

Item No. Report of the Head of Planning, Transportation and Regeneration

Address FRAYS COURT, 71-73 COWLEY ROAD UXBRIDGE

Development: Change of use from offices (Use Class B1a) to residential (Use Class C3) to accommodate 23 residential units (Application for Prior Approval under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended))

LBH Ref Nos: 13010/APP/2020/1758

Drawing Nos: FLU.1192.01
 FLU.1192.04 Rev. A
 FLU.1192.03
 FLU.1192.05 Rev. A
 FLU.1192.07 Rev. A
 FLU.1192.06
 FLU.1192.02
 Prior Approval Planning Statement (Dated June 2020)
 201243/FRA/RS/KL/01 Flood Risk Assessment (Dated June 2020)

Date Plans Recieved: 10/06/2020 **Date(s) of Amendment(s):**

Date Application Valid: 10/06/2020

1. SUMMARY

This application seeks prior approval for the change of use of offices (Use Class B1a) to 23 residential units (Use Class C3) under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposal is considered against condition O.2 (1) (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) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Subject to planning conditions and a Unilateral Undertaking restricting parking permits and securing a £28,000 financial contribution for drainage improvements to the public highway, it is recommended that prior approval is required and granted.

2. RECOMMENDATION

That delegated powers be given to the Head of Planning, Transportation and Regeneration to grant this prior approval, subject to the following:

A) That the Council enter into a legal agreement with the applicant under Section 106 of the Town and Country Planning Act 1990 (as amended) or any other legislation to secure the following:

i. Parking Permits: The residents of this development not to be eligible for parking permits within the Parking Management Areas and Council car parks in the vicinity of the site, apart from Blue Badge holders and a charge made against the site to ensure the future buyers are aware of the parking restrictions.

ii. Financial contribution, amounting to £28,000, for delivery a sustainable drainage solutions.

B) That in respect of the application for planning permission, the applicant meets the Council's reasonable costs in preparation of the Section 106 Agreement 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) That, if the Legal Agreement has not been finalised by 4 August 2020, delegated authority be given to the Head of Planning, Transportation and Regeneration to refuse planning permission for the following reason:

'The applicant has failed to agree a legal agreement in order to prevent future occupants from being eligible for Parking Permits, which is necessary to prevent harmful displacement of parking onto the local highway network. The applicant has also failed to agree a financial contribution for drainage improvements to the public highway, necessary to mitigate surface water flooding within the surrounding area. As such, the submission is contrary to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Policies DMT 1, DMT 2, DMEI 9 and DMEI 10 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020); Policies 5.12, 5.13, 6.3, 8.2 of the London Plan (March 2016); the adopted Planning Obligations Supplementary Planning Document (July 2014); and the National Planning Policy Framework (February 2019).'

E) That if the application is approved, the following conditions be imposed:

1 PAA Prior Approval - Approval

The proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as the Council has assessed the impacts of the proposal and considers that there would be no unacceptable impacts with regard to (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, subject to compliance with the stated planning conditions and obligations.

2 COM4 Accordance with Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, references FLU.1192.01; FLU.1192.04 Rev. A; FLU.1192.03; FLU.1192.02; FLU.1192.07 Rev. A; FLU.1192.06; FLU.1192.05 Rev. A and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions of the Hillingdon Local Plan Part 1 - Strategic Policies (November 2012), Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) and the London Plan (March 2016).

3 NONSC Parking Plan

Prior to occupation of the building, a Parking Plan shall be submitted to and approved in writing by the Local Planning Authority. These details should demonstrate:-

1. 20 car parking spaces including visitor parking with markings
2. 2 parking spaces to be assigned for use by disabled persons and marked as such

3. 4 parking spaces to be supplied with active Electric Vehicle Charging points
4. 16 parking spaces to be supplied with passive Electric Vehicle Charging points
5. 1 motorcycle parking space
6. Secure and covered cycle parking with capacity for a minimum of 23 bicycles

Thereafter, the development shall not be occupied or brought into use until the parking arrangement has been implemented in accordance with the approved plan.

REASON

To ensure adequate parking is provided and to promote sustainable modes of transport, in accordance with Policies DMT 1, DMT 2 and DMT 6 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) and Policies 6.3, 6.9, and 6.13 of the London Plan (March 2016).

4 NONSC Parking Allocation Plan

Prior to occupation of the building, a Parking Allocation Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the parking shall be for the residential use of the flats hereby approved and as agreed within the Parking Allocation Plan for so long as the development remains in existence.

REASON

To ensure that the residential use does not have an unacceptable impact on the local highway network or lead to a significant increase in demand for on-street parking, in accordance with Policies DMT 1, DMT 2 and DMT 6 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) and Chapter 6 of the London Plan (March 2016).

5 NONSC Contaminated Land Condition

(i) The development shall not commence until a scheme to deal with contamination has been submitted to and approved by the Local Planning Authority (LPA). All works which form part of the remediation scheme shall be completed before any part of the development is occupied or brought into use unless the Local Planning Authority dispenses with any such requirement specifically and in writing. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:

(a) A desk-top study carried out by a competent person to characterise the site and provide information on the history of the site/surrounding area and to identify and evaluate all potential sources of contamination and impacts on land and water and all other identified receptors relevant to the site;

b) A site investigation, including where relevant soil, soil gas, surface and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use; and

(c) A written method statement providing details of the remediation scheme and how the completion of the remedial works for each phase will be verified shall be agreed in writing with the LPA prior to commencement of each phase, along with the details of a watching brief to address undiscovered contamination. No deviation shall be made from this scheme without the express agreement of the LPA prior to its implementation.

(ii) If during remedial or development works contamination not addressed in the submitted remediation scheme is identified an addendum to the remediation scheme

shall be agreed with the LPA prior to implementation; and

(iii) Upon completion of the approved remedial works, this condition will not be discharged until a comprehensive verification report has been submitted to and approved by the LPA. The report shall include the details of the final remediation works and their verification to show that the works for each phase have been carried out in full and in accordance with the approved methodology.

(iv) 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 Local Planning Authority. 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 Hillingdon Local Plan: Part 2 (January 2020) Policies - DMEI 11: Protection of Ground Water Resources and DMEI 12: Development of Land Affected by Contamination.

6 NONSC Non Standard Condition

The development must achieve the following internal noise levels:

Indoors 35 dB LAeq,16hrs daytime (07.00 to 23.00hrs);

Inside bedrooms 30 dB LAeq,8hrs night-time (23.00 to 07.00hrs);

Inside bedrooms 45 dB LAFmax to be exceeded no more than 15 times per night-time from sources other than emergency sirens.

Prior to occupation of the first residential unit, a report must be submitted to the Council confirming that these standards (through appropriate acoustic mitigation if necessary) will be met unless otherwise agreed in writing with the Local Planning Authority. These levels (or alternative as agreed in writing with the Local Planning Authority) must be maintained as a minimum within the development throughout its lifetime.

REASON

To ensure that an acceptable level of noise can be maintained within the development in accordance with Policy EM8 of the Hillingdon Local Plan Part 1 - Strategic Policies (November 2012), Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) and Policy 7.15 of the London Plan (March 2016).

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to GRANT/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 GRANT/REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020)

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.

| | |
|----------|---|
| DMEI 9 | Management of Flood Risk |
| DMEI 10 | Water Management, Efficiency and Quality |
| DMEI 12 | Development of Land Affected by Contamination |
| DMT 1 | Managing Transport Impacts |
| DMT 2 | Highways Impacts |
| DMT 4 | Public Transport |
| DMT 5 | Pedestrians and Cyclists |
| DMT 6 | Vehicle Parking |
| LPP 5.12 | (2016) Flood risk management |
| LPP 5.13 | (2016) Sustainable drainage |
| LPP 5.14 | (2016) Water quality and wastewater infrastructure |
| LPP 5.15 | (2016) Water use and supplies |
| LPP 5.21 | (2016) Contaminated land |
| LPP 6.12 | (2016) Road Network Capacity |
| LPP 6.13 | (2016) Parking |
| LPP 6.3 | (2016) Assessing effects of development on transport capacity |
| LPP 8.2 | (2016) Planning obligations |

3 170 LBH worked applicant in a positive & proactive (Granting)

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 Local Plan Part 1, Local Plan Part 2, 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.

4 173 Community Infrastructure Levy (CIL) (Granting Consent)

Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the London Borough of Hillingdon Community Infrastructure Levy (CIL) and the Mayor of London's Community Infrastructure Levy (CIL). This will be calculated in accordance with the London Borough of Hillingdon CIL Charging Schedule 2014 and the Mayor of London's CIL Charging Schedule 2012. Before commencement of works the development parties must notify the London Borough of Hillingdon of the commencement date for the construction works (by submitting a Commencement Notice) and assume liability to pay CIL (by submitting an Assumption of Liability Notice) to the Council at planning@hillingsdon.gov.uk. The Council will then issue a Demand Notice setting out the date and the amount of CIL that is payable. Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed.

The above forms can be found on the planning portal at: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

Pre-Commencement Conditions: These conditions are important from a CIL liability perspective as a scheme will not become CIL liable until all of the pre-commencement conditions have been discharged/complied with.

Advice to LPA

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The planning practice guidance to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

We have considered the findings of the flood risk assessment in relation to the likely duration, depths, velocities and flood hazard rating against the design flood for the proposal. We agree that this indicates that there will be "No danger to people". This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your emergency planners and the emergency services to confirm the adequacy of the evacuation proposals.

3. CONSIDERATIONS

3.1 Site and Locality

The application site consists of a part three storey, part two storey, part single storey office building with basement parking, situated on the east side Fray's River and west side of Cowley Road at the junction with Cotswold Close. Residential properties are located to the north, east and south-west of the site, Whitehall Nursery & Infant School is located to the south-east, and the nearest commercial properties are located approximately 45 metres to the north consisting of small scale motor repair shop, a tattoo parlour and takeaway shop. The west part of the site forms part of Flood Zone 3, designated as a functional floodplain. The site is located within a Controlled Parking Zone and has a good Public Transport Accessibility Level (PTAL) of 4.

3.2 Proposed Scheme

This application seeks prior approval for the change of use of offices (Use Class B1a) to 23 residential units (Use Class C3) under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposal is summarised as follows:

Lower Ground Floor

- 20 car parking spaces including 2 accessible car parking spaces
- 2 x cycle stores with total capacity for 23 bicycles
- Bin store

- 3 x plant rooms

Ground Floor

- 2 x studio flats
- 7 x 1-bed flats

First Floor

- 3 x studio flats
- 5 x 1-bed flats

Second Floor

- 6 x 1-bed flats

In conjunction with existing and proposed plans, the following has been submitted to support the proposed change of use:

- Prior Approval Planning Statement (Dated June 2020)
- 201243/FRA/RS/KL/01 Flood Risk Assessment (Dated June 2020)
- Draft Unilateral Undertaking

3.3 Relevant Planning History

13010/APP/2020/1006 Frays Court, 71-73 Cowley Road Uxbridge

Change of use from offices (Use Class B1a) to residential (Use Class C3) to accommodate 19 residential units (Application for Prior Approval under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended))

Decision: 07-05-2020 Approved

Comment on Relevant Planning History

Planning application reference 13010/K/88/1325 granted permission (dated 16/09/1988) for the erection of part three storey, part two storey, part single storey office building with basement parking.

Planning application reference 13010/APP/2020/1006 granted permission (dated 28/05/2020) for the change of use from offices (Use Class B1a) to residential (Use Class C3) to accommodate 19 residential units (Application for Prior Approval under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)).

4. Planning Policies and Standards

Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states:

O. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

O.1 Development is not permitted by Class O if-

(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order-

(i) on 29th May 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that

- date, when it was last in use;
- (d) the site is, or forms part of, a safety hazard area;
 - (e) the site is, or forms part of, a military explosives storage area;
 - (f) the building is a listed building or is within the curtilage of a listed building; or
 - (g) the site is, or contains, a scheduled monument.

O.2.-(1) Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to-

- (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, and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

O.3. For the purposes of Class O, "commercial premises" means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 2003/49 or any other place of public entertainment.

Case Officer Comment:

In response to O.1 (a), the building is not located on article 2(5) land.

In response to O.1 (b), the history of the site has been reviewed, establishing that planning application reference 13010/K/88/1325 granted permission (dated 16/09/1988) for the erection of part three storey, part two storey, part single storey office building with basement parking. A review of business rates also confirms that the site was occupied as offices on 1 April 2010. The building appears to have been in very recent use by a Fostering Agency as an office. As such, it is considered that there is no reason to doubt that the building was in use as a Use Class B1a office before 29th May 2013.

In response to O.1 (d), (e), (f) and (g), the site does not form part of a safety hazard area, military explosives storage area, the building is not a listed building or within the curtilage of a listed building and the site does not contain a scheduled monument.

Condition O.2. is addressed within the main body of the report.

Local Plan Designation and London Plan

The following Local Plan Policies are considered relevant to the application:-

Part 1 Policies:

PT1.EM6 (2012) Flood Risk Management

PT1.EM8 (2012) Land, Water, Air and Noise

Part 2 Policies:

DMEI 9 Management of Flood Risk

DMEI 10 Water Management, Efficiency and Quality

DMEI 12 Development of Land Affected by Contamination

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|----------|---|
| DMT 1 | Managing Transport Impacts |
| DMT 2 | Highways Impacts |
| DMT 4 | Public Transport |
| DMT 5 | Pedestrians and Cyclists |
| DMT 6 | Vehicle Parking |
| LPP 5.12 | (2016) Flood risk management |
| LPP 5.13 | (2016) Sustainable drainage |
| LPP 5.14 | (2016) Water quality and wastewater infrastructure |
| LPP 5.15 | (2016) Water use and supplies |
| LPP 5.21 | (2016) Contaminated land |
| LPP 6.12 | (2016) Road Network Capacity |
| LPP 6.13 | (2016) Parking |
| LPP 6.3 | (2016) Assessing effects of development on transport capacity |
| LPP 8.2 | (2016) Planning obligations |

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Schedule 2, Part 3, Paragraph W, part 8 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states:

- (8) The local planning authority must give notice of the proposed development-
- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which-
 - (i) describes the proposed development;
 - (ii) provides the address of the proposed development;
 - (iii) specifies the date by which representations are to be received by the local planning authority; or
 - (b) by serving a notice in that form on any adjoining owner or occupier.

As such, adjoining occupiers were consulted by letter and the period for receipt of consultation comments expired on 2nd July 2020. One comment has been received from a neighbouring resident and is summarised as follows:

- There is inadequate parking, loading and turning for 23 flats and visitors or family
- The proposal would increase traffic, causing risk to pedestrians, cyclist and small children due to the school adjacent and bus stop
- There's are blind spots left and right when exiting the car park as there is a steep ramp to climb
- There would be a loss of trees to the rear of the development that runs along the back of our property if landscaping happens.
- There would be increased noise and disturbance resulting from increased occupancy.

Case Officer Comment:

All material planning considerations, as dictated by Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), are considered within the main body of the report. As such, the consideration of the application is

limited to transport and highways impacts of the development, contamination risks, flooding risks and the impacts of noise from commercial premises on the intended occupiers of the development.

Environment Agency:

Thank you for consulting us on the above planning application. We have no objections to the application on flood risk grounds.

The submitted flood risk assessment has assessed conservative flood levels, using the 1:1000 year flood levels instead of the 1:100+CC allowance. However, please include the following informative:

Advice to LPA

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The planning practice guidance to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

We have considered the findings of the flood risk assessment in relation to the likely duration, depths, velocities and flood hazard rating against the design flood for the proposal. We agree that this indicates that there will be "No danger to people". This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your emergency planners and the emergency services to confirm the adequacy of the evacuation proposals.

Internal Consultees

Contaminated Land Officer:

1 Summary of Comments:

The submitted document titled "Prior Approval Planning Statement" dated June 2020 states "The existing building was constructed in the 1980s and is currently used as an office building." It is also noted that the structure includes an undercroft parking facility.

The Council's records do not contain details of land conditions at the property.

As the application involves a change of land use criteria, from commercial to residential property, it is recommended that a phased approach is adopted to identify and assess the current land conditions and to further characterise the site in terms of the proposed change of use.

It is therefore, recommended that the following standard condition is imposed within any planning permission that may be agreed:

Proposed standard condition for land affected by contamination.

(i) The development shall not commence until a scheme to deal with contamination has been submitted to and approved by the Local Planning Authority (LPA). All works which form part of the remediation scheme shall be completed before any part of the development is occupied or brought into use unless the Local Planning Authority dispenses with any such requirement specifically and in writing. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:

(a) A desk-top study carried out by a competent person to characterise the site and provide information on the history of the site/surrounding area and to identify and evaluate all potential sources of contamination and impacts on land and water and all other identified receptors relevant to the site;

b) A site investigation, including where relevant soil, soil gas, surface and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use; and

(c) A written method statement providing details of the remediation scheme and how the completion of the remedial works for each phase will be verified shall be agreed in writing with the LPA prior to commencement of each phase, along with the details of a watching brief to address undiscovered contamination. No deviation shall be made from this scheme without the express agreement of the LPA prior to its implementation.

(ii) If during remedial or development works contamination not addressed in the submitted remediation scheme is identified an addendum to the remediation scheme shall be agreed with the LPA prior to implementation; and

(iii) Upon completion of the approved remedial works, this condition will not be discharged until a comprehensive verification report has been submitted to and approved by the LPA. The report shall include the details of the final remediation works and their verification to show that the works for each phase have been carried out in full and in accordance with the approved methodology.

(iv) 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 Local Planning Authority. 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 Hillingdon Local Plan: Part 2 (January 2020) Policies - DMEI 11: Protection of Ground Water Resources and DMEI 12: Development of Land Affected by Contamination.

2 Reason for Refusal (if objecting):

N/A

3 Observations (including but not limited to):

1. Mapping shows the site to be underlain by sand and gravel which represent superficial deposits of the Taplow Gravel Member. DeFRA's MAGIC mapping further indicates the strata are designated as a Principal Aquifer. Early mapping shows a pump was present at the centre of the site, which infers groundwater was sufficiently accessible for water to be drawn from a well supply. The site is also situated directly adjacent to the eastern bank of Fray's River. The Principal Aquifer

and surface waters of Fray's River each represent controlled waters which are required to be protected accordingly.

2. It is likely the building was constructed upon Made Ground (of unspecified depth/s) and therefore it is advisable that materials which constitute the made ground should be assessed in terms of any contaminants that may likely be present, and their ability to produce ground gases including VOC's.

2. "Asbestos can be found in any industrial or residential building built or refurbished before the year 2000 (houses, factories, offices, schools, hospitals etc)" (Source: <https://www.hse.gov.uk/asbestos/index.htm>)

Historic mapping shows buildings were present on the site since the 1800's; it is therefore advisable that demolition and removal of any material containing asbestos should be conducted in accordance with guidance from the Health and Safety Executive. (For advice and information contact: the Health and Safety Executive, Rose Court, 2 Southwark Bridge Road, London, SE1 9HS).

Flood and Water Management Officer:

The risks to the area are well documented along Cowley Road, but following the submission of the FRA and the agreement of the unilateral undertaking there are no objections to the proposed change of use and increased residential units from 19 -23.

Case Officer Comment on Highways Matters:

The Council's Highways Officer provided the following comments on the approved scheme which granted permission for 19 residential units:

"The site is within a Parking Management Scheme area and the new occupiers should be restricted from joining. There is only a finite amount of kerb space available and we can not keep adding more cars. 1 to 1 parking is suitable."

Given that the site has a good PTAL rating of 4 and that the proposal would provide 20 car parking spaces for 23 residential units, equating to 0.87 spaces per unit, it is considered that sufficient car parking would be provided for the purposes of the proposed development. A Section 106 legal agreement would also prevent future occupants from being eligible for Parking Permits, thereby preventing parking displacement onto the local highway network. As development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, it is not considered that a reason for refusal based on the proposed car parking provision could be sustained at an appeal.

Environmental Protection Unit Officer:

No comment.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The site and building does not meet any of the criteria listed under O.1 of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such the site benefits from permitted development rights.

7.06 Environmental Impact

CONTAMINATED LAND

Policy 5.21 of the London Plan (March 2016) states that appropriate measures should be

taken to ensure that development on previously contaminated land does not activate or spread contamination.

Policy DMEI 12 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states that:

A) Proposals for development on potentially contaminated sites will be expected to be accompanied by at least an initial study of the likely contaminants. The Council will support planning permission for any development of land which is affected by contamination where it can be demonstrated that contamination issues have been adequately assessed and the site can be safely remediated so that the development can be made suitable for the proposed use.

B) Conditions will be imposed where planning permission is given for development on land affected by contamination to ensure all the necessary remedial works are implemented, prior to commencement of development.

C) Where initial studies reveal potentially harmful levels of contamination, either to human health or controlled waters and other environmental features, full intrusive ground investigations and remediation proposals will be expected prior to any approvals.

D) In some instances, where remedial works relate to an agreed set of measures such as the management of ongoing remedial systems, or remediation of adjoining or other affected land, a S106 planning obligation will be sought.

The Council's Contamination Officer considers that the proposal is acceptable subject to a planning condition requiring details of a remediation strategy. Subject to such a condition, the proposal is considered to accord with Policy DMEI 12 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) and 5.21 of the London Plan (March 2016).

As such, the proposal can be granted prior approval under condition O.2 (1) (b) (contamination risks on the site) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The development is located within a Controlled Parking Zone and has a good Public Transport Accessibility Level (PTAL) of 4. The existing site provides 22 off-street car parking spaces and the proposal would provide 20 car parking spaces including 2 accessible parking bays. It is noted that two existing car parking spaces are proposed to be lost in order to facilitate a bin store. This provision is also accompanied by 2 cycle stores with a capacity for 23 bicycles.

Policy DMT 1 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states:

A) Development proposals will be required to meet the transport needs of the development and address its transport impacts in a sustainable manner. In order for developments to be acceptable they are required to:

i) be accessible by public transport, walking and cycling either from the catchment area that it is likely to draw its employees, customers or visitors from and/or the services and facilities necessary to support the development;

ii) maximise safe, convenient and inclusive accessibility to, and from within developments for pedestrians, cyclists and public transport users;

iii) provide equal access for all people, including inclusive access for disabled people;

iv) adequately address delivery, servicing and drop-off requirements; and

v) have no significant adverse transport or associated air quality and noise impacts on the local and wider environment, particularly on the strategic road network.

B) Development proposals will be required to undertake a satisfactory Transport Assessment and Travel Plan if they meet or exceed the appropriate thresholds. All major

developments that fall below these thresholds will be required to produce a satisfactory Transport Statement and Local Level Travel Plan. All these plans should demonstrate how any potential impacts will be mitigated and how such measures will be implemented.

Policy DMT 2 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states that proposals must ensure that safe and efficient vehicular access to the highway network is provided, schemes do not contribute to the deterioration of air quality, noise or local amenity or safety of all road users and residents. Also that impacts on local amenity and congestion are minimised and there are suitable mitigation measures to address any traffic impacts in terms of capacity and functions of existing and roads.

Policy DMT 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states that proposals must promote the enhancement of public transport facilities. The Council may require developers to mitigate transport impacts from development proposals by improving local public transport facilities and services.

Policy DMT 5 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states that development proposals will be required to ensure that safe, direct and inclusive access for pedestrians and cyclists is provided on the site connecting it to the wider network and that cycle parking and changing facilities are provided.

Policy DMT 6 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) requires that proposals comply with the Council's parking standards in order to facilitate sustainable development and address issues relating to congestion and amenity.

The National Planning Policy Framework (NPPF) (February 2019) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy 6.3 of the London Plan (March 2016) requires development proposals to ensure that the impacts on transport capacity and the transport network are fully assessed.

CAR PARKING

In conjunction with Policy DMT 6, Appendix C of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) requires a maximum of 1 to 1.5 car parking spaces for units up to 2 bedrooms and a maximum of 2 car parking spaces for 3-bed units. Car parking areas must also include 10% of spaces suitable for a wheelchair user. Based on a proposal for 23 residential units, comprising 5 x studio flats and 18 x 1-bed flats, the site should provide a maximum of 35 car parking spaces, including between 2 and 3 accessible car parking spaces. The proposal would provide 20 car parking spaces, including 2 accessible spaces. This equates to 0.87 car parking spaces per unit and is considered sufficient to prevent any unacceptable impacts to the local highway network.

ELECTRICAL VEHICLE CHARGING POINTS

Policy T6.1 of the of the draft London Plan - Intend to Publish (December 2019) states that all residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 20 per cent of spaces should have active charging facilities, with passive provision for all remaining spaces. As such, a total of 4 active and 16 passive electrical vehicle charging points are required.

The proposal does not indicate any provision for such infrastructure. If recommended for approval, a condition would secure policy compliant provision of electrical vehicle charging points.

MOTORCYCLE PARKING

Appendix C, Table 1 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) requires that parking spaces for motorised two wheelers (motorcycles, moped and scooters) must be provided at the rate of 5% of car parking spaces. The proposed development therefore requires 1 motorcycle parking space.

The proposed development does not include such provision. If recommended for approval, a condition would secure policy compliant provision of motorcycle parking.

CYCLE PARKING

In conjunction with Policy DMT 6, Appendix C of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) requires that a maximum of 1 cycle space is provided per studio, 1 or 2 bed unit and that a maximum of 2 cycle spaces are provided per 3 or more bed units. As such, the proposal should be providing storage for 23 cycle spaces. Based on the submitted plans, sufficient cycle parking is provided on the lower ground floor plan.

VEHICULAR TRIP GENERATION

The proposal would reduce the number of car parking spaces from 22 to 20. Given the existing and proposed uses, it is considered that there would be a limited impact in terms of traffic generation on the local highway network.

REFUSE SERVICING

In terms of refuse servicing, the building would continue to be serviced from the front of the site, with storage located at the lower ground floor. This would be accessible to residents and to collection vehicles as per the existing arrangements. This arrangement is not considered to raise any transport or highway safety issues.

SUMMARY

Given the above considerations, the proposal is considered to provide sufficient on-site parking. In order to prevent further parking stress within the locality, a legal agreement is considered necessary to secure that future occupants will not be eligible for car parking permits. It is also considered necessary that a condition is attached in order to secure a parking allocation plan for adequate availability and management of on-site car parking. Subject to such planning conditions and obligations, the proposed development would not be considered contrary to Policies DMT 1, DMT 2, DMT 4, DMT 5 and DMT 6 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020), Policy 6.3 of the London Plan (March 2016) and the NPPF (February 2019).

As such, the proposal can be granted prior approval under condition O.2 (1)(a) (transport and highway impacts of the development) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.17 Flooding or Drainage Issues

Policy 5.12 of the London Plan (March 2016) requires that development proposals must comply with the flood risk assessment and management requirements set out in the

NPPF and the associated technical Guidance on flood risk over the lifetime of the development.

Policy 5.13 of the London Plan (March 2016) states that development should utilise sustainable urban drainage systems (SUDS) unless there are practical reasons for not doing so, and should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible.

Policy EM6 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) states that applicants must demonstrate that Flood Risk can be suitably mitigated.

Policy DMEI 9 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states that proposals that fail to make appropriate provision for flood risk mitigation, or which would increase the risk or consequences of flooding, will be refused.

Policy DMEI 10 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states that development within areas identified at risk from surface water flooding which fail to make adequate provision for the control and reduction of surface water run-off rates will be refused.

The west part of the site forms part of Flood Zone 3, designated as a functional floodplain. The submitted information states that the risk from surface water flooding is very low. The Flood Risk Assessment (FRA) states that a safe, dry access will be available to and from the site at all times during a flood event and a flood management and evacuation plan will be issued to all residents. The FRA also concludes that even when the highest climate change allowance is factored in, the site would still be free from flooding.

Nevertheless, Cowley Road exhibits surface water issues and this proposal could aid in improving the risk of flooding for neighbouring properties. The submitted Draft Unilateral Undertaking therefore agrees to make a financial contribution, amounting to £28,000, to make drainage improvements to the public highway land comprising the grass embankment between the road and river.

Both the Council's Flood and Water Management Officer and the Environment Agency have confirmed no objection to the proposed development. Subject to a legal agreement securing the financial contribution, the proposal is not considered contrary to Policy EM6 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012), Policies DMEI 9 and DMEI 10 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) and Policies 5.12 and 5.13 of the London Plan (March 2016).

As such, the proposal can be granted prior approval under condition O.2 (1)(c) (flooding risks on the site) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.18 Noise or Air Quality Issues

NOISE FROM COMMERCIAL PREMISES

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) seeks to protect residential amenity.

The area surrounding the application site comprises primarily residential properties which are located to the north, east and south-west of the site. Whitehall Nursery & Infant School is also located to the south-east and the nearest commercial properties are located approximately 45 metres to the north consisting of a small scale motor repair shop, a tattoo parlour and a takeaway shop. As such, it is not considered that noise from

commercial premises poses a detrimental impact to the intended occupiers of the development. The development would also need to comply with Approved Document E 'Resistance to the passage of sound' of Building Regulations (2015 Edition) which would safeguard future occupiers from adverse levels of noise. The proposal would not be considered contrary to Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020). A compliance condition to accord with internal noise standards will be imposed to ensure a satisfactory internal living environment for future residents.

As such, the proposal can be granted prior approval under condition O.2 (1) (d) (impacts of noise from commercial premises on the intended occupiers of the development) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.19 Comments on Public Consultations

Please see section 06.1 of the report.

7.20 Planning obligations

Policy DMCI 7 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020) states:

A) To ensure development is sustainable, planning permission will only be granted for development that clearly demonstrates there will be sufficient infrastructure of all types to support it. Infrastructure requirements will be predominantly addressed through the Council's Community Infrastructure Levy (CIL).

B) Planning obligations will be sought on a scheme-by-scheme basis:

i) to secure the provision of affordable housing in relation to residential development schemes;

ii) where a development has infrastructure needs that are not addressed through CIL; and
iii) to ensure that development proposals provide or fund improvements to mitigate site specific impacts made necessary by the proposal.

C) Applications that fail to secure an appropriate Planning Obligation to make the proposal acceptable will be refused.

The Community Infrastructure Levy Regulation 2010 (Regulations issued Pursuant to the 2008 Act) and the NPPF have put three tests on the use of planning obligations into law. It is unlawful (since 6th April 2010) to request planning obligations that do not meet the following tests:

i. necessary to make the development acceptable in planning terms

ii. directly related to the development, and

iii. fairly and reasonable related in scale and kind to the development

The effect of the Regulations is that the Council must apply the tests much more strictly and is only to ask for planning obligations that are genuinely necessary and directly related to a development. Should planning obligations be requested that do not meet the policy tests the Council would have acted unlawfully and could be subject to a High Court challenge.

On the basis of the NPPF and the Community Infrastructure Levy Regulation 2010, it is only considered reasonable to secure the following planning obligation:

i. Parking Permits: The residents of this development will not to be eligible for parking permits within the Parking Management Areas and Council car parks in the vicinity of the site, apart from Blue Badge holders and a charge made against the site to ensure the

future buyers are aware of the parking restrictions.

ii. Financial contribution, amounting to £28,000, for drainage improvements to the public highway.

COMMUNITY INFRASTRUCTURE LEVY (CIL):

The scheme would also be liable for payments under the Community Infrastructure Levy.

Please be advised that as from 1 April 2012, all planning approvals for schemes with a net additional internal floor area of 100m² or more will be liable for the Mayoral Community Infrastructure Levy (Mayoral CIL), as legislated by the Community Infrastructure Levy Regulations 2010 and The Community Infrastructure Levy (Amendment) Regulations 2011. The liability payable will be equal to £60 per square metre (from April 2019). The London Borough of Hillingdon is a collecting authority for the Mayor of London and this liability shall be paid to LBH in the first instance.

In addition the development represents Chargeable Development under the Hillingdon Community Infrastructure Levy, which came into effect on 1st August 2014. The liability payable is equal to £95 per square metre for residential development.

7.22 Other Issues

None.

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.

10. CONCLUSION

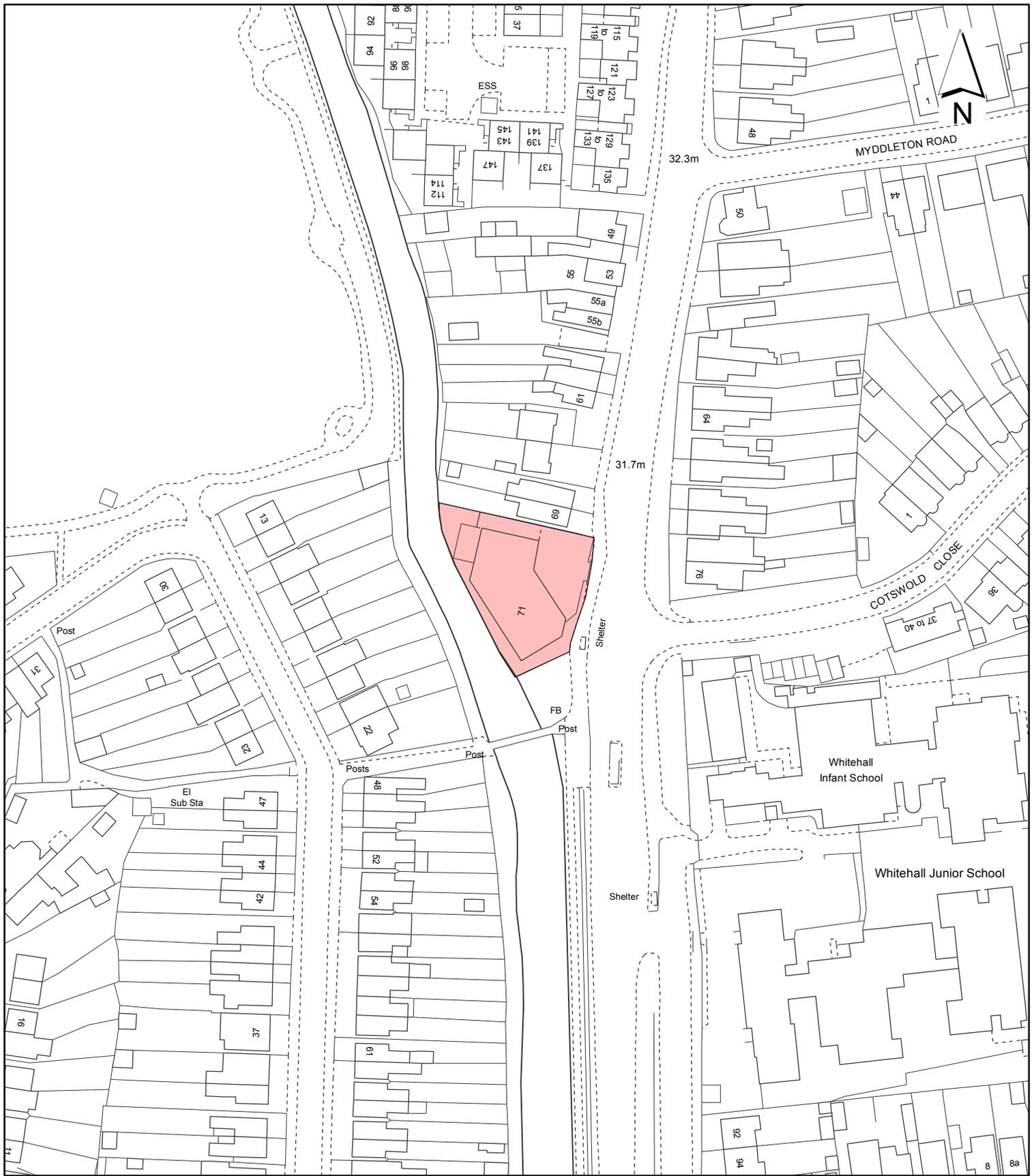
In conclusion, the proposed change of use of offices (Use Class B1a) to 23 residential units (Use Class C3) has been considered against condition O.2 (1) (a) (transport and highways impacts of the development), (b) (contamination risks on the site), (c) (flooding risks on the site) and (d) (impacts of noise from commercial premises on the intended occupiers of the development) of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Subject to planning conditions and a Unilateral Undertaking restricting parking permits and securing a £28,000 financial contribution for drainage improvements to the public highway, it is recommended that prior approval is required and granted.

11. Reference Documents

Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
National Planning Policy Framework (February 2019)
The draft London Plan - Intend to Publish (December 2019)
The London Plan (March 2016)
Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)
Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020)
Accessible Hillingdon Supplementary Planning Document (September 2017)
Planning Obligations Supplementary Planning Document (July 2014)

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Notes:

 Site boundary

For identification purposes only.

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Planning Application Ref:

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Major

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LONDON