



Appeal Decision

Inquiry opened on 18 February 2020

Site visit carried out on the same day

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th March 2020

Appeal Ref: APP/R5510/W/19/3230503

Stanford House, 9 Nestles Avenue, Hayes, UB3 4SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Healey Development Solutions (Hayes) Limited, against the Council of the London Borough of Hillingdon.
 - The application 51175/APP/2018/4260, is dated 4 December 2018.
 - The development proposed comprises demolition of existing building and redevelopment to provide a building up to ten storeys, with 868 square metres of commercial or community space (Use Class B1 or D1) at ground and first floor level and 81 (44 x one 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.
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Decision

1. For the reasons that follow, the appeal is dismissed and planning permission for demolition of the existing building and redevelopment to provide a building up to ten storeys, with 868 square metres of commercial or community space (Use Class B1 or D1) at ground and first floor level and 81 (44 x one 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 at Stanford House, 9 Nestles Avenue, Hayes, is refused.

Preliminary Matters

2. The appeal was accompanied by a draft planning obligation in the form of a deed of agreement between the parties. It sets out a range of obligations, covenants and undertakings subject to the usual contingencies. The provisions secured are a material consideration in this case. With the agreement of the parties, a completed version of the document was submitted shortly after the close of the Inquiry.¹
3. During the Inquiry, revised plans were submitted in relation to the amenity space provision on the flat roofs within the appeal scheme.² The parties were agreed that determining the appeal on the basis of those plans would not prejudice the interests of any other party, the revisions being confined to minor details within the site. I have no reason to take a different view.

Application for Costs

4. At the Inquiry, an application for an award of costs was made by the appellant against the Council. That application is the subject of a separate Decision.

¹ Inquiry Document 22 (ID22)

² Appended to the Addendum Statement of Common Ground in relation to Amenity Space (ID16)

Main Issues

5. The principle of a residential-led, mixed use scheme for the site is consistent with the Council's vision for Hayes as set out in the Local Plan, and the Council takes no issue with the quantum of replacement employment floorspace proposed. However, following the lodging of the appeal the Council resolved that, had it been in a position to determine the application, permission would have been refused. Eleven putative reasons for refusal were originally cited. In the light of ongoing discussions between the parties, the submission of further information, and subject to appropriate conditions and obligations, many of those reasons were not, in the event, pursued.
6. Given that context, the main issues on which the outcome of this appeal turns relate to:
 - whether the scheme would materially prejudice comprehensive redevelopment of the larger Site B area identified by policy SA 5 of the Local Plan, within which the appeal site lies;
 - the effect on the heritage significance of the adjacent Conservation Area;
 - the effect of the development proposed in terms of its scale, massing, design and townscape/streetscape impact on the character and appearance of the area, including the adjacent Conservation Area; and,
 - the effect of the proposed parking provision on vehicular and pedestrian safety.

Reasons for the Decision

7. The development plan for the area includes the London Plan (March 2016), the Council's Local Plan Part 1 Strategic Policies (November 2012), Local Plan Part 2 Development Management Policies (January 2020) and Local Plan Part 2 Site Allocations and Designations (January 2020).
8. In December 2019 the Mayor submitted his 'Intend to Publish' version of the emerging London Plan to the Secretary of State for consideration. In light of the Mayor's opposition to some of the key recommendations, policies could change. It was a matter of agreement at the Inquiry however, that the policies relevant to the outcome of this appeal could be given substantial weight since they do not go to the heart of the Mayor's concerns and thus are unlikely to change. I have no reason to take a different view.
9. Based on the targets in the current London Plan, the Council can demonstrate almost 22 years supply of housing land, reducing to 6.22 years against the targets in the emerging Plan. I was advised that one of the sites in the supply expected to deliver some 197 dwellings is no longer anticipated as coming forward in the next five years, reducing the supply to 21.33 years and 6.04 years respectively. That said, the Council can still demonstrate the required five year supply, whichever targets it is measured against. It was also confirmed that neither the appeal site, nor the approved housing on the nearby Buccleuch site, is relied on to meet the housing targets.

The Proposal

10. The appeal site is occupied by a late 1930s storey employment building which includes a two storey office element with an Art Deco influenced frontage, plus a largely hard surfaced forecourt. It is proposed to redevelop the site to deliver

a mixed use scheme comprising a single building with commercial floorspace³ mainly at ground floor but with a mezzanine level at first floor, with 81 residential units at first floor level and above, built specifically for rent. In addition to the employment floorspace, the ground floor would accommodate dedicated plant space for both the employment and residential uses, cycle storage and four fully accessible car parking spaces.

11. The building would be set some 15 metres back from the existing highway boundary on Nestles Avenue, as is the existing premises. That set back includes a protected 6 metre deep strip across the site frontage adjacent to the highway, to assist in delivery of a Multi Modal Transport Spine (a sustainable transport corridor containing a footway, cycleway and widened road to accommodate a proposed bus route along Nestles Avenue). Between that and the front of the proposed building would be an area of landscaping, similar to that approved in relation to the adjacent Nestlé Factory and nearby Buccleuch sites. Bay windows to the commercial floorspace would project into this space.

Comprehensive Development

12. The appeal site is located within the broad Heathrow Opportunity Area as set out in the current London Plan. That is to be amended through the emerging London Plan with the creation of a distinct Hayes Opportunity Area. The appeal site also forms part of a larger site allocated for development by policy SA 5 of the recently adopted Local Plan Part 2.
13. The SA 5 allocation forms the most significant growth point within the Hayes Housing Zone, comprising an important strategic site referred to at the Inquiry by the Council as a 'jewel in the crown' of its Local Plan. The allocation is divided into three sites: Site A, extending to some 12 hectares, comprises the former Nestlé Factory and its environs, the boundary to which corresponds with the Conservation Area; Site B (1.76 hectares) includes Nos 7 and 9 Nestles Avenue (No 9, which extends to some 0.23 hectares, being the appeal site) the Squirrels Trading Estate and Nos 3 and 4 Viveash Close; Site C (2.2 hectares) comprises the land on the western side of Viveash Close, extending up to Station Road. Viveash Close runs along the boundary between Sites B and C.
14. As confirmed in the introduction to policy SA 5, the Council is keen to ensure that complementary design principles are adopted and that the resulting infrastructure requirements associated with the planned levels of growth are fully integrated. It also emphasises that proposals from individual landowners should, *as far as possible*, come forward in a co-ordinated manner without prejudicing the development aspirations on other parts of the site (my emphasis). In addition, part C of Local Plan policy DMHB 11 requires that the design of new development safeguards the satisfactory redevelopment of any adjoining sites that have development potential. However, although the appellant has made continuous attempts to engage adjoining landowners within Site B in working collaboratively on a more comprehensive scheme, this has so far been unsuccessful.
15. Whilst policy SA 5 sets out a clear preference for Sites A, B and C to form a comprehensive development scheme across the whole of the allocation, the Council has allowed Site A and part of Site C (Nos 233-236 Nestles Avenue, known as the Buccleuch site) to come forward separately. Both the consented

³ Proposed for either commercial or community use.

schemes relate to materially larger sites than the appeal site - the approval for the Factory site covers the whole of Site A, whilst the Buccleuch scheme covers around two thirds of Site C.⁴ Nevertheless, in approving those developments, the Council was clearly satisfied that they would not materially prejudice future redevelopment of adjacent land within the SA 5 allocation. On the same basis, in coming forward as a proposal for only a small part of Site B, the appeal scheme needs to ensure that it would not materially prejudice redevelopment of the remainder of the Site.

16. There is currently no adopted masterplan for the allocation site as a whole. Whilst the GLA started to draw up a draft Planning Framework for the area in 2017 it was never consulted on, endorsed, or adopted by the Council. It did though, confirm the principle of a wide east/west linear park across the three constituent Sites to provide a high quality green pedestrian link connecting through to the railway station and Station Road to the west. That link was incorporated as an integral feature of the individual masterplans for each of the approved schemes, to either side of Site B.
17. The application the subject of this appeal was accompanied by a masterplan for Site B, drawn up by the appellant. Whilst none of the other Site B landowners have bought into or are signed up to that plan, it nevertheless gives a broad brush perspective as to how Site B might come forward, including provision for the linear park.
18. Whilst the proposed building would be set back from the Nestles Avenue road frontage it would, in seeking to maximise development on the plot, be set close to the other boundaries, in particular to the northern and western site boundaries. Were the appeal to succeed, redevelopment of the remainder of Site B would have to be brought forward having regard to the built context. That context would include the consented schemes not only on Sites A and C, but also the appeal site.
19. Looking firstly then at the relationship between the proposal and the Squirrels Trading Estate to the north of the appeal site. The likely route of the east/west linear park referred to above would run through that part of Site B. Whilst delivery of the park may well constrain the developable area of the Trading Estate, no substantiated evidence was before me to demonstrate that, by itself, the Trading Estate is currently a viable development site that would somehow become unviable as a consequence of the development now proposed.
20. Although the Council made detailed criticisms of the various sketch schemes drafted by the appellant for potential development on the Trading Estate (many of which concerns I share) that is not the same as demonstrating convincingly that, allowing for provision of the green link, the remainder of the Squirrels site could not be maximised to allow for a policy compliant redevelopment scheme to come forward as a consequence of the appeal scheme. On the contrary, in including a windowless façade to its northern elevation the appeal scheme has, in my view, specifically facilitated the possibility of a 10 storey building on the adjacent site, between the appeal building and the southern extent of the obvious line of the linear park.

⁴ Site A: 1331/APP/2017/1883 Part demolition of existing factory buildings etc and redevelopment to provide 1,386 dwellings, office, retail, community and leisure uses, 22,663 sqm commercial floorspace etc Approved 23 May 2017 (ID6) Site B: 1699/APP/2017/2201 Redevelopment including 457 residential units, 264 sqm A1 retail, 229 sqm A3 café use and 2,273 sqm B1 office space etc Approved 19 December 2019.

21. I fully appreciate that any future development would need to extend slightly onto land in the ownership of the appellant in order to avoid leaving a 3 metre gap between the two buildings⁵ (which would be unacceptable in urban design terms). However, that would be a matter for negotiation between the parties in the first instance and does not mean that the appeal scheme of itself causes material prejudice.
22. In support of its case, the Council drew my attention to an appeal decision relating to a development scheme on the site of No 3 Viveash Close at the northern end of Site B.⁶ Among other things, the Inspector found that, taken in isolation, the scheme failed *'to make an adequate contribution to the provision of open areas to reflect the aims of policy SA 5, meaning that others may have to make a disproportionate contribution if redevelopment was to go ahead on neighbouring sites.'*
23. I fully appreciate that delivery of the east/west link is integral to the success of the redevelopment of the allocation site as a whole. I am also mindful, in this regard, of the GLA Stage 1 Report which states that *'in general, comprehensive development is essential to ensure that the challenges and incentives of brownfield land development are shared evenly in order to achieve coherent growth and regeneration – whilst integrating delivery of the infrastructure necessary to support sustainable communities.'* The report goes on to set out *'...that allowing the site to come forward in isolation could undermine delivery of the wider policy and design objectives that may require cross-subsidy as part of a larger (and more viable) scheme.'* However, as noted by the appellant, whether the remainder of Site B is brought forward for development by the respective owners, by the Council exercising its compulsory purchase powers, or even a combination of both, there is no policy requirement for cross-subsidies on any part of Site B and it was no part of the Council's case that individual site owners should or could be required to hand some of their profits to a neighbouring landowner to facilitate development of their site. All in all therefore, whilst I understand the concerns raised, I find no material prejudice to the prospects for re-development of the adjacent Squirrels site as a consequence of the appeal scheme coming forward in isolation.
24. No 7 Nestles Avenue adjoins the western boundary of the appeal site. It was no part of the Council's case that that site could not be built out as shown on the appellant's masterplan which shows an 18 metre wide double-sided corridor block of residential accommodation, such blocks being the basis for the approved schemes on Sites A and C. The appeal building comes close to the shared boundary with No 7, relying heavily on the adjacent site to provide the majority of the necessary separation between windows to habitable rooms.
25. The Council was concerned that the proposed relationship would constrain unduly redevelopment of No 7 Nestles Avenue. However, given the need to set back any development on the adjacent site by at least 7 metres from the boundary with Viveash Close (in order to accommodate the required separation from the approved scheme on Site C) the evidence of the appellant, which was not undermined by the Council, was that pulling the appeal scheme away from

⁵ The red line boundary for the appeal site sits roughly 3 metres further north of the rear of the existing building, extending halfway across an access road that runs along the southern boundary of the adjacent Trading Estate.

⁶ APP/R5510/W/18/3218824 Mixed use redevelopment scheme providing 68 residential units and 1617 sqm commercial floorspace etc. Dismissed 19 July 2019.

the shared boundary would not give the adjacent site any obvious advantage in terms of the amount of development that could be brought forward there. For instance, even were the required minimum 21 metres separation between facing windows to habitable rooms shared equally between the two sites,⁷ it would not be possible to widen significantly the development block on the No 7 site and achieve acceptable room layouts in terms of room depths and daylight levels. I am content, therefore, that the appeal scheme would not materially prejudice the prospects for redevelopment of No 7 Nestles Avenue.

26. With regard to the remainder of Site B, namely Nos 3 and 4 Viveash Close, they are separated from the appeal site by the Squirrels Trading Estate. No substantiated evidence was before me to demonstrate that allowing the appeal would make any difference to the prospect of No 3 or No 4 coming forward, either separately or together.
27. Returning to the Viveash Close appeal decision, the development in that case was to be built up against the southern boundary of that site, with the Inspector concluding that *'this could dictate and prejudice the form and nature of the development of the larger site, without any overall comprehensive consideration being available.'* Whilst there is no information as to the detailed arguments presented in that case, I agree with the appellant that the Inspector's test of 'could', is not the same thing as 'would', or even 'would be likely to'. There is no indication either, that the Inspector had before him any details as to how development might come forward on No 4 Viveash Close with the proposed scheme in place. Whilst he does refer to the 2017 GLA Framework Plan, there is no mention of any masterplan for Site B. In contrast, I do have a masterplan showing possible schemes of redevelopment for the whole of Site B, including those parts adjacent to the current appeal site. Moreover, that earlier appeal was determined in the summer of 2019. Since then, development on Site A has proceeded apace, with Block D adjacent to the current appeal site nearing completion, and with permission having been granted in December 2019 for the Buccleuch development on Site C. A quite different context from that of No 3 Viveash Close. These are material differences which distinguish the two cases.
28. To conclude on this issue then, I find nothing in the evidence before me to demonstrate that the development proposed would make any material difference in terms of the prospects for development of either the Squirrels Trading Estate or the site of No 7 Nestles Avenue coming forward in the future, either in isolation, taken together, or as part of a wider scheme for the remainder of Site B. On that basis, I consider that there would be no material prejudice to comprehensive redevelopment of site B as a whole. There would be no conflict, in this regard with policy 2.13B of the London Plan, policies DMHB 11 and SA 5 of part 2 of the Local Plan, and policies D3, D8, GG1 and GG2 of the emerging London Plan, which together and among other things seek to provide access to good quality community spaces, and make the best use of land including maximising the contribution of public realm whilst safeguarding satisfactory redevelopment of any adjoining sites with development potential.

Heritage Significance

29. The appeal site lies outwith but adjacent to the Botwell: Nestlé Conservation

⁷ Similar to the arrangement agreed between the developer of the approved Buccleuch scheme and the owner of the remainder of Site C.

Area. Whilst the setting of Conservation Areas are not afforded any statutory protection, paragraphs 189 and 190 of the National Planning Policy Framework (the Framework) require an assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting its setting. Although significance can be harmed or lost through development within the setting of heritage assets such as Conservation Areas, the setting of itself is neither a heritage asset nor a heritage designation. Rather, its importance lies in what that setting contributes to the significance of the heritage asset, or to the ability to appreciate that significance.

30. There is no formal Appraisal for the Conservation Area, which is currently on the 'At Risk' register due to its deteriorating condition since Nestlé vacated the site in 2014. Instead, my attention was drawn to the Heritage Statement submitted in connection with the planning application for development of the Nestlé Factory site.⁸
31. This is a relatively modest Conservation Area, the boundary of which corresponds generally with that of the former Nestlé Factory site. It is focused on the visible elements of the original buildings and their garden setting (key survivals which illustrate the early history of cocoa manufacture and factory use) and on the functional relationship of those buildings with the Grand Union Canal and the railway, the proximity to which informed the initial location of the factory. Three of the buildings are locally listed. The heritage significance of the Conservation Area (as opposed to its character and appearance) derives largely from its special historic and architectural interest.
32. In terms of setting, the Council's Conservation Area Review Report (October 1999) confirms that the front of the factory is important in landscape terms, that the main views are from the canal tow path and along Nestles Avenue, with a particular axial view by the ornamental gates, and that the by-pass to the east gives an unexpected elevated view of the complex. The Heritage Statement referred to above confirms that the key view of the site, from which its heritage significance can readily be appreciated, is from Nestles Avenue towards the principal foyer element of the factory building, enhanced by the metal boundary railings and gates.
33. To the west, whilst the land originally formed part of the open grounds associated with the factory, it was sold off and has long since been developed for industrial purposes, comprising a mix of largely utilitarian industrial sheds and buildings, including the appeal site. Whilst those buildings are part and parcel of the industrial character of this part of Hayes they do not, in my view, make any contribution to the heritage significance of the Conservation Area. In particular, the appeal site is not seen as an integral part of any of the views referred to above and it does not contribute in any material way to the ability to appreciate the significance of the Conservation Area, especially given the presence of the recent substantial buildings on the Factory site, between the historic core of the Conservation Area and the appeal site.
34. I mentioned earlier the presence of locally listed buildings within the Conservation Area. These non-designated heritage assets comprise the 1930s Nestlé Factory works, the former canteen, and the gates and railings along part of the site frontage. Their significance, which largely informs the significance of the Conservation Area itself, derives from their architectural and historic

⁸ Relied on by the parties in the absence of a formal Conservation Area Appraisal.

interest which is enhanced by their group value. Their historic setting, which is generally confined to the Conservation Area itself but also includes the key view referred to above from Nestles Avenue, is an integral part of that significance. For the reasons set out above, the appeal site makes no contribution to that significance, or to any appreciation thereof.

35. In light of the forgoing, whilst the development proposed would clearly result in a change to the setting of the Conservation Area, there would be no harm in terms of its heritage significance, or the heritage significance of the non-designated assets within it. It follows that there would be no conflict with Section 16 of the Framework, or with policy 7.8 of the London Plan, policy HE1 of the Local Plan Part 1, and policies DMHB 1, DMHB 3, DMHB 4, DMHB 11 and SA 5 of Part 2 of the Local Plan, which together and among other things seek to sustain and enhance the significance and integrity of heritage assets.

Character and Appearance/Urban Design

36. The building proposed would be of ten storeys at its highest, at the northern boundary of the site adjacent to the Squirrels Trading Estate, stepping down at intervals through eight, five and four storeys to the southern (road) frontage, providing for reduced massing facing the lower two-storey dwellings on the opposite side of Nestles Avenue. The design employs a generally pleasing industrial/warehouse aesthetic and has similarities in terms of form and massing with the adjacent building on the Nestlé Factory site (Block D) which is nearing completion. However, as noted earlier, the building footprint occupies much of the site coming, for instance, to the edge of the adjacent Trading Estate to the north, and to within roughly 2 metres of the shared boundary with No 7 Nestles Avenue to the west.
37. Block D, adjacent to the appeal site on the Nestlé Factory site extends all the way up to the southern boundary of the linear park, onto which it has a frontage. The appeal site, however, does not extend that far north. It is separated from the southern boundary of the likely route of the park through Site B (the general alignment of which is informed by the corresponding provision on the approved schemes on Sites A and C) by the southern part of the Squirrels Trading Estate. Of particular concern to the Council in this regard, is the ten storey façade on the northern elevation of the proposed building which would have no windows or openings, intended to facilitate potential future development on the adjacent Trading Estate.
38. A similar issue arose in relation to the 3 Viveash Close appeal. In that case, the development was to be constructed adjacent to the site boundary with No 4 Viveash Close, to the south, with blank elevations intended to facilitate adjacent development being built up to that boundary. The Inspector in that case found that if redevelopment of the neighbouring land within Site B did not come forward, the appeal scheme would appear harsh and dominant in the context of the existing buildings. He concluded that whilst the proposal in that case would, in longer views, be seen against the backdrop of taller buildings to the north of the railway, and those under construction in the vicinity, the contrast at closer quarters would be stark and unacceptable in the context of the much smaller adjacent buildings.
39. There are material differences between the current appeal and the Viveash Close scheme, not least in terms of design and detailing. The Viveash Close development comprised two tower blocks (of eight and ten storeys) connected

by a podium at ground floor level. The blank southern elevations of the towers were of a panelised cladding system to a modernist design with a significant horizontal emphasis. Notwithstanding the absence of any windows, the exposed northern elevation of the building the subject of the current appeal comprises a highly articulated contextual brickwork façade, referencing art deco style characteristics of both the former Nestlé Factory and the frontages to the units facing onto Nestles Avenue, including No 9.

40. Moreover, the building would not be viewed only in elevation. Rather, in views from the north/northwest, a particular concern of the Council, the façade would be seen in conjunction with the well-considered western elevation of the building. Furthermore, whilst it would be close to the lower buildings on the adjacent Squirrels Trading Estate, when seen in views from Viveash Close, from the station car park and the station itself, and from High Point Village beyond it would have a very close relationship with the northern end of Block D on the adjacent Factory site, which is currently nearing completion and is sited adjacent to the eastern end of the Trading Estate. The western elevation of that end of Block D comprises a four storey energy centre, rising to ten storeys of residential accommodation behind. That is a quite different context from that of the Viveash Close scheme. On balance, I am content in the circumstances that prevail here, that the north elevation of the appeal building would not, given its emerging context and design, be seen as an unduly intrusive or incongruous feature pending any redevelopment of the adjacent Trading Estate, and there would be no harm in terms of any unacceptable impact on the character and appearance of the area in this regard.
41. However, good design includes visible, clearly identifiable entrances that are directly accessible from the public realm, a key aspect of a development's contribution to the legibility of the urban environment. Indeed, as confirmed in the National Design Guide, successful streets are characterised by buildings facing the street to provide interest, with overlooking and active frontages at ground level, an active frontage being defined as the front of a building with openings onto the space that generate activity and engagement between the building interior and the space outside, particularly entrances.
42. Both the approved Nestlé Factory scheme and the Buccleuch development have entrances on the front of the buildings, providing an active frontage directly onto Nestles Avenue. The appeal scheme however, has no direct entrances on that principal road frontage. Rather, all access to the building would be taken from a secondary, side elevation facing onto a north/south shared space access lane, comprising a long cul-de-sac with gates at the far end.
43. I share the concerns of the Council in this regard, about the legibility of the building, particularly in terms of access. The entrances would be largely hidden from view and would not be readily identifiable from the street. Moreover, no windows as such are shown facing onto the access lane at ground floor level. Rather, there would be the entrance to the commercial unit, together with the entrances to the cycle storage and undercroft car parking spaces, the refuse and recycling stores, a substation, and the two residential entrance lobbies. Moreover, at its southern end, the access would pass beneath the overhanging second and third floors of the four storey element for a distance of roughly 11 metres. At its northern end, the upper storeys would project roughly halfway across the lane for a distance of around 10 metres. In addition, balconies on all floors would overhang the access lane along its length.

44. Whilst the appellant referred to the access lane as a linear landscaped area, the extent of the building footprint leaves only a relatively narrow band for planting between the access and the site boundary. Furthermore, any planting would be fragmented, with the strip including cycle stands and areas of grasscrete to allow for vehicles to manoeuvre into and out of the parking spaces proposed. As a consequence, instead of an active and attractive street scene, it seems to me, particularly when combined with the tunnelled lengths at each end and the oversailing balconies, that the access lane would have the appearance of little more than an extended service yard for the most part and would not be a beautiful, people-friendly or welcoming environment for those using the building. That effect would be exacerbated by its proximity to the secure parking area (Milk Yard) on the adjacent Factory site and the related boundary treatments that will be necessary to make that facility secure in due course.
45. I referred earlier to the building footprint occupying much of the current appeal site. Whilst the building would be set back from Nestles Avenue, the four storey element at the front would, including the oversail of the side access lane, extend across almost the whole of the site frontage, right up to the boundary with the adjacent Factory site to the east, and to within a couple of metres of the shared boundary with No 7 to the west. In addition, the whole of the ground floor along the western elevation of the proposed building would be set a couple of metres off the shared boundary with No 7, separated from the adjacent site by only an access path, with the rear of the building set hard up against the access road within the adjacent Squirrels Trading Estate.
46. As noted by the Viveash Close Inspector, whilst buildings of up to 12 storeys are proposed on Sites A and C, they are set within larger sites that contain landscaping and areas of public realm. In contrast, other than the landscaping proposed across the Nestles Avenue frontage, the current appeal scheme does not provide any meaningful setting within the site for the substantial building proposed, with no 'breathing' space around the perimeter of the development. Rather, it is largely reliant on future development taking place on adjoining land to the west (No 7 Nestles Avenue) being set back from the boundary to provide some form of setting.
47. In coming forward ahead of any wider development scheme for Site B to which adjoining owners have had input or are signed up, it is important that the appeal proposal is self-sustaining. It may be that, in due course, a scheme will materialise on the adjacent site to the west which could provide an appropriate setting for the appeal building. However, unlike the Buccleuch scheme, such provision is not secured by the planning obligation, or any other mechanism, and thus cannot be assured as coming forward within any reasonable timeframe, if at all. In the absence of such, the scheme stands or falls on its own merits.
48. The development proposed would generally reflect the form and massing of the adjacent Block D, within the Conservation Area, and I take no issue with the relationship between the two buildings in terms of any harm to the character and appearance of the Conservation Area itself. I take no issue either with the windowless northern elevation of the block in relation to its design, given its context. However, when considered on its own individual merits, I am firmly of the view that the development as a whole would fail to create a positive sense of place, or an environment of high quality, at jarring odds with the successful emerging character of the wider allocation site. Accordingly, in terms of its

overall scale, massing and design it would have a significant adverse impact on the local townscape/ streetscape and on the character and appearance of the area generally.

49. In light of my conclusions on this issue, there would be conflict with policies 3.4, 3.5, 7.4, 7.5 and 7.6 of the London Plan, policy BE1 of the Local Plan part 1, policies DMHB 11, DMHB 12 and SA 5 of the Local Plan part 2, and policies D3 and D8 of the emerging London Plan. Together and among other things, whilst seeking to optimise site capacity, the policies also seek to create buildings, spaces and places that are attractive and well-integrated into their surroundings, that enhance the quality of local places and are sensitive to the character of the area. There would be conflict too with the National Design Guide and paragraphs 127 and 130 of the Framework, which have similar aims.

Parking

50. Policy DMT 6 of the recently adopted Local Plan Part 2 sets out maximum parking standards for new development. Based on that, the maximum provision for the appeal scheme would 122 residential parking spaces plus nine spaces for the commercial element (based on B1 office use). As proposed, however, the development would effectively be car-free, with a total of just four on-site parking spaces: three for residential occupiers and one for the commercial/community floorspace.
51. Inasmuch as the number of spaces would not exceed the maximum standards, there would be no policy conflict. There would be no conflict either, with policy 6.13 of the current London Plan and Table 6.2, which together confirm that all developments in areas of good public transport accessibility in *all parts of London* (my emphasis) should aim for significantly less than one space per residential unit. There was no dispute in this regard that the appeal site currently has a Public Transport Accessibility Level (PTAL) rating of 4, which is categorised as 'Good' by Transport for London (TfL).
52. Both the GLA, through its Stage 1 comments, and TfL, set out that the car free nature of the development proposed is strongly welcomed and supported. I am mindful, in this regard, that a Parking Management Zone is currently in operation along Nestle Avenue and some side streets. The controls restrict on-street parking to residential permit holders only between 09.00-17.00 Monday-Friday. That is complemented with parking restrictions in the form of single yellow lines Monday-Saturday 08.00-18.30. The submitted planning obligation includes provision to preclude future occupiers from acquiring a parking permit for the Zone.
53. However, the Council maintained that current drive to work patterns and historically high car ownership levels in the Botwell ward⁹ would continue in the future, such that a significant number of future residents¹⁰ would be likely to own a private car for use on a daily basis, notwithstanding the absence of any meaningful on-site parking provision and the restriction on obtaining a residential parking permit. It was suggested that in seeking to park wherever the opportunity might arise, those who were unsuccessful in finding an on-street parking space close to the development would be likely to park in locations that would present a risk to road safety, also detracting from local

⁹ The appeal site lies within the Botwell ward

¹⁰ Estimated as 40-60 residents in the oral evidence of Dr Tilly in the related discussion at the Inquiry

amenity.¹¹ On that basis, it was held that a 'car-lite' approach was appropriate here, such as had been approved on the Nestlé Factory and Buccleuch sites, where on-site parking was agreed at a ratio of 0.6 spaces per residential unit. Whilst the later (July 2019) Viveash Close appeal was unsuccessful, the parking ratio proposed there was 0.5 spaces per dwelling, with the Inspector concluding that such provision was acceptable in this location (the appeal failed for other reasons).

54. Hayes and Harlington railway station lies within approximately 400 metres of the appeal site and is currently served by some eight trains an hour operating between Paddington to the east and Reading/Didcot Parkway and Heathrow airport to the west. In addition, eight local bus services (with stops at the station) provide connections to a range of destinations including Northolt, Uxbridge and Heathrow. Two further bus services have recently been introduced, contributing an extra ten services an hour in each direction, providing an express route between Harrow and Heathrow and a more local service connecting Hayes with Ickenham and Ruislip.
55. Whilst the recent additional bus services improve the accessibility index, that is not to the extent that it alters the current PTAL 4 rating. However, once the Elizabeth Line (Crossrail) opens - currently anticipated mid-2022 - a further two rail services an hour will stop at the station, providing connections to Reading, Maidenhead and Slough in the west, and as far as Romford and Shenfield in the east. The new line will also provide direct connections from Hayes to central London, Canary Wharf and Stratford, as well as to key transport interchanges in the future such as Old Oak Common, which would interchange with High Speed 2 and provide onward connections to Euston, Birmingham and other locations further north.
56. The evidence of the appellant is that, combined with the recent bus service improvements, the introduction of the Elizabeth Line will increase the rating of this part of the Borough (including the appeal site) to PTAL 5, classed by TfL as 'Very Good'. The accessibility index, which informs the PTAL, is expected to increase further with the planned extension of bus route H32 to Hayes and Harlington, plus further improvements funded by the Nestle factory and Buccleuch developments. In addition, significant station improvements are currently underway, including four new lifts to provide step free access, platform extensions and new canopies, which will also assist in making travel by train more appealing for future residents.
57. Part A of policy T6 of the emerging London Plan states that parking should be restricted in line with levels not only of existing, but also future public transport accessibility and connectivity. In addition, part B confirms that car-free development should be the starting point for all development proposals in places that are, or are planned to be, well-connected by public transport, with developments elsewhere to be car-lite. Policy T6.1 sets out that new residential development should not exceed the maximum standards set out in corresponding Table 10.3.
58. The Council argued that neither the current PTAL 4, nor the future PTAL 5 rating fully reflect a true picture of the transport situation in this part of

¹¹ Although the related RfR includes reference to concerns about the effect of this on the free flow of traffic, it was confirmed by Dr Tilly in the related discussion, and by Mr Volley in cross-examination, that the Council was no longer pursuing this point.

Hillingdon, an outer London Borough with a number of residents working beyond the Greater London area which in its view is not so well connected. My attention was drawn in this regard, to the Mayor's Transport Strategy (March 2018) which comments that trips in outer London tend to be longer, with many people having no choice but to drive, particularly for trips around outer London (as opposed to into the city centre). It sets out that whilst walking is the first choice for short trips, with buses being important for access to town centres, the car is used for most other travel, although cycling has huge untapped potential to replace many of the shorter car trips.

59. To my mind however, those comments represent a general, rather than specific picture. The widely used PTALs are a detailed and accurate measure of the accessibility of a point to the public transport network, taking into account the walk time from the point of interest to public transport access points, the reliability of the service modes available, the number of services available within the catchment, and the level of service at the public transport access points (average waiting time). Whilst the ratings do not take account of punctuality or quality, they are clearly a good indicator of the level of services available. Moreover, Table 10.3 of the emerging Plan specifically recognises that there are differences between inner and outer London Boroughs with the same PTAL ratings, indicating higher maximum parking provisions for outer London Boroughs. Significantly though, for **all** areas with a PTAL rating of 5-6, the Table is clear that development is to be car free.
60. The Council also maintained that future occupiers would be likely to want to travel to key destinations beyond Greater London, such as Reading, Slough, Staines, High Wycombe, St Albans for employment, with few transport options in Hayes serving those destinations. However, as noted above, Reading and Slough will be served by the new Elizabeth Line once it opens. In any event, based on the 2011 Census database, it would seem that by far the majority of existing residents (85.4%) who live in the same area as the appeal site, are employed within a London Borough (ie not outside Greater London). Almost half of those residents (some 41%) were employed within Hillingdon, with around 30% employed within the Middle Super Output Area which includes Heathrow airport, a key employment location for residents of the area, a location connected directly by bus and rail with those connections set to improve in the future. The next main destination for around 15% of residents travelling to work is Hayes town centre apparently, which is within walking distance of the site (approximately 750-900 metres). The Census database also indicates that the other destinations referred to by the Council are not 'key' destinations as such, with just some 1% of the working population making the journey to Staines, some 0.25-0.3% working in High Wycombe and St Albans.
61. Whilst the Council asserted that travel by public transport was unattractive, referring anecdotally to noisy school children and overcrowding, together with punctuality issues, suggesting there was nothing to influence car ownership in the future, its own policies and related guidance clearly anticipate a behaviour change and a move to car free development. In particular, its Third Local Implementation Plan (March 2019)(LIP3) sets out how the Borough intends to implement the Mayor's Transport Strategy. Among other things, specific objectives promote sustainable travel to encourage a reduction in car use, and to support new development environments that prioritise sustainable travel. It confirms that *'Hillingdon will support car-free and car-lite development in areas*

that are well connected to sustainable travel options ie Uxbridge Station, Hayes and Heathrow.' The appeal site is located in Hayes.

62. LIP3 also confirms that car-free development facilitates behaviour change for residents from the onset of occupying a dwelling in an area that has limited or no parking. I agree with the sentiments of a colleague Inspector drawn to my attention in this regard, endorsed by the Secretary of State, that *'Policy is geared towards persuading people to switch from private cars to public transport in order to try and reduce traffic. One of the best ways of achieving this is to limit parking provisions and one of the best opportunities to persuade people to alter this aspect of their life-styles is when they move home. While not a perfect solution, it follows that providing new residential accommodation with little or no parking at this highly accessible location is likely to help achieve that end...'*¹² I recognise that that relates to a different local authority area, but I see no reason why the sentiments would not hold true here.
63. In addition to precluding access to residential parking permits, the planning obligation¹³ secures the submission of a Travel Plan, which would include a minimum three years free car club membership for future residents. It also secures a contribution towards the Council's planned Multi Modal Transport Spine across the site frontage, which would include high quality footways and cycleways segregated from the carriageway along the northern side of Nestles Avenue connecting to local destinations, which will further encourage the take-up of sustainable modes of travel.
64. Moreover, the officer's report in relation the Buccleuch site confirmed that Nestles Avenue Quietway provides a further opportunity to extend the Brunel University Santander bicycle hire scheme to include Hayes, Stockley Park and West Drayton, which would increase travel choice for future residents. I see no reason why the same consideration is not engaged in relation to the appeal scheme. In addition, the development is planned as a build to rent scheme, with the unchallenged evidence of the appellant demonstrating that tenants of such schemes generally have a lower parking demand than owner-occupied developments.¹⁴
65. A further consideration is the accessibility of the site to local services and facilities. According to the Government publication *Manual for Streets* and the *National Design Guide*, walkable neighbourhoods typically have a range of facilities within a 10 minute walk (up to about 800m) with the 2017 *National Travel Survey: England* (referred to by the appellant) finding that walking is the most frequent mode for short trips, where 81% of trips under one mile (around 1.6 kilometres), and 30% of trips between one and two miles (some 3.2 kilometres) were walks. In relation to the appeal site, supermarkets, a cash point, Hayes town centre, two medical centres and a dental practice are located within 800 metres walking distance of the site. A post office, a further supermarket, pharmacy, three schools, a library and a sports and leisure centre lie within 1.6 kilometres, with two more schools and a college within 3.2 kilometres. Quite clearly, therefore, the appeal site is in close proximity to a good range of everyday services and facilities that would be readily accessible to future occupiers on foot or by bicycle.

¹² APP/I5240/V/17/3174139 LB Croydon Redevelopment scheme including 220 residential units, community and church space and a retail unit. That part of the scheme comprising 106 dwellings was to be car free.

¹³ ID22

¹⁴ Savills' Report 'Unlocking the Benefits and Potential of Build to Rent' on behalf of The British Property Federation (February 2017)

66. The final paragraph of policy SA 5 sets out that, subject to the outcome of area specific studies, an approach to parking which departs from the standards in the Local Plan may be considered if supported by relevant public transport improvements and other mitigating measures. I consider the extensive evidence provided by the appellant to be broadly equivalent to such a study. It demonstrates that the appeal site is in one of the most accessible locations in the Borough, close to Hayes town centre with convenient access to shops, services, facilities, public transport and active travel opportunities. Given that context, and the imminent increase to PTAL 5, I am in no doubt that the absence of on-site parking and the parking restrictions on the adjacent roads would act as a natural deterrent to car-ownership for future occupiers, informing the decision of future occupiers as to whether the scheme would suit their needs/demands.
67. Even in the unlikely event that some future occupiers did own a car, no objective evidence was before me to demonstrate that they would be significant in number, or which supported the Council's contention that parking on the highway in observance of the existing parking restrictions (which include a resident's parking scheme that future occupiers would be ineligible for) would, of itself, have a necessarily adverse impact on vehicular or pedestrian safety or detract from local amenity to any material degree. I recognise that parking enforcement in the area results in numerous parking notices being issued, demonstrating a disregard of those restrictions by some, but that is not evidence that such parking presents an unacceptable risk in terms of vehicular or pedestrian safety.
68. To conclude on this issue therefore, I find no conflict with either existing or emerging policies, with the emerging policies accepted by the Council as attracting substantial weight in this appeal, and other guidance. I find no conflict either with the Framework, which confirms that development should only be prevented or refused on highways grounds if there would, among other things, be an unacceptable impact on highway safety.

Other Matters

69. The development attracts a CIL payment, some £900,000 of which would go towards funding local infrastructure through the Council's Levy, and also to Crossrail through the Mayoral CIL. I am mindful, in this regard that Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority shall have regard to a local finance considerations, so far as material to the application, with Section 70(4) defining a local finance consideration as including sums that a relevant authority will, or could receive in payment of the Community Infrastructure Levy. It was suggested for the appellant that the CIL payment would be a substantial benefit of the scheme in this case, referring me to an appeal determined by the Secretary of State.¹⁵ The Council considered it to be neutral.
70. The Planning Practice Guidance advises that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority.¹⁶ I am mindful in this regard, that the requirement for the CIL payment is imposed on the developer, with the amount determined by scheme viability. Whilst that contrasts with Section 106 contributions, which are

¹⁵ APP/N5090/W/17/3189843

¹⁶ Paragraph: 011 Reference ID: 21b-011-20140612

focused on addressing specific mitigation measures required by a new development to make it acceptable in planning terms, the payment is nonetheless required to mitigate harm arising as a direct consequence of the development proposed. On that basis, inasmuch as the infrastructure which would be funded in part by the CIL contribution would also benefit the wider population of the Borough to varying degrees, I consider that it carries limited to moderate weight in this instance. I recognise that that differs from the significant weight afforded by the Secretary of State to the CIL payment in the appeal referred to above. However, whilst I have no information as to the specific evidence that led him to that view, I note that the development in that case was for a substantially larger scheme, presumably attracting a materially larger payment.

71. There would be benefits from construction employment, with additional jobs generated in the wider economy outside of construction. In generating additional households, the scheme would also increase gross additional household expenditure. These are not quantified but are matters that generally attract considerable weight. In addition, notwithstanding the existence of a five year supply of housing land, the provision of 81 units for rent on a brownfield site, in a sustainable location, with a good level of public transport accessibility at present, rising to very good in the near future once the Elizabeth Line opens, is a benefit to which I afford substantial weight.
72. One of the putative reasons for refusal related to affordable housing provision. Subsequent negotiations and clarifications led to an agreed position being reached. By the end of the Inquiry, it was a matter of agreement that the scheme could support six affordable homes (equating to 7.4% by habitable room) to be provided as Discount Market Rent units at London Living Rent.¹⁷ The Council confirmed that the provision is the maximum reasonable amount that can be provided by the development at this time. The planning obligation secures that provision, the rents, and early and late stage review triggers, which arrangements mean that there is no conflict with London Plan policies 3.10, 3.11, 3.12 and 3.13, policy H2 of the Local Plan Part 1, or policy DMH 7 of the Local Plan Part 2, which policies together and among other things seek to secure the maximum reasonable amount of affordable housing. However, since the provision is well below the policy target of 35% by habitable room, I afford it only moderate weight.
73. The planning obligation secures some £10,770 towards provision of the Council's planned Multi Modal Transport Spine on Nestles Avenue, with the development scheme also safeguarding land for that purpose. The arrangements secured are required to mitigate the impact of the development proposed given its car free nature. However, inasmuch as there would also be a benefit to the wider community, this is a matter which attracts moderate weight.
74. Provision of the on-site play space and communal amenity space does not attract any positive weight, since it is required for future residents and would not be available for use by others. The shortfall in the quantum of provision is addressed by a financial contribution secured through the planning obligation, towards improvements at nearby Cranford Park. Whilst intended to address a harm arising from the appeal scheme, there would be a shared benefit for the

¹⁷ ID10

wider community in this regard, a benefit to which I afford limited to moderate weight, given the limited scale of the contribution.

75. I recognise that the 848 square metres employment floorspace on the appeal site would, in terms of quality, be an improvement over the existing provision. However, any weight in this regard is tempered by the overall reduction of employment floorspace on the site. That said, I was advised, and no evidence was before me that challenged the evidence of the appellant in this regard, that the re-provided space could facilitate up to 72 jobs, compared to 50 potential jobs for the existing floorspace. Alternatively, it could deliver valuable community floorspace for local residents. All in all, I consider that the commercial floorspace to be provided can be afforded moderate weight.

Overall Planning Balance

76. The Council has a five year supply of housing land and there was no suggestion that any of the most important or otherwise relevant policies are out of date by reason of any conflict with the Framework. As such, the so-called tilted balance set out at paragraph 11 of the Framework is not engaged, with the appeal falling to be determined in accordance with the development plan, unless material considerations indicate otherwise.
77. I have found that the scheme would not materially prejudice comprehensive redevelopment of the larger Site B area, that there would be no harm to the heritage significance or character and appearance of the Conservation Area, and that the proposed parking provision would not harm vehicular or pedestrian safety at the time the development might be occupied. I have, however, found that in terms of its scale, massing, design and townscape/streetscape impact, the development would have a material adverse impact on the character and appearance of the surrounding area generally.
78. The benefits of the proposal as set out above are material considerations. However, as provided for in the development plan and the Framework new development is expected, amongst other things, to create high quality buildings and well-designed places that are sympathetic to and maintain the prevailing character of an area. Having weighed carefully all the above benefits they do not, in my view, outweigh the harm that I have identified. On balance therefore, I conclude that the proposal would conflict with the development plan taken as a whole and thus that the appeal should not succeed. The outcome of that balance would be the same, even had I afforded significant weight to the CIL payments as suggested by the appellant.

Jennifer A Vyse
INSPECTOR

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INQUIRY DOCUMENTS

HANDED UP DURING THE INQUIRY

ID1	Appeal Decision APP/X5210/W/15/3141159 (Arthur Stanley House, Camden)
ID2	Appeal Decision APP/F5540/A/06/2024587 (210 Bath Road, Hounslow)
ID3	Email from TfL to Victoria Porter re WebCAT datasets (7 February 2020)
ID4	Opening submissions for the appellant
ID5	Opening submissions for the Council
ID6	Decision Notice for the former Nestle Factory (No 1331/APP/2017/1883)
ID7a	Draft planning obligation
ID7b	CIL Compliance Schedule and Appendices
ID8	Design and Access Statement 3 Viveash Close
ID9a	Amended Plan - Fourth Floor Plan proposed No 1820-1104 Rev E
ID9b	Amended Plan - Fifth Floor Plan Amenity No 1820-0480
ID9c	Amended Plan - Eighth Floor Amenity No 1820-0481
ID10	Statement of common ground: Affordable Housing
ID11	Appearances for the Council
ID12a	Amended Plan - Fourth Floor Plan proposed No 1820-1104 Rev F
ID12b	Amended Plan - Fifth Floor Plan proposed No 1820-1105 Rev F
ID12c	Amended Plan - Eighth Floor Plan proposed No 1820-1108 Rev E
ID12d	Amended Plan - Nestles Avenue Elevation proposed No 1820-1301 Rev C
ID13	Suggested planning conditions (amended)
ID14	Amended version of the draft planning obligation
ID15	Revised CIL compliance schedule
ID16	Addendum to the Statement of Common ground relating to amenity space including further amended plans

- ID17 Final schedule of suggested planning conditions
- ID18 Council's closing submissions
- ID19 Appellant's closing submissions
- ID20 Appellant's written application for costs
- ID21 Council's costs rebuttal

SUBMITTED AFTER CLOSING WITH THE AGREEMENT OF THE PARTIES

- ID22 Signed S106 Agreement
- ID23 Email dated 6 February from the appellant to the Council re concerns about potentially wasted costs