

Report of the Head of Planning, Transportation and Regeneration

Address STANFORD HOUSE, 9 NESTLES AVENUE HAYES

Development: Deed of variation to Section 106 legal agreement associated with planning permission ref. 51175/APP/2020/2543 dated 25-01-22 (Demolition of existing buildings and redevelopment to provide a building up to 11 storeys comprising residential accommodation, associated landscaping, access, car parking and cycle parking.

Detailed description: To provide 103 residential units (2 x studio, 57 x 1-bed, 31 x 2-bed and 13 x 3-bed)) to vary the affordable housing offer.

LBH Ref Nos: 51175/APP/2022/390

Drawing Nos:

- A - (03) - 100 rev 010 Ground floor plan date received 17.03.2
- A - (03) - 101 rev 014 First floor plan amended date received 17.03.2
- A - (03) - 110 rev 010 Tenth floor plan date received 17.03.2
- A - (03) - 102 rev 012 Second floor plan date received 17.03.2
- A - (03) - 102 rev 012 Third floor plan date submitted 17.03.2
- A - (03) - 104 rev 010 Fourth floor plan date received 17.03.2
- A - (03) - 105 rev 010 Fifth floor plan date received 17.03.2
- A - (03) - 106 rev 012 Sixth floor plan date received 17.03.2
- A - (03) - 107 rev 012 Seventh floor plan date received 17.03.2
- A - (03) - 108 rev 04 Eighth floor plan date received 17.03.2
- A - (03) - 109 rev 013 Ninth floor plan date received 17.03.2
- EX(02)100 02
- Covering letter

Date Plans Received: 11/02/2022

Date(s) of Amendment(s): 11/02/2022

Date Application Valid: 11/02/2022

14/02/2022

1. SUMMARY

Planning permission (reference 51175/APP/2020/2543) was granted on 25-01-22 for the demolition of existing buildings and redevelopment to provide a building up to 11 storeys comprising of 103 residential units (2 x studio, 57 x 1-bed, 31 x 2-bed and 13 x 3-bed), associated landscaping, access, car parking and cycle parking.

Planning permission was granted subject to a S106 Legal Agreement which secured on site 27 affordable housing units. This application seeks a Deed of Variation (DoV) to that legal agreement to secure all 103 units (100%) as affordable housing units. The applicant has agreed to a healthcare contribution of £102,588 in lieu of the reduced CIL payments.

No objections have been raised to the requested variations by either the Council's Policy Officer or the Council's Housing Officer. The development would continue to appropriately comply with relevant Local Plan, London Plan and national planning policies and, accordingly, subject to a Deed of Variation to the s106 legal agreement approval is recommended.

2. RECOMMENDATION

APPROVAL, subject to the following:

A) That the Council enter a Deed of Variation with the applicants under Section 106 of the Town and Country Planning Act 1990 (as amended) or other appropriate legislation to secure the following Heads of Terms:

- 1. Healthcare contribution of £102,588**
- 2. Affordable Housing to be secured in perpetuity**
- 3. Amendments to the mix and tenure of the Affordable Housing and removal of Affordable Housing Cap**
- 4. Replacement of the Chargee in Possession clause**
- 5. Amend the triggers for delivery of the Affordable Housing and the transfer of the Affordable Housing to an RP (which would not be necessary or applicable where the Site is delivered as 100% affordable housing)**
- 6. Remove viability review provisions (not required if 100% Affordable Housing)**

B) That the Applicant meets the council's reasonable costs in the preparation of the deed of variation and any abortive work as a result of the deed not being completed.

C) That Officers be authorised to negotiate and agree the amended terms in the Deed of Variation.

1 NONSC Non Standard Condition

APPROVAL for:

1. Healthcare contribution of £102,588
2. Affordable Housing to be secured in perpetuity
3. Amendments to the mix and tenure of the Affordable Housing and removal of Affordable Housing Cap
4. Replacement of the Chargee in Possession clause
5. Amend the triggers for delivery of the Affordable Housing and the transfer of the Affordable Housing to an RP (which would not be necessary or applicable where the Site is delivered as 100% affordable housing)
6. Remove viability review provisions (not required if 100% Affordable Housing)

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises a 2-storey industrial building, known as Stanford House, located on the northern side of Nestles Avenue, south of Hayes town centre and Hayes & Harlington Station. The existing building sits on a 0.23 hectare site which is split into two distinct elements, the larger portion to the rear comprises a large open plan factory and a two-storey administrative block fronting onto Nestles Avenue. The building was built in the late 1930s and has an Art Deco influenced formal facade with horizontal steel windows and concrete dressings.

Stanford House is set back from Nestles Avenue by 15 metres with a hard landscaped forecourt and green hedging and trees to the boundary. The site is one of a number of light industrial units along Nestles Avenue which also accommodate education and self storage uses and a former car museum and car rental & repair shops. Surrounding buildings are of a similar functional industrial style ranging from one to three-storeys in height.

The buildings fronting Nestles Avenue have large windows and are built from metal cladding or brick many with Art Deco influences. The site forms part of Site B within Policy SA 5 (Land to the South of the Railway, including Nestle Site, Nestle Avenue, Hayes) of the emerging Local Plan: Part 2 Site Allocations and Designations (2020).

To the south west, on the opposite side of Nestles Avenue, lies a predominantly residential area, largely characterised by two-storey semi-detached properties.

Immediately to the east, the site is bound by the Botwell/Nestles Conservation Area. The wider site's heritage significance relates to the site's industrial design and its manufacturing history. There are locally listed structures within the wider site, which include the former Nestle Factory, the Canteen Building and the gates/railings at the front of the site.

The site currently falls within an Air Quality Focus Area (AQFA) as designated in the Hillingdon Local Plan. It also falls within the Hayes Housing Zone, as designated in the London Plan (2016).

3.2 Proposed Scheme

Planning permission (reference 51175/APP/2020/2543) was granted on 24-02-21 for "demolition of existing buildings and redevelopment to provide a building up to 11 storeys comprising residential accommodation, associated landscaping, access, car parking and cycle parking. Detailed description: To provide 103 residential units (2 x studio, 57 x 1-bed, 31 x 2-bed and 13 x 3-bed)."

That planning permission was granted subject to a S106 Legal Agreement. This application seeks a Deed of Variation (DoV) to that legal agreement to modify the operative provisions and Schedule 2 of the agreement as set out by the applicant. The changes to the operative provisions are noted within the submitted covering letter and include of definitions to be deleted.

With regards to changes to schedule 2, a summary is set out below:

- Amendments to the mix and tenure of the Affordable Housing;
- The Affordable Housing Cap to be removed;
- Amend the triggers for delivery of the Affordable Housing and the transfer of the Affordable Housing to an RP (which would not be necessary or applicable where the Site is delivered as 100% affordable housing);
- Remove viability review provisions if 100% Affordable Housing

Within the consented scheme the following were approved as affordable housing:

1 bed x 16 units

2 bed x 5 units

3 bed x 6 units

Total = 27 affordable housing units

Percentage of units to be affordable = 26%

The affordable tenure split by unit was 70% intermediate and 30% affordable rent.

The mixed tenure proposed under this Deed Of Variation comprises 30 affordable rental units and 73 intermediate units. By unit this equates to approx 70% intermediate and approximately 30% affordable rent which are all London Affordable Rent units.

The applicant has agreed to a healthcare contribution of £ £102,588 in lieu of the whole scheme now being eligible to a social housing exemption from any potential CIL liability, and the ongoing need to health care provision within Hayes.

No physical amendments are proposed to the development.

3.3 Relevant Planning History

51175/APP/2020/2543 Stanford House, 9 Nestles Avenue Hayes

Demolition of existing buildings and redevelopment to provide a building up to 11 storeys comprising residential accommodation, associated landscaping, access, car parking and cycle parking.

Detailed description: To provide 103 residential units (2 x studio, 57 x 1-bed, 31 x 2-bed and 13 3-bed).

Decision: 24-02-2021 Approved

Comment on Relevant Planning History

This Deed of Variation relates to planning permission;

Planning permission reference 51175/APP/2020/2543 was granted on 25-01-22 for the "demolition of existing buildings and redevelopment to provide a building up to 11 storeys comprising residential accommodation, associated landscaping, access, car parking and cycle parking

Detailed description: To provide 103 residential units (2 x studio, 57 x 1-bed, 31 x 2-bed and 13 x 3-bed)."

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.

UDP / LDF Designation and London Plan

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

Part 1 Policies:

PT1.H2 (2012) Affordable Housing

Part 2 Policies:

DMCI 7 Planning Obligations and Community Infrastructure Levy

DMH 7 Provision of Affordable Housing

LPP D7 (2021) Accessible housing

LPP H4 (2021) Delivering affordable housing

LPP H6 (2021) Affordable housing tenure

LPP H7 (2021) Monitoring of affordable housing

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- **30th March 2022**

6. Consultations

External Consultees

Not relevant to this application

Internal Consultees

HOUSING OFFICER COMMENT:

Thanks for the opportunity to comment on this planning application to vary the affordable housing on the Stanford House development.

The increase in affordable housing is welcomed as it help to address the shortfall in affordable housing of all tenures identified in the recently adopted Hillingdon Housing Strategy.

The original planning application on this was supported by an Financial Viability Assessment and would only deliver 5% affordable housing.

- 5 x London Affordable Rent tenure units - 1 x 2 bed and 4 x 3 bed

Planning and Housing took a pro active role on this site and working with the developer and Shepherds Bush Housing Group to increase in the affordable housing and in January 2002 the S106 affordable housing was increased to 26%

- 17 x London Affordable Rent tenure units - 7 x 1 bed, 4 x 2 bed and 6 x 3 bed

- 10 x Shared Ownership units - 9 x 1 bed and 1 x 2 bed

Shepherds Bush Housing Group now own the site and the current application seeks to increase this to a 100% affordable housing scheme.

- 30 x London Affordable Rent tenure - 17 x 1 bed, 6 x 2 bed and 7 x bed

- 73 x Shared ownership units - 2 x Studio, 40 x 1 bed, 25 x 2 bed and 6 x 3 bed

The 30 London Affordable Rented units will go some way to meeting the recognised gap of 426 rented homes per annum and enable the borough to makes savings on B&B and Temporary Accommodation costs.

The 73 Shared ownership units will help low income households into home ownership with priority given to local residents.

S106 INFRASTRUCTURE:

A HUDU contribution of £996 per additional affordable unit should be requested.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The principle of development has been accepted through the granting of planning permission for the scheme.

7.02 Density of the proposed development

Not applicable. No changes are proposed which would impact on the density of the approved developm

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

Not applicable. No changes are proposed which would impact on heritage assets.

7.04 Airport safeguarding

Not applicable. No alterations are proposed which would impact on safeguarding criteria.

7.05 Impact on the green belt

Not applicable. No changes are proposed which would impact on the green belt.

7.06 Environmental Impact

Not applicable. There are no direct significant environmental impacts as a result of the changes proposed.

7.07 Impact on the character & appearance of the area

Not applicable. No changes are proposed which would impact on the character or appearance of the area.

7.08 Impact on neighbours

Not applicable. No changes are proposed which would impact on residential amenity.

7.09 Living conditions for future occupiers

Not applicable. No changes are proposed which would impact on residential amenity.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Not applicable. No changes are proposed which would impact on traffic, parking or pedestrian safety.

7.11 Urban design, access and security

Not applicable. No changes are proposed which would impact on urban design, access and security

7.12 Disabled access

Not applicable. No changes are proposed which would impact on accessibility.

7.13 Provision of affordable & special needs housing

Policy H13 of the London Plan (2021) states that specialist older persons housing should deliver affordable housing in accordance with borough and London Plan policies (Policies H4 and H5), which in the case of Hillingdon would equate to a minimum of 35% of homes to follow the fast-track route.

Policy H5 of the London Plan and Policy DMH7 of the Hillingdon Local Plan: Part Two require a minimum of 35% affordable housing. To follow the fast track route and not be required to submit a financial viability assessment, applicants must meet the following criteria:

- Meet or exceed the relevant threshold level of affordable housing on site (35%) without public subsidy
- Be consistent with the relevant tenure split (70/30 social rent/intermediate).

Policy H6 of the London Plan (2021) require major developments to provide affordable housing in accordance with the following tenure split:

- 1) a minimum of 30 per cent low-cost rented homes, as either London Affordable Rent or Social Rent, allocated according to need and for Londoners on low incomes
- 2) a minimum of 30 per cent intermediate products which meet the definition of genuinely affordable housing, including London Living Rent and London Shared ownership
- 3) the remaining 40 per cent to be determined by the borough as low-cost rented homes or intermediate products (defined in Part A1 and Part A2) based on identified need.

Policy H2 of the Local Plan: Part One (2012) requires sites with a capacity of 10 or more units, to provide an affordable housing mix to reflect the housing needs in the borough, particularly the need for larger family units.

Policy DMH 7 of the Local Plan: Part Two (2020) requires major residential developments to maximise the delivery of affordable housing on site. A minimum of 35% of all new homes should be delivered as affordable housing with a tenure split of 70% Social/Affordable Rent and 30% Intermediate.

The S106 agreement attached to the consented scheme secured the following as affordable housing within the development:

The proposed scheme would convert the development to 100% affordable housing. The approved mix of development is:

Studio x 2
 1-bed x 57
 2-bed x 31
 3-bed x 13
 Total = 103

The tenure mix proposed for the 100% affordable housing is 30 London Affordable Rent units and 73 Shared Ownership units which equates to an approximate 30% / 70% split. The layout of the proposed units would be as per the submitted plan numbers; A - (03) - 100 08, A - (03) - 110 010, A - (03) - 101 014, A - (03) - 102 012, A - (03) - 104 010, A - (03) - 105 010, A - (03) - 106 012, A - (03) - 106 012, A - (03) - 108 04 and A - (03) - 109 013.

The Council's Housing Officer and Policy Officer have reviewed the submitted scheme and stated their support, raising no objections to the increase in affordable housing to 100% of the development. The increase in the provision of affordable housing on this scheme is supported in principle. In accordance with London Plan policy H5D, where a scheme will deliver more than 75% affordable housing, the revised tenure mix must be acceptable to the borough. The Council's Housing Officer has raised no objection to the proposal and whilst the tenure mix is not strictly in accordance with Local Plan or London Plan policies, the mix is broadly acceptable and the level of affordable provision to be gained outweighs the requirements for a policy compliant tenure mix.

As such the proposals are deemed to be acceptable and in accordance with principles of Policies H5 , H6 and H13 of the London Plan (2021), Policy H2 of the Local Plan: Part One (2012) and Policy DMH7 of the Hillingdon Local Plan: Part Two (2020).

7.14 Trees, landscaping and Ecology

Not applicable. No changes are proposed which would impact on trees, landscaping and ecology.

7.15 Sustainable waste management

Not applicable. No changes are proposed which would impact on refuse provision.

7.16 Renewable energy / Sustainability

Not applicable. No changes are proposed which would impact on renewable energy / sustainability.

7.17 Flooding or Drainage Issues

Not applicable. No changes are proposed which would impact on flooding or drainage issues.

7.18 Noise or Air Quality Issues

Not applicable. No changes are proposed which would impact on noise or air quality.

7.19 Comments on Public Consultations

No public consultation is required for this type of application unless the Council does not agree with the proposed amendments to the s106.

7.20 Planning obligations

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 Local Plan: Part Two (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.

Planning Policy DMCI7 Planning Obligations and Community Infrastructure of the Local Plan Part 2 requires developments to meet infrastructure needs not addressed through CIL but are necessary to make the development acceptable in planning terms. This position is supported by London Plan Policy DF1, which states that development proposals should provide the infrastructure and meet the other relevant policy requirements to ensure that they are sustainable. Local Plan Part CI1 Community Infrastructure Provision sets out how the Council will ensure that community and social infrastructure is provided.

The scheme would have already been entitled to apply for a partial exemption from this residential liability with regards to the 27% affordable housing provision. Upon approving application ref; 51175/APP/2020/2543 a healthcare, infrastructure and facilities contribution was calculated to offset a proportion of the CIL exemption as the development would result in pressures upon local infrastructure. A payment of £57,069 was secured via the existing s106.

As a scheme that provides 100% affordable housing secured by a S106 legal agreement, the scheme would become entitled to apply for a full social housing exemption resulting in a £0 CIL payment at the site. In light of this, the Council has utilised the HUDU model to calculate the contribution that would be required to mitigate the impacts of the population increase on local health facilities. On the basis of an all affordable scheme, the contribution is £102,588. The applicant has agreed to a healthcare contribution of £102,588 in lieu of the reduced CIL payments.

It is now proposed to enter into a Deed of Variation that would secure the following new and amended Heads of Terms:

1. Healthcare contribution of £102,588
2. Affordable Housing to be secured in perpetuity
3. Amendments to the mix and tenure of the Affordable Housing and removal of Affordable

Housing Cap

4. Replacement of the Chargee in Possession clause
5. Amend the triggers for delivery of the Affordable Housing and the transfer of the Affordable Housing to an RP (which would not be necessary or applicable where the Site is delivered as 100% affordable housing)
6. Remove viability review provisions (not required if 100% Affordable Housing)

The alterations proposed to the agreed planning obligations have been discussed throughout this report and are considered to be acceptable for the reasons discussed in parts 7.10 and 7.14.

All other Heads of Terms from the original planning permission will remain unchanged.

7.21 Expediency of enforcement action

Not applicable.

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 Probitary 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

None

10. CONCLUSION

Planning permission (reference 51175/APP/2020/2543) was granted on 25-01-22 for the demolition of existing buildings and redevelopment to provide a building up to 11 storeys comprising of 103 residential units (2 x studio, 57 x 1-bed, 31 x 2-bed and 13 x 3-bed), associated landscaping, access, car parking and cycle parking.

Planning permission was granted subject to a S106 Legal Agreement which secured on site 27 affordable housing units. This application seeks a Deed of Variation (DoV) to that legal agreement to secure all 103 units (100%) as affordable housing units. The applicant has agreed to a healthcare contribution of £ £102,588 in lieu of the reduced CIL payments.

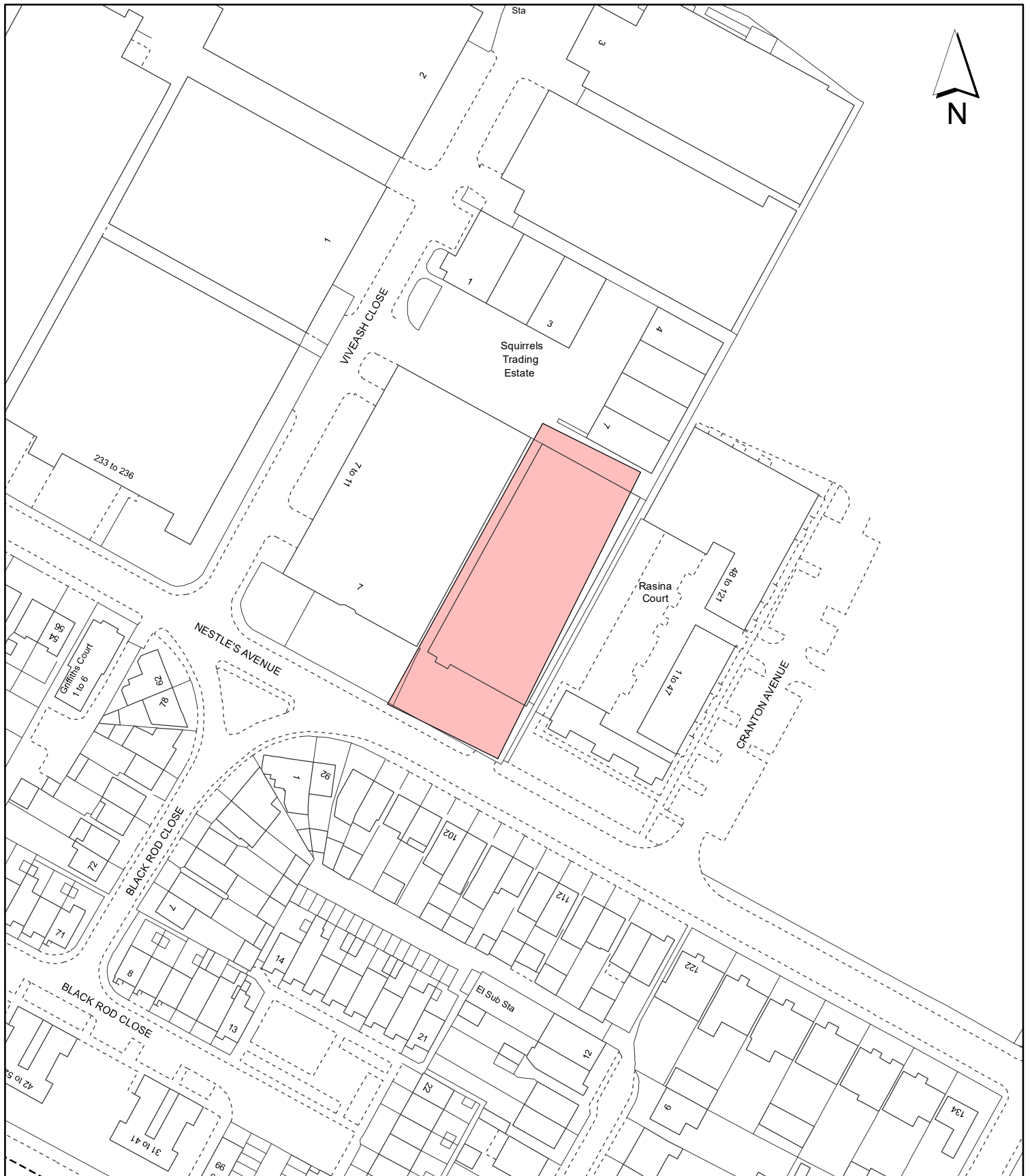
No objections have been raised to the requested variations by either the Council's Policy Officer or the Council's Housing Officer. The development would continue to appropriately comply with relevant Local Plan, London Plan and national planning policies and, accordingly, subject to a Deed of Variation to the s106 legal agreement approval is recommended.

11. Reference Documents

National Planning Policy Framework (July 2021)
The London Plan (March 2021)
London Plan Affordable Housing & Viability SPD 2017
Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)
Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020)
Hillingdon Local Plan: Part 2 - Site Allocations and Designations (January 2020)
Accessible Hillingdon Supplementary Planning Document (September 2017)
Planning Obligations Supplementary Planning Document (July 2014)

Contact Officer: Christopher Brady

Telephone No: 01895 250230



Notes:

 Site boundary

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Site Address:

**Stanford House,
 9 Nestles Ave**

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

Civic Centre, Uxbridge, Middx. UB8 1UW
 Telephone No.: Uxbridge 01895 250111

Planning Application Ref:
51175/APP/2022/390

Scale:
1:1,250

Planning Committee:
Major

Date:
March 2022

