



Appeal Decision

Inquiry Held on 8-9 and 13-16 October 2020

Site visits made on 7 and 12 October 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 November 2020

Appeal Ref: APP/F5730/W/19/3243706
628 Western Avenue, Park Royal, London W3 0TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by A40 Data Centre B.V against the decision of Old Oak and Park Royal Development Corporation.
 - The application Ref 19/0006/FUMOPDC, dated 23 November 2018, was refused by notice dated 12 July 2019.
 - The development proposed is demolition of the existing building and redevelopment to provide a ground plus ten storey building and two levels of basement to provide flexible industrial uses (Use Class B2/B8) over ground and first floor, offices (Class B1a) at second floor and hotel (Class C1) uses on floors three to ten, and associated car parking, servicing and all necessary enabling works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing building and redevelopment to provide a ground plus ten storey building and two levels of basement to provide flexible industrial uses (Use Class B2/B8) over ground and first floor, offices (Class B1a) at second floor and hotel (Class C1) uses on floors three to ten, and associated car parking, servicing and all necessary enabling works at 628 Western Avenue, Park Royal, London W3 0TA in accordance with the terms of the application, Ref 19/0006/FUMOPDC, dated 23 November 2018, subject to the conditions in the Schedule below.

Procedural Matters

2. I conducted an unaccompanied site visit on the day before the Inquiry opened and an accompanied site visit on the middle Monday. The former included an extensive walk around the area, including the Hanger Hill (Haymills) Estate Conservation Area, Masons Green Lane, Coronation Road and the area around the new Regency Heights development, and Western Avenue between the Hanger Lane Gyratory and the new development at Gypsy Corner and North Action tube station. The accompanied visit was confined to looking at the views from Heathcroft and The Ridings in the CA, as requested by the parties' representatives.
3. During the Inquiry I was presented with a final draft of a S106 agreement (the S106) and a Community Infrastructure Levy (CIL) Compliance Statement, which were discussed on the penultimate day of the Inquiry. Due to potential difficulties in obtaining the signatories of the various owners and those with an

interest in the site in the current Covid-19 pandemic, the appellant indicated that the completed signed and dated S106 may not be available for 28 days. It was submitted and dated 13 November 2020. I address the details of this below.

4. Any reference to the parties refers to the main parties, the appellant and Local Planning Authority (LPA), because no third parties/interested persons attended the Inquiry.

Main Issues

5. The main issues are:

- Whether the proposed hotel and office uses, which are contrary to development plan policy within Strategic Industrial Locations (SIL), would result in harm to the supply, functioning and operation of this and neighbouring land for industrial, logistics and related uses that support the functioning of London's economy; and
- The effect of the proposed development on the setting and significance of the Grade II listed Park Royal London Underground Station and the Hanger Hill (Haymills) Estate Conservation Area.

Reasons

Background – The Site and Surroundings

6. The 0.63-hectare site is located on the north side of the Western Avenue and accessed from a slip road on the eastern bound carriageway. It is diagonally opposite the Grade II listed Park Royal London Underground Station located within the Hanger Hill (Haymills) Estate Conservation Area, which lie 120 metres (m) to the south west on the other side of the road. It lies within the Park Royal SIL and Opportunity Area in the London Borough of Ealing.
7. On the adjacent site to the west is the 212-bedroom Park Plaza Park Royal Hotel, also owned and run by the appellant holding company. This opened in October 2017 following an initial hybrid planning permission in 2012 for the wider site, the hotel to its western part and outline permission on its eastern part for Class B1 offices (approximately 1870m²) and a Class B8 data centre (approximately 4,980m²). The outline part of the permission was not implemented and the only building on the appeal site is a temporary single-storey double-height warehouse storage facility, which was used during the construction of the hotel and is now used for storage by the Park Plaza Hotel Group.
8. Immediately to the north is another similar single-storey warehouse building, known as the Iron Mountain site, which uses the same access and is also used for storage by the Hotel Group. This was not included within the appellant's land when the application was submitted but has since been acquired by them. North of that are the railway lines and beyond that the heart of the Park Royal industrial estate within the London Borough of Brent. Adjoining the site to the east are large single- and two-storey industrial/ warehouse units (Classes B1c/B2/B8). Directly opposite on the south side of the A40 is the Tesla car showroom, accessed off Dukes Road. The whole of the wider appeal site, the Iron Mountain site and the sites to the east and south are within the SIL.

Strategic Industrial Location (SIL) Issues

Relevant Planning Policy

9. The development plan for the site comprises the London Plan adopted in 2016 (LP), the London Borough of Ealing Development (Core) Strategy adopted in 2012 (CS) and the London Borough of Ealing Development Management Development Plan Document adopted in 2013 (DMDPD). The development plan policies relevant to this issue are all contained in the LP and CS.
10. Part B a) of LP Policy 2.17 (*SILs*) states that development proposals in *SILs* should be refused unless they fall within the broad industrial type activities outlined in paragraph 2.79.
11. That paragraph states that *SILs* are London's main reservoir of industrial land comprising approximately 50% of London's total supply. It goes on to set out two types of *SIL*:
 - Preferred Industrial Locations (*PIL*) which are particularly suitable for general and light industry, storage and distribution, waste management, recycling, some transport related functions, utilities, wholesale markets and other industrial related activities.
 - Industrial Business Parks (*IBPs*) which are particularly suitable for activities that need better quality surroundings including research and development, light industrial and higher value general industrial, some waste management, utility and transport functions, wholesale markets and small-scale distribution.
12. Park Royal is one of only two industrial areas in London that are both a *PIL* and an *IBP* – the only one in west London – as set out on LP Map 2.7, which shows the location of *PILs* and *IDPs* in the capital. It plays a key strategic role in servicing the needs of central and Greater London, with the North Circular (A406) and Western Avenue (A40) giving excellent access to the M4 and M40 corridors, M25, Heathrow Airport and the large markets of west and central London. It comprises the largest single reservoir of industrial land in London and Europe's largest industrial business park and its strategic importance as such is consequently great.
13. London's *SILs* are the capital's main reservoir of land for industrial, logistics and related uses. They are given strategic protection as they are critical to the effective functioning of London's economy, allowing 24-hour operation of the types of activities that would not be appropriate in other, more sensitive locations such as residential areas.
14. Part B b)-d) of Policy 2.17 and explanatory paragraph 2.84 say that development in *SILs* for non-industrial or related uses should be resisted other than as part of a strategically co-ordinated process of consolidation, or where it addresses a need for accommodation for SMEs or new emerging industries, or where it provides local, small scale, 'walk to' services for industrial occupiers (workplace crèches for example), or office space ancillary to industrial use. Park Royal *SIL* is not the subject of a strategically co-ordinated process of consolidation.
15. Neither the proposed hotel nor offices meet the criteria in Part B a)-d). Consequently, the appellant acknowledges that the proposed development

- would not comply with LP Policy 2.17, nor consequently with the development plan overall.
16. Part C of Policy 2.17 states that development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial type activities. Despite acknowledging non-compliance with Policy 2.17 and the development plan overall, the appellant argues that the proposal would fulfil this Policy's overall objective because it would bring forward more SIL-compliant floorspace than a standalone Class B2/B8 development and would not prejudice the operation of neighbouring land for such uses. In other words, that it would not compromise the integrity or effectiveness of the Park Royal SIL in accommodating industrial type activities. It is argued that this is a significant material consideration that indicates the appeal should be allowed otherwise than in accordance with the development plan.
 17. Part C addresses the same concerns expressed in the first main issue: whether the proposed hotel and office uses would result in harm to the supply, functioning and operation of this and neighbouring land for industrial, logistics and related uses that support the functioning of London's economy (SIL-compliant uses or SIL uses in shorthand). The assessment of this question was the subject of extensive evidence and I address it in the sub sections below.
 18. The LPA acknowledged at the Inquiry, despite the wording of its first refusal reason, that the development would not in fact breach CS Policy 3.3 (*Promote Business & Industry in Park Royal*). This is because part (a) of the Policy aims to retain business and industry throughout the Park Royal industrial estate, encouraging sustainable, economic development and improvements to access and amenity and the proposal would (at least) do that.
 19. The first refusal reason also states that the proposed development would be contrary to relevant draft new London Plan 2018 (NLP) Policies E4 and E5, and Second Revised Draft Regulation 19(2) Old Oak and Park Royal Development Corporation Local Plan 2018 (OPDC Plan) Policies SP5 and E1. These draft policies are relevant because they set out likely future planning policy concerning acceptable uses in SILs including specifically the Park Royal SIL, which the site will continue to form part of.
 20. In terms of the OPDC Plan, Policy SP5 requires proposals to support the delivery of 40,000 new jobs between 2018-38 and protect, strengthen and intensify the Park Royal SIL. Policy E1 seeks to do likewise by ensuring proposals "a) are comprised of uses suitable for broad industrial type activities, as defined in Mayoral policy and/or guidance, that contribute to meeting the strategic target of 40,400 new jobs ", "b) achieve no net loss of industrial floorspace and where feasible, intensify the use of sites", "c) provide a mix of unit sizes and in particular, small business units", "d) provide adequate servicing and delivery... particular consideration should be given to the need for appropriate yard space provision to allow for the viable function of businesses", and "e) are well designed for their intended purpose having regard to providing flexibility for a range of broad industrial type activities, including future employment growth sectors." These issues also pertain to the detailed consideration of whether the development would comply with Part C of Policy 2.17, which I address below.

21. During the course of the Inquiry the LPA apparently accepted the OPDC Plan Examining Inspector's Interim Findings and has approved a Schedule of Modifications for public consultation, including the removal of the Cargiant site allocation (at Old Oak North) and its replacement with alternative allocations to address housing and employment needs in the OPDC area. The LPA says that there were no unresolved objections to the SIL policies in its Plan. The appellant did not challenge that evidence and agreed that the development does not comply with the broad industrial type activities appropriate in the SIL. However, there is still some way to go in the adoption of the OPDC Plan, so I can certainly attach no more than moderate weight to the clear breach of Policy E1 and any possible breach of Policy SP5.
22. In terms of the NLP, the parties agree that the Plan as proposed to be amended as a result of the Secretary of State's (SoS's) Direction should be given significant weight as the likely policy shape of things to come – given the advanced stage it has reached – albeit not full weight because the Mayor of London is still discussing and negotiating possible changes with him¹. However, the LPA accepts that the NLP cannot be published unless the Mayor satisfies the SoS that he has made the modifications to conform to the Direction or the Direction is withdrawn, as set out in Section 337 of the Greater London Authority Act 1999. I must therefore assume that the likely final wording of NLP Policies E4 and E5, and indeed E6 and E7 which are also concerned with industrial and related uses, is the wording as set out in the SoS's Direction.² My analysis below is therefore predicated on that wording.
23. There are clear links between all these Policies since they cross-refer to each other. Policies for development management in SILs must inevitably be and certainly are linked to strategic policy designed to ensure an adequate supply of industrial land in London for the foreseeable future.
24. The LPA essentially argues that Part C of Policy E4 (*Land for industry, logistics and services to support London's economic function*) would be breached by the proposed development because it cross-refers to Policy E7 (*Industrial intensification, co-location and substitution*) and Policy E5 (*SILs*). Policy E4 is concerned with the planning, monitoring and management of a sufficient supply of industrial sites and as such is not specifically a development management policy in the sense that it does not state which types of application should be approved or refused. But the way such industrial sites are managed is, by definition, a development management issue. 'Management' must necessarily include determining which uses in SILs will be acceptable.
25. Policy E4 Part C specifically refers to the management of industrial capacity. Part B of Policy E7 makes clear that consolidation of an identified SIL or Locally Significant Industrial Site (LSIS) through intensification should only be considered through a plan-led process and not through ad hoc planning applications. Policy E5 Part B repeats this. This reflects the existing LP in Policy 2.17 Part B b). The proposed development would come forward through the current ad hoc planning application and so it would be contrary to both existing and likely future development plan policy. The failure of the LPA to cite Policy E7 in its first refusal reason is irrelevant because it cites it now.

¹ As per CD/E17 – Letter from Sadiq Khan to Robert Jenrick MP SoS, 24 April 2020

² CD/E6 and as comprehensively set out in full, with red text denoting the SoS Direction as attached to Ms Ellis's Opening Statement on behalf of the LPA

26. That said, I agree with the appellant that Policy E5 Part C is permissive of SIL-compliant uses and says nothing about non-compliant uses. I agree that the SoS's Direction that the "*no net loss of industrial floorspace*" provision in Policy E4 Part C and the provision that non-SIL uses should be refused in SILs except through a plan-led process of SIL consolidation set out in Policy E5 Part D is deleted is significant. This is because the SoS clearly considers that it would make the NLP more effective in meeting market needs by deleting what he considers to be an overly restrictive development management policy. Nonetheless, for the reasons set out above, I consider the separation of strategic from development management policies to be a false distinction. Because the scheme proposes the non SIL-compliant hotel and office uses, it would be contrary to NLP Policies E4, E5 and E7.
27. However, more relevant is the LPA assertion that the development would specifically breach Policy E5 Part E. This states: "*development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial-type activities and their ability to operate on a 24-hour basis.*" This mirrors the requirement of existing LP Policy 2.17 Part C. Three key issues were considered in evidence at the Inquiry that relate to whether the development would compromise the integrity or effectiveness of Park Royal SIL, the first main issue in this case. The next sub sections address these three key issues.

The Likely Use of the Site if this Scheme was Refused

28. This is a relevant issue because the proposal includes a total SIL floorspace, including car parking, of 5,185m², slightly more than the 4,980m floorspace proposed for the data centre in the 2012 outline planning permission.
29. The appellant says it has no current plans to pursue any entirely SIL-compliant scheme and is likely to do nothing with the site if the appeal is dismissed in the hope of higher land values. However, that is irrelevant because it may change its mind in response to any number of factors.
30. The appellant has tested the viability of five different scenarios that deliver solely SIL uses (Use Classes B1c, B2 and B8): a single-storey scheme with a plot ratio of 47%, with a 65% plot ratio, a 2-storey scheme, and single-storey and 2-storey schemes on the extended site (i.e. including the Iron Mountain site). The scheme generating the highest residual land value (approximately £2.5 million) was the first of these. Both 2-storey schemes would result in a significant loss in residual land values.
31. The Hotel Group is seeking a site for its own in-house laundry facility, as it has set out in its case and which it intends to accommodate on the first floor of the proposed building. This could be alternately satisfactorily housed in a single-storey Class B2 building on the site or the extended site, where all the site's locational advantages in terms of proximity to the Group's other London hotels would be availed.
32. The LPA did not challenge the appellant's above viability assessments, although it questioned why the appellant had not considered a 4-5 storey industrial building similar to the permitted Generator building likely to be delivered off the North Circular nearby or other multi-storey schemes highlighted by Mr Harding in his evidence for the LPA. Mr Stephenson for the appellant considered that if a 2-storey scheme was unviable then so would a scheme

- with even more floors. I am inclined to agree because The Generator is being developed as part of a multi-use scheme including a large amount of residential that could cross-subsidise the risk of bringing forward what is a relatively new form of industrial premises to the market. The multi-use schemes Mr Harding visited in Germany have been delivered by local or regional government, which is not necessarily an indication of viability here and now in the UK. In any case, the LPA has not demonstrated through its own viability appraisal that any such multi-level scheme would be viable.
33. The LPA suggests that the appellant has failed to consider whether a data centre scheme could be delivered, as per the original 2012 planning permission. Mr Sheldon for the LPA updated the situation regarding the electricity supply to the site, which the appellant explained was the reason why the outline permission was not pursued at the time.
34. Mr Sheldon explained that UKPN are constructing a new substation in Atlas Road (Old Oak Common), which will be operational in January and sufficient to power the HS2 railway tunnel boring machines nearby; SSE is upgrading its substation at Perivale; and additional capacity will also be added to the National Grid via a fourth primary transformer at Willesden. He said that as a result of this additional capacity OPDC had received a number of recent pre-application enquiries regarding the development of new data centres in the area. One of these, which appears likely to go ahead because the site has been bought by a data centre developer for a price of more than £8 million per acre, is the redevelopment of the Renault showroom site on the south side of the A40 on Concord Road less than 1km to the east of the site. This evidence was unchallenged.
35. The Renault site is larger than this site. This site could not accommodate the layout of the data centre building the subject of the 2012 outline permission because the access road layout has since been changed. But I see no reason in principle why the position of a similar sized data centre building (Class B8) could not be accommodated on the appeal site, notwithstanding I do not know the sizes of sites being sought for data centres in the locality or the cost of connecting the site to the enhanced electricity supply. It appears likely that the reason for not progressing the data centre proposal a few years ago – the substandard electricity supply – has now been or very soon will be satisfactorily overcome and I conclude that there is no cogent reason why a data centre, a SIL-compliant use, could not be developed in principle on this site.
36. For these reasons I consider that the appellant is likely to bring forward either a single-storey Class B1c/B2/B8 scheme on the existing or enlarged site, possibly to accommodate the Hotel Group's search for a suitable location for its laundry facility, or that it would be developed as a standalone data centre if the appeal is dismissed. The SIL floorspace of such a data centre would be about the same as that being brought forward in the appeal scheme. The appellant is unlikely to leave the site unproductive, especially in the medium to long term.

The Suitability of the Proposed Scheme

37. The LPA's case is that the hotel and office uses would compromise the integrity and effectiveness of the site to accommodate the proposed SIL uses from first occupation of the development and in the long term, including the laundry on the first floor. These objections concern alleged operational problems that

would arise from the design and layout of the SIL space, and parking and servicing issues.

Design and Layout

38. Concern was expressed by the LPA in Mr Harding's evidence regarding what he considers an excessive out of the ordinary loading capacity of the SIL floorspace at 37.5 Kn. But he conceded that this would actually be advantageous because a wider range of SIL users could use the space. The objection is in fact more related to the costs of providing such high floor loadings, the LPA's point being that this is only viable given the 8 floors of hotel use above the SIL space. That may well be, but the provision of a higher than normal loading capacity is beneficial to SIL users.
39. Mr Harding was concerned in his evidence about the break-up of the SIL space by the columns necessary to support the floors of the building above it. But the 12m x 12m columns in the scheme are greater than the 7.5m x 8m columns in The Generator scheme, which he cites as a good example of a local multi-level SIL development. Likewise, he queries the unusual 6m floor to ceiling height of the SIL space when compared to the 4.5-5.5m height of that in The Generator. Clearly, the larger amount of unimpeded SIL space resulting from a wider column structure and higher floor to ceiling heights would only ever be beneficial to a wider range of potential SIL users.
40. The LPA pursues the criticism regarding the lack of natural light to the ground floor SIL space and points out that the substitution of the brushed metal vertical cladding panels currently shown on the eastern elevation of the building at ground and first floors by translucent glazing panels may not be a purely aesthetic minor amendment to the scheme, presumably because it could affect noise transmission. I am unconvinced by this argument; I see no reason in principle why such translucent glazing could not prevent adverse noise transmission to the upper office and hotel floors, in the same way that the louvered windows of those uses protect them from noise from the adjacent SIL uses to the east.

Parking and Servicing

41. The LPA raises concerns about the lack of parking space, specifically for the fleet of six 7.5t electric trucks that are to be used to service the Hotel Group's laundry³. I acknowledge that such vehicles would have to be parked somewhere when they are not being actively used, but not necessarily on this site. Deliveries to other SIL occupiers are more than likely to be via third party logistic companies rather than their own vehicle fleets and so there is no need for any parking space for them. The LPA requested, following advice from the Greater London Authority, that the generous parking provision in the basement of the originally submitted scheme should be drastically reduced and this has been done. The proposal now complies with the relevant parking standards and the LPA's criticism of the proposal on this point is therefore of little relevance.
42. More relevant is its criticism of the service arrangements for the different SIL users and the potential for conflict between different uses in the development. The access and egress arrangements seek to separate the vehicular and pedestrian servicing requirements of the two hotels, the offices and the SIL

³ CD/B7 Transport Assessment, paragraph 6.3.10

uses by giving priority to the SIL users' HGV movements. The LPA argues that the service arrangements are practically unworkable, because the yard space and number of loading bays for the SIL uses is insufficient, and the fact that these arrangements must be shared by the existing Park Plaza Hotel and the Iron Mountain site. The question is whether they are so unworkable that they would frustrate the long term SIL use of the ground and first floors of the building.

43. The building is designed so pedestrian access for the offices and SIL uses are on the southern road elevation of the building and for the hotel on the western elevation next to the car including taxi drop-off pull-in.
44. The appellant sought advice from Savills on the flexibility of use of the SIL floors in the building and the degree to which it maximises the density of industrial uses on the site. This advice also addresses the servicing of the proposed building. It states:
 - *"An area of this size is will struggle to be efficient with two goods lifts and shared access to three loading doors. On the combined quantum of industrial space, we would anticipate six loading doors and double the yard size."*
 - *"The market for a first floor unit of this configuration will be limited. Rents will need to be considerably lower than typical Park Royal industrial units secure, in order to attract an occupier willing to accept the compromise. The ground floor will also be less attractive to potential occupiers of this space as they will need to share access facilities, given it is unlikely both the ground and first floor would be let to a single occupier (due to the size of the unit). This is principally because of the limitations of the design in terms of the yard space and loading doors as set out above, and the potential conflict at the ground floor between the occupiers who will have to share the loading space, which will inhibit occupier efficiencies."⁴*
45. Although Savills took into account the location of the laundry on the first floor it is unclear whether its analysis took into account the Iron Mountain warehouse building and the fact that it would be serviced through the SIL yard of the new development. Since this is not mentioned I must assume that this would only serve to intensify the use of the limited yard space.
46. The laundry is likely to require the daily use of two of the three loading bays, which would constrain the loading and unloading requirements for the other SIL users on the ground floor. It is clear that the siting of the goods lifts on the ground floor of the SIL space would necessitate the creation of a secure loading/storage area to separate the laundry deliveries from those of the other ground floor SIL occupiers, who are likely to be a number of different small businesses. But Mr Harding has shown on his sketch plans that this would be achievable.
47. Vehicular servicing of the SIL, offices and both hotels would occur via a number of control points (traffic lights or similar controls) as set out in the Transport Assessment (TA) and Delivery and Servicing Plan (DSP). This and the programming of deliveries would be managed by a dedicated Service

⁴ CD/A31 628 Western Avenue – Industrial Development Density Assessment, November 2018, page 13, Savills

Management Controller or Controllers (SMC). I agree that this could give rise to problems, such as when an unscheduled HGV may turn up out of the blue and has to park in one of the hotel coach bays when it was required to be used by a coach to unload or pick up hotel guests. But if it works as designed – and I see no reason why it wouldn't most of the time – incoming and outgoing traffic pertaining to all the separate uses in the building should be able to satisfactorily service each use without significantly conflicting with vehicles servicing the other uses. I see no particular reason why the SMCs, who would be located in rooms on the ground floor in the north west corner of the building, need to have a direct view of the SIL service yard because they will rely on CCTV to see vehicles accessing and egressing the site.

48. In this context I note that neither the Highway Authority nor Transport for London raised any substantive objection to the servicing arrangements at application stage. The LPA accepted⁵ that the proposed delivery and servicing management strategy for the site is generally acceptable having regard to the type, frequency and nature of the deliveries to the site, with the qualification that they should not adversely affect the servicing of the Iron Mountain site.
49. The appellant suggests overcoming any such concerns with an amendment to suggested Condition 23, which requires the submission of a new DSP including details of deliveries to and from the Iron Mountain site. The LPA questions the enforceability of such a condition if the appellant were to sell the Iron Mountain site. I acknowledge enforceability of such a condition would be problematic were such a sale to occur and the building be occupied by a completely unrelated warehouse business, but I consider this unlikely. It is in the appellant's interest to make sure the servicing arrangements to its two hotels, offices, laundry and other SIL space is not hampered by any other warehouse or industrial use on the Iron Mountain site in separate ownership. As the owner of the wider site it is in the best position to control that since it determines who would use that building, which is a very small part of the overall floorspace.
50. Mr Harding compared the servicing of the scheme unfavourably with that of The Generator, the plans for which are set out in Appendix 2 of his Proof. He criticises the appeal scheme because its west elevation could accommodate a larger number of SIL loading bays with no need to separate SIL traffic from office and hotel traffic if these uses were absent from the scheme. But The Generator is also serviced from its side gable by HGVs, albeit that cars and vans can access it from the front elevation. He criticises the distance from the good lifts to the SIL floorspace. But in The Generator the distance is 96m, whereas for the appeal scheme it is between 60m and 78m on the first floor. The Generator has no ground floor SIL space, unlike the appeal proposal – such space is not dependent on goods lifts. For these reasons I consider the servicing arrangements for the appeal scheme to be on a par with those for The Generator, which the LPA cites as a good example of one of the new multi-storey industrial developments.
51. In summary, the servicing arrangements would not be ideal, because they are constrained by the proposed size of the SIL yard, only three SIL loading bays and the service road layout and its need to separate hotel and office traffic from SIL traffic. But I see no reason in principle why they would not work successfully as envisaged; they would not frustrate the long term SIL use of

⁵ CD/C2 Officer Committee Report, paragraph 6.80

the ground and first floors of the building. It is in the appellant's direct interest to ensure that they function effectively and efficiently. I make this conclusion based on Mr Harding's point that SIL space would only be Grade B or C lettable space and that some users would be put off by such servicing constraints. But that does not mean that the ground floor space will not be let. Mr Harding says in his evidence that Park Royal has recently experienced the lowest void rate in a considerable period of time and that the total amount of available SIL floorspace has actually declined since the Covid pandemic.⁶

Effect on SIL Uses Within the Proposed Building and Neighbouring SIL Uses

52. The appellant describes the wider site and the Class B2/B8 site next door as an 'island' within Park Royal. These sites and those further east – comprising another B2/B8 site, three car showrooms and a Travelodge hotel – do form a sort of 'island' separated from the rest of Park Royal SIL to the south side by the A40 and the north by the railway lines. This is relevant to the extent that the proposed development has the potential to impact on the integrity of this and the adjoining sites to the east accommodate SIL uses, and the existing hotel to the west, but no other SIL sites within Park Royal.
53. As the 'agent of change' it is imperative that the proposed hotel and office uses do not imperil the use of the sites to the east for the full range of SIL uses. Equally it is important that the SIL uses on the ground and first floors of the building do not prejudice the amenity of hotel guests on the upper floors or those in the Park Plaza hotel immediately to the west.
54. There is no suggestion by the LPA that this would be the case for any of the hotel rooms or the offices, only for the outside swimming pool area on the ninth floor. It accepts that the 'sealed' design of the building would prevent noise from the industrial space being transferred to the hotel or office floorspace, and to the adjacent existing hotel. It also accepts that harmful noise from the nearest B2/B8 units to the east will likewise not penetrate the hotel rooms or its restaurant and bar areas on the upper floors of the site. I consider that the ninth-floor swimming pool is unlikely to be seriously affected by any such noise, given its distance away.
55. Other sites within Park Royal SIL would not affect the use of the hotel because they are further away, on the other side of the A40 or beyond the railway lines. Likewise, the hotel and offices as 'agents of change' would be unlikely to prevent the use of any such SIL sites for the full range of SIL uses owing to the separation distance between these uses.
56. Proposed Condition 28 requires all the measures set out in the Noise Impact Assessment⁷ to be implemented in full and adhered to for the lifetime of the development. Providing such a condition was complied with, I am satisfied that the SIL floorspace in the development and that on the neighbouring sites to the east could function in perpetuity without causing adverse noise or vibration to hotel guests, both in this and the existing adjoining hotel, and the office users. The hotel and offices, as 'agents of change' would not compromise the SIL users on these or any other sites in Park Royal SIL.

⁶ CD/H8 Mr Harding's Proof, paragraph 6.7

⁷ CD/A30 Noise Impact Assessment, MLM Group, November 2018

Conclusions on SIL Issues

57. The LPA argues that only one sixth of the proposed floorspace is SIL space compliant with existing and proposed planning policy but no enabling justification has been put forward for allowing the other five sixths of the space – the hotel and office space. The appellant says it does not need to do so because it would deliver approximately three times the amount of SIL space that a conventional single-storey B2/B8 building would, which is the likely fall-back position.
58. I explain above that I see no in principle reason why a data centre with a similar amount of floorspace to the SIL space proposed in the appeal scheme should not now be brought forward on the site. However, since the total amount of such SIL space is unlikely to be substantially greater, there is no reason to prefer data centre space over the SIL space in the appeal scheme. One type of SIL space is no better than another in terms of existing and likely proposed policy.
59. I have found that, although not ideal, the servicing arrangements for each use on the site would be likely to function efficiently and effectively and that the development would not prejudice the long term use of neighbouring SIL sites to the east for Class B2/B8 uses or indeed the SIL uses within the proposed building.
60. The LPA cites three previous appeal decisions in support of its arguments.⁸ All of these appeals were for non-conforming uses in SILs, including effectively the Leyton appeal scheme because the Inspector in that case determined that he had insufficient evidence to determine how much B8 and how much Class A1 floorspace there would be. Whilst a large element of non-conforming uses are also proposed here, I consider that the development would result in a comparable maximum amount of space to that likely to come forward through a data centre development. Consequently, those appeals were not comparing like schemes with the proposal here.
61. The hotel and office space could be provided without compromising the integrity of this or adjoining sites for SIL uses. For these reasons it would not result in harm to the supply, functioning and operation of this and neighbouring land for industrial, logistics and related uses that support the functioning of London's economy.
62. There is no requirement in LP Policy 2.17 to intensify the use of such SIL land, and certainly not by incorporating non-compliant uses. Failure to comply with Policy 2.17 means that the development would fail to comply with the development plan as a whole. Neither is there any specific support in NLP or OPDC Plan policies for intensification in SILs with such mixed-use schemes. For the reasons set out above, the proposal would not comply with NLP Policies E4, E5 or E7, nor with ODPC Plan Policy E1.
63. However, there are clearly benefits in maximising the use of such brownfield land, not least in London where the demand for land for a range of uses is very high because it is fuelled by significant economic growth pressures. I address the benefits of the proposal in the planning balance below, specifically whether

⁸ CD/F1-F3

they comprise material considerations that indicate the appeal should be decided otherwise than in accordance with the development plan.

Heritage Issues

64. The significance of the Grade II listed Park Royal London Underground Station (the LB) and the Hanger Hill (Haymills) Estate Conservation Area (the CA) are linked because they were designed by the same architects, Welch and Lander, and built contemporaneously. Construction of the Estate started in 1928 and finished after the war; the station was completed and came into use in 1936. The modernist design of the station is reflected in the locally listed buildings in Hanger Green surrounding it and also in the Estate's most historically and architecturally important houses, those with modernist designs most of which are situated in The Ridings.
65. The station is important as a piece of classic Art Deco Modernism because it emulates Charles Holden's metroland London Underground Stations at Arnos Gove and Southgate, with its circular ticket hall and clerestory windows as well as his prototype 'brick box with concrete lid' station at Sudbury Town just to the north, all Piccadilly Line stations. Felix Lander was one of Holden's former assistants. The 1987 listing includes the adjacent shops with flats above comprising 1-6 Station Chambers and 1, 1A, 1B-11, 11A and 11B Hanger Green, the three-storey block that turns the corner into Corringway.
66. The station and the various buildings at Hanger Green comprise the central nucleus of the Hanger Hill Estate and comprise its commercial and denser residential flatted development.⁹ These include the distinctive modernist freestanding block of flats at Hanger Court on the south side of the Green as well as the Park Royal Hotel and building next to it (now offices) originally designed as a petrol filling station, facing the Western Avenue, all locally listed buildings.
67. There is no doubt that the prominent tower of Park Royal Station with its illuminated (at night) London Underground roundels is a focal point both from within the Estate and from the A40. It signifies the entrance into the Estate from the Western Avenue and the centre of its commercial core from the approach roads within the Estate, particularly Heathcroft. The prominence of the station tower emphasises its focus as a way-marker and focal point for the convergence of the residential roads at Hanger Green, the Estate's transport and commercial hub. This original design intention of the architects comprises a good example of 1930s metroland town planning, which remains apparent today.
68. Hence the settings of both the LB and the CA are important and inextricably linked elements in the significance of these designated heritage assets. The most prominent views of the station's tower are undoubtedly from the station platforms and from the east and west along the Western Avenue. But the view from the lower end of Heathcroft – Viewpoint 1 in Ms Kitts evidence and View 4 in the appellant's evidence (VP1 in shorthand) – is also an important prominent view as is Ms Kitts Viewpoint 2 (VP2) further up Heathcroft to the west.
69. From VP1 it is clear from the appellant's montages¹⁰ that the new building would largely obscure the present view of the open sky behind the station

⁹ CD/H9 Maria Kitts Proof of Evidence, Appendix C, Figure 13

¹⁰ CD/H6 Gareth Jones Proof of Evidence, Appendix C, View 4 (Summer) & 4W (Winter)

- tower. This would reduce the tower's architectural prominence as a local way marker and detract from the architects' design intention for it to read as a focal point of the Estate's commercial hub. It would also interrupt the clear horizontal modernist emphasis of the shops and flats facing onto Hanger Green behind the station, which are part of the LB. This undoubtedly would detract from both the LB's and the CA's settings.
70. I accept that impact on the settings of both the LB and the CA need assessing not just from this important viewpoint but from a range of others as well, because the station tower is realistically perceived kinetically by a pedestrian walking through the local area. Mr Jones View 10 montage, which is closer to the triangular Hanger Green and the station than VP1, also includes the 17- and 27-storey tower blocks at The Regency Heights development off Coronation Road in the main part of Park Royal north of the railway line. I note the appeal building would be visible behind the station tower but the upper part of the tower would still be seen against the sky from this viewpoint. I also note that the station tower would retain its prominence when seen approaching from east or west along the A40, notwithstanding the bulk and height of the proposed new building.
71. Ms Kitts VP2 shows the view of the station tower and the buildings behind it from a point on Heathcroft between Ashbourne Road and The Ridings. Heathcroft slopes down from The Ridings to the station and so from here, at a higher elevation, the station tower is viewed with the existing Park Plaza Hotel directly behind it. The appeal building would be behind that.
72. I am conscious that even at VP1 it is possible to see the very top of the existing Park Plaza Hotel including its illuminated signage at night. I have taken this into account, as well as the views of the Regency Heights tower blocks in the appellant's View 10, in terms of assessing the cumulative impact on the setting of the LB and the CA.
73. I have concluded that the impact of the proposed building on VP1 would detract from both the LB's and the CA's settings as this is an important viewpoint at the heart of the CA's commercial hub, because the station tower's architecturally dominant form would be diminished. The imposition of the proposed building into the winter view from VP2 and into Mr Jones View 10 would also give rise to adverse cumulative harm to their settings when added to the towers at Regency Heights and the roof and sign of the Park Plaza Hotel. This is because whilst the proposed building is only half the height of the 27-storey Regency Heights tower block it would be much closer at only 120m away, whereas the latter is approximately twice as far away.
74. I consider that this combined harm to their settings would result in less than substantial harm to the significance of both the LB and the CA, because the setting of the station and its prominence within the commercial hub of the Haymills Estate remains an important part of its historical and architectural importance. I would agree with the LPA that this harm would fall within the lower level of the spectrum of less than substantial harm.
75. Section 66 (1) of the Act¹¹ requires special regard to be given to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses. The statutory duty under Section 72 (1) of

¹¹ Planning (Listed Buildings and Conservation Areas) Act 1990

the Act to pay special attention to the desirability of preserving or enhancing the character of the CA is not engaged since the site lies outside the CA. However, paragraph 194 of the National Planning Policy Framework (NPPF) requires that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.

76. LP Policy 7.8 (*Heritage Assets and Archaeology*) Part D requires development affecting heritage assets and their settings to conserve their significance by being sympathetic to their form, scale, materials and architectural detail. Policy 7.4 (*Local Character*) Part B e) requires new buildings to be informed by the surrounding historic environment. Policy 7.7 (*Location and Design of Tall and Large Buildings*) Part E states that the impact of tall buildings in sensitive locations such as CAs, LBs and their settings should be given particular consideration. These LP policies are essentially repeated, with some minor variation in wording, in DMDPD Policies 7C (*Ealing Local Policy - Heritage*) and 7.7 (*Ealing Local Variation - Location and Design of Tall and Large Buildings*). These policies all reflect the current NPPF.
77. The above policies on high buildings and local character address a range of issues. There is no LPA objection to the design, height or prominence of the proposed building apart from its harm to the LB and CA. Tall buildings are allowed in principle in Opportunity Areas like this. Nonetheless, all these policies, when read together with LP Policy 7.8, essentially require heritage assets' significance to be conserved. For the above reasons the proposed development would fail to comply with all these development plan policies. It would also fail to comply with the draft OPDC Plan Policy D8 (*Heritage*), which has similar requirements, albeit I give this policy no more than moderate weight owing to the current stage the OPDC Plan has reached.

The Planning Balance

78. The parties agree that the proposed development would conflict with development plan policy – LP Policy 2.17 – because most of its floorspace would be for hotel and office uses, non-conforming uses within SILs. I agree with the LPA that this would also be contrary to NLP Policies E4, E5, and E7, to which significant albeit not full weight should be given in view of the stage the NLP has currently reached. I conclude that its adverse impact on the LB and CA would fall within the lower level of the spectrum of less than substantial harm and that it would fail to comply with development plan policy – LP Policies 7.4, 7.7 and 7.8, and DMDPD Policies 7C and 7.7. I give considerable importance and weight to the scheme's failure to protect the settings and the significance of both the LB and CA. The development would not comply with the development plan overall.
79. Section 70(2) of the principal Act¹² says that in dealing with a planning application regard shall be had to the provisions of the development plan, so far as material to it. Section 38(6) of the PACPA¹³ says that if regard is to be had to the development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

¹² Town and Country Planning Act 1990

¹³ Planning and Compulsory Purchase Act 2004

80. There are a number of material considerations in this case. First, I have found that the development would not result in harm to the supply, functioning and operation of this and neighbouring land for industrial, logistics and related uses that support the functioning of London's economy, the first main issue in this appeal. Although the SIL floorspace proposed is unlikely to be any greater than that which could be provided by the development of a policy-compliant Class B8 data centre, it is unlikely that such a data centre or any other SIL use would deliver significantly more SIL space.
81. Second, the LPA has no objection to the design, bulk, mass or height of the proposed building apart from its effect on the LB and CA. I am aware from the appellant's other viewpoints¹⁴ from Coronation Road, east and west along the Western Avenue and from Kendal Avenue, that the building would have a dominant presence in the local area due to its height and massing. But I consider, like the LPA, that its impact from these viewpoints, including its effect on the station tower along the Western Avenue, would be imposing but quite acceptable.
82. Third, the 'island' nature of the site, separated from the rest of the Park Royal SIL to the north of the railway lines and by the A40 from that part of it to the south, would mean it would have no real impact on the function of Park Royal as one of the most important SILs in London and its role as a reservoir of industrial floorspace. The design of the building will ensure that the sites adjacent to the east would not be compromised in their role of continuing to deliver SIL-compliant space. The hotel use would complement that of the Park Plaza Hotel next door whilst the building's design would prevent any harmful noise or vibration to hotel guests from the SIL space on the building's ground and first floors. The hotel and office uses in the building would have no impact on other sites in the Park Royal SIL. There is no suggestion from the LPA or the Highway Authority that the A40 would not satisfactorily cope with the additional traffic generated by the scheme.
83. Fourth, the important benefits of the proposed hotel, despite its non-compliance with SIL policy. The hotel would provide 466 guest rooms. LP Policy 4.5 (*London's Visitor Infrastructure*) seeks to achieve 40,000 additional hotel bedrooms by 2036 and these should be focused in town centres and opportunity and intensification areas, where there is good public transport access to central London. Likewise, DMDPD Policy 4.5 (*Ealing Local Variation - London's Visitor Infrastructure*) states that hotels should be directed to the Borough's town centres and to locations with good public transport accessibility.
84. The LPA does not contest the demand for hotel places in London. Park Royal is an Opportunity area and the site is well served by public transport, with a PTAL of 3 or 4. It is a 5-minute walk to Park Royal LUL station on the Piccadilly Line and no more than a 15-minute walk to Hanger Lane LUL station on the Central Line. There are bus stops within a 5-minute walk of the site, with buses regularly connecting to a range of other areas in London. There is no doubt that the site's accessibility by public transport will increase when the HS2 station is opened at Old Oak Common.
85. NLP Policy E10 (*Visitor Infrastructure*) particularly encourages serviced visitor accommodation to outer London in town centres and Opportunity Areas in

¹⁴ CD/A29 Townscape and Visual Impact Assessment, Views 1, 2, 3, 8 & 9

accordance with the sequential test set out in Policy SD7 (*Town centres: development principles and Development Plan Documents*). Policy SD7 adopts the town centre first approach.

86. The LPA's third refusal reason related to the introduction of the hotel and office uses outside Park Royal Neighbourhood Centre but it decided not to defend this refusal reason. I note that a sequential assessment of alternative sites in nearby town, district and neighbourhood centres was prepared by the appellant at application stage.¹⁵ This concluded that there are no sequentially preferable sites available and suitable for the proposed hotel and office uses even when flexible on format and scale. This is unchallenged by the LPA. In any case, NPPF paragraph 89 states that impact assessments on town centres are only necessary for retail and leisure developments above 2,500m².
87. Despite this, I have taken due note of the objection to the proposal from the owners of the Holiday Inn Express at North Acton.¹⁶ However, I note the Economic Impact Report¹⁷ sets out that London has the highest occupancy rate of all top European cities (82%) and the fourth highest average daily rate of €169; a projected need for 2,962 additional rooms per year, 20% more than London's additional supply of 2,468 per annum; and that 466 bedrooms would equate to 16% of the annual net demand. Whilst the proposed hotel would obviously be very convenient for businesspeople visiting businesses in Park Royal, there is no reason to object to it catering for a wider range of guests including tourists to the capital. These hotel rooms would be a major benefit of the scheme, especially since they could be delivered without compromising the delivery of the same amount of SIL space as would be delivered through a standalone SIL-compliant single-storey B2/B8 building.
88. Fifth, the development is estimated to generate 320 full time equivalent (FTE) jobs on the site (390 total jobs) on its completion and operation. I agree with the LPA that the main purpose of extant and future planning policy is to ensure that SILs act as a reservoir of SIL-compliant industrial and warehouse floorspace. But I note that one of the main aims of the OPDC Plan – and indeed one of the principal reasons for setting up the Development Corporation in the first place – is to support the delivery of new jobs. Policy SP5 (*Economic Resilience*) supports the delivery of 40,400 new jobs in the OPDC area between 2018-38. Policy P4 (*Park Royal West*, within which the site lies) seeks the delivery of 3,450 new jobs within the SIL. Whilst these policies cannot be given more than moderate weight at present, it is unlikely the Plan's aims to create these numbers of additional jobs will be significantly changed. There is no doubt that this number of FTE jobs would vastly exceed the numbers likely to be created via any solely SIL-compliant alternative development. As such, this is a significant benefit.
89. All five of these benefits are important and significant public benefits. They can all be brought forward now without any adverse effect on Park Royal SIL, including providing the same amount of SIL-compliant floorspace that would be brought forward in a solely SIL-compliant scheme. The only harm arising would fall within the lower level of the spectrum of less than substantial harm to the significance of the LB and CA. Whilst attributing considerable importance and weight to such harm, I conclude that the above public benefits of the proposed

¹⁵ CD/A38 – Technical Sequential Assessment, Savills, November 2018

¹⁶ CD/I10 – Letter from Rapleys on behalf of RDI REIT plc, 25 February 2020

¹⁷ CD/A39 – Economic Impact Report, Volterra Partners, November 2018

development would outweigh this less than substantial harm to heritage assets. The appeal proposal therefore passes the national policy test set out in NPPF paragraph 196.

90. These public benefits of the appeal scheme comprise sufficient material considerations to indicate that planning permission should be granted for the proposed development in spite of its failure to comply with the development plan overall and its failure to comply with the NLP.

Section 106 Agreement

91. The S106 delivers a range of planning obligations in terms of monitoring, highways and transport, energy and sustainability, training and skills and public art including various financial contributions. The LPA has produced a detailed CIL compliance statement under Regulation 122 of the CIL Regulations. This accurately sets out the purpose of each of the obligations including the various financial contributions pertaining to them and the various LP Policies that they successfully meet. It successfully demonstrates that each one complies with CIL Regulation 122 as follows:

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

Conditions

92. A Schedule of Planning Conditions was provided by the LPA on the first day of the Inquiry. This contains 34 conditions, all but one of which is agreed between the parties. The wording of the condition requiring the submission of a Delivery and Servicing Plan (DSP) prior to occupation of the development is contested to the extent that the LPA disagrees that details of deliveries to/from the Iron Mountain site can also be included in the DSP. I have addressed this in paragraph 49 above. Given the appellant's ownership of the Iron Mountain site I consider its suggested wording to be reasonable.
93. I have serious concerns about the necessity and legitimacy of suggested Conditions 25, 25 and 34. These conditions state that no part of the development shall be brought into use until wastewater, water supply and surface water network upgrades respectively, are completed or a phasing plan is submitted to and agreed in writing by Thames Water.
94. I note that Thames Water has not required any further capacity studies regarding these networks nor has it required any financial contribution to such network upgrades from the appellants as the developers of this site. These conditions would prevent occupation of the development until some unspecified network upgrades to water supply, foul and surface water sewers takes place by a third party over which the appellant has no control or leverage. Given the lack of detail this could in theory prevent the occupation of the building for years. As such and given the duty of Thames Water to provide such functions, such conditions would be disproportionate and unreasonable. Consequently, they are not in my Schedule below. I have also combined the two conditions requiring details and implementation of cycling facilities.

95. Apart from these four conditions all the other agreed conditions meet the tests in NPPF paragraph 55 and in Planning Practice Guidance, as reflected in the Reasons attached to all the conditions in the Schedule below.

Conclusion

96. For the reasons given above I conclude that the appeal should be allowed.

Nick Fagan

INSPECTOR

Schedule of Conditions

1. COMPLIANCE - Approved drawings and documents

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

5919-(00)-001 – Existing Site Local Plan P2
5919-(00)-002 – Existing Site Plan P2
5919-(00)-003 – Existing Ground and Roof Plan P2
5919-(00)-004 – Existing Site Elevations P2
5919-(00)-005 – Existing Street Elevations P2
5919-(20)-000 – Proposed Site Plan REV P11
5919-(20)-098 – Proposed Basement Plan 2 REV P13
5919-(20)-099 – Basement Plan 1 REV P13
5919-(20)-100 – Proposed Ground Floor REV P13
5919-(20)-101 – Proposed First Floor REV P11
5919-(20)-102 – Proposed Second Floor REV P11
5919-(20)-103 – Proposed Third – Seventh Floor REV P11
5919-(20)-104 – Proposed Eight Floor REV P11
5919-(20)-105 – Proposed Ninth Floor REV P11
5919-(20)-106 – Proposed Tenth Floor – Leisure level REV P11
5919-(20)-107 – Proposed Roof Plan REV P12
5919-(20)-400 – Proposed Elevation AA REV P11
5919-(20)-401 – Proposed Elevation BB REV P11
5919-(20)-402 – Proposed Elevation CC REV P11
5919-(20)-403 – Proposed Elevation DD REV P11
5919-(20)-300 – Proposed Cross section AA Rev P11
5919-(20)-301 – Proposed Cross section BB REV P11
Delivery and Servicing Plan v 2.0 - May 2019
Transport Assessment v 3.0 - May 2019
Travel Plan v 2.0 - May 2019
Waste Management Strategy - May 2019
Below Ground Drainage Strategy Issue P04 – 30 May 2019
Design and Access Statement - November 2018
Design and Access Statement Addendum – May 2019
Air Quality Assessment - November 2018
Air Quality Assessment Addendum – May 2019
Archaeological Desk-Based Assessment - November 2018
Construction Management Plan Issue P3 - September 2018
Energy and Sustainability Strategy Issue P4 - November 2018
Health Impact Assessment - January 2019
Industrial Development Density Assessment - November 2018
Noise Impact Assessment – November 2018
Structural Method Statement - September 2018
Pedestrian Level Wind Desk-Based Assessment November 2018

Reason: For the avoidance of doubt and in the interests of proper planning.

2. COMPLIANCE - Time limit (3 years)

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (amended by Section 51 of the Compulsory Purchase Act 2004).

3. COMPLIANCE - Noise limits for plant equipment

The design and installation of fixed plant equipment shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured at 1m from the facade of the nearest sensitive receptor, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement of the noise should be carried out in accordance with the methodology contained within BS 4142:2014.

Reason: To minimise the risk of noise or vibration disturbance for local residents and other sensitive land uses in accordance with London Plan (2016) policy 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes' and OPDC Regulation 19 (2) draft Local Plan (2018) policy EU5 'Noise and Vibration'.

4. COMPLIANCE - Water efficiency

The development shall comply with the requirements set out in Regulation 36 of the Building Regulations 2010 (as amended), to ensure that mains water consumption meets a target of 110 litres or less per head per day.

Reason: To ensure the development delivers appropriate levels of water efficiency in accordance with London Plan (2016) policy 5.15 'Water use and supplies' and OPDC Regulation 19 (2) draft Local Plan policy EU3 'Water'.

5. COMPLIANCE – Restrict use class

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the floorspace used for industrial uses (Class B2/B8) shall not exceed 4,825sqm (excluding car parking and plant) and only be used as Class B2 and/or Class B8 and not for any other use including any within Class B of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any equivalent class in any order that may replace it).

Reason: To safeguard the amenities of neighbouring occupiers and the general locality in accordance with London Plan (2016) policy 7.1 'Lifetime Neighbourhoods' and OPDC Regulation 19 (2) draft Local Plan (2018) policy SP2 'Good Growth'.

6. COMPLIANCE – Restrict use class

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the floorspace used for office use (Class B1a) shall not exceed 2,458sqm (excluding car parking and plant) and shall only be used as Class B1a and not for any other use of the

Town and Country Planning (Use Classes) Order 1987 (as amended) (or any equivalent class in any order that may replace it).

Reason: To safeguard the amenities of neighbouring occupiers and the general locality in accordance with London Plan (2016) policy 7.1 'Lifetime Neighbourhoods' and OPDC Regulation 19 (2) draft Local Plan (2018) policy SP2 'Good Growth'.

7. PRIOR TO COMMENCEMENT - Construction and Environmental Management Plan

No development shall commence, including any works of demolition, until a detailed Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the following details (where appropriate):

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) complaints procedures, including complaint response procedures;
- (iii) arrangements to minimise the potential for noise and vibration disturbance.
- (iv) air quality mitigation measures, including dust suppression.
- (v) locations for the storage of plant and materials used in constructing the development;
- (vi) details showing the siting, design and maintenance of security hoardings;
- (vii) wheel washing facilities and measures to control the emission of dust and dirt during construction;
- (viii) site lighting details;
- (ix) site drainage control measures;
- (x) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- (xi) membership of the Considerate Constructors Scheme;
- (xii) mitigation measures to reduce impact on the neighbouring SINC; and
- (xiii) details of cranes and other temporary tall structures, including liaison with the Ministry of Defence (RAF Northolt).

The development, including any works of demolition, shall only be carried out in accordance with the approved CEMP.

Reason: To limit impacts on the local highway, local biodiversity, air traffic safety, to ensure the scheme is air quality positive and to protect the amenity of local residents and businesses in accordance with London Plan (2016) policies 6.12 'Road Network Capacity', 7.14 'Improving Air Quality' and 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes', and OPDC Regulation 19 (2) draft Local Plan (2018) policies EU4 'Air Quality', T7 'Freight, Servicing and Deliveries' and T8 'Construction'. The details are required prior to commencement because demolition works must be addressed in the CEMP.

8. PRIOR TO COMMENCEMENT – Construction Logistics Plan

No development shall commence, including any works of demolition, until a detailed Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The CLP shall comply with the 'Old Oak and Park Royal Construction Logistics Strategy' and Transport for London's 'Construction Logistics Plan Guidance', and shall include, but not be limited to, the following details: (i) booking systems; (ii) consolidated or re-timed trips;

(iii) secure off-street loading and drop off facilities; (iv) use of logistics and consolidation centres; (v) re-use of materials on-site; (vi) collaboration with other sites in the area; (vii) use of rail and water for freight; (viii) implementation of a staff travel plan (ix) any areas for the parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction).

The development, including any works of demolition, shall only be carried out in accordance with the approved CLP.

Reason: To limit any impact on the local highway network and to protect the amenity of local residents in accordance with London Plan (2016) policy 6.12 'Road Network Capacity' and OPDC Regulation 19 (2) draft Local Plan (2018) T8 'Construction'. The details are required prior to commencement because the demolition phase must be addressed in the CLP.

9. PRIOR TO COMMENCEMENT - Sustainable drainage

No above ground work shall commence, until details of surface water drainage works and measures to prevent the pollution of the water environment have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage works shall be:

- (i) prepared with reference to OPDC's Integrated Water Management Strategy;
- (ii) designed to ensure the peak rate of surface water run-off generated during peak rainfall events does not exceed 3 x greenfield run-off rates; and
- (iii) designed such that storm water flows are attenuated.

The development shall only be carried out in full accordance with the approved details.

Reason: To reduce the risk of flooding and to prevent pollution of the water environment in accordance with London Plan (2016) policy 5.13 'Sustainable Drainage' and OPDC Regulation 19 (2) draft Local Plan (2018) policy EU3 'Water'. The details are required prior to commencement because drainage attenuation may be required below ground.

10. PRIOR TO COMMENCEMENT - Contaminated land

(i) No development shall commence, including any works of demolition, until there has been submitted to and approved in writing by the Local Planning Authority:

- (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in 'Model Procedures for the Management of Land Contamination' Contaminated Land Report 11, 'Guidance for the Safe Development of Housing on Land Affected by Contamination R&D66: 2008' and BS10175:2011 (+A1:2013) – 'Investigation of Potentially Contaminated Sites - Code of Practice'; and, unless otherwise agreed in writing by the Local Planning Authority;
- (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011 (+A1:2013); and if required pursuant to parts a) and b) in the opinion of the Local Planning Authority;

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases and vapours when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

(ii) Unless otherwise agreed in writing pursuant to paragraph (i) above, no part of the development shall be brought into use until the remedial works and measures approved under paragraph (i) (c) above have been carried out in full and there has been submitted to the Local Planning Authority a verification report prepared by the competent person approved under the provisions of paragraph (i) (c) above confirming that any remediation scheme required and approved under the provisions of paragraph (i) (c) above has been implemented in full accordance with the approved details. The verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress; and
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

(iii) Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under paragraph (i) (c).

Reason: Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site. The condition is required to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works in accordance with London Plan (2016) policy 5.21 'Contaminated Land' and OPDC Regulation 19 (2) draft Local Plan (2018) policy EU13 'Land Contamination'. The details are required prior to commencement because the site investigation must be undertaken prior to demolition works to avoid any risks to health.

11. PRIOR TO COMMENCEMENT - Arboricultural method statement

No development shall commence, including any works of demolition, until an arboricultural method statement that shows how trees on and adjacent to the site will be protected during construction work has been submitted to and approved in writing by the Local Planning Authority. The development, including any works of demolition, shall only be carried out in accordance with the approved details.

Reason - In the interests of the character and appearance of the area and to support biodiversity in accordance with London Plan (2016) policy 7.21 'Trees and woodlands' and OPDC Regulation 19 (2) draft Local Plan (2018) policy EU2 'Urban Greening and Biodiversity'. The details are required pre-commencement because demolition works have the potential to harm trees that are identified for retention.

12. PRIOR TO ABOVE GROUND WORKS - Submit material samples and construct sample panels

No above ground works shall commence until:

- a. samples of all external materials, including windows, doors and glazing, and elevation drawings annotated to show where the materials are to be located have been submitted to and approved in writing by the Local Planning Authority; and

b. sample panels have been constructed on site to show the typical building façades, and have been made available for inspection and approved in writing by the Local Planning Authority.

The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development contributes positively to the character and appearance of the area in accordance with London Plan (2016) policy 7.4 'Local Character' and OPDC Regulation 19 (2) draft Local Plan (2018) policy D4 'Well Designed Buildings'.

13. PRIOR TO ABOVE GROUND WORKS - Detailed drawings

No above ground works shall commence until detailed drawings comprising elevations and sections of the following parts of the development at 1:20 or 1:50 scale as appropriate shall be submitted to and approved in writing by the Local Planning Authority:

a. A bay study of the materials, cladding and glazing; b. Entrances (with canopies where relevant); c. Principle features on all facades; d. Balconies (including soffits and balustrades); e. Windows/glazing to the commercial uses; f. Typical window openings including surrounds; g. The parapets/roof edges and screens at the top of the building; h. Any roof level structures including flues and lift overruns; i. Service bay accesses.

The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development contributes positively to the character and appearance of the area in accordance with London Plan (2016) policy 7.4 'Local Character' and OPDC Regulation 19 (2) draft Local Plan (2018) policy D4 'Well Designed Buildings'.

14. PRIOR TO ABOVE GROUND WORKS – External plant equipment

No above ground works shall commence until details of any external plant equipment to be installed on the buildings or the site have been submitted to and approved in writing by the Local Planning Authority.

The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development contributes positively to the character and appearance of the area in accordance with London Plan (2016) policy 7.4 'Local Character' and OPDC Regulation 19 (2) draft Local Plan (2018) policy D4 'Well Designed Buildings'.

15. PRIOR TO ABOVE GROUND WORKS - Landscaping scheme

No above ground works shall commence until a hard and soft landscaping scheme for all private, public and communal amenity spaces on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

(i) all materials and hard landscaping; (ii) external lighting; (iii) street furniture; (iv) a planting schedule showing the number, size, species and location of trees and shrubs; (v) biodiversity enhancements, including green roof; (vi) existing and proposed site levels; (vii) a programme for the planting of soft-landscaping and; (viii) a maintenance and management plan, including Bird Hazardous Management Plan to be agreed with the Ministry of Defence (RAF Northholt)

The development hereby permitted shall not be occupied until the landscaping scheme has been implemented in full accordance with the approved scheme and it shall thereafter be permanently retained. The approved landscaping scheme shall be managed and maintained in accordance with the approved maintenance and management plan. Any plants or trees which, within a period of five years from the date they are first planted, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

Reason: In the interests of the character and appearance of the area, to ensure appropriate accessibility, air traffic safety and to support biodiversity in accordance with London Plan (2016) policies 7.19 'Biodiversity and Access to Nature' and 7.4 'Local Character', and OPDC Regulation 19 (2) draft Local Plan (2018) policies D2 'Public realm' and EU2 'Urban Greening and Biodiversity'.

16. PRIOR TO ABOVE GROUND WORKS - BREEAM assessment

No above ground works shall commence until a BREEAM review report with a target of achieving an "Excellent" rating has been submitted to and approved in writing by the Local Planning Authority. Following this, within three months of the date of first occupation of the development, a BREEAM Certificate confirming the scheme has achieved BREEAM "Excellent" shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development maximises opportunities for reducing carbon emissions in accordance with London Plan (2016) policy 5.2 'Minimising Carbon Dioxide Emissions' and OPDC Regulation 19 (2) draft Local Plan (2018) Policy EU9 'Minimising Carbon Emissions and Overheating'.

17. PRIOR TO ABOVE GROUND WORKS – Overheating assessment

No above ground works shall commence until an overheating assessment to demonstrate that the risks of overheating have been addressed through the design of the development has been submitted to and approved in writing by the Local Planning Authority. The assessment shall:

(i) be in accordance with the Mayor's cooling hierarchy; (ii) include modelling in line with the most up to date guidance from the Greater London Authority and the Chartered Institute of Building Service Engineers; and (iii) take account of the predicted risks of climate change.

The measures in the approved overheating assessment shall be implemented in full accordance with the approved details before the development is brought into use.

Reason: To reduce the potential for overheating in accordance with London Plan (2016) policy 5.9 'Overheating and cooling' and OPDC Regulation 19 (2) draft Local Plan (2018) policy EU9 'Minimising Carbon Emissions and Overheating'.

18. PRIOR TO OCCUPATION - Details of waste and recycling

No part of the development shall be brought into use until details to show how waste and recycling will be stored on site, and collected from the site, have been submitted to and approved in writing by the Local Planning Authority. The details shall address the following:

(i) source segregation of bio-waste and other recyclables; (ii) control of odour, nuisance and air and noise pollution from waste storage and collection; and (iii) details to show compliance with the current and planned future waste collection arrangements of the local waste collection authority or details of any waste contractor including full details of the proposed arrangements

No part of the development shall be brought into use until the waste and recycling storage has been provided in full accordance with the approved details. These arrangements shall be implemented and retained for the lifetime of the development, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure adequate provision for waste and recycling storage and to encourage higher rates of recycling in accordance with London Plan (2016) policy 5.17 'Waste Capacity' and OPDC Regulation 19 (2) draft Local Plan (2018) policy EU6 'Waste'.

19. PRIOR TO OCCUPATION - Car parking/Blue Badge – secure provision

No part of the development shall be brought into use until the car parking, including any provision for dedicated Blue Badge parking, shown on approved plans have been completed and made available for use in full accordance with the approved plans. The car parking spaces, including Blue Badge car parking spaces, shall be retained thereafter for each of the approved uses.

Reason: To ensure that adequate levels of car parking are provided to meet the demand from the development, including accessibility requirements, in accordance with London Plan (2016) policy 6.13 'Parking' and OPDC Regulation 19 (2) draft Local Plan (2018) policy T4 'Parking'.

20. PRIOR TO OCCUPATION - EVCP – secure provision

Electric vehicle charging points shall be provided for 20% of the car parking spaces and passive provision shall be made available for the remaining 80% of the spaces so that the spaces are capable of being readily converted to electric vehicle charging points. The location of the EVCP spaces and charging points shall be submitted to and approved in writing by the local planning authority before any part of the development is first brought into use. The EVCP shall thereafter be constructed and marked out and the charging points installed prior to any of the development being brought into use and thereafter retained permanently to serve the vehicles of staff and visitors.

Reason: To encourage the use of electric vehicles and to encourage the use of less polluting vehicles in the interests of sustainability in accordance with London Plan (2016) policy 6.13 'Parking' and OPDC Regulation 19 (2) draft Local Plan (2018) policy T4 'Parking'.

21. PRIOR TO OCCUPATION - Cycle parking

No part of the development shall be brought into use until 18 long-stay cycle parking spaces and short stay cycle parking spaces, shown on approved plans, have been provided in full accordance with the approved plans. The cycle parking shall thereafter be made available at all times and shall not be used for any other purpose.

Reason: To ensure adequate provision of cycle parking in the interests of supporting sustainable modes of transport in accordance with London Plan (2016) policy 6.9 'Cycling' and OPDC Regulation 19 (2) draft Local Plan (2018) policy T3 'Cycling'.

22. PRIOR TO OCCUPATION - Delivery and Servicing Plan

No part of the development shall be brought into use until a Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority. The Delivery and Servicing Plan shall include, but not be limited to, the following details:

- (i) details of deliveries to/from the site and the Iron Mountain site to the north, including the size and type of vehicles and when they will access the site;
- (ii) measures to reduce vehicle movements;
- (iii) the routing of delivery/servicing vehicles including swept-path analysis; and
- (iv) dedicated areas for the loading/unloading of vehicles

The approved Delivery and Servicing Plan shall be adhered to at all times.

Reason: To limit impacts on the local highway and to protect the amenity of neighbouring residents in accordance with London Plan (2016) policy 6.3 'Assessing effects of development on transport capacity' and OPDC Regulation 19 (2) draft Local Plan (2018) policy T7 'Freight, Servicing and Deliveries'.

23. PRIOR TO OCCUPATION - CCTV and lighting scheme

No part of the development shall be brought into use until details of the CCTV and lighting to be used in the scheme, and a management plan showing how the principles of practices of "Secured by Design" are submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with London Plan (2016) policy 7.4 'Local Character' and OPDC Regulation 19 (2) Local Plan (2018) policies D4 'Well-Designed Buildings' and D6 'Amenity'.

24. COMPLIANCE – Air Quality

The mitigation measures outlined in the approved Air Quality Impact Assessment dated November 2018 shall be implemented in full and adhered to for the lifetime of the development.

Reason: To ensure that air quality objectives are met in accordance with London Plan (2016) policy 7.14 'Improving Air Quality' and policy EU4 'Air Quality' of the OPDC Regulation 19 (2) Local Plan.

25. COMPLIANCE – Noise and Vibration

The mitigation measures outlined in the approved Noise Impact Assessment dated November 2018 shall be implemented in full and adhered to for the lifetime of the development.

Reason: To ensure that air quality objectives are met in accordance with London Plan (2016) policy 7.15 'Reducing and managing noise' and policy EU5 'Noise and Vibration' of the OPDC Regulation 19 (2) Local Plan.

26. COMPLIANCE – Accessibility

No fewer than 10% of the hotel rooms hereby approved shall be wheelchair accessible units. These units shall be implemented and retained for the lifetime of the development.

Reason: To demonstrate compliance with London Plan Policy 4.5 and to ensure that wheelchair users are not prejudiced as a result of this development.

27. COMPLIANCE – Noise working hours

You must carry out any building work which can be heard at the boundary of the site only between the following hours:

- 08.00 – 18.00 Monday to Friday;
- 08.00 – 13.00 on Saturdays
- Not at all on Sundays, bank holidays and public holidays.

Reason: In the interests of the amenity of local residents and businesses in accordance with London Plan (2016) policy 7.15 'Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes'.

28. PRIOR TO THE HOTEL USE COMMENCING – Hotel Management Plan

A Hotel Management Plan shall be submitted to and approved by the Local Planning Authority prior to the hotel use first commencing. The management plan shall contain details of:

- Servicing and delivery times/arrangements;
- Management of any designated smoking areas;
- Signs to request patrons to leave in a quiet manner and not to loiter outside;
- Security and any proposed CCTV;
- Lighting (and security lighting);
- Capacity (of each use);
- Visitor Accommodation Operation;
- Private hire functions;
- An enforcement strategy for dealing with any breaches of the

scheme; • Coach parking arrangements; and • Any other relevant operation of the site.

Reason: To ensure that the resulting arrangements do not adversely impact on the function of the SIL uses on site and the surrounding area in accordance with London Plan (2016) policy 2.17 'Strategic Industrial Locations'.

29. PRIOR TO OCCUPATION - Fire Strategy

No part of the development shall be brought into use until a Fire Strategy is submitted to and approved in writing by the Local Planning Authority, covering the following details

- The building's construction: methods, products and materials to be used;
- The means of escape for all building users: stair cores, escape for building users who are disabled or require level access and the associated management plan approach;
- Access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these.

The development must be carried out in accordance with the approved details and thereafter shall be permanently maintained and retained.

Reason: To ensure that the development incorporates the necessary fire safety measures in accordance with draft London Plan (2019) policies D3 'Optimising site capacity through the design-led approach' and D12 'Fire Safety' and OPDC Regulation 19 (2) draft Local Plan (2018) policy D4 'Well-designed buildings'.

30. COMPLIANCE – Coach parking bay

No part of the hotel use hereby approved shall be occupied until the coach parking bay shown on Drawing No. 5919-(20)-000 – Proposed Site Plan REV P11 has been constructed and made available for use.

Reason: To ensure that on-site coach parking is provided to meet the demand from the development in accordance with London Plan (2016) policy 6.13 'Parking' and OPDC Regulation 19 (2) draft Local Plan (2018) policy T4 'Parking'.

End of Conditions

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Ms Morag Ellis QC instructed by the Solicitor to the Old Oak Common Development Corporation.

She called

- Andy Harding MRICS
- Maria Kitts BA (Hons) MA PGCert
- Jonathon Sheldon BA DipTP MRTPI

FOR THE APPELLANT: Mr Neil Cameron QC instructed by Town Legal LLP

He called

- Simon Coles BA (Hons) Dip Arch RIBA
- John Stephenson FRICS MCIARB
- Gareth Jones BA Hons MA UD Dip Bld Cons(RICS) MRTPI IHMC
- Jonathon Marginson MA (Hons) MRTPI

End of Appearances

DOCUMENTS

Below are listed the documents submitted at the Inquiry. Reference to CDs in the footnotes above are to Core Documents as per the agreed list of CDs.

- 1 Schedule of Conditions submitted 8 October 2020
- 2 CIL Regs Compliance Statement 14 October 2020
- 3 Opening Submissions on behalf of the Appellant 8 October 2020
- 4 Opening Statement on behalf of the LPA 8 October 2020
- 5 Closing Statement on behalf of the LPA 16 October 2020
- 6 Closing Submissions on behalf of the appellant 16 October 2020
- 7 Signed S106 Agreement dated 13 November 2020

End of Documents List