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## Appeal Decision

Site visit made on 17 June 2019

**by Chris Baxter BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 July 2019**

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**Appeal Ref: APP/R5510/W/19/3225693**

**106 High Street, Ruislip HA4 8LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Morefit Limited t/a More Yoga against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref 57788/APP/2018/4056, dated 16 November 2018, was refused by notice dated 24 January 2019.
  - The development proposed is described as "Proposed change of use from Class A1 retail to mixed Class A1/D2 Yoga Studio at 106 High Street, Ruislip HA4 8LS."
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The appellant's name is stated as Mr Shamir Sidhu on the appeal form. However, since the application form states the applicant is Morefit Limited t/a More Yoga, I have proceeded with the appeal on this basis.

### Main Issue

3. The main issue is the effect of the proposal on the viability and vitality of the primary shopping area of the Ruislip Town Centre.

### Reasons

4. The appeal site lies within the primary shopping area of Ruislip Town Centre. Policy S11 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies 2012 (HLP) therefore applies. This policy allows a range of uses, falling within class A1, A2 and A3, to be granted permission in the primary shopping area providing that the remaining retail facilities are adequate to accord with the character and function of the shopping centre and to provide for the needs of modern retailing including consumer interests. The proposal is for a mixed class A1 and D2 use, with the majority of the proposed floorspace taken up by the D2 use. The proposal would therefore be contrary to Policy S11 of the HLP.
5. The supporting text to Policy S11 of the HLP states that primary areas appear to be vulnerable if Class A1 shops form less than 70% of the total frontage length and the Local Planning Authority will therefore seek to maintain at least 70% of the primary area frontage in Class A1 use and generally to avoid concentrations of service uses in both primary and secondary areas.

6. There have been numerous sets of information submitted by the Council and the appellant to determine the number of units in retail use within the primary shopping area. The Council have referred to the Ruislip Shopping Survey 2016 (RSS) from which they consider 53.4% of the primary shopping area to be in A1 use. The appellant considers the RSS to be outdated and flawed in its methodology. The appellants statement of case details figures relating to A1 frontage lengths which provide numerous percentage figures in the 60's and a 71.8% figure. The appellant also provides a survey which indicates that 75.3% of the units in the primary shopping frontage are in Class A1 use. There are large differences between the Council survey and the appellants survey and none of the submitted information presented provides a clear understanding of the number of units in retail use within the primary shopping area. From the evidence before me, and the considerable disparities between the submitted information, I am not convinced that there is at least 70% of the primary shopping frontage in Class A1 use.
7. The appellant has submitted a letter from a retail marketing agent along with marketing particulars. This letter indicates that the premises has been marketed since July 2017 with the marketing particulars sent to various commercial property agents. The letter and marketing particulars however do not provide dates and duration of the advertising and there is no clear evidence that the site has been actively marketed since July 2017. The letter indicates that a flexible approach has been taken to approach all types of retailers however only negative feedback has been received. None of this negative feedback has been submitted, and there are no details of any offers or interest from prospective tenants or buyers. I note that the premises has been vacant for around 18 months and a 'To Let' board was erected at the site, however, it has not been demonstrated that there is no realistic prospect of the entire unit being used for A1 retail purposes in the foreseeable future.
8. I have had regard to the appellants statement of case including appendix A which details the range of products provided by the business. The appellant states that there are no similar uses in the locality and the proposal would encourage footfall in the area and have an active frontage. No evidence has been submitted however, which convinces me that the proposed use would encourage footfall to a similar level as the entire premises being in a A1 retail use.
9. The proposal would bring benefits in terms of employment opportunities and contribute towards improving health and well-being in the community. No local objections have been raised and the site is well served by public transport. The proposal would not have any adverse effects on the character or appearance of the conservation area, living conditions of neighbouring occupiers or on highway safety. I have also had regard to the appellants suggestion for a condition for the premises to revert back to an A1 use should the business vacate the premises. These matters however would not outweigh the harm I have identified above.
10. My attention has been directed to appeal decisions<sup>1</sup>. These decisions do predate the Councils RSS 2016 and therefore conclusions are based on different survey data. In any case, I have determined this appeal on its own merits.

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<sup>1</sup> Appeal references: APP/R5510/A/13/2206163 and APP/R5510/W/15/3130772

11. Accordingly, the proposal would have a harmful effect on the vitality and viability of the primary shopping area of the Ruislip Town Centre. The proposal would be contrary to Policy S11 of the HLP and Policies 2.15 and 4.9 of the London Plan 2016 which seek to sustain and enhance the vitality and viability of town centres.
12. The appellant has stated that the proposal would be in compliance with Policy S6 of the HLP. A copy of this policy has not been submitted. Nevertheless, I still find that the proposal would not be in accordance with Policy S11.

### **Conclusion**

13. I conclude that for the reasons given above, the appeal should be dismissed.

*Chris Baxter*

INSPECTOR