

Public Hearing: APP/N5090/W/17/3189843

Stanford House, 9 Nestles Avenue, UB3 4SA

July 2019

Appellant's Hearing Statement

On behalf of Healey Development Solutions (Hayes) Ltd

Contents

	Page
1. Introduction.....	3
2. Background to Scheme	4
3. Response from Statutory Consultees	6
4. Responses from Internal Consultees	9
5. The Development Plan	27
6. Material Considerations	39
7. Addressing Reasons for Refusal	55
8. Draft Conditions	67
 APPENDIX I	GLA Stage 1 Report – Former Nestles Factory Site (Dated 19 th July 2017)
APPENDIX II	Officer's Report to LBH Major Applications Planning Committee 19 th June 2019 (Appeal Scheme)
APPENDIX III	GLA Stage 1 Report – Appeal Scheme (Dated 18 th March 2019)
APPENDIX IV	Draft Minutes, LBH Major Applications Planning Committee (19 th June 2019)
APPENDIX V	Locally Listed Building Register Entries (no. 93, 316, 317 and 318)
APPENDIX VI	GLA Population Yield Calculator, v3.1 (26 th June 2019)
APPENDIX VII	Draft London Plan Examination in Public – Mayoral Written Statement Concerning Policy H13 (Build to Rent)
APPENDIX VIII	Hillingdon Townscape Character Study (Allies and Morrison, November 2013)
APPENDIX IX	GLA Stage 2 Report – 3 Viveash Close (Dated 15 th October 2018)
APPENDIX X	LBH Environmental Health Officer's Comments
APPENDIX XI	Nestles Avenue – S. 106 HoTs
APPENDIX XII	Brimelow McSweeney Architectural Appeal Statement
APPENDIX XIII	i-Transport Highways Appeal Statement
APPENDIX XIV	ULL Viability Appeal Statement
APPENDIX XV	Mayer Brown Noise Appeal Statement

1. Introduction

1.1 This Hearing Statement relates to land at Stanford House, 9 Nestles Avenue, UB3 4SA (“the Site”).

1.2 The planning application subject to this appeal was submitted to the London Borough of Hillingdon (“LBH”) on the 5th December 2018 by Daniel Watney LLP on behalf of Healey Development Solutions (Hayes) Ltd (“the Appellant”).

1.3 The proposed development (“the Scheme”) comprises the:

“Demolition of existing building and redevelopment to provide a building up to 10 storeys, with 868 sq.m of commercial or community space (Use Class B1 or D1) at ground floor level and 81 (44 x 1-bed, 28 x 2-bed and 9 x 3-bed) residential units to the upper floors, with associated landscaping, access, car parking and cycle parking.”

2. Background to Scheme

Site Ownership

- 2.1 The Appellant has owned Stanford House, 9 Nestles Avenue (the Appeal Site) since June 2018.

Pre-Application Engagement

- 2.2 On 23rd August 2018, the Appellant initiated pre-application discussions with London Borough of Hillingdon (LBH) Planning Officers, with written advice being received 21st November 2018. This was followed by a pre-application meeting with the Greater London Authority (GLA) and Transport for London (TfL) on 3rd October 2018, with a formal written response being provided on 26th November 2018.
- 2.3 This was supplemented by public engagement through an exhibition held on 1st November 2018, at Hayes & Harlington Community Centre. Local Residents, businesses and other interested parties were invited to view the proposals and discuss with the design and client team. A meeting was also held with local MP John McDonnell on 16th November 2018.

Masterplanning

- 2.4 During pre-application discussions with LBH and the GLA, both parties made reference to a masterplan produced by the GLA in collaboration with LBH proposing comprehensive development of Site SA5 (as allocated within the emerging Local Plan Part 2 – Site Allocations). This masterplan formed a part of pre-application engagement concerning other sites within the site allocation (notably, the redevelopment proposed at 3 Viveash Close). The GLA's Stage 1 Report into the now approved development at the Former Nestle Factory site describes the masterplan as a “*broadbrush masterplan for the area*” and recognise that it is non-statutory, while outlining that the masterplan sets strategic design principles for the site and has been produced to “*positively influence development proposals in this area and ensure that their design aspirations are aligned*” (Paragraph 40, ‘Urban Design’, at **Appendix 1**). This point is discussed in detail later in this Statement.

The Planning Application

- 2.5 A full planning application was submitted to LBH on 5th December 2018 under application reference 51175/APP/2018/4260. The statutory, internal and public responses detailed below were received. These are also summarised in the Officer's Committee Report following appeal against non-determination (attached as **Appendix 2**). The application was appealed against non-determination on 7th June 2019.

3. Response from Statutory Consultees

3.1 The statutory consultation responses received throughout the course of the planning application are summarised below:

Greater London Authority

3.2 The GLA's Stage 1 Report (**Appendix 3** of this Statement) concluded that:

- 3.2.1 The proposed under-provision of employment floorspace would conflict with London Plan Policy 2.17, and there was strategic concern that allowing this site to come forward in isolation could undermine the delivery of wider policy and design objectives (Paragraphs 11-24);
- 3.2.2 The affordable housing provision would be unacceptable, with GLA officers scrutinising the submitted information to determine the maximum reasonable amount of affordable housing the scheme could sustain, and suggesting that clawback provisions alongside the necessary covenants and reviews would need to be secured with any future permission (Paragraphs 25-37);
- 3.2.3 Turning to urban design, a more comprehensive approach was expected for the redevelopment of Squirrels Trading Estate, to ensure the best design outcome would be achieved for this part of the Hayes Housing Zone (Paragraph 38-48);
- 3.2.4 Further details would be necessary regarding the proposed energy strategy and sustainable drainage proposals, to demonstrate compliance with the relevant London Plan Policies (48-51);
- 3.2.5 Transport issues must be addressed, comprising cycle parking and blue badge parking spaces; and
- 3.2.6 Additional submissions should include a travel plan, a healthy streets check, a construction logistics plan and a delivery and servicing plan.

Transport for London

- 3.3 In their response which is summarised within the Officer's Report (Appendix 2), TfL provided the following view of the initial submission documents:
- 3.3.1 The retention and enhancement of the single vehicular crossover was deemed acceptable in strategic transport terms;
 - 3.3.2 The car-free development was welcomed and supported, subject to demonstrating how additional disabled parking bays could be provided in the future;
 - 3.3.3 Additional information should be provided to demonstrate that there is sufficient Car Club capacity in the former Nestle Factory site, as a viable alternative to the provision of disabled parking on site;
 - 3.3.4 Permit-free scheme in the surrounding CPZ was supported;
 - 3.3.5 An additional 4 residential long stay cycle parking spaces should be provided;
 - 3.3.6 The commercial unit should have private cycle parking and supporting end of journey facilities (lockers and showers) to encourage cycling;
 - 3.3.7 Proposals should demonstrate how cycle parking facilities will cater for adapted cycles for disabled people;
 - 3.3.8 Financial contributions were not requested;
 - 3.3.9 Healthy Street assessment was encouraged, as were quality assessments such as PERS and CLoS audits for pedestrians and cyclists; and
 - 3.3.10 The half-on / half-off loading bay was not considered acceptable.

Ministry of Defence

- 3.4 The Ministry of Defence confirmed that it had no statutory safeguarding objections to the proposal.

Metropolitan Police

- 3.5 The Metropolitan Police objected to the provision of commercial ground floor premises, stating that the preference would be for residential use at ground floor level.

Natural England

- 3.6 No objections raised.

Environment Agency

- 3.7 EA declined to provide site-specific advice, in light of their recently revised priorities which now focus on protecting and improving groundwater associated with drinking water supplies.

National Air Traffic Services

- 3.8 NATS confirmed that the proposal would not conflict with their safeguarding criteria, and therefore no objection was raised.

Thames Water

- 3.9 Thames Water recommended the sequential approach with regards to surface water drainage. Thames Water also confirmed that where connection to a public sewer was proposed, the prior approval of Thames Water's Risk Management Team would be required. They also requested a condition be attached, due to the site's proximity to a strategic sewer, requiring the submission of a Piling Method Statement prior to any such development.

4. Responses from Internal Consultees

4.1 The internal consultee responses made by LBH Officers are summarised below:

Waste Strategy

4.2 While Waste Officers considered it unsuitable for refuse lorries to enter the site without an appropriate turning area which would facilitate exit in a forward gear, the proposed capacity for waste and recycling was considered suitable for the number of residential units proposed.

4.3 Officers advised that where collections were to take place from Nestles Avenue, it would be the responsibility of a management company to present all waste and recycling bins within 10 metres of the designated location on the allocated collections days.

Highways

4.4 While acknowledging the good public transport accessibility of the site (alongside the emerging improvements of such, including the Elizabeth Line) and its proximity to local services, the Highways Officer made comments concerning both car and cycle parking provision.

4.5 Firstly, it was noted that car parking was being provided below extant Unitary Development Plan standards (as required by UDP saved Policy AM14) as well as the standards within emerging Local Plan Policy DMT6. This was deemed unacceptable given LBH's status as an Outer London Borough where future occupiers would likely travel to destinations beyond Greater London (giving Reading, Slough and Staines as examples) and as Hayes Town Centre lacked public transport connections to these locations.

4.6 In light of this it was suggested that parking should be provided at a ratio of 0.6 spaces per unit, resulting in 49 residential parking spaces and a further 11 spaces associated with the commercial floor space (a ratio achieved at the Former Nestle Factory site).

4.7 The Officer went on to outline that while parking demand resulting from the development would be higher than existing demand, trips generated would be lower by virtue of the proposal being "car-free".

- 4.8 With regards to cycle parking, the Officer requested that the space standards of the UDP should be applied – which would lead to a reduction from the proposed 144 cycle parking spaces to 90 spaces.
- 4.9 The Officer criticised the manoeuvring distance associated with the disabled parking bays, provided at 5m narrowing to 4,3m, on the basis that it did not meet the current Manual for Streets guidance which recommends a 6m standard.
- 4.10 When referring to delivery and servicing, the Officer outlined that an on-street servicing arrangement would not be appropriate and would conflict with the improvements along Nestles Avenue resulting from LBH and TfL's London's Healthy Streets approach. As well as this, the proposed storage point and collection point did not achieve the required proximity and the Officer stated that no information had been provided as to how the site would be managed on waste collection days, in the absence of a suitable collection point.
- 4.11 Finally, and as a result of the above, the Officer recommended the application be refused. In the circumstance that the development was approved it was set out that the following would be required:
- 4.11.1 Car parking permit restriction, for existing and future parking management zone (for both residents and employees);
 - 4.11.2 A Framework Travel Plan (with £20,000 bond);
 - 4.11.3 Transfer of land, and contribution of £75,000, to enable provision of the multi-modal transport spine along Nestles Avenue;
 - 4.11.4 A s38 agreement to provide cycle way, footpath and landscaping as part of multi-modal transport spine road;
 - 4.11.5 £12,000 contribution towards the Grand Union Canal Quietway; and
 - 4.11.6 £10,000 contribution towards the Cranford Park improvements (identified as Grand Union Canal to Cranford Park via North Hyde Gardens and Watersplash Lane).

Trees and Landscaping

- 4.12 The Trees and Landscaping Officer noted that the landscaping to the Nestles Avenue frontage conformed with the agreed standard for development along the north side of Nestles Avenue. The only on-site trees affected were agreed to be within Grades 'C' to 'U' (poor), the removal of which would not generally be considered a constraint to development.

- 4.13 The Officer recommended that the quality of the scheme would depend on the final details and the quality of the scheme's implementation as well as its maintenance, that the introduction of the loading bay would compromise the potential development of a new bus route, and that if the Planning Officer was minded to approve the proposal then standardised landscaping conditions should be applied (referencing, but not including, conditions RES9 parts 1, 2, 3, 4 and 5).

Energy and Sustainability

- 4.14 The Energy and Sustainability Officer commented that given that the necessary zero carbon standards have not been met, a carbon offset payment would be acceptable as the submitted information demonstrated broad compliance with the minimum 35% carbon reduction to be achieved on site. The Officer calculated this payment as being £73,800, to be secured via s106. The Officer also requested a condition securing details of Combined Heat and Power and Solar PVs to be used as outlined within the submitted Energy Assessment.

Flood Water Management

- 4.15 Clarification was sought in respect of drainage and landscaping drawings, with no further objections or comments raised.

Contaminated Land

- 4.16 The Contaminated Land Officer noted that the recommendations within the submitted Desktop Study and Ground Investigation report (reference J18167; Issue Number 2 dated November 2018) were acceptable, subject to a related condition (although the wording of this condition was not provided).

Air Quality

- 4.17 The Air Quality Officer, in light of the proposal's location within a Focus Area, and the requirements of the draft London Plan as such, requested a contribution of £5,371 to assist in delivery of LBH's Air Quality Local Action Plan. The response also included a recommendation to include prior to commencement conditions requiring:

- 4.17.1 Submission of a Low Emissions Strategy; and

- 4.17.2 Proof of Compliance with the London's New Emission Zone for non-road mobile machinery requirements and registration on the GLA's associated database.

Accessibility

- 4.18 The Access Officer concluded that the proposal appeared to meet the technical considerations to satisfy the relevant accessible housing standards. In the absence of the required details, they concluded that the following would be necessary to ensure the proposal would be sufficiently accessible:
- 4.18.1 A drop-off point for door to door service providers, to include large Dial-A-Ride vehicles, should be provided;
 - 4.18.2 10% of Affordable Housing units would be required to satisfy design standards for an M4(3) Wheelchair Accessible Unit;
 - 4.18.3 The affordable units should be suitable for 'day one occupation' by a wheelchair user. These units should be designed and fitted as per the prescribed standards for a Wheelchair Accessible M4(3) unit, as set out in ADM 2015A;
 - 4.18.4 A floor plan at no less than 1:100 should be submitted for each of the different M4(3) units. All details, to include transfer zones, wheelchair storage area, and other spatial requirements within bedrooms, bathrooms, living and dining areas, should be shown on a separate plan for every different unit type
 - 4.18.5 All remaining units must be designed to the standards for Category 2 M4(2) Accessible and Adaptable dwellings, as set out in Approved Document M 2015;
 - 4.18.6 Details of the materials palette, with particular attention given to the paver types to be installed in accordance with the tolerances set out in BS8300:2018;
 - 4.18.7 Wheelchair access to the proposed roof gardens and terraces should accord with the prescribed standards set out in Approved Document M to the Building Regulations (2015 edition);
 - 4.18.8 The development should ensure that 10% of the residential units are constructed to meet the standards for Category 3 M4(3) dwelling, with all remaining units designed to the standards for Category 2 M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015; and
 - 4.18.9 As inclusive play is a key requirement of any new residential development, details of play equipment to be installed for disabled children should be provided, including those with sensory or complex multiple disabilities. Provisions could include outdoor sound tubes, colour and lighting canopies, and other play equipment that could stimulate the olfactory senses.

- 4.19 The Access Officer concluded that it would be acceptable to secure the above provisions through appropriately worded planning conditions.

Hayes Conservation Area Advisory Panel

- 4.20 The Panel, a non-statutory body comprising a voluntary group of architects, residents associations, historical groups and amenity societies, welcomed the concept of a “Build to Rent” product, under single management, although queried whether this could be maintained if there was a change in ownership or if circumstances arose which required part of the development to be sold to a different landlord. They also challenged the proposal for being “car-free”, excepting four blue badge spaces.

Urban Design

- 4.21 The Officer’s Report (Appendix 2 of this Statement) recorded the Urban Design Officer’s comments as follows:
- 4.21.1 The tallest element (ten storeys) at the northern edge of the site, stepping down to four storeys, provides significantly reduced massing at the southern edge of the plot which responds to its immediate context and the lower two storey suburban houses to the south of Nestles Avenue;
 - 4.21.2 There are design similarities to the nearby Block D in the Nestle Factory Site (SA 5 Site C), although the proposal does not stretch as far as the linear park ‘Sandow Avenue’;
 - 4.21.3 The stepped configuration provides flat roofs with amenity space and reduces massing, helping maintain privacy at adjacent properties;
 - 4.21.4 Despite setbacks, the footprint of the proposal is very large for a relatively small site and there is no ‘breathing space’ around the perimeter of the development to allow the curtilage sites to take their own course with regards to future redevelopment, clearly constraining development opportunities for the ‘Site B’ [of allocation SA 5] land parcels to the north and west of Stanford House;

- 4.21.5 The blank elevation of the ten-storey element against the north east boundary is concerning, as it is highly visible from the adjoining streets and views across the estate, particularly given the low scale of the other buildings within 'Site B'. This would create an austere building that would detract from the townscape.
- 4.21.6 The brick detailing is not an adequate solution to the above concern (paragraph 2.49.5), and would not make a positive contribution to the townscape setting;
- 4.21.7 The north eastern street level elevation would present an inactive frontage that would be exacerbated by the large gates at the end of the access road which prevents permeability through the site;
- 4.21.8 A development that turns its back onto the proposed linear park would be particularly harmful and would detract from the area and aspirations for the redevelopment of the Nestles Avenue industrial cluster;
- 4.21.9 Future adjoining development will have to step back considerably in order not to compromise the outlook and/or sunlight/daylight to occupants of this or future adjoining developments, constraining the future development opportunity at neighbouring/adjoining land within 'Site B';
- 4.21.10 Use of brickwork, broken up by fenestration, balconies and feature panels is acceptable in principle, adding visual interest and articulation that would help to break up mass;
- 4.21.11 Overall, the size, scale, height and mass is considered disproportionately large, dominating and incongruous form of development, unacceptable in this location;
- 4.21.12 While large scale buildings have been approved as part of the former Nestle Factory site, these formed part of a comprehensive development and were carefully considered as part of a larger site rather than in isolation;
- 4.21.13 There are concerns that the office and residential entrances, on a secondary elevation within the access road, make the building less legible as a consequence, as such the principal, fronting Nestles Avenue, should feature primary entrances celebrated appropriately;
- 4.21.14 Little room is provided at ground level for public realm and amenity space;

- 4.21.15 The 15m setback from Nestles Avenue provides welcome relief, although this is likely to be reduced with road widening works and provision of a cycle and pedestrian footpath in the near future;
- 4.21.16 The narrow access lane on the eastern side would “appear oppressive”, particularly with oversailing residential storeys and balconies;
- 4.21.17 It is unclear what the boundary would consist of between the neighbouring development, Block D, of the former Nestle Factory site;
- 4.21.18 As there is little supporting material showing the proposed development in its wider context, verified views from longer distances and illustrative views of the immediate context, with existing and consented buildings, would be useful;
- 4.21.19 The applicant heavily relies on a ‘draft OAPF’ which was not subject to consultation, endorsement by LBH, or adoption, and this draft was not completed and was not supported by an evidence base, with the emerging Local Plan: Part Two and LBH’s adopted policies taking precedence over the ‘draft masterplan’ (which have undergone the necessary consultation and adoption processes);
- 4.21.20 Plans for Nestles Avenue have evolved far beyond this ‘draft masterplan’, which has not been deemed fit for purpose by LBH;
- 4.21.21 Other applications along Nestles Avenue have taken on board LBH’s comprehensive planning advice, which is reflected in their proposals;
- 4.21.22 The only relevant element of the GLA proposed draft OAPF plan is that a comprehensive approach to development (land use and layout) must be taken for all Nestle Avenue sites;
- 4.21.23 Neighbouring landowners should have been engaged to ensure ‘buy-in’ into their proposals, there being no evidence that this has taken place;
- 4.21.24 There is also no evidence of any process to draw up a masterplan in consultation with LBH, to demonstrate comprehensiveness – a positive approach achieved by other applicants;
- 4.21.25 At the least, the appellant should have agreed the principles and parameters of their proposals especially if they could not engage with their neighbours;

- 4.21.26 Instead of the actions described in 2.49.23, 2.49.24 and 2.49.25, the appellant has worked in isolation and used a redundant 'blueprint' which is flawed in many areas;
- 4.21.27 "For this reason, the principle of development (residential uses) is not an appropriate solution for the [current] industrially active Squirrels Industrial Estate, until it is planned comprehensively as 'Site B' and resilient with regards to phase development and future options/scenarios, to enable No. 9 Nestle Avenue to come forward early for redevelopment";
- 4.21.28 The proposals disproportionately load development value onto the appellants land ownership, without community infrastructure uses or external public amenity areas which will have to be taken up by remaining sites;
- 4.21.29 The Squirrels Industrial Estate will need to be comprehensively planned and coordinated to evenly distribute development value to encourage other sites to come forward;
- 4.21.30 Tall buildings would only be supported in this location if proposals formed a part of a comprehensive development, as referred to in Policy SA 5 of the Emerging Local Plan (2019);
- 4.21.31 An isolated which potentially prejudices comprehensive regeneration of this part of Hayes is not supported; and
- 4.21.32 Any proposals must be comprehensively planned and coordinated, with the current approach risks constraining development viability of neighbour 'Site B' land parcels or risks the lost opportunity for the provision of such vital infrastructures to support all new developments for Nestles Avenue as set out in Policy SA5. Therefore, the application is contrary to saved UDP Policy BE14 and Policy SA5 of the Emerging Local Plan.

Planning Policy

- 4.22 The Officer's Report (**Appendix 2**) recorded the Planning Policy Officer's comments as follows:
- 4.22.1 Through the drafting of the Local Plan Part 2, the area of Strategic Industrial Land (SIL) which the subject site lies within is proposed for release and allocation for mixed-use redevelopment;
 - 4.22.2 This removal of the SIL designation of this site is part of a coordinated programme of release through the development plan process and can be afforded significant weight, with the principle of mixed-use on the site established through draft Local Plan Part 2;
 - 4.22.3 The proposed scheme located in emerging Site Allocation SA 5 of the draft Local Plan Part 2, forming part of Site B, with SA5 outlining that parts A, b and C should form a comprehensive development scheme;
 - 4.22.4 The release of the SIL has been justified on the basis of a strategically coordinated process of SIL consolidation through the emerging Local Plan, in line with Policy 2.17 (B) of the London Plan (2016), "in order to ensure the necessary infrastructure to make residential use appropriate can be designed into the scheme";
 - 4.22.5 Releasing small portions of SIL individually would compromise the integrity and effectiveness of the remaining surrounding area to accommodate industrial activities, contrary to Policy 2.17 (C) [assumed London Plan 2016] and potentially Paragraph 182 of NPPF (2019);
 - 4.22.6 Policy BE14 of the saved UDP Policies outlines that permission will not be granted for development of sites in isolation if the design fails to safeguard the satisfactory redevelopment of adjoining sites with development potential, a requirement mirrored in emerging Policy DMHB 11 – Emerging Policy SA5 having identified the adjoining sites as having development potential since first submission in 2014;
 - 4.22.7 It is acknowledged that the principle of the three sites [A, B and C of Site Allocation SA 5] coming forward separately is accepted, with development proposals at both Site A and C approved;
 - 4.22.8 As the boundary for this application only forms a small portion (0.23ha) of the entirety of Site B, and support for piecemeal development could only be afforded where it does not prejudice redevelopment of the remainder of site B and does not compromise the deliverability of the objectives within emerging Policy SA 5, which the development is not considered to achieve;

- 4.22.9 The applicant's justification for the isolated development of the site appears to be based on the scheme being in supposed conformity with a draft masterplan produced by the GLA;
- 4.22.10 This masterplan did not have input from LBH officers, was not supported by an evidence base or subject to public consultation, is significantly out of date and does not reflect the current position, and is not considered that significant material consideration should be afforded to this document;
- 4.22.11 The context for determining the application should be based on extant planning applications and emerging Policy SA 5, as well as the Development Plan;
- 4.22.12 Even if significant weight is afforded to the draft masterplan, development of this scheme in isolation would constrain redevelopment of adjoining sites;
- 4.22.13 Additionally, the masterplan includes a substantial green pedestrian link from east to west through all three sites, meaning a large portion of Site B could not be developed – as such a large element of cross-subsidy on Site B would be required to ensure remaining landowners could bring this objective forward;
- 4.22.14 The approval of schemes in isolation on Site B, without any element of 'cross-subsidy', would make the green pedestrian link from east to west unviable and result in Squirrels Trading Estate remaining as such indefinitely, contrary to the wider intention of Policy SA 5 to release and redevelop the site as well as the specific requirement for sites to provide pedestrian links to Hayes Town Centre and key transport nodes;
- 4.22.15 The green pedestrian link has already been well designed into the approved application for Site A, and the application at Site C that has a resolution to grant planning consent subject to the completion of the legal agreement, and "later this raises concerns that the proposal fails to provide amenity space of the quantity and quality commensurate to the size and layout of the proposals, resulting in an over-development of the site detrimental to the residential amenity of the future occupiers";
- 4.22.16 Both applications, at Sites A and C, have "overcome this policy requirement [raised in Paragraph 2.45.15], largely through the inclusion of substantial public amenity space as part of this east to west green pedestrian link";
- 4.22.17 The GLA's Stage 1 Response (dated 18th March 2019), also includes significant objection to the assertion that the site can both be brought forward in isolation and be in conformity with the GLA's draft masterplan;
- 4.22.18 "The proposed scheme would fundamentally fail to safeguard the satisfactory redevelopment of the remaining land parcels within Site B directly to the south of the application";

- 4.22.19 The density of the proposed development of this small site is exceptionally high, particularly when compared to Table 3.2 of the London Plan (2016) which contains the density matrix;
- 4.22.20 While originally seeking a minimum of 50% employment floorspace in proposals at Squirrels Trading Estate, the Statement of Proposed Modifications to the Emerging Local Plan Part 2 (2019) amends this requirement so that proposals will be expected to comprise a proportion of employment generating uses to be agreed with the Council (suitable uses being given as B1, and elements of B2 and B8 that are compatible with residential uses);
- 4.22.21 The proposal for 868sqm of employment floorspace for small to medium sized enterprises (SMEs) falling into Use Class B1(a) and A2 or D1 community space would be acceptable;
- 4.22.22 The non-residential portion of the scheme, currently at the south of the site, would not keep a consistent frontage with the residential family duplexes that have been permitted on Site A and Site C, nor the residential frontage that currently exists along Nestle Avenue;
- 4.22.23 The non-residential floorspace at Site B should instead face on to Viveash Close and the proposed east to west route in order to create a consistent frontage of employment floorspace and ensure harmonious integration with the proposed residential elements of SA 5;
- 4.22.24 “Accordingly, the proposed provision of employment space at this site does comply with the plan-led approach to consolidating the Nestles Avenue SIL, in accordance with London Plan Policy 2.17, it may well not do so when taken as part of a more strategic approach”;
- 4.22.25 Parking for commercial units and delivery and servicing arrangements appear to be inadequate, with a 20-30m distance for commercial units to haul goods to the site which could render any future employment use here unviable;
- 4.22.26 Whilst the principle of mixed use redevelopment of the Squirrels Trading Estate is supported, in the absence of a comprehensive scheme there are major strategic issues with allowing this site to come forward in isolation that would undermine the delivery of wider policy and design objectives that may well require cross-subsidy as part of a larger and more viable scheme. The proposal is therefore considered to be contrary to Policy 2.17 of the London Plan (2016), Policy BE14 the Local Plan: Part 2 - Saved UDP Policies (2012), Policy DMHB 11 and Policy SA 5 of the Emerging Local Plan: Part Two with Modifications (2019);

- 4.22.27 Concerning a Build to Rent product, it is recognised that it is “identified in Annex 2 of NPPF (2019) and that Policy 3.8 of the London Plan (2016) specifically recommends that the planning system provide positive and practical support to sustain the contribution to the Private Rented Sector in addressing housing needs and increasing housing delivery”;
- 4.22.28 Also acknowledges that at a local level the 2016 Strategic Housing Market Assessment notes an increasing proportion of the Borough relying on private rent (while noting that new purpose-built build to rent schemes are still required to meet adopted local plan policies and need to be held to the same design standards as schemes of traditional models);
- 4.22.29 Turning to affordable housing, adopted Local Plan: Part One (2012) Policy H2 requires 35% of units within proposals for ten or more units to be delivered as affordable housing, a target identified in accordance with London Plan (2016) Policies 3.11 and 3.12, which also advise the negotiation of the maximum reasonable amount in any scheme;
- 4.22.30 The Mayor’s Affordable Housing and Viability SPG (2017) sets out the preferred tenure split is for the delivery of:
- At least 30% low cost rent (social or affordable rent) set at levels that the Local Planning Authority (LPA) considers ‘genuinely affordable’;
 - At least 30% as intermediate products; and
 - The remaining 40% to be determined by the relevant LPA. LBH has determined that this 40% should be delivered as low-cost rent (social rent or affordable rent). This approach is consistent with Policy H2 of the Local Plan: Part One (November 2012) and emerging Policy DMH 7 of the Local Plan: Part Two (March 2019).
- 4.22.31 There is a requirement that the maximum amount of affordable housing on development sites, with regard being had to development viability;
- 4.22.32 The applicant’s submitted viability information suggests that a 6% affordable housing (Discounted Market Rent), which equates to 11% on a habitable room basis is the maximum reasonable amount that could be provided;
- 4.22.33 Review by an independent financial viability consultant (Carter Jonas) identified a surplus of £605,638 which indicates that addition affordable housing units could be provided, being modelled at an additional 10 Discount Market Rent units taking the total amount to 15 units equating to 18% affordable housing provision;

- 4.22.34 In the absence of a Section 106 legal agreement, the applicant fails to provide a maximum reasonable level of affordable housing contrary to Policy H2 of Local Plan: Part One (November 2012) and Policies 3.11 and 3.12 of the London Plan (2016).

Affordable Housing

- 4.23 The Officer's Report (**Appendix 2**) recorded the Affordable Housing Officer's comments as follows:
- 4.23.1 The scheme was subject to an original Financial Viability Assessment (FVA) submitted in December 2018, supplemented by an additional letter on 5th April 2019;
- 4.23.2 The applicant's affordable housing offer of five units, or 6%, has not changed, although the figures have been adjusted to reflect adjustments made by the Council appointed FVA Assessor in its review;
- 4.23.3 The scheme produces a surplus with five Discounted Market Rent (DMR) units, which indicates that additional affordable housing units can be provide. The surplus has been modelled by the Council's appointed viability advisor, and this surplus provides for another 10 DMR units, taking the total to 15 units, which equates to 18% affordable housing provision;
- 4.23.4 The Appellant's affordable housing offer and the Council's advisor's review shows that the scheme is unable to comply with LBH's affordable housing policy;
- 4.23.5 The conclusions from the independent FVA consultant's review indicates that the scheme can deliver 15 DMR units out of the total of 81 Build to Rent units. It is recommended that the Council seeks to negotiate the s106 agreement on this basis ensuring that the DMR units are linked to London Living Rents for the Botwell ward and the clawback mechanism as advocated by the Mayoral Supplementary Planning Guidance is included.

Environmental Health

- 4.24 The Environment Officer concluded (see comments attached as **Appendix 10**) that the submitted acoustic report sufficiently demonstrates how internal noise levels and external surrounding amenity will achieve standards contained within the relevant British Standard (BS8233: 2014), while also recommending conditions summarised as follows:
- 4.24.1 External noise levels from plant/machinery/equipment will be lower than the lowest existing background noise level by at least 5dBA, and by 10dBA where the source is tonal.
 - 4.24.2 Prior to use, the extract/ducting of such equipment will be mounted with proprietary anti-vibration isolators, and fan motors will be vibration isolated from the casing, and adequately silenced and maintained as such.
 - 4.24.3 The sound insulation will meet an enhanced value above Building Regulations and, where necessary, additional mitigation measures will be implemented to contain commercial noise within the commercial premises to achieve internal noise levels meeting the criteria within the relevant British Standards (quoted above) within the dwellings. These approved details shall be implemented prior to occupation of the development permanently retained thereafter.
 - 4.24.4 The noise at the development shall meet the internal noise levels specified within the relevant British Standard for all internal rooms and external amenity areas.

Local Resident Objections

- 4.25 During the consultation period six objections were submitted. These are summarised in the Officer's Report (**Appendix 2**). These can generally be grouped into the following categories:
- 4.25.1 Number of units proposed is excessive;
 - 4.25.2 Traffic/congestion concerns;
 - 4.25.3 Lack of a park within development;
 - 4.25.4 Amenity space on rooftops seen as inappropriate;
 - 4.25.5 Local residents should be compensated for the years of noise and dust pollution, if development is approved
 - 4.25.6 Loss of privacy and increase in overlooking for occupants of neighbouring site;
 - 4.25.7 Poor layout; and
 - 4.25.8 Proposal would breach Hillingdon Design and Accessibility Statement SPD (2006) advised 21m separation distances.

Post-Submission Amendments

- 4.26 Following receipt of comments received from stakeholders, as summarised above, the scheme was revised in April 2019. These amendments to the scheme were as follows:
- 4.26.1 Alterations to ground floor commercial use, to propose a flexible use allowing for either a B1 / D1 use;
 - 4.26.2 Provision of transport addendum and updated noise assessment;
 - 4.26.3 Indication of cyclist shower and changing facilities within the commercial unit;
 - 4.26.4 Alterations to the energy strategy to include for Air Source Heat Pumps at roof level, rather than CHP in the ground floor; and
 - 4.26.5 Reconfiguration of the ground floor, reducing the plant room (due to ASHP at roof level) allowing for larger cycle stores to be provided at ground floor.
- 4.27 On 16th April 2019, an extension of time until 17th May 2019 was agreed for the Council's determination of the application to allow for re-consultation of the revisions described above. The application was appealed for non-determination on 7th June.

LBH Committee Resolution

- 4.28 The application was presented to Members of the LBH Major Applications Planning Committee as an emergency agenda item on 19th June 2019, where Members resolved unanimously that they would have refused the application in line with the Officer's recommendation. The published draft minutes of the relevant Committee meeting are appended to this Statement (**Appendix 4**).
- 4.29 The reasons for refusal as set out in the Officer's Report (**Appendix 2**), are as follows:
- 4.30 **(1) Contrary to Policy SA 5:** "In the absence of a comprehensive scheme, the development of this site in isolation would result in piecemeal development that would fail to safeguard the satisfactory redevelopment of this strategic site 'B' identified within Policy SA 5 of the Emerging Local Plan: Part Two (October 2019). The proposed development is therefore contrary to Policy H1 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012); Policy BE14 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012); and Emerging Policy SA 5 of Site Allocations (2019).

- 4.31 **(2) Affordable Housing:** The proposed development fails to make appropriate provision of on-site affordable housing. The proposal is therefore contrary to Saved Policy R17 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012); Policy H2 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012); the London Borough of Hillingdon’s Supplementary Planning Document on Planning Obligations and Policies 3.10-3.13 of the London Plan (2016); and National Planning Policy Framework, Para. 62-64 (2019) or the Mayor’s Affordable Housing and Viability SPD 2017.
- 4.32 **(3) Overdevelopment:** The proposed development, be reason of its overall size, scale, bulk and detailed design would result in a disproportionately large, dominating and incongruous form of development, which represents over-development of the site, in particular the ten and eight storey blank elevations against the southern boundary which would be visible from Nestles Avenue which would fail to respect the pattern and scale of development in the immediate area, The proposal would be detrimental to the visual amenities of the street scene and the character and appearance of the wider area and the Botwell/Nestles Conservation Area, contrary to Policies 3.4 and 7.6 of the London Plan (2016), Policies BE1 and HE1 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012), Policies DMHB 1, DMHB 2, DMHB 11, DMHB 12 and DMHB 14 of the emerging Local Plan: Part 2 (March 2019) and the adopted Supplementary Planning Document HDAS: Residential Layouts.
- 4.33 **(4) Urban Design:** The proposed development, due to its footprint and site coverage would create a narrow corridor along the eastern boundary. Moreover, the eastern boundary provides the entrance into the office and residential units on a secondary elevation which is hidden along this access road. The principal elevation, along the eastern boundary, fails to provide a sense of arrival for future occupants and results in a poor streetscape. The narrow eastern corridor fails to provide a safe, suitable and convenient access for future residents. The proposal fails to provide an active residential frontage along Nestles Avenue. The proposal would fail to provide a sense of arrival and would be detrimental to the visual amenities of the street scene and character and appearance of the wider area, contrary to the National Planning Policy Framework, Policies BE13, BE14, BE19 and BE38 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012); Policies DMHB 1, DMHB 2, DMHB 11, DMH 12 and DMHB 14 of the emerging Local Plan: Part 2 (March 2019) and the adopted Supplementary Planning Document Hillingdon Design and Accessibility Statement: Residential Layouts SPD (2006); Policies 3.5 and 7.5 of the London Plan (2016) and Chapters 2, 11 and 12 of the NPPF (2019).

- 4.34 **(5) Noise:** The development provides a high proportion of single aspect dwellings and dwellings with their sole aspect facing towards Strategic Industrial Land. The development fails to provide sufficient separation from the western boundary of the site to mitigate against a potential noise generating use on the neighbouring site and as such, the proposal fails to take responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive residential development and thereby fails to provide a suitably high quality of residential amenity for future occupiers contrary to Policy BE1 of the Local Plan: Part One (November 2012); Policy OE1 of the Local Plan: Part Two (November 2012) and Policy 7.15 of the London Plan (2016) and Paragraph 182 of the NPPF (2019).
- 4.35 **(6) Car Parking:** The proposed development fails to provide sufficient car parking provision for the proposed development (residential and commercial) and would therefore result in an increase in on-street car parking in an area where such parking is at a premium thereby leading to conditions which would be detrimental to the free flow of traffic and to highway and pedestrian safety. The proposal is therefore contrary to Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two – Unitary Development Plan Saved Policies (November 2012) , to Hillingdon’s Adopted Parking Standards as set out in the Hillingdon Local Plan: Part Two – Unitary Development Plan Saved Policies (November 2012) and the adopted Supplementary Planning Document HDAS: Residential Layouts.
- 4.36 **(7) Highways Safety:** The proposed development, virtue of its layout and servicing and delivery arrangements off a layby along Nestles Avenue, would compromise highway and pedestrian safety by virtue of the proposed vehicular access into the site and the servicing and delivery arrangements , giving rise to conditions prejudicial to the free flow of traffic and would be detrimental to highway and pedestrian safety. The development is therefore contrary to Policy AM7 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012), Policies DMT 2 and DMT 5 of the emerging Local Plan: Part 2 (March 2019), Policy 6.12 of the London Plan (2016) and Chapter 9 of the NPPF (2019).

- 4.37 **(8) Highways Safety (Manoeuvrability):** The proposed 4 car parking spaces fail to provide a manoeuvring distance of 6m in accordance with Manual for Streets Standards. The proposed layout gives rise to conditions prejudicial to future users of these substandard car parking spaces and future occupants who are required to use the pedestrian footpath to access the residential and commercial entrances contrary to Policy AM7 of the Hillingdon Local Plan: Part Two – Unitary Development Plan Saved Policies (November 2012), to Hillingdon’s Adopted Parking Standards as set out in the Hillingdon Local Plan: Part Two – Unitary Development Plan Saved Policies (November 2010) and the adopted Supplementary Planning Document HDAS: Residential Layouts.
- 4.38 **(9) Private Amenity Space:** The proposed development fails to provide on site private and communal amenity and children’s play space of a quantity and quality commensurate to the size and layout of the proposals. Furthermore, the communal amenity areas are situated directly outside habitable rooms and balconies which would result in overlooking from communal spaces into balconies and habitable rooms. Such an arrangement would be detrimental to the residential amenity of the future occupiers of the proposal would provide a substandard form of accommodation for future residents contrary to Policies BE21 and BE23 of the Hillingdon Local Part: Part Two – UDP Saved Policies (November 2012), emerging policy DMHB 1 of the Local Plan Part 2 (March 2019), the adopted Supplementary Planning Document HDAS: Residential Extensions and Policy 7.1 of the London Plan (2016).
- 4.39 **(10) Sustainable Drainage:** The proposed development, in the absence of a comprehensive surface drainage strategy fails to demonstrate suitable sustainable urban drainage systems have been utilised and it is therefore contrary to Policy DMEI 10 of the emerging Local Plan: Part Two (March 2019) Policies OE7 and OE8 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012) and Policy 5.13 of the London Plan (2016).
- 4.40 **(11) Section 106:** The proposed development, in the absence of a Section 106 legal agreement fails to provide contributions towards the improvements of services and facilities as a consequence of demands created by the proposed development (in respect of children’s play space, CO2 emissions, public realm improvements, air quality, construction training, canal quiet way, public transport and affordable housing). Given that a legal agreement to address this issue has not at this stage been offered or secured, the proposal is considered contrary to Policy R17 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012), DMCI 7 of the emerging Local Plan: Part 2 (March 2019), Policy 3.6, 3.10, 3.13, 5.2 and 8.2 of the London Plan (2016) and the London Borough of Hillingdon’s Supplementary Planning Document on Planning Obligations.

5. The Development Plan

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that “in dealing with an application for planning permission...the authority shall have regard to the provisions of the development plan, so far as material to the application...and any other material considerations”.
- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that “if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.
- 5.3 The Development Plan currently comprises:
- (i) LBH Local Plan: Part One (adopted 8th November 2012);
 - (ii) LBH Local Plan: Part Two - Saved Policies from the Unitary Development Plan (adopted 1998, saved 2007 and 2012);
 - (iii) West London Waste Plan (adopted 9th July 2015); and
 - (iv) Consolidated London Plan 2016
- 5.4 Regulation 35 of the Town and Country Planning (Development Management Procedure) Order 2015 states that:
- “(1) when the local planning authority give notice of a decision or determination on an application for planning permission...(b) where planning permission is refused, the notice must state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision.”*

- 5.5 As set out in the preceding section, the Council's reasons for refusal allege that the scheme would conflict with the following Development Plan Policies:

Local Plan: Part One (2012)

- 5.5.1 Policy H1 (Housing Growth);
- 5.5.2 Policy H2 (Affordable Housing);
- 5.5.3 Policy BE1 (Built Environment); and
- 5.5.4 Policy HE1 (Heritage).

Local Plan: Part Two – Saved Policies from the UDP (Saved 2012)

- 5.5.5 Policy BE13;
- 5.5.6 Policy BE14;
- 5.5.7 Policy BE19;
- 5.5.8 Policy BE38
- 5.5.9 Policy BE21;
- 5.5.10 Policy BE23;
- 5.5.11 Policy OE1;
- 5.5.12 Policy OE7;
- 5.5.13 Policy OE8;
- 5.5.14 Policy AM7;
- 5.5.15 Policy AM14 (including adopted parking standards); and
- 5.5.16 Policy R17.

Consolidated London Plan (2016)

- 5.5.17 Policy 3.4; (Optimising Housing Potential)
- 5.5.18 Policy 3.5 (Quality and Design of Housing Developments);
- 5.5.19 Policy 3.6 (Children's and Young People's Play and Informal Recreation Facilities);
- 5.5.20 Policy 3.10 (Definition of Affordable Housing);
- 5.5.21 Policy 3.11 (Affordable Housing Targets);
- 5.5.22 Policy 3.12 (Negotiating Affordable Housing on Individual Private Residential and Mixed-Use Schemes);
- 5.5.23 Policy 3.13 (Affordable Housing Thresholds);
- 5.5.24 Policy 5.2 (Minimising Carbon Dioxide Emissions);
- 5.5.25 Policy 5.13 (Sustainable Drainage);

- 5.5.26 Policy 6.12 (Road Network Capacity);
- 5.5.27 Policy 7.1 (Lifetimes Neighbourhoods);
- 5.5.28 Policy 7.5 (Public Realm);
- 5.5.29 Policy 7.6 (Architecture);
- 5.5.30 Policy 7.15 (Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes); and
- 5.5.31 Policy 8.2 (Planning Obligations).

5.6 Compliance with these policies is addressed, in turn, below.

Local Plan: Part One (2012)

- 5.7 The Local Plan Part 1 – Strategic Policies was adopted in November 2012 and sets out the overall level, and broad locations of growth up to 2026. The Plan comprises a spatial vision, strategic objections, a spatial strategy, core policies, and a monitoring and implementation framework with clear objectives for achieving delivery.
- 5.8 Policy H1 states *“the Council will meet and exceed its strategic dwelling requirement”* which it identifies as 4,250 over a ten-year period from adoption, annualised to 425 dwellings. It then states that over the plan period to 2026, this would result in a minimum provision of 6,375 dwellings.
- 5.9 This Policy states that the sites to contribute in achieving this will be identified in the Local Plan: Part Two (Site Allocations) document (this was emerging at the time the Local Plan Part One was adopted).
- 5.10 The appeal seeks delivery of 81 residential units on a site allocated within the emerging Local Plan (as discussed in detail latterly in this Statement) and would deliver much needed housing, therefore complying with Policy H1.
- 5.11 The site’s contribution towards meeting strategic housing targets in LBH also needs to be seen in the context that these targets have been raised twice since the Local Plan Part One was adopted in 2012. Targets have been raised in the Consolidated London Plan 2016, to 559 dwellings per annum, and in the emerging London Plan to 1,553 dwellings per annum.

- 5.12 In the section “Implementation of Policy H1: How We Will Achieve This” LBH commit to *“promoting high quality mixed use developments”* and *“ensuring development makes the most efficient use of brownfield land”*. The subject scheme would be a high quality mixed-use development, seeking to make the best use of brownfield land.
- 5.13 The proposal complies with Policy H2 (Affordable Housing), given that it seeks to *“maximise the delivery of affordable housing”*, and as the maximum reasonable amount of affordable housing is offered. Paragraph 6.29 of the Plan also recognises that the acceptability of any affordable housing offer would be subject to viability, discussions around which have taken place during the application and appeals process.
- 5.14 Policy BE1 (Built Environment) sets eleven strategic criteria for all new development in the Borough, with LBH supporting new development that improves and maintains 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”*.
- 5.15 The scheme complies with all eleven criteria in Policy BE1 by:
- 5.15.1 Achieving a high-quality design, and public realm, enhancing the emerging distinctiveness of the area through its echoing of the rhythm and design of that which has been approved at the site to east (Site C, within Policy SA 5);
 - 5.15.2 Being designed appropriate to the identity of context of the area as typified through the GLA Masterplan which, while discredited within the Officer’s Committee Report, has also been used in the design evolution, and eventual support from LBH, of the emerging schemes at Site’s A and C within Policy SA5;
 - 5.15.3 All units being designed in full accordance with the “Lifetime Homes” standards, and with 10% of these being wheelchair user adaptable;
 - 5.15.4 Complying with the Building for Life Standards;
 - 5.15.5 Representing a clear opportunity to improve the environmental quality of the area, through the provision of a mixed-use scheme with significant public realm areas facing onto Nestles Avenue, in harmony with the emerging character of the area and consented schemes nearby;

- 5.15.6 Positively connecting with interchanges by providing new homes in an existing area with high public transport accessibility levels, increasing dramatically in the future with the arrival of Crossrail;
 - 5.15.7 Providing private spaces that are attractive, safe, and functional, while enhancing biodiversity far above that which exists currently at this industrial site;
 - 5.15.8 Achieving a safe and secure environment by maximising natural surveillance, gating the rights of way at the northern and western boundary until redevelopment of this neighbouring site (subject to legal agreement with the western neighbour, and while allowing for fire brigade access), CCTV monitoring the access lane and parkland frontage, installing external lighting to the approved standard, and including video intercom systems to control access (including lift and stair accesses);
 - 5.15.9 Neither proposing development of gardens or green spaces; and
 - 5.15.10 Maximising the opportunities for the development to tackle climate change, and adapt to meet its impacts, by complying with all relevant sustainability goals within the development plan.
- 5.16 The final criteria of Policy BE1 outlines where tall buildings would be considered appropriate. The scheme would be a tall building for the purposes of this policy. The scheme is assessed against the policy criteria in the table overleaf:

No.	Policy BE1 Criteria 11 (Tall Buildings)	Compliance of Subject Scheme
5.16.1	No adverse effect on surroundings including local character.	Scheme is designed so that there would be no adverse effect on existing or emerging surroundings, and would be in keeping with the emerging local character while causing no harm to remaining local character
5.16.2	No harm to significance of heritage assets.	No harm caused to the significance of local heritage assets formed by Locally Listed buildings and Conservation Area to the east (see further below).
5.16.3	No impact on important views.	Would not impact any important view.
5.16.4	In appropriate location defined in a Character Study, potentially including parts of Uxbridge and Hayes (subject to considering the Obstacle Limitation Surfaces for Heathrow Airport).	Most recent Character Study (2013, and Appendix 8), in Figures 42 and 44, identifies the site as being within the “Hayes Cluster” of tall buildings.
5.16.5	Within Uxbridge and Hayes town centres.	Does not lie within Hayes designated town centre, although does lie within the “Hayes Cluster” of tall buildings and adjacent to the designated town centre.
5.16.6	Height of all buildings based upon an understanding of local character and be appropriate to the positive qualities of the surrounding townscape.	Scheme is designed to enhance existing local character and reflect emerging local character, taking cues from the Former Nestles Factory scheme as well as the potential for development being brought forward on the remainder of the Squirrels Trading Estate.

5.17 Policy HE1 (Heritage) seeks to protect and enhance the historic environment within the Borough, specifically referencing (where pertinent to this appeal) Conservation Areas.

5.18 The Scheme would have no impact on the Botwell: Nestlé, Hayes Conservation Area given it would be shielded from views within the Conservation Area by the consented scheme to the east.

- 5.19 The nearby Locally Listed Buildings (Listed Building Register nos. 093, 316, 317 and 318, attached as **Appendix 5**) all lie within the site of the consented scheme to the east, excepting a locally listed railing, and would not be harmed as they are separated from the appeal site by the consented scheme to the east. The listed railing is sited approximately 125 metres to the west of the site and the scheme would not have any effect on its significance as a heritage asset.
- 5.20 As such, the proposal complies with Policy HE1 by protecting the nearby historic environment.

Local Plan: Part Two – Saved UDP Policies

- 5.21 The UDP was originally adopted in 1998, however its strategic policies were replaced by the Local Plan Part 1 in 2012.
- 5.22 A direction was issued on 24th September 2007 by the Government Office for London confirming Hillingdon's request to 'save' key local policies and to delete obsolete or rarely used policies, which was effective from 27th September 2007.
- 5.23 Policy BE13 states that development will not be permitted where "layout and appearance fail to harmonise with the existing street scene or other features of the area which the Local Planning Authority considers it desirable to retain or enhance". Given that the Council wants to fully redevelop this site and the neighbouring sites, it is clear that there are no features which the Council considers desirable to retain. In terms of enhancement, the appeal scheme will form a part of the redevelopment of the wider area, and has taken its key design principles from this emerging character. Commensurate to its scale it will have a desirable layout and an attractive appearance.
- 5.24 Policy BE14 states that permission will not be granted for the development of sites in isolation if the design fails to safeguard the satisfactory redevelopment of adjoining sites which have development potential. The appeal scheme accords with this policy, as it does not prejudice the development of any proposal coming forward on a neighbouring site and has specifically been designed as such. This is demonstrated fully in the section below addressing refusal reason 1, which covers comprehensiveness of the proposed development.

- 5.25 Policy BE19 ensures that *“new development within residential areas complements or improves the amenity and character of the area”*. In providing a scheme which harmonises with the site allocation, the GLA Masterplan (as within GLA Stage 1 Report associated with the Former Nestles Factory, attached as **Appendix 1**), and the emerging character of the area, the appeal scheme clearly complies with Policy BE19.
- 5.26 Policy BE21 cautions that “planning permission will not be granted for new buildings or extensions which by reason of their siting, bulk and proximity, would result in a significant loss of residential amenity”. The closest residential properties lie along the south side of Nestles Avenue, 34 metres from the southern boundary of the proposed development, and would not be impacted by the appeal scheme by virtue of the proposed landscaping at the southern boundary and the proposed design of the building which reduces in massing as it gets closer to the southern boundary of the appeal site. This is demonstrated and evidenced by **Plan 3** of the Brimelow McSweeney submission at **Appendix 12**, which also shows that there is a significant area of soft landscaping between the building and Nestles Avenue.
- 5.27 With regard to the future occupiers of adjoining sites, the appeal has been carefully designed so that adequate separation distances can be maintained between residential properties (as demonstrated within **Plans 1 - 3** of the Brimelow McSweeney submission), and it should be noted that the appeal scheme and nearby consented schemes are similar in design so that a comparable level of residential amenity would be enjoyed by residents across all sites in the Policy SA5 allocation area.
- 5.28 Policy BE38 requires that planting and landscaping be included wherever it is appropriate. The extensive use of soft landscaping on each level of the stepped building and the significant area of public realm proposed fronting Nestles Avenue satisfy this requirement.
- 5.29 Policy BE38 also requires the submission of a tree survey showing: location; height; spread; and species of all trees affected by a proposal. An Arboricultural Impact Assessment has been submitted complying with this requirement, demonstrating that works would be carried out with an acceptable impact on trees and hedgerows
- 5.30 Finally, BE38 requires proposals to retain and utilise any topographical and landscape features of merit. There are no topographical landscape features of merit on the subject site.

- 5.31 Given these areas of soft landscaping, the submission of the compliant tree survey, and in the absence of any topographical or landscaped features of merit identified by LBH, the scheme complies with Policy BE38.
- 5.32 Policy OE8 states that planning permission will not be granted for new development or redevelopment of existing urban areas which would result in an increased flood risk due to additional surface water runoff, unless the proposed development includes appropriate attenuation measures to a standard satisfactory to the Council, in consultation with the Environment Agency and, where appropriate, other drainage bodies.
- 5.33 In complying with OE8, the development proposes a peak foul water flow rate which the surrounding network can accommodate, includes blue and green roofs as well as rain gardens to ensure peak surface water runoff rates are improved and, overall, delivers an up to 96% betterment over the existing scenario.

London Plan 2016

- 5.34 Policy 3.4 (Optimising Housing Potential) seeks to optimise the potential of sites whilst taking into account local context and character, design principles elsewhere in the plan and public transport accessibility. Using Table 3.2 of the Plan, with the site enjoying a Public Transport Accessibility Level of 4 and lies within 800m of a District Centre and therefore qualifies as an 'Urban' location, the density of the site should be between 70-260 units per hectare. The appeal scheme would have a density of 405 units per hectare.
- 5.35 Whilst the density of the appeal scheme exceeds the density guidelines set out in Table 3.2 of the Plan, this is not intended to be applied mechanistically (see further below). Indeed, the siting within the Heathrow Opportunity Area and the Hayes Housing Zone encourages the high-density mixed-use redevelopment of the site given its characteristics.
- 5.36 Paragraph 3.28 of the London Plan makes it clear that it is not appropriate to apply the densities of Table 3.2 mechanistically and that a "*rigorous appreciation of housing density is crucial to realising the optimum potential of sites*". This is particularly important given '*the pressing need for more homes in London*' recognised by London Plan Policy 3.3.

- 5.37 The proposal accords with Policy 3.5 of the London Plan through delivering a scheme of the highest quality internally, externally and in relation to the wider context and environment, which is reflected in the GLA Stage 1 report (Appendix 3) which states at Paragraph 12 that *“high density residential-led redevelopment of this previously developed site is in conformity with the aspirations of the London Plan and draft London Plan, both for the Opportunity Area and generally, subject to the appropriate re-provision of employment capacity at the site.”* The GLA report goes on to state at Paragraph 43 that *“the proposed density is equivalent to 405 residential units per hectare. Whilst this exceeds the guidance offered within the density matrix this is not intended to be applied mechanistically. Further, given the characteristics of the site and emerging context (in close proximity to a future Crossrail station), the proposed density is considered acceptable in this instance given the high standard of design.”*
- 5.38 Policy 3.6 requires all children and young people to have safe access to good quality, well-designed, secure and stimulating play and informal recreation provision.
- 5.39 The appeal scheme provides 110 sqm of play space against a possible maximum requirement of 133.8 sqm (using the GLA Population Yield Calculator v3.1, published 19th June 2019 and attached as **Appendix 6**).
- 5.40 At the time of submission of the planning application, the GLA Population Yield Calculator confirmed a requirement for 60 sqm of play space, so the original scheme was over-providing against previous guidance.
- 5.41 This maximum requirement of play space has been reached on the following basis, when calculating the population yield with the GLA’s latest published Population Yield Calculator:
- 5.41.1 44 One-bedroom units;
 - 5.41.2 28 Two-bedroom units;
 - 5.41.3 9 Three-bedroom units;
 - 5.41.4 All units to be considered market or intermediate (as opposed to Social Rented);
 - 5.41.5 Public Transport Accessibility Level of between 3-4 (with calculator asking that this be used for all development in London with PTAL 5-6); and

- 5.42 It is important to recognise that the Population Yield Calculator bases its calculation on a binary distinction between units which are Social Rented and units which are not (i.e. market and intermediate units). As set out by the GLA in the written statement submitted concerning emerging Policy H13 of the draft London Plan (attached as **Appendix 7**, and detailed within Paragraph 29.6), *“Discount Market Rent is an intermediate product and is not subject to the same allocation requirements or regulation as social rent or affordable rent”*.
- 5.43 Whilst the on-site provision falls slightly below the latest policy requirement set by the Population Yield Calculator issued in June 2019, regard should be given to Paragraph 4.25 of the Mayor’s Play and Informal Recreation SPG which states that *“all developments with an estimated child occupancy of ten children or more should seek to make appropriate play provision to meet the needs arising from the development. If there is the opportunity from the new development to access existing provision that has excess capacity or is capable of enhancement from the new development, the benchmark standard of 10 sqm per child does not need to be applied.”*
- 5.44 As discussed at length within this Statement, the Appeal scheme forms part of a wider site allocation to deliver a comprehensive redevelopment, of which a central linear park is integral. This central park has been approved in the former Nestle Factory site and will be within 100 metres of the appeal site once developed. This will provide additional provision of play and informal recreation space which, alongside the provision of doorstep play space on-site for the younger children, is considered to be appropriate provision for the children generated through this development.
- 5.45 The scheme accords with Policies 3.10 and 3.11 through the provision of on-site affordable housing. Further to this, it accords with Policies 3.12 and 3.13 through the provision of the maximum reasonable amount of affordable housing.
- 5.46 The scheme has been designed to be energy efficient and low carbon in accordance with the London Plan Energy Hierarchy set out in Policy 5.2. The scheme demonstrates a strategy that achieves a reduction of 64% and 38% over the London Plan Baseline Emission Rate for the domestic and non-domestic elements respectively.
- 5.47 Policy 5.13 (Sustainable Drainage) requires that developments should utilise sustainable urban drainage systems (SUDS) unless there are practical reasons for not doing so and should aim to achieve greenfield run-off rates in accordance with a number of criteria starting with storing rainwater for later use.

- 5.48 To accord with this policy, blue and green roofs, rain gardens, permeable paving and a geocellular tank below ground are proposed through the scheme, delivering a range of measures that reduce flood risk, reduce pollution and provide landscape and wildlife benefits.
- 5.49 The scheme accords with Policy 6.12 by way of providing land for an extension of the multi modal corridor along Nestles Avenue.
- 5.50 The scheme accords with Policy 7.1 (Lifetimes Neighbourhoods), Policy 7.5 (Public Realm) and Policy 7.6 (Architecture) having been designed following the urban design and architectural principles set out by the Former Nestle Factory scheme.
- 5.51 The scheme accords with Policy 7.15 (Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes). The potential noise impact of the proposed scheme on existing neighbouring commercial/industrial land uses has been appropriately “tested” and no conflict was determined to exist.
- 5.52 In accordance with Policy 8.2 (Planning Obligations) a signed unilateral undertaking will be provided prior to the date of the Hearing.

Summary of Development Plan Position

- 5.53 In order to determine the appeal in accordance with Section 38(6) of the 2004 Act, it is necessary to decide whether the Appeal Scheme accords with the development plan as a whole. As outlined above, the appeal scheme accords with the Development Plan as a whole in that it seeks to maximise the development potential of a brownfield site in a sustainable location, whilst complying with all relevant development management policy requirements.

6. Material Considerations

6.1 As stated above, it is the Appellant's case that the Appeal scheme accords with the Development Plan as a whole. As set out below there are a number of material considerations which further weigh in support of the grant of permission.

6.2 However, if the Inspector is minded to take the view that the scheme conflicts with the Development Plan, then the material considerations outlined below would heavily outweigh any perceived breach of the development plan and (by reference to the approach set out in s.38(6) of the 2004 Act) would justify the grant of permission other than in accordance with the Development Plan.

National Planning Policy Framework (the Framework) and Planning Practice Guidance

6.3 Paragraph 8 of the Framework states that "achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across the different objectives):

- a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change, including moving to a low carbon economy".

- 6.4 Paragraph 11 of the Framework states that “plans and decisions should apply a presumption in favour of sustainable development” and for decision-taking, this means:
- “(c) approving development proposals that accord with an up-to-date development plan without delay; or,*
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting planning permission unless:*
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or,*
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*
- 6.5 Footnote 6 to Paragraph 11(d) states that “the policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those listed in paragraph 176) and / or designated as Sites of Specific Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.”
- 6.6 Paragraph 47 of the Framework states that “applications for planning permission [are required to] be determined in accordance with the development plan, unless material considerations indicate otherwise.”
- 6.7 Paragraph 48 of the Framework states that “Local planning authorities may give weight to relevant policies in emerging plans according to:
- (a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
 - (b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given), and;*
 - (c) The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*
- 6.8 Paragraph 117 of the Framework states that “planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environmental and ensuring safe and healthy living conditions.”

- 6.9 Paragraph 118(c) of the Framework states that planning decisions should “give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated and unusable land.”
- 6.10 Paragraph 123 of the Framework states that “where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site”.
- 6.11 Paragraph 182 of the Framework states that “planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

Emerging London Plan

- 6.12 The draft London Plan identifies Hayes as an Opportunity Area (OA) with an indicative capacity for 4,000 new homes and 1,000 new jobs (Figure 2.10 of the draft London Plan). This forms part of the wider Heathrow Opportunity Area which covers an area of approximately 700ha. The Council note in the Officer’s report to Committee (**Appendix 1**) that the proposed designation of the Hayes OA is not objected to by the Council.
- 6.13 Paragraph 2.1.1 of the emerging London Plan identifies Opportunity Areas as “significant locations with development capacity to accommodate new housing, commercial development and infrastructure (of all types), linked to existing or potential improvements in public transport connectivity and capacity. Opportunity Areas typically contain capacity for at least 5,000 net additional jobs or 2,500 net additional homes or a combination of the two.”

- 6.14 Emerging Policy GG2 notes a requirement to make the best use of land, stating that “to create successful, mixed use places that make the best use of land, those involved in planning and development must:
- (A) Enable the development of brownfield land, prioritising Opportunity Areas, surplus public sector land, sites which are well connected by existing or planned Tube and rail stations, and sites within and on the edge of town centres, as well as utilising small sites;
 - (B) Proactively explore the potential to intensify the use of land, including public land, to support additional homes and workspaces, promoting higher density development, particularly on sites that are well-connected by public transport, walking and cycling to other infrastructure and services, applying a design-led approach;
 - (C) Understand what is valued about existing places and use this as a catalyst for growth, renewal, and place-making, strengthening London’s distinct and varied character;
 - (D) Protect and enhance London’s open spaces, including the Green Belt, Metropolitan Open Land, designated nature conservation sites and local spaces, and promote the creation of new green infrastructure and urban greening, including aiming to secure net biodiversity gains where possible;
 - (E) Plan for good local walking, cycling and public transport connections to support a strategic target of 80 per cent of all journeys using sustainable travel, enabling car-free lifestyles that allow an efficient use of land, as well as using new and enhanced public transport links to unlock growth;
 - (F) Maximise opportunities to use infrastructure assets for more than one purpose, to make the best use of land and support efficient maintenance.²
- 6.15 Emerging Policy E7 allows for the managed release of SIL designation through a strategically co-ordinated, robust, evidence-based plan process, i.e. via an Opportunity Area Planning Framework or Development Plan Document.
- 6.16 Emerging Policy H1 relates to increasing the supply of housing, with Table 4.1 identifying an annual housing target for LB Hillingdon of 1,553.
- 6.17 Part B(2) of Policy H1 requires boroughs to “optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially the following sources of capacity [only relevant points extracted below]:

(a) Sites with existing or planned public transport access levels (PTALs) 3-6 or which are located within 800m of a station or town centre boundary;

(f) (f)Industrial sites that have been identified through the processes set out in Policy E4 Land for industry, logistics and services to support London's economic function, Policy E5 Strategic Industrial Locations (SIL), Policy E6 Locally Significant Industrial Sites and Policy E7 Industrial intensification, co-location and substitution.

6.18 Policy E7(B) notes that intensification can be used to facilitate the consolidation of an identified SIL to support the delivery of residential and other uses, such as social infrastructure, or to contribute to town centre renewal.

Emerging Local Plan

6.19 The Council are in the process of adopting a new Local Plan: Part 2 which comprises 'Development Management Policies', 'Site Allocations' and 'Designations and Policies Map'.

6.20 The draft documents were submitted to the Secretary of State for Communities and Local Government on 18 May 2018, with the hearing sessions taking place on 7th and 8th August 2018.

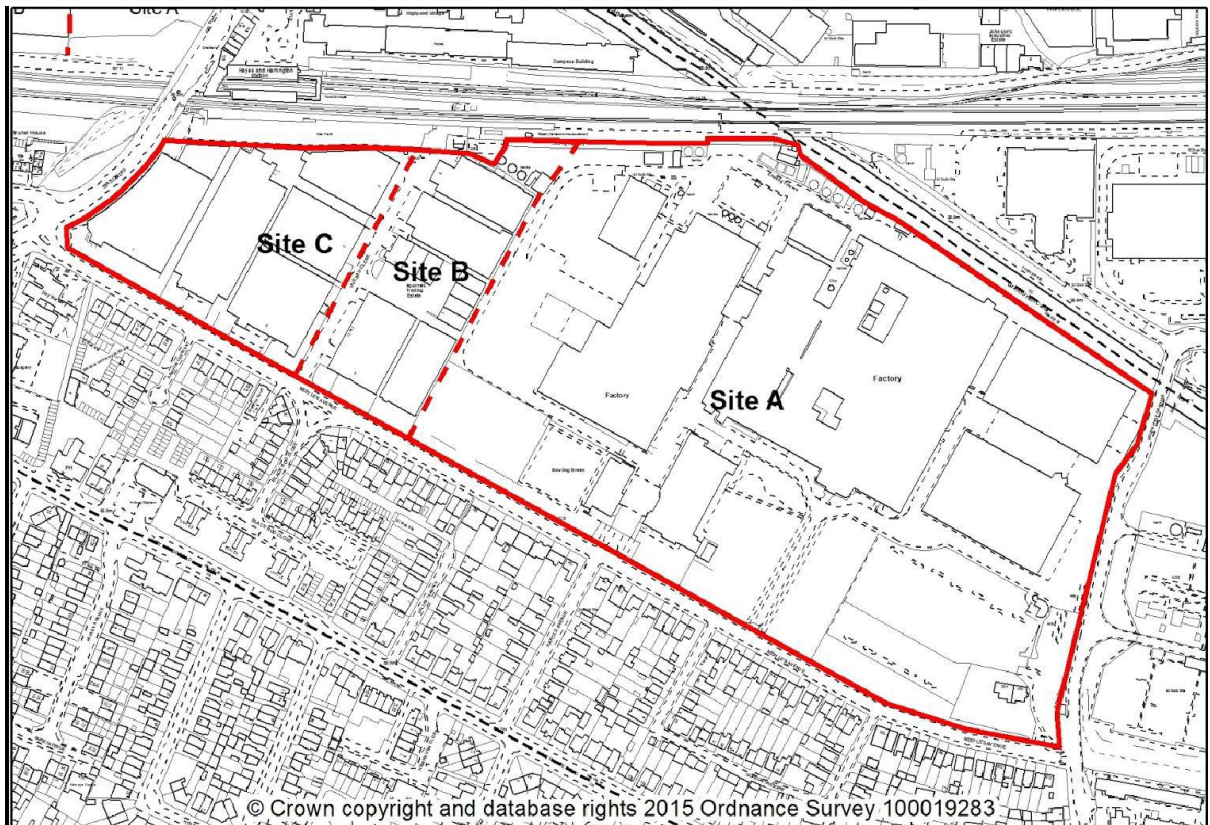
6.21 The Council received a post hearing advice note from the Inspector on 30th November 2018, which they responded to on 12th February 2019. Main Modifications were consulted upon between 27th March and 8th May 2019 and the Inspector's report is due later in 2019.

6.22 Employment Land Studies formed part of the Evidence Base for the draft Local Plan Part 2, which identified a number of employment sites which were earmarked for release from such protection.

6.23 The Appeal Site forms part of a site allocation within the draft Local Plan Part 2.

6.24 Policy SA 5 identifies 'land south of the Railway, including Nestle site' as a site allocation to deliver a total of 1,800 new residential units, split into three smaller sites; A, B and C, as identified in **Figure 1** below.

Figure 1: Emerging Policy SA5 Site Plan



6.25 The Appeal Site forms part of the south-easternmost block of Site B, the entirety of which is allocated as follows in the draft Local Plan Part 2:

“Site B -

The provision of up to 300 residential units;

The provision of appropriate community infrastructure to support the overall quantum of development, including education as necessary;

Key principles for all sites:

As a preference, Sites A, B and C should form a comprehensive development scheme across the whole site. The Council will co-ordinate the phasing of development to complement the wider Hayes Housing Zone area and all proposals will be expected to:

- *Sustain and enhance the significance and integrity of heritage assets, including the Grand Union Canal, Conservation Areas, Areas of Special Local Character and Locally Listed buildings;*
- *Provide pedestrian links to Hayes Town Centre and key transport nodes;*
- *Reflect the Council’s latest evidence of housing need in terms of the type and tenure of residential units;*

- *Comprise a proportion of employment generating uses to be agreed with the Council. Suitable uses will include B1 and elements of B2 and B8 that are compatible with the residential elements of the scheme;*
- *Provide appropriate community infrastructure to support the overall quantum of development including education, children's services, health, transport, community and sport / recreation facilities as necessary;*
- *Sufficient setback from Nestles Avenue to allow for the introduction of potential public transport improvements;*
- *Adopt a complementary set of scale, massing, layout and design principles that take account of surrounding land uses and existing suburban context, with lower building heights located on the Nestles Avenue side.*

Subject to the outcome of area specific studies, the Council may consider an approach to car parking which departs from the standards set out in this plan, if supported by relevant public transport improvements and other mitigating measures.”

- 6.26 The Officer's Report states that “it is acknowledged that the principle of the three sites coming forward separately has been accepted, subject to the scheme not being in conflict with Policy BE14 and other Development Plan policies, with Site A being approved independently (1331/APP/2017/1883) and Site C (73238/APP/2018/1145) being resolved to grant planning permission at Committee”.
- 6.27 Site A has already been brought forward independently, with planning permission being granted in July 2018, whilst LBH has resolved to grant planning permission for part of Site C (referred to as 233 – 236 Nestles Avenue within this Statement). The Council is therefore already considering individual sites within SA 5 on their own merits.
- 6.28 Further, the GLA were prepared to support the Viveash Close scheme in the north of Site B even though it was not brought forward on a comprehensive basis. Whilst the Stage 2 report for the scheme requested the Applicant “redouble” their efforts to bring neighbouring landowners on board, the GLA were prepared (Para 27 of the Stage 2 Report, **Appendix 9**) to support the design of the scheme when this proved unsuccessful.
- 6.29 There is also nothing in the draft London Plan that would prohibit a standalone planning application.

- 6.30 In short, it is clear that there is no emerging policy basis on which the Council can insist on Site B coming forward on a comprehensive basis.
- 6.31 Notwithstanding, the Appellant understands the importance of not undermining the ability for the entirety of the masterplan to come forward and deliver the vast benefits to the wider area.
- 6.32 It has been central to the design of the scheme for it to evolve in a way which enables it to be brought forward as a standalone parcel, but respects the principles established by the Masterplan and the approach taken by the approved scheme to the east in Site A and the emerging scheme to the west in Site C, enabling the remainder of Site B to be delivered.
- 6.33 The following section reviews each of the policy requirements within emerging Policy SA 5 to explain how the scheme adheres to each of these requirements.

Residential Accommodation

- 6.34 SA 5 seeks to deliver up to 300 residential units across Site B. This application seeks to deliver 81 of these units which will be a valuable contribution towards the overall quantum in line with the other land use aspirations for the site.

Community Infrastructure

- 6.35 Part of the existing building located at no. 7 Nestles Avenue has a lawful D1 use due to its previous occupation as a higher education college, granted at appeal in December 2012 (LBH ref: 49059/APP/2011/2790).
- 6.36 The Appeal scheme also allows for a flexible ground and part first floor use within the development, which could be occupied within either a Class B1(a) or Class D1 use. Given the emerging policy requirement for sufficient community infrastructure to be provided within 'Site B', this could be accommodated both within the appeal scheme and within the adjacent site at 7 Nestles Avenue as existing.

Heritage Assets

- 6.37 The site allocation seeks to sustain and enhance the significance and integrity of heritage assets, including the Grand Union Canal, the Conservation Area and the locally listed building on the Former Nestle Factory site.

6.38 The appeal scheme has been designed having regard to the key masterplan principles approved under the scheme to the immediate east which has established its own context in relation to the local heritage assets.

6.39 The planning application seeks to respond to the massing approved under consented application at the Former Nestle Factory site and is therefore considered to complement the emerging heritage context. The site's location towards the south of the GLA Masterplan (within **Appendix 1**) means there would not be any impact on the significance of the canal as a heritage asset. The scheme mirrors the proposals approved on the former Nestle Factory (which forms the Conservation Area) and therefore it is considered the scheme also does not impact upon the significance of the Conservation Area.

Housing Mix

6.40 Emerging Policy DMH2 requires developments to provide a mix of housing units of different sizes in order to meet the Council's latest information on housing need.

6.41 The proposed housing mix is below:

- 44 x One-beds (54%);
- 28 x Two-beds (35%);
- 9 x Three-beds (11%).

6.42 The above mix would comply with emerging Policy DMH2, by providing a mix of unit sizes which includes family housing and would contribute to the borough satisfying its housing need.

6.43 All units comply with the internal space standards of the Mayor's Housing Design Standards and the Nationally Described Space Standards.

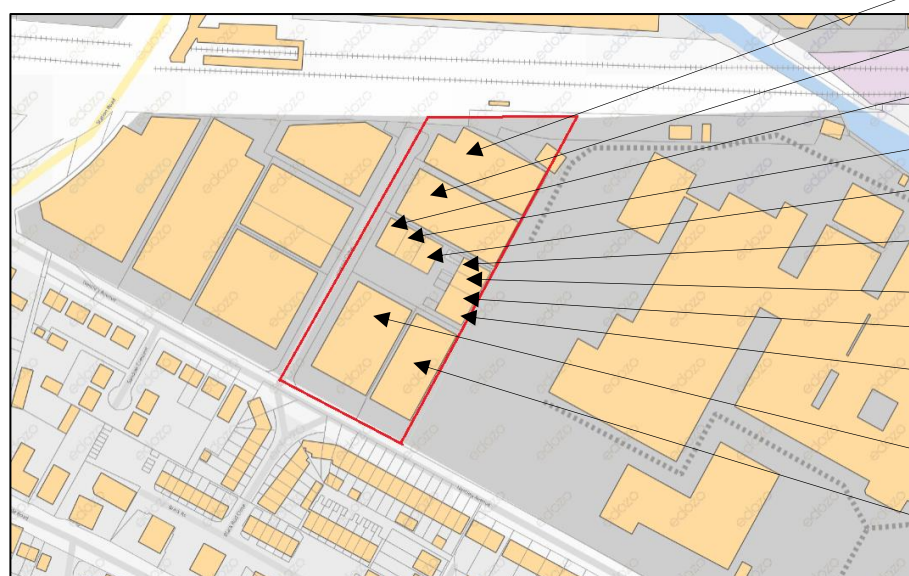
Employment Uses

6.44 Draft Policy SA 5 requires a proportion of employment floorspace to be re-provided across the entirety of Site B.

6.45 In this regard it is relevant to note the approach taken by the Council in relation to the planning application at 3 Viveash Close, where Officers of the GLA and LBH both confirmed the intention of the policy was to ensure that 50% of the existing floorspace across Site B should be re-provided. Whilst this is not explicitly worded in emerging policy, it is clear that this is the level of provision that Officers feel is appropriate.

6.46 Given the proposed linear park which is to be created through the Masterplan, GLA Officers have suggested through their Stage 2 response to 3 Viveash Close, that applications elsewhere on Site B should over-provide to account for the deficit in the centre of the site.

Figure 2: Existing Commercial Floorspace on Site



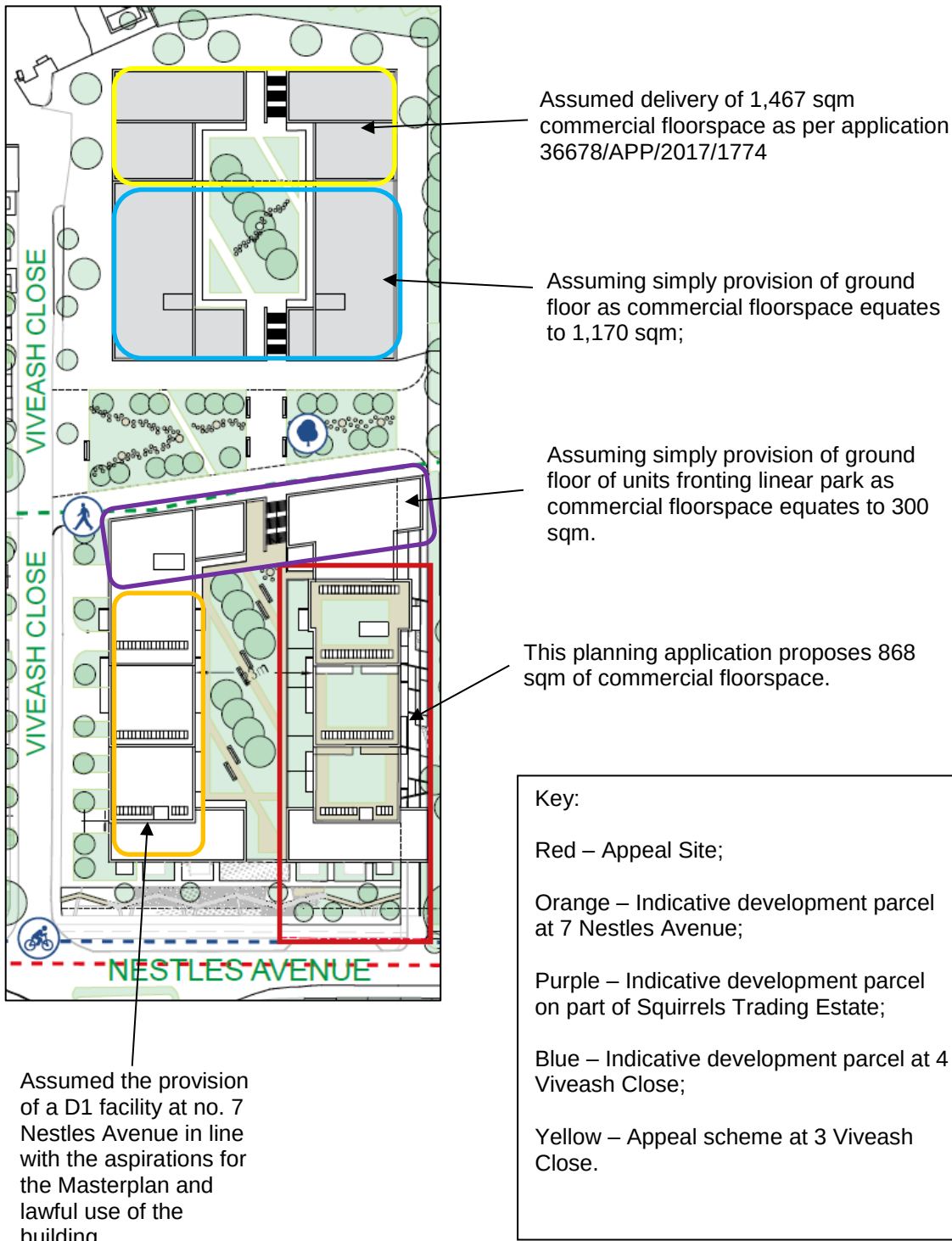
Site	B1 space (m2)
3 Viveash Close	2,335
4 Viveash Close	2,103
1 Squirrels Trading Estate	223
2 Squirrels Trading Estate	240
3 Squirrels Trading Estate	215
4 Squirrels Trading Estate	160
5 Squirrels Trading Estate	160
6 Squirrels Trading Estate	165
7 Squirrels Trading Estate	187
7 Nestles Avenue (NB:- Lawful D1 use)	807
9 Nestles Avenue	1,718
Total	8,213

6.47 As set out in Figure 2 above, there is a total of 7,406 sqm Class B floorspace within Site B. Based on the application of the emerging policy, this would necessitate an overall re-provision of 3,703 sqm Class B floorspace through all proposals.

6.48 This scheme proposes to deliver 868 sqm which would re-provide over 50% of the existing floorspace on the appeal site and would deliver almost a quarter (23.4%) of the overall required replacement floorspace within Site B. Whilst there are no approved schemes within Site B as it stands which can be referred to, it is clear that there is ample floorspace across the remainder of site to deliver the remaining requirements.

- 6.49 Whilst planning application 36678/APP/2017/1774 at 3 Viveash Close was refused, there was a clear intention to deliver employment floorspace through any scheme, with 1,467 sqm proposed, which would equate to 40% re-provision for the entirety of Site B.
- 6.50 As identified within the supplementary document provided by Brimelow McSweeney (**Appendix 12**), there is an ability to deliver a substantial number of additional development blocks across Site B, whilst also retaining the key landscaping and sustainability routes through the site.
- 6.51 Whilst assumptions have to be made at this stage, simply taking the ground floor space of the remaining buildings within the Masterplan, outlined in blue and purple overleaf within **Figure 3**, would result in an additional 1,470 sqm commercial floorspace. When combined to the floorspace subject to this planning application and the proposed floorspace through the refused 3 Viveash Close application (as a guide), this equates to 3,805 sqm of commercial floorspace, a 51.3% re-provision when assessed against the existing quantum.
- 6.52 This calculation demonstrates at a high level that there is sufficient space within the overall masterplan to ensure that sufficient employment floorspace can be re-provided across the entirety of Site B. Even if certain buildings were to deliver less floorspace than expected, for example if 3 Viveash Close reduces the quantum of employment floorspace, this could be accommodation at first floor or higher in other development blocks within the Masterplan. In conclusion, the appeal scheme would plainly not prejudice the re-provision of an appropriate quantum of employment floorspace across Site B.

Figure 3: Indicative Commercial Floorspace in Site B



Massing

- 6.53 The allocation seeks to locate taller buildings to the railway in the north of the site, stepping down to the residential properties along Nestles Avenue to the south.
- 6.54 The proposal subject to this application adheres to this through replicating the massing approved under the scheme to the immediate east, with ground plus three storeys being located along Nestles Avenue to the south, increasing in height towards the centre of the Masterplan area, as identified on Page 5 of the Brimelow McSweeney document at **Appendix 12**. These heights have been established through recognition of the airport safeguarding heights, in addition to reflecting the approved building heights elsewhere within the Masterplan.

Car Parking

- 6.55 The allocation notes that the Council may consider an approach to car parking which departs from the standards set out in the emerging plan, if supported by public transport improvements and other mitigating measures.
- 6.56 The scheme is proposed to be car-free other than disabled parking for the residential and commercial elements. Whilst it is recognised that there is considered to be a need for car parking in the local area, the PTAL rating of the site is high, and will improve upon implementation of Crossrail and the associated new and improved bus services. As a result, the GLA and TfL support a car-free development.
- 6.57 In addition to the accessible nature of the site, the proposal is specifically for a build to rent scheme meaning apartments will be let in perpetuity rather than being sold. Research into Build to Rent (as referenced in Section 2.3.10 of the i-Transport document at **Appendix 13** has shown that renters generally have up to 0.4 fewer cars on average than owner-occupied households of a similar size and type. In addition, prospective renters will be informed that there is no parking available, and they will not be able to apply for parking permits in the surrounding streets, so will be less likely to rent the property if they require parking.
- 6.58 Further, the approved scheme to the immediate east includes spaces for Car Clubs, which residents of this proposed development will have access to and there will be a commitment in the s.106 agreement to positively promote the use of the Car Club.

Summary of Comprehensiveness

- 6.59 There is an emerging allocation within the Local Plan Part 2 for a residential-led mixed-use development at land south of the railway. LBH has approved a planning application for part of the SA 5 Masterplan to the east and resolved to grant planning permission for a site to the west.
- 6.60 The scheme complies with the relevant land use principles for the Masterplan and proposes delivery, where possible, of important landscaping and sustainable transport infrastructure which is key to the delivery of the Masterplan. This application enables the remainder of the Masterplan to be delivered in line with the principles of Policy SA 5.
- 6.61 Local businesses and landowners were invited to the public exhibition event to discuss the proposals and since acquiring the site, attempts have been made to engage with neighbouring landowners regarding either the development or potential sale of their sites. In particular, discussions have taken place with the owner of 7 Nestles Avenue and representatives of the Romain family who own Squirrels Industrial Estate. Both have made it clear that they have no current desire to sell and are not interested in their sites being developed due to, amongst other things, existing tenants.
- 6.62 The proposals contribute to the wider regeneration objectives, including the delivery of housing, re-provision of commercial floorspace, the provision of public realm and an important sustainable transport link.
- 6.63 It is evident that the proposals closely align with the aspirations for the redevelopment of SA 5 and therefore will not prejudice the comprehensive development of the site allocation. This appeal adheres to the key principles of the emerging site allocation and seeks to contribute towards the overall development objectives of the allocation, without prejudicing the remainder of the development parcels being brought forward.

The Masterplan

- 6.64 The concept of a masterplan for SA5 is referred to in the Stage 1 Report concerning the Former Nestles Factory site (**Appendix 1**), and an excerpt from this report is provided below:

Figure 4: Masterplan (GLA Stage 1 Report, reference D&P/4065/01 and dated 19th July 2017)



Strategic design principles for emerging Hillingdon site allocation SA5.

- 6.65 This draft masterplan noted a clear aspiration for a linear park which is now realised in the extant permissions on Sites A and C with the additional of the multi modal transport corridor along Nestles Avenue.
- 6.66 The masterplan has influenced the pattern of development permitted by applications 1331/APP/2017/1883 (Site A) and 73238/APP/2018/1145 (Site C) not least by the main landscape infrastructure routes running east-west through the centre of each site, known as Sandow Park and the Multi Modal Transport Scheme (MMTS) along Nestles Avenue. Both features are identified in emerging Policy SA5.
- 6.67 The appeal scheme supports these important infrastructure links and includes a dedicated strip of land at the front of the site to deliver the MMTS. It is the central tenet of the appeal scheme that the principles established through extant applications and emerging policy SA5 are reproduced by mirroring the design set out in the adjacent permitted scheme 1331/APP/2017/1883 (site A) and in doing so facilitating the main features of the masterplan. Further, the northern boundary of the site is designed to allow a significant amount of development to occur on the 'squirrels' site to its full height and facilitate the extension of Sandow Park as well.

Scheme Benefits

6.68 The scheme benefits comprise:

- 6.68.1 The provision of 81 new units of which 5 (10% by habitable room) will be genuinely affordable which is a significant benefit. This will represent a substantial contribution to the housing need of LB Hillingdon.
- 6.68.2 The provision of 848 m2 of potentially new employment floorspace which will be a significant qualitative improvement on the existing floorspace. The higher density employment floorspace could facilitate up to 72 new employees which is an increase of 25 new jobs on the existing floorspace.
- 6.68.3 Alternatively, the scheme could deliver a valuable community facility for local residents.
- 6.68.4 The substantial CIL contribution which of £250,742 will be a substantial benefit towards funding local infrastructure through local LB Hillingdon CIL and also Crossrail 2 through mayoral CIL. As the scheme is adjacent a Crossrail station the development of Crossrail 2 will be a substantial benefit.
- 6.68.5 The provision of land and financial contribution of £10,770.11 to enable the provision of the multi modal transport spine along Nestles Avenue. The land to the front of the site is necessary to deliver the new transport spine and therefore the development of the site is fundamental to its provision.
- 6.68.6 The provision of a range of communal amenity space which residents of the development will be able to use;
- 6.68.7 The provision of play space across the scheme which children of the development will be able to use.

7. Addressing Reasons for Refusal

Refusal Reason 1 – Contrary to Policy SA 5

- 7.1 The Council contends that “in the absence of a comprehensive scheme, the development of this site in isolation would result in a piecemeal development that would fail to safeguard the satisfactory redevelopment of this strategic Site B identified within Policy SA5 of the emerging Local Plan: Part Two (October 2019). The proposed development is therefore contrary to Policy H1 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012); Policy BE14 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012); and Emerging Policy SA5 of Site Allocations (March 2019)”.
- 7.2 As identified within this Statement, there is no policy requirement for a comprehensive redevelopment. This is recognised in the wording of the policy which states “a *preference*” rather than an explicit requirement, and also the fact that the Council have approved, and resolved to grant approval, for other schemes within the SA5 masterplan.
- 7.3 The key concern of the Council appears to be the scheme prejudicing the remainder of Site B coming forward in the future and Policy BE14 of the Saved UDP. The documents submitted with the planning application, reinforced within this Statement of Case identify that the Scheme has been prepared in a manner which explicitly allows for the remainder of Site B to come forward in the future. The key principles of the masterplan are explained in Section 6 above.
- 7.4 The accompanying architectural submission from Brimelow McSweeney, along with the indicative masterplan proposals submitted with the planning application, show that a gap of 2-3 metres will be retained to the north of the site to enable any development on the site to the immediate north to be built up to the boundary line, in agreement with the Appellant. The Appellant will maintain this land as part of the landscaping until such a time as a scheme is brought forward.

Refusal Reason 2 - Affordable Housing

- 7.5 The Council contends that “the proposed development fails to make appropriate provision of on site affordable housing. The proposal is therefore contrary to Saved Policy R17 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012); Policy H2 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012); the London Borough of Hillingdon’s Supplementary Planning Document on Planning Obligations and policies, Policies 3.10 – 3.13 of the London Plan (2016); and National Planning Policy Framework, Para 62 – 64 (2019) or the Mayor’s Affordable Housing and Viability SPD 2017.”
- 7.6 The ULL report accompanying the Statement clarifies the position with regards to the affordable housing negotiations and highlights the areas of disagreement between the appointed viability consultants on Page 8 of the ULL report.
- 7.7 It is expected that negotiations between affordable housing will continue until the Hearing, however the Appellant’s current position is to offer 10% affordable housing by habitable rooms. The key areas of disagreement between the Appellant’s advisor and the Council’s advisor is discussed in greater detail within ULL’s Statement at **Appendix 13**.

Refusal Reason 3 – Overdevelopment

- 7.8 The Council contends that the proposed development “by reason of its overall size, scale, bulk and detailed design would result in a disproportionately large, dominating and incongruous form of development, which represents over-development of the site, in particular the ten and eight storey blank elevations against the southern boundary which would be visible from Nestles Avenue which would fail to respect the pattern and scale of development in the immediate area, The proposal would be detrimental to the visual amenities of the street scene and the character and appearance of the wider area and the Botwell/Nestles Conservation Area, contrary to Policies 3.4 and 7.6 of the London Plan (2016), Policies BE1 and HE1 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012), Policies DMHB 1, DMHB 2, DMHB 11, DMHB 12 and DMHB 14 of the emerging Local Plan: Part 2 (March 2019) and the adopted Supplementary Planning Document HDAS: Residential Layouts”.

- 7.9 The above refusal reason is chiefly addressed by the Brimelow McSweeney Planning Appeal Statement attached as **Appendix 12**. The reasoning and evidence is summarised below.
- 7.10 The size, scale, bulk and detailed design of the scheme are very similar to the consented scheme for the adjacent former Nestles Factory site to the east, and the application for 3, 233-236 Nestles Avenue, the next site but one to the west, for which there is a resolution to grant consent. The proposed building footprint occupies 53% of the total site area, leaving almost half the site area for amenity and access. The GLA comments support the height, massing and density of the proposals, given the high standard of design. The GLA's support is also found in their Stage 1 Report concerning the scheme (**Appendix 3**) where they stated within Paragraph 40 that *"in general design terms the height and massing of the proposals are supported"*, and Paragraph 43 which states that *"given the characteristics of the site and emerging context (in close proximity to a future Crossrail station), the proposed density is considered acceptable in this instance given the high standard of design"*.
- 7.11 The form of the proposed development has been developed to allow the wider development of Policy SA5 'Site B' to continue the form of development consented, and with resolution to consent, to either side of the site. This has been demonstrated by the Appellant's Masterplan submitted with the application (and replicated on page 5 of **Appendix 12**), which shows how similar development can be continued on the site to the west and north with adequate building separation distances. The design is therefore entirely proportionate and congruous with the emerging context, and steps down to respect the existing residential context on the south side of Nestles Avenue.
- 7.12 Reason for refusal no. 3 incorrectly states there would be "ten and eight storey blank elevations against the southern boundary which would be highly visible from Nestles Avenue which would fail to respect the pattern and scale of development in the immediate area." This appears to be a cut and paste from the Council's assessment of the 3 Viveash Close scheme (Application ref: 36678/APP/2017/1774, refused by the Council on 18th October 2018) which proposed blank elevations on the southern boundary. Blank elevations are not proposed to the southern boundary of the appeal scheme – the south elevations have appropriate and attractive fenestration and articulation at each storey. The ten-storey elevation is set back 55 metres from the southern boundary, the eight-storey elevation by 38 metres, and are only visible at distance on Nestles Avenue, as illustrated in the perspective views submitted with the application. The building steps in line with the consented buildings of the same height consented on the former Nestle Factory site, which will be equally visible from Nestles Avenue. The elevation steps down to four storeys and is set back 15 metres from the southern boundary to respect the pattern and scale of the existing houses on Nestles Avenue.

- 7.13 The appeal scheme replicates the massing and design of the approved former Nestle Factory site, in respect of its setback from Nestles Avenue and the design of the ground floor frontage. These design approaches therefore would not have an adverse impact on the streetscene and is considered to be appropriate. Through replicating the key design principles of the former Nestle Factory masterplan, it is also considered that the proposals are appropriate in respect of the impact on the Conservation Area which is the entirety of the former Nestle Factory site.

Refusal Reason 4 - Urban Design

- 7.14 The Council asserts that “The proposed development, due to its footprint and site coverage would create a narrow corridor along the eastern boundary. Moreover, the eastern boundary provides the entrance into the office and residential units on a secondary elevation which is hidden along this access road. The principal elevation, along the eastern boundary, fails to provide a sense of arrival for future occupants and results in a poor streetscape. The narrow eastern corridor fails to provide a safe, suitable and convenient access for future residents. The proposal fails to provide an active residential frontage along Nestles Avenue. The proposal would fail to provide a sense of arrival and would be detrimental to the visual amenities of the street scene and character and appearance of the wider area, contrary to the National Planning Policy Framework, Policies BE13, BE14, BE19 and BE38 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012); Policies DMHB 1, DMHB 2, DMHB 11, DMH 12 and DMHB 14 of the emerging Local Plan: Part 2 (March 2019) and the adopted Supplementary Planning Document Hillingdon Design and Accessibility Statement: Residential Layouts SPD (2006); Policies 3.5 and 7.5 of the London Plan (2016) and Chapters 2, 11 and 12 of the NPPF (2019)”.
- 7.15 The above refusal reason is chiefly addressed by the Brimelow McSweeney Planning Appeal Statement attached as Appendix 12. The reasoning and evidence is summarised below.

- 7.16 The access lane on the eastern boundary is 5.5 metres wide, which is generous for a primarily pedestrian and cyclist access route. The route provides vehicular access to just four disabled parking spaces, and for fire engine access in the event of an emergency. No other vehicles would be permitted to use the lane and, as noted within Paragraph 4.01 of **Appendix 12**, this could be achieved through rising barriers or bollards (openable only by disabled car-users and the emergency services). This width also allows space for soft landscaping to the boundary. The Appellant does not propose a boundary fence, and the Council could seek to secure a low or visually permeable boundary fence to the Nestles Factory site through the discharge of planning condition 51, which would also allow visibility from the access lane to the proposed landscaped area on that site boundary.
- 7.17 The main elevation of the consented Nestles Factory scheme is 24 metres (Para. 4.02, **Appendix 12**) from the proposed main eastern elevation, meaning this route will form part of a wide open courtyard, subject to the developer of the former Nestle Factory site not providing a high boundary fence, which can be controlled by the Council when discharging planning conditions for that site. As such, it has been mischaracterised as a 'narrow corridor'.
- 7.18 The commercial and residential entrances are accessed from the side elevation, in a similar way to those on the consented scheme for the former Nestles Factory. The entrances will be visually apparent in large glazed bays on the elevation, the commercial entrance will be visible from Nestles Avenue, while the residential entrances provide a sense of arrival, marked by the building oversailing above. The rear residential entrance will be visible and accessible from the envisaged future east-west pedestrian link to the north of the site.
- 7.19 The access lane will benefit from natural surveillance from the flats above and on the Nestles Factory site. As a space largely free of vehicular traffic, it will provide a safe and secure access route for residents.
- 7.20 Reason for Refusal no. 4 also repeats reason no. 3, stating the proposals would be detrimental to the visual amenity of the street scene and character and appearance of the wider area. As discussed in response for reason for refusal 3, the scheme is considered to be wholly appropriate for the Conservation Area and streetscene, given the design influences taken from the approved former Nestle Factory scheme.

- 7.21 The north-east façade is left intentionally blank to avoid prejudicing future development of the adjacent site to the immediate north to extend the building to front on to the proposed east-west pedestrian link, which would lie 18 metres north of the site boundary to align with the consented link on the Nestles Factory site. The east-west pedestrian link is not prejudiced by this application.

Refusal Reason 5 - Noise

- 7.22 The Council contends that “the development provides a high proportion of single aspect dwellings and dwellings with their sole aspect facing towards Strategic Industrial Land. The development fails to provide sufficient separation from the western boundary of the site to mitigate against a potential noise generating use on the neighbouring site and as such, the proposal fails to take responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive residential development and thereby fails to provide a suitably high quality of residential amenity for future occupiers contrary to Policy BE1 of the Local Plan: Part One (November 2012); Policy OE1 of the Local Plan: Part Two (November 2012) and Policy 7.15 of the London Plan (2016) and Paragraph 182 of the NPPF (2019)”.
- 7.23 The Noise report submitted with the planning application deals specifically with the impact that the neighbouring SIL would have on the residential accommodation within this scheme, and the technical note by Mayer Brown at **Appendix 15** clarifies where this is dealt with. The reason for refusal is not supported by any technical evidence or even the views of the Council’s specialist noise officer when consulted on the scheme, who confirmed they would not have any issues with the proposals subject to appropriate conditions.
- 7.24 It is hoped that the Council will agree in common ground before the Hearing that this reason for refusal has absolutely no basis and should be dropped.

Refusal Reason 6 - Car Parking

- 7.25 The Council asserts that “the proposed development fails to provide sufficient car parking provision for the proposed development (residential and commercial) and would therefore result in an increase in on-street car parking in an area where such parking is at a premium thereby leading to conditions which would be detrimental to the free flow of traffic and to highway and pedestrian safety. The proposal is therefore contrary to Policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012), to Hillingdon's Adopted Parking Standards as set out in the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012) and the adopted Supplementary Planning Document HDAS: Residential Layouts”.
- 7.26 The London Plan, emerging London Plan and LB Hillingdon Local Plan all set maximum car parking standards. The site's very good accessibility to public transport (PTAL 5) supports a car-free development on this site, aside from fully accessible parking for disabled residents.
- 7.27 Further, the site falls within a Controlled Parking Zone (Zone HY2) which restricts parking between 09:00 – 17:00 Monday to Friday to anybody other than permit holders. The development would prevent all future occupiers from obtaining parking permits and can be controlled by the Council. A permit-free approach is a well-established way of ensuring that car-free and low-car development in sustainable locations does not cause on-street or overspill parking issues.
- 7.28 Transport for London strongly support a car-free approach in this location, as confirmed in the Officer's Report to Committee and the GLA Stage 1 report.

Refusal Reason 7 - Highways Safety

- 7.29 The Council asserts that “The proposed development, by virtue of its layout and servicing and delivery arrangements off a layby along Nestles Avenue, would compromise highway and pedestrian safety by virtue of the proposed vehicular access into the site and the servicing and delivery arrangements, giving rise to conditions prejudicial to the free flow of traffic and would be detrimental to highway and pedestrian safety. The development is therefore contrary to Policy AM7 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012), Policies DMT 2 and DMT 5 of the emerging Local Plan: Part 2 (March 2019), Policy 6.12 of the London Plan (2016) and Chapter 9 of the NPPF (2019)”.

- 7.30 The i-Transport note at **Appendix 13** clarifies the reasoning behind the provision of the on-street loading bay, in respect of the requirement to provide commercial floorspace alongside the residential, as well as the delivery of the Nestles Avenue Sustainability Corridor. Given the aspiration of LBH and the GLA to deliver this corridor along Nestles Avenue, the loading bay is considered to be a significantly better option than bringing larger vehicles into the site across the footway / cycleway.

Refusal Reason 8 - Highways Safety (Manoeuvrability)

- 7.31 The Council contends that “The 4 proposed car parking spaces fail to provide a manoeuvring distance of 6m in accordance with Manual for Streets Standards. The proposed layout gives rise to conditions prejudicial to future users of these substandard car parking spaces and future occupants who are required to use the pedestrian footpath to access the residential and commercial entrances contrary to Policy AM7 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012), to Hillingdon's Adopted Parking Standards as set out in the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012) and the adopted Supplementary Planning Document HDAS: Residential Layouts”.
- 7.32 The disabled spaces, as well as the aisle provided to access the spaces, are wider than standard, as discussed in the i-Transport Statement at **Appendix 13**. Notwithstanding this, swept path analysis has been previously provided within the Transport Assessment (Dwg No ITL14154-SK-006-RA appended to TA) which demonstrates that all vehicular movements can be made in a single manoeuvre within the space provided.
- 7.33 It is hoped that the Council will agree in common ground before the Hearing that this reason for refusal has absolutely no basis and should be dropped.

Refusal Reason 9 - Private Amenity Space

- 7.34 The Council contends that “the proposed development fails to provide on site private and communal amenity and children’s play space of a quantity and quality commensurate to the size and layout of the proposals. Furthermore, the communal amenity areas are situated directly outside habitable rooms and balconies which would result in overlooking from communal spaces into balconies and habitable rooms. Such an arrangement would be detrimental to the residential amenity of the future occupiers of the proposal would provide a substandard form of accommodation for future residents contrary to Policies BE21 and BE23 of the Hillingdon Local Plan: Part Two – UDP Saved Policies (November 2012), emerging policy DMHB 1 of the Local Plan Part 2 (March 2019), the adopted Supplementary Planning Document HDAS: Residential Extensions and Policy 7.1 of the London Plan (2016)”
- 7.35 The scheme provides on-site playspace for children of the development, proposing 110 sqm of dedicated play space on site. Whilst this is a slight under-provision when having regard to the latest GLA guidance adopted after the appeal of this planning application, the on-site space will provide doorstep play space for the youngest children of the development, whilst older children will benefit from the nearby parkland which is being implemented to the east on the former Nestle Factory site.
- 7.36 Additional communal amenity space is provided to the upper floors, in excess of the London Plan requirements. As raised in Appendix 12, the scheme has also been designed so that the parkland gardens at the front of the site (fronting Nestles Avenue) will link to the communal amenity area of Wallis Gardens at the emerging Former Nestle Factory scheme, a link that will be attractive and traffic-free.
- 7.37 Large communal roof terraces and children’s play areas are provided in accordance with the London Plan requirements, as well as the parkland garden on Nestles Avenue, which will link to the proposed communal amenity areas on the consented Nestles Factory site. The communal roof terraces will be screened from the private roof terraces with landscaped buffer strips. Build to Rent developments also benefit from higher levels of management than typical owner-occupied developments, ensuring communal areas are well-kept and remain desirable to use.

- 7.38 Addressing any perceived issues caused by overlooking of private amenity space onto communal amenity space, Paragraph 9.03 of Appendix 12 states that the four apartment balconies adjacent to communal terraces, all will be screened by green shrubbery to a height of 1.5m. It also recognises that, while there is one window overlooking the communal terrace, this would be half a storey above the communal terrace so that there would be no loss of privacy. In addition, Paragraph 9.04 notes that “each habitable room facing a communal terrace features a window with a different aspect, should occupants wish to achieve a greater level of privacy at particular times”.
- 7.39 Furthermore, Paragraph 9.03 contends that in the case of residents with young children there may be a benefit in having private amenity space next to children’s play space, increasing passive surveillance.
- 7.40 Finally, Paragraph 9.05 notes that “access to communal terraces would be restricted to residents of the nearest apartments and controlled by key fob as part of the building access system”. In this way, the hours in which the communal amenity space can be used would be managed so that there would be no harm to residents’ amenity by virtue of its use (e.g. by prohibiting late night access)
- 7.41 Given the above, and as detailed within Appendix 12, the private amenity space would provide an appropriate of private amenity space, within London Plan standards (Check), while causing no harm to neighbouring amenity, by virtue of its high quality design among all other factors raised above.

Refusal Reason 10 - Sustainable Drainage

- 7.42 The Council asserts that “the proposed development, in the absence of a comprehensive surface drainage strategy fails to demonstrate suitable sustainable urban drainage systems have been utilised and it is therefore contrary to Policy DMEI 10 of the emerging Local Plan: Part Two (March 2019) Policies OE7 and OE8 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012) and Policy 5.13 of the London Plan (2016)”.
- 7.43 The submitted Flood Risk Assessment commits the development to a sustainable drainage scheme employing green and blue roofs, rain gardens, permeable paving and a geocellular tank for water capture. Not only does this scheme represent an acceptable and comprehensive response to the flood risk and drainage concerns of the site, but it also represents an up to 96% betterment value over the existing circumstance.
- 7.44 Policy OE8 requires that this be confirmed by statutory consultees, and with no LBH officers raising objections and Thames Water confirming they also hold no objection, the proposed sustainable drainage scheme should be considered acceptable.
- 7.45 As such, it has been adequately demonstrated that sustainable drainage systems have been utilised. This scheme, as submitted, can be secured via condition. If there are any further doubts as to the details of the sustainable drainage schemes to be employed, we believe that it is appropriate to address these via a condition requiring the submission of further information.
- 7.46 A revised document, which incorporates an updated Strategy, has been submitted to the Council in an attempt to agree this prior to a Hearing and remove this as a reason for refusal.

Refusal Reason 11 - Section 106

- 7.47 The Council asserts that “the proposed development, in the absence of a Section 106 legal agreement fails to provide contributions towards the improvements of services and facilities as a consequence of demands created by the proposed development (in respect of children’s play space, CO2 emissions, public realm improvements, air quality, construction training, canal quiet way, public transport and affordable housing). Given that a legal agreement to address this issue has not at this stage been offered or secured, the proposal is considered contrary to Policy R17 of the Hillingdon Local Plan: Part 2 – Saved UDP Policies (November 2012), DMCI 7 of the emerging Local Plan: Part 2 (March 2019), Policy 3.6, 3.10, 3.13, 5.2 and 8.2 of the London Plan (2016) and the London Borough of Hillingdon’s Supplementary Planning Document on Planning Obligations”.
- 7.48 The proposed heads of terms of a draft legal agreement are attached as Appendix 11. A section 106 unilateral undertaking will be provided to the Inspector before the Hearing which should address refusal reason 11.
- 7.49 The Appellant considers on the basis of all of the above information, that none of the reasons for refusal are justified in this instance, and that planning permission should be approved.

8. Draft Conditions

8.1 Conditions have not been discussed between The Appellant and the Council, however the Appellant would be happy to agree to the following conditions and a full agreed list would be submitted with the Statement of Common Ground which will be issued in advance of the Hearing:

1. **Time Limit** - The development hereby permitted shall be begun before the expiration of three years from the date of permission.
2. **Approved Drawings** - The development hereby permitted shall not be carried out except in complete accordance with approved plans, namely:
 - 0820-0100 – Existing Ground Floor Plan;
 - 0820-0101 – Existing First Floor Plan;
 - 0820-0102 – Existing Roof Plan;
 - 1820-0300 – Existing Elevations;
 - 1820-1000-D – Location Plan;
 - 1820-1001-B – Block Plan;
 - 1820-1002-B – Site Plan;
 - 1820-1011-C – Ground Floor Plan, including Landscape;
 - 1820-1100-C – Ground Floor Plan;
 - 1820-1101-D – First Floor Plan;
 - 1820-1102-D – Second Floor Plan;
 - 1820-1103-D – Third Floor Plan;
 - 1820-1104-E – Fourth Floor Plan;
 - 1820-1105-E – Fifth Floor Plan;
 - 1820-1106-D – Sixth Floor Plan;
 - 1820-1107-D – Seventh Floor Plan;
 - 1820-1108-D – Eighth Floor Plan;
 - 1820-1109-D – Ninth Floor Plan;
 - 1820-1110-D – Tenth Floor Plan;
 - 1820-1200-A – Long Section;
 - 1820-1300-B – West Elevation;
 - 1820-1301-B – Nestles Avenue Elevation;
 - 1820-1302-B – East Elevation;
 - 1820-1303-A – Rear Elevation.

3. **Material Samples** - No development, other than demolition and site clearance, shall take place until details of all materials and external surfaces, including details of balconies have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details and be retained as such.

Details should include information relating to make, product/type, colour and photographs/images.

4. **Privacy Mitigation Measures** - Details of the measures to ensure that the units provide adequate privacy, which may include side privacy screens for the balconies, vertical fins to buildings, obscure glazing etc. to include details of design, construction and materials shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of above ground works.

The measures shall be installed prior to the occupation of the residential unit and thereafter retained for so long as the development remains in existence.

5. **Radar Mitigation Scheme** - No construction shall commence on site until a Radar Mitigation Scheme (RMS), (including a timetable for its implementation during construction), has been agreed with NATS and approved in writing by the Local Planning Authority.
6. **Crane Operation Plan** - Prior to the commencement of development, full details of a "Crane Operation Plan" shall be submitted to and approved in writing by the Local Planning Authority in consultation with the "Radar Operator" (NATS) and BAA Safeguarding. Construction at the site shall only thereafter be operated in accordance with the approved "Crane Operation Plan".
7. **Sustainable Water Management Scheme** - Prior to commencement, other than demolition and site clearance, a scheme for the provision of sustainable water management shall be submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall follow the strategy set out in 'Flood Risk Assessment' and 'Surface Water Drainage Strategy', produced by Heyne Tillet and Steel.

8. **Construction Environment Management Plan** - Before the development hereby approved commences, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority, in consultation with Network Rail.

The CEMP shall comprise such combination of measures for controlling the effects of demolition, construction and enabling works associated with the development as may be approved by the Local Planning Authority. The CEMP shall address issues including the phasing of the works, hours of work, noise and vibration, air quality, waste management, site remediation, plant and equipment, site transportation and traffic management including routing, signage, permitted hours for construction traffic and construction materials deliveries. It will ensure appropriate communication with, the distribution of information to, the local community and the Local Planning Authority relating to relevant aspects of construction.

Appropriate arrangements should be made for monitoring and responding to complaints relating to demolition and construction. All demolition, construction and enabling work at the development shall be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the LPA.

9. **Internal Noise Levels** - The noise level in habitable residential rooms at the development hereby approved shall meet the internal noise standard specified in BS8233:2014.
10. **Air Extraction System Noise and Odour** - Prior to use, any machinery, plant or equipment, extract/ ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.
11. **Contaminated Land** -
- (i) The development shall not commence until a scheme to deal with contamination has been submitted to the Local Planning Authority (LPA) in accordance with the Supplementary Planning Guidance Document on Land Contamination, and approved by the LPA. All works which form part of the remediation scheme shall be completed before any part of the development is occupied or brought into use unless the Local Planning Authority dispenses with any such requirement specifically and in writing. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:
 - (a) A site investigation, including where relevant soil, soil gas, surface and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use; and
 - (b) A written method statement providing details of the remediation scheme and how the completion of the remedial works for each phase will be verified shall be agreed in writing with the LPA prior to commencement of each phase, along with the details of a watching brief to address undiscovered contamination. No deviation shall be made from this scheme without the express agreement of the LPA prior to its implementation.
 - (ii) If during remedial or development works contamination not addressed in the submitted remediation scheme is identified an addendum to the remediation scheme shall be agreed with the LPA prior to implementation; and
 - (iii) Upon completion of the approved remedial works, this condition will not be discharged until a comprehensive verification report has been submitted to and approved by the LPA. The report shall include the details of the final remediation works and their verification to show that the works for each phase have been carried out in full and in accordance with the approved methodology.

- (iv) No contaminated soils or other materials shall be imported to the site. All imported soils for landscaping purposes shall be clean and free of contamination. Before any part of the development is occupied, all imported soils shall be independently tested for chemical contamination, and the results of this testing shall be submitted and approved in writing by the Local Planning Authority. All soils used for gardens and/or landscaping purposes shall be clean and free of contamination.

12. **Accessible Hard and Soft Landscaping** - All areas of hard and soft landscaping shall be constructed to accord with the prescribed standards and tolerances set out in BS8300:2018.

13. **Prior to Occupation of the Development** - details in respect of the play equipment accessible to disabled children, shall be submitted and approved in writing by the Local Planning Authority.

14. **Accessible Units** - The development hereby approved shall ensure that ten percent of the residential units are constructed to meet the standards for Category 3 M4(3) wheelchair user dwelling.

15. **Delivery and Servicing Hours** - There shall be no loading or unloading of vehicles, including the collection of waste from the site outside of the hours of: -
07:00 and 23:00 hours, Monday to Saturday, and
09:00 and 18:00 hours on Sundays, Public or Bank Holidays.

16. **Piling** - No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water and Network Rail. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

17. **Class D1 Use** - The D1 use hereby approved shall be unrestricted other than for use as a place of worship.