business, thus helping them to remain viable as market conditions change. Furthermore, better competition could encourage firms to deliver benefits to customers in terms of lower prices, higher quality, and more choice. Therefore, by removing this restraint on competition, the government may support productivity and economic growth. In a COVID-19 context, this will have a positive economic impact.

There is the potential for communities to be negatively impacted if local amenities or shops are lost to other uses through these reforms. However, this impact has been mitigated by excluding uses which are particularly important to communities, such as small isolated shops and community halls, schools, and libraries, from the greater flexibility to change use introduced by these reforms. This means that these types of use will be better protected through the planning system.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

It is assumed that growth in the number of planning applications in the counterfactual follows a one to one relationship with GDP growth.

The number of working hours in a day is assumed to be 7.4 because this is the 10-year average actual daily hours of work for full-time workers.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual – 2019 Prices, 2020 Base Year) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0.0	Benefits: 12.9	Net: -12.9	-64.5

Evidence Base (for summary sheets)

Policy background/problem under consideration & rationale for intervention

The government is committed to supporting our high streets and town centres. In response to the 2018 consultation, ***Planning reform: supporting the high street and increasing the delivery of new homes***, the government announced that it would amend the shops (A) use class to ensure it captures current and future retail models and include clarification on the ability of (A) use classes to diversify and incorporate ancillary uses.

While the high street has been in decline for several years, including arising from the challenge of online shopping, such areas are vital for the economic and social wellbeing of the local area. The economic impact of Covid-19 has exacerbated the challenges facing such areas, and the government has taken action at pace to help support such areas and support their economic recovery through the planning system. It has introduced wide reaching reform to the change of use to help support high streets and town centres by providing for more varied and flexible use of existing buildings.

Policy objective

Modern high streets and town centres have changed so that they now seek to provide a wider range of facilities and services, including new emerging uses, that will attract people and make these areas viable now and in the future. To do so, they need to be able to adapt and diversify. The government considers that it requires a complete overhaul of the Use Classes Order to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands. This is particularly important at the present time as high streets and town centres, and the wider country, seeks to recover from the economic impact of Covid-19. These reforms were therefore brought forward at great pace and are intended to give businesses greater freedom to change use so that they can adjust more quickly, and with more planning certainty, to changing demands and circumstances. The aim of the reforms is to support vibrant, mixed use high streets and town centres that will attract people and allow local businesses to thrive.

At the same time, the government wants to ensure that those valued community and learning uses which are important for communities, such as small isolated shops and libraries, are protected by limiting the scope for change of use without planning permission. It is recognised that some changes of use can give rise to important local considerations, for example, to prevent the proliferation of hot food takeaways or betting shops in an area or to protect a local pub. For this reason, such changes of use will be subject to full consideration through the planning application process.

The Use Classes Order applies to all such uses in England. Therefore, while High Streets and Town Centres are the key policy focus, suburban and other areas will similarly benefit.

Description of options considered

Policy Option 1: Reform of the Use Classes Order in England

In the 2018 consultation, the government considered proposals to amend the use classes to support high streets. However, recognising the economic impact of Covid-19 and the need to respond quickly and positively, the government has decided to go further and to introduce these more wide-reaching reforms to the change of use that go beyond the initial consultation proposal and the proposed changes previously announced. The amendment to the Use Classes Order delivers on the government aim to support high streets and town centres; providing

additional flexibility to enable business to adapt quickly and therefore support the high street and the wider economy in its response to Covid-19. The new Commercial, Business and Service Use Class groups together a range of retail, leisure, and service uses and provides for free movement between them without the need for a planning application. The changes have also created new Community and Learning, and Local Community use classes. It also listed additional uses as 'not in a use class' and thereby requiring the change of use from or to a theatre or live music venue etc.

Policy Option 2: Do Nothing

Doing nothing would not deliver the government's decision to reform. Planning permission would continue to be required for the change of use between uses, and limit the potential for high streets and town centre to respond rapidly to changing consumer demands.

Summary of preferred option with description of implementation plan

Change of use of buildings and land in the planning system in England is controlled through the Town and Country Planning (Use Classes) Order 1987 (as amended) (the Use Classes Order). This groups uses with similar land use impacts into 'use classes'. Changes of use within a class are not considered to be development and therefore, do not require planning permission. A material change of use between use classes is development and requires planning permission. Some uses do not fall within any use class and material changes of use to or from these types of uses also require planning permission.

This measure amends the Use Classes Order in England. It creates a new 'Commercial, Business and Service' use class (E) giving greater flexibility to change to a broad range of uses without the need for planning permission. The new class incorporates the former A1 shops, A2 financial and professional services, A3 restaurants and cafes and B1 business use classes. Other uses such as gyms, nurseries and health centres which fell within the former D1 Non-residential and D2 Assembly and leisure use classes are also included in this class as are other uses which are suitable in town centres. The new 'Commercial, Business and Service' use class also allows for mixed uses where all the uses fall within that class. This provides significantly greater flexibility for premises to move between uses within this new use class, or a mix of such uses, to meet rapidly changing market demands, without the cost or time of submitting a planning application. It will support business in trying out new business models, providing an opportunity for further change of use at the same premises if appropriate.

New 'Local community' and 'Learning and non-residential' use classes have also been created. The F1 'Learning and non-residential institutions' class incorporates uses from the former D1 use class such as schools, libraries and art galleries. The F2 'Local community' use class groups together those uses from the former D2 use class which provide for group activities of a more physical nature – swimming pools, skating rinks and areas for outdoor sports. It also includes the use of buildings where this is principally by the local community. The class also recognises the importance of small, isolated shops in meeting the day to day shopping needs of local communities, particularly in rural communities, large residential estates, and outside main shopping areas generally. This provides some protection for such shops while placing those shops found on high streets and town centres in the new 'commercial' class.

The residential (C classes), general industrial (B2) and storage and distribution (B8) use classes remain unchanged.

The former A4 Drinking establishments and A5 Hot food takeaway use classes have been removed. We recognise that changes of use to or from these uses can give rise to important local considerations, for example to ensure that local pubs can be protected or to prevent the proliferation of hot food takeaways. We have therefore, included these uses in the list of uses which are specifically identified in the Use Classes Order (see Article 3(6)) as uses which do not

now fall within any use class. We have also taken this approach with cinemas, concert, dance and bingo halls which fell within the former D2 use class. This ensures that any change of use to or from these uses requires planning permission, ensuring greater control over these uses.

While these reforms to the use classes are primarily designed to help support vibrant, mixed use town centres, they apply to all uses of land and buildings, in town centres and elsewhere, across England.

Separate to use classes, the Secretary of State has powers to grant planning permission by development order for specified development. These national permitted development rights as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) are deregulatory and remove the need for a full planning application. There are a number of existing permitted development rights which grant planning permission allowing changes of use between the former use classes. Transitional provisions retain the effect of these rights until 31 July 2021 based on the use classes that were in place prior to the regulations to amend the Use Classes Order coming into force. The current consultation <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure> seeks views on the approach to consolidating and simplifying these existing permitted development rights. Amendments will be made to existing permitted development rights via separate secondary legislation, and the impacts of such changes will be assessed separately.

Monetised and non-monetised costs and benefits of each option

Monetised Benefits

Planning Applicant Savings

Applicants will benefit from no longer being required to submit any planning applications for change of use within the newly created class E. For buildings formerly in class B1, D1 and D2, this will remove the requirement to submit a full planning application. For buildings formerly in classes A1, A2, A3, this will remove the requirement to receive prior approval in certain cases. In other cases, such as a change from A3 to A1 for example, this will have no impact.

This represents a reduction in transaction costs, including a reduction in fees and the administrative burden in the preparation of a full planning application. They will also benefit from being able to change the use of their buildings, particularly underused buildings, so that they can be brought back into effective use.

The resource, time and fee cost of a full planning application can vary for the applicant. For estimating the total costs incurred to the applicant when making an application, a range of values have been used to illustrate the possible span of benefits which applicants may gain from the policy.

The 2009 report ***Benchmarking the costs to applicants of submitting a planning application***¹, finds that a change of use application takes “between a couple of days and a week of (applicant) time”. The average hourly wage of those individuals required to complete the planning application is £19.99². It is assumed that a day of work is 7.4 hours because this is the 10-year average of actual hours of work for full-time workers³. Accounting for non-labour costs,

¹ Department for Communities and Local Government (July 2009), *Benchmarking the costs to applicants of submitting a planning application*, <https://webarchive.nationalarchives.gov.uk/20100519232001/http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplcation.pdf>

² ONS (October 2019), *Annual Survey of Hours and Earning*, Table 15.5a.

³ ONS (November 2020), *Average actual weekly hours of work for full-time workers (seasonally adjusted)*. Figure adjusted for wage growth.

removing the requirement to submit a planning application would save the applicant between £355.53 and £888.82 per planning application in 2020.

In other cases, the change to Use Classes Order will remove the requirement for prior approval in respect of a permitted development right. Prior approval applications are a simplified version of planning applications. They focus on the key planning issues associated with particular types or location of development identified in the regulations. At their simplest they require factual information such as names, addresses, contact details and a description of the proposal. The prior approval application must be accompanied by plans and drawings and any necessary information relevant to the prior approval matters. However, the information developers have to provide should have already been researched and prepared as part of the work to bring forward the proposal. For example, developers would have site plans and architects' drawings as part of the preparation for their scheme, so where it is required as a matter for prior approval there is no further work involved. It is therefore expected that much of this information will already be available from the scheme development work i.e. is not additional for the prior approval process.

For those applications which previously required prior approval only, we can therefore assume that up to half a day would be taken up from completing the prior approval form, depending on the detail of the proposal. Using the same assumptions on hours of work and hourly wage as above, this will therefore benefit the applicant with £17.78 to £88.88 worth of time savings in 2020. These time savings benefits can then be profiled over time by using OBR wages and salaries growth parameters⁴. See Annex A for detail.

Local Authority Benefits

Local authorities may benefit from this policy due to the reduction in administrative costs required for the planning process as a result of having fewer planning applications.

Planning-related fees were introduced so that users of the planning system, rather than taxpayers in general, meet the costs incurred by local planning authorities in determining planning applications. As of 11th November 2020, the fee charged for a full planning application for the change of use is £462⁵. For change of use prior approvals under permitted development rights, the fee is £96⁶. The change of use from shops (A1) to financial and professional services (A2), was previously provided for by a permitted development right that did not attract a fee.

For this analysis, we assume that the reduction in planning fee revenue fully offsets the benefit of having to review fewer planning applications. In reality, the cost of development management activities by local planning authorities is to a large extent covered by planning fees, but the current fee structure means the cost of processing some applications can be greater than their individual fee. Therefore, it is likely that the benefit of reviewing fewer planning applications and prior approvals in fact exceeds the cost from the reduction in planning fee revenue. However, without a national benchmarking exercise, it is not possible to formulate a robust assumption on the extent to which this is the case. Therefore, it is assumed here that this cost and this benefit are equal. This means this analysis will underestimate the benefit of this policy to local planning authorities.

The private sector benefits from no longer paying this fee.

⁴ OBR (July 2020), Fiscal sustainability report.

⁵ The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017, <https://www.legislation.gov.uk/uksi/2017/1314/regulation/2/made>

⁶ Ministry for Housing, Communities and Local Government (September 2020), Fees for planning applications, <https://www.gov.uk/guidance/fees-for-planning-applications#fees-for-specific-application-types>

Estimate of change in applications numbers

The total monetised benefits will depend on the above and on the change in number of planning applications and prior approvals. The number of change of use applications by use class is not centrally recorded although there is data on the total number of change of use “full” planning applications. The change of use planning applications numbers account for those changes of use where a) a full planning application is made, b) where the size of the development is less than 1 hectare, c) where no building or engineering work is involved. These numbers will therefore account for some of the changes explored in this impact assessment. However, this is a very broad scope and would include between uses that are not the subject of this assessment, for example to general industrial uses.

In addition, the Ministry of Housing, Communities and Local Government records the hectares of land that has changed use. An observation on land use change is not the same as a planning application. Each observation may represent a single premise or a number of co-joined premises. However, in the absence of data on change of use applications we have assumed that each observation of land use change at LSOA level reflects one change of use planning application. This means an application might be counted twice if it straddles several LSOAs and we may omit applications where there are several in one LSOA. Nevertheless, this is a small enough area that it is reasonable to make this assumption, especially considering lack of better data.

By using both these datasets, it is possible to formulate an assumption to then estimate the change in number of planning applications and prior approvals. The table below summarises the land use change categories useful here and their planning requirement before the change in legislation.

From	To	Former planning requirement
Leisure and recreational buildings	Offices	Planning application
Leisure and recreational buildings	Retail	Planning application
Offices	Leisure and recreational buildings	Planning application
Offices	Retail	Planning application
Retail	Leisure and recreational buildings	Prior Approval
Retail	Offices	Prior Approval

It is important to note that these categories do not align entirely with the former or new use classes. This may not capture all the elements of D1 which are moving to use class E. The leisure and recreation building category will partly capture these changes, but some changes might fall into the community buildings category. At the same time however, leisure and recreation may capture some buildings which are not included in use class E and the community buildings category would capture many other changes which are not pertinent to this analysis. Because better data is not currently available, it has been assumed for this analysis that the changes from buildings not accounted for in the offices, retail, and leisure and recreational land use change categories are offset by the changes included in these categories which do not fit in the newly created use class E.

Looking at historic data, the count of land use change observations at LSOA level which required a planning application in the table above averaged 48% of the reported number of change of use planning applications. If it is assumed there is a link between the number of change of use planning applications and prior approvals, then for those changes which required prior approval, this is 49%. These proportions can be applied to forecasts of planning

applications to understand the number of planning applications and prior approvals which would have occurred without the change in legislation, and therefore the change in the number of planning applications and prior approvals caused by this change in legislation.

Analysis of the relationship between applications and GDP growth suggests there is a cyclical relationship between applications and GDP growth. In light of this we have adopted a one-to-one relationship between GDP growth and change of use planning applications. This treatment is consistent with the methodology used in Impact Assessment DCLG12029, DCLG1401, and RPC14-FT-CLG-2147(2) Revised previously validated by the Regulatory Policy Committee. See Annex B for detail on the forecasted number of planning applications and prior approvals avoided from the change in legislation.

Benefits

Total benefits of this change in legislation can then be derived by multiplying the change in number of planning applications and prior approvals by the time savings and the fee savings. Over the ten-year period from 2020 to 2030, it is expected that this change in legislation will deliver £96.6 – £165.2 million of benefits, with a central estimate of £130.9 million. See Annex C for breakdown of benefits per annum.

Total benefits in 2019 prices, 2020 present value is therefore £128.3 - £186.3 million, with a central estimate of £157.3 million.

As noted above however, it is assumed that the local authority benefit of having to review fewer planning applications is equal to the reduction in planning fee revenue. In reality, this benefit may be greater the loss of fee revenue meaning this analysis may underestimate the benefits of this policy.

Monetised Costs

This measure is deregulatory, reducing or removing planning costs, and will not create a cost to business. Local authorities will lose the planning fees although this will be fully offset by the benefit of the reduction in administrative costs as a result of having fewer planning applications to consider. It is estimated that this reduction in planning fees to developers will amount to £46.2 million (2019 prices, 2020 present value).

Non-Monetised Benefits

The primary aim of the reforms is to support vibrant, mixed use high streets and town centres. Under the previous system, certain planning applications for change of use might have been refused. With the 2020 changes to the Use Classes Order, applicants are no longer required to submit an application in more cases and therefore the change of use may proceed. Communities may therefore benefit from greater choice and convenience from having a wider range of services and facilities located in the same area.

In addition, communities may benefit from more high street and town centre premises being repurposed rather than left vacant with the corresponding impact that has on the amenity of the area. This may improve public enjoyment of an area and may increase footfall, with resulting benefits to the local economy and other neighbouring businesses.

Businesses (commercial property owners and businesses) will benefit from increased planning certainty and reduced planning requirements on the premises that will no longer require planning permission to change use. This allows for business owners to better align their risk profiles and bring forward new uses for buildings that may otherwise have been delayed or

abandoned. Savings include staff costs of formulating applications, development potential research costs. The increased planning certainty will lead to a reduction in the need to appeal against refusal of permission, bringing further savings in some cases. These benefits will favour small and medium sized businesses who will have less restrictions on what type of business they run from a particular premises.

The introduction of the F2 Local Community use class will help to protect uses that the community values such as local halls, and places for outdoor recreation. In particular, it provides protection for small, isolated shops selling essential goods, such as that may be found in rural areas, by constraining their ability to change to other uses only within this smaller use class. A planning application would be required for the change of use from a small, isolated shop

Non-Monetised Costs

There may be externalities imposed on the local community. For instance, building occupiers may suffer a loss in amenity and an increase in noise from neighbouring change of use, on which they will not have the opportunity to comment. This could include an increase in traffic and parking, and different opening hours.

Building owners may opt to change use without the need for a planning application, displacing existing uses from operating in that building. There is therefore potential for a negative impact on individual businesses which might be lost through change of use to more profitable uses. Furthermore, by allowing commercial premises to switch to more productive uses, the opportunity cost of not switching rises. Commercial rents may increase to reflect this opportunity cost.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);

Data available for monetising costs is very limited. The number of change of use applications by use class is not centrally recorded. The Ministry of Housing Communities and Local Government does record the overall total number of change of use planning applications and the hectares of land which have changed use however. These datasets have therefore been used in combination to provide an estimate of the relationship between total planning applications and change of use planning applications and prior approvals. In doing so, it is possible to estimate the direct impact of this change in legislation - the reduction in applications and prior approvals and therefore the time and money saved by applicants. There may be instances where this enables businesses to change to more profitable uses. However, this is far too uncertain to attempt to estimate. Similarly, external costs and benefits (e.g. amenity) may be derived from this change, but it is impossible to estimate with any degree of confidence what these may be in monetary terms.

Risks and assumptions;

The options are modelled using the number and cost of applications for each development type by using categories used in Land Use Change Statistics as proxy indicators for Use Class Orders. An observation on land use change is not the same as a planning application. Each observation may represent a single premise or a number of co-joined premises. Nevertheless, the Land Use Change data used for this analysis is broken down to the LSOA level which have an average population of 650 households. This is a small enough area to have a reasonable

degree of confidence in the estimated benefits. This does however mean that this analysis may underestimate the benefits of this policy.

The table below presents the planning requirement removed from change between these land uses.

From	To	Former planning requirement
Leisure and recreational buildings	Offices	Planning application
Leisure and recreational buildings	Retail	Planning application
Offices	Leisure and recreational buildings	Planning application
Offices	Retail	Planning application
Retail	Leisure and recreational buildings	Prior Approval
Retail	Offices	Prior Approval

As noted above, there is not an exact match between these categories and former or new use classes. It is worth noting that these Land Use Change categories may not capture all the elements of D1 which are moving to use class E. The leisure and recreation building category will partly capture these changes, but some changes might fall into the community buildings category. At the same time however, leisure and recreation may capture some buildings which are not included in use class E and the community buildings category would capture many other changes which are not pertinent to this analysis. Because better data is not currently available, it has been assumed for this analysis that the changes from buildings not accounted for in the land use change categories included in the table above are offset by the changes included in these categories which do not fit in use class E.

It is also assumed that the number of planning applications made in the counterfactual increase in line with economic growth. This treatment is consistent with the methodology used in Impact Assessment DCLG12029, DCLG1401, and RPC14-FT-CLG-2147(2) Revised previously validated by the Regulatory Policy Committee.

Further assumptions:

- The number of working hours in a day is assumed to be 7.4 because this is the 10-year average actual daily hours of work for full-time workers⁷. The time it takes to prepare and submit a planning application is therefore 14.8 to 37 hours. For prior approval, this is 0.7 to 3.7 hours.
- The fee charged for planning applications and prior approval does not increase over time. Planning fees are set in legislation and any change in fee would require an amendment to the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2012, as amended.
- Furthermore, it is assumed that this fee fully covers the cost of planning application review by the local authority. In reality, the cost of development management activities by local planning authorities is to a large extent covered by planning fees, but the current fee structure means the cost of processing some applications can be greater than their individual fee. Therefore, it is likely that the benefit of reviewing fewer planning applications and prior approvals in fact exceeds the cost from the reduction in planning fee revenue. However, without a national benchmarking exercise, it is not possible to formulate a robust assumption on the extent to which this is the case. Therefore, it is

⁷ ONS (November 2020), Average actual weekly hours of work for full-time workers (seasonally adjusted).

assumed here that this cost and this benefit are equal. This means this analysis will underestimate the benefit of this policy to local planning authorities.

Direct costs and benefits to business calculations (following BIT methodology); (2019 Prices, 2020 Base Year)

Businesses will enjoy an annual equivalent benefit of £12.9 million per year. This constitutes the savings that arise from not preparing and submitting planning applications and prior approvals for change of use between uses now within class E, and the savings from not paying the fee.

Wider Impacts

The changes to the Use Classes Order are deregulatory. Businesses will have greater freedom to adapt and diversify their business, thus helping them to remain viable as market conditions change. This is because restricting change of use between existing buildings by requiring an applicant to seek consent introduces a transaction cost. This transaction cost increases the generalised cost of changing the use of an existing building. As costs are higher than the costs of the non-planning work, some building owners will be deterred from making a switch to a more productive use. Reducing or removing this barrier therefore presents an opportunity to enable more efficient use of the building stock.

Furthermore, there is a significant body of literature demonstrating that removing regulatory restrictions on markets can have a positive impact on competition⁸. Better competition could encourage firms to deliver benefits to customers in terms of lower prices, higher quality and more choice. Therefore, by removing this restraint on competition, the government may support productivity and economic growth.

In a COVID-19 context, granting businesses more flexibility will make it easier for commercial properties to adapt. COVID-19 and the resulting public health measures have led to a collapse of demand for goods and services in the UK economy. Consumer-facing services such as retail, travel, hotels, and restaurants were disproportionately hit during the first national lockdown⁹ and high streets across the country have suffered. Reducing barriers to change the use of a building may help businesses survive by entering a different market, for instance by switching from a restaurant to a shop or to a gym. However, it is reasonable to expect in many cases that this change of use will displace customers from other similar businesses. This is because the current public health restrictions limit the changes of use which could be viable, and retail is a high displacement sector. In a COVID-19 context, this change in legislation is therefore expected to have a positive albeit low additional impact.

Communities could be negatively impacted if local amenities or shops are lost to other uses through these reforms. This impact has been mitigated by excluding uses which are particularly important to communities, such as small isolated shops and community halls, schools and libraries, from the greater flexibility to change use introduced by these reforms. This means that these types of use will be better protected through the planning system, including in suburban and rural areas.

In addition, where there are uses which give rise to important local considerations, for example, to ensure local pubs and theatres are protected or to prevent the proliferation of hot food takeaways or betting shops, such changes of use will be subject to full consideration through the planning application process.

⁸ For a review of the literature please see CMA (2015), Productivity and Competition: a review of the evidence.

⁹ ONS (December 2020), Coronavirus (COVID-19) roundup.

Nevertheless, by removing the need for planning permission for some types of development, local authorities will lose the opportunity to consider such development in the context of their local plans. Local authorities and communities are less able to effectively manage the high street or town centre. Viable or valued shops or other services in key locations may change use, leaving already empty premises in less desirable areas vacant. Building occupiers may suffer a loss in amenity from neighbouring additional development, on which they will not have the opportunity to comment. This could include, for example, an increase in traffic and parking, or a change to opening hours.

Small and Micro Business Assessment SaMBA

Many sectors are affected by this change to legislation. The sectors likely to be most affected are retail trade (except of motor vehicles and motorcycles), food and beverage service activities, high-street offices such as real estate, financial services or travel agencies. The human health activity sector may also be affected, but this may be to a lower extent. According to the 2020 BEIS Business Population Estimates¹⁰, a strong majority of businesses in these sectors have fewer than 50 full-time equivalent employees, qualifying them as small or micro businesses.

This measure will be beneficial to businesses that will be able to change their operating model in response to market conditions. This may be especially beneficial to small and micro businesses. It is therefore not appropriate to provide exemption or mitigation for these businesses.

Impacts on Local Authorities

Local planning authorities will benefit from having to determine fewer planning applications or prior approval applications for changes of use. This will save time and resources which can be used elsewhere. However, this benefit will be offset by the reduction in fees received from planning applications and prior approvals which are assumed to offset the costs of determination. This is because planning-related fees were introduced so that users of the planning system, rather than taxpayers in general, meet the costs incurred by local planning authorities in deciding planning applications.

A brief qualitative summary of the potential trade implications of measure.

This is a domestic policy and is unlikely to impact on trade or investment. We expect that the majority of businesses benefitting will be UK businesses. By increasing commercial activity, any impacts on trade would be expected to be positive. This measure does not impact any World Trade Obligations.

Monitoring & Evaluation

This measure will be monitored as part of the Government's package of planning reforms to support economic recovery. The Government set out in its ***Planning for the future*** white paper, proposals to transform the planning system to make it simpler, quicker and more accessible, and more certain for developers. The consultation ran for 12 weeks, closing 29 October. The Government will now require time to analyse responses to the consultation, before responding. Against this background of economic recovery and wider planning reform, a specific review clause for this measure has not been included.

¹⁰ BEIS (2020), Business Population Estimates - <https://www.gov.uk/government/statistics/business-population-estimates-2020>

Annex A – Time savings per application (nominal)

Savings per planning application	Unit	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Prior approval - Low	£	18.14	18.77	17.78	17.30	18.59	19.41	20.21	20.98	21.77	22.60	23.46	24.35
Prior approval - High	£	90.68	93.86	88.88	86.48	92.97	97.06	101.04	104.88	108.86	113.00	117.29	121.75
Full application - Low	£	362.73	375.43	355.53	345.93	371.87	388.24	404.15	419.51	435.45	452.00	469.18	487.00
Full application - High	£	906.82	938.56	888.82	864.82	929.68	970.59	1,010.38	1,048.78	1,088.63	1,130.00	1,172.94	1,217.51

Annex B – Forecast of planning applications

	Unit	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
		2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
GDP growth	%	-14.3	4.6	5.4	3.3	2.5	2.3	2.3	2.3	2.3	2.3
Planning applications received	Applications	363,905	380,645	401,200	414,439	424,800	434,571	444,566	454,791	465,251	475,952
of which change of use	Applications	17,095	17,882	18,847	19,469	19,956	20,415	20,884	21,365	21,856	22,359
Full applications avoided	Applications	8,280	8,661	9,129	9,430	9,666	9,888	10,115	10,348	10,586	10,829
Prior approvals avoided	Prior approvals	8,332	8,715	9,186	9,489	9,726	9,950	10,179	10,413	10,652	10,897

Annex C – Estimated benefits to business (nominal)

		Unit	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
			2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2030
Lower bound	Time savings	£m	3.1	3.1	3.6	3.8	4.1	4.4	4.6	4.9	5.2	5.5	42.4
	Fee savings	£m	4.6	4.8	5.1	5.3	5.4	5.5	5.7	5.8	5.9	6.0	54.1
	Total savings	£m	7.7	8.0	8.7	9.1	9.5	9.9	10.3	10.7	11.1	11.6	96.6
Upper bound	Time savings	£m	8.1	8.2	9.3	10.1	10.7	11.4	12.1	12.9	13.7	14.5	111.1
	Fee savings	£m	4.6	4.8	5.1	5.3	5.4	5.5	5.7	5.8	5.9	6.0	54.1
	Total savings	£m	12.7	13.1	14.4	15.3	16.1	16.9	17.8	18.7	19.6	20.6	165.2
Best estimate	Time savings	£m	5.6	5.7	6.5	7.0	7.4	7.9	8.4	8.9	9.4	10.0	76.7
	Fee savings	£m	4.6	4.8	5.1	5.3	5.4	5.5	5.7	5.8	5.9	6.0	54.1
	Total savings	£m	10.2	10.5	11.6	12.2	12.8	13.4	14.0	14.7	15.4	16.1	130.9

Appendix H – South Tyneside Appeal Decision





Appeal Decision

Site Visit made on 31 March 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2021

Appeal Ref: APP/A4520/W/20/3263803

Tanfastic, Ellison Street, Jarrow NE32 3UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Saleem Hakim (Townglow Ltd) against the decision of South Tyneside Council.
 - The application Ref ST/0398/20/FUL, dated 9 June 2020, was approved on 7 October 2020 and planning permission was granted subject to conditions.
 - The development permitted is change of use of land to form hand car wash, construction of additional storey on existing tanning salon to provide tanning salon to first floor and reception and welfare and waiting to ground floor.
 - The condition in dispute is No 5, which states that:
Notwithstanding the provisions of Schedule 2, Part A Commercial, Business and Service, Class E Commercial, Business and Service of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order(s) revoking or re-enacting the order with or without modification) or any development order that may be made after the date hereof granting any planning permission (unconditionally or subject to conditions as may be specified in the order) as permitted development, the unit hereby approved identified as unit 2 on the approved plan 'Drawing number 20.2866-05 Rev G' received on 18/09/2020 shall be used for no other purpose than as a tanning salon.
 - The reason given for the condition is:
The Local Planning Authority would wish to carefully examine any alternative use(s) of Unit 2, to safeguard the vitality and viability of the existing town and district shopping centres and other local neighbourhood centres in accordance with the requirements of Policy SC2 of the South Tyneside Local Development Framework and the National Planning Policy Framework.
-

Decision

1. The appeal is allowed and the planning permission Ref ST/0398/20/FUL for change of use of land to form hand car wash, construction of additional storey on existing tanning salon to provide tanning salon to first floor and reception and welfare and waiting to ground floor at Tanfastic, Ellison Street, Jarrow NE32 3UH granted on 7 October 2020 by South Tyneside Council is varied by deleting condition 5.

Background and Main Issue

2. The appeal site is a former petrol station and comprises an extensive hard surfaced area and a single storey building, now in use as a tanning salon. Planning permission has been granted for a change of use of the site to a mixed use of tanning salon and hand car wash with the construction of a first floor above the building. The drawings indicate that the waiting and welfare facilities for the car wash would occupy a proportion of the ground floor of the building (Unit 1), with the tanning salon at ground and first floor (Unit 2).

3. The Council considers that both the tanning salon and hand car wash fall within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (UCO).
4. In short, condition 5 of the planning permission restricts the use of Unit 2 to a tanning salon only, such that planning permission would be required for any change to another use within Class E of the UCO.
5. The appellant seeks to remove this condition on the basis that it does not meet the tests for conditions set out within paragraph 55 of the National Planning Policy Framework (the Framework) and in Planning Practice Guidance (PPG)¹.

Main Issue

6. In light of the above, the main issue is whether or not condition 5 meets the tests for the use of conditions contained in the Framework and in the PPG.

Reasons

7. The reason for imposing condition 5 refers to safeguarding the vitality and viability of the Jarrow Town Centre, as required by Policy SC2 of South Tyneside's Local Development Framework Development Management Policies (2011).
8. The appeal site lies outside the Jarrow Town Centre and is allocated for A2/B1 use classes under Policy J4 in the Councils' Central Jarrow Area Action Plan (2010). It is significant that the former A2 and B1 use classes now fall within Class E of the UCO, so the condition is potentially restricting some uses that have been deemed acceptable in principle for the site and to which a change would not otherwise constitute development requiring planning permission.
9. I do recognise that in the absence of condition 5, Unit 2 could, without planning permission, change to a wider range of commercial, business and service uses within Class E. This includes what could be considered main town centre uses. However, as the Council places a tanning salon within Class E, then it is already the case that the existing use of the building could change to another use within Class E, which would have a similar effect. I attach substantial weight to this position.
10. Moreover, I am particularly mindful that the clear intention of the recent changes to the UCO is to make it easier for all of the uses within Class E to seamlessly change without needing planning permission, regardless of location. That this could lead to Class E uses outside town centres is not in itself justification for the condition because the implications have been considered nationally in the regulations. It is reasonable to contend that if greater control was desired outside town centres then the regulations would reflect this. In any event, at some 164m² in floor space, Unit 2 is not large. The Council has not presented any evidence to demonstrate how and why its use for any other purpose within Class E would be harmful to the viability and vitality of the Jarrow Town Centre.
11. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development (PD) rights unless there is clear justification to do so. The PPG also advises that conditions restricting the

¹ Paragraph:003 Reference ID: 21a-003-20190723

future exercise of PD rights and conditions restricting future changes of use may not pass the test of reasonableness or necessity². For the reasons above, I conclude that condition 5 is not reasonable, or necessary and therefore, does not meet the relevant tests in the Framework and PPG. Accordingly, condition 5 should be deleted.

Other Matters

12. Interested parties have raised highway safety concerns in relation to the car wash. However, those matters were before the Council when it granted the planning permission and I note that there was no objection from the local highway authority. On the evidence before me and my own observations, I have no reason to form a different view.

Conclusion

13. For the reasons given above, I conclude that the appeal should succeed and that the planning permission should be varied by deleting condition 5.

A Caines

INSPECTOR

² Paragraph:017 Reference ID: 21a-017-20190723

Appendix I - Location of other tanning salon uses in Hillingdon



Appendix H: Tanning Salons in Hillingdon

Tanning Salons in Hillingdon within Town Centres

Below is a list of Tanning Salons within designated Town Centres in Hillingdon:

- Tan & Beauty Aesthetics
39 High St, Ruislip HA4 7AU
Located within Ruislip Town Centre, as identified in the Local Plan Part 2 Proposals Map (adopted 16 January 2020).
- Bronze Tanning & Beauty Salon Ltd
8 Victoria Rd, Ruislip HA4 0AA
Located within Ruislip Manor Town Centre, as identified in the Local Plan Part 2 Proposals Map.
- Sun Central
77 Victoria Rd, Ruislip HA4 9BH
Located within Ruislip Manor Town Centre, as identified in the Local Plan Part 2 Proposals Map.
- LoveU – Can walk in, better to book it
129 High St, Uxbridge UB8 1JX
Located within Uxbridge Town Centre, as identified in the Local Plan Part 2 Proposals Map.
- Spray Tan & Massage SPA – Have to book appointment
Armstrong House, Uxbridge UB8 1GJ
Located within Uxbridge Town Centre, as identified in the Local Plan Part 2 Proposals Map.
- Sunkissed
142 High St, West Drayton UB7 7BD
Located within Yiewsley/West Drayton Town Centre, as identified in the Local Plan Part 2 Proposals Map.

Tanning Salons in Hillingdon not within Town Centres

Whilst not in a designated Town Centre, below is a list of Tanning Salons that are in a commercialised area, surrounded by other commercial and local retail facilities.

- The Beach House Salon
29 High St, Harefield, Uxbridge UB9 6BX



Source: Street View

- Tanalize Tanning Salon
261 Field End Rd, Ruislip HA4 9NJ



Source: Street View

- Harley Street – Beauty and Tanning
57 Swakeleys Rd, Ickenham, Uxbridge UB10 8DG



Source: Street View

- Supertan Studio
15 Station Approach, Ruislip HA4 6RU



Source: Street View

- Sunrise Tanning Salon Orange Special
499 Yeading Ln, Northolt UB5 6LN



Source: Street View

- Glitz & Glamour
1298 Uxbridge Rd, Hayes End, Hayes UB4 8JG



Source: Street View

Appendix J - LPA application ref:
72422/APP/2021/3867 supporting Officer Report



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

Report of the Head of Planning, Transportation and Regeneration

Address FORMER FRANKIE & BENNY'S UNIT 5 OLD DAIRY LANE RUISLIP

Development: To confirm whether the host site falls within Use Class E and that the proposed tanning salon can lawfully occupy the unit (Certificate of Lawful Development for a Proposed Use).

LBH Ref Nos: 72422/APP/2021/3867

Drawing Nos: EFE-01
LP-01
Covering Letter

Date Plans Received: 15/10/2021 **Date(s) of Amendment(s):**

Date Application Valid: 18/10/2021

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the proposed development described above in respect of the land edged red on the attached plans for the following reasons:

The proposal involves a change of use from restaurant (use class E as detailed in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) to tanning salon. Insufficient evidence has been submitted by the applicant to demonstrate that a tanning salon would fall within use class E of the Order. Therefore the Local Planning Authority considers that a tanning salon would fall within the sui generis use class. As such, the proposal is considered to constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) and the proposed change of use is not one which is permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore, the proposal would result in the subdivision of a planning unit that would be considered to constitute development under Section 55 of the Town and Country Planning Act 1990 (as amended). The proposal therefore requires full planning permission.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 Planning Considerations

Application Site:

The subject unit forms part of a wider redevelopment site that provides a foodstore with ancillary cafe and ancillary petrol filling station, cinema, 5 x restaurant units and residential units, together with vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.

The host unit is considered to have a lawful restaurant use. The uses were previously

under Class A3.

The site is within a critical drainage zone with the area to the front within a surface water flood zone.

Planning History:

73596/APP/2021/2058 - Alterations to shopfront to include the introduction of an additional set of doors and two new signage areas - Approved 13/08/2021

66819/APP/2021/1206 - Non-material amendment to planning consent 66819/APP/2015/3653 dated 09-02-16 for the Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works. The amendments to the planning consent comprise of the sub division of Unit 5 to create 2 units and associated external shopfront alterations - Refused 07/05/2021 for the following reasons:

1. The proposed works constitute development under Sec 55 of the Act and require an application for full planning permission. The proposed subdivision of unit 5 to create an additional commercial unit and the associated works does not constitute a non-material amendment under section 96A TCPA 1990. The potential impacts therefore need to be considered against development plan policies.

66819/APP/2015/3653 - S73 application seeking variation of conditions 2 (approved plans) and 3 (approved documents) of planning permission ref. 66819/APP/2014/1600 dated 24th December 2014 for: Redevelopment of the site to provide a foodstore with ancillary cafe (Class A1) and ancillary petrol filling station, cinema (Class D2), 5 x restaurant units (Class A3), and residential development consisting of 132 units, together with new vehicle and pedestrian accesses, car parking, servicing areas, landscaping arrangements, and other associated works.

Changes sought:

- 1) Increase of total units on the site from 132 to 163 and associated design/ elevation changes.
- 2) Changes to the approved Energy Strategy.

Applicants Case:

The Applicant has provided the following case to support their submission:

1. Covering Letter
2. Appeal Decision (APP/A4520/W/20/3263803) - Tanfastic, Ellison Street, Jarrow NE32 3UH

An application for a certificate of lawfulness (proposed used) has been submitted to confirm that the host site is within the new use Class E and that the proposed use of a Tanning Salon can lawfully occupy part of unit 5 - 'no.5A' without the need to change the use. The submitted covering letter considers that the subject unit falls within Class E despite acknowledging that tanning salons were previously held to be sui generis use class.

The applicant considers that the 'Tanning salons commonly occupy retail and secondary

retail areas, alongside commercial, business and service uses. They are clearly appropriate to such locations and, as such, will not fall within Use Class E. Accordingly, the current and proposed use of Unit 5 now fall within Class E.'

Under Class E, the applicant quotes the following in reaching the decision that the proposed/intended use of a tanning salon would fit within the following criteria:

"(c) for the provision of the following kinds of service principally to visiting members of the public -

(iii) any other services which it is appropriate to provide in a commercial, business or service locality"

An appeal decision (APP/A4520/W/20/3263803) - Tanfastic, Ellison Street, Jarrow NE32 3UH was submitted during the course of the application. This was decided on 12/04/2021 and within the timeframe of when the use class orders was amended, namely Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (UCO).

It is evident that the existing tanning salon and hand car wash was the use of the particular appeal site. Under paragraph 3 of the appeal decision, South Tyneside Council were of the view that the existing uses fell within Class E. However, this is the view of this particular council and the appeal decision was not to determine the use class of the subject site and was purely regarding the imposition of condition 5 of the attached permission to that particular site. In the decision, whilst appreciating the content of paragraph 3, the Inspector does not discuss or query the existing and proposed use of that particular site. As such, the decision is not weighted highly during the consideration of this application.

The onus is on the applicant to robustly demonstrate that the proposed tanning salon would fit within the criteria of Class E. As mentioned by the applicant, the proposed use was previously under sui generis use. Officers consider that the proposed and intended use of part of the host unit would not fall within use class E and would require planning permission for the change of the use. Satisfactory evidence has not been put forward to demonstrate that the functioning and operation of the proposed/intended use would fit within the criteria of Class E. In any event, officers do consider that the proposed/intended use would fall within sui generis use.

Furthermore, it would appear that the proposal would result in the subdivision of a planning unit, whereby the LPA has previously advised in its decision on application 66819/APP/2021/1206 that the subdivision and associated physical alterations would constitute development under S55 of the Town and Country Planning Act and would require planning permission. A subsequent planning application relating to shop front alterations did not include a change or use/subdivision and it is noted the 'red line' on the relevant location plan related only to the shop front.

Recommendation: The application for a Lawful Development Certificate (Proposed Use) is refused.

3.0 Relevant Planning History

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