

Item No.	Report of the Head of Planning, Transportation and Regeneration	
Address	LAND AT RAINBOW INDUSTRIAL ESTATE TROUT ROAD YIEWSLEY	
Development:	Installation of two portacabins and retention of entrance gates and proposed change of use for Use Class Sui Generis including container storage; open and closed storage of building and scaffolding materials; storage of aggregate materials; vehicle storage and sales for a period of 36 months (part retrospective application).	
LBH Ref Nos:	38058/APP/2021/1327	
Drawing Nos:	CCTV field of vision Floodlight detail Camera detail Portakabin building specification PM484 Portakabin building specification PK431 Air quality technical note 332410017/AQ March 2021 Flood Risk Assessment RevA April 2021 Revised Transport Assessment YES Engineering Group July 2021 Outline Fire Safety Strategy Issue 01 April 2021 Revised Planning Design and Access Statement Palisade-Fencing-Specification Plan Site Location Plan Revised Proposed site plan Textainer cargo containers specification	
Date Plans Recieved:	01/04/2021	Date(s) of Amendment(s):
Date Application Valid:	29/04/2021	

1. SUMMARY

The proposal involves installation of two portacabins and retention of entrance gates; a change of use to a mix of uses (sui generis) to include closed storage comprising containers (maximum of 30), open storage of aggregates and building materials; and vehicle storage and sales for a period of 36 months.

2. RECOMMENDATION

The application is recommended for REFUSAL:

1 NON2 Non Standard reason for refusal

It has not been demonstrated that the proposed development would not cause unacceptable adverse impacts arising from noise resulting in significant harm to the living conditions and well-being of neighbouring residents and user of the Canalside Moorings and Towpath. The proposal thereby conflicts with Paragraph 185 of the NPPF (2021), Policy D14 of the London Plan (2021), Policies BE1 and EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) and Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Polices (2020).

2 NON2 Non Standard reason for refusal

It has not been demonstrated that the proposed development would not cause unacceptable adverse impacts arising from dust and deteriorating air quality resulting in

significant harm to the living conditions and well-being of neighbouring residents in this Air Quality Management Area. The proposal thereby conflicts with Paragraph 186 of the NPPF (2021), Policy SI 1 of the London Plan (2021), Policies BE1 and EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) and Policies DMEI 14 and DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

3 NON2 Non Standard reason for refusal

Due to the applicants refusal to agree to the requested conditions, the proposed development would result in an adverse impact on the biodiversity of the Grand Union Canal by virtue of light spill, water quality, dust pollution and noise pollution and would thereby conflict with Policies EM7 and EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012), Policies DMEI 7 and DMEI 8 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) and Policies G9, SI 16 and SI 17 of the London Plan (2021).

INFORMATIVES

1

You are advised that the present use of the site does not benefit from planning permission and enforcement action will be considered.

2 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).

3 I53 Compulsory Informative (2)

The decision to 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.

DMCI 7	Planning Obligations and Community Infrastructure Levy
DME 2	Employment Uses Outside of Designated Sites
DMEI 14	Air Quality
DMEI 8	Waterside Development
DMEI 2	Reducing Carbon Emissions
DMEI 9	Management of Flood Risk
DMHB 11	Design of New Development
DMHB 12	Streets and Public Realm
DMHB 14	Trees and Landscaping
DMT 5	Pedestrians and Cyclists
DMT 6	Vehicle Parking
DMT 7	Freight
SA 39	Trout Road, Yiewsley
LPP D1	(2021) London's form, character and capacity for growth
LPP D11	(2021) Safety, security and resilience to emergency
LPP D14	(2021) Noise
LPP D4	(2021) Delivering good design
LPP D5	(2021) Inclusive design
LPP D8	(2021) Public realm

LPP G6	(2021) Biodiversity and access to nature
LPP G7	(2021) Trees and woodlands
LPP SI1	(2021) Improving air quality
LPP SI12	(2021) Flood risk management
LPP SI17	(2021) Protecting and enhancing London's waterways
LPP T2	(2021) Healthy Streets
LPP T3	(2021) Transport capacity, connectivity and safeguarding
LPP T4	(2021) Assessing and mitigating transport impacts
LPP T6	(2021) Car parking
LPP T7	(2021) Deliveries, servicing and construction
NPPF- 11	NPPF-11 2018 - Making effective use of land
NPPF- 2	NPPF-2 2018 - Achieving sustainable development
NPPF- 4	NPPF-4 2018 - Decision-making
NPPF- 8	NPPF-8 2018 - Promoting healthy and safe communities

4 I71 **LBH worked applicant in a positive & proactive (Refusing)**

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 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.

We have however been unable to seek solutions to problems arising from the application as the principal of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

3. CONSIDERATIONS

3.1 Site and Locality

The site comprises 1.25 ha adjacent to Yiewsley town centre and falls within the wider Rainbow and Kirby Industrial Estates site which extend to 2.15ha. To the immediate north, opposite the entrance to the site on Trout Road, is a 4/5 storey residential block along with similar residential blocks opposite along Trout Road. To the east are small industrial units ranging from 1 to 2 storey which are accessed off Trout Road to the north east. To the south are residential properties along St Stephen's Road which are two storey detached and semi-detached properties along with a religious centre located adjacent to the access point off St Stephen's Road. Immediately adjacent to the south west is The Grand Union Canal, beyond which are further residential properties in Peplow Close.

The site has two access points, the principal one being from Trout Road to the north west for vehicular and pedestrian access with the secondary access from St Stephen's Road used as an emergency exit only. Access to both access points is gated. Around half of the site has a PTAL level of 3 and the remaining area within a PTAL of 2. The site lies approximately 6km from Heathrow Airport, with the M25 and M4 in close proximity. Trout Road is a single carriageway with the western end providing a bridge access over The Grand Union Canal which is signalised at both ends as the bridge is narrow and can only allow a single lane of traffic to pass. St Stephen's Road is a single carriageway road.

With the exception of a small area of hardstanding by the Trout Road entrance, the site comprises unmade ground. The previous airport parking use has now ceased but two portacabins, the Trout Road entrance gates, an area of hardstanding and CCTV and

lighting associated with this use remains in situ. The portacabins are presently stored behind the existing substation by the boundary to the Trout Road bridge.

The Hillingdon Local Plan: Part 2 - Development Management Policies (2020) contains an allocation policy (ref. SA 39 Trout Road, Yiewsley) for a residential-led mixed-use development of 217 dwellings. Development is allocated across three sites - A, B, and C. Sites B and C have now been constructed and falls outside the wider Rainbow and Kirby Industrial Estate. Site A relates to the Rainbow and Kirby Industrial Estate with the current application site comprising over half of the area of Site A within this policy allocation. There are ongoing discussions regarding a future planning application for a mixed use development at the site.

3.2 Proposed Scheme

The proposal involves installation of two portacabins and retention of entrance gates; a change of use to a mix of uses (sui generis) to include closed storage comprising containers (maximum of 30), open storage of aggregates and building materials; and vehicle storage and sales for a period of 36 months.

The storage areas comprise two closed and two open storage areas. Of the closed storage areas, one area would be located at the south end of site adjacent to the canal (860sqm) and one adjacent to the north east boundary (1290sqm). The containers are 2.6m in height. Of the open storage areas, one area would be located adjacent to the canal (2230sqm) and one on the eastern part of the site behind St Stephen's Road properties (1630sqm). For the open storage areas the maximum height of the stored materials is stated as no more than the equivalent height of two containers. Hours of operation are stated as 7am - 7pm weekdays and 7am - 1pm Saturdays only.

The proposed vehicle storage and sales area comprises 1,300sqm at the northern end of the site adjacent to the Trout Road access.

The applicant explains that the proposed use is sought for a temporary period of three years whilst a mixed use, residential-led scheme for the wider Rainbow and Kirby Industrial Estate is discussed with the LPA and a formal planning application is then submitted and determined. The pre-applications discussions are currently ongoing concerning the wider redevelopment of the land.

It is understood that the storage elements of the proposal are presently ongoing but that the car storage/ sales has not yet commenced on site.

3.3 Relevant Planning History

38058/APP/2013/1756 Rainbow And Kirby Industrial Estates Trout Road Yiewsley

Demolition of existing premises and erection of 99 residential units (C3), 50 unit extra care/dementia sheltered housing scheme (C3), 1,529.4sq.m light industrial floorspace comprising 17 business units (B1c) and 611.30sq.m of restaurant/cafe (A3) floorspace, associated open space, car parking and landscaping (Outline Application).

Decision: 16-06-2014 Approved

38058/APP/2016/3153 Rainbow Ind Est(Ex Anglo Swiss Screw Co) Trout Road Yiewsley

Change of use of land for car parking (sui generis use) for a temporary period of 12 months.

Decision: 06-12-2018 NFA

38058/APP/2017/1340 Rainbow And Kirby Industrial Estates Trout Road Yiewsley

Reserved Matters relating to Appearance and Landscaping of outline planning permission ref: 38058/APP/2013/1756 dated 23-07-2014 for Demolition of existing premises and erection of 99 residential units (C3), 50 unit extra care/dementia sheltered housing scheme (C3), 1,529.4sq.m light industrial floorspace comprising 17 business units (B1c) and 611.30sq.m of restaurant/cafe (A3) floorspace, associated open space, car parking and landscaping.

Decision: 04-12-2018 Approved

38058/APP/2018/3554 Land At Rainbow Industrial Estate Trout Road Yiewsley

Continued use of land for car parking (sui generis use) and retention of two portacabin units for 24 months.

Decision: 04-12-2018 Refused

Appeal: 22-05-2020 Withdrawn

Comment on Relevant Planning History

The site has historically been used for industrial and storage purposes. It was used as an unauthorised off-airport car park from 2013 to 2016. In October 2016, an Enforcement Notice was served and the Notice was the subject of an appeal, which was allowed (ref: APP/R5510/C/16/3163200 & 3163365 dated 8 June 2017), and permission was granted for a limited period of 12 months.

The permission expired on 8 June 2018. Subsequently an application was received 5 October 2018 to continue the use of the site for car parking for a further 2 years (38058/APP/2018/3554). This application was refused permission on 6 December 2018.

The use of the land for off-airport car parking use has since ceased and the site was vacant for a short period of time. The site is currently being used for commercial storage/commercial operations.

Outline planning permission was granted for a residential-led redevelopment of the wider Rainbow and Kirby Industrial Estate in 2014 with Reserved Matters approved in 2018. These permissions expired on 1st May 2021.

4. Planning Policies and Standards

Development Plan

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Development Plan for the London Borough of Hillingdon currently consists of the following documents:

The Local Plan: Part 1 - Strategic Policies (2012)
The Local Plan: Part 2 - Development Management Policies (2020)
The Local Plan: Part 2 - Site Allocations and Designations (2020)
The West London Waste Plan (2015)
The London Plan (2021)

Material Considerations

The National Planning Policy Framework (NPPF) (2021) is also a material consideration in planning decisions, as well as relevant supplementary planning documents and guidance.

Local Plan Designation and London Plan

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

Part 1 Policies:

PT1.BE1	(2012) Built Environment
PT1.E1	(2012) Managing the Supply of Employment Land
PT1.EM3	(2012) Blue Ribbon Network
PT1.EM6	(2012) Flood Risk Management
PT1.EM7	(2012) Biodiversity and Geological Conservation
PT1.EM8	(2012) Land, Water, Air and Noise

Part 2 Policies:

DMCI 7	Planning Obligations and Community Infrastructure Levy
DME 2	Employment Uses Outside of Designated Sites
DMEI 14	Air Quality
DMEI 8	Waterside Development
DMEI 2	Reducing Carbon Emissions
DMEI 9	Management of Flood Risk
DMHB 11	Design of New Development
DMHB 12	Streets and Public Realm
DMHB 14	Trees and Landscaping
DMT 5	Pedestrians and Cyclists
DMT 6	Vehicle Parking
DMT 7	Freight
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LPP D11	(2021) Safety, security and resilience to emergency
LPP D14	(2021) Noise
LPP D4	(2021) Delivering good design
LPP D5	(2021) Inclusive design
LPP D8	(2021) Public realm
LPP G6	(2021) Biodiversity and access to nature
LPP G7	(2021) Trees and woodlands
LPP S11	(2021) Improving air quality
LPP S112	(2021) Flood risk management
LPP S117	(2021) Protecting and enhancing London's waterways
LPP T2	(2021) Healthy Streets
LPP T3	(2021) Transport capacity, connectivity and safeguarding
LPP T4	(2021) Assessing and mitigating transport impacts
LPP T6	(2021) Car parking
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NPPF- 11	NPPF-11 2018 - Making effective use of land
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NPPF- 4	NPPF-4 2018 - Decision-making
NPPF- 8	NPPF-8 2018 - Promoting healthy and safe communities

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **23rd June 2021**

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

The application was advertised by press notice, site notice and neighbour notification letters.

At the time of writing 41 objections had been received which are summarised below:

- Development started without permission; unlawful use and should not be able to profit from rule breaking; ongoing two months without permission; applicant will not operate to how stated on application form'

- Hours of operation are being breached/ totally abused including evenings and weekends; noise late at night; noise late at night from heavy trucks and machines; woken by lorry loading at 2.30am; work starts at 6.30/6.45am including Sundays; movement of heavy plant and machinery until 10pm or later 7 days a week; working all weekend after 7pm; extremely noisy into the evening; weekdays and weekends sometimes later than 9pm; work starts before 7am and ends not earlier than 9pm; nuisance and excessive noise occurring at unsocial hours/ late at night; live opposite and want hours restricted to daytime weekends only.

- Increased levels of noise; pollution unbearable, noise, air, dust and dirt at unacceptable level; dust and debris from vehicle movements; dust blown onto balconies; nature of building materials being transported and stored makes air pollution and dust worse; dust and dirt from lorries, windows have to remain closed, choice between too hot or dirt; residential balconies face plot, living conditions ruined; noise pollution from HGVs; nitrous oxide and particulate matter pollution; dwelling backs onto site and noise unbearable; most inconsiderate and noisy use since arrived at St Stephens Close 40 years ago; far exceeds noise from original industrial site; work happening to immediate rear of property.

- Traffic congestion on narrow road; far more than 10 lorries coming through each day; more than 20/30 lorries coming/ going; heavy vehicles constantly arriving; potential danger to children from vehicle movements - route taken by many children to primary schools and a nursery school exists on Trout Road.

- Not appropriate use in residential area with numerous blocks of flats; inappropriate use so close to dwellings; ill-thought out and irresponsible use so close to dwellings; quality of life decreased, negative impact on community; disregard of residents in area.

- Other activities than stated on application form appear to be happening on site; not solely in use for storage, cement mixers arriving to be loaded; routinely used for cutting up doorframes/ metal windows using dedicated cutting equipment; constant noise from high pitched bench saws or grinders; not in application and no suggestion it would cease; should not be permitted to limit burden on residents.

- Will not leave land in a safe and environmentally positive way; must be contaminated ground close to canal.

OFFICER COMMENT: These issues are addressed in the assessments below.

NOISE CONSULTANT (SUMMARY)

The previous application was for airport car parking, whilst the current application is quite different. However, rather than present a new assessment, the approach taken is to compare elements of the two schemes, with the conclusion drawn that the previous assessment is "likely to represent a worst-case scenario of noise impacts, and in excess of those that would be generated by the current proposals which has a more limited hours of operation and vehicle movements." This relies on the previous assessment being robust and the schemes being sufficiently similar in nature (in order for the same assessment approach and assumptions to apply).

A key difference in the two schemes is that the car park was assessed as operating all day every day, whilst the proposed scheme's operation would be limited to 7 am - 7 pm weekdays and 7 am - 1 pm Saturdays. The other main difference is that the number of assumed vehicle movements is stated as being reduced compared to the off-airport parking. The following vehicle movements are given for the proposed scheme:

- Car - 40-50 per day
- Van - 20 per day
- Lorries/HGV - 10 per day

This equates to a total of 160 two-way movements, or over 13 per hour if spread evenly across the 12-hour working day. For the previous off-airport parking scheme, the maximum movements in any one hour was taken to be 20 car movements (two-way) and 4 mini-bus movements (seeming one-way), giving a total of 24. This is twice that of the 12-hour average for the proposed scheme.

It is considered that there will likely be peak times of activities associated with the proposed scheme, where vehicle movement numbers are higher, whilst lorries/HGVs will be a feature of the proposed scheme. It is also to be expected that other vehicle movements and noise sources would be associated with the "storage" nature of the proposed scheme, such as the use of forklift trucks or telehandlers, and the handling/movement of scaffolding materials, for example.

The assessment of car parking noise was made based on the calculated change in ambient (LAeq,T) noise conditions, together with a magnitude of impact scale based on guidance from Highways England's Design Manual for Roads and Bridges. The scale, therefore, is more often used for major road schemes and is considered suited best where no change in character occurs.

For a robust assessment, we would have expected to see at least discussion on the use of BS 4142 (Methods for rating and assessing industrial and commercial sound). This Standard would typically apply by default for commercial sites unless the noise in question falls within the scope of other standards or guidance. In terms of the proposed scheme - where BS 4142 very much applies - in no way can the previous (non-BS 4142) assessment be considered a proxy for the potential for noise impact.

Given the historic (industrial) nature of the site, and the temporary nature of the proposed use, the proposals could be permitted on noise grounds. Despite the NTN and NIA report, however, there is considered to be insufficient evidence currently that this would be the case in practice. There is also an absence of discussion on how noise would be controlled to a practicable minimum, which would be appropriate in light of national and local policy.

Conclusion: Recommend an assessment of the proposed scheme in line with BS 4142 is submitted as part of the planning application together with details of how noise will be controlled to a

practicable minimum.

CANAL & RIVER TRUST (CRT)

Aggregate containment: No details of the proposed containment for the aggregate storage, which is to be stored directly adjacent to the canal boundary. The existing fencing is permeable and would not be sufficient to prevent material and dust from spreading over the canal corridor.

Fencing: Further details required of any new or amended fencing and boundary treatment, as it is not clear what is intended. Request suitable planting be installed along the boundary to help screen the development (visually, as well as noise and dust), and provide some biodiversity habitat improvement.

Water quality: Require surface water drainage plan for the site, to ensure that no harmful material will enter the canal.

Impact of lighting on biodiversity of the canal corridor: Grand Union Canal is a bat feeding corridor and is used by other nocturnal wildlife which can be disturbed by light spill. It is not clear what impact the proposed lighting would have on the canal or where this would be located and directed.

Impact of the proposed site traffic on the amenity of the canal corridor: Note that 16 HGV movements and 96 car and LGV movements are expected per day. A proportion of these could be expected to use the Trout Road Canal Bridge and there is likely to be increased noise and disturbance for canal users and wildlife. We would suggest that this should be mitigated by soft landscaping around the site that would bring ecological benefit to the canal corridor.

Noise: Note that there is a noise assessment submitted but it seems to relate to the previous use of the land for off-airport parking, not the proposed use by HGVs bringing materials in and out. We presume there would be noise from deliveries and collection of the aggregates as well. Canal boats can moor alongside the towpath for up to 14 days and may be in residential use as a continuous cruiser but have not been identified as sensitive noise receptors. Wildlife can also be adversely affected by noise. We would suggest that the noise assessment be updated to consider the potential impact on these sensitive canal users.

OFFICER COMMENT:

The CRT state their concerns could be addressed by a suite of conditions. This is noted but officers are somewhat concerned that some of the matters raised would normally be required to be addressed within the application. Policy EM8 of the London Plan (2021) seeks to safeguard and improve water quality with priorities including the Grand Union Canal. Policies DMEI 7 and DMEI 8 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) expect development alongside the Grand Union Canal to contribute to the improvement of the Canal and its biodiversity. CRT concerns, particularly relating to light and dust impacts, were raised with the applicant who explained that no change to existing lighting is intended, and that in terms of dust the existing boundary fences/ vegetation are adequate to screen the canal corridor. The applicant states that they "do not believe the additional details and mitigation suggested by the CRT are necessary, relevant or considered reasonable given the temporary time period sought for the proposed uses".

Given that extensive open aggregate storage is proposed adjacent to the canal, and that presumably some additional lighting in these locations would be required when work is proposed to continue until 7pm during the winter months, it is felt that potential harm to the Canal is significant. While the CRT have accepted that these issues could be dealt with by conditions, the applicant's view is that these would not be necessary, relevant or reasonable. It is considered that in the absence of likely harm being addressed or controlled by condition the application should be refused.

ENVIRONMENT AGENCY

No objection to the proposals. Request informative relating to safeguarding measures if any facilities, above ground, are to be used for the storage of oils, fuels or chemicals.

OFFICER COMMENT:

The applicant has confirmed no such storage occurs or is planned. An informative would be attached if permission granted.

HISTORIC ENGLAND -GLAAS

Unlikely to have a significant effect on heritage assets of archaeological interest.

TRANSPORT FOR LONDON

This application has been assessed against the relevant transport policies contained in the published London Plan.

Policy T4 Assessing and Mitigating Transport Impacts

- Existing vehicle movements and types have been estimated by the applicant.
- As there is no apparent independent or objective verification of these volumes it cannot be known how accurate these estimates are.
- TfL would suggest a traffic survey of the site to establish robust baseline traffic volumes vehicle types and timings associated with the existing operations.
- Any issues with increased HGV movements (compared to permitted development) should be assessed in line with the mayors Vision Zero approach to road safety.

Policy T5 Cycle Parking

- It is not clear what is being sought for approval and to be implemented in the event of approval.
- It is stated that cycle parking will be provided for each use in accordance with the London Plan, the plans do not detail or demonstrate how the policy requirements will be met and delivered in the event of approval.

Policy T6 Car Parking

- As there will be no marked bays provided it is not clear exactly what is being sought for approval or how any parking over and above the stated London Plan levels will be prevented.
- The Transport Assessment states that London Plan standards will be met in terms of car parking and cycling, the plans do not detail or demonstrate how the policy requirements will be met and delivered in the event of approval.

In summary TfL does not support these proposals until the issues set out above have been addressed.

OFFICER COMMENT:

The revised Transport Assessment (TA) finds that for cycle parking, when assessed against the London Plan standard (Table 10.2) for B2-B8 uses, the buildings on site fall below the thresholds for long stay (500sqm) and short stay (5000sqm) and no cycle parking is required. The Hillingdon Local Plan threshold (Local Plan Part 2, Appendix C) is also 500sqm.

Car parking is assessed against the London Plan office standard rather than the B Classes standard in the Local Plan. Against the latter, the proposed buildings' floorspace would require 3 car spaces.

No information on electric vehicle charging points is provided.

Overall, given the size of the site, it is considered that were permission to be granted a condition could secure appropriate car parking provision. Regarding TfL comments on vehicle movements, following Highways officers review of the revised TA, the traffic volumes generated are considered acceptable.

INLAND WATERWAYS: No response received.

MOD SAFEGUARDING: No safeguarding objections.

SECURE BY DESIGN/MET POLICE: No response received.

HEATHROW SAFEGUARDING: Request informative on use of cranes. (Informative is proposed).

Internal Consultees

HIGHWAYS TEAM

The Transport Assessment (TA) which accompanied the application was considered an inadequate assessment of traffic generation for a number of reasons, including use of old data. A revised TA was subsequently submitted and reviewed by Highways. Highways comments on the revised TA are set out below.

The applicant in response to the HA's comments undertook a traffic survey at the site access onto Trout Road on Wednesday 14th July 2021, to establish the traffic generated at the site. Given that the applicant has stated that industrial uses currently on-site are operating at around 50% of their capacity, in the revised TA the applicant has doubled the traffic flows for each time period and daily for a worst-case scenario as requested by the HA.

The assessment has been revised taking into account the survey data factored up to full capacity which shows that the proposed sui generis use (if fully operational) would generate equal/less vehicular movements than the consented scheme (mixed use redevelopment permitted in 2018) or the former temporary off-airport car parking use.

RECOMMENDATION: In view of the above findings, the HA raises no objection given the inspectors approach and decision at the appeal which carries significant weighting for this site.

OFFICER COMMENT:

Highways also note that the type of vehicles expected to service the mixed use development permitted in 2018 would be primarily LGV's/trucks for the light industrial use and not HGV's (tippers - 6/8 wheeler) currently servicing the site. Therefore, while the proposal is found to be acceptable in terms of traffic generation and highway safety, the proposed use introduces HGV vehicle movements to and from the site, which was not generated by the previous off-airport parking use and would not have occurred (other than at construction phase) in association with the redevelopment scheme permitted in 2018. Officer's concern on transport is therefore the adverse noise, dust, air quality and disturbance impacts arising from HGV movements.

AIR QUALITY TEAM

The proposed development is located within the LBH Air Quality Management Area and the West Drayton/Yiewsley Focus Area, bringing traffic emissions which are likely to add to current exceedances. As per the London Plan and the LBH Air Quality Local Action Plan 2019-2024, developments need to be neutral as minimum and positive in Focus Areas, contributing to the reduction of emissions in these sensitive areas.

LBH requires new developments to incorporate air quality positive design measures from the outset and suitable mitigation measures to reduce pollution, especially in areas where the air quality is already poor (LBH Air Quality Local Action Plan 2019-2024), namely Focus Areas. Policy DMEI 14 of the Hillingdon Local Plan: Part 2 - Development Management Policies requires active contribution towards the continued improvement of air quality, especially within the Air Quality Management Area.

In addition, under the Environmental Protection Act 1990, dust nuisance, if it is a regular problem

which is substantially affecting resident's health or well-being, or interfering with the use and enjoyment of homes, is considered a statutory nuisance. The proposed development has the potential to generate high risk of nuisance to the nearby residents during its operation phase. The applicant has not provided suitable information on the following:

- a) Impacts of transportation of stored materials on local residential areas, namely lorries carrying construction materials to and from the application site; these can include emissions from track-out, fugitive emissions from stockpiling construction materials, and increased congestion due to large size vehicle movements to and from the site to deposit/collect the stored materials. No cumulative assessment of the total vehicle movements (both cars, vans and lorries) with other existing activities in the vicinity of the site was undertaken.
- b) Plans and measures to mitigate fugitive emissions likely to originate from the application site during operation through a Dust Management Plan;
- c) Plans and measures to manage traffic routes for material transportation lorries to avoid sensitive and congested areas of the Focus Area through a Traffic Management Plan.

No cumulative assessment was undertaken to ascertain the impact of having construction vehicles coming in and out of the application site (this includes both traffic emissions and fugitive emissions due to track out). In addition, no air quality assessment of the impacts on local air quality and premises of fugitive emissions from within the site was submitted to the LA for evaluation.

Recommend refusal: Lack of information to ascertain the level of dust nuisance to nearby residential areas and mitigation to be deployed at receptors most likely to be affected by the operation of the proposed development due to traffic exhaust emissions and dust.

OFFICER COMMENT:

In the absence of a robust assessment of air quality impacts the air quality officer further commented that there is insufficient information to calculate the total level of mitigation required, nor what measures would be needed to make sure the risk of dust nuisance would be minimised. In the absence of this information it is considered that permission should be refused.

POLICY TEAM: No comments.

WASTE TEAM: No comments.

CONTAMINATED LAND TEAM: No objection subject to conditions.

FLOODING TEAM: No comments.

OFFICER COMMENT:

The Council's Floods and Drainage Officer commented on the previous application for a two year temporary parking consent, that the proposal failed to demonstrate that the site is safe and flood risk is suitably mitigated including through the provision of adequate management of surface water drainage. The view was taken at that time that as the site is in Flood Zone 1 the risk of flooding only relates to impacts off-site from surface water flooding. Officers consider that it would be difficult to request surface water drainage works on land where the uses would be taking place for a temporary period only, as these works could be substantial. In the current proposal again no works are proposed to existing surfaces and it is considered this view remains relevant.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Chapter 11 of the NPPF (2021) encourages the efficient use of land and at Chapter 6 states that decisions should help create the conditions in which businesses can invest, expand and adapt.

The site is allocated (Site Allocation 39 Part A of the adopted Local Plan Part 2(2020)) for a residential-led mixed use development. The site had benefited from planning permission, pp ref 38058/APP/2013/1756, to the wholesale development of the site, however this permission lapsed in May 2021.

The present application is put forward as a temporary solution to occupy the site for a period of 3 years pending implementation of an approved redevelopment scheme. The site falls outside any designated employment site, but has historically been in use for industrial and storage purposes. The applicants team have been in discussions with the Council regarding a revised proposal for the redevelopment of the site, however, no formal planning application has yet been lodged.

The principle of the use of the site for some form of industrial use is accepted, given the site's history of industrial and storage uses. A temporary permission is also appropriate in principle whilst the long term residential-led redevelopment is progressed.

7.02 Density of the proposed development

Not Applicable.

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

The site does not fall within a Conservation Area or Area of Special Local Character and does not include any listed buildings or affect any listed building's setting.

Greater London Archaeological Advice Service state that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

The proposal would not affect any heritage asset and is considered acceptable in this respect.

7.04 Airport safeguarding

Policy DMAV 1 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) notes that the Council will support the continued safe operation of Heathrow Airport and RAF Northolt and will consult with the relevant airport operators on proposals in safeguarded areas. Proposals that may be a hazard to aircraft safety will not be permitted.

No objection is raised to the application subject to the requested conditions put forward by Statutory Consultees. In the event that planning permission were granted, the requested conditions would be added to a decision notice.

7.07 Impact on the character & appearance of the area

Paragraph 131 of the NPPF (2019) provides that in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Policies D1-D3 of the London Plan (2021) requires all development to make the best use of land by following a design led approach that optimises the capacity of sites. The policies set out a range of urban design principles relating to the quality of public realm, the provision of convenient, welcoming and legible movement routes and the importance of designing out crime by, in particular, maximising the provision of active frontages and minimising inactive frontages and improving permeability and overlooking.

Policy BE1 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) requires all new development to improve and maintain the quality of the built environment in order to create successful and sustainable neighbourhoods, where people enjoy living and working and that serve the long-term needs of all residents.

Policy DMHB 10 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires all new development to be of a height, form, massing and footprint proportionate to its location and sensitive to adjacent buildings and the wider townscape context. Consideration should be given to its integration with the local street network, its relationship with public and private open spaces and its impact on local views.

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) re-emphasises the importance of good design in new development by A) requiring all new buildings and extensions to be designed to the highest standards, which incorporate principles of good design, such as harmonising with the local context by having regard to the scale, height, mass and bulk of surrounding buildings; using high quality materials and finishes; having internal layouts and design which maximise sustainability and the adaptability of the space; protecting features which contribute positively to the area and providing landscaping that enhances amenity, biodiversity and green infrastructure; B) avoiding adverse impacts on the amenity, daylight and sunlight of adjacent property and open space; C) safeguarding the development potential of adjoining sites and D) making adequate provision for refuse and recycling storage.

Policy DMHB 12 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) re-emphasises the need for new development to be well integrated with the surrounding area and provides design criteria as to how this would be achieved.

In terms of the visual impact of the development, public views into the site are restricted by surrounding residential and commercial buildings and canal tree screening. The proposed temporary uses comprises portacabins, containers and aggregate mounds which are functional and utilitarian features which in themselves are not attractive but are equally not out of place and not unexpected on a large site which has a history of industrial and storage use. The portacabins proposed are a maximum of 2.6 metres in height and are not in themselves of a significant scale. The proposed open storage area located predominately adjacent to the canal but also to the rear of properties on St Stephens Road, is proposed to store materials up to a height of 5.2 metres (the applicant has stated that it would not exceed the height of 2 portacabins).

Given this, and the limited view into the site, principally from the Trout Road entrance, it is considered that the proposal can be accepted in terms of visual impact on its surroundings.

7.08 Impact on neighbours

Policy BE1 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) requires developments to be appropriately designed so that they do not adversely affect their surroundings or the local character.

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires that development should not adversely impact on the amenity, daylight and sunlight of adjacent properties.

PRIVACY

The nature of the commercial operations is such that there are no impacts upon the privacy of adjoining occupiers at St Stephens Road and Trout Road. Whilst the proposal comprises open storage adjoining some rear garden areas on St Stephens Road, the open storage would not result in any overlooking into the properties, or others surrounding the site.

DAYLIGHT AND SUNLIGHT

Only some of the site will comprise physical structures such as portacabins, which are a

maximum height of 2.6metres. In other areas, there is a small area of vehicle storage and other areas of open storage. The proposals would not result in any loss of daylight and sunlight to adjoining residential occupiers.

OVERBEARING/OVERDOMINANCE

The majority of the site will comprise of works which are low level in height. The only parts of the proposal which have the potential to be overbearing are the areas of open storage where it has been declared that the open storage may go up to 5.2metres in height. Whilst this is not an ideal relationship to the residents of St Stephens Road and Trout Road, an existing bank of trees to the rear of the St Stephens Road properties offers some screening from the open storage. The Trout Road properties are slightly further from these areas of open storage and therefore the proposals have less impact to these residents. The Canal side forms the other site boundary along which open storage up to 5.2 metres is proposed. Again, there is existing landscaping which would offer screening to any users of the canal towpath from seeing the works within the application site. In summary, it is considered that the proposals would not result in an overbearing development however, were the application recommended for approval, it would be considered necessary to attach a compliance condition that the open storage could not exceed 5.2metres as per the information declared in the planning application to avoid blight to local residents and users of the canal and canal towpath.

The nature of the proposed use, with structures limited to portacabins and containers, is such that the proposal does not raise concerns around loss of light, privacy or outlook.

The proposal is considered acceptable in respect these matters.

Noise and air quality impacts are considered below in section 7.18.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Para.104 of the NPPF (2021) states that consideration should be given to the potential impacts; opportunities taken to promote walking, cycling and public transport; environmental impacts of traffic should be considered and opportunities taken to avoid and mitigate adverse effects.

Policies T2 and T4 of the London Plan (2021) require developments to contribute to healthy streets, fully assess transport impacts and provide mitigation where necessary, and reduce vehicle emissions and noise.

Policy DMT 1 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires that development has no significant transport or associated air quality and noise impacts on the local and wider environment. Policy DMT 2 requires safe and efficient vehicle access and and that development does not contribute to a deterioration in air quality, noise, amenity and safety of road users and residents.

Following review of the revised Transport Assessment (TA), no objection is raised to the volume of traffic generated, taking into account the lapsed planning permission for a mixed use development at the site and the sites historic use as an industrial site. In particular, it is considered that the local highway network can absorb the estimated trip generation which arises as a result of the proposals, without having any sever impact upon the highway network.

It is noted that residents have raised significant concerns about the quantity of movements occurring at the site, whilst it is only at 50% occupancy, however the LPA at the time of assessing this application have not been able to conduct surveys to verify the trip generation set out in the TA. As such, had this application been recommended for

approval, it would have been deemed prudent to impose a restrictive condition limiting the maximum number of trips to those set out within the TA.

Notwithstanding the trip generation and impacts upon the highway network, it is however noted that the trips to the site are changing in their nature, whereby in the past and under the lapsed planning permission, the trips would have been car based, however, the trips are now HGV movements which constitutes a change in planning terms. Officer's therefore do consider this raises other concerns which are set out in full in section 7.18 of this report.

In summary, the proposed trip generation would not result in a sever impact on the local highway network and is therefore deemed to accord with para 111 of the NPPF 2021.

7.11 Urban design, access and security

URBAN DESIGN; CONSIDERED UNDER SEC 7.07

ACCESS; ASSESSED UNDER 7.10

SECURITY:

Policy D11 of the London Plan (2021) requires development proposals to contribute to the minimisation of potential physical risks and include measures to deter crime and anti social behaviour.

The applicant has explained that a significant benefit of the proposed temporary use of the site is the security against theft, arson, fly-tipping and similar anti-social behaviour pending the long term redevelopment of the site. This is noted and accepted but this needs to be considered in the context of the other impacts which would result from the temporary use of the land.

7.12 Disabled access

Accessibility for disabled people is legislated under the Disability Discrimination Act (DDA) 1995 (amendment) Regulations 2003. Policies GG1 and D5 of the London Plan (2021) seek to create an environment where all Londoners including disabled people can move around with ease and with choice and dignity, avoiding separation or segregation.

Given the nature of the use, primarily storage and distribution, and that a temporary permission is being sought, it is considered that the proposal as submitted can be accepted.

7.14 Trees, landscaping and Ecology

TREES AND LANDSCAPING

Policy G5 of the London Plan (2021) requires major developments to incorporate high-quality landscaping.

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) also requires that new development is high quality, sustainable, adaptable, and harmonises with the local context. Landscaping and tree planting should also enhance amenity, biodiversity and green infrastructure.

Policy DMHB 14 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) notes all developments will be expected to retain or enhance the existing

landscape, trees, biodiversity and natural features of merit. Planning applications for proposals that would affect existing trees will be required to provide an accurate tree survey showing the location, height, spread and species of trees.

The proposed development is a meanwhile use and therefore the requirement to provide additional trees and landscaping as part of this application is considered superfluous, however, this would be necessary as part of any application to redevelop the whole site.

ECOLOGY/BIODIVERSITY

Paragraph 174 of the NPPF (2021) states that planning decisions should contribute to and enhance the natural and local environment by among other measures, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Policy SI 17 of the London Plan (2021) requires development along London's canal network to respect local character and biodiversity.

Policy DMEI 7 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires the design and layout of new development to retain and enhance any existing features of biodiversity or geological value within the site.

Policy DMEI 8 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) expect development alongside the Grand Union Canal to contribute to the improvement of the Canal and its biodiversity.

The application sites southern most boundary adjoins the Grand Union Canal and the Canal Towpath, which is publicly accessible for a stretch of 105 metres approximately. Significant investment into the Canal Towpath which runs through the Borough has been an ongoing project for the Borough and the Canals and Rivers Trust for many years. Planning policies have strongly supported the improvement of the Canal Towpath to ensure biodiversity enhancements alongside creating a sustainable and viable alternative walking and cycling route through the borough.

The planning submission made to LPA and the associated plans and documentation were known at the time of validation to be 'limited' in terms of the detail provided, however, in accordance with national requirements, the details were sufficient to validate the planning application. The Canal and Rivers Trust (CRT) do however consider the scale of information is insufficient to consider the potential impacts upon the Grand Union Canal and its associated impacts on Biodiversity. As such the CRT requested a series of additional detail, either to be provided to them at application stage or to form conditions attached to any future grant of planning permission to cover the following:

Fencing: Further details of any new or amended fencing and boundary treatment, as it is not clear what is intended.

Request suitable planting be installed along the boundary to help screen the development (visually, as well as noise and dust), and provide some biodiversity habitat improvement.

Water quality: Require surface water drainage plan for the site, to ensure that no harmful material will enter the canal.

Impact of lighting on biodiversity of the canal corridor: Grand Union Canal is a bat feeding corridor and is used by other nocturnal wildlife which can be disturbed by light spill. It is not clear what impact the proposed lighting would have on the canal or where this would be located and directed.

Impact of the proposed site traffic on the amenity of the canal corridor: Note that 16 HGV movements and 96 car and LGV movements are expected per day. A proportion of these could be expected to use the Trout Road canal bridge, and there is likely to be increased noise and disturbance for canal users and wildlife. We would suggest that this should be mitigated by soft landscaping around the site that would bring ecological benefit to the canal corridor.

Noise: Note that there is a noise assessment submitted but it seems to relate to the previous use of the land for off-airport parking, not the proposed use by HGVs and bringing materials in and out. We presume there would be noise from deliveries and collection of the aggregates as well. Canal boats can moor alongside the towpath for up to 14 days, and may be in residential use as a continuous cruiser but have not been identified as sensitive noise receptors. Wildlife can also be adversely affected by noise. We would suggest that the noise assessment be updated to consider the potential impact on these sensitive canal users.

Aggregate containment: No details of the proposed containment for the aggregate storage, which is to be stored directly adjacent to the canal boundary. The existing fencing is permeable and would not be sufficient to prevent material and dust from spreading over the canal corridor.

Whilst some of the above matters relate to noise (which is discussed further in section 7.18) other requests were considered by the Council to be reasonable requests such as fencing details, measures to control dust, details of lighting etc.

The applicant however has stated that they "do not believe the additional details and mitigation suggested by the CRT are necessary, relevant or considered reasonable given the temporary time period sought for the proposed uses". Despite further discussions, this has remained the applicants position on the matter and there is a refusal to provide any mitigation to the Canalside biodiversity as part of the proposals. The development is therefore considered, without the imposition of conditions to address the harm, to result in adverse impacts as a result of noise, dust pollution, water quality and light spill on the Grand Union Canal and its biodiversity.

Due to the applicants refusal to agree to the requested conditions, the proposed development would result in an adverse impact on the biodiversity of the Grand Union Canal by virtue of light spill, water quality, dust pollution and noise pollution and would thereby conflict with Policies EM7 and EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012), Policies DME1 7 and DME1 8 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) and Policies G9, SI 16 and SI 17 of the London Plan (2021).

7.15 Sustainable waste management

The proposal comprises delivery and redistribution of materials together with closed storage and car storage/ sales. As such this matter is not considered relevant to the application.

7.16 Renewable energy / Sustainability

It is accepted that the temporary nature of the proposed development is such that there is limited potential for incorporation of low carbon and renewable technologies.

7.17 Flooding or Drainage Issues

The NPPF 2021 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is reflected in Policy EM6 of the Hillingdon Local Plan: Part 1 - Development Management Policies (2020). Where development is necessary in flood risk areas, it can be permitted provided

it is made safe without increasing flood risk elsewhere. The London Plan (2021) reiterates national policy guidance, and Policy SI 12 states that development should ensure that flood risk is minimised and mitigated and that residual risk is addressed.

A Flood Risk Assessment accompanied the application which concludes that the future occupants and users of the proposed development will be at a low risk of flooding.

The site is more than 1ha but falls within Flood Zone 1, the area of least risk, and is not within a Critical Drainage Area. No alterations are proposed to the existing site surfaces. It is noted however that the CRT requested a condition for details of surface water drainage for the site, to ensure that no harmful material will enter the canal. This matter is covered in section 7.14 of the report.

The proposal is considered acceptable from a flood risk point of view, albeit matters of surface water drainage are not considered to have been adequately addressed.

7.18 Noise or Air Quality Issues

NOISE

Para.185 of the NPPF (2021) requires new development to mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life.

Policy D14 of the London Plan (2021) requires proposals to avoid significant adverse noise impacts on quality of life, and minimise and mitigate potential adverse noise effects.

Policy EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2012) seeks to ensure that noise generating development adequately control and mitigate noise impacts.

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires new development to avoid adverse impacts on the amenity, noise, daylight and sunlight of adjacent property and open space.

The application site is located adjacent to residential occupiers on St Stephens Road and also transient occupants of leisure moorings on the Grand Union Canal. Other residential developments around the site include Caxton House and Rowlock House on Trout Road.

The applicants have submitted a Noise Assessment alongside their planning submission. However the assessment submitted seeks to compare this scheme to the previous off-airport car parking use assessment, with the conclusion drawn that the previous assessment is "likely to represent a worst-case scenario of noise impacts, and in excess of those that would be generated by the current proposal which has a more limited hours of operation and vehicle movements."

The conclusion drawn by the applicant relies on the previous assessment being robust and the current application being sufficiently similar in nature (in order for the same assessment approach and assumptions to apply). However, a key difference between the two schemes is that the car park was assessed as operating all day every day, whilst the proposed scheme's operation is stated to be limited to 7 am - 7 pm weekdays and 7 am - 1 pm Saturdays. The other main difference is that the number of assumed vehicle movements is stated as being reduced compared to the off-airport parking. The following values are given for the proposed scheme:

- Car - 40-50 per day
- Van - 20 per day

· Lorries/HGV - 10 per day

This equates to a total of 160 two-way movements, or over 13 per hour if spread evenly across the 12-hour working day. For the previous parking scheme, the maximum movements in any one hour was taken to be 20 car movements (two-way) and 4 mini-bus movements (seeming one-way), giving a total of 24. This is twice that of the 12-hour average for the proposed scheme; however, one can imagine that there will likely be peak times activities associated with the proposed scheme, where movement numbers are higher. The noise consultant states that the proposed scheme is not proposed as 24 hours. Lorries/HGVs will be a feature of the proposed scheme which were not a feature of the previous use of the site for off-airport parking.

Highways Officers estimate from the revised Transport Assessment that 30 HGV movements would be expected daily. The applicant estimates 10 HGV movements. It is also to be expected that other vehicle movements and noise sources would be associated with the "storage" nature of the proposed scheme, such as the use of forklift trucks or telehandlers, and the handling/movement of scaffolding materials, for example. It should also be noted that while the noise consultant has based their comments on the stated hours of operation, the use has already commenced and it is clear from the neighbour representations that the operator does not in reality work within those time limits.

The assessment of car parking noise was made based on the calculated change in ambient (LAeq,T) noise conditions, together with a magnitude of impact scale based on guidance from Highways England's Design Manual for Roads and Bridges. The scale, therefore, is more often used for major road schemes, and is considered suited best where no change in character occurs. For a robust assessment, it would have been expected to see at least discussion on the use of BS 4142 (Methods for rating and assessing industrial and commercial sound). This Standard would typically apply by default for commercial sites unless the noise in question falls within the scope of other standards or guidance. In terms of the proposed scheme - where BS 4142 very much applies - in no way can the previous (non-BS 4142) assessment be considered a proxy for the potential for noise impact. There is also an absence of discussion on how noise would be controlled to a practicable minimum, which would be appropriate in light of national and local policy.

Turning briefly to the proposed hours of operation, whilst those proposed within the planning submission are limited in duration, complaints of significant out of hours operations taking place have been received, however the LPA has not yet verified any out of hours operations through site investigations. If planning permission were to be granted, a compliance condition would have been imposed to restrict the operating hours of this site, and also to ensure adequate enforcement could also be taken, Under the current proposed hours of operation, no in principle objection is raised.

In summary, the noise assessment is not considered robust - the correct British Standard is not used - and with the proposed scheme being more industrial in nature it is considered the previous assessment is not a reliable guide. The historic (industrial) nature of the site, and the temporary nature of the proposed use, are noted. However, Officers consider that in the absence of a robust assessment, the submission fails to demonstrate that unacceptable harm would not occur in respect of noise, and it is proposed that the application be refused on this ground.

AIR QUALITY

Para. 186 of the NPPF (2021) states that planning decisions should sustain and contribute

towards compliance with relevant limit values taking account of Air Quality Management Areas.

Policy SI 1 of the London Plan (2021) requires that development should not lead to deterioration of existing poor air quality.

Policy EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (2021) seeks to ensure development does not cause deterioration in local air quality levels.

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires new development to avoid adverse impacts on the amenity, noise, daylight and sunlight of adjacent property and open space.

Policy DMEI 14 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) seek to protect air quality from deterioration throughout the Borough.

The proposed development is located within the LBH Air Quality Management Area and the West Drayton/Yiewsley Focus Area, bringing traffic emissions which are likely to add to current exceedances. As per the London Plan and the LBH Air Quality Local Action Plan 2019-2024, developments need to be neutral as minimum and positive in Focus Areas, contributing to the reduction of emissions in these sensitive areas.

LBH requires new developments to incorporate air quality positive design measures from the outset and suitable mitigation measures to reduce pollution, especially in areas where the air quality is already poor (LBH Air Quality Local Action Plan 2019-2024), namely Focus Areas. Policy DMEI 14 of the Local Plan requires active contribution towards the continued improvement of air quality, especially within the Air Quality Management Area.

In addition, under the Environmental Protection Act 1990, dust nuisance, if it is a regular problem which is substantially affecting resident's health or well-being, or interfering with the use and enjoyment of homes, is considered a statutory nuisance. The proposed development has the potential to generate high risk of nuisance to the nearby residents during its operation phase, particularly given the nature of the use and accompanying HGV traffic. The applicant has not provided sufficient information on the following:

- a) Impacts of transportation of stored materials on local residential areas, namely lorries carrying construction materials to and from the application site; these can include emissions from track-out, fugitive emissions from stockpiling construction materials, and increased congestion due to large size vehicle movements to and from the site to deposit/collect the stored materials. No cumulative assessment of the total vehicle movements (both cars, vans and lorries) with other existing activities in the vicinity of the site was undertaken.
- b) Plans and measures to mitigate fugitive emissions likely to originate from the application site during operation through a Dust Management Plan;
- c) Plans and measures to manage traffic routes for material transportation lorries to avoid sensitive and congested areas of the Focus Area through a Traffic Management Plan.

No cumulative assessment was undertaken to ascertain the impact of having construction vehicles coming in and out of the application site (this includes both traffic emissions and fugitive emissions due to track out). In addition, no air quality assessment of the impacts on local air quality and premises of fugitive emissions from within the site was submitted to the LA for evaluation.

In conclusion, there is a lack of information to ascertain the level of dust nuisance to

nearby residential areas and the mitigation to be deployed at receptors most likely to be affected by the operation of the development due to traffic exhaust emissions and dust. In the absence of this information it is considered that permission should be refused on air quality grounds.

7.19 Comments on Public Consultations

These have been addressed throughout the body of this report.

7.20 Planning obligations

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.

Policy DF1 of the London Plan (2021) requires development proposals to provide the infrastructure and meet relevant policy requirements necessary to ensure that they are sustainable and to support delivery of the Plan.

Policy DMCI 7 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) seeks 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. Planning obligations are sought on a scheme-by-scheme basis to ensure that development proposals provide or fund improvements to mitigate site specific impacts made necessary by the proposal.

Relevant Officers have reviewed the proposal, as have other statutory consultees. The comments received indicate that there is insufficient information provided to assess if this scheme would require site specific mitigation via planning obligations in the areas of air quality, noise and ecology/biodiversity.

Although the application is recommended for refusal, the council cannot fully assess the proposal to conclude on matters of mitigation.

Community Infrastructure Levy

The scheme is not CIL liable.

7.21 Expediency of enforcement action

An informative is proposed to confirm to the applicant that the ongoing use of the site does not have planning permission and that enforcement action will be considered.

7.22 Other Issues

CONTAMINATION

Policy DMEI 12 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) requires proposals for development on potentially contaminated sites to be accompanied by at least an initial study of the likely contaminants. 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.

The contaminated land officer has stated that as the use is temporary and involves portable units, no objection is raised subject to a condition to prevent contaminated soil/ other material being imported to the site.

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

The submission has not demonstrated that the proposed development is acceptable in terms of the impact on the amenity and character of the area. Submissions on noise and air quality are found to be deficient in their assessment of these impacts. It is also considered that the proposal would have a significant adverse impact on the quality of the canal corridor.

The applicant has emphasised that the proposal is for a temporary use, and pending long term redevelopment of the site this has many benefits, including provision of employment, and provision of security to prevent theft, fly-tipping and other crime. It is noted that the applicant states the existing use employs 5 full-time employees which would increase to 30 full-time employees if temporary permission is granted.

It is considered, however, that these benefits are outweighed by the harm which the development appears likely to cause, and is causing; the absence of robust assessments to allow a proper evaluation of the level of this harm; and the lengthy three year duration of temporary consent being requested.

This harm relates to the impacts on the surrounding local residential occupiers and also the users of the canal side and the impact on biodiversity along the Grand Union Canal. This is exacerbated by the applicants refusal to accept conditions which could alleviate some, if not all, of the current concerns identified.

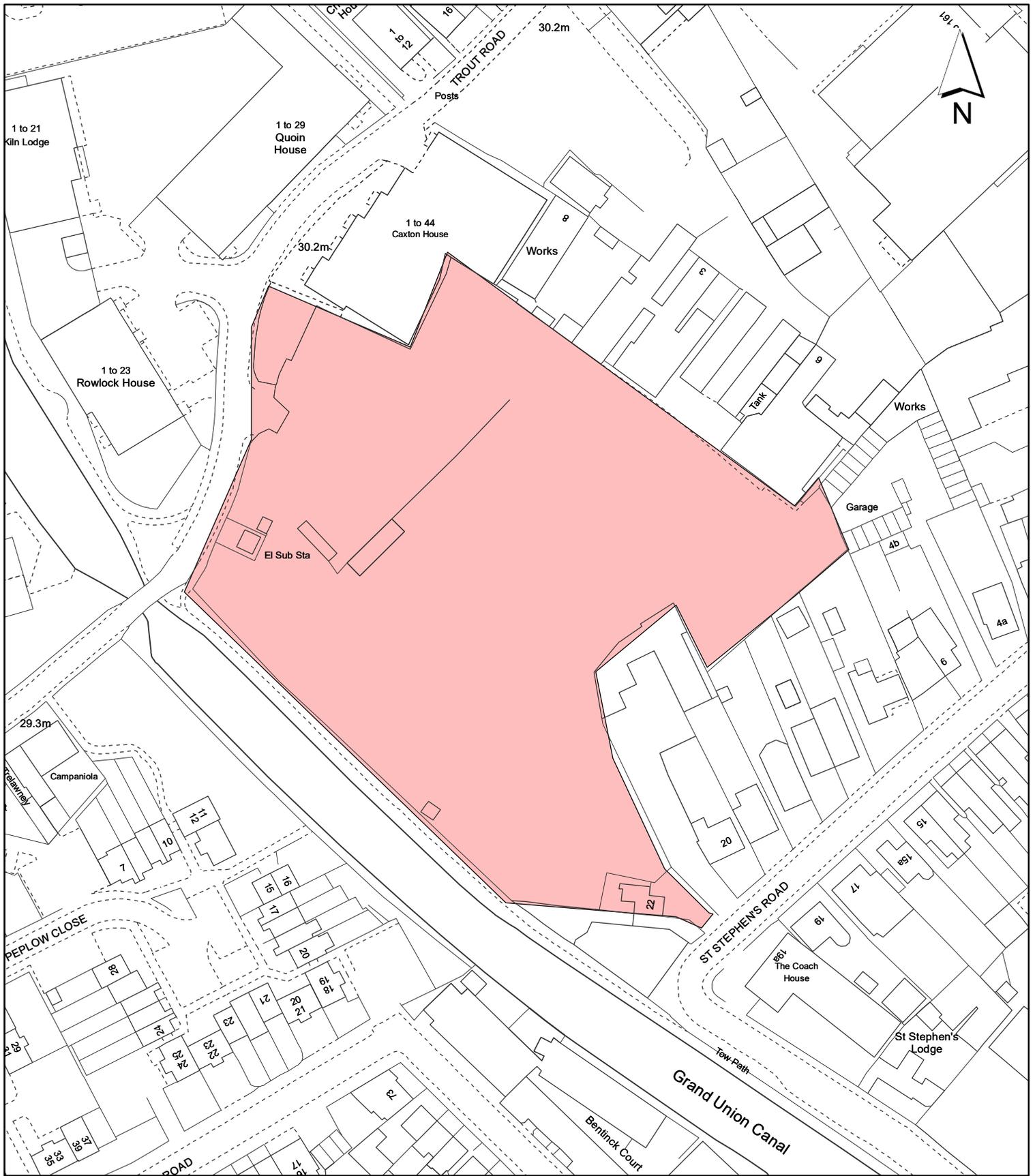
It is therefore recommended that the application be refused.

11. Reference Documents

Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)
Hillingdon Local Plan: Part 2 Site Allocations and Designations (2020)
Hillingdon Local Plan: Part 2 Development Management Policies (2020)
Hillingdon Local Plan: Policies Map (2020)
London Plan (2021)
National Planning Policy Framework (2021)
Hillingdon Planning Obligations SPD (2014)
LBH Air Quality Action Plan 2019-2024

Contact Officer: Michael Gavin

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Notes:

 Site boundary

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Site Address:

**Rainbow and Kirby,
 West Drayton**

**LONDON BOROUGH
 OF HILLINGDON**
 Residents Services
 Planning Section

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 Telephone No.: Uxbridge 01895 250111

Planning Application Ref:
38058/APP/2021/1327

Scale:
1:1,200

Planning Committee:
Major

Date:
August 2021

