

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL

Select an Option

1.	No valid planning application objection in the form of a petition of 20 or more signatures, has been received	☐
2.	Application complies with all relevant planning policies and is acceptable on planning grounds	☐
3.	There is no Committee resolution for the enforcement action	☐
4.	There is no effect on listed buildings or their settings	☐
5.	The site is not in the Green Belt (but see 11 below)	☐

REFUSAL RECOMMENDED: GENERAL

6.	Application is contrary to relevant planning policies/standards	☐
7.	No petition of 20 or more signatures has been received	☐
8.	Application has not been supported independently by a person/s	☐
9.	The site is not in Green Belt (but see 11 below)	☐

RESIDENTIAL DEVELOPMENT

10.	Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha	☐
11.	Householder application in the Green Belt	☐

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12.	Change of use of retail units on site less than 1 ha or with less than 1000 sq. m other than a change involving a loss of A1 uses	☐
13.	Refusal of change of use from retail class A1 to any other use	☐
14.	Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.	☐

CERTIFICATE OF LAWFULNESS

15.	Certificate of Lawfulness (for proposed use or Development)	☐
16.	Certificate of Lawfulness (for existing use or Development)	☐
17.	Certificate of Appropriate Alternative Development	☐

CERTIFICATE OF LAWFULNESS

18.	ADVERTISMENT CONSENT (excluding Hoardings)	☐
19.	PRIOR APPROVAL APPLICATION	☐
20.	OUT-OF-BOROUGH OBSERVATIONS	☐
21.	CIRCULAR 18/84 APPLICATION	☐
22.	CORPSEWOOD COVENANT APPLICATION	☐
23.	APPROVAL OF DETAILS	☐
24.	ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where the Heads of Terms have already received Committee approval	☐
25.	WORKS TO TREES	☐
26.	OTHER (please specify)	☐

The delegation powers schedule has been changed. Interim Director of Planning, Regeneration & Public Realm can determine this application

Case Officer:

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informative's are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DETAILS SHOULD BE USED IN THE PS2 RETURNS ODPM

Item No.	Report of the Head of Development Management and Building Control
Address:	PADDINGTON PACKET BOAT PUBLIC HOUSE HIGH ROAD COWLEY UXBRIDGE
Development:	Variation of Condition 2 (Accordance with Approved Plans) of planning permission ref. 1058/APP/2021/3423, dated 08-09-2023 (Demolition of the public house (Sui Generis) and erection of purpose-built student accommodation (Sui Generis) and associated common areas and facilities, landscaping, amenity space, bicycle and motorcycle parking, and refuse storage) to make design changes, remove affordable student accommodation from the development and replace it with market rent student accommodation.
LBH Ref Nos:	1058/APP/2024/1013
Drawing Nos:	Energy Statement (Dated March 2024) 2061655-RSKA-RP-002-(03) Noise Break-In Assessment (Dated January 2024) Planning and Affordable Housing Statement (Dated April 2024) Transport Statement (Dated February 2024) Travel Plan Statement (Dated February 2024) Viability Report (Dated January 2024) Viability Response Letter (Dated 26th July 2024) Daylight and Sunlight Supplementary Statement No. 2 (September 2022) Draft Fire Statement Form (10-06-22) Daylight and Sunlight Report (June 2022) Car Parking Survey (05-04-22) (Ref: VRP1391-01) 02-04-101 (Rev. D) 02-04-102 (Rev. D) Updated Noise Assessment (Ref: 20/0043/R1) (Rev. 1) (January 2022) 02-91-100 02-91-102 02-91-103 02-91-104 02-91-105 02-91-106 Construction Logistics Plan (August 2021) Design and Access Statement Air Quality Assessment (Dated February 2024) Archaeological Desk-Based Assessment (Dated February 2024)

Cover Letter (Dated 18th April 2024)
 02-02-101 (Rev. G)
 02-03-100 (Rev. J)
 02-03-101 (Rev. G)
 02-03-102 (Rev. G)
 02-02-111 (Rev. D)
 Heritage Statement
 Phase 1 Geoenvironmental Desk Study (June 2021)
 Student Accommodation Needs (August 2021)
 Thermal Comfort Appraisal (August 2021)
 Marketing Report (August 2021)
 Marketing Evidence (13-12-21)
 Marketing Evidence (20-07-22)
 02-03-103 (Rev. J)
 02-03-104 (Rev. J)
 02-03-105 (Rev. J)
 02-05-101 (Rev. J)
 02-05-102 (Rev. H)
 02-05-103 (Rev. G)
 02-05-104 (Rev. H)
 02-05-105 (Rev. H)
 02-05-106 (Rev. G)

Date Plans received:	19-04-24	Date(s) of Amendments(s):	10-09-21
			10-09-21
Date Application valid	19-04-24		10-09-21
			10-09-21
			10-09-21
			10-09-21
			10-09-21
			10-09-21
			10-09-21
			10-09-21
			10-09-21
			25-07-22
			25-07-22

1. SUMMARY

This application seeks permission under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 (Accordance with Approved Plans) of planning permission ref.

1058/APP/2021/3423, dated 08-09-2023 (Demolition of the public house (Sui Generis) and erection of purpose-built student accommodation (Sui Generis) and associated common areas and facilities, landscaping, amenity space, bicycle and motorcycle parking, and refuse storage) to make design changes, remove affordable student accommodation from the development and replace it with market rent student accommodation.

The development which has been approved on this site would demolish the existing pub, and erect a part-three, four and five-storey block of purpose-built student accommodation (PBSA) comprising 61 studio rooms, which would have a sui generis use class. The existing pub has been vacant since its closure in 2018, and the submitted marketing information demonstrates that there is little meaningful market interest in the site and it is unlikely to be brought into operational use in the foreseeable future.

The development would introduce a form of residential accommodation onto the site, as PBSA, and would be laid out in an 'L' shape, with its two main elevations facing towards Packet Boat Lane and High Road. Under the original approval, 22 of the 61 student rooms (36%) have been secured as affordable student accommodation. The provision for any affordable student accommodation has been removed from the current application proposal. The Applicant submits that the provision of any affordable student accommodation would be unviable. The development has been independently viability tested and Officers conclude that provision of affordable student accommodation would in fact be viable, although at a reduced amount compared to that previously secured (this being at 36% of all units). The non-provision of affordable student accommodation is a significant planning policy conflict which significantly weighs against the development in the planning balance.

There is a strategic demand for new student accommodation across London, recognising the important role that higher education providers make to London's economy and society, and recognising that the function of universities should not be hindered by a lack of appropriately priced and good quality accommodation. One of the main benefits of PBSA is that it frees up housing stock elsewhere in the borough from being used as a shared HMO by students, and therefore the proposal indirectly improves access to larger homes locally for existing or new residents.

Whilst the proposed amended development would make use of a brownfield site, the non-securement of the nominations agreement means that the development does not constitute purpose-built student accommodation and does not contribute to meeting the identified need for student accommodation as was the case for the original permission granted. As per paragraph 4.15.5 of the London Plan (2021), it follows that the development instead constitutes large-scale purpose-built shared living, requiring a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990. Such a proposal would not constitute a minor material amendment and is considered to be unacceptable, therefore significantly weighing against the scheme in the planning balance.

As a result of the development, the existing pub, which is considered to be a non-designated heritage asset, would be completely lost, and the proposal would further have a less than substantial minor impact on the setting of the Grade II listed Old Cottage to the north. As required by the NPPF, weighing up the benefits of the proposal against the harm to heritage assets, it is considered that the removal of the nominations agreement and affordable student accommodation from the proposal significantly weighs against the scheme alongside the loss of a non-designated heritage asset and less than substantial impact on a Grade II listed heritage asset. The use of a vacant brownfield site was previously identified as a public benefit but it is considered that on its own does not surmount the significant planning policy conflict identified as part of the proposed development.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons outlined above and within the main body of the report, the identified conflicts with the development plan are considered to be significant and there are no material considerations to outweigh such planning policy conflict. The amendments proposed are not considered to constitute minor material amendments and the application is recommended for refusal.

As the application is recommended for refusal, the applicant has also failed to secure Section 106 planning obligations required to mitigate the harm and demands created by the proposed development. This represents a further reason for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1. NON2 Reason for Refusal - Planning Balance

The proposed development would fail to provide any affordable student accommodation. Following an independent viability assessment, it is concluded that the provision of affordable student accommodation would be viable. The non-provision of affordable student accommodation is a significant planning policy conflict, which does not constitute a minor material amendment, and significantly weighs against the development in the planning balance, contrary to the objectives of the NPPF (2023), Policies H5 and H15 of the London Plan (2021), Policy H2 of the Hillingdon Local Plan: Part 1 (2012) and Policy DMH 7 of the Hillingdon Local Plan: Part 2 (2020).

Whilst the proposed amended development would make use of a brownfield site, the non-securement of the nominations agreement means that the development does not constitute purpose-built student accommodation and does not contribute to meeting the identified need for student accommodation as was the case for the original permission granted. As per paragraph 4.15.5 of the London Plan (2021), it follows that the development instead constitutes large-scale purpose-built shared living, requiring a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990. Such a proposal would not constitute a minor material amendment and is considered to be unacceptable, therefore significantly weighing against the scheme in the planning balance.

The Paddington Packet Boat Public House, which is a non-designated heritage asset, would be completely lost, and the proposal would further have a less than substantial minor impact on the setting of the Grade II listed Old Cottage to the north. As required by the NPPF, weighing up the benefits of the proposal against the harm to heritage assets, it is considered that the removal of the nominations agreement and affordable student accommodation from the proposal significantly weighs against the scheme alongside the loss of a non-designated heritage asset and less than substantial impact on a Grade II listed heritage asset. The use of a vacant brownfield site was previously identified as a public benefit but it is considered that on its own does not surmount the significant planning policy conflict identified as part of the proposed development. The development proposed is contrary to Policy HE1 of the Hillingdon Local Plan: Part 1 (2012), Policies DMHB 1, DMHB 2, DMHB 3 of the Hillingdon Local Plan: Part 2 (2020), Policy HC1 of the London Plan (2021) and the NPPF (2023). This weighs significantly against the scheme in the planning balance.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications

should be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons outlined within the main body of the report, the identified conflicts with the development plan are considered to be significant and there are no material considerations to outweigh such planning policy conflict. The amendments proposed are not considered to constitute minor material amendments and the application is recommended for refusal.

2. NON2 Reason for Refusal - Planning Obligations

The applicant has failed to secure Section 106 planning obligations required to mitigate the harm and demands created by the proposed development (in respect of securing the purpose-built student accommodation use, affordable student accommodation, highways works, parking management, lease restrictions on parking, travel planning, construction and employment training, carbon offsetting, canal towpath works, health infrastructure, public open space, and project management and monitoring). The scheme therefore conflicts with Policy DMCI 7 of the Hillingdon Local Plan: Part 2 (2020); the adopted Planning Obligations Supplementary Planning Document (2014); Policy DF1 of the London Plan (2021); and paragraphs 55-58 of the National Planning Policy Framework (2023).

INFORMATIVES

1. I52 Compulsory Informative (1)

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

2. I71 LBH worked applicant in a positive & proactive (Refusing)

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the Local Plan Part 1, Local Plan Part 2, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition further guidance was offered to the applicant by the case officer during the processing of the application to identify the amendments to address those elements of the scheme considered unacceptable which the applicant chose not to implement.

3. I74 Community Infrastructure Levy (CIL) (Refusing Consent)

This is a reminder that Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), should an application for appeal be allowed, the proposed development would be deemed as 'chargeable development' and therefore liable to pay the London Borough of Hillingdon Community Infrastructure Levy (CIL) and the Mayor of London's Community Infrastructure Levy (CIL). This would be calculated in accordance with the London Borough of Hillingdon CIL Charging Schedule 2014 and the Mayor of London's CIL

Charging Schedule 2012.

For more information on CIL matters please visit the planning portal page at:
www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan (2021) and national guidance.

DMAV 1	Safe Operation of Airports
DMCI 1	Retention of Existing Community Sport and Education Facilities
DMCI 7	Planning Obligations and Community Infrastructure Levy
DMEI 1	Living Walls and Roofs and Onsite Vegetation
DMEI 12	Development of Land Affected by Contamination
DMEI 14	Air Quality
DMEI 2	Reducing Carbon Emissions
DMEI 3	Decentralised Energy
DMEI 7	Biodiversity Protection and Enhancement
DMEI 9	Management of Flood Risk
DMH 7	Provision of Affordable Housing
DMHB 1	Heritage Assets
DMHB 11	Design of New Development
DMHB 12	Streets and Public Realm
DMHB 14	Trees and Landscaping
DMHB 15	Planning for Safer Places
DMHB 2	Listed Buildings
DMHB 7	Archaeological Priority Areas and archaeological Priority Zones
DMT 1	Managing Transport Impacts
DMT 2	Highways Impacts
DMT 5	Pedestrians and Cyclists

DMT 6	Vehicle Parking
LPP D1	(2021) London's form, character and capacity for growth
LPP D11	(2021) Safety, security and resilience to emergency
LPP D12	(2021) Fire safety
LPP D13	(2021) Agent of change
LPP D14	(2021) Noise
LPP D2	(2021) Infrastructure requirements for sustainable densities
LPP D3	(2021) Optimising site capacity through the design-led approach
LPP D4	(2021) Delivering good design
LPP D5	(2021) Inclusive design
LPP D6	(2021) Housing quality and standards
LPP D7	(2021) Accessible housing
LPP D8	(2021) Public realm
LPP DF1	(2021) Delivery of the Plan and Planning Obligations
LPP E6	(2021) Locally Significant Industrial Sites
LPP G5	(2021) Urban greening
LPP GG1	(2021) Building strong and inclusive communities
LPP GG2	(2021) Making the best use of land
LPP GG4	(2021) Delivering the homes Londoners needs
LPP H1	(2021) Increasing housing supply
LPP H15	(2021) Purpose-built student accommodation
LPP H16	(2021) Large-scale purpose-built shared living
LPP H4	(2021) Delivering affordable housing
LPP H5	(2021) Threshold approach to applications
LPP H6	(2021) Affordable housing tenure
LPP H7	(2021) Monitoring of affordable housing
LPP HC1	(2021) Heritage conservation and growth
LPP HC7	(2021) Protecting public houses

LPP S1	(2021) Developing London's social infrastructure
LPP SI1	(2021) Improving air quality
LPP SI12	(2021) Flood risk management
LPP SI13	(2021) Sustainable drainage
LPP SI17	(2021) Protecting and enhancing London's waterways
LPP SI2	(2021) Minimising greenhouse gas emissions
LPP SI3	(2021) Energy infrastructure
LPP SI7	(2021) Reducing waste and supporting the circular economy
LPP T1	(2021) Strategic approach to transport
LPP T2	(2021) Healthy Streets
LPP T3	(2021) Transport capacity, connectivity and safeguarding
LPP T4	(2021) Assessing and mitigating transport impacts
LPP T5	(2021) Cycling
LPP T6	(2021) Car parking
LPP T6.1	(2021) Residential parking
LPP T7	(2021) Deliveries, servicing and construction

3. CONSIDERATIONS

3.1 Site and Locality

The application site comprises a two-storey building sited on the corner of Packet Boat Lane and High Road, which is currently vacant following its closure in September 2018, but which formerly operated as the Paddington Packet Boat public house (*sui generis*). The existing building has both architectural interest, as result of its prominent siting and large gable ends, and historical interest, as a result of its age (dating from 1804), associated with the opening of the Paddington arm of the Grand Union Canal, which opened in 1801.

The surrounding area has a mixed and varied appearance, with detached bungalows immediately opposite the site on the eastern side of High Road, detached and semi-detached two-storey houses on the northern side of Packet Boat Lane, two-storey terraced housing to the south on Linden Terrace, and five-storey blocks of flats immediately to the west of the site on Packet Boat Lane, and slightly further west at Union Place. Additionally, the application site backs onto Packet Boat Lane Locally Significant Industrial Site (LSIS), which comprises several relatively low-rise industrial sheds and warehouses positioned between High Road and the Grand Union Canal. Overall, however, despite the industrial uses to the south, the area has a generally residential character.

3.2 Proposed Scheme

This application seeks permission under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 (Accordance with Approved Plans) of planning permission ref.

1058/APP/2021/3423, dated 08-09-2023 (Demolition of the public house (Sui Generis) and erection of purpose-built student accommodation (Sui Generis) and associated common areas and facilities, landscaping, amenity space, bicycle and motorcycle parking, and refuse storage) to make design changes, remove affordable student accommodation from the development and replace it with market rent student accommodation. The nominations agreement is also proposed to be removed from the offer for student accommodation.

3.3 Relevant Planning History

1058/APP/2021/3423 PADDINGTON PACKET BOAT PUBLIC HOUSE HIGH ROAD
COWLEY UXBRIDGE

Demolition of the public house (Sui Generis) and erection of purpose-built student accommodation (Sui Generis) and associated common areas and facilities, landscaping, amenity space, bicycle and motorcycle parking, and refuse storage.

Decision: 09-11-2022 Approval

1058/APP/2018/4486 PADDINGTON PACKET BOAT PUBLIC HOUSE HIGH ROAD
COWLEY UXBRIDGE

Redevelopment of the site including the demolition of existing public house (Use Class A4) and erection of a building of staggered height up to 7-storeys comprising 36 units (14 x 1 bed, 16 x 2 bed, 2 x 3 bed and 4 maisonettes) including the excavation of a 2-storey basement, associated access, car parking and landscaping

Decision: 07-05-2019 Withdrawn (P)

Comment on Planning History

Application reference 1058/APP/2018/4486 was submitted in December 2018 for the redevelopment of a residential scheme up to seven storeys in height, plus two basement levels. The application was subsequently withdrawn on the 7th May 2019, following a recommendation of refusal by the local planning authority.

Application reference 1058/APP/2021/3423 sought permission for the demolition of the public house (Sui Generis) and erection of purpose-built student accommodation (Sui Generis) and associated common areas and facilities, landscaping, amenity space, bicycle and motorcycle parking, and refuse storage. The application was approved on 8th September 2023. Significantly, the application secured the provision of 22 of the 61 student rooms (36%) would be secured as affordable student accommodation. This is particularly pertinent to the current application which removes all affordable student accommodation from the proposals and replaces it with market student accommodation. The affordable student accommodation was considered to be a significant benefit of the approved scheme and weighed in favour of the proposal in the planning balance.

4. Advertisement and Site Notice

4.1 Advertisement Expiry Date: Not applicable

4.2 Site Notice Expiry Date: **24th May 2024**

5. Comments on Public Consultation

A total of 32 objections have been received as part of the public consultation process and are summarised as follows:

- There are too many flats with student accommodation.
- There is not enough housing.
- Student accommodation causes mess, graffiti and noise disturbance.
- The development will cause traffic.
- The building would be better served as a public house.
- The development was refused under a previous application.
- The building structure is sound and could be renovated.
- The development should not demolish an attractive and historic building.
- Approval of the development would run contrary to the wishes of the local community.
- The additional demand on public transport, healthcare, and other community services has not been adequately addressed in the proposal.
- A community use would better serve the community.
- The design changes are not clear and the proposed building would look out of place.
- The building is too tall and would set a negative precedent.
- New development should incorporate green spaces, promote biodiversity, and adhere to high environmental standard.
- The community will not feel safe.
- The removal of affordable student accommodation is unacceptable.
- The removal of the nominations agreement would essentially mean that the proposal would no longer be secured as student accommodation and would essentially be uncontrolled sub-standard market residential units.
- The Applicant had no intention of delivering 35% affordable housing.
- The original application approved was finely balanced in favour of the proposal whereas the current application removes any public benefit. The planning balance weighs against the application and should be refused.
- The development will be further value engineered if approved.
- The lack of any affordable accommodation would mean that this scheme does not (and arguably cannot) meet the wider objectives of the development plan.
- The proposal would not only fail to promote social cohesion but would in fact place additional barriers in front of young people from disadvantaged backgrounds, as no rooms would be available at a rate which is even remotely feasible for prospective students, and in turn this would contribute to wider barriers in place across society preventing young people from less wealthy backgrounds from progressing to further education.
- In many instances, the revised FVA returns to points which were disputed under application reference 1058/APP/2021/3423 and it is queried whether, in doing this, the FVA consultant has complied with RICS code of conduct, where it requires that all inputs into an appraisal must be reasonably justified.

PLANNING OFFICER COMMENTS:

All resident comments and objections are taken into consideration. All material planning considerations are addressed within the main body of the report.

EXTERNAL CONSULTATION

NATIONAL AIR TRAFFIC SERVICES:

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

MINISTRY OF DEFENCE:

I can confirm that, following review of the application documents, the proposed development would be considered to have no detrimental impact on the operation or capability of a defence site or asset. The MOD has no objection to the development proposed.

GLAAS:

Having considered the proposals with reference to information held in the Greater London Historic Environment Record and/or made available in connection with this application, I conclude that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

The site is located on the periphery of the Colne Valley Archaeology Priority Area, however the development site is small in scale and is likely to have been previously disturbed during the construction of structures on the site during the 20th century. The history of the pub building has been extensively researched when it was being assessed for listing, and the submitted heritage statement (Corrie Newell, July 2021) contains an adequate record and phasing plan.

No further assessment or conditions are therefore necessary.

CANAL AND RIVER TRUST:

The development would bring more people to the area, who are likely to make use of the waterway and towpath network, as a convenient walking and cycling link away from the main road and as a pleasant local amenity. This increased use will put additional pressure on the canal towpath. The Trust previously requested a contribution of £15,000 towards towpath improvements and this was secured as part of the S106 agreement.

The proposed amendments to the approved scheme, including the removal of affordable housing

provision, would not result in reduced demand on the towpath from the development and therefore we would ask that, should the current application be approved, the Local Planning Authority ensure the £15, 000 contribution already secured is carried forward into a new or varied S106 agreement.

LONDON FIRE BRIGADE:

The London Fire Brigade (LFB) has been consulted with regard to the above-mentioned premises and have no observations to make. It should be ensured that if any material amendments to this consultation is proposed, a further consultation will be required.

INTERNAL CONSULTATION

ACCESS OFFICER:

This Variation of Condition application seeks to remove the requirement to provide affordable student accommodation from this development. Whilst there is no requirement within London Plan policy H15 to prevent the loss of this affordable, accessible accommodation, removal of this requirement would result in a reduction of new, fit for purpose, accessible accommodation for wheelchair users. Conclusion: removal of the affordable student accommodation should be discouraged.

URBAN DESIGN OFFICER:

The proposed rooftop railing, intended for safety, is not considered acceptable due to its adverse visual impact. We recommend exploring alternative solutions: a) Implement a safety wire system to eliminate the need for railings. b) If the wire system is unfeasible, consider setting back the railings from the roof edge as much as possible. c) Alternatively, redesign the railings to seamlessly integrate with the roof parapet.

NOISE SPECIALIST:

Based on the information provided I do not consider that variation of condition 2 has an impact in terms of the noise and vibration.

WASTE STRATEGY:

Number of bins is appropriate however developer should also factor in 4x 140L wheeled bins for food waste. We do not collect refuse and dry mixed recycling in wheelie bins so the developer should plan to house 4x 1100L euro bins. Our crews will not pull the bins further than 10m from the collection point on Packet Boat Lane so storage area should be within 10m.

AIR QUALITY OFFICER:

No comments provided.

HIGHWAYS AUTHORITY:

No comments provided.

6. Local Plan Designation and London Plan

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

Part 1 Policies:

PT1.BE1	(2012) Built Environment
PT1.CI1	(2012) Community Infrastructure Provision
PT1.EM1	(2012) Climate Change Adaptation and Mitigation
PT1.EM11	(2012) Sustainable Waste Management
PT1.EM6	(2012) Flood Risk Management
PT1.EM8	(2012) Land, Water, Air and Noise
PT1.H1	(2012) Housing Growth
PT1.H2	(2012) Affordable Housing

Part 2 Policies:

DMAV 1	Safe Operation of Airports
DMCI 1	Retention of Existing Community Sport and Education Facilities
DMCI 7	Planning Obligations and Community Infrastructure Levy
DMEI 1	Living Walls and Roofs and Onsite Vegetation
DMEI 12	Development of Land Affected by Contamination
DMEI 14	Air Quality
DMEI 2	Reducing Carbon Emissions
DMEI 3	Decentralised Energy
DMEI 7	Biodiversity Protection and Enhancement
DMEI 9	Management of Flood Risk
DMH 7	Provision of Affordable Housing
DMHB 1	Heritage Assets
DMHB 11	Design of New Development
DMHB 12	Streets and Public Realm
DMHB 14	Trees and Landscaping
DMHB 15	Planning for Safer Places
DMHB 2	Listed Buildings
DMHB 7	Archaeological Priority Areas and archaeological Priority Zones
DMT 1	Managing Transport Impacts
DMT 2	Highways Impacts
DMT 5	Pedestrians and Cyclists
DMT 6	Vehicle Parking
LPP D1	(2021) London's form, character and capacity for growth
LPP D11	(2021) Safety, security and resilience to emergency

LPP D12	(2021) Fire safety
LPP D13	(2021) Agent of change
LPP D14	(2021) Noise
LPP D2	(2021) Infrastructure requirements for sustainable densities
LPP D3	(2021) Optimising site capacity through the design-led approach
LPP D4	(2021) Delivering good design
LPP D5	(2021) Inclusive design
LPP D6	(2021) Housing quality and standards
LPP D7	(2021) Accessible housing
LPP D8	(2021) Public realm
LPP DF1	(2021) Delivery of the Plan and Planning Obligations
LPP E6	(2021) Locally Significant Industrial Sites
LPP G5	(2021) Urban greening
LPP GG1	(2021) Building strong and inclusive communities
LPP GG2	(2021) Making the best use of land
LPP GG4	(2021) Delivering the homes Londoners needs
LPP H1	(2021) Increasing housing supply
LPP H15	(2021) Purpose-built student accommodation
LPP H16	(2021) Large-scale purpose-built shared living
LPP H4	(2021) Delivering affordable housing
LPP H5	(2021) Threshold approach to applications
LPP H6	(2021) Affordable housing tenure
LPP H7	(2021) Monitoring of affordable housing
LPP HC1	(2021) Heritage conservation and growth
LPP HC7	(2021) Protecting public houses
LPP S1	(2021) Developing London's social infrastructure
LPP SI1	(2021) Improving air quality
LPP SI12	(2021) Flood risk management
LPP SI13	(2021) Sustainable drainage
LPP SI17	(2021) Protecting and enhancing London's waterways
LPP SI2	(2021) Minimising greenhouse gas emissions
LPP SI3	(2021) Energy infrastructure
LPP SI7	(2021) Reducing waste and supporting the circular economy
LPP T1	(2021) Strategic approach to transport
LPP T2	(2021) Healthy Streets
LPP T3	(2021) Transport capacity, connectivity and safeguarding
LPP T4	(2021) Assessing and mitigating transport impacts
LPP T5	(2021) Cycling
LPP T6	(2021) Car parking
LPP T6.1	(2021) Residential parking

LPP T7 (2021) Deliveries, servicing and construction

In addition: 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) (2023) is also a material consideration in planning decisions, as well as relevant supplementary planning documents and guidance.

7. MAIN PLANNING ISSUES

7.1 Impact on the amenities of the occupiers of neighbouring residential properties

Matters relating to impacts on neighbours have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

7.2 Impact on Street Scene

Policies D3 of the London Plan (2021), BE1 of the Hillingdon Local Plan: Part 1 (2012), DMHB 11 and DMHB 12 of the Hillingdon Local Plan: Part 2 (2020) are all directly relevant to the proposal. In summary, these policies seek to secure a high quality of design that enhances and contributes to the area in terms of form, scale and materials, is appropriate to the identity and context of the townscape and would improve the quality of the public realm and respect local character. These aims are also supported by the NPPF (2023) at chapter 12.

In the main, the proposed development has been established as acceptable in design terms due to the grant of approval under planning permission ref. 1058/APP/2021/3423. The proposed removal of the affordable student accommodation and replacement with market student accommodation would not materially impact external design considerations.

Initially, a rooftop railing was proposed on levels 3, 4 and 5 at 1.1m high. The Council's Urban Design Officer raised concerns with this proposal, noting that the railing would be clearly visible and adds clutter to the elevations of the building. As the railing is only required for safety reasons, it was considered that a safety wire system would be more appropriate, providing the same level of safety without adding visual clutter. Such concerns were raised with the Applicant and amended plans

were submitted, removing the rooftop railing proposal and replacing it with a fall arrest system for access and maintenance works. The detail of such a system would be secured by planning condition in the event of an approval. Subject to such a condition, the changes would result in no additional design harm.

HERITAGE

In accordance with the council's statutory duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is necessary to have special regard to the desirability of preserving the setting of a listed building and to preserving or enhancing the character or appearance of a conservation area. This is supported by Policy HE1 of the Hillingdon Local Plan: Part 1 (2012), Policies DMHB 1, DMHB 2, DMHB 3 and DMHB 4 of the Hillingdon Local Plan: Part 2 (2020), Policy HC1 of the London Plan (2021) and the NPPF (2023).

The proposed development, as a result of its scale and siting on a prominent corner, has the potential to impact the setting of Barnacre, a Grade II listed 17th century house approximately 50 metres to the north and the Old Cottage, a Grade II listed medieval cottage approximately 80 metres to the north. Other designated heritage assets potentially affected are the Cowley Lock Conservation Area, approximately 150 metres to the west and the Colne Valley Archaeological Priority Zone. The proposal would further result in the total loss of the Paddington Packet Boat Public House, a non-designated heritage asset.

The original application concluded that the proposal would result in no significant impacts to Barnacre. The proposed development was considered likely to have some impact on the setting of The Old Cottage, as they would be visible together in views from the north along the High Road, however this impact would be less than substantial and very minor. The proposal was also considered to have no significant impacts on the setting of the Cowley Lock Conservation Area.

In addition to the designated heritage assets discussed above, the building itself is considered to be a non-designated heritage asset. The existing pub is situated on a prominent corner sited on a bend in the High Road and has a visual presence within the streetscape, terminating views looking southwards. The combination of its siting and the public house architecture, along with a likely historic association with the Paddington arm of the Grand Union Canal, give the building its significance.

This consideration follows an unsuccessful attempt to see the building nationally listed, for which the Council received notification from Historic England on the 26th November 2019 confirming that the Paddington Packet Boat Public House would not be added to the Statutory List of Buildings of Special Architectural or Historic Interest due to its level of alteration. In this regard, Historic England guidance explains that most public houses built prior to 1850 surviving in anything like their original form will be listable and the crucial consideration is whether enough of the original fabric of special interest for designation has survived to warrant listing.

In this instance, whilst it was agreed that a pub has operated from the site since the late 18th or early 19th century (likely 1804), and there is an element of historic interest with regard to the association with the packet boat service, Historic England concluded that because the precise details of this connection are not known and the building, at least in its current altered form, does not afford a strong connection with this aspect of history, the historic rationale for listing is not warranted. Historic England further stated that the introduction of a new facade, internal reordering and the loss of historic fabric and fixtures, together with extensions in the 19th and 20th centuries, means that a significant proportion of the earlier building has been significantly altered, to the extent that the building has the character of a mid to late 19th century pub rather than an early 19th

century pub, and therefore the building's architectural interest does not warrant listing.

However, despite concluding that the building did not warrant listing for either its historical or architectural interest (or a combination of the two), the report produced by Historic England acknowledges the positive contribution the building makes to this part of Cowley as a visible reminder of the packet boat trade.

The proposed development would result in the total loss of the building, and therefore result in the total loss of the non-designated historical asset, for which the NPPF advises that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this regard it is important to note that unlike a nationally listed building, there is no statutory duty to preserve a locally listed building or other non-designated heritage assets, or their settings and the weight given to its retention or preservation, as a matter of fact, should be lower than for a nationally listed building when weighing up the planning balance of a proposal.

As discussed in greater detail in the 'Principle of Development' section of the report, where the original approval delivered benefits in respect of the provision of both purpose-built student accommodation and a policy compliant level of affordable student accommodation, the current amended scheme would remove the nominations agreement from the proposal and would remove all affordable bedrooms from the proposal and replace them with market units. The development has been independently viability tested and Officers conclude that provision of affordable student would in fact be viable, although at a reduced amount compared to that previously secured (this being at 36% of all units). The non-provision of affordable student accommodation is a significant planning policy conflict which significantly weighs against the development in the planning balance.

Whilst the proposed amended development would make use of a brownfield site, the non-securement of the nominations agreement means that the development does not constitute purpose-built student accommodation and does not contribute to meeting the identified need for student accommodation as was the case for the original permission granted. As per paragraph 4.15.5 of the London Plan (2021), it follows that the development instead constitutes large-scale purpose-built shared living, requiring a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990. Such a proposal would not constitute a minor material amendment and is considered to be unacceptable, therefore significantly weighing against the scheme in the planning balance.

As such, in accordance with the council's statutory duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and requirements under the NPPF, it is considered that the proposal would have a less than substantial impact on the setting of the Grade II listed Old Cottage, slightly infringing on the ability to appreciate the Old Cottage in views south along the High Road because of the scale and prominent siting of the proposed development. Although the harm is minor, the previously approved benefits of the scheme are significantly diminished and arguably fail to outweigh such harm.

The scheme would further result in the total loss of significance of the non-designated heritage asset (following its demolition), which has local historic value because of the perceived connection with the historic packet boat service, however because of significant and steady alterations to the building (both internally and externally) throughout the 19th and 20th centuries, the building is only considered to have moderate historic and architectural significance. The social value of the existing pub is difficult to quantify, not least because it has remained vacant for four years, but also because the previous operator found the pub to be financially unviable, which indicates to some extent that the operational pub was not integral to the community, especially with a number of other public houses within walking distance.

In accordance with the NPPF in relation to non-designated heritage assets, having regard to the scale of any harm or loss (in this case total loss) and the significance of the heritage asset (in this case moderate historical and architectural significance), the proposal to redevelop an under-utilised brownfield site with a substandard large-scale purpose-built shared living development (by virtue of the proposed non-securement of a nominations agreement) which fails to contribute positively to meeting housing need within the Borough is not considered to realise sufficient benefits to outweigh the harm to the non-designated heritage asset. In this case, the proposed loss of Paddington Packet Boat Public House is not considered to be acceptable.

7.3 Traffic Impact / Pedestrian Safety

It is noted that the the planning permission granted under application ref. 1058/APP/2021/3423 established that the development would not have a significant adverse impact on local highway conditions or the strategic highway network. The current proposal does not change the car parking provisions proposed. However, as addressed in the 'Principle of Development' section of the report, the non-securement of a nominations agreement means that the development proposal is instead considered to be a large-scale purpose-built shared living subject to the requirements of Policy H16 of the London Plan (2021). Significantly, this constitutes a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990, as confirmed under *Armstrong v Secretary of State for Levelling-Up, Housing and Communities* and *Another* EWHC 176 (Admin). On the basis that the development cannot change the description of development from a provision of purpose-built student accommodation to large-scale purpose-built shared living, Officers have not assessed the highways safety implications of a large-scale purpose-built shared living development.

7.4 Carparking & Layout

Please see Section 07.3'Traffic Impact / Pedestrian Safety' for consideration of relevant car parking and layout matters.

7.5 Urban Design, Access and Security Considerations

URBAN DESIGN

Please refer to Sections 07.2 and 07.6 of the report for consideration of urban design matters.

ACCESS AND SECURITY

Matters relating to access and security have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

7.6 Other Issues

MINOR MATERIAL AMENDMENT

The pertinent test for a Section 73 application is whether the changes to the approved scheme would constitute minor material amendments. There is no statutory definition of a minor material amendment but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

PRINCIPLE OF DEVELOPMENT

The development approved under planning permission ref. 1058/APP/2021/3423 was considered to make effective use of a brownfield site, in accordance with the principles of Policy GG2, H1 and H15 of the London Plan, re-using a vacant and underutilised site to provide purpose-built student

accommodation, for which there is an established need across London and within the borough. The site has sat vacant since its closure in 2018, with a lack of meaningful interest from prospective pub operators to take over the site in its current use, and, in the view of the local planning authority, there was little realistic prospect of the building being used as a pub in the foreseeable future. The various pertinent considerations for the current amended proposal is considered in detail below.

Public House:

The existing pub has been vacant since its closure in 2018, and in accordance with the Policy HC7 of the London Plan, it is considered that the pub has some cultural or social value to the local community, and its historic value is recognised through its proposed inclusion on the local heritage list. As a vacant site, the pub is not making a positive contribution to the night-time economy or local community, however it is recognised that the public house had operated on the site for nearly 200 years prior to its closure, and the pub is therefore likely to have sentimental value to local people, in particular the residents of Cowley and Yiewsley.

Community Facility:

The submitted marketing evidence partially satisfies the requirements of Policy DMCI 1, in that it demonstrates there is little interest in continuing to use the site as a pub, and it is considered that the loss of this one pub would not lead to a shortfall in the area. In this regard it is noted that the application site is approximately 100m from the Waters Edge in Cowley, there are three pubs to the North (The Malt Shovel, The 3 Steps and The Crown) which are approximately 1km away, and the site is also within walking distance of Yiewsley/West Drayton Town Centre which contains additional public houses, including the George & Dragon which is approximately 1km away. Part (ii) of Policy DMCI 1 states that the loss of a community facility would be allowed if there is no demand for another suitable social infrastructure use on-site (which has been demonstrated through marketing evidence), or that the site is no longer appropriate for social infrastructure uses. This second clause of Part (ii) of Policy DMCI 1 has not been demonstrated, as the site could likely accommodate an alternative social use in an acceptable manner, however the lack of demand shown through the marketing period for alternative community uses shows that, on balance, Part (A) of Policy DMCI 1 has been complied with.

Student Accommodation:

The need for new housing across all of London is established by Policy H1 of the London Plan, which sets a strategic London-wide target of 66,000 additional homes each year, which includes London's requirements for PBSA. Policy H15 of the London Plan further sets out that there is a strategic target of 3,500 PBSA bed spaces to be provided annually, recognising the significant contribution higher education providers make to London's economy and labour market, which should not be undermined by inadequate provision of new student accommodation. Whilst it should be noted that London's annual strategic target for PBSA is not broken down by borough (as housing targets are), counting student accommodation at a ratio of 2.5:1 (with two and a half bedrooms being counted as a single home), the previously approved 61-bedroom student block would have the effect of contributing the equivalent of 24 homes towards Hillingdon's housing targets, or freeing up 24 homes which would otherwise be used as HMOs by students.

It is recognised that the areas around Brunel University and Uxbridge would be protected from conversion from family-accommodation to HMOs through the imposition of an Article 4 Direction (which removes permitted development rights for conversions) and which was specifically brought in due to the concerns of over-concentrations of HMOs in a small area. This therefore demonstrates that some PBSA is required within the borough, to ensure that students are still provided for, given

that the borough generally resists the other main source of off-campus student accommodation (HMOs).

Policy H15 also requires new PBSA to be located in locations well-connected to local services by walking, cycling and public transport. Whilst the PTAL of the site is very low (1b), this does not in itself indicate that the site is in an unsustainable location. Under the previous permission granted, it was noted that the development was intended for for students, who would predominantly travel to and from Brunel University, which would be approximately 20 minute's walk away and approximately 5 minutes' away on a bike. This is not, however, the case for the current application which proposes to remove the nominations agreement from the scheme. This point of being a sustainable form of development is therefore diminished.

Regarding the securement of nominations agreement, Policy H15 of the London Plan (2021) states that Boroughs should seek to ensure that local and strategic need for purpose-built student accommodation is addressed, provided that:

- A) 3) the majority of the bedrooms in the development including all of the affordable student accommodation bedrooms are secured through a nomination agreement for occupation by students of one or more higher education provide
- 4) c) the affordable student accommodation bedrooms should be allocated by the higher education provider(s) that operates the accommodation, or has the nomination right to it, to students it considers most in need of the accommodation.

Paragraph 4.15.3 states: "To demonstrate that there is a need for a new PBSA development and ensure the accommodation will be supporting London's higher education providers, the student accommodation must either be operated directly by a higher education provider or the development must have an agreement in place from initial occupation with one or more higher education providers, to provide housing for its students, and to commit to having such an agreement for as long as the development is used for student accommodation. This agreement is known as a nomination agreement. A majority of the bedrooms in the development must be covered by these agreements. Therefore, the borough should ensure, through condition or legal agreement, that the development will, from the point of occupation, maintain a nomination agreement or enter a new nomination agreement with one or more higher education provider(s) for a majority of the bedrooms in the development, for as long as it is used as student accommodation. There is no requirement for the higher education provider linked by the agreement to the PBSA to be located within the borough where the development is proposed."

Paragraph 4.15.4 states: "Where all the bedrooms in the PBSA development are provided at a rental cost that qualifies as affordable student accommodation as defined in paragraph 4.15.8 and maintained in perpetuity through legal agreement or condition, there is no requirement for it to have a nomination agreement with a higher education provider."

Paragraph 4.15.5 states: "If the accommodation is not secured for use by students and secured through a nomination agreement for occupation by students of one or more higher educational providers as set out in paragraph 4.15.3 or is exempt from this requirement as set out in paragraph 4.15.4, it will not be considered as purpose-built student accommodation or meeting a need for purpose-built student accommodation; and the development proposal will normally be considered large-scale purpose-built shared living and be assessed by the requirements of Policy H16 Large-scale purpose-built shared living."

Whilst the original consent secured a nominations agreement with Brunel University, the current application submission proposes the removal of the nominations agreement, meaning that the

market rent units would be unrestricted in order to improve the viability of the scheme. The Applicant states that this means that there would not be a restricted tenure split through one higher education institution, opening up the rooms to any interested student. Officers consider the removal of the nominations agreement increases the very real risk that the proposal would no longer be secured as student accommodation and would essentially be uncontrolled sub-standard market residential units.

Significantly, paragraph 4.15.4 above states that the only reason not to secure a nominations agreement is the securing of all bedrooms as affordable student accommodation. The current application submission proposes the removal of all affordable student accommodation alongside the nominations agreement and therefore is unjustified and directly contrary to the London Plan (2021) requirements.

Furthermore, paragraph 4.15.5 confirms that if the student accommodation is not secured through a nominations agreement or is exempt, it will not be considered as purpose-built student accommodation or meeting a need for purpose-built student accommodation. Accordingly, the development proposed under the current application is not considered to constitute purpose-built student accommodation and does not contribute to meeting the identified need for student accommodation as was the case for the original permission granted (under ref. 1058/APP/2021/3423).

It follows that the development proposal is instead considered to be a large-scale purpose-built shared living subject to the requirements of Policy H16 of the London Plan (2021). Significantly, this constitutes a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990, as confirmed under *Armstrong v Secretary of State for Levelling-Up, Housing and Communities* and *Another* EWHC 176 (Admin). Evidently, the amendments proposed under this Section 73 application do not constitute minor material amendments, and are unacceptable in principle.

On the basis that the development cannot change the description of development from a provision of purpose-built student accommodation to large-scale purpose-built shared living, Officers have not assessed the development against the requirements of Policy H16 of the London Plan (2021).

Affordable Student Accommodation:

Policy H15 of the London Plan seeks to ensure that the maximum level of PBSA is secured as affordable accommodation. Similarly to traditional residential housing (C3), proposals for student accommodation can benefit from the fast-track route, as set out in Policy H5 of the London Plan (Threshold approach to applications), if they provide 35% of their units as affordable accommodation on-site. To qualify as affordable accommodation, units must be provided at a rental cost for the academic year equal to or below 55% of the maximum income that a new full-time student studying in London and living away from home could receive from the Government's maintenance loan for living costs for that academic year. The actual amount the Mayor defines as affordable student accommodation for any academic year is published in the Mayor's Annual Monitoring Report (AMR).

Under the original approval, 22 of the 61 student rooms (36%) were secured as affordable student accommodation. The provision for any affordable student accommodation has been removed from the current application proposal. The Applicant submits that the provision of any affordable student accommodation would be unviable. The development has been independently viability tested and the Officers conclude that provision of affordable student would be viable, although at a reduced amount compared to that previously secured (this being at 36% of all units). The non-provision of

affordable student accommodation is a significant planning policy conflict which significantly weighs against the development in the planning balance.

The non-provision of affordable accommodation removes a significant public benefit of the original permission. Affordable student accommodation furthers a number of social objectives and helps to ensure that students from all financial backgrounds are afforded an equal opportunity to attend university and are not prohibited from participating in higher education because of financial constraints. This directly promotes social cohesion and contributes to mixed and balanced communities, whilst removing social barriers which may prevent some young people from attending higher education. This element of the original proposal was considered to be the major benefit of the scheme, and one of the overriding reasons for the recommendation of approval.

The non-provision of affordable student accommodation is not considered to be justified on viability grounds and weighs significantly against the development in the planning balance. The proposal is therefore contrary to the objectives of the NPPF (2023), Policies H5 and H15 of the London Plan (2021), Policy H2 of the Hillingdon Local Plan: Part 1 (2012) and Policy DMH 7 of the Hillingdon Local Plan: Part 2 (2020).

In the event of an appeal, head of term (ii) is proposed to be secured to ensure that any development permitted on this site secured the maximum affordable accommodation within the viability parameters of the scheme. This S106 obligation should be subject to an early and late stage review mechanism.

Summary:

Whilst the proposed amended development would make use of a brownfield site, the non-securement of the nominations agreement means that the development does not constitute purpose-built student accommodation and does not contribute to meeting the identified need for student accommodation as was the case for the original permission granted (under ref. 1058/APP/2021/3423). It follows that the development instead constitutes large-scale purpose-built shared living, requiring a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990. Furthermore, the non-provision of affordable student accommodation removes a significant public benefit of the original permission, is not considered to be justified on viability grounds and weighs significantly against the development in the planning balance. Significantly, the amendments proposed under this Section 73 application do not constitute minor material amendments, and are unacceptable in principle.

LIVING CONDITIONS

It is noted that the the planning permission granted under application ref. 1058/APP/2021/3423 established that the development provided an acceptable standard of accommodation to meet the requirements of Policy H15 to provide a functional layout and living spaces. The current proposal does not change the internal provisions proposed. However, as addressed in the 'Principle of Development' section of the report, the non-securement of a nominations agreement means that the development proposal is instead considered to be a large-scale purpose-built shared living subject to the requirements of Policy H16 of the London Plan (2021). Significantly, this constitutes a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990, as confirmed under *Armstrong v Secretary of State for Levelling-Up, Housing and Communities* and Another EWHC 176 (Admin). On the basis that the development cannot change the description of development from a provision of purpose-built student accommodation to large-scale purpose-built shared living, Officers have not assessed the development against the requirements of Policy H16 of the London Plan (2021).

TREES, LANDSCAPING AND ECOLOGY

Matters relating to trees, landscaping and ecology have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

SUSTAINABLE WASTE MANAGEMENT

Matters relating to sustainable waste management have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

ENERGY

The current application submission is supported by an Energy Statement (Dated March 2024) submitted and confirms that the development would accord with Policy SI 2 of the London (2021), noting that on-site carbon savings will exceed 35% relative to Part L 2021. Residual emissions will be offset through a carbon offset payment, estimated at £8,036. In the event of an approval, this would be secured by a linked planning condition and obligation to ensure policy compliance.

FLOODING AND DRAINAGE

Matters relating to flooding and drainage have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

NOISE

Matters relating to noise have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

AIR QUALITY

It should be highlighted that the November 2022 Committee Addendum confirmed that application reference 1058/APP/2021/3423 was air quality neutral and that the air quality damage cost (equal to £28,490) was proposed in error. As such, the damage cost was not secured as part of the original permission or associated S106 legal agreement. The current application is supported by an updated Air Quality Assessment and concludes that the construction and operational air quality effects of the proposed development are 'not significant'. The amendments proposed are not considered to impact on the conclusion previously made as part of the original permission. As such, the development is accepted in respect of air quality considerations.

CONTAMINATED LAND

Matters relating to contaminated land have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

FIRE SAFETY

Matters relating to fire safety have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

HEALTH

The amended scheme proposed would include the provision of no affordable units as part of the purpose-built student accommodation. In such a scenario, a HUDU health contribution would not be applicable to the development proposed. However, as explained in the 'Principle of Development' section of the report, Officers consider that it is in fact viable to provide affordable student accommodation. In the event of an approval or decision to allow the application at appeal, it is recommended that a HUDU health contribution is secured in order to mitigate the impacts of the development on health infrastructure not addressed by Community Infrastructure Levy.

INFRASTRUCTURE ASSESSMENT

Matters relating to infrastructure assessments have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

AIRPORT SAFEGUARDING

Matters relating to airport safeguarding have already been established by grant of permission ref. 1058/APP/2021/3423 and there has been no material change in policy and/or site circumstances to suggest that the previous assessment is no longer valid.

ECONOMIC IMPACT

Officers acknowledge that there would be some economic benefits associated with general construction and employment from the operation, servicing and maintenance of the proposed development. Officers would emphasise that these are benefits that can be attached to all forms of development to certain degrees. It is also highlighted that the proposed development is not a significant generator of employment and as such, any such associated benefits are considered as such within the planning balance.

BIODIVERSITY NET GAIN

The Environment Act 2021 has established that all planning permissions granted in England have to deliver at least 10% biodiversity net gain (BNG) from January 2024. Paragraph 174 of the NPPF (2023) also states that planning decisions should contribute to and enhance the natural and local environment by: d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. This is supported by Policy G6 of the London Plan (2021) and Policy DMEI 7 of the Hillingdon Local Plan: Part 2 (2020).

There are a number of exemptions for biodiversity net gain requirements. As the original planning permission to be varied was made before mandatory BNG on 2nd April 2024, the development is exempt from BNG requirements.

SECTION 73 CONDITIONS

The original planning permission will continue to exist whatever the outcome of the application

under section 73. The conditions imposed on the original permission still have effect unless they have been discharged. In granting permission under section 73 the local planning authority may also impose new conditions - provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. Decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

PLANNING OBLIGATIONS

Policy DMCI 7 of the Hillingdon Local Plan: Part 2 (2020) states:

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

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

- i) to secure the provision of affordable housing in relation to residential development schemes;
- ii) where a development has infrastructure needs that are not addressed through CIL; and
- iii) to ensure that development proposals provide or fund improvements to mitigate site specific impacts made necessary by the proposal.

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

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

- i. necessary to make the development acceptable in planning terms
- ii. directly related to the development, and
- iii. fairly and reasonably related in scale and kind to the development

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

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

- i) Secure use of the building as Purpose Built Student Accommodation, falling within the sui generis use class, with a nominations agreement in place with a relevant higher education provider for the majority of rooms, in perpetuity;
- ii) Secure the provision of the maximum affordable student accommodation viable in perpetuity, subject to an early-stage review mechanism if substantial implementation has not occurred within two years of permission being granted;
- iii) Enter into a s278 and/or s38 agreement to dedicate land at the front of the development for the creation of a new footway, funded by the applicant and to be adopted by the council;

iv)To prevent future occupiers from being eligible for parking permits within the borough, including any new Parking Management Schemes which are introduced, and to secure £20,000 towards consulting on, and implementing, the creation of a Parking Management Scheme for the surrounding roads on requests from local residents;

v)To require the lease agreements between any future occupiers and the owner (or higher education provider as the case may be) to prevent cars from being registered at the proposed accommodation and to prohibit occupiers from bringing cars to the area, excluding blue badge holders;

vi)A full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan will include a 'moving in and out strategy', targets for sustainable travel arrangements, effective measures for the ongoing monitoring of the Travel Plan, and a commitment to delivering the Travel Plan objectives. The Travel Plan shall further include a Parking Design and Management Plan, which shall demonstrate how up to 3 on-street blue badge spaces could be provided should the demand arise from the occupied development. A £25,400 Travel Plan bond is also to be secured (£20,000 for the Travel Plan measures and £5400 for the creation of on-street blue badge spaces);

vii)Details shall be submitted for a Construction and Employment Training scheme in accordance with the Council Planning Obligations SPD with the preference being for an in-kind, on-site scheme to be delivered;

viii)A carbon offsetting contribution, based on £95 per tonne over a period of 30 years, to be calculated through the submission of an updated Energy Strategy, and paid prior to commencement;

ix)Financial contribution of £15,000 towards improvements to the canal towpath, to be used by the Canal and River Trust;

x)HUDU contribution (calculated based on the provision of affordable student accommodation) towards healthcare facilities to support the additional population, calculated in accordance with the HUDU model;

xi) Financial contribution of £15,750 towards improvements to the public open space;

xii)A financial contribution equal to 5% of the total cash contributions, for Project Monitoring and Management.

In addition, the scheme would not be liable to make a CIL payment under Hillingdon's CIL Charging Schedule but would be required to make a payment under the Mayor's CIL Charging Schedule (MCIL2) at a rate of £60 per sqm (index linked).

CONCLUSION

This application seeks permission under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 (Accordance with Approved Plans) of planning permission ref. 1058/APP/2021/3423 to make design changes, remove affordable student accommodation from the development and replace it with market rent student accommodation.

The proposed development would fail to provide any affordable student accommodation. Following an independent viability assessment, it is concluded that the provision of affordable student would

be viable. The non-provision of affordable student accommodation is a significant planning policy conflict, which does not constitute a minor material amendment, and significantly weighs against the development in the planning balance, contrary to the objectives of the NPPF (2023), Policies H5 and H15 of the London Plan (2021), Policy H2 of the Hillingdon Local Plan: Part 1 (2012) and Policy DMH 7 of the Hillingdon Local Plan: Part 2 (2020).

Whilst the proposed amended development would make use of a brownfield site, the non-securement of the nominations agreement means that the development does not constitute purpose-built student accommodation and does not contribute to meeting the identified need for student accommodation as was the case for the original permission granted. As per paragraph 4.15.5 of the London Plan (2021), it follows that the development instead constitutes large-scale purpose-built shared living, requiring a change to the application description which cannot be secured under Section 73 of the Town and Country Planning Act 1990. Such a proposal would not constitute a minor material amendment and is considered to be unacceptable, therefore significantly weighing against the scheme in the planning balance.

The Paddington Packet Boat Public House, which is considered to be a non-designated heritage asset, would be completely lost, and the proposal would further have a less than substantial minor impact on the setting of the Grade II listed Old Cottage to the north. As required by the NPPF, weighing up the benefits of the proposal against the harm to heritage assets, it is considered that the removal of the nominations agreement and affordable student accommodation from the proposal significantly weighs against the scheme alongside the loss of a non-designated heritage asset and less than substantial impact on a Grade II listed heritage asset. The use of a vacant brownfield site was previously identified as a public benefit but it is considered that on its own does not surmount the significant planning policy conflict identified as part of the proposed development. The development proposed is contrary to Policy HE1 of the Hillingdon Local Plan: Part 1 (2012), Policies DMHB 1, DMHB 2, DMHB 3 of the Hillingdon Local Plan: Part 2 (2020), Policy HC1 of the London Plan (2021) and the NPPF (2023). This weighs significantly against the scheme in the planning balance.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons outlined within the main body of the report, the identified conflicts with the development plan are considered to be significant and there are no material considerations to outweigh such planning policy conflict. The amendments proposed are not considered to constitute minor material amendments and the application is recommended for refusal.

As the application is recommended for refusal, the applicant has also failed to secure Section 106 planning obligations required to mitigate the harm and demands created by the proposed development. This represents a further reason for refusal.

8. Reference Documents

National Planning Policy Framework (December 2023)
National Design Guide (2021)
National Model Design Code (2021)
Technical Housing Standards - Nationally Described Space Standard (May 2016)
The London Plan (March 2021)
The Housing Standards Minor Alterations to The London Plan (March 2016)
Mayor of London's adopted Supplementary Planning Guidance - Housing (March 2016)
Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012)

Hillingdon Local Plan: Part 2 - Development Management Policies (January 2020)
Accessible Hillingdon Supplementary Planning Document (September 2017)
Planning Obligations Supplementary Planning Document (July 2014)
London Borough of Hillingdon Open Space Strategy 2011-2026 (July 2011)
Hillingdon Townscape Characterisation Study (November 2013)

Contact Officer: Michael Briginshaw **Telephone No:** 01895 250230