

Report of the Head of Planning, Trading Standards and Environmental Protection

Address: FORMER HONEYWELL SITE, TROUT ROAD, WEST
DRAYTON

Development: MIXED USE DEVELOPMENT COMPRISING A NEW 5
HECTARE PARK, 211 RESIDENTIAL UNITS, AN AREA OF
LIVE/WORK UNITS AND/OR OTHER USES WITHIN USE
CLASSES A1, A2, A3 (OUTLINE APPLICATION)

LBH Ref Nos: 335/APP/2002/2754 (OUTLINE APPLICATION)
335/APP/2006/2245 (RESERVED MATTERS APPLICATION)

Drawing Nos: AS PER ORIGINAL COMMITTEE REPORT.

**Date application
approved at
Committee** 23 April 2004 (outline planning permission)
26 October 2006 (reserved matters planning permission)

Summary: This report seeks a variation to the Heads of Terms of the s106 agreement for the Former Honeywell Site application ref. 335/APP/2002/2754 that was approved on 21 September 2005. The reserved matters application was lodged on the 2nd of August 2006 and approved on the 1st of November 2006. The variation is sought to regularise the timing of the delivery of the s278 works which have now been completed. The variation request also seeks to regularise the timing for issuing of the Greenbelt Certificates and the Footbridge Works. Further approval is sought to regularise the management and ownership of the onsite community facility that is being operated and maintained by the RSL on the site A2 Dominion. Finally the variation is also sought to amend the scope for the spending of the health contribution as the NHS Site where the contribution was to be invested has been sold by the NHS and therefore the health facility cannot be delivered at this location.

**S106
Agreement** Dated 13 September 2005

1.0 CONSULTATIONS

1.1 Internal Consultees

Planning Obligations
Officer

The highways works have all been completed.

The Greenbelt works have largely been completed. The only outstanding matter which is prohibiting the issuing of the first and then the final green belt certificate is the presence of Japanese Knotweed onsite. Set out below is the status of the S106

Agreement:

The Council has been advised that the knotweed has been successfully eradicated, however the nature of this weed is such that further checks will be required over the next 12-18 months to ensure the weed does not reappear.

The footbridge works have been completed and the final sign off is to occur shortly.

The onsite community centre has been managed and maintained by the RSL, A2 Dominion for the past 2 years. The request to enable its land transfer to the RSL is considered acceptable given the location, size and ongoing maintenance costs that are not desirable for the Council manage this facility in this instance.

The health contribution cannot be spent as currently prescribed in the s106 due to the fact that the NHS sold the site on the corner of St Stephens Road and High Street, Yiewsley some time ago. Therefore the owner has agreed to amending the scope for spend of this contribution to a 2 kilometre radius. This is considered acceptable and will enable the contribution to be spent on new GP facilities in the locality.

2.0 RECOMMENDATION

- a) That the definition of “Green Belt Certificate” in the Main Agreement shall be amended to read:-

“ means the first certificate or certificates issued by the Council (upon request) to the First Owner upon which any phase of the Green Belt Works being Substantially Completed”.

- b) That the definition of “Green Belt Final Certificate” in the Main Agreement shall be amended to read:-

“means the certificate or certificates issued at the expiry of the period of 12 months form the issue of the relevant Green Belt Certificate subject to the terms set out in paragraph 2.12 of Schedule 7”.

- c) That Schedule 5 to the Main Agreement shall be varied as follows: -

- (i) Paragraph 1 and 2 shall be deleted and the following inserted: -

- “1. To enter into an agreement with the Council under section 278 of the Highways Act 1980 substantially in the form set out in Appendix 4 hereof (subject to any amendments agreed by the First Owner and the Council) for the purpose of securing the Signal Controlled Junction Works**
- 2. To carry out the Signalled Controlled Junction Works at its own expense in accordance with the agreement under section 278 of the Highways Act 1980 (referred to in paragraph 1 above) and to complete the Signal Controlled Junction works within nine months of the First Owner entering into such agreement with the Council”.**

- (ii) Paragraph 3 shall be deleted.

- d) That Schedule 7 to the Main Agreement be varied as follows: -

- (i) Paragraph 2.5 shall be deleted and the following inserted:-

“2.5.1 Subject to obtaining the necessary consents and approvals for the Footbridge Works referred to in paragraph 2.1 (a) of this Schedule the first Owner shall carry out the Footbridge Works at its own expense and complete the Footbridge Works Prior to the Occupation of any part of the Development PROVIDED THAT:-

- (a) the first Owner shall be entitled to a reasonable extension of time for the construction of the Footbridge Works if despite the use of all reasonable endeavours the necessary consents have not been obtained within 6 months of a request by the First Owner to the Environment Agency for such consents (unless such delay is caused by the act or omission of the First Owner) PROVIDED THAT the First Owner shall furnish the Council with evidence to obtain the Environment Agency’s consent**

pursuant to paragraph 2.1 (a) above (and if the First Owner is entitled to such an extension of time the First Owner shall not be required to complete the Footbridge Works prior to Occupation of the Development and the First Owner shall complete the Footbridge Works in accordance with a timetable agreed with the Council) and

- (b) if the necessary consents have not been obtained within five years of Implementation of the Planning Permission the obligations in relation to the consents for construction of the Footbridge Works shall lapse PROVIDED THAT the First Owner can demonstrate to the Council that it has used its reasonable endeavours to obtain the necessary consents as referred to in paragraph 2.1(a) of this Schedule

2.5.2 Subject to obtaining the necessary consents and approvals for the Green Belt Works referred to in paragraph 2.1(b) of this Schedule the First Owner shall carry out the Green Belt Works at its own expense in accordance with the details and specifications set out in the Green Belt Scheme and shall complete the Green Belt Works as follows:-

- (a) as to the Green Belt Works to be carried out on the Green Belt Land other than (i) the area shown shaded yellow and (ii) or within the area shown by a red dashed line on drawing number 1S0-414-/KNOT annexed by 31 January 2013.
- (b) Subject to the provisions of paragraph 2.5(a) Occupation of any part of the Development shall not take place until such time as the Engineer has issued the Green Belt certificate,
- (ii) The following shall be added to paragraph 3.3(d)
- “(v) If reasonable necessary in order for the First Owner to comply with its obligations in this Schedule 7 the transfer shall reserve to the First Owner reasonable rights of access to and from such part or parts of the Green Belt Land retained by the First Owner or such part or parts of the Green Belt Land transferred to the Council”
- e) Paragraph 2 of Schedule 9 of the Main Agreement shall be varied to read as follows:

SCHEDULE 9 **HEALTH CONTRIBUTION**

- 2.** The Council covenants with the Owner to use the Health Care Contribution towards the provision of new health care facilities within a radius of 2km of the Development.

- f) Parapgraph 3 of Schedule 11 of the Main Agreement shall be deleted and replaced with the following:

SCHEDULE 11 **COMMUNITY FACILITY**

3. The First Owner covenants with the Council (unless otherwise agreed in writing by the Council) as follows:
- (a) to complete the transfer or lease within six months of the date of delivery of the executed transfer documents or lease in accordance with paragraph 1 above; and
 - (b) if the transfer or lease (as the case may be) is not completed in accordance with the obligations contained in paragraph 3(a) above not to complete the transfer or lease unless the First Owner agrees otherwise SAVE where the failure to complete the transfer or lease in accordance with paragraph 3(a) above is caused or contributed to by the First Owner's breach of the provisions of this Schedule.
4. The Second Owner covenants with the Council to use the land transferred to it pursuant to the transfer referred to in paragraph 1(a) above or the building leased to it pursuant to the lease referred to in paragraph 1(b) above only for the purposes of a community hall or other community purposes.
- g) That if the Deed of Variation is not finalised within a period of 6 months from the date of this committee resolution, or any other period deemed appropriate by the Head of Planning, Trading Standards and Environmental Protection, then the application may be referred back to the Committee for determination.
- h) That if the application is approved, it be subject to the conditions and informatives agreed by the Uxbridge Planning Committee on 23 April 2004 (detailed in the Committee report and minutes) and attached to this report.

3.0 KEY PLANNING ISSUES

- 3.0 Outline Planning permission for a residential scheme (335/APP/2002/2754) was approved by the Uxbridge Planning Committee on 23rd April 2004, subject to the signing of a legal agreement and the imposition of conditions, with the reserved matters application was approved on the 1st of November 2006. The development is now largely complete with residents already residing on site.
- 3.1 The original Committee resolution required the applicant to enter into a substantial s106 agreement to provide amongst other things; a s278 agreement, a schedule of green belt improvement works, an identified location for where the health contribution is to be spent and an onsite community facility to be transferred to the council.

- 3.2 There is no objection to the amendment to the s278 paragraph. This is a paper exercise to bring the s106 agreement in line with the actual signing of the s278 agreement that occurred on the 21st of July 2008 after the planning permission had been implemented.
- 3.3 For the proposed Green Belt and footbridge certificate amendments (para 2.5) there is no objection from Green Spaces or the Landscape Officer for Planning, Environment, Education and Community Services. The s106 requirements in relation to planting were unable to be met due to the timing of the building programme. The amendment will allow us to issue the landscaping works certificate and tie up other loose ends relating to the green belt improvements programme. The works as proposed and required under the terms of the s106 agreement in the green belt have largely been endorsed through the discharge of most of the landscaping and green belt related conditions on the planning permission. The only matter prohibiting the initial and final certificates from being issued is the presence of Japanese knotweed onsite. We have recently been advised that this has been successfully eradicated, however at the time of writing this report a council inspection has not yet occurred to confirm this. Therefore we are seeking a time extension until January 2013. It is envisaged that the revised date will enable the certificates to be issued without the need for a further Deed of Variation to the time for this to occur.
- 3.4 Since the granting of both the outline and reserved matters planning applications the site as specified in the s106 agreement for where the Health contribution is to be spent, being the corner of St Stephens Road and High Street, Yiewsley, has since been sold by the NHS. As such this site is no longer available to deliver a health centre. Therefore agreement was sought and obtained for the owner to amend this schedule to enable the spend of the health contribution in the sum of £50,000, to within 2 kilometres of the site. This is considered enough scope to enable the appropriate spend of this contribution and thereby mitigate any impact on nearby health facilities as a consequence of this development.
- 3.5 For the community facility, the principle of this amendment to the heads of terms for the ownership of the community facility on-site, is considered acceptable because it will enable the efficient management of the onsite community facility where the Council does not wish to have these management responsibilities, nor is it financially efficient for the Council to manage this facility. The logical option to resolve this matter is the transfer of the title to the housing association, Dominion Housing, who are managing the affordable housing on site and who are willing to take on this responsibility and ensure that the facility is open to all residents, in perpetuity. The proposed drafting reflects the requirement for first owner to transfer the land to the RSL who shall be responsible for the facility and its ongoing management either as a community hall or community facility.
- 3.6 The Council's Planning, Environment, Education and Community Services and Social Care, Health and Housing directorates both endorse the request.

- 3.7 The precise terms of the rewording have been agreed with the Council's legal team to ensure that the terms of the agreement are enforceable in the usual way.
- 3.8 Approval is therefore recommended, subject to the conditions and informatives contained within the reports heard by the Uxbridge Planning Committee on 23 April 2004 and the Central and South Planning committee on 26 October 2006, and the conditions imposed by the Committees and recorded in the minutes of those meetings.

OBSERVATIONS OF 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'.

OBSERVATIONS OF THE DIRECTOR OF FINANCE

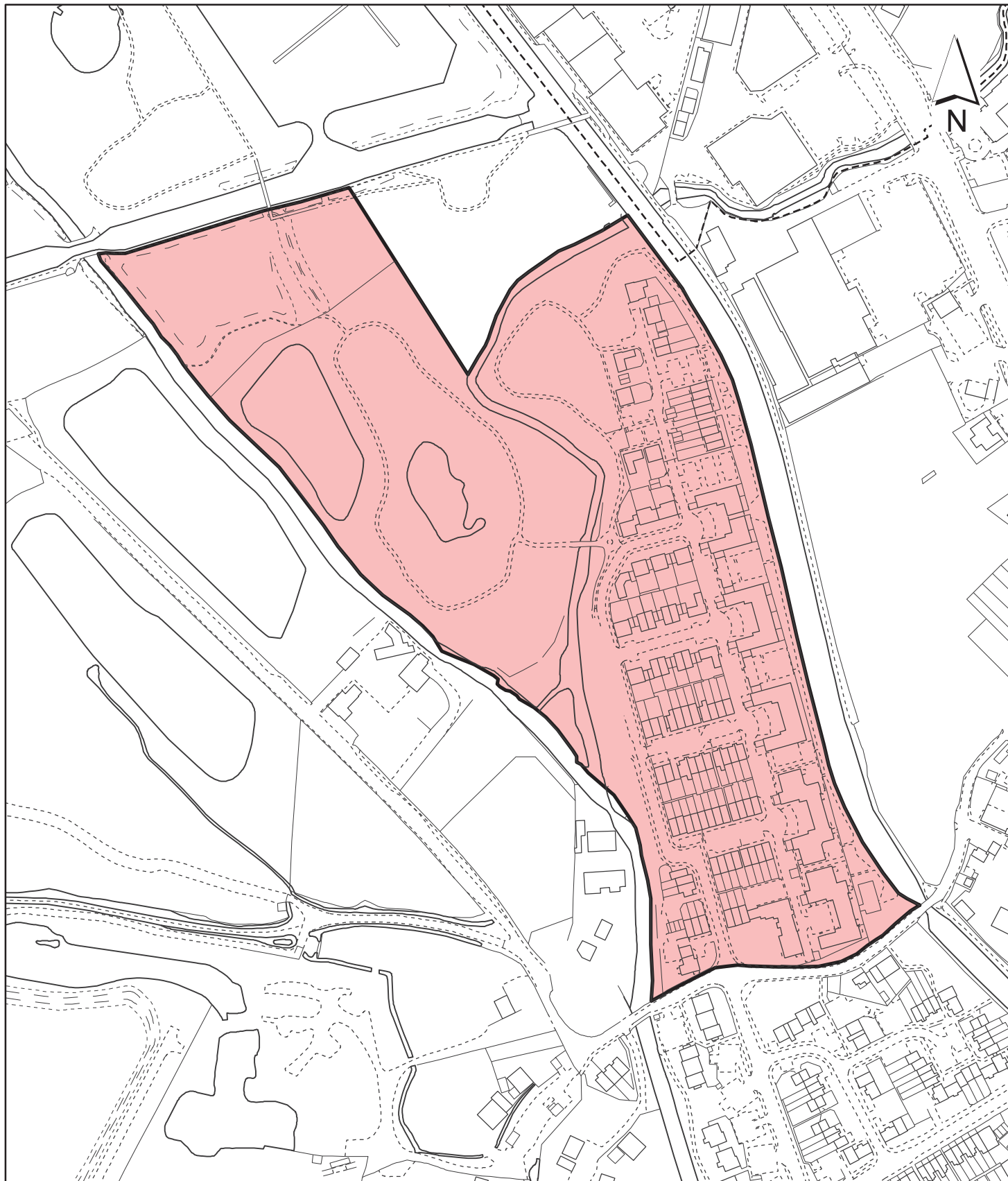
The report indicates that the costs of the development will be fully met by the developer, and the developer will make a Section 106 contribution to the Council towards associated public facilities. The developer will also meet the reasonable costs of the Council in the preparation of the Section 106 agreement and any abortive work as a result of the agreement not being completed. Consequently, there are no financial implications for this Planning Committee or the Council.

Reference Documents

- (a) Uxbridge Planning Committee Agenda 23 April 2004 Report for application reference 355/APP/2002/2754
- (b) Uxbridge Planning Committee Minutes 23 April 2004 resolution for application reference 335/APP/2002/2754.
- (c) Central and South Planning Committee Agenda 26 October 2006. Report for application 335/APP/2006/2245.
- (d) Central and South Planning Committee Minutes 26 October 2006 resolution for application reference 335/APP/2006/2245.

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Notes



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Site Address

**Former Honeywell site
Trout Road
Yiewsley**

Planning Application Ref:

335/APP/2002/2754

Planning Committee

Central and South

Scale

1:3,000

Date

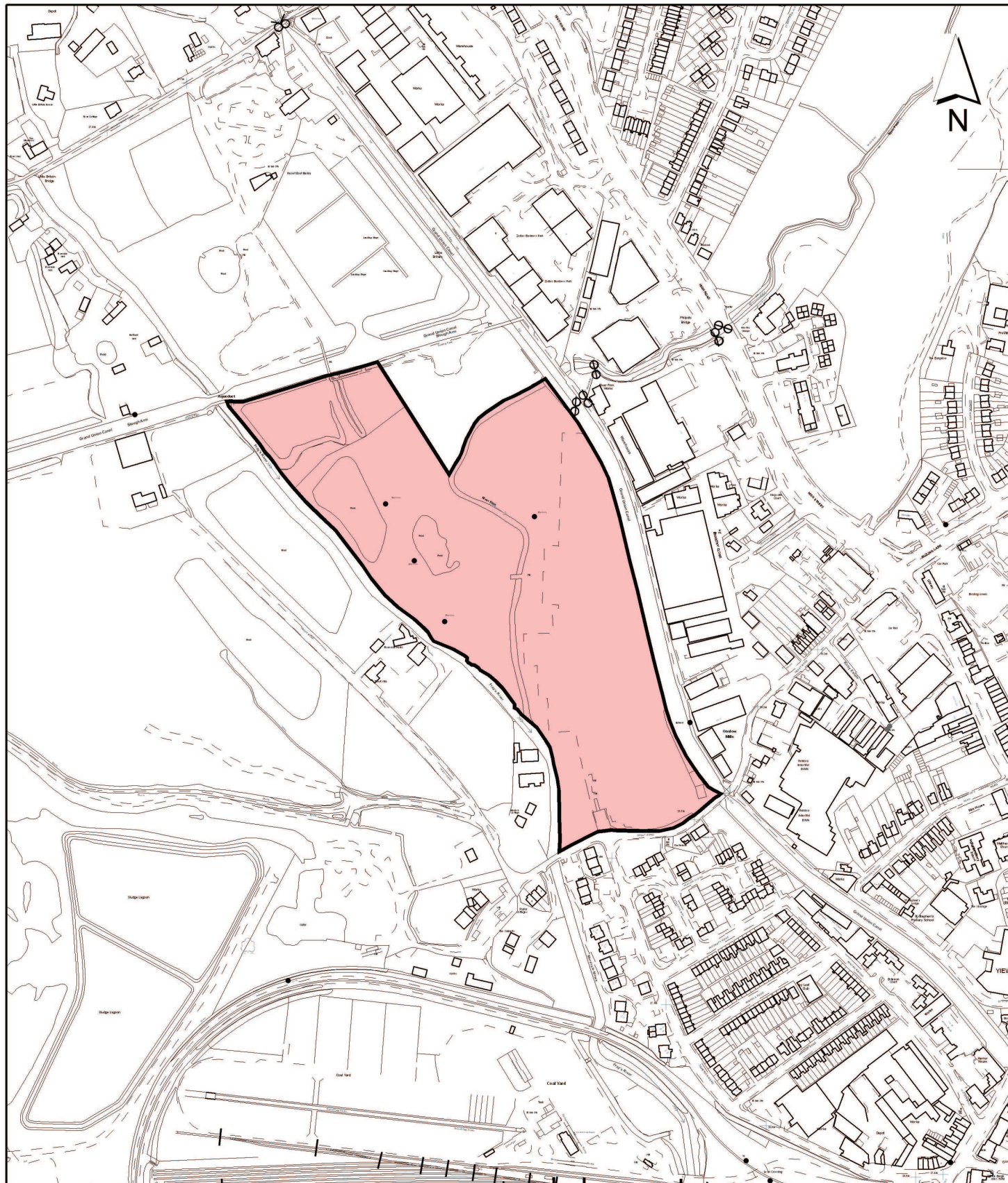
**August
2011**

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

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



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Trout Road
Yiewsley**

Planning Application Ref:

335/APP/2006/2245

Planning Committee

Central and South

Scale

1:5,000

Date

February 2007

**LONDON BOROUGH
OF HILLINGDON**

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