

**Item No.**                    **Report of the Head of Planning, Building Control, Sport & Green Spaces**

**Address**                    ARMSTRONG HOUSE MARKET SQUARE UXBRIDGE

**Development:**            Prior Approval Application for the change of use from office accommodation (Use Class B1a) to 132 residential units (Use Class C3)

**LBH Ref Nos:**            36573/APP/2017/3389

**Drawing Nos:**            P02 - Proposed Fourth and Fifth Floor Plan  
P03 - Proposed Sixth Floor Plan  
3488\_001r\_2-0\_ps - Planning Noise Assessment  
1165496 - Scheme 3 FCA - Flood Consequence Assessment  
Transport Statement  
P01 - Proposed Second and Third Floor Plans

**Date Plans Recieved:**    21/09/2017                    **Date(s) of Amendment(s):**

**Date Application Valid:**  26/09/2017

**1.        SUMMARY**

This application seeks prior approval for the conversion of part of the existing office building known as Armstrong House to provide 132 individual one bedroom residential units.

The proposal falls to be considered within Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2016 which allows for such development subject to a determination by the Local Planning Authority as to whether Prior Approval will be required. The application is not seeking full planning permission and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2016 only permits the Local Planning Authority to take the following factors into consideration in the determination of such an application:

- (a) transport and highways impacts of the development;
- (b) contamination risks on site;
- (c) flooding risks on site; and
- (d) impacts of noise from commercial premises on the intended occupiers of the development.

In considering an application for prior approval under Class O, Paragraph 10b of Section W states that the local planning authority shall "have regard to the National Planning Policy Framework... so far as relevant to the subject matter of the prior approval, as if the application were a planning application". As such, the prior approval application must be assessed against transport and highways impact, contamination, noise and flooding risks only. The local planning authority is not directed, as a matter of law, to determine applications for prior approval under Class O with reference to the Development Plan.

The local planning authority may also grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

The application has been assessed against the above criteria and subject to relevant

conditions and the securing of highway obligations through a Section 106 Legal Agreement, prior approval would be required, and granted..

## **2. RECOMMENDATION**

**1. That delegated powers be given to the Head of Planning and Enforcement to confirm Prior Approval is Not Required subject to:**

**A) Entering into an agreement with the applicant under Section 106 of the Town and Country Planning Act 1990 (as amended) and/or S278 of the Highways Act 1980 (as amended) and/or other appropriate legislation to secure:**

- 1. Public Realm Contribution of £125,906.**
- 2. A legal agreement to prevent future occupants from applying for car parking permits.**

**B) That in respect of the application for planning permission, the applicant meets the Council's reasonable costs in preparation of the Section 106 and/or 278 Agreements and any abortive work as a result of the agreement not being completed.**

**C) That Officers be authorised to negotiate and agree the detailed terms of the proposed agreement and conditions of approval.**

**D) If the Legal Agreements have not been finalised by 25th October 2017 (or such other timeframe as may be agreed by the Head of Planning and Enforcement), delegated authority be given to the Head of Planning and Enforcement to refuse the application for the following reason:**

**'The applicant has failed to provide measures to mitigate the impacts of the development to prevent additional highway impacts which could result in undue demand on existing car parking facilities. The applicant has also failed to provide measures to mitigate the impacts of the development through enhancements to the environment necessary as a consequence of demands created by the proposed development (relating to public realm improvement contribution). The proposal therefore conflicts with the Town and Country Planning (General Permitted Development) (England) Order 2016, policies R17, AM2, AM7 and AM9 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012), the Council's Planning Obligations SPD and the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012), the London Plan (March 2016) and the NPPF.'**

**E) That subject to the above, the application be deferred for determination by the Head of Planning and Enforcement under delegated powers, subject to completion of the legal agreement under Section 106 of the Town and Country Planning Act 1990 and other appropriate powers with the applicant.**

**F) That if the application is approved, the following conditions be imposed subject to changes negotiated by the Head of Planning and Enforcement prior to issuing the decision.**

**1 NONSC Parking**

Prior to occupation of the development, the following shall be provided on site:

1. Secure and covered parking spaces to be provided for 135 bicycles as a minimum

Thereafter, they shall be permanently retained and used for no other purpose.

#### REASON

To ensure adequate parking is provided and to promote sustainable modes of transport, in accordance with policies AM2, AM7 and AM14 of the Hillingdon Local Plan (November 2012) and policies 6.3, 6.9, and 6.13 of the London Plan (2016).

### **2 NONSC Contamination**

(1) If during development works contamination not addressed in the submitted land contamination report is identified, an updated brief shall be submitted and an addendum to the remediation scheme shall be agreed with the Council prior to implementation; and

(2) All works which form part of the remediation scheme shall be completed and a comprehensive verification report shall be submitted to the Council's Environmental Protection Unit before any part of the development is occupied or brought into use unless the Council dispenses with any such requirement specifically and in writing.

(3) No contaminated soils or other materials shall be imported to the site. All imported soils for landscaping purposes shall be clean and free of contamination. Before any part of the development is occupied, all imported soils shall be independently tested for chemical contamination, and the results of this testing shall be submitted and approved in writing by the Council. All soils used for gardens and/or landscaping purposes shall be clean and free of contamination.

#### REASON

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy OE11 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (2012) and policy 7.21 of the London Plan (2016).

### **3 NONSC Noise Protection**

Development shall not begin until a sound insulation and ventilation scheme for protecting the proposed development from noise generated by commercial premises has been submitted to and approved in writing by the Local Planning Authority. The scheme shall meet an acceptable internal noise design criteria against external noise as agreed with the Local Planning Authority. Noise emissions from any plant or machinery installed shall be at least 5 dB below the existing background noise level. Thereafter, the scheme shall be implemented and maintained in full compliance with the approved measures.

REASON: To ensure that the amenity of the occupiers of the proposed development is not adversely affected by noise generated by commercial premises in accordance with policy OE5 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012).

## **INFORMATIVES**

### **1**

Nuisance from demolition and construction work is subject to control under the Control of Pollution Act 1974, the Clean Air Act 1993 and the Environmental Protection Act 1990. You should ensure that the following are complied with:

(i) Demolition and construction works should only be carried out between the hours of 0800 and 1800 on Monday to Friday and between the hours of 0800 and 1300 on Saturday. No works should be carried out on Sundays, Public or Bank Holidays;

(ii) All noise generated during such works should be controlled in compliance with British Standard 5228, and use "best practicable means" as defined in section 72 of the Control of Pollution Act 1974;

(iii) Measures should be taken to eliminate the release of dust, odours and other emissions caused by the works that may create a public health nuisance. Guidance on control measures is given in "The control of dust and emissions from construction and demolition: best practice guidelines", Greater London Authority, November 2006; and

(iv) No bonfires that create dark smoke or cause nuisance to local residents should be allowed at any time.

You are advised to consult the Council's Environmental Protection Unit to seek prior approval under Section 61 of the Control of Pollution Act 1974 if you anticipate any difficulty in carrying out the works other than within the normal working hours set out above, and by means that would minimise disturbance to adjoining premises. For further information and advice, contact the Environmental Protection Unit, 3S/02 Civic Centre, High Street, Uxbridge, Middlesex UB8 1UW (tel. 01895 250155).

## 2

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the 'Saved' UDP 2007, Local Plan Part 1, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

## 3

In a car free development, cycle parking is made more attractive to users, if cycle lockers and other forms of cycle storage are provided as not all cyclists wish to leave bikes secured to Sheffield stands for long periods in a shared cycle parking area. You may therefore wish to consider alternative means of cycle storage within the site.

## 4

The applicant is advised that they can only implement one of the prior approval applications submitted on the 21/09/2017, not a hybrid of different prior approvals, otherwise they may invalidate their prior approval consent and open themselves up to enforcement action.

### 3. CONSIDERATIONS

#### 3.1 Site and Locality

The site is occupied by a seven-storey flat roof building that forms part of the wider 'Pavilions' shopping centre which is located in the centre of Uxbridge. The ground and first floors are used for retail / commercial purposes and these would be unaffected by the proposal. There is also car parking provided at basement level. These parking spaces serve surrounding offices and shops and are not associated with the proposed development.

The site is located within Uxbridge Town Centre, within close proximity of Uxbridge Bus and Train stations. Surrounding building house predominantly shops, restaurants and takeaways with offices and / or residential units above.

### 3.2 Proposed Scheme

This application seeks prior approval for the conversion of part of the existing office building known as Armstrong House to provide 132 individual one bedroom residential units which would be distributed across the second to sixth floors of the building. This would be a zero car development, with no car parking spaces being provided. Facilities for the secure storage of 132 cycles (long term) and additional 3 cycles (short term) will also be provided within a secured enclosure in the basement of the building.

No external alterations would be made to the existing building.

### 3.3 Relevant Planning History

36573/APP/2016/1372 Armstrong House Market Square Uxbridge

Change of use from offices (Use Class B1) to form 16 x four bedroom, 23 x three bedroom, five two bedroom and three x one bedroom residential units (Use Class C3) (Prior Approval)

**Decision:** 02-06-2016 Refused

36573/APP/2016/2766 Armstrong House Market Square Uxbridge

Change of Use of second to sixth floors of building from office use (Use Class B1) to 3 x 1 bedroom, 5 x 2 bedroom, 23 x 3 bedroom and 16 x 4 bedroom apartments (Notification for Prior Approval under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015)

**Decision:** 19-09-2016 Approved

#### Comment on Relevant Planning History

Approval was granted for conversion of the upper floors to residential accommodation under 36573/APP/2016/2766. This approval was subject to a Section 106 Agreement to ensure that no future occupants applied for car parking permits, so as to prevent unacceptable demand on car parking facilities.

An earlier application 36573/APP/2016/1372 was refused in the absence of an agreement relating to car parking permits.

## 4. Planning Policies and Standards

Town and Country Planning (General Permitted Development) (England) Order 2016

### UDP / LDF Designation and London Plan

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

Part 1 Policies:

Part 2 Policies:

## 5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

## 6. Consultations

### External Consultees

No comments received from members of the public.

## **Internal Consultees**

### **HIGHWAYS:**

If this is a car free development then residents would not be eligible for residents parking permits. In a car free development it would be more attractive if the cycle parking was made more attractive with cycle lockers and other forms of cycle storage as not all cyclists wish to leave bikes secured to Sheffield stands for long periods in a shared cycle parking area.

The proposed new residential development at Armstrong House, Market Square, Uxbridge would occupy a location in the very centre of Uxbridge offering its new residents excellent access to all the services and facilities that the town has to offer as well as a full range of public transport opportunities. Residents living in the new development will be able to gain access to the underground station by simply walking a short distance along the High Street - direct access to the bus station is via Bakers Yard. Whilst Bakers Yard is open to vehicular traffic, in practice it operates as pedestrianised area, it is just 60 metres in length.

Using funding from the Greater London Authority, developer contributions and the Council's own resources, a scheme to improve the public realm and transport interchange in Uxbridge is being developed, this scheme is known as a "Change of Heart". An important component of these works is the enhancement of Bakers Yard. Bakers Yard is bordered on both sides by the high sided walls of the adjacent shopping centres which limits natural light and creates an enclosed sense of space. The carriageway surface is block paved but it is now beginning to fail evident by cracked pavers and an uneven surface. Over time utility companies have dug up and re-laid the carriageway creating an unattractive patchwork of different material types and colour. Bakers Yard is also used as a place for storing large brightly coloured plastic refuse bins. These refuse bins often become full resulting in the build up of litter. Over time the place where the refuse bins stand has become blackened by dirt from the fallen waste.

A developer's contribution is sought to implement enhancements to Bakers Yard. This would provide the new resident of Armstrong House with a convenient and pleasant walk between their apartments and the bus station. The Council has already commissioned consultants to consider the options for improving Bakers Yard and propose attractive panels to screen the refuse bins, these would be lit at night becoming a feature in their own right. The carriageway would be resurfaced and attractive feature street lighting provided.

### **ENVIRONMENTAL PROTECTION UNIT (EPU)**

As with the previous application at this site we would not require a contaminated land condition on the basis of the likely past uses and no demolition and soft landscaped areas being constructed. It appears that the previous uses of the site were for residential and commercial buildings rather than industrial uses although there was a garage and laundry marked nearby. (COMMENT FROM PREVIOUS APPROVAL).

I would require the applicant to provide robust noise mitigation measures that will ensure that potential noise impact due to the types of activities on Windsor Street, Cross Street, and Market Square are addressed.

### **FLOODING & DRAINAGE:**

The applicants have submitted a Flood Risk Assessment demonstrating the site is in Flood Zone 1 and is not at risk of flooding from other sources. There are no alterations to the site that could incorporate Sustainable Drainage Systems therefore there are no further comments.

## **7. MAIN PLANNING ISSUES**

### **7.01 The principle of the development**

Under Part 3 Class O of the Town and Country Planning (General Permitted Development) (England) Order 2016, from 30 May 2013 development consisting of the change of use of a building to a use falling within Class C3 (dwellinghouses) from a use falling within Class B1(a) (offices) constitutes 'permitted development', subject to a number of criteria; namely permitted development rights do not apply if:

- the building is on article 1(6A) land;
- the building was not used for a use falling within Class B1(a) immediately before 30th May 2013, or, if the building was not in use immediately before that date, when it was last in use;
- the site is or forms part of a military hazard area;
- the site is or forms part of a military explosives storage area;
- the building is a listed building (or within its curtilage) or a scheduled monument;
- permitted development rights have been removed.

The site and buildings do meet any of the criteria listed above. As such the site and building benefit from permitted development rights.

**7.02 Density of the proposed development**

Not applicable as this is not an application for planning permission.

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

Not applicable as this is not an application for planning permission.

**7.04 Airport safeguarding**

Not applicable as this is not an application for planning permission.

**7.05 Impact on the green belt**

Not applicable as this is not an application for planning permission.

**7.06 Environmental Impact**

Not applicable as this is not an application for planning permission.

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

Not applicable as this is not an application for planning permission.

**7.08 Impact on neighbours**

Not applicable as this is not an application for planning permission.

**7.09 Living conditions for future occupiers**

Not applicable as this is not an application for planning permission.

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

The development would be car free. This is considered an acceptable arrangement given the high PTAL score (6A) attached to the site, which is within close proximity of Uxbridge bus and train stations.

In order to prevent undue burden on parking within the surrounding area, the applicant will be required to enter into a Section 106 agreement to ensure that future occupants of the development would not apply for car parking permits.

A condition will be attached to any approval that will require all cycle parking facilities to be provided and maintained throughout the lifetime of the development.

**7.11 Urban design, access and security**

Not applicable as this is not an application for planning permission.

**7.12 Disabled access**

Not applicable as this is not an application for planning permission.

**7.13 Provision of affordable & special needs housing**

- Not applicable as this is not an application for planning permission.
- 7.14 Trees, landscaping and Ecology**
- Not applicable as this is not an application for planning permission.
- 7.15 Sustainable waste management**
- Not applicable as this is not an application for planning permission.
- 7.16 Renewable energy / Sustainability**
- Not applicable as this is not an application for planning permission.
- 7.17 Flooding or Drainage Issues**
- The site lies within Flood Zone 1. All residential units will be on upper floors and the footprint of the building will not be increased. As such, there are no concerns relating to the potential for flooding.
- 7.18 Noise or Air Quality Issues**
- The site is within Uxbridge Town Centre where there are a number of commercial premises, including those within the night time economy. It is considered that future occupants can be protected from undue noise permeation through the application of a condition requiring sound proofing to be provided to an acceptable standard.
- 7.19 Comments on Public Consultations**
- No public responses received.
- 7.20 Planning obligations**
- In order to mitigate against the impact of the proposals, the following obligations will be sought:
1. Agreement that future occupants will not be able to apply for car parking permits.
  2. Public Realm Contribution of £125,906.
- 7.21 Expediency of enforcement action**
- Not applicable.
- 7.22 Other Issues**
- None.
- 8. Observations of the Borough Solicitor**
- The Town and Country Planning (General Permitted Development) (England) (Order 2015/596) ("GPDO 2015") effectively grants planning permission by giving deemed planning permission for certain development without the applicant having to make a formal application for planning permission although the applicant must submit a prior approval application in accordance with the GPDO 2015. Part 3 of Schedule 2 to the GPDO 2015 gives deemed planning permission for certain changes of use. The prior approval application before Members relates to Class O of Part 3 of Schedule 2 of the GPDO 2015.
- The GPDO 2015 provides limitations in terms of what matters can be taken into account when determining a prior approval application. In relation to Class O of the GPDO 2015 those relevant matters include:
- (a) Transport and highways impacts of the development;
  - (b) Contamination risks on the site;
  - (c) Flooding risks on the site; and
  - (d) Impacts of noise from commercial premises on the intended occupiers of the development.
- Members cannot stray outside these matters when determining a prior approval application. Members must have regard to any representations made and the National



Planning Policy Framework, if relevant.

Members can grant prior approval either unconditionally or subject to conditions that are reasonably related to the subject matters of the prior approval application.

Planning obligations can be required if it is necessary to make the details which are the subject of the prior approval application acceptable.

Members should also ensure that their involvement in the determination of the prior approval application adheres to the Members Code of Conduct as adopted by Full Council and also the relevant guidance.

Members can refuse an application for prior approval where the development does not comply with any conditions, limitations or restrictions applicable to the proposed development under the GPDO 2015 or where insufficient information has been provided to enable Members to establish whether the proposed development is permitted under the GPDO 2015.

Equalities & Human Rights:

Section 149 of the Equalities Act 2010 requires Members when making decisions 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 prior approval application. Equalities impacts are not necessarily decisive but the objective of advancing equalities must be taken into account in weighing up the merits of a prior approval application. The weight to be given to any equality issues are a matter for the decision maker to determine in all of the circumstances.

Members should also consider whether their decision would affect human rights in particular the right to a fair hearing, the right to respect of 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.

## **10. CONCLUSION**

This application seeks prior approval for the conversion of part of the existing office building known as Armstrong House to provide 132 individual one bedroom residential units.

The proposal falls to be considered within Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2016.

It has been demonstrated that the proposed residential units would not be subject to unacceptable risk from flooding / drainage or land contamination issues. The development would also not have an adverse impact on highways and transport subject to the signing of

a Section 106 agreement to prevent future occupants applying for parking permits. No future occupants be subjected to undue levels of noise, provided mitigation measures set out in the attached conditions are adopted.

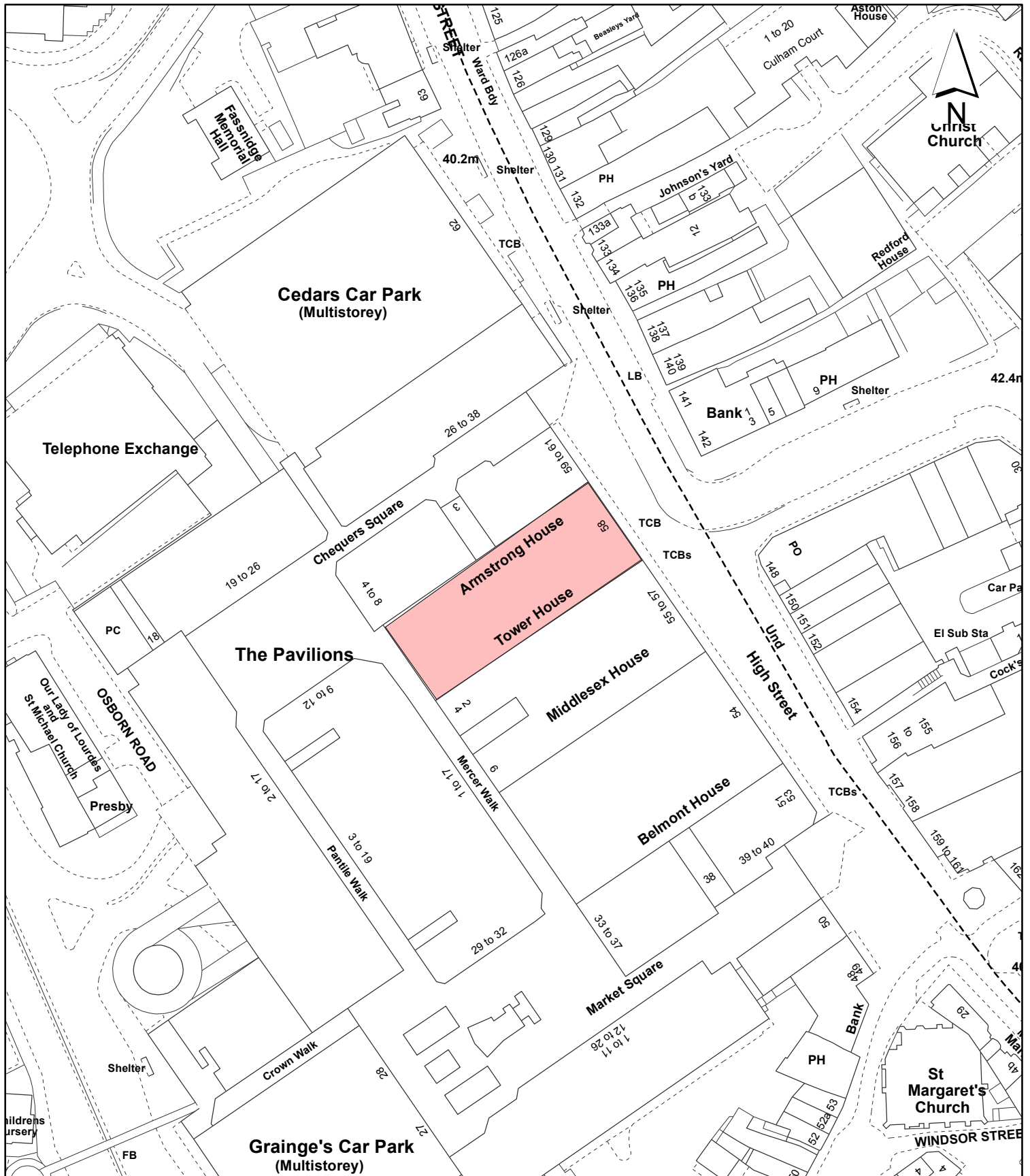
The application has been assessed against the relevant criteria and, subject to conditions and the securing of highway and public realm obligations to be secured through a Section 106 legal agreement, prior approval is required and granted.

#### **11. Reference Documents**

Town and Country Planning (General Permitted Development) (England) Order 2016

**Contact Officer:** James McLean Smith

**Telephone No:** 01895 250230



**Notes:**

Site boundary

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Site Address:

**Armstrong House**

Planning Application Ref:

**36573/APP/2017/3389**

Planning Committee:

**Major**

Scale:

**1:1,250**

Date:

**October 2017**

**LONDON BOROUGH OF HILLINGDON**

**Residents Services  
 Planning Section**  
 Civic Centre, Uxbridge, Middx. UB8 1UW  
 Telephone No.: Uxbridge 250111



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