

Report of the Head of Planning, Transportation and Regeneration

Address LAND AT RAINBOW INDUSTRIAL ESTATE TROUT ROAD YIEWSLEY

Development: Retention of entrance gates and change of use for use class sui generis including container and skip storage; open and closed storage of building, scaffolding and lighting materials; storage of aggregate materials; vehicle storage and sales; and associated installation of portacabins, container stores, transportable silos and other structures for a period of 12 months (retrospective application).

LBH Ref Nos: 38058/APP/2022/64

Drawing Nos: Noise technical note 10.01.22
SK02 Swept path analysis
Planning, Design and Access Statement Jan 2022
Concrete Silo Brochure
Fire Strategy Statement 10.01.22
Palisade Data Sheet
Palisade Fencing Specification Plan
Textainer Container 20ft- Dry Freight Features Specification
Air Quality note 10.01.22
Flood Risk Assessment April 2021
Air quality assessment 15.03.22
Dust emissions statement
Transport Assessment Troutbourne May 2022
Revised Noise impact assessment 09.05.22
Site Location Plan
Proposed Site Plan
Portacabin Photo (4)
Portacabin Photo (2)
Portacabin Photo (3)
Portacabin Photo (1)

Date Plans Received:	11/01/2022	Date(s) of Amendment(s):	22/03/2022
Date Application Valid:	04/03/2022		12/01/2022
			11/01/2022

1. SUMMARY

The application seeks temporary planning consent for up to 12 months for the retention of the Sui Generis use. The site accommodates a number of different open and closed storage occupiers. A similar application was refused in 2021 for 3 reasons which related to the impact the proposed use would have on the Grand Union Canal, local residential amenity in terms of noise impact and Air Quality. The applicant has undertaken remedial works on site to address the concerns which formed the 3 reasons for refusal. This changes include moving the aggregates storage to the north of the site, adopting dust management measures and submitting further details for assessment in respect of noise and air quality. These documents have been assessed by the relevant Council specialist who have raised no objection subject to conditions and/or planning obligations.

In addition to the above, the application site is an allocated site for a residential led development within the Councils Local Plan and positive discussions regarding the

delivery of a housing development are ongoing. This application therefore proposes meanwhile uses which the London Plan (2021) encourages Local Planning Authorities to support where they would not give rise to significant impacts upon local residential amenity.

It should also be noted that the Councils Planning Enforcement Team have issued an Enforcement Notice following the unauthorised use of the land as Sui Generis use. The current proposal seeks to address the concerns raised in the Enforcement Notice and would put into place parameters to help control the use of the site which could be enforced if the applicant were to deviate from the consented scheme.

Taking the points above into consideration and those raised in further detail within the Officer report, the application is recommended for approval.

2. RECOMMENDATION

1. That delegated powers be given to the Deputy Director of Planning and Regeneration to confirm Prior Approval is required and is GRANTED subject to:

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

1. A s278; Highway works needed to facilitate the development which will include provision of vulnerable road users.

2. Air quality damage cost £39,459.

3. Project management and monitoring fee: A financial contribution equal to 5% of the total cash contributions towards the management and monitoring of the resulting agreement.

B) That in respect of the application for planning permission, the applicant meets the Council's reasonable costs in the review and preparation of the Unilateral Undertaking and any abortive work as a result of the agreement not being completed.

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

D) If the Legal Agreements have not been finalised by 18/06/22, delegated authority be given to the Deputy Director of Planning and Regeneration to refuse the application for the following reason:

'The applicant has failed to provide measures to mitigate the impacts of the development through enhancements to the highways necessary as a consequence of demands created by the proposed development. The proposal therefore conflicts with the Town and Country Planning (General Permitted Development) (England) Order 2015, policies DME1 7, of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020), the Council's Planning Obligations SPD and the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012), the London Plan (2021) and the NPPF.'

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

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

1 B18 Temporary Permissions

The use hereby permitted shall be for a limited period of 12 months from the date of this decision. The use hereby permitted shall be discontinued and the land restored to a condition to be agreed with the LPA on or before the expiration of the 12 months from the date of this decision, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the LPA.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

2 COM4 Accordance with Approved Plans

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the 'Proposed Site Plan'.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

3 COM5 General compliance with supporting documentation

The development hereby permitted shall not be occupied until the following has been completed in accordance with the specified supporting plans and/or documents:

Planning, Design and Access Statement Jan 2022
Air Quality note 10.01.22
Fire Strategy Statement 10.01.22
Flood Risk Assessment April 2021
Noise technical note 10.01.22
Textainer Container 20ft- Dry Freight Features Specification
Palisade Data Sheet
Palisade Fencing Specification Plan
Portacabin Photo (1)
Portacabin Photo (3)
Portacabin Photo (4)
Portacabin Photo (2)
Concrete Silo Brochure
Transport Assessment Troutbourne May 2022
Air quality assessment 15.03.22
Revised Noise impact assessment 09.05.22
Dust emissions statement
SK02 Swept path analysis

Thereafter the development shall be retained/maintained in accordance with these details

for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

4 NONSC Noise management plan

Within 28 days of the receipt of planning permission a noise management shall be submitted and approved in writing by the Local Planning Authority. The management plan shall include details of how noise complaints from local residents will be dealt with and remedied.

Thereafter the development shall be implemented in accordance with the approved document and retained/maintained in accordance with these details for as long as the development remains in existence.

REASON

To ensure the development accords with the requirements of Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020), Policy EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) and Policy D14 of the London Plan (2021).

5 NONSC Noise levels

The sound levels from the site shall not, at any time permitted, exceed 50 dB LAeq,1h (free-field) as measured or calculated 1m outside the nearest residential windows. A correction of -3 dB should be applied to any measurements under facade conditions. Where complaints regarding noise from the site are received by the Local Planning Authority, the applicant or its representative shall follow the procedures within the noise management plan and, where the associated source or activity continues operation, arrange for sound level measurements to be undertaken by a suitably qualified acoustics consultant within a period of two weeks, with the details provided to the LPA within three weeks of knowledge of the complaint.

Thereafter the development shall be implemented in accordance with the approved document and retained/maintained in accordance with these details for as long as the development remains in existence.

REASON

To ensure the development accords with the requirements of Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020), Policy EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) and Policy D14 of the London Plan (2021).

6 NONSC Noise mitigation requirements

Within 28 days of receipt of planning permission, in order to monitor and manage noise emissions from the site, the following works shall be implemented in full and maintained in good order for the life of the development:

- (1) the enclosure to the open aggregate storage on the site; and
- (2) construction of 2 metre high acoustic fencing to along the boundaries shared with residential properties (Trout Road/Caxton House/St Stephens Road).

REASON

To ensure the development accords with the requirements of Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020), Policy EM8 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012) and Policy D14 of the London Plan (2021).

7 NONSC Air quality 1

Within 28 days of receipt of planning permission, a dust management plan shall be submitted and approved in writing by the Local Planning Authority. This must demonstrate compliance (drawn up accordance with) the GLA Control of Dust and Emissions from Construction and Demolition SPG (or any successor document). The plan shall also include details of all methods of dust management and clearance which arise from the development.

Thereafter the development shall be implemented in accordance with the approved document and retained/maintained in accordance with these details for as long as the development remains in existence.

Reason:

Compliance with London Plan and in accordance with Mayor of London "The Non-road mobile machinery (standard condition recommended by Mayor of London, London Local Air Quality Management Policy Guidance 2019)

8 NONSC Crane management

Should a Crane be required during the lifespan of the temporary permission a Crane Operation Plan shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Ministry of Defence (RAF Northolt) and Heathrow Airport Limited. The submitted plan shall include details of:

- cranes and other tall construction equipment (including the details of obstacle lighting) - Such schemes shall comply with Advice Note 4 'Cranes and Other Construction Issues'(available at www.aoa.org.uk/policy-campaigns/operations-safety).

The approved Crane Operation Plan (or any variation approved in writing by the Local Planning Authority) shall be implemented as approved.

REASON

In the interests of aircraft safety in compliance with Policy DMAV 1 of the London Borough of Hillingdon Local Plan Part 2 - Development Management Policies (January 2020).

9 NONSC External lighting plan

Within 28 days of permission an external lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter the development shall be implemented in accordance with the approved document and retained/maintained in accordance with these details for as long as the development remains in existence.

REASON

In order to protect the wildlife and ecological habitats within close proximity to the site in accordance with Policy EM7 of the Local Plan Part 1 (2012).

10 COM22 Operating Hours

The site and uses shall not be used except between:

7am - 7pm on weekdays
7am - 1 pm on Saturdays

The site and uses shall be closed on Sundays, Bank and Public Holidays.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

11 NONSC Non Standard Condition

The use shall at all times be operated to enable vehicles to turn within the site boundaries so that vehicles may enter and leave the site in forward gear.

REASON

To ensure the development provides safe movement for pedestrian and cyclists and accords with the requirements of Policy T4 of the London Plan (2021).

12 NONSC Non Standard Condition

All drivers and vehicles visiting the site shall comply with the Freight Operators Recognition Scheme Gold standard.

REASON

To ensure the development provides safe movement for pedestrian and cyclists and accords with the requirements of Policy T4 of the London Plan (2021).

INFORMATIVES

1 I52 Compulsory Informative (1)

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

2 I53 Compulsory Informative (2)

The decision to GRANT 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
NPPF11	NPPF 2021 - Making effective use of land
NPPF15	NPPF 2021 - Conserving and enhancing the natural environment
NPPF2	NPPF 2021 - Achieving sustainable development
NPPF4	NPPF 2021 - Decision-Making

3 I15 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with:-

A. Demolition and construction works which are audible at the site boundary shall only be carried out between the hours of 08.00 and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays, Bank or Public Holidays.

B. All noise generated during such works shall be controlled in compliance with British Standard Code of Practice BS 5228:2009.

C. Dust emissions shall be controlled in compliance with the Mayor of London's Best Practice Guidance' The Control of dust and emissions from construction and demolition.

D. No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit (www.hillingdon.gov.uk/noise Tel. 01895 250155) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

4 I47 Damage to Verge - For Council Roads:

The Council will recover from the applicant the cost of highway and footway repairs, including damage to grass verges.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

For further information and advice contact - Highways Maintenance Operations, Central Depot - Block K, Harlington Road Depot, 128 Harlington Road, Hillingdon, Middlesex, UB3 3EU (Tel: 01895 277524).

For Private Roads: Care should be taken during the building works hereby approved to ensure no damage occurs to the verge of footpaths on private roads during construction. Vehicles delivering materials to this development shall not override or cause damage to a private road and where possible alternative routes should be taken to avoid private roads. The applicant may be required to make good any damage caused.

5 170 LBH worked applicant in a positive & proactive (Granting)

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

3. 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 storeys 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. Both access points are gated. Around half of the site has a PTAL level of 3 and the remaining area has 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 25), open storage of aggregates and building materials; and vehicle storage and sales for a period of 12 months.

The site will predominantly be used for a variety of open and closed storage such as the following:

- Container storage area
- Vehicle storage and sales
- Marble storage
- Timber storage including semi enclosed store and portacabin
- Conway street lighting storage area including 2 x stacked portacabins
- Skip storage area including 1 container
- Open storage of building and scaffolding materials
- Aggregates area including open stores, 3 x silos, water taken container, portacabin and water tank

The palisade fencing and gate around the site entrance off Trout Road will be retained to ensure site security and will serve as the primary access point. The St Stephen's Road access will be used as an emergency exit only (and as operated during the airport parking use).

Proposed hours of use are 7am - 7pm on weekdays, 7am - 1 pm on Saturdays, and closed on Sundays, Bank and public holidays

The applicant explains that the proposed use is sought for a temporary period of 12 months 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-application 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/2021/1327 Land At Rainbow Industrial Estate Trout Road Yiewsley

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 31 months (part retrospective application).

Decision: 18-08-2021 Refused

Comment on Relevant Planning History

The site was subject to a recent application (38058/APP/2021/1327) for a similar use (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), which was refused for the following reasons.

(1) 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 Policies (2020).

(2) 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) 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).

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.

UDP / LDF 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
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
NPPF11	NPPF 2021 - Making effective use of land
NPPF15	NPPF 2021 - Conserving and enhancing the natural environment
NPPF2	NPPF 2021 - Achieving sustainable development
NPPF4	NPPF 2021 - Decision-Making

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **6th April 2022**

5.2 Site Notice Expiry Date:- **13th April 2022**

6. Consultations

External Consultees

Letters were sent 135 neighbouring properties, a site notice was placed outside of the site for a period of 21 days and the application was advertised in the local press.

3 letters of objection were received raising the following concerns:

- Highway safety
- Dust emissions
- Canal pollution
- Congestion
- Air quality

GLAAS:

Recommend No Archaeological Requirement

HEATHROW SAFEGUARDING:

We have now assessed the above application against safeguarding criteria and can confirm that we have no safeguarding objections to the proposed development.

However, if a crane is needed for installation purposes, we would like to draw your attention to the following:

Cranes

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes and Other Construction Issues' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>)

All crane applications should be sent to Heathrow's Works Approval Team via the following address: Airside_Works_Approvals@heathrow.com

CASE OFFICER COMMENT: A condition is proposed to secure a Crane Management Plan.

TfL (Summary)

TfL officers note that the information has been reviewed by Hillingdon Transport officers who do not share these objections. Given the location and distance to the TfL strategic network there are not considered to be major adverse impacts on the strategic network, therefore TfL no longer objects to the proposal in its current form.

CANALS AND RIVERS TRUST(CRT):

Could you please be able to forward over a copy of Appendix A of the Flood Risk Assessment? This doesn't appear to be available on your website, it is the 'Ramboll foul sewerage & Utilities Assessment'.

CASE OFFICER COMMENT

In commenting on the previous application the CRT raised some concerns which were mainly relating to the impact the aggregate storage and car storage could have on the canal in terms of contamination, the impact from possible light spillage and noise could have on local ecology. The current proposal would include a restriction on the operating hours and also enclosed storage along the canal side to reduce noise, dust and emissions as well as containing any requirements for lighting internally. A dust management plan condition is to be added to any grant of consent and also a noise management condition and SUDS condition. As such the CRT's previous concerns are considered to be addressed.

Internal Consultees

AIR QUALITY

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

Furthermore, policy DME1 14 of the emerging London Borough of Hillingdon Local Plan (part 2),

requires active contribution towards the continued improvement of air quality, especially within the Air Quality Management Area. Finally, the London Plan (March 2021) requires development to be air quality neutral as minimum and air quality positive in certain circumstances, actively contributing to reduce pollutant emissions to the atmosphere. The proposed use is sought for a temporary period of 12 months as a meanwhile use of the site whilst a mixed use, residential-led scheme for the Rainbow and Kirby Industrial sites is discussed with LBH during pre-application discussions and a formal planning application is submitted and determined.

The proposals follow the refusal of planning permission by LB Hillingdon (LBH) for a similar temporary use proposal on 19th August 2021 for '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)' (LPA Ref: 38058/APP/2021/1327) ('The 2021 Refusal Application') and a subsequent Enforcement Notice issued by LBH on 3rd September 2021 (Ref: HS/ENF/019144).

The development is not Air Quality Positive and further action is required to reduce emissions. The unauthorised use of the land would cause unacceptable adverse impacts arising from dust and deteriorating air quality resulting in significant harm to the living conditions and wellbeing of neighbouring residents in this Air Quality Management Area. The development therefore will need to deploy suitable mitigation to minimise the impacts on local air quality. The application site previously had a temporary (12 month) permission to operate as an airport parking car park. Prior to this, outline planning permission and Reserved Matters has been approved for redevelopment of the wider Rainbow and Kirby

Industrial Estates site (which includes this site) for a mixed-use development including the demolition of existing premises and erection of 99 residential units (C3), 50-unit extra care/dementia sheltered housing scheme (C3), 1,529.4sqm light industrial floorspace comprising 17 business units (B1c) and 611.30sqm of restaurant/cafe (A3) floorspace, associated open space, car parking and landscaping.

DAMAGE COST AND MITIGATION MEASURES

Mitigation measures to reduce emissions can be applied on-site or off-site. Where this is not practical or desirable, pollutant off-setting will be applied. The level of mitigation required associated with the operation phase of the proposed development is calculated using Defra's Damage Cost Approach. The level of mitigation required to the proposed development for traffic emissions is £39,459. Therefore, a section 106 agreement with the LAP of £39,459 is to be paid for Hillingdon to deliver its air quality local action plan and or implement specific measures on/along the road network affected by the proposal that reduce vehicle emissions and or reduce human exposure to pollution levels.

2 Reason for Refusal (if objecting)

N/A

3 Observations

The site is already in operation for the activities listed in the application for change of use for use class sui generis (which include container and skip storage; open and closed storage of building, scaffolding and lighting materials; storage of aggregate materials; vehicle storage and sales; and associated installation of portacabins, container stores, transportable silos) and is creating a public nuisance with dust emissions, affecting nearby residents (there are human receptors within 250 m of the site boundary). The site is classified as a High-Risk site for dust emissions. The air quality report submitted to support the planning application identifies receptors with adverse impacts due to dust emissions (R3 and R4) and therefore suitable mitigation needs to be deployed. The mitigation listed in the air quality report is to be included in a Dust Management Plan (DMP) to be submitted to the LA and approved in writing. Therefore, three Air Quality conditions are required to manage emissions as required by the Mayor of London. See text below.

Condition - Reducing Dust Emissions from Site Activities

No development shall commence until a Dust Management Plan (DMP) has been submitted to, and approved in writing by, the LPA. The Mitigation is to include, but not be restricted to the mitigation listed in the air quality report, incorporating specific measures to address impacts observed at Caxton House (R3) and on St Stephen's Road (R4). These shall include as a bare minimum, the provisions listed in Appendix of this note. Should any control measures be shown to be failing, or should a need for further control measures be identified, new controls will be agreed and implemented in an updated DMP.

Reason - As the application site is within an Air Quality Management Area, in close proximity to sensitive receptors, and to reduce the impact on air quality in accordance with policy EM8 of the Local Plan: Part 1 (November 2012), policy DME1 14 of the London Borough of Hillingdon Local Plan (part 2), the London Borough of Hillingdon Air Quality Action Plan 2019-2023, London Plan (2021) policy SI1, and paragraphs 174(e), 186 and 188 of the National Planning Policy Framework (2021).

Conditions - Reducing Emissions from Demolition and Construction

A No development shall commence until a Plan has been submitted to, and approved in writing by, the LPA. This must demonstrate compliance (drawn up accordance with) the GLA Control of Dust and Emissions from Construction and Demolition SPG (or any successor document).

Reason: Compliance with London Plan and in accordance with Mayor of London "The Non-road mobile machinery (standard condition recommended by Mayor of London, London Local Air Quality Management Policy Guidance 2019)

B All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up-to-date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>."

Reason: Compliance with the London's Low Emission Zone for non-road mobile machinery as per requirements of the London Environment Strategy

Context

The proposed development is within an Air Quality Management Area and will affect identified Air Quality Focus Areas. Air Quality Focus Areas are defined by the GLA as areas already suffering from poor air quality where prioritisation of improvements is required. This is supported by:

Local Plan Part 2 Policy DME1 14

A) Development proposals should demonstrate appropriate reductions in emissions to sustain compliance with and contribute towards meeting EU limit values and national air quality objectives for pollutants.

B) Development proposals should, as a minimum:

- i) be at least "air quality neutral";
- ii) include sufficient mitigation to ensure there is no unacceptable risk from air pollution to sensitive receptors, both existing and new; and
- iii) actively contribute towards the continued improvement of air quality, especially within the Air Quality Management Area.

CASE OFFICER COMMENT: The NRMM condition proposed relates to construction traffic and is not therefore relevant in this instance and will not be imposed, All other requested conditions are

proposed to be included in any future grant of consent.

NOISE (Summary)

If Hillingdon is minded to grant permission, a condition will be imposed limiting hours as appropriate, where the following are proposed in the PDAS: "7am - 7pm on weekdays, 7am - 1 pm on Saturdays, and closed on Sundays, Bank and public holidays" [paragraph 2.3.4]

Picking up on statements in the Noise Assessment reports, therefore, and where the Council is minded to grant planning permission, we would recommend conditions along the lines of the following:

"Within one month of receipt of planning permission, in order to monitor and manage noise emissions from the site, a site-wide noise management plan should be submitted to the Local Planning Authority, and implemented thereafter. It should include, as a minimum, details of roles and responsibilities, the procedures to be followed in the event of any noise complaints received directly or via the LPA, and confirm details of enclosure to the open aggregate storage on the site, adjustment to the haul route on site to minimise proximity to Caxton House, and the erection of solid fencing to protect the dwellings on St Stephen's Road."

"The sound levels from the site shall not, at any time permitted, exceed 50 dB LAeq,1h (free-field) as measured or calculated 1m outside the nearest residential windows. A correction of -3 dB should be applied to any measurements under facade conditions. Where complaints regarding noise from the site are received by the Local Planning Authority, the applicant or its representative shall follow the procedures within the noise management plan and, where the associated source or activity continues operation, arrange for sound level measurements to be undertaken by a suitably qualified acoustics consultant within a period of two weeks, with the details provided to the LPA within three weeks of knowledge of the complaint."

CASE OFFICER COMMENT:

The noise consultants comments regarding the quality and accuracy of the noise assessment are noted. However given the temporary nature of the proposal, the mitigation measures which are to be condition and the restrictions imposed to working hours which are also to be conditioned, the proposal is considered to be acceptable on-balance. In addition a revised noise assessment has been submitted with an updated plan indicating the actual location of the haul road which is already position a reasonable distance from Caxton House. As such this does not form part of the condition.

HIGHWAY OFFICER COMMENT (Sumamry):

No objection subject to the following planning conditions and Head of Terms.

Conditions

- A condition requiring the applicant to submit a Service and Delivery Plan
- A condition requiring that all drivers and vehicles visiting the site comply with the Freight Operators Recognition Scheme Gold standard.
- A S278 agreement for highway works.

Subject to the above there are no highway objections to this proposal.

CASE OFFICER COMMENT:

It is not relevant to impose a servicing a delivery plan at the site given the nature of the temporary use. The other condition and Head of Term will be added to the Recommendation.

FLOODING

The FRA does not appear to answers any questions raised previously in relation to 38058/APP/2018/3554 where the site has no information on the risk to the proposed uses or any proposals to manage pollution from car storage and sales and drainage controls within the site.

CASE OFFICER COMMENT:

The Councils Flooding Officer has not raised an objection to the proposal but has requested further information relating to the drainage of surface water which is also raised in the comments by the CRT during the assessment of the previous application. The main drainage concern is limiting the potential for contamination into the canal. It should be noted that in determining appeal ref APP/R5510/C/16/3163200 & 3163365 the inspector stated it would not be reasonable to expect a temporary 12 month planning permission to include a SUDS scheme. Further detail on this can be found in section 7.17 of this report.

WASTE MANAGEMENT OFFICER COMMENT:

No objection.

POLICY OFFICER COMMENT:

No comment

CONTAMINATED LAND OFFICER COMMENT:

No objection

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 Council remains in discussions with the owner of the site regarding the delivery of site allocation.

London Plan Policy H3 encourages Councils to discuss proposals for meanwhile uses on sites awaiting longer-term development. Whilst the policy text relates more specifically to "Meanwhile uses as Housing", the subtext states that "meanwhile uses are a range of temporary uses in land and property awaiting longer-term development" therefore it is considered that the policy does not apply to housing meanwhile uses only. The application site is allocated for residential redevelopment within the Councils Local Plan therefore it is considered that Policy H3 would be applicable. It should be noted that the meanwhile use policy specifically states that applications should not be used for the permanent change of use of the land and should not result in significant impacts on residential amenity.

This application proposes the retention of the Sui Generis use of the site. The use is broken down into various open and closed storage sections with the operation varying between uses akin to B2, B8 or E(g)iii. Given the variety of uses on site the Council accepts that a Sui Generis use class is a more relevant description of the use.

The proposal is to retain this use for a period of 12 months whilst the applicant team work towards the approval of a masterplan for the redevelopment of the entire site. 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 meanwhile use permission is also appropriate in principle whilst the long term residential-led redevelopment is progressed.

7.02 Density of the proposed development

This section relates to residential development and is therefore not relevant to the assessment of this application.

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.

7.05 Impact on the green belt

The site is not located within the Green Belt, as such this section is not relevant to the assessment of the application.

7.07 Impact on the character & appearance of the area

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 measure 3.3(w) x 9.8(i). The two portacabins located within the Conway Street Lighting section of the site are stacked on-top of one another therefore would be the most prominently viewed from outside of the site and would result in an overall height of 5.3 m. Given that they are set back from the boundaries of the site by a significant distance and there immediate context within the industrial site, views of them would not be considered detrimental to the character and appearance of the street scene. 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 5.3 metres. 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.

7.09 Living conditions for future occupiers

This section of the report relates to applications for residential redevelopment and is therefore not relevant to the assessment of this application.

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 that development does not contribute to a deterioration in air quality, noise, amenity and safety of road users and residents.

It should be noted that the previously refused scheme for a 3 year temporary permission did not raise highway concerns or objections.

No objection is raised in the current 1 year temporary application 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 a severe impact upon the highway network. Subject to conditions and planning obligations securing safety signage for cyclists and footway works (S278), the the proposal would accord with the above policies.

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 not considered necessary for the temporary consent to meet DDA requirements.

7.13 Provision of affordable & special needs housing

N/A

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 Canals and Rivers Trust (CRT) have been consulted as part of the processing of the application. It is noted that during the assessment of the previous application the CRT raised a number of concerns which may have been addressed by the submission of additional information, however the applicant refused to agree to the suggested conditions. As such the impact the proposed development would have on the Canal and it's ecological habitat formed a reason for refusal.

The CRT has not raised concerns in commenting on the current proposal other than raising a request for further drainage details to be submitted. As stated within the Flooding section of this report the inspector for APP/R5510/C/16/3163200 & 3163365 stated that no drainage condition for the temporary planning consent for the off airport car park was required given the temporary nature of the consent. It is important that the inspectors view on this is reflected in this current application for temporary planning consent. Given that the request raised by the CRT has been deemed to be unnecessary under the appeal decision, it is not considered expedient to seek the drainage details requested.

In terms of the remaining concerns raised in the previous application, the revised proposal re-locates the aggregates storage area to the north of the site, much further away from the Canal where it was considered to result in significant concerns on ecology because of possible contamination, noise, dust and emissions. A noise report has been reviewed by the Councils noise consultant who has stated that whilst the survey data could be more accurate, the proposal would not give rise to significant noise concerns providing the applicant agrees with the suggested conditions which restrict the volume of noise and working hours.

The CRT's request for landscaping improvements when commenting on the previous application is noted however the current application proposes a 12 month temporary permission therefore it is unlikely that landscaping of any value could be implemented and flourish within the life span of the proposed use. As such the Council will not be imposing a condition relating to the provision of additional landscaping. Notwithstanding this point it is important to take in the positive changes which have been made which are re-locating the more noisy uses to the northern end of the site which is much further away from the Canal, and the agreement of noise conditions to give the Council greater control over noise

impacts.

In addition the Council has requested that further details relating to lighting locations and levels are submitted to reduce the concerns about light spillage. These will be secured by an appropriately worded condition.

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).

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. 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. The concerns regarding surface water drainage were presented by the Council when refusing application reference 38058/APP/2021/1327 and whilst the applicant has not submitted information to address these concerns, the Council did not consider this a reason for refusal.

Whilst both the CRT and the Councils Flooding Officer have raised questions relating to the proposed surface water drainage, particularly in the open storage and sale of car area, the appeal inspector did not agree that a SUDS scheme should be required for a temporary permission. The inspector states in the appeal decision: "In that context it would be disproportionate to require a sustainable drainage system [SuDS]. In reaching this view I have taken account of the House of Commons Written Statement [HCWS161] made on 18 Dec 2014. The distinction I draw for not applying it, in the absence of it having been demonstrated that a SuDS would be inappropriate, is that it would not be reasonable to impose a condition to require a SuDS on what is expressly sought to be a one year

temporary permission. To impose such a condition would therefore be contrary to the policy in paragraph 206 of the Framework. Indeed it is noticeable that the Council has not even suggested that a SuDS condition should be imposed, despite the absolute terms of SP Policy EM6 and the absence of an assessment to demonstrate that it would not be viable. This material consideration therefore outweighs the breach of the policy."

In addition to the above the application proposes the storage and sale of cars rather than storage, sale, repair and maintenance which is distinctively different. Repair and maintenance could give rise to concerns relating to pollution from surface water from oil and petrol. This would not be apparent with the storage and sale of cars. Furthermore a site visit was undertaken and found that there is a level change between the canal towpath (entrance to the canal) which is at a much higher level than the area of land indicated on the site plan for storage and sale of cars. As such surface water would not filter across towards the canal towpath and then into the canal.

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. The document fails to give an accurate assessment of the potential noise impact as it is based on the assumptions drawn from the light industrial space which was granted as part of the mixed used residential led consent. The document has been reviewed by the Councils appointed Noise Consultant who has agreed that the document does not provide an accurate measurement of the potential noise impacts which could arise from the development. Notwithstanding this point, the comments from the Noise Consultant concludes that whilst the submitted Noise Assessment is not robust, the proposal for a 12 month temporary planning consent would not give rise to detrimental harm subject to conditions restricting the levels of noise and the hours of operation. In addition a revised noise assessment has been submitted with an updated plan indicating the actual location of the haul road which is already position a reasonable distance from Caxton House. As such this does not form part of the condition. The applicant has agreed to these conditions which assist with controlling the impact upon local residential amenity therefore the proposal is considered to be acceptable.

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 (DMP);
- 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.

The applicant has submitted an air quality assessment which has been reviewed by the Councils Air Quality Officer who has stated that the development is not Air Quality positive and lacks in depth mitigation measures. The document mainly focuses on the air quality issues which would be resultant of trip generation however it is important that dust and

emissions matters are addressed given that these have been raised as a concern by residents during the public consultation period. Upon reviewing the application, the Councils AQ Officer agrees that the trips generated would be less than the permitted mixed use development which has now expired and the temporary car park permission granted at appeal which has also expired.

It is also noted that the applicant has committed to improving the layout of the site by containing some of the uses within closed storage areas. Upon discussing the dust and emissions concerns with the applicant a contract has been entered into with a National Road Sweeping Company that will sweep the site and along Trout Road to sweep any debris/ dust. Initially they will do this on a weekly basis and depending on effectiveness, there is scope to increase the frequency if required. This will supplement the manual operation whereby the road / yard is swept by a person, working intermittently between the vehicle sweeping. An electric road sweeper has also been purchased and will be used between the two operations above.

The above measures are to be secured by the attaching of a condition pertaining to the submission of a dust management plan. Subject to the inclusion of the DMP and a condition restricting the power output of all non-road machinery and the agreement to enter into a legal agreement to secure the above damage cost, the application is considered to be acceptable.

7.19 Comments on Public Consultations

Public consultation comments are detailed in the external comments section 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.

At a regional level, the London Plan (2021) stipulates that when considering planning applications of strategic importance, the Mayor will take into account, among other issues including economic viability of each development concerned, the existence and content of planning obligations. It also states that development proposals should address strategic as well as local priorities in planning obligations.

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.

The following contributions or planning obligations are required in order to mitigate the

impacts of the development as required by Policy DMCI 7 (Planning obligations and CIL) of the Local Plan Part 2 Development Management Policies (2020):

1. A s278; Highway works needed to facilitate the development which will include provision of vulnerable road users.
2. Air quality damage cost £39,459.
3. Project management and monitoring fee: A financial contribution equal to 5% of the total cash contributions towards the management and monitoring of the resulting agreement.

It is considered that the level of planning benefits sought in the event of an approval would be reasonable, adequate and commensurate with the scale and nature of the proposed development, in compliance with Policy DMEI 7 (Planning obligations and CIL) of the Local Plan: Part 2 - Development Management Policies (2020).

7.21 Expediency of enforcement action

A planning enforcement case ENF/421/21 was opened in 2021 for the unauthorised use of land. An enforcement notice was then served. The applicant has appealed the enforcement notice and this remains a live appeal case which ongoing.

7.22 Other Issues

CONTAMINATED LAND

Policy DMEI 12 of the Local Plan: Part Two (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 application site is not located within an area identified as being at risk of possible contamination. In terms of the proposed contamination risk generated by the development, a SUDS condition is to be attached to any grant of consent in order to ensure that contaminants from the car storage area cannot pollute the Gran Union Canal. As such the proposal does not raise contamination concerns and is therefore considered to be acceptable.

FIRE SAFETY

Policy D12 of the London Plan (2021) is an important consideration and states:

A) In the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety and ensure that they:

- 1) identify suitably positioned unobstructed outside space:
 - a) for fire appliances to be positioned on
 - b) appropriate for use as an evacuation assembly point
- 2) are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures
- 3) are constructed in an appropriate way to minimise the risk of fire spread
- 4) provide suitable and convenient means of escape, and associated evacuation strategy for all building users
- 5) develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in
- 6) provide suitable access and equipment for firefighting which is appropriate for the size

and use of the development.

B) All major development proposals should be submitted with a Fire Statement, which is an independent fire strategy, produced by a third party, suitably qualified assessor.

The statement should detail how the development proposal will function in terms of:

- 1) the building's construction: methods, products and materials used, including manufacturers' details
- 2) the means of escape for all building users: suitably designed stair cores, escape for building users who are disabled or require level access, and associated evacuation strategy approach
- 3) features which reduce the risk to life: fire alarm systems, passive and active fire safety measures and associated management and maintenance plans
- 4) access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these
- 5) how provision will be made within the curtilage of the site to enable fire appliances to gain access to the building
- 6) ensuring that any potential future modifications to the building will take into account and not compromise the base build fire safety/protection measures.

The applicant submitted a Fire Safety Strategy as part of the submission for the recently refused application. No objections were raised during the assessment of this application in terms of Fire Safety. As such no objection is raised against this current application.

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

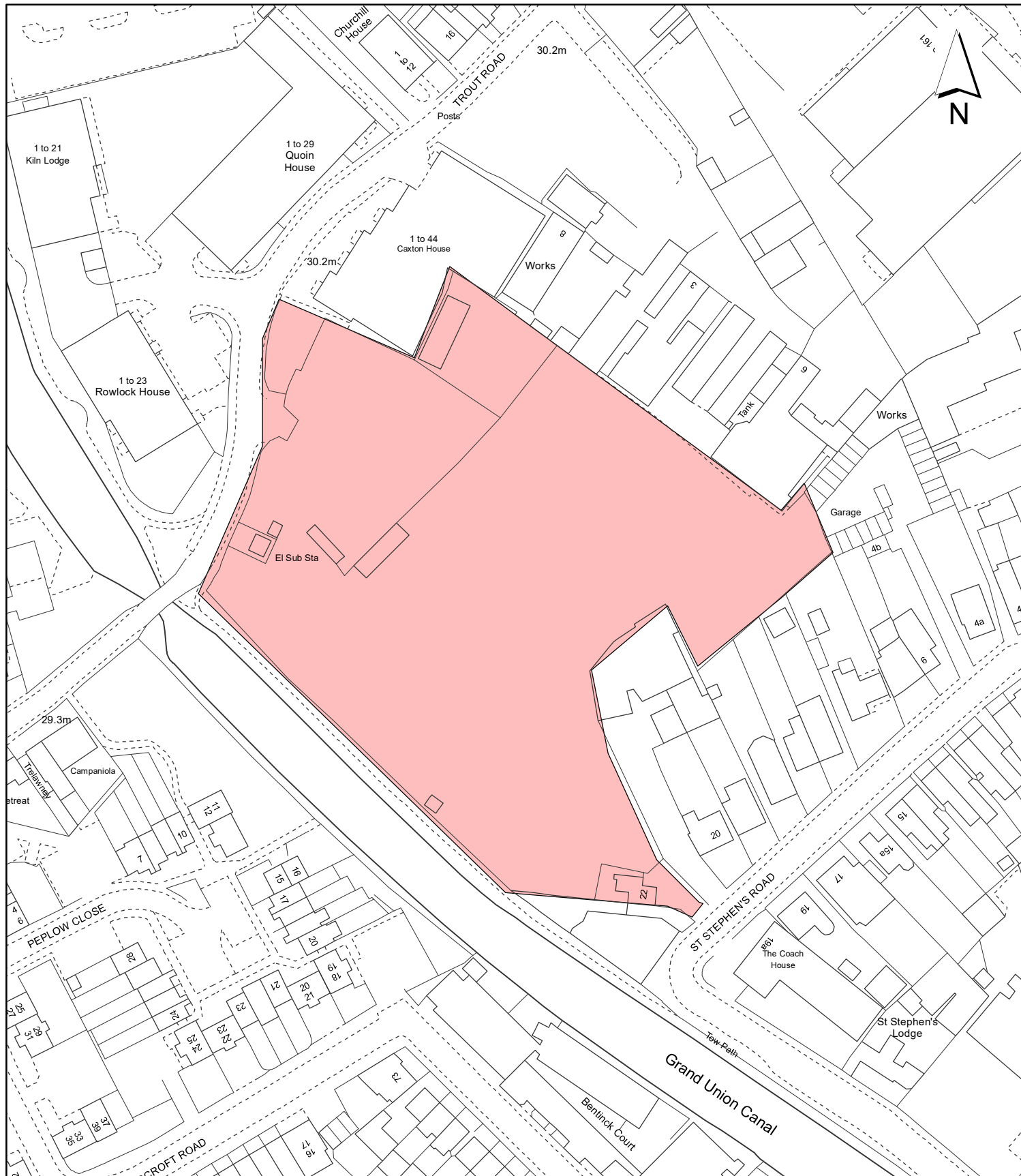
The application proposes temporary planning consent for up to 12 months for the change of use of the site to Sui Generis. The temporary consent would allow the applicant the necessary time to progress with the masterplan to deliver a scheme which meets the detailed brief of the site plan identified within the Councils Local Plan Part Two. As such the application is considered to meet the description of a meanwhile use application which the London Plan encourages local planning authorities to agree providing it would not lead to significant impacts upon local residential amenity. As described in this report the proposal would not give rise to significant impacts upon local residential amenity, the local highway network or the Gran Union Canal which bounds the site. The applicant has agreed to restrict the hours of operation and put into place a variety of mitigation measures to contain any potential impacts relating to noise and air quality. As such it is recommended that the application be approved subject to conditions and the applicant entering into a legal agreement relating to the payment of an air quality damage cost.

11. Reference 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)
NPPF (2021)

Contact Officer: Christopher Brady

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Notes:

 Site boundary

For identification purposes only.

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Site Address:

Rainbow Industrial Estate

Planning Application Ref:

38058/APP/2022/64

Planning Committee:

Major

Scale:

1:1,250

Date:

May 2022

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

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