

Report of the Head of Planning & Enforcement Services

Address 7 NESTLES AVENUE HAYES

Development: Part retrospective change of use from Class B8 (Storage and Distribution) to use as a higher educational college.

LBH Ref Nos: 49059/APP/2011/2790

Drawing Nos: AB-004 Rev. A (site plan proposed) received 06-12-11
Design and Access Statement received 16-11-11
AB-005 (unauthorised floor plan as implemented) received 16-11-11
AB-001 (Location Plan and proposed floor layouts) received 16-11-11
Transport Statement received 17-11-11
Travel Plan received 17-11-11
Supplemental Planning Statement (including appendices 1-4) received 24-2-2012

Date Plans Received: 16/11/2011 **Date(s) of Amendment(s):**

Date Application Valid: 05/12/2011

DEFERRED ON 6th March 2012 FOR SITE VISIT .

The application was deferred from 6 March 2012 Planning Committee to allow members to undertake a site visit ahead of determining the application.

A site visit was subsequently undertaken in April 2012.

Since the application was deferred from the Central & South Planning Committee in March the National Planning Policy Framework (NPPF) has been published which is a material planning consideration with respect to this scheme. Of specific policy relevance are sections of the following paragraphs from the NPPF:

Paragraph 19: "Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 21: "Investment in business should not be over-burdened by the combined requirements of planning policy expectation.

Paragraph 22: Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

In the opinion of officers, the NPPF is worded such that it can be considered more supportive of the scheme than existing UDP policy.

It is noted that matters relating to cycle storage are dealt with via recommended condition 10 and disabled access via condition 17. Subject to the recommended conditions approval is still recommended.

The Fire Brigade have been consulted on the application and to date no response has been received (Note: They did not respond within the requested 21 days despite officers chasing. An comments will be reported through the Committee addendum).

1. **SUMMARY**

The application which is part-retrospective, seeks the change of use of an existing building within the Nestles Avenue Industrial and Business Area (IBA) from warehouse (Use class B8) with associated office space to an educational building within use class D1.

The application is a re-submission following a previous refusal for the same use. The scheme was refused on 3 grounds. The 1st reason of refusal concerned the proposed use was not compatible in planning policy terms with a designated Industrial and Business Area, the 2nd reason was because the scheme risked neutralising adjacent sites for industrial use and the 3rd reason based on highway grounds as the Transport Statement submitted with the original application failed to demonstrate the scheme would not have an adverse impact upon the road network and to the on-street car parking in the surrounding streets compared to the demands associated with the established B8 use for the site.

The resubmission has provided a substantive Transport Statement and Planning Statement including evidence of active marketing of the site for industrial since 2005/2006.

The Council Highway Engineer considers the applicant has demonstrated the use will not result in unacceptable car parking or the highway network problems, therefore addresses the 3rd reason of refusal.

The documentation provided with the resubmission provides convincing evidence that despite active marketing of the site for over 5 years the building has failed to find an occupier for industrial/warehouse purposes. The documentation also shows that the design and layout of the building (with its unusual share of ancillary office space compared to actual warehouse floor space) does not lend itself fit for purpose as a modern warehousing facility, combined with its proximity to residential properties lying opposite (thereby constraining general industrial use on residential amenity grounds) means the site provides an adequate justification that the educational use proposed meets the exceptions tests for change of use from industrial use within a designated Industrial Business Area, as laid out in Policy LE2 of the Saved Policies of the Unitary Development Plan and London Plan 2.17 and the material paragraphs 4.11 - 4.13 of the Mayor of London's Supplementary Planning Guidance (SPG): Industrial Capacity.

Accordingly in view of these planning policy considerations and with the positive benefits a higher education college provides in terms of bringing employment and income to the local economy of Hayes it is considered the scheme addresses the previous reasons of refusal and is recommended for approval, subject to relevant planning conditions.

2. **RECOMMENDATION**

APPROVAL subject to the following:

1 OM1 **Development in accordance with Approved Plans**

The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the

Local Planning Authority.

REASON

To ensure that the external appearance of the development is satisfactory and complies with Policy BE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

2 NONSC Non Standard Condition

The total number of students at the college shall not exceed 500 and no more than 300 students shall be in attendance at the site at any one time. The total number of staff shall not exceed 35 full-time equivalents. An up to date copy of the student and staff roll shall be maintained on site and be made available to view by officers of the Council on request

REASON

To prevent the generation of additional traffic that could give rise to problems of highway and pedestrian safety, traffic congestion and car parking stress on the surrounding roads, in compliance with Policies AM7(ii) and AM14 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

3 SUS6 Green Travel Plan

The development shall be implemented in accordance with the submitted and approved Travel Plan.

REASON

To promote sustainable transport and reduce the impact of the development on the surrounding road network in accordance with London Plan (July 2011) Policies 6.1 and 6.2

4 E3 Use Within Same Use Class

The premises shall be used for a higher educational teaching college and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987). In the event the use of the site as a higher educational teaching college ceases, then the use of the site shall revert back to that of Class B8 (Storage and Distribution).

REASON

To protect the character and amenities of surrounding properties and residents in the local area and to comply with Policies BE19 and OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

5 A16 Refuse and Open Air Storage

Within 3 months of the date of this permission details of on-site refuse storage (including any open air storage facilities) for waste material awaiting disposal, including details of any screening, shall be indicated on plans to be submitted to and approved by the Local Planning Authority. Within 3 months of the discharge of this condition the storage facilities shall be implemented in accordance with the approved plans.

REASON

To ensure that surrounding residents amenity is not prejudiced and to comply with Policies OE1 and OE13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

6 NONSC Non Standard Condition

All deliveries including waste collection to and from the premises shall be restricted to 08:00 and 19:00 Monday to Friday and between the hours of 10:00 and 16:00 on Saturdays. No waste collection or deliveries shall be allowed on Sundays, Bank or Public Holidays.

REASON

To protect the character and amenities of surrounding properties and residents in the local area and to comply with Policies BE19 and OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

7 HLC3 Hours of Use

The use of the premises hereby approved shall be restricted to the following 08:00 and 19:00 Monday to Friday and between the hours of 10:00 and 16:00 on Saturdays. The premises shall not be opened to the public (including students of the college) on Sundays, Bank or Public Holidays.

REASON:

To ensure that the amenity of the occupiers of adjoining or nearby properties is not adversely affected in accordance with Policy OE3 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

8 H6 Car parking provision - submission of details

Within 3 months of this permission details of the revised parking arrangements shall be submitted to and approved in writing by the Local Planning Authority; and the development shall not be occupied until the approved arrangements have been implemented. Disabled parking bays shall be a minimum of 4.8m long by 3.6m wide, or at least 3.0m wide where two adjacent bays may share an unloading area.

REASON

To ensure that adequate facilities are provided in accordance with Policies AM14, AM15 and the parking standards as set out in the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

9 H14 Cycle Storage - details to be submitted

Within 3 months of the date of this permission details of 30 covered and secure cycle stands/storage lockers, changing facilities, lockers and showers for users of and visitors to the development shall be submitted to and approved in writing by the Local Planning Authority. The approved cycling facilities including showers and changing rooms shall be implemented within 3 months of the discharge of this condition and shall be permanently retained for use by cyclists.

REASON

To ensure the provision and retention of facilities for cyclists to the development and hence the availability of sustainable forms of transport to the site in accordance with Policy AM9 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 6 of the London Plan. (July 2011).

10 OM14 Secured by Design

The development hereby approved shall incorporate measures to minimise the risk of

crime and to meet the specific security needs of the application site and the development. Within 3 month of the date of this permission details of security measures shall be submitted and approved in writing by the Local Planning Authority. Any security measures to be implemented in compliance with this condition shall reach the standard necessary to achieve the 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO). The approved Secure by Design measures shall be implemented within 3 months of the discharge of this condition and thereafter retained.

REASON

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in excising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000, to reflect the guidance contained in the Council's SPG on Community Safety By Design and to ensure the development provides a safe and secure environment in accordance with London Plan (July 2011) Policies 7.1 and 7.3

11 NONSC Non Standard Condition

Within 3 months of the permission an Energy Statement shall be submitted and improved by the local planning authority demonstrating adequate measures taken to save energy and the use of on-site renewable energy. Within 6 months of the discharge of this condition the energy saving measures as detailed in the Energy Statement shall be implemented.

Reason

To comply with the principals of Policy 5.2 of the London Plan (July 2011).

12 NONSC Non Standard Condition

Within 3 months of the date of this permission, a Management Plan for the use of the site shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall include details as to how the following matters will be managed to prevent adverse impacts:

- i) Parking allocation and control
- ii) Use of external areas by staff and students
- iii) Measures to prevent noise break out and anti social behaviour
- iv) Refuse areas
- v) Servicing and deliveries to/from the site
- vi) How student and staff numbers will be managed and controlled
- vii) Emergency evacuation plan, including evacuation of disabled persons from the site in emergencies.

There after the development shall be carried out in strict accordance with the approved Management Plan.

REASON

To ensure that the use of the site does not result in adverse impacts on residential amenity, parking or highways issues and to ensure compliance with policies AM7, AM14 and OE1 of the Hillingdon Unitary Development Plan September 2007

13 N2 Noise-sensitive Buildings - use of sound insulation

Within 3 months of the date of this permission a sound insulation scheme for protecting

the proposed development from noise from occupants of neighbouring premises and the MOT business at No 7 Nestles Avenue shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of the discharge of this condition the sound insulation measures shall be implemented in full and thereafter shall be retained and maintained in good working order for so long as the building remains in use.

REASON

To ensure that the amenity of the occupiers of the proposed development is not adversely affected by noise from the MOT centre in accordance with policy OE5 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (July 2011) Policy 7.15

14 N11 Control of plant/machinery noise

The rating level of noise emitted from the plant and/or machinery forming part of the proposed scheme shall be at least 5 dB below the existing background noise level. The noise levels shall be determined at the nearest residential property. The measurement for assessment shall be made in accordance with British Standard 4142 Method for rating industrial noise affecting mixed residential and industrial uses.

REASON

To safeguard the amenity of the surrounding area in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (July 2011) Policy 7.15

15 NONSC Non Standard Condition

Unless otherwise agreed in writing by the Local Planning Authority, no antenna, masts, poles, satellite dishes or the like shall be erected on top of any of the buildings hereby approved.

REASON

To ensure that apparatus does not detract from the visual amenities of the area in accordance with Policy BE37 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

16 DIS2 Access to Buildings for People with Disabilities

Within 3 months of the date of this permission details of access to the building entrances and internally to the class rooms, lecture rooms and other general educational facilities (to include ramped/level approaches including appropriate signposting, types and dimensions of door widths and lobby openings) to meet the needs of people with disabilities to be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be implemented within 3 months of the discharge of this condition and shall be permanently retained thereafter.

REASON

To ensure that people with disabilities have adequate access to the development in accordance with Policies R16 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and London Plan (July 2011) Policies 3.1, 3.8 and 7.2

17 DIS3 Parking for Wheelchair Disabled People

Within 3 month of the date of this permission details of parking provision for wheelchair users, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be implemented within 3 months of the discharge of this condition, and thereafter these facilities shall be permanently retained.

REASON

To ensure that people in wheelchairs are provided with adequate car parking and convenient access to building entrances in accordance with Policy AM13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

18 TL3 Protection of trees during site clearance and development

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

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

REASON

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

19 TL5 Landscaping Scheme - (full apps where details are reserved)

Within 3 month of the date of this permission a landscape scheme providing full details of hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The scheme shall include: -

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

The scheme shall also include details of the following: -

- Proposed finishing levels or contours,
- Means of enclosure,
- Car parking layouts,
- Other vehicle and pedestrian access and circulation areas,
- Hard surfacing materials proposed,
- Minor artefacts and structures (such as play equipment, furniture, refuse storage, signs,

or lighting),

- Existing and proposed functional services above and below ground (e.g. drainage, power cables or communications equipment, indicating lines, manholes or associated structures),
- Retained historic landscape features and proposals for their restoration where relevant.

REASON

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

20 TL6 Landscaping Scheme - implementation

All hard and soft landscaping shall be carried out in accordance with the approved landscaping scheme and shall be completed within the first planting and seeding seasons following the completion of the development or the occupation of the buildings, whichever is the earlier period. The new planting and landscape operations should comply with the requirements specified in BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs' and in BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. Thereafter, the areas of hard and soft landscaping shall be permanently retained.

Any tree, shrub or area of turfing or seeding shown on the approved landscaping scheme which within a period of 5 years from the completion of development dies, is removed or in the opinion of the Local Planning Authority becomes seriously damaged or diseased shall be replaced in the same place or, if planting in the same place would leave the new tree, hedge or shrub susceptible to disease, then the planting should be in a position to be first agreed in writing with the Local Planning Authority in the next planting season with another such tree, shrub or area of turfing or seeding of similar size and species unless the Local Planning Authority first gives written consent to any variation.

REASON

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

21 TL7 Maintenance of Landscaped Areas

Within 3 month of the date of this permission a schedule of landscape maintenance for a minimum period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.

REASON

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

22 OM15 General Litter/Waste

Within 3 month of the date of this permission a scheme detailing the method of disposal, storage and collection of litter and waste materials, generated by the business and/or discarded by patrons, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a description of the facilities to be provided and the

methods for collection of litter within and in the vicinity of the premises. The approved refuse and recycling facilities shall be implemented within 3 months of the discharge of this condition, and retained thereafter.

REASON

To ensure that adequate provision is made for the disposal of litter and waste, in the interests of maintaining a satisfactory standard of amenity in the locality, in accordance with Policy OE1 of the Hillingdon Unitary Development Plan Saved Plans (September 2007).

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to APPROVE 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 APPROVE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (July 2011) and national guidance.

LE2	Development in designated Industrial and Business Areas
LE4	Loss of existing industrial floorspace or land outside designated Industrial and Business Areas
R10	Proposals for new meeting halls and buildings for education, social, community and health services
BE13	New development must harmonise with the existing street scene.
BE19	New development must improve or complement the character of the area.
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
OE1	Protection of the character and amenities of surrounding properties and the local area
OE5	Siting of noise-sensitive developments
OE13	Recycling facilities in major developments and other appropriate sites
AM14	New development and car parking standards.
AM7	Consideration of traffic generated by proposed developments.
AM9	Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities
AM13	AM13 Increasing the ease of movement for frail and elderly people and people with disabilities in development schemes through (where appropriate): - (i) Dial-a-ride and mobility bus services (ii) Shopmobility schemes (iii) Convenient parking spaces (iv) Design of road, footway, parking and pedestrian and street

R16	furniture schemes Accessibility for elderly people, people with disabilities, women and children
LPP 2.17	(2011) Strategic Industrial Locations
LPP 4.4	(2011) Managing Industrial Land & Premises

3 I18 Storage and Collection of Refuse

The Council's Waste Service should be consulted about refuse storage and collection arrangements. Details of proposals should be included on submitted plans. For further information and advice, contact - the Waste Service Manager, Central Depot - Block A, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB8 3EU (Tel. 01895 277505 / 506).

4 I15 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with: -

A) Demolition and construction works should only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank and Public Holidays.

B) All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228: 1984.

C) The elimination of the release of dust or odours that could create a public health nuisance.

D) No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit, 3S/02, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel.01895 277401) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

5

In discharging the planning conditions in respect of access arrangement the following matter should be addressed

1. The classroom layout as shown on plan are cramped and therefore not desirable. Wheelchair users should be facilitated to gain unhindered access to all teaching environments, and empowered to interact with their peers on an equal basis, without potential embarrassment whilst classrooms are re-organised.

2. Wheelchair user spaces within the Lecture Theatre should be staggered to allow wheelchair users choice over where they sit, and to remain with their peers.

3. All learning activities should be accessible to disabled students and equipment should be designed to accommodate a diverse range of access requirements.

4. Alarm system should be designed to allow deaf people to be aware of an activation. Such provisions could include visual fire alarm activation devices, and/or a vibrating paging system linked to the alarm control panel.

5. Consideration should be given to ensure that arrangements exist to provide adequate means of escape for all, including wheelchair users. Fire exits should incorporate a suitably level threshold and should open onto a suitable level area.

3. CONSIDERATIONS

3.1 Site and Locality

The application site forms part of No 7 Nestle Avenue site, that is located on the northeast corner of Nestles Avenue and Viveash Close, Hayes. The application site consists of a warehouse building that includes an 2 storey industrial office space that fronts Nestles Avenue with a less distinguished double height warehouse space to the rear. The site lies within an Industrial and Business Area as designated by the Unitary Development Plan. This main frontage of the industrial building to Nestles Avenue and the reception area internally is of attractive 1920's or 1930's period design. The main frontage of the warehouse faces on the opposite side of Nestles Avenue individual residential houses.

There are currently 11 car parking spaces on site including 1 designated for a disabled person.

3.2 Proposed Scheme

The application is a part retrospective application for a change of use of the site from warehouse use (B8) to an educational college (D1) for the education of adults in higher level education level courses. The non-retrospective element of the scheme relates to change of use of an existing storage area of 165sqm at ground floor level into a proposed exam room, additional classroom and set of toilets for the existing unauthorized D1 use. The applicant (the College of Accountancy and Management Studies) provide a range of graduate, post graduate and diploma level full time courses on the site in academic subjects including management studies, accountancy, tourism and hospitality. All the courses are fully accredited with the appropriate professional and educational examination bodies. Presently over 95% of the students come from overseas. The applicant has advised they anticipate this will switch to a ratio of 9:1 home (UK passport) students in a few years following the tightening of legislation with respect to educational establishments receiving overseas students.

The proposed site plan provides scope to modify the car park layout to provide 15 car parking bays including 1 designated for a wheelchair user.

3.3 Relevant Planning History

49059/APP/2006/1040 7 Nestles Avenue Hayes

CHANGE OF USE FROM WAREHOUSE (CLASS B8) TO CONFERENCE AND BANQUETING CENTRE (CLASS D1)

Decision: 30-05-2006 Refused

49059/APP/2006/1996 7 Nestles Avenue Hayes

CHANGE OF USE FROM WAREHOUSE (CLASS B8) TO MOTOR VEHICLE REPAIR AND MOT TESTING (CLASS B2 - GENERAL INDUSTRIAL) AND INSTALLATION OF ROLLER SHUTTER AND INTERNAL ALTERATIONS.

Decision: 01-11-2006 Withdrawn

49059/APP/2007/428 7 Nestles Avenue Hayes

CHANGE OF USE OF PART OF 7 NESTLES AVENUE FROM CLASS B8 TO MOTOR VEHICLE REPAIR AND MOT TESTING (B2) WITH INSTALLATION OF ROLLER SHUTTER DOOR.

Decision: 16-04-2007 Approved

49059/APP/2011/945 7 Nestles Avenue Hayes

Part change of use from Class B8 (Storage and Distribution) to Class D1 (Non-Residential Institutions) for use as an educational college (Part Retrospective)

Decision: 05-08-2011 Refused

49059/B/96/1515 7 Nestles Avenue Hayes

Internal alterations to provide enlarged office area and new display area, external alterations to provide new doors and windows, and two new external fire escape staircases and formation of two vehicular crossovers, together with additional car parking provision

Decision: 19-03-1997 Approved

Comment on Relevant Planning History

49059/APP/2011/945 - Part retrospective change of use from Class B8 (Storage and Distribution) to Class D1 (Non- Residential Institutions) for use as an educational college. The application was refused on 5 August 2011 based upon the following reasons:

1. The application site falls within the Nestles Avenue Industrial and Business Area and is designated as a Strategic Industrial Location in the London Plan. The proposal would result in an unacceptable loss of employment land contrary to Policy LE2 of the Hillingdon Unitary Development Plan Saved Policies September(2007), Policy 4.4 of the London Plan (July 2011) and recommendations within the Council's Employment Land Study (July 2009).
2. The position of sensitive land uses, including an educational teaching establishment, adjacent to industrial units could affect the ability of the Nestles Avenue Industrial and Business Area to function effectively, neutralising existing industrial uses within the estate. The proposal is therefore contrary to Policy LE2 of the Hillingdon Unitary Development Plan Saved Policies September(2007), Policy 4.4 of the London Plan (July 2011) and recommendations within the Council's Employment Land Study (July 2009).
3. The applicant has failed to provide a robust Transport Impact Assessment that demonstrates the change of use to an educational college scheme will not have an adverse impact on highways safety, traffic congestion or amenity due to the volume of traffic movement on the surrounding streets or a resultant increase in on-street car

parking on neighbouring residential streets contrary to OE1, AM7 and AM14 of the Hillingdon Unitary Development Plan Saved Policies September (2007).

49059/APP/2007/428 - Change of use of part of No 7 Nestles Avenue from Class B8 to motor vehicle repair and MOT Testing (B2) with installation of roller shutter doors. Approved 16-04-2007

49059/B/96/1515 - Internal alterations to provide enlarged office area and new display area, external alterations to provide new doors and windows, and two new external fire escape staircases and formation of two vehicular crossovers, together with additional car parking provision. Approved 19/03/97

49059/APP/2006/1040 - Change of Use from warehouse (Class B8) to conference and banqueting centre (Class D1). Refused 30-05-2006

4. Planning Policies and Standards

UDP / LDF Designation and London Plan

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

Part 1 Policies:

PT1.23 To encourage industry and warehousing to located within existing Industrial and Business Areas and offices and other business uses, shops and public buildings employing or attracting large numbers of people to located within Town Centres or other areas identified for such purposes.

Part 2 Policies:

LE2 Development in designated Industrial and Business Areas

LE4 Loss of existing industrial floorspace or land outside designated Industrial and Business Areas

R10 Proposals for new meeting halls and buildings for education, social, community and health services

BE13 New development must harmonise with the existing street scene.

BE19 New development must improve or complement the character of the area.

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

OE1 Protection of the character and amenities of surrounding properties and the local area

OE5 Siting of noise-sensitive developments

OE13 Recycling facilities in major developments and other appropriate sites

AM14 New development and car parking standards.

AM7 Consideration of traffic generated by proposed developments.

AM9 Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities

AM13 AM13 Increasing the ease of movement for frail and elderly people and people with

disabilities in development schemes through (where appropriate): -
(i) Dial-a-ride and mobility bus services
(ii) Shopmobility schemes
(iii) Convenient parking spaces
(iv) Design of road, footway, parking and pedestrian and street furniture schemes

R16 Accessibility for elderly people, people with disabilities, women and children
LPP 2.17 (2011) Strategic Industrial Locations
LPP 4.4 (2011) Managing Industrial Land & Premises

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **29th December 2011**

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Consultation letters were sent to 25 neighbouring owner/occupiers. No written responses were received. The Hayes Conservation Area Advisory Panel were consulted and Cross London Rail Links Ltd.

A 31 signature petition in support of the application has also been received, however the petition does not indicate the reasons for supporting the application.

Hayes Conservation Area Advisory Panel comments:

The applicant has now provided the information that we had noted as missing from the previous planning application. We are convinced by the data presented that the proposed use of the building will not be detrimental to the residential area adjacent to the site. We therefore have no objection to the application.

London Fire Brigade: No response received to date.

Internal Consultees

PLANNING POLICY TEAM:

The key policy issues in relation to Nestle's Avenue and the Bulls Bridge Industrial Business Area (IBA) are as follows:

1. The London Plan

The site forms part of the Hayes Industrial Area Preferred Industrial Location (PIL) and is subject to the provisions of London Plan Policy 2.17: Strategic Industrial Locations. This policy states that development proposals in these areas should be refused unless they fall within; a broad industrial type, form part of a process to consolidate SILs through Opportunity Area Planning Frameworks, are for employment workspace to meet the needs for small and medium sized enterprises (SMEs) or the proposal is for a small-scale, walk-to service (such as a cafe, creche etc).

2. London Borough of Hillingdon Unitary Development Plan Saved Policies 2007

The site is within the Nestle's Avenue/Bulls Bridge IBA and is therefore subject to the well-rehearsed provisions of policy LE2 in the LBH UDP Saved Policies. This policy states that IBAs are designated for industrial and warehousing purposes (B1-B8) and for appropriate sui generis uses. Other uses will not be permitted unless it can be demonstrated that:

- There is no realistic prospect of the land being used for industrial or warehousing purposes in the future; and
- The proposed alternative use does not conflict with the policies and objectives of the plan; and
- The proposal better meets the plan's objectives in relation to affordable housing and economic regeneration.

3. London Borough of Hillingdon Employment Land Study 2009

The Employment Land Study (ELS) was produced in 2009 as an evidence base study for the emerging LBH Core Strategy. It concludes that there is an oversupply of industrial land and that 17.58 hectares across the borough could be released for other uses.

The ELS examined each of the IBAs to determine those with potential to release land for other uses. In relation to the Nestle's Avenue/Bulls Bridge IBA, it is recommended that all land should be retained for employment uses and that the site in its entirety should be redesigned as a Locally Significant Employment Area (LSIS). The relevant extract reads:

Nestle's Avenue 8.90: The Nestle's Avenue IBA is a successful IBA with relatively few vacancies. However the western end of Nestle's Avenue is currently occupied by a number of storage companies, which provide very low levels of employment but attract a lot of traffic along the narrow, part residential Nestle's Avenue. The proximity of the site to Hayes Station could make this an ideal location for a mixed-use development which optimises the land use. However until existing nearby schemes are built out a change to the Nestle's Avenue designation is not envisaged/proposed.

Recommendation 14

8.91 The site should be designated as a Locally Significant Industrial Location and be merged with the Bulls Bridge site to the east along North Hyde Gardens. The combined area should continue to be considered as part of the Hayes Industrial Area Preferred Industrial designation as the site continues to perform an important industrial and warehousing function for both large and small businesses.

Land loss: 0

Land gain: 0

Existing Employment: 455

Potential employment generation: 2,000+

(NB the study can be viewed at: <http://www.hillingdon.gov.uk/index.jsp?articleid=18038>)

4. London Borough of Hillingdon Core Strategy

Paragraph 5.11 in the Core Strategy, associated with policy E1 identifies locations for managed release of employment land. The Nestle's Avenue site is not identified as such a location.

HIGHWAY ENGINEER:

The college has a total student enrolment of 452 pupils. The transport statement claims that through time tabling and course scheduling there are no more than half of this total at the college at any one time.

The staff total is 46, but only 15 of these are full-time and the remaining 31 part-time staff attend only for specific courses.

A survey of college users, based on the above, and including an automatic traffic count over a period of 7 days (7 October to 23 October 2011) reveals that as an average over 3 days 90% travel by walking or public transport and with a maximum number of 7 cars parked in the car park at any time

Conclusion: Based on Transport Statement no objections are raised to the level of trip generation or the demand for on site parking subject to a planning condition limiting the student enrolment to not more than 500.

A draft travel plan is submitted with the application. Were Council minded to approve scheme a condition is required to ensure its compliance with Transport for London guidance.

15 cycle parking spaces are provided, with a proviso through the travel plan, to increase to 43, the number required to meet our standard, as demand dictates. Were approved a condition is required to ensure that the cycle parking is in a covered and secured area.

CONSERVATION & URBAN DESIGN TEAM: -

No objection it is considered that this application will not effect the character or appearance of the adjacent conservation area.

The building is of some architectural merit as a good example of a 1920/30s style industrial building. It also forms one of a group of very similar buildings fronting Nestle Avenue and sits very comfortably with the adjacent Nestle Factory Buildings, which form the focus of the Botwell Nestles Conservation Area. As a group it may be possible to consider these buildings for inclusion in the Local List and also when the opportunity arises, to look at whether the boundary of the conservation area should be extended to include them.

In the interim, the continued occupancy of the building by a ongoing commercial enterprise would help secure its future and safeguard the setting of the adjacent conservation area, by lessening the threat of possible proposals for wholesale redevelopment of the site.

ACCESS OFFICER:

The Equality Act 2010 seeks to protect people accessing goods, facilities and services from direct discrimination on the basis of a protected characteristic, which includes those with a disability. As part of the Act, service providers are obliged to improve access to and within the structure of their building, particularly in situations where reasonable adjustment can be incorporated with relative ease. The Act legally entitles disabled pupils and students to learn in an environment which is barrier free and where discriminatory practices have been eliminated.

A well-designed environment greatly assists with developing policies, practices and procedures that encourage inclusion of disabled people and reduce the possibility of inadvertent discrimination.

In the absence of a comprehensive Design & Access Statement, the following comments are provided under guidance of Part M to the Building Regulations 2004 and BS 8300:

1. Accessible car-parking bays should be sited within 50m of the entrance. The parking bays should be signed Accessible Parking, not Disabled.

2. Accessible parking bays should be a minimum of 4.8m x 2.4m and otherwise marked and signed in accordance with BS 8300.
3. A suitable access route to the building should be provided from the car parking area. Paths forming access routes should be a minimum of 1.5m clear wide, no steeper than 1:20 (unless designed as a suitable ramp), non-slip, well lit and clearly defined using texture and visual contrasts. Paths should include suitable dropped kerbs at key crossing points.
4. The principal entrance should be made accessible, either by regrading the external levels or by introducing ramped access. The installation of an automatic or power assisted doors should be strongly considered to allow ease of movement by disabled students and visitors.
5. The entrance doors should provide a minimum clear opening of 1000mm, for a single leaf door, or 1800mm for a double doorset. However, the installation of an automatic door opening device would likely eliminate the need to alter the existing entrance.
6. The principal entrance door should be provided with a glazed panel giving a zone of visibility from a height of 500mm to 1500mm from the finished floor level.
7. The internal ramp (as shown in the supplied photographs) leading to the reception desk appears not to comply with the requisite standards. Moreover, it is considered to be unsafe, particularly in context to a public environment. The ramp constitutes a trip hazard, features no upstand to prevent a wheelchair user from rolling off the edge, and the entire area provides no guard rails or handrails as required by regulations.
8. An assisted listening device, i.e. infra-red or induction loop system, should be fitted to serve all reception areas.
9. Seating of varying heights should be provided and sited within close proximity to the reception, as appropriate.
10. All signage for directions, services or facilities should be provided in a colour contrasting with the background. Signage and lighting levels should be consistent throughout the building and care taken to avoid sudden changes in levels.
11. Internal door widths should provide a minimum clear opening width of 750mm to facilitate adequate access for wheelchair users. Internal doors should also have 300mm unobstructed space to the side of the leading edge. Any new internal doors should provide an effective clear opening width of 800 mm.
12. Internal doors should be held open using fire alarm activated magnetic closers whilst the building is in use.
13. Consideration should be made to ensure that curriculum activities taking place above ground floor level can be accessed by disabled students. This may require the installation of a lift, or, for classes to be located on the ground floor.
14. The principles of access and inclusion should be carried through to all teaching and 'backstage' staff areas to promote employment opportunities for disabled people. Similarly, resting, recreation and fitness facilities should also be fully accessible.
15. Alarm system should be designed to allow deaf people to be aware of an activation. Such provisions could include visual fire alarm activation devices, and/or a vibrating paging system linked to the alarm control panel.

16. Consideration should be given to ensure that arrangements exist to provide adequate means of escape for all, including wheelchair users. Fire exits should incorporate a suitably level threshold and should open onto a suitable level area.

17. A refuge area should be provided that is suitably sized and arranged to facilitate manoeuvrability by wheelchair users (Refer to BS 9999: 2008). Refuge areas must be adequately signed and accessible communication points should also be provided in the refuge areas.

18. An evacuation plan should be drawn up to ensure that those unable to use stairs can be sure of escape.

PLANNING OFFICER COMMENT:

It is considered the access issues raised can be appropriately handled by planning condition.

LAND CONTAMINATION OFFICER:

The above site is located on a former National Filing Factory followed by a government buildings development. There is nothing to indicate the ground will be disturbed or new amenity areas created. If minded to approve you may want to include informative of the former use in respect of possibility of land contamination.

EPU:

The following comments should be take into consideration and where necessary conditions imposed if the application is considered for approval.

The application site is within a mixed residential and industrial area and there may be concerns about possible noise impacts. The Traffic Impact Assessment submitted as part of the scheme considers the potential traffic noise impact of the college on residential properties especially on the other side of Nestles Avenue. I note from the location that the proposed building forms a Barrier Block (BB) which itself constitutes a noise barrier between the residents and the industrial area. EPU therefore would not be requiring further noise impact assessment for the proposed scheme given the context, size and location of the proposed scheme. However, to ensure that the amenity of residents are afforded reasonable protection from any residual noise, the following conditions should be imposed in any approval granted.

Condition 1 - N11B Noise affecting residential property

The rating level of noise emitted from the plant and/or machinery forming part of the proposed scheme shall be at least 5 dB below the existing background noise level. The noise levels shall be determined at the nearest residential property. The measurements and assessment shall be made in accordance with British Standard 4142 Method for rating industrial noise affecting mixed residential and industrial areas

Condition 2 - Hours of operation

The use of the premises hereby approved shall be restricted to 8.00 and 19.00 Monday to Friday, and between the hours of 10.00 and 16.00 on Saturdays. The premises shall not be opened to the public on Sundays and Bank Holidays.

Condition 3 - Deliveries/waste collection

All deliveries including waste collection to and from the premises shall be restricted to the following

hours 0800 to 1800 on Monday to Friday, and 0800 to 1600 on Saturday. No waste collections or deliveries shall be allowed on Sundays, Bank or Public Holidays.

Add a standard Construction Site Informative:

TREES/LANDSCAPE OFFICER:

Landscape Context:

The site is occupied by a storage and distribution warehouse at the junction of Viveash Close and Nestles Avenue within the Squirrels Trading Estate. There is a car park and separate pedestrian entrance, off Nestles Avenue, which is screened by an established hedge of Laurel on the south and west boundaries and Beech on the east boundary. There is a fine specimen Lime tree within a paved /amenity area at the west end of the site. This tree is contemporary with a number of other Limes planted on neighbouring sites which form an avenue along the north side of Nestles Avenue. The scale of the 1930 s industrial buildings and the associated soft landscape complement the residential properties on the opposite side of the road and the Botwell / Nestles Conservation Area to the east.

Proposal:

The proposal is a re-submission and part-retrospective to change the use from storage and distribution to educational. The application form fails to note the presence of the trees and hedges on the site. The Design and Access Statement refers to the small amenity area but makes no reference to the existing trees or other soft landscape features.

Landscape Considerations:

Saved policy BE38 seeks the retention and utilisation of topographical and landscape features of merit and the provision of new planting and landscaping wherever it is appropriate.

- Drawing No. AB-004 Proposed Site Plan , dated 29/04/2011, indicates 20No. parking spaces in front of the building. The amenity space around the existing Lime tree has been reduced in order to accommodate the car parking. No existing or proposed planting is indicated.

- The above drawing has been superseded by drawing No.AB-004 Issue A Proposed Site Plan which proposes 14No. car park spaces and indicates the retention of the Lime tree. It is not clear whether the boundary hedge will be retained as part of this layout and an ornamental shrub border in front of the building appears to have been removed.

- A landscape management / maintenance plan should be submitted to ensure that the landscape is established and maintained in accordance with good practice.

RECOMMENDATIONS:

No objection, subject to clarification about the areas of retained / proposed landscape. If this is acceptable, conditions TL3, TL5, TL6 and TL7 should be applied.

PLANNING OBLIGATIONS OFFICER:

Following consultation with specialist officers no s106 required.

SUSTAINABILITY OFFICER:

I have no objections to the proposed development.

As an educational facility is likely to use a larger proportion of energy than a B8 use we would like to

see some evidence that the applicant will consider energy in their reuse of the site.

I would therefore request that the applicant submits an energy statement that considers the principals of Policy 5.2 of the London Plan if not the specific targets. I would expect the statement to demonstrate measures to reduce energy consumption and improve the performance of the building where possible.

This should be conditioned as part of any subsequent approval.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The site is located within the UDP as Nestles Avenue/Bulls Bridge Industrial and Business Area (IBA). The site is also within the London Plan (July 2011) designated as part of the Hayes Industrial Area Preferred Industrial Location (PIL) and is subject to the provisions of London Plan Policy 2.17: Strategic Industrial Locations.

The London Plan Policy states that development proposals in these areas should be refused unless they fall within; a broad industrial type, form part of a process to consolidate SILs through Opportunity Area Planning Frameworks, are for employment workspace to meet the needs for small and medium sized enterprises (SMEs) or the proposal is for a small-scale, walk-to service (such as a cafe, creche etc.).

Located within an IBA Policy LE2 of the Unitary Development Plan Saved Policy applies and this Hillingdon planning policy states that land within these IBA areas should only be used for business, industrial and warehousing purposes, unless:-

- (i) there is no realistic prospect of the land being used for these purposes in the future; and
- (ii) the proposed alternative use does not conflict with the other policies of the plan; and
- (iii) the proposal better meets the plans objectives, particularly in relation to affordable housing and economic regeneration.

Further specific guidance on this matter of change of use is provided within the Mayor of London's Supplementary Planning Guidance (SPG): Industrial Capacity, which sets out at paragraphs 4.12 - 4.13 the criteria exception criteria which must be met in order to justify a change to an inappropriate use within an IBA.

The following points within the SPG: Industrial Capacity are of particular relevance:

'4.12 Land use criteria, including whether a site: (v) is part of a larger area of existing industrial activity, or area designated for industrial protection, where re-designation of the industrial site would alter the industrial character of the area or inhibit the operations of nearby industrial uses'; and

'4.13 Demand based criteria including whether a site

(i) has been adequately marketed through a commercial agent at a price that reflects market value for industrial use for a reasonable period (normally at least two years) and with potential for industrial redevelopment where this is required to meet the needs of industrial users;

(ii) has been vacant for a considerable period (normally at least two years, and up to five years in areas of generally strong demand), without realistic prospect of industrial re-use.'

The applicant has provided additional evidence within planning statements since the determination of the original refusal of marketing of the site. The site that has been vacant since its acquisition in 2005/6 and evidence has been provided that it has been actively marketed since that date without success.

The commentary to Policy LE2 states that the size and layout of existing remises will also be taken into account. The planning statement provided in respect of the current application states this is relevant to the application site in respect of the second previous reason for refusal namely that the position of sensitive land uses, including an educational teaching establishment, adjacent to industrial units could affect the ability of the Nestles Avenue Industrial and Business Area to function effectively, neutralising existing industrial uses within the estate.

The application is a retrospective one and the applicant notes there is no evidence that the use has impacted upon the other Class B2 uses (MOT centre) operating in the remainder of Unit 7. No objection to the application has been received from the owners of the MOT business (or indeed from any other neighbouring industrial unit within the designated IBA).

In view of all these material considerations coupled with the proximity of residential properties curbing heavy industrial use; the lack of success in letting the site by the current owners of the site despite, active marketing since 2005/2006 when the current owners took ownership of the site; and the lack of any evidence suggesting the educational establishment is compromising/undermining the good functioning of the physically conjoined MOT centre (or vice versa, the MOT centre causing noise or other forms of nuisance and disruption to the unauthorised educational establishment) it is considered the applicant has demonstrated the use (a) does not neutralise the existing uses on the site or beyond, and (b) the site complies with exception criteria (i) and (ii) within Policy LE2 and Paragraph 4.13 of the Mayor's Supplementary Planning Guidance.

Accordingly given the unique set of circumstances at the site and the benefits the application provides in bringing employment to the area and income into the local economy through students & staff expenditure in local shops and businesses and by providing a higher educational establishment to Hayes thereby assisting and diversifying the skills of the local employment structure the scheme is considered to comply with Policy LE2 and the provisions of London Plan.

7.02 Density of the proposed development

Not relevant to this type application.

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

Not relevant to this application site.

7.04 Airport safeguarding

Not relevant to this type of application.

7.05 Impact on the green belt

Not in in close proximity to Green Belt therefore not relevant to this application.

7.07 Impact on the character & appearance of the area

The scheme involves no alterations to the building accordingly it will have no impact upon the visual character or appearance of the area.

7.08 Impact on neighbours

The use has been operating without causing complaints. This use would cause less noise and disturbance than an industrial use. The use would not have a negative impact on the ability of adjoining uses to operate.

7.09 Living conditions for future occupiers

The internal layout of the building provides suitable accommodation for a higher education college. Disability access issues are dealt with in section 7.12 of the report.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The scheme proposes no alteration to the existing car parking layout of the site, which can accommodate a maximum of 20 cars. The Highway Engineer considers based on the Transport Statement submitted with the current application that draws upon survey data of existing car parking levels on the site, there are no grounds for objection to the proposed use. As such the scheme is not considered compliant with Policies AM7 and AM14 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

Should consent be granted, control of the number of staff and students on the site is to be secured by way of condition. On balance this is considered an appropriate means of controlling numbers on site as the use is an educational establishment with the numbers of visitors to the site controlled by a requirement to enrol in contrast to general public buildings where there is no such control over attendees. The staff and student is a known fact and it would be easy to verify through checks with government funding authorities.

7.11 Urban design, access and security

The scheme that (in finding a possible long term occupier for the building) provides some security the building will not be subject to redevelopment and will be well maintained. This is welcomed in urban design terms in that the building (notably the Nestle Avenue frontage) provides an attractive and fitting neighbour to the residential properties situated on the opposite side of Nestles Avenue.

A condition is recommended to ensure the use meets Secure by Design standards.

7.12 Disabled access

The Access Officer has provided a number of comments on the internal layout. Whilst it is considered the access arrangements as show on the plan do not provide a reason of refusal. Should the application be approved the matters raised by the Access Officer should be required to be addressed by way of the imposition of an appropriate condition on any consent.

7.13 Provision of affordable & special needs housing

Not relevant to this application site.

7.14 Trees, landscaping and Ecology

The site has a car park and separate pedestrian entrance, off Nestles Avenue, which is screened by an established hedge. A Lime tree is within a paved /amenity area at the west end of the site. This tree is contemporary with a number of other Limes planted on neighbouring sites which form an avenue of trees along the north side of Nestles Avenue. The scale of the 1930s industrial buildings and the associated soft landscape complement the residential properties on the opposite side of the road and the Botwell / Nestles Conservation Area to the east.

The scheme involves minor alterations to the layout of the existing car park area. The Landscape Officer has no objection to the scheme, subject to the boundary hedge being retained. It is considered these matters in respect of retention of the modest but attractive established landscaping features of the site can be addressed by appropriate planning conditions. Furthermore occupation of the premises should help secure the long term future and maintenance of the planting and Lime tree.

7.15 Sustainable waste management

The details of refuse storage and collection can be dealt with by condition, should the

scheme be approved.

7.16 Renewable energy / Sustainability

The Sustainability Officer has advised that the applicant prepare and implement an energy strategy. This is to be secured by way of condition.

7.17 Flooding or Drainage Issues

Not applicable to this change of use application involving no alteration to the exterior of the building or the wider site.

7.18 Noise or Air Quality Issues

The scheme is considered will have no adverse impact in terms of noise or air quality in area. Noise breakout from the MOT centre also located in a separate section of the building can be addressed by condition through additional sound insulation measures.

7.19 Comments on Public Consultations

No objections or other written comments were received from owner/occupiers of surrounding properties. The written comments of support received from the Hayes Town Partnership and the Hayes Conservation Area Advisory Panel are addressed in the main sections of the report.

7.20 Planning obligations

No s106 requirements required with this scheme should it be approved.

7.21 Expediency of enforcement action

None.

7.22 Other Issues

8. Observations of the Borough Solicitor

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

9. Observations of the Director of Finance

10. CONCLUSION

The scheme is a retrospective planning application for a higher educational college that has been in operation on the site since April 2010. The scheme has been previously refused.

Since the original refusal for the scheme the applicant has

(i) provided extensive information in respect to the colleges mode of operation (with limits on the number of students in attendance at any one time):

(ii) supplied information on the bona fide nature of the educational establishment with fully accredited graduate, postgraduate and diploma level courses being taught;

(iii) provided marketing evidence (going back to 2005/2006) to demonstrate the inability to let the site for warehousing purpose;

(iv) provided user analysis that demonstrates 90% of all the students and staff attend the college site arrive by foot or by public transport. Based on the analysis provided in the Transport Statement the Councils Highway Engineer lifts his objection and thereby removes the previous 3rd reason of refusal.

It is recognised the higher educational college use is not a use that is normally compatible in planning policy terms with the designation of an designated Industrial and Business Area (IBA) and this helps explain two of the three previous reasons for refusal. The applicant has provided substantive documentation that the owner of the site has been unsuccessful at letting the building for B8 warehouses use and also that the building is not fit for a modern warehousing operation. In addition there is no hard evidence to show the college is neutralising the operation of neighbouring industrial uses. In view of these particular circumstances it is considered on the balance of evidence that this retrospective scheme that has brought a new student training & education facility to Hayes and with it associated jobs and additional income into the local economy and is consistent with Policy LE2 of the Saved Policies of the Unitary Development Plan and the London Plan (July 2011). Accordingly is recommended for approval.

11. Reference Documents

London Plan (July 2011)

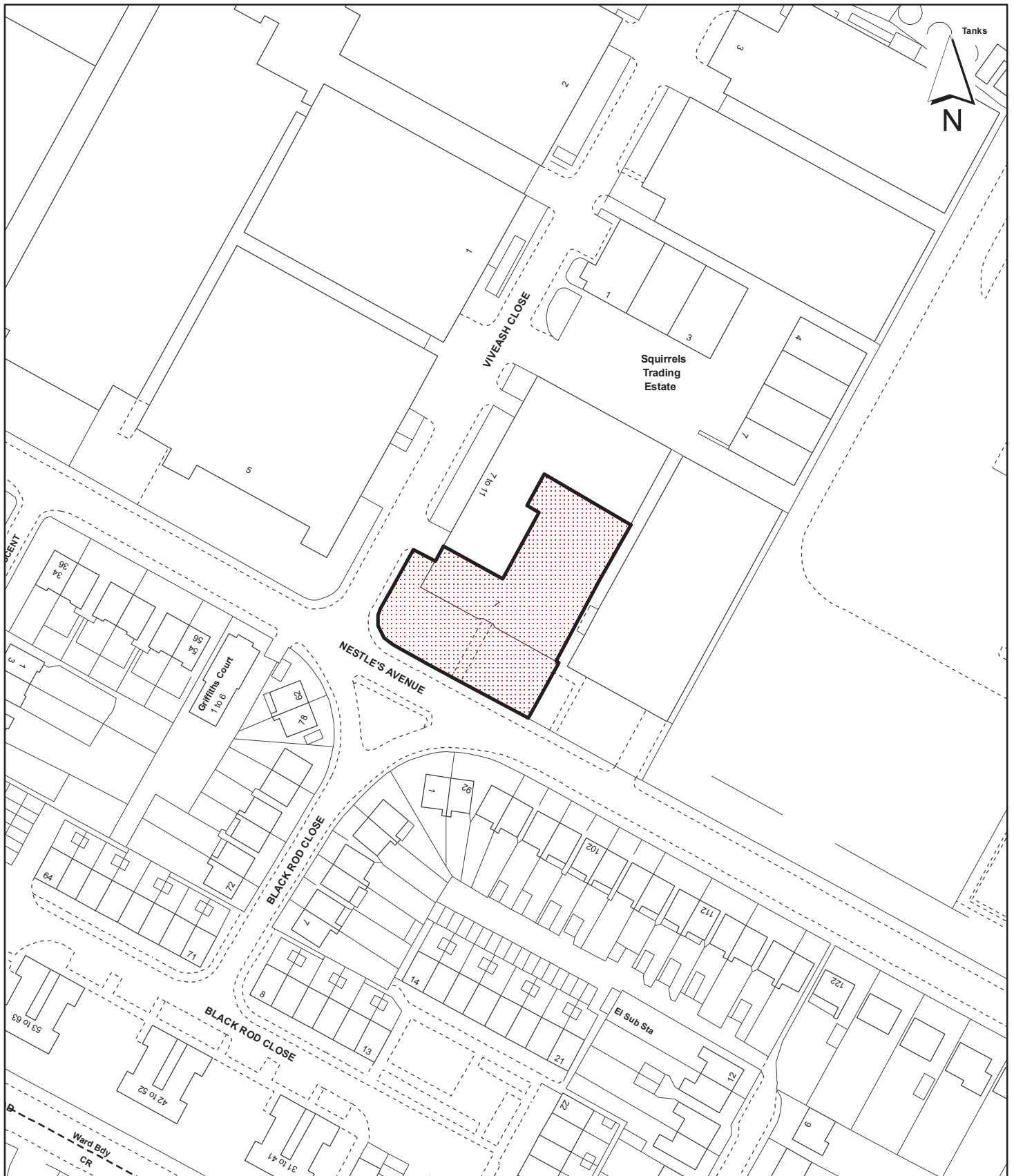
London Borough of Hillingdon Employment Land Study (2009)

Mayor of London's Supplementary Planning Guidance (SPG): Industrial Capacity (March 2008)

National Planning Policy Framework (March 2012)

Contact Officer: Gareth Gwynne

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Notes

 Site boundary

For identification purposes only.

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Site Address

**7 Nestles Avenue
Hayes**

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

Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111

Planning Application Ref:

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Scale

1:1,250

Planning Committee

Central and South

Date

**February
2012**



HILLINGDON
LONDON