# Report of the Head of Planning, Sport and Green Spaces

Address 7 NESTLES AVENUE HAYES

**Development:** Variation of condition 5 (no other use including within Class D1) of planning permission Ref: 49059/APP/2011/2790 dated 29-05-2012 (use as higher education college) to allow for use of building for primary education

- LBH Ref Nos: 49059/APP/2017/1086
- Drawing Nos: School Travel Plan (Ref: P1022) 7NA-300-02 7NA-300-01 7NA-301-01 Design and Access Statement

Date Plans Received:	27/03/2017	Date(s) of Amendment(s):
Date Application Valid:	03/05/2017	

## 1. SUMMARY

The proposed use of the building as a primary school, particularly given the wide catchment area of the school, would result in a significant increase in vehicular traffic as a opposed to that expected for the approved use.

Given the existing levels of parking stress on surrounding roads and the regular movements of Heavy Goods Vehicles associated with neighbouring industrial uses, it is considered that the proposal would result in a detrimental impact on the surrounding area in terms of parking and highway safety and would present considerable safety issues to pupils and other pedestrians using the school.

# 2. **RECOMMENDATION**

## **REFUSAL** for the following reasons:

## 1 NON2 Parking, Traffic, Amenity and Pedestrian Safety Impact

The proposed use of the premises as a nursery and primary school does not adequately provide on-site pick up and drop off facilities to the detriment of child safety and fails to have regard to existing highway and pedestrian safety concerns. The excess demand for car parking generated by the use of the premises as a school would increase demand on-street and also heavily conflict with movements of Heavy Goods Vehicles (which do turning manouveres in front of the proposed site) and other traffic using Nestles Avenue to the detriment of highway and pedestrian safety.

The proposed use would result in an increase in parking stress within the surrounding area which is already subject to considerable pressure. Furthermore, the increase in traffic on a congested road that is subject to HGV movements associated with surrounding industrial uses would create an environment that would present considerable hazard to pupils and other pedestrians and will be disruptive to residents of neighbouring dwellings. The proposed use is therefore in conflict with Policies AM7, AM14, BE13, BE19, BE25, OE1 and R16 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and Policies 6.10, 6.13, 7.4 and 7.5 of the London Plan (2016).

## **INFORMATIVES**

# 1 I52 Compulsory Informative (1)

The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

# 2 I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan - The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) and national guidance.

LPP 3.16	(2016) Protection and enhancement of social infrastructure
LPP 3.18	(2016) Education Facilities
LPP 6.10	(2016) Walking
LPP 6.13	(2016) Parking
LPP 7.3	(2016) Designing out crime
LPP 7.4	(2016) Local character
LPP 7.5	(2016) Public realm
LPP 7.15	(2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
LPP 8.3	(2016) Community infrastructure levy
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.
BE19	New development must improve or complement the character of the area.
BE25	Modernisation and improvement of industrial and business areas
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
LE2	Development in designated Industrial and Business Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
R10	Proposals for new meeting halls and buildings for education, social, community and health services
R16	Accessibility for elderly people, people with disabilities, women and children
NPPF	National Planning Policy Framework

## 3. CONSIDERATIONS

## 3.1 Site and Locality

The site is occupied by a unit which has been created through the subdivision of a larger building. The street facade is two-storeys in height with a flat roof and brick elevations that are painted on the frontage. The unit is largely contained within this two-storey element although it does extend partially into the large single-storey element to the rear. There is a

hard standing area to the front of the building which can be accessed from Nestles Avenue via a dropped kerb and gate. This hard standing area is otherwise enclosed with approximately 1.8 metre high mesh fencing. There are a total of 11 car parking spaces, including one disabled bay, provided within this hard standing area.

The site is located within the Nestles Avenue Industrial and Business Area (IBA) which is characterised by single and two-storey buildings on the northern side of Nestles Avenue and Viveash Close which predominantly house industrial and warehousing uses. Close by, to the south-east of the site is the former Nestle factory site for which a comprehensive scheme for redevelopment which would incorporate residential, retail, community, leisure and commercial uses has recently been submitted. The southern side of Nestles Avenue, as well as a number of smaller streets branching from it, is lined by a dense, linear arrangement of dwellings. These dwellings are set slightly back from the road, in a linear arrangement, and a large proportion have had the front amenity space converted to vehicular parking with associated dropped kerb access. The street itself is relatively narrow, with pavement on both sides.

## 3.2 Proposed Scheme

The proposal involves varying condition 5 of the planning approval for the conversion of the building to allow for Unit 7 to be used as a Primary School. The condition currently prohibits the unit being employed in any D1 use other than as a Higher Education College. A Travel Plan has been submitted which sets out measures that could be taken to reduce the use of private vehicular transport has been included as part of the application.

The application follows the occupation of the unit by the school, which has now ceased after enforcement action and a subsequent stop notice being served.

Tarbiyyah Primary School is an independent faith (Islamic) mixed school for pupils aged 3 to 11. It was first registered with the Department for Education in 2011 and was previously located in Hounslow (that use ceased following enforcment action by LB Hounslow). The most recent OFSTED inspection report (December 2016) stated that 163 full-time pupils were on roll. The report notes that there were no children with an Education, Health & Care plan (special educational needs and/or disability). Pupils at independent schools do not form part of a borough pupil census and therefore it is not known how many pupils are currently enrolled or how many of these are Hillingdon residents. Information on early years pupils is collected for funding purposes. The latest data is for the spring term 2017. At that time, 50 three and four-year-olds were at the school, of which 19 were Hillingdon residents and 31 were out of Borough.

#### 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/2011/2790 7 Nestles Avenue Hayes

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

Decision: 22-05-2012 Refused

#### Appeal: 12-12-2012 Allowed

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

#### **Comment on Relevant Planning History**

The original approval for the conversion of the unit to D1 was granted following an appeal. A condition was imposed restricting the D1 use to Higher Education purposes only. This condition was attached in order to protect the character and amenities of surrounding properties. It should be noted that the applicant proposed a use which involved young adults rather than children and therefore it was much more realistic to assume that public transport would be extensively used.

## 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.BE1	(2012) Built Environment
PT1.Cl1	(2012) Community Infrastructure Provision
PT1.E1	(2012) Managing the Supply of Employment Land

## Part 2 Policies:

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LPP 3.16	(2016) Protection and enhancement of social infrastructure
LPP 3.18	(2016) Education Facilities
LPP 6.10	(2016) Walking
LPP 6.13	(2016) Parking
LPP 7.3	(2016) Designing out crime
LPP 7.4	(2016) Local character
LPP 7.5	(2016) Public realm
LPP 7.15	(2016) Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.
LPP 8.3	(2016) Community infrastructure levy
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
BE13	New development must harmonise with the existing street scene.

- BE19 New development must improve or complement the character of the area.
- BE25 Modernisation and improvement of industrial and business areas
- BE38 Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
- LE2 Development in designated Industrial and Business Areas
- OE1 Protection of the character and amenities of surrounding properties and the local area
- R10 Proposals for new meeting halls and buildings for education, social, community and health services
- R16 Accessibility for elderly people, people with disabilities, women and children

NPPF National Planning Policy Framework

## 5. Advertisement and Site Notice

- 5.1 Advertisement Expiry Date:- 8th June 2017
- **5.2** Site Notice Expiry Date:- Not applicable

## 6. Consultations

#### **External Consultees**

The site notice was positioned on a lamp post to the front of the site and a notice was also displayed in the local press. In addition, letters were sent to occupants of neighbouring dwellings and businesses, notifying them of the proposed development and inviting a response.

A total of four letters of objection were received, the contents of which are summarised below:

Increase in traffic and pressure on car parking spaces;

Increase in noise;

Encroachment into warehousing to the rear of the site and negative impact on neighbouring businesses;

Dropping off arrangements may work but this approach could not be used for picking up.

The applicant also provided a survey which had been signed by 23 individuals living on neighbouring roads. This included a number of comments, predominantly positive. It was not submitted as a formal petition.

#### **Internal Consultees**

**HIGHWAYS**:

There are waiting restrictions on Nestles Avenue outside the premises that have been implemented to ensure free flowing traffic on this busy road. There are high levels of parking stress on Nestles Avenue and surrounding streets and it is clear that finding an on-street parking space in this area is very difficult. The proposal is to change the existing Adult College use to one where primary school children are taught in the building. The layout plan shows 11 car parking spaces at the front of the building which are used for staff parking. There is a small drop-off zone shown on Nestles Avenue in front of the pedestrian entrance which is contrary to safety principles as it is important to provide good visibility for motorists to see parents and children entering and leaving the premises. Any sort of drop-off zone should be located within the site and not directly outside it hence the use of 'School Keep Clear' markings used outside many primary schools. From previous inspections of the site it is

clear that parents park outside the school disrupting the free flow of traffic and causing annoyance to neighbouring premises. There are no pedestrian crossing facilities provided or proposed to support the needs of parents and children crossing Nestles Avenue to or from the school which suggests the applicant does not understand the importance of this aspect of the proposal. The site has a PTAL value of 4 (good) but there are no bus services along Nestles Avenue. The DAS suggests that the school has approximately 160 pupils and over 50% of them come by car, which will mean that there are a large number of children being dropped off in the vicinity of the school and a large number crossing local roads.

Officer Comment: Statitics provided by the applicant have varied as regards car usage. What is clear is that a very high proportion of pupils live some distance from the school and this is spread over an exceptionally large and wide catchment.

## ACCESS OFFICER:

No comment to make.

#### ENVIRONMENTAL PROTECTION UNIT:

No adverse comments.

## 7. MAIN PLANNING ISSUES

## 7.01 The principle of the development

The site is located within the built-up area and utilises an existing building. The National Planning Policy framework (NPPF) instructs that planning applications should be determined with an overall presumption in favour of sustainable development. Paragraph 14 of the NPPF clarifies that compliance with relevant local, national and regional planning policies will provide an indication as to whether a proposed scheme can be considered as sustainable development.

Policy R10 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) encourages the provision of educational facilities subject to compliance with other relevant planning policies whilst Policy 3.16 of the London Plan (2016) promotes social infrastructure development that is accessible and located within easy reach by walking, cycling and public transport.

The principle of the change of the use of the building from industrial to D1 has already been allowed following the original approval and, as such, the application is not subject to the considerations of Local Plan Policy LE2 which seeks to prevent the loss of commercial usage within IBA's.

It is considered that the unit, in its current status, provides the opportunity for valuable social infrastructure in the form of a higher education college and, as such, any refusal for its use as a primary school would not have a negative impact on social infrastructure provision within the surrounding area.

Whereas there is a benefit in any proposal which provides new educational facilities the Council has consitently sought to manage education demand and the Hayes area has seen significant investment in new primary school age educational facilities including a new primary school at Lake Farm. The proposal is for an independent school and the most recent OFSTED inspection report (December 2016) stated that 163 full-time pupils were on roll. The report notes that there were no children with an Education, Health & Care plan (special educational needs and/or disability). Information provided through a travel plan

indicates the majority of pupils are out of Borough, thus reducing the education benefit to the Borough from the proposal. It is considered that all of these factors limit the overall education benefit of the proposals and that the significant highway safety concerns substaintially outweigh the education benefits of the proposal.

## 7.02 Density of the proposed development

Not applicable to the proposed scheme.

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

No heritage assets would be impacted upon by the proposed development, given its nature and siting.

7.04 Airport safeguarding

Not applicable to the proposed development.

# 7.05 Impact on the green belt

Not applicable to the proposed development.

# 7.06 Environmental Impact

The Council's Environmental Protection Unit were consulted with regards to the proposed use and have not raised any objections on environmental impact grounds.

## 7.07 Impact on the character & appearance of the area

The proposal is for change of use only and does not include any material changes in the size, appearance or positioning of the existing building.

The primary school that would occupy the unit is a faith school and, as such, would draw on a wider catchment area than normally expected for such a facility. The accompanying Travel Plan indicates that 67% of pupils arrived at the school by car prior to the stop notice being served.

Statitics provided by the applicant have varied as regards car usage. What is clear is that a very high proportion of pupils live some distance from the school and this is spread over an exceptionally large and wide catchment. The location of many pupils is such that it is considered unlikely that a large modal shift away from car usage would be possible, hence it is extremely likely that a high proportion of pupils would arrive by car and site visits have identified that this does impact on the surrounding area and raise very serious highway/pedetrain safety cocnerns explaiend in more detail elsewhere in this report.

The use of the building as a Higher Education College would not generate the same volume of vehicular movements due to the age of pupils meaning they are more likely to arrive unaccompanied and by walking or public transport.

As a result of the significant increase in vehicular movements that would arise as a result of the proposed use, it is considered that the character of the area would be adversely impacted upon, with the additional noise and disruption detracting from the amenities enjoyed by the occupants of neighbouring dwellings.

It should be noted that, in approving the original scheme, the planning appeal inspector endorsed the Council's suggested condition to restrict the D1 use of the unit for Higher Education purposes only due to concerns that other D1 uses would have an adverse impact upon the character of the area.

It is therefore considered that the proposal conflicts with Local Plan Policies BE 13, BE 19, BE 25 and OE 1 and London Plan Policies 7.4 and 7.5.

# 7.08 Impact on neighbours

It is considered that the proposed change of use would have a detrimental impact upon the

occupants of neighbouring dwellings for the reasons set out in section 7.07 of this report.

# 7.09 Living conditions for future occupiers

No applicable to the proposed development.

# 7.10 Traffic impact, Car/cycle parking, pedestrian safety

The proposed variation of condition will allow the unit to be occupied by a faith school, with an anticipated amount of 160 pupils, that would travel from a wider catchment area than would be expected for the current approved D1 use as a Higher Education College.

The application is accompanied by a Travel Plan which states that 67% of pupils travelled to and from the school by private transport during the time that it was operating as an unauthorised use of the site. This presents a significantly different scenario to the travel patterns set out in the approved Travel Plan for the Higher Education use, with vehicular movements increasing to a degree that would be disruptive to neighbouring residents and present highway safety implications given the amount of parked and waiting cars, the increase in pedestrians and the movements of Heavy Goods Vehicles associated with neighbouring industrial sites.

As part of the earlier enforcement investigation, the Council's Highway Engineer visited the site and assessed traffic impacts during operations. The officer set out the following concerns:

• There are no 'School Keep Clear' markings installed outside the school entrance and parents cars obstruct the entrance/exit;

• There are no warning signs installed so motorists are unaware of the presence of a school and are not expecting children and parents to cross Nestles Avenue in large numbers;

• There are no school wardens to assist with school children/parents crossing Nestles Avenue;

• The land is immediately adjacent to industrial uses and large vehicles are often using the adjacent Viveash Close and are not expecting parents and children to be crossing the road

• On 4th May 2017 between the hours of 1450 hours and 1520 hours, approximately 25 cars connected to the current use of the land parked outside the school or in nearby streets in order to meet children at the end of the afternoon school session;

 $\cdot$  On 4th May 2017 between the hours of 1450 hours and 1520 hours, approximately 150 vehicles travelled along Nestles Avenue; and

• There is little or no available on-street parking within 200m of the land so nearly all onstreet parking is illegal and that means there are safety issues with cars parked on corners of streets interfering with sight lines and pedestrian movement.

Whilst signage and and other measures such as wardens could be secured by way of a Section 106 agreement, the fundamental nature of the street, which is subject to parking stress, exacerbated by the number of dropped kerb access driveways, and also to regular HGV movements, it is not considered that a safe environment could be provided for pupils entering and leaving the site. Furthermore, the distribution of pupils means that private transport represents the most likely method of transport for a large proportion of pupils and this would result in an escalation of existing parking issues on the street.

In conclusion the proposed use of the premises as a nursery and primary school does not adequately provide on-site pick up and drop off facilities to the detriment of child safety and fails to have regard to existing highway and pedestrian safety concerns. The excess demand for car parking generated by the use of the premises as a school would increase demand on-street and also heavily conflict with movements of Heavy Goods Vehicles (which do turning manouveres in front of the proposed site) and other traffic using Nestles Avenue to the detriment of highway and pedestrian safety.

The proposed use would result in an increase in parking stress within the surrounding area which is already subject to considerable pressure. Furthermore, the increase in traffic on a congested road that is subject to HGV movements associated with surrounding industrial uses would create an environment that would present considerable hazard to pupils and other pedestrians and will be disruptive to residents of neighbouring dwellings. The proposed use is therefore in conflict with Policies AM7, AM14, BE13, BE19, BE25, OE1 and R16 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and Policies 6.10, 6.13, 7.4 and 7.5 of the London Plan (2016).

# 7.11 Urban design, access and security

Condition 10 of the original approval required, within three months of the date of the permission, a scheme to minimise the risk of crime and to meet the specific security needs of the application site, together with a timetable for implementation, to be submitted for approval in writing by the local planning authority. No such scheme has been received to this date and, as such, the condition would be carried over to any approval if granted.

The proposal does not involve any material alterations to the external appearance of the dwelling and, as such, urban design is not a consideration in determining this application.

Site access is discussed in section 7.10 of this report.

#### 7.12 Disabled access

The Council's Access Officer has not objected to the proposed scheme.

## 7.13 Provision of affordable & special needs housing

Not applicable to the proposed development.

# 7.14 Trees, landscaping and Ecology

No trees or other landscaping would be affected by the proposed development.

#### 7.15 Sustainable waste management

Condition 6 of the original approval required, within three months of the date of the permission, a scheme for the collection of litter, the on-site storage of refuse (including any open air storage) together with details regarding method and times for collection and disposal and an implementation timetable to be submitted for approval in writing by the local planning authority. No such scheme has been submitted and, as such, this condition would be carried over should approval be granted.

## 7.16 Renewable energy / Sustainability

A condition requiring details of a scheme to promote the use of renewable energy and energy saving measures, together with an implementation timetable to be submitted to the Local Planning Authority was attached to the original approval. No such scheme has been submitted and this condition would be carried over, should the application be approved.

## 7.17 Flooding or Drainage Issues

The unit would continue to utilise existing drainage arrangements and there would be no additional surface area coverage as a result of the proposal. As such, flooding and drainage issues are not a material consideration in determining this application.

## 7.18 Noise or Air Quality Issues

Condition 12 of the original approval required, within three months of the date of the permission, a scheme for protecting the occupants of the college hereby permitted from noise from the neighbouring premises, together with an implementation timetable, to be submitted for approval in writing by the local planning authority. A similar condition would be carried over to any approval to ensure noise insulation measures were adopted.

## 7.19 Comments on Public Consultations

The issues raised are considered in the main body of the report.

## 7.20 Planning obligations

The proposal, if approved, would not be liable for any CIL payments as no new floor space would be created.

## 7.21 Expediency of enforcement action

Members have already considered the expediency of enforcement on this site in relation to the unauthorised use of the site as a primary school, which has now ceased and resulted in the application under consideration. It is understood that the school provided alternative education arrangements for existing pupils.

## 7.22 Other Issues

There are no additional issues to be considered.

## 8. Observations of the Borough Solicitor

#### General

Members must determine planning applications having due regard to the provisions of the development plan so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations (including regional and national policy and guidance). Members must also determine applications in accordance with all relevant primary and secondary legislation.

Material considerations are those which are relevant to regulating the development and use of land in the public interest. The considerations must fairly and reasonably relate to the application concerned.

Members should also ensure that their involvement in the determination of planning applications adheres to the Members Code of Conduct as adopted by Full Council and also the guidance contained in Probity in Planning, 2009.

#### Planning Conditions

Members may decide to grant planning consent subject to conditions. Planning consent should not be refused where planning conditions can overcome a reason for refusal. Planning conditions should only be imposed where Members are satisfied that imposing the conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Where conditions are imposed, the Council is required to provide full reasons for imposing those conditions.

#### Planning Obligations

Members must be satisfied that any planning obligations to be secured by way of an agreement or undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 are necessary to make the development acceptable in planning terms. The obligations must be directly related to the development and fairly and reasonably related to the scale and kind to the development (Regulation 122 of Community Infrastructure Levy 2010).

## Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have due regard to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The requirement to have due regard to the above goals means that members should consider whether persons with particular protected characteristics would be affected by a proposal when compared to persons who do not share that protected characteristic. Where equalities issues arise, members should weigh up the equalities impact of the proposals against the other material considerations relating to the planning application. Equalities impacts are not necessarily decisive, but the objective of advancing equalities must be taken into account in weighing up the merits of an application. The weight to be given to any equalities issues is a matter for the decision maker to determine in all of the circumstances.

Members should also consider whether a planning decision would affect human rights, in particular the right to a fair hearing, the right to respect for private and family life, the protection of property and the prohibition of discrimination. Any decision must be proportionate and achieve a fair balance between private interests and the public interest.

## 9. Observations of the Director of Finance

Not applicable to the proposed development.

## 10. CONCLUSION

The proposed use of the building as a primary school, particularly given the wide catchment area of the school, would result in a significant increase in vehicular traffic as a opposed to that expected for the approved use.

Given the existing levels of parking stress on surrounding roads and the regular movements of Heavy Goods Vehicles associated with neighbouring industrial uses, it is considered that the proposal would result in a detrimental impact on the surrounding area in terms of parking and highway safety and would present considerable safety issues to pupils and other pedestrians using the school.

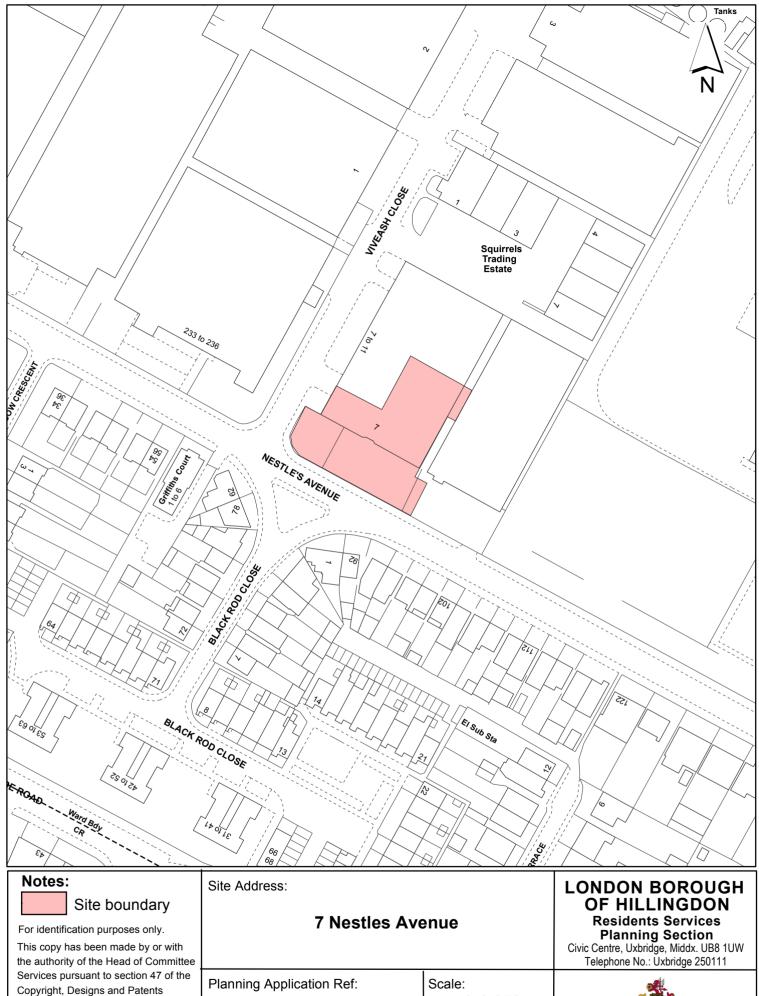
The report is considered to demonstrate that the the proposed scheme fails to comply with numerous Planning Policies and, therefore, it is recommended that the application is refused.

#### 11. Reference Documents

Hillingdon Local Plan: Part One - Strategic Policies (November 2012) Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) The London Plan (March 2016) National Planning Policy Framework (NPPF)

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Planning Application Ref:	Scale:
49059/APP/2017/1086	1:1,250
Planning Committee:	Date:
Central & South	July 2017

HILLINGDON

LONDON

Act 1988 (the Act).

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