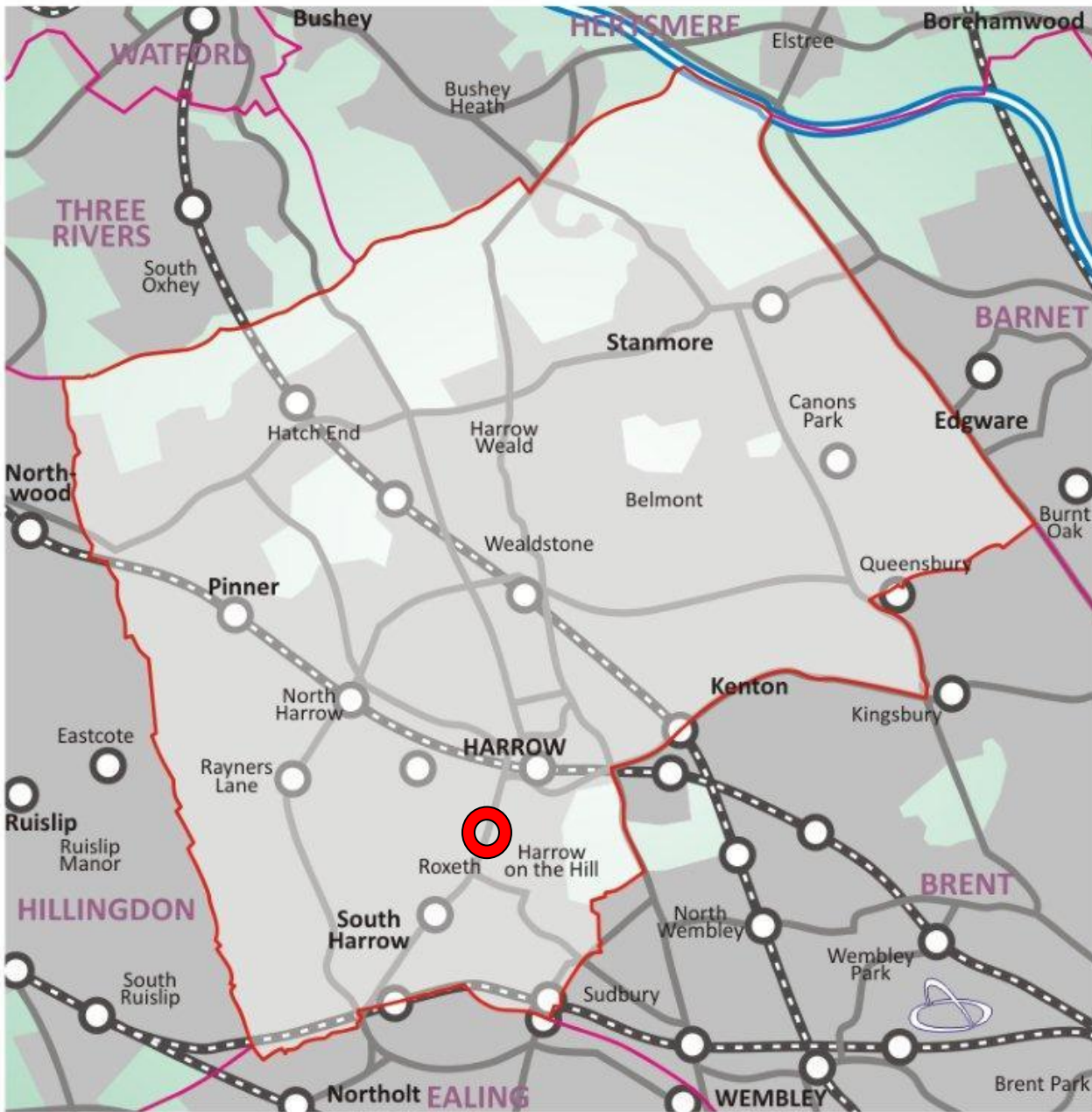
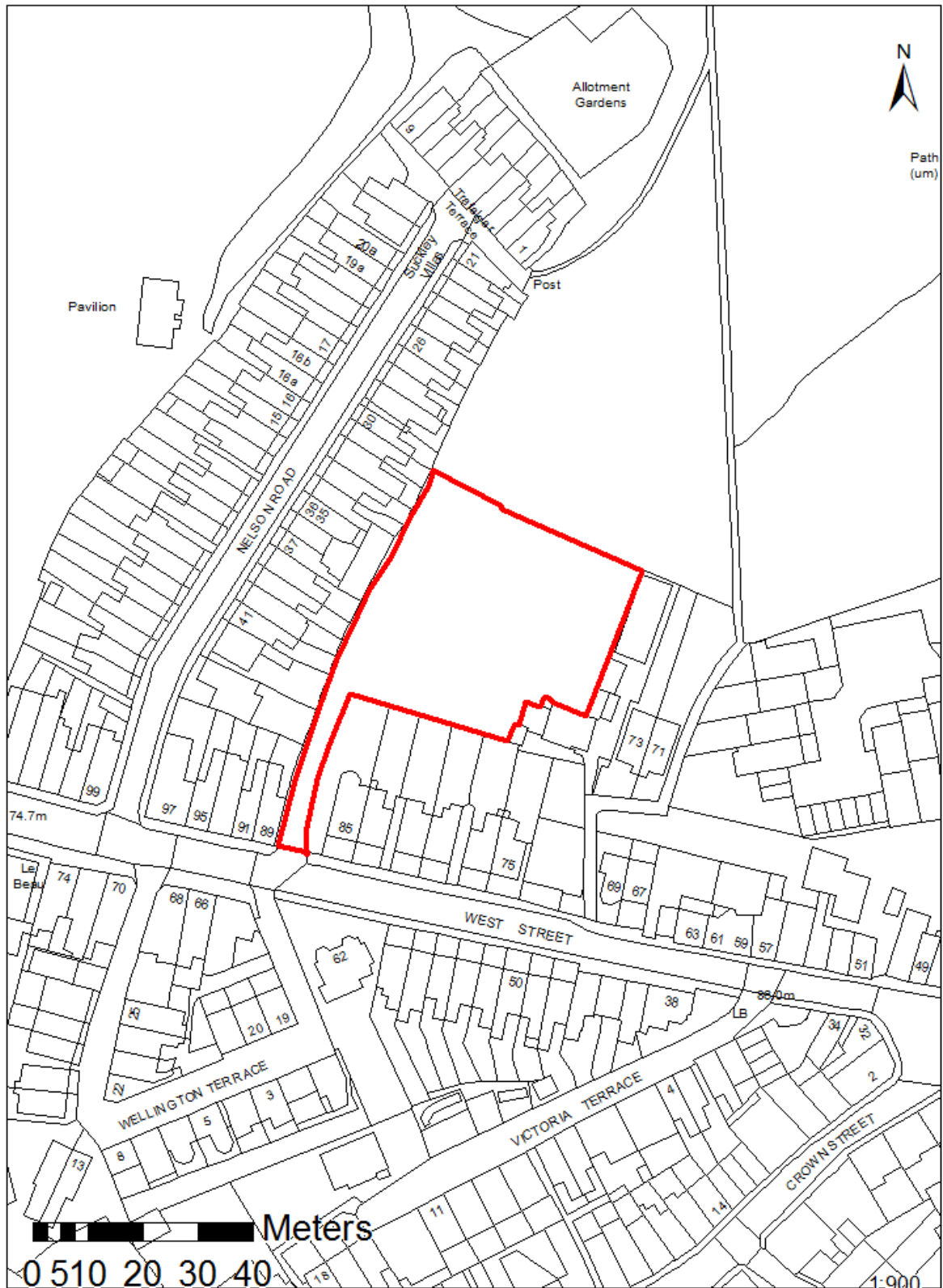


 = application site



The Powerhouse, 87 West Street	P/1516/18
---------------------------------------	------------------

The Powerhouse, 87 West Street



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecutions or civil proceedings. London Borough of Harrow LA.100019206. 2017. DIGITAL MAP DATA (C) COLLINS BARTHOLOMEW LTD (2017)



LONDON BOROUGH OF HARROW

PLANNING COMMITTEE

21st November 2018

Application Number: P/1516/18
Validate Date: 09/04/2018
Location: THE POWERHOUSE, 87 WEST STREET,
HARROW
Ward: HARROW-ON-THE HILL
Postcode: HA1 3EL
Applicant: JASPAR HOMES LTD
Agent: JASPAR MANAGEMENT LTD
Case Officer: KIMRY SCHLACTER
Expiry Date: 07/05/2018

PROPOSAL

The proposal is in relation to an application for Non-Material Amendments to Prior Approval P/0326/17 dated 06/03/2017 for Conversion of Offices (Class B1a) to 14 Self-Contained Flats.

The application proposed amended layouts for 13 of the 14 flats on the ground and first floors of the main building (excluding the stand-alone structure referred to as the "Cottage"). Two of the amended flats are changed from studio to 1-bedroom flats.

This application was deferred from committee on 25 July 2018 for officers to seek further advice from Counsel. The report has been updated to reflect that advice.

The Planning Committee is asked to:

RECOMMENDATION

- 1) agree the reasons for refusal as set out in this report

REASON FOR THE RECOMMENDATIONS

Having obtained further legal advice at the Committee's request on the matter of whether the works approved under prior approval P/0326/17 dated 06/03/2017 ("Prior Approval") could be considered to have been completed as a single building operation with other works on site, Counsel's advice states that internal works do not require planning permission and as the Prior Approval authorised a change of use, it would be difficult to claim that the Prior Approval works and the other works were completed as a single development. In Counsel's view the issue is whether the Prior Approval is prohibited pursuant to Article 3(5) of the Town and Country Planning (General Permitted Development) Order 2015. It is considered that this needs to be determined on the basis of the timing of the completion of the units as fit for habitation.

As such, if the Prior Approval cannot be relied on, then the proposed amendments could not be approved via a non-material amendment application.

INFORMATION

This application is reported to Planning Committee as it was called in by a local councillor, due to high levels of public interest; and so as to present the Committee with a strategic overview of the relevant information across several applications pertaining to this site.

Statutory Return Type:	Other
Council Interest:	None
Additional Floor Area:	N/A
GLA Community Infrastructure Levy (CIL) Contribution (provisional):	£0
Local CIL requirement:	£0

Plans Nos: JM 051 SK 066; JM 051 SK 067; Cover letter dated 9th April 2018; Supporting Document titled "Area Comparisons"

The following plans from P/0326/17 would be superseded if the above are approved: P9/001; P9/005; P9/006

HUMAN RIGHTS ACT

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

EQUALITIES

In determining this planning application the Council has regard to its equalities obligations including its obligations under section 149 of the Equality Act 2010. For the purposes of this application there are no adverse equalities issues.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- Application for Non-Material Amendment
- Statutory Register of Planning Decisions
- Correspondence with Statutory Bodies
- Correspondence with other Council Departments
- National Planning Policy Framework
- London Plan
- Local Plan - Core Strategy, Development Management Policies, Harrow & Wealdstone Area Action Plan, SPGs
- Other relevant guidance

LIST OF ENCLOSURES / APPENDICES:

Officer Report:
Part 1: Planning Application Fact Sheet
Part 2: Officer Assessment
Appendix 1 – Informatives
Appendix 2 – Site Plan
Appendix 3 – Site Photographs
Appendix 4 – Plans

OFFICER REPORT

PART 1: Planning Application Fact Sheet

The Site	
Address	The Powerhouse, 87 West Street, Harrow, HA1 3EL
Applicant	Jaspar Homes Ltd
Ward	Jaspar Management Ltd
Local Plan allocation	N/A
Conservation Area	Harrow-on-the-Hill Village Conservation Area and Archaeological Priority Area
Listed Building	A Grade II listed building (Old Pye House) is adjacent, however does not form part of the site, nor is the site within the curtilage of the listed building
Setting of Listed Building	N/A
Building of Local Interest	N/A
Other	Harrow Strategic Flood Risk Area (SFRA) zones 3a and 3b, and critical drainage areas

Transportation		
Car parking	No. Car Parking spaces proposed under P/0326/17	14
	No. Proposed Car Parking spaces	14
	Proposed Parking Ratio	1:1
Cycle Parking	No. Cycle Parking spaces proposed under P/0326/17	20
	No. Proposed Cycle Parking spaces	20
	Cycle Parking Ratio	1:1.4
Public Transport	PTAL Rating	2
	Closest Rail Station / Distance (m)	Harrow-on-the-Hill (Met Line): 1km
	Bus Routes	Harrow-on-the-Hill (Multiple routes): 1km
Parking Controls	Controlled Parking Zone?	No
	CPZ Hours	N/A
	Other on-street controls	N/A
Refuse/Recycling Collection	N/A (Not a consideration under Prior Approval)	(No changes proposed)

PART 2: Assessment

1.0 SITE DESCRIPTION

- 1.1 The site comprises a two-storey main building and a smaller single storey building (referred to as the 'cottage'), with existing parking on site. The works for Prior Approval ref: P/0326/17 are largely complete.
- 1.2 Existing access is off West Street
- 1.3 Site is located in the Harrow-on-the-Hill Village Conservation Area and Archaeological Priority Area. It is also located adjacent to a designated Metropolitan Open Land and Site of Importance for Nature Conservation (the church fields), to the north
- 1.4 The Old Pye House, a Grade II Listed building, is sited adjacent, and an in-fill section of building work connects the main building of the application site to the Old Pye House. The south and east boundaries are backed by residential dwellings.
- 1.5 The site has a PTAL rating of 2
- 1.6 Located in Critical Drainage area, and Harrow Strategic Flood Risk Area (SFRA) zones 3a and 3b

2.0 PROPOSED DETAILS

- 2.1 Proposed alteration to internal layout of the flats, as submitted under the Prior Approval. The internal layout of both floors has been reconfigured also in terms of communal and utility areas.
- 2.2. The internal layout as constructed differs from the approved plans under the Prior Approval, therefore the main purpose of the non-material amendment application is to regularise the internal layout.
- 2.3. The applicant's statement notes that amendments have been made in part to ensure compliance with Building Control regulations
- 2.4. The proposed amendments would not alter the number of flats from the approved plans under P/0326/17. The total number of flats would remain 14.
- 2.5. However, two flats which had previously been assigned as studio flats would be changed to 1-bedroom, 2-person flats. Thus the maximum number of occupant would be increased by 2 people.

- 2.6. The ground floor would still total 7 flats, comprised of: 5 x 1-bed flats, and 2 x 2-bed flats, with the studio flat modified to a 1B2P flat
- 2.7. The first floor would still total 6 flats, comprised of: 4 x 1-bed flats, and 2 x 2-bed flats, with the studio flat modified to a 1B2P flat
- 2.8. The 14th flat is the independent structure referred to as the “cottage”, which is not shown on the submitted plans and therefore not considered by this application.
- 2.9. Some external alterations are noted on the plans, however these are confirmed as being subject to separate planning permission reference P/1604/18, and so are not considered here.
- 2.10. An area between the existing substation and the side of the building is shown as proposed bike storage, with alterations to the doors along the return elevation. However, the external alterations are subject to a separate application for planning permission, while the details of the cycle storage are conditioned to be approved separately through an Approval of Details application. These details are therefore not considered here.

3.0 RELEVANT PLANNING HISTORY

Ref no.	Description	Status and date of decision
LBH/28395	Change of use from light industrial to office and light industrial purposes	Granted 12/09/1985
LBH/29789	Additional Floor for Extension of Existing Office and Light Industrial Use	Refused 24/04/1986

LBH/30262	Additional floor extension of existing office & light industrial use (revised)	Granted 19/03/1987
P/1319/04/CFU	Single storey extension and alterations to storage building to provide gatehouse/reception building	Granted 27/07/2004
P/1065/07	Single storey extension and alterations to storage building to provide gatehouse/reception building	Granted 27/07/2004
P/2444/10	Second floor extension to form additional office suite	Granted 15/12/2010
P/5401/16	Conversion of single storey detached office building (Class B1a) to 14 Self-Contained Flats (Class C3) (Prior approval of transport & highways impacts of the development, contamination and flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the development)	Refused 05/01/2016
P/0326/17	Conversion of single storey detached office building (Class B1a) to 14 Self-Contained Flats (Class C3) (Prior approval of transport & highways impacts of the	Granted

	development, contamination and flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the development)	06/03/2017
P/3896/17/PRIOR	Conversion of offices (class B1a) to 15 self-contained flats (class C3) (Prior approval of transport & highways impacts of the development and of contamination risks and flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the development)	Refused 04/10/2017
P/1971/18	Details pursuant to Condition 1 (Amended plans) attached to Prior Approval P/0326/17 dated 6.3.17 for Conversion of Offices (Class B1a) to 14 Self-Contained Flats (Class C3) on Ground and First floors of main building and cottage (Prior approval of transport & highways impacts of the development, contamination and flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the development)	Refused 04/07/2018
P/1604/18	Creation of Second floor to provide two flats (Retrospective); Changes to the fenestration comprising alterations to existing windows and doors, introduction of new windows and doors and part replacement of gabled roof to north east of the building	Refused 09/08/2018

	(Retrospective); Proposed Detached Single storey building to provide two cottages; External alterations; Associated landscaping and parking; Refuse and cycle storage	
P/1971/18	Details pursuant to Condition 1 (Amended plans) attached to Prior Approval P/0326/17 dated 6.3.17 for Conversion of Offices (Class B1a) to 14 Self-Contained Flats (Class C3) on Ground and First floors of main building and cottage (Prior approval of transport & highways impacts of the development, contamination and flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the development)	Refused 04/07/2018
P/3049/18	Details pursuant to Condition 1 (Amended plans) attached to Prior Approval P/0326/17 dated 6.3.17 for Conversion of Offices (Class B1a) to 14 Self-Contained Flats (Class C3) on Ground and First floors of main building and cottage (Prior approval of transport & highways impacts of the development, contamination and flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the	Undetermined

	development)	
--	--------------	--

4.0 **CONSULTATION**

4.1. As an application under Section 96A of the Town and Country Planning Act 1990, this is not an application for planning permission. Therefore, the existing provisions under the Town and Country (General Development Procedure) Order 1995 (as amended) in respect of planning applications do not apply. Notifications are not normally sent. However, given the circumstances of the application and high degree of public interest, the Harrow Hill Trust was notified as a matter of courtesy.

4.2. For reference, although public representations are not a material planning consideration for applications such as this, those representations relevant to this application received are set out below.

Summary of Comments	Officer Comments
<ul style="list-style-type: none"> • Permitted development rights not undertaken in accordance with approved plans. • External works undertaken at same time as internal works • Misleading information, concealment of certain works • Breaches of construction Management Plan • Damage to environment • Interference of public rights of way • Overall lack of merit of scheme, out of character with conservation area • Unsuitable parking arrangements • Proposed bike storage interferes with 	<p>The amendments sought here are one of the available paths for remedying the issue of changes to the approved plans under P/0326/17. It should be noted that under Class O Prior Approval (as is the case here), there is no assessment of internal layout, only of the total number and type of flats applied for.</p> <p>In this case, there is no restriction on implementing external work at the same time as the change of use, thus this situation does not represent a breach of</p>

<p>right of way</p> <ul style="list-style-type: none"> • Impact on Grade II listed building (Old Pye House) • Illegal entry into Church Fields • Unauthorised landscaping works 	<p>planning.</p> <p>Other issues raised are not material planning considerations for this application.</p>
<ul style="list-style-type: none"> • Lack of parking and congestion on West Street / Harrow on the Hill generally • Misleading information from applicant • Breaches of planning • Over occupation/high density • Disregard of conservation area status and Grade II listed building (Old Pye House) • Second storey overlooking adjoining residential properties, loss of privacy. • Unsuitable materials and out of character development • Damage to trees and hedges • Interference of public rights of way • Breaches of construction Management Plan 	<p>Parking and Traffic issues are material considerations to this application.</p> <p>Other issues raised are not material planning considerations for this application.</p>
<p>Cover letter referenced in the documents which is not visible on the website</p>	<p>This was an error, and the letter was posted to the website in response.</p>

4.7 Statutory and Non Statutory Consultation

4.8 The following consultations have been undertaken:

Consultee	Summary of Comments	Officer Comments
LBH Highways	The proposed changes would not make any difference in highways terms	Noted
Historic England	It is not necessary for us to be consulted again on this application	This consultation appears to have been sent in error.

5.0 POLICIES

5.1 This application has been made under Section 96A of the Town and Country Planning Act 1990. To clarify, this is a different type of application from one for planning permission, and thus the processes and material considerations differ.

5.2 As the original application was made under Class O of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, the framework of the assessment must reference the limitations and conditions of Class O development.

5.3 The details of the matters considered under Prior Approval are assessed in relation to the policies of the Development Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

‘If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.’

5.4 The Government has issued the National Planning Policy Framework [NPPF] which consolidates national planning policy and is a material consideration in the determination of this application.

- 5.5 In this instance, the Development Plan comprises The London Plan 2016, The Harrow Core Strategy 2012 [CS], Harrow and Wealdstone Area Action Plan (AAP) 2013, the Development Management Policies Local Plan 2013 [DMP], the Site Allocations Local Plan SALP 2013 [SALP]. The new draft London Plan, although not yet adopted, must also be given weight where relevant. While this application has been principally considered against the adopted London Plan (2016) policies, some regard has also been given to relevant policies in the Draft London Plan (2017), as this will eventually replace the current London Plan (2016) when adopted and forms part of the development plan for the Borough. The document has been published in draft form in December 2017. Currently, the Mayor of London is seeking representations from interested parties/stakeholders, before the draft Plan is sent to the Secretary of State for Examination in Public, which is not expected to take place until the summer of 2019. Given that that the draft Plan is still in the initial stages of the formal process it holds very limited weight in the determination of planning applications.
- 5.6 Notwithstanding the above, the Draft London Plan (2017) remains a material planning consideration. A full list of all the policies used in the consideration of this application is provided as Informative 1 in Appendix 1 of this report.

6.0 **ASSESSMENT**

- 6.1 The main issues are:

Can the applicant rely on the Prior Approval P/0326/17 Materiality, Matters Considered Under Prior Approval

6.2 Impact of Article 3(5) of the GPDO on the Prior Approval P/0326/17

- 6.2.1 This application was originally presented at the Planning committee on 25th July 2018. A request was made to obtain further legal advice regarding the status of the parent Prior Approval application P/0326/17 prior to proceeding further with a decision. The issue raised was whether it could be considered that a breach of planning had occurred with regard to the Prior Approval, as a result of concurrent works relating to other applications being considered a “single building operation”. It was further questioned whether this would then impact on this application for Non-Material Amendments.
- 6.2.2 The advice originally presented to the Committee on July 25th was that, on the basis of advice obtained to that point, it appeared that the works under the Prior Approval could be separated from and implemented independent of other works on site which required planning permission. The Committee was further advised that this was not a firmly established point of law, and that it did require an element of judgement; and the Committee did have the scope to come to a different conclusion on the basis of their own judgement. Thus, further legal opinion was requested.

- 6.2.3 A further legal opinion was obtained from Counsel and the advice is that as a result of the unauthorised works to the second floor, it can be considered that the Prior Approval may not be relied upon.
- 6.2.4 On the basis of the above advice, the officer's recommendation is that, based on information held by the Council, the Prior Approval cannot be relied on pursuant to Article 3(5) of the GPDO as advised by Counsel because the GPDO rights were not implemented (i.e. the flats were not fit for habitation) until after the unlawful second floor extension was substantially complete. Therefore, the non-material amendments proposed here should be refused. The Committee may therefore consider whether, in their judgement, they agree with the revised recommendation.
- 6.3 Materiality, Matters Considered Under Prior Approval
- 6.3.1 The question in this instance is whether the alterations proposed would have a material impact on the development, or alter the impacts in terms of the matters for consideration under Class O prior approval such that a re-consultation would be required under the provisions of Paragraph W to Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. For clarity, the grant of prior approval itself under P/0326/17 cannot be reversed or re-visited here as part of the assessment of materiality itself.
- 6.3.2 An appropriate test of materiality is whether the alterations are of significance, of substance and of consequence. To clarify, the question of whether the proposed changes are material is the only issue that can be considered for the purpose of this application, and is the only basis for a decision.
- 6.3.3 The matters set out under Condition O.2 as requiring prior approval are: transport and highways impacts, contamination, flood risk, and impacts of noise from commercial premises on the future occupiers of the flats.
- 6.3.4 The revised layout would affect the relative size of the flats. Internal layout and room / unit sizes are not a material consideration under Class O. Nevertheless, it is noted that units shown in the revised layout either comply with the required Gross Internal Area for new dwellings in The London Plan (2016), or have a marginal shortfall.
- 6.3.5 The change to the size and layout of the flats also results in two of the units exceeding the size for studio flats; and instead becoming 1-bedroom 2-person flats, as a separate bedroom has been partitioned off. As the flats would thus each be capable of housing 2 people rather than 1, the total increase in maximum occupancy would be 2 people. The materiality of this change therefore requires assessment.
- 6.3.6 The alterations to the internal layout would not have a material impact on contamination; flood risk; or noise impacts on the future occupants. Furthermore, the revisions would not be contrary to any of the requirements under O.1 of Class O.

- 6.3.7 In terms of traffic and highways impacts, the agreed ratio of parking to units of 1:1, higher than normally allowed under existing policy, would remain the same. Current London Plan (2016) standards for cycle parking would likewise remain the same, as the same number of cycle spaces are required for 2 no. studio flats as for 2 no. 1-bedroom flats (ref: Table 6.3, The London Plan 2016) .
- 6.3.8 The Highways Authority have been consulted and have confirmed the increase of 2 people to the maximum occupancy it would not be considered to constitute a material change in terms of overall highways & traffic impacts.
- 6.3.9 These alterations are therefore considered to be non-material amendments to prior approval P/0326/17/PRIOR.

7.0 CONCLUSION AND REASONS FOR REFUSAL

- 7.1 Within the context of the Prior Approval, and the limitations and conditions of the GPDO, the proposed amendments identified in the above schedule would be non-material amendments. However, as the Prior Approval cannot be relied on pursuant to Article 3(5) of the GPDO the application for non-material amendments should be refused.
- 7.2 For these reasons, this application is recommended for refusal.

APPENDIX 1: Informatives

1. Policies

The following policies are relevant to this decision:

National Planning Policy Framework (2018)

Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

The London Plan (2016):

5.12 Flood Risk Management

6.3 Assessing Effect of Development on Transport Capacity

6.9 Cycling

6.13 Parking

7.15 Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes

Draft New London Plan:

Policy S112 Flood risk management

Policy T4 Assessing and mitigating transport impacts

Policy T5 Cycling

Policy T6.1 Residential parking

Harrow Development Management Policies Local Plan (2013):

DM1 Achieving a High Standard of Development

DM9 Managing Flood Risk

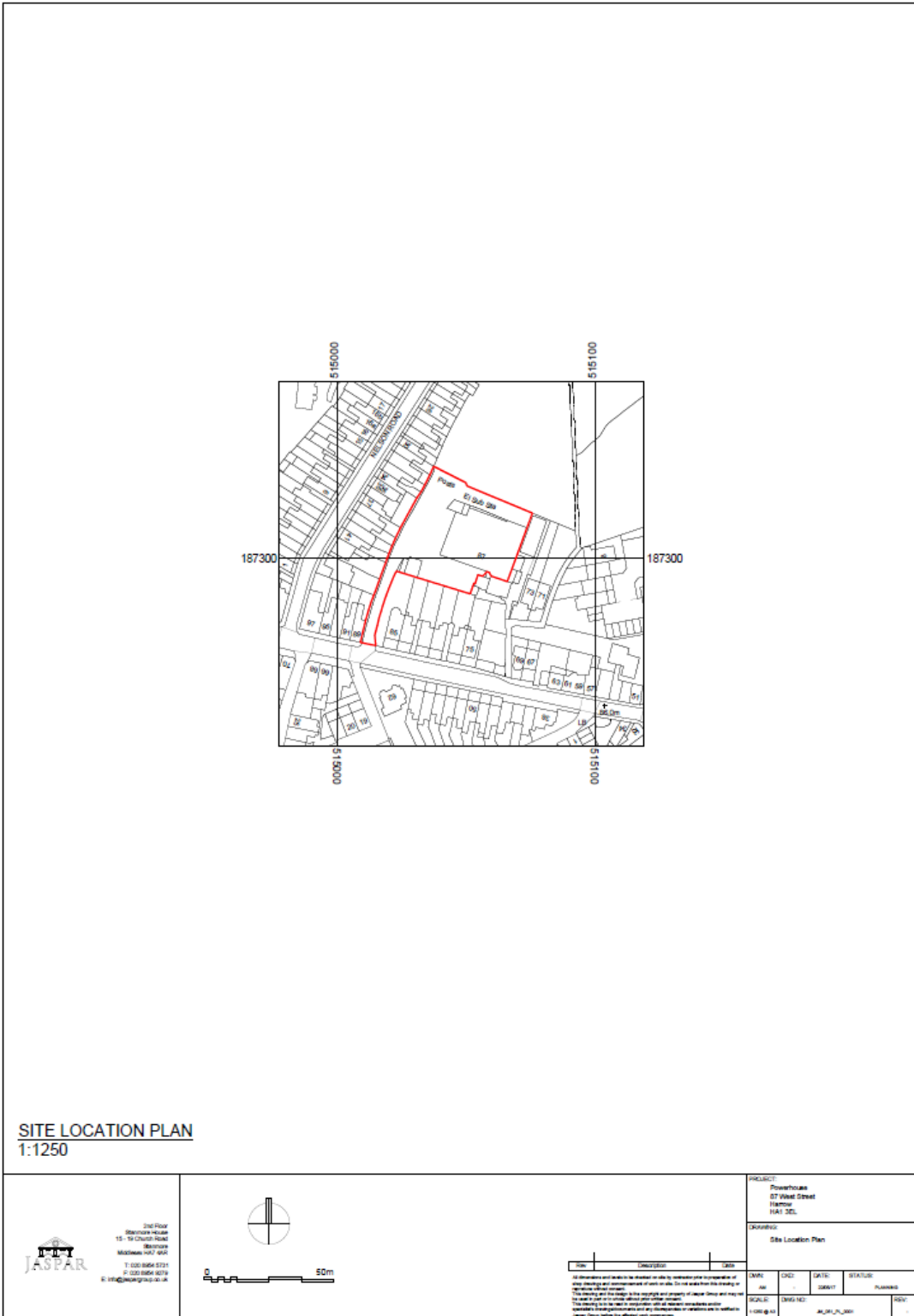
DM10 On Site Water Management and Surface Water Attenuation

DM15 Prevention and Remediation of Contaminated Land

DM42 Parking Standards

2. The applicant is advised that the internal layout of the existing small, free-standing building known as the “cottage” does not form part of this application.

APPENDIX 2: SITE PLAN



APPENDIX 3: SITE PHOTOGRAPHS



Western elevation of the property



Southern elevation



Northern elevation

Flat 13, first floor [Note that Flat 7 on ground floor is identical]:



Bathroom and entrance

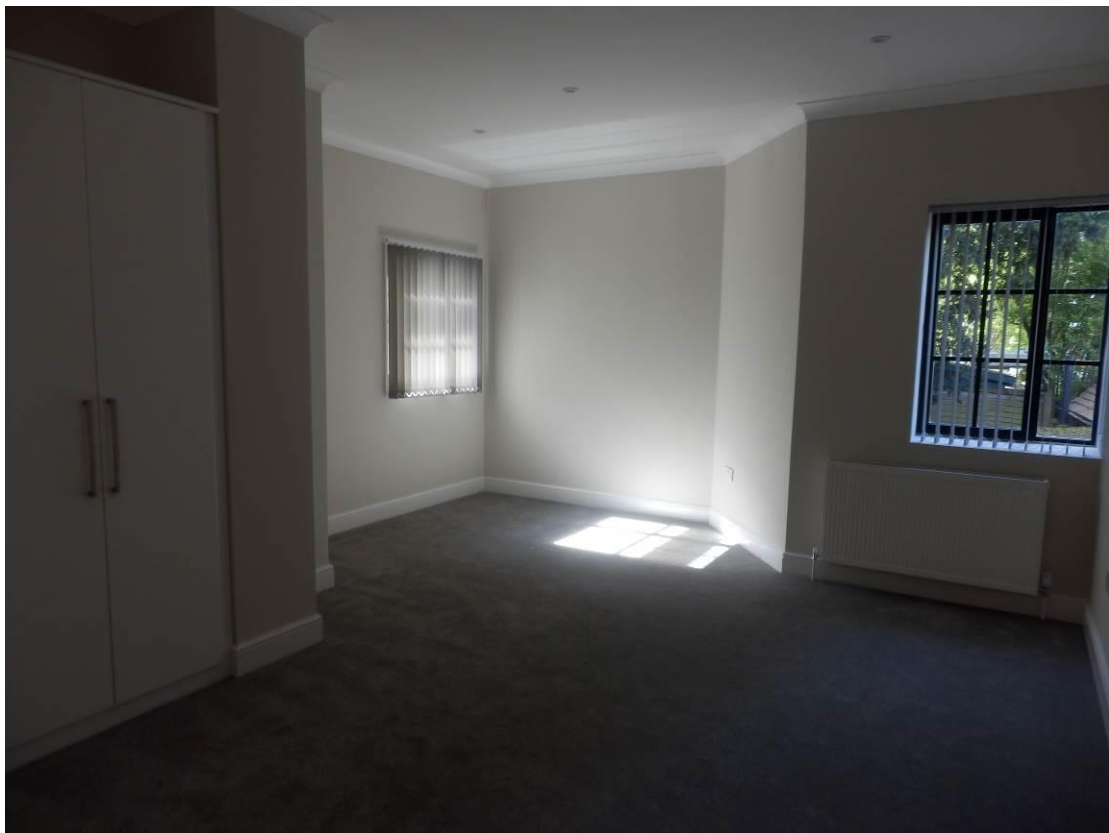


Kitchen and living area





Separation between living area and bedroom



Bedroom



APPENDIX 4: PLANS



Proposed Ground Floor Plans



Proposed First Floor Plans

This page has been left intentionally blank