

Report of the Corporate Director of Planning & Community Services

Address 128 THE CHIMES SHOPPING CENTRE HIGH STREET UXBRIDGE

Development: Variation of Condition 3 of planning permission ref. 55479/APP/2009/2008 (Change of use of part lower mall and cinema level floors from Class A1 (Shops) to a mixed A1/D1(retail/non-residential institutions) and associated internal alterations) dated 24/12/2009, to allow undertenants and lawful occupiers authorised by Boots UK Limited to occupy the premises.

LBH Ref Nos: 55479/APP/2010/149

Drawing Nos: 010
Location Plan - Ground Floor Level
011 A
Location Plan - Cinema Level
0132/101

Date Plans Received: 25/01/2010 **Date(s) of Amendment(s):**
Date Application Valid: 03/02/2010

1. SUMMARY

The application site is within the primary shopping area of Uxbridge Town Centre, and the application seeks to vary condition 3 of the existing planning permission (55479/APP/2009/2008), which related to 'the change of use of the unit from A1 (retail) use to a mixed A1/D1 (retail/non-residential institutions)'. This condition was a personal permission and limited the approved mixed use to Boots UK Ltd. As such, the proposed use has already been established by this previous permission. The current application seeks to widen the scope of this personal condition to include Boots UK Ltd or a Boots Group Company (which shall include use by the undertenants and lawful occupiers authorised by Boots UK LTD). It is considered, to include these additional subsidiary groups, would still comply with the intentions of the original condition, and as such, the revised condition would still safeguard the use of this primary shopping site and therefore the wider shopping area, by maintaining the control on this ancillary D1 use to the site.

The application is recommended for approval.

2. RECOMMENDATION

That subject to no objections being received raising materially new planning issues over and above those considered in this report, delegated powers be given to the Corporate Director of Planning and Community Services, following the expiry of the consultation period on 10th March 2010, to approve the application subject to the following conditions:

1 T8 **Time Limit - full planning application 3 years**

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

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 OM1 Development in accordance with Approved Plans

The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the Local Planning Authority.

REASON

To ensure that no occupier independent of the main user becomes established on the site and to comply with Policy 3D.3 of the London Plan (2008).

3 OM8 Personal Permission

The D1 use hereby permitted shall be carried out only by Boots UK LTD (CRN 928555) or a Boots Group Company (including use by the undertenants and lawful occupiers authorised by Boots UK Ltd).

REASON

The proposed use is contrary to the Council's planning policies but the particular circumstances of the applicant warrant an exception being made in compliance with policies S6 and S11 of the adopted Unitary Development Plan Saved Policies 2007.

4 NONSC solely as a mixed A1/D1

The premises shall be used solely as a mixed A1/D1 use and at no time shall become a D1 use only.

REASON

The ensure that the use is carried out and maintained as approved in the interest of safeguarding the amenities of the existing Primary Shopping Area of Uxbridge Town Centre in compliance with Policies S6 and S11 of the adopted Unitary Development Plan Saved Policies 2007.

5 MCD16 Restriction to Use Applied For

Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any orders revoking and re-enacting either of these orders with or without modification), the land and/or building(s) shall be used only for the purpose of an ancillary Welling/Consultation Centre in association with the main A1 use of the unit and for no other purpose including any other purpose within Use Class D1 of the Town and Country Planning Use Classes Order 1987

REASON

To enable the Local Planning Authority to retain control over the use so as to ensure that it complies with policies S6 and S11 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

INFORMATIVES

1 152 Compulsory Informative (1)

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

property) and Article 14 (prohibition of discrimination).

2 I53 Compulsory Informative (2)

The decision to GRANT planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance.

BE1	Development within archaeological priority areas
BE4	New development within or on the fringes of conservation areas
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.

3. CONSIDERATIONS

3.1 Site and Locality

The application site is on the north side of the High Street and comprises a ground and first floor modern commercial unit within the Chimes Shopping Centre. The site has a double frontage and can be accessed from both the High Street and from within the shopping centre. This area of the High Street is pedestrianised and falls within the Old Uxbridge and Windsor Street Conservation Area and the Primary Shopping Area of Uxbridge Town Centre as identified in the Hillingdon Unitary Development Plan (UDP) (Saved Policies September 2007).

3.2 Proposed Scheme

The application seeks to vary Condition 3 of planning permission ref. 55479/APP/2009/2008 (Change of use of part lower mall and cinema level floors from Class A1 (Shops) to a mixed A1/D1(retail/non-residential institutions) and associated internal alterations) dated 24/12/2009, to allow undertenants and lawful occupiers authorised by Boots UK Limited to occupy the premises.

No external alterations are proposed as part of this application.

3.3 Relevant Planning History

55479/APP/2000/1844 Boots The Chemist, 128 The Chimes High Street Uxbridge
INSTALLATION OF 5 GLAZED PANELS AND ALTERATION TO FENESTRATION DETAIL AT
THIRD FLOOR LEVEL

Decision: 14-09-2001 Approved

55479/APP/2000/1986 Boots The Chemist, 128 The Chimes High Street Uxbridge
USE OF PART OF THE LOWER MALL AND CINEMA LEVEL FLOORS FOR CLASS D1
(DENTAL CARE CENTRE AND CHIROPODISTS)

Decision: 17-05-2001 Approved

55479/APP/2005/431 Boots The Chemist, 128 The Chimes High Street Uxbridge
CHANGE OF USE OF PART OF LOWER MALL AND CINEMA FLOOR LEVEL, FROM CLASS
D1 (DENTAL CARE AND CHIROPODIST) TO CLASS A1 (RETAIL)

Decision: 05-04-2005 Approved

55479/APP/2009/2008 Boots The Chemist, 128 The Chimes High Street Uxbridge
Change of use of part lower mall and cinema level floors from Class A1 (Shops) to Class D1
(Non-Residential Institutions) and associated internal alterations.

Decision: 24-12-2009 Approved

Comment on Relevant Planning History

None

4. Planning Policies and Standards

Policy 3D.1 Supporting town centres
Policy 3D.2 Town centre development
Policy 3D.3 Maintaining and improving retail facilities

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

Part 2 Policies:

BE1	Development within archaeological priority areas
BE4	New development within or on the fringes of conservation areas
S6	Change of use of shops - safeguarding the amenities of shopping areas
S11	Service uses in Primary Shopping Areas
OE1	Protection of the character and amenities of surrounding properties and the local area
OE3	Buildings or uses likely to cause noise annoyance - mitigation measures
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

41 letters were sent to interested parties/neighbours and no responses have been received. The Old Uxbridge Conservation Panel was consulted and no response has been received

Internal Consultees

Conservation and Urban Design Officer - Permission is sought for the Variation of Condition 3 of planning permission ref. 55479/APP/2009/2008 dated 24/12/2009 to allow undertenants and lawful occupiers authorised by Boots UK Limited to occupy the premises (Change of use of part lower mall and cinema level floors from Class A1 (Shops) to Class D1 (Non-Residential Institutions) and associated internal alterations.

The proposal would have no impact on the street scene or the character of the conservation area, and would be, therefore, acceptable.

CONCLUSION - Acceptable

7. MAIN PLANNING ISSUES

7.01 The principle of the development

This application seeks to vary condition 3 of 55479/APP/2009/2008 dated 24/12/2009, to also allow undertenants and lawful occupiers authorised by Boots UK Limited to occupy the premises.

This previous permission gained approval for the 'change of use of part lower mall and cinema level floors from Class A1 (Shops) to a mixed A1/D1(retail/non-residential institutions) and associated internal alterations', as such the change of use has been established.

The London Plan (2008). Policy 3D.1, states boroughs should enhance access to goods and services, and strengthen the wider role of town centres, and policies should encourage retail, leisure and other related uses in town centres. In addition to this, policies should support a wide role for town centres as locations for leisure and cultural activities, as well as business and housing, and require the location of appropriate health, education and other public and community services in town centres. Policy 3D.2 comments that, UDP policies should relate the scale of retail, commercial and leisure development to the size and role of a centre and its catchment and encourage appropriate development on sites in town centres, and Policy 3D.3 states Boroughs should work with retailers and others to prevent the loss of retail facilities that provide essential convenience and specialist shopping and encourage mixed use development.

It is considered the variation of the condition to include undertenants of the Boots Group would wholly comply with the above advice, whilst still complying with the original intentions of the previous condition, applied to safeguard the Primary Shopping Area as whole.

7.02 Density of the proposed development

Not applicable to this application

7.03 Impact on archaeology/CAs/LBs or Areas of Special Character

The application site is within an Archaeological Priority Area, however there are no ground works proposed as part of this application and therefore the proposal would comply with Policy BE1 of the UDP (Saved Policies September 2007).

The application site is a modern unit within the Old Uxbridge and Windsor Street Conservation Area and is located within the commercial hub of Uxbridge. The

Conservation and Urban Design officer has commented that the scheme proposes to vary a condition only and as such, would have no impact on the street scene or the character of the conservation area, and therefore, would accord with Policy BE4 of the UDP (Saved Policies September 2007).

7.04 Airport safeguarding

Not applicable to this application

7.05 Impact on the green belt

Not applicable to this application

7.07 Impact on the character & appearance of the area

The application seeks to vary a personal condition applied to the previous planning consent (55479/APP/2009/2008). As such there are no external alterations and the existing frontage would be retained. Therefore the proposal would comply with Policy BE13 of the UDP (Saved Policies September 2007).

7.08 Impact on neighbours

Policy OE1 states permission will not be granted for uses which are likely to become detrimental to the character or amenities of surrounding properties and policy OE3 states buildings or uses which have the potential to cause noise annoyance will only be permitted if the impact can be mitigated. This application seeks to vary the personal condition applied to the previous permission, to widen the scope to include undertenants and group companies of the applicant. It is therefore considered that to vary this condition would not result in any additional noise and disturbance, over and above the current authorised use of the site. As such, the proposal is considered to accord with policies OE1 and OE3 of the UDP (Saved Policies September 2007).

7.09 Living conditions for future occupiers

Not applicable to this application

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The site is situated within the Chimes Shopping Centre and has a public car park on its upper levels. The site is within the town centre and has good public transport access. It is not considered that the variation of the personal condition attached to the previous approval would have any noticeable effect on highway or transportation issues. The proposal would therefore comply with the intentions of AM7 and AM14 of the UDP (Saved Policies September 2007).

7.11 Urban design, access and security

Not applicable to this application the application seeks to vary a condition and does not involve any alterations to the existing building or access arrangements.

7.12 Disabled access

Not applicable to this application

7.13 Provision of affordable & special needs housing

Not applicable to this application

7.14 Trees, landscaping and Ecology

Not applicable to this application

7.15 Sustainable waste management

Not applicable to this application

7.16 Renewable energy / Sustainability

Not applicable to this application

7.17 Flooding or Drainage Issues

Not applicable to this application

7.18 Noise or Air Quality Issues

Not applicable to this application

7.19 Comments on Public Consultations

None

7.20 Planning obligations

Not applicable to this application

7.21 Expediency of enforcement action

Not applicable to this application

7.22 Other Issues

Policy R10 of the UPD (Saved Policies September 2007) states new meeting halls, buildings for education, social, community and health services, etc, will be considered acceptable in principle subject to the other policies in the plan.

8. Observations of the Borough Solicitor

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

9. Observations of the Director of Finance

10. CONCLUSION

This application relates to the variation of a condition requiring the proposed use to be personal to that of Boots Ltd. As such the proposed change of use has been established by the previous approval. It is considered that the widening of the scope of this restrictive condition to include undertenants and lawful occupiers of Boots UK Ltd shall still comply with the intensions of this original condition and this amendment would not result in harm to the viability or vitality of the Primary Shopping Area, and therefore the proposal is

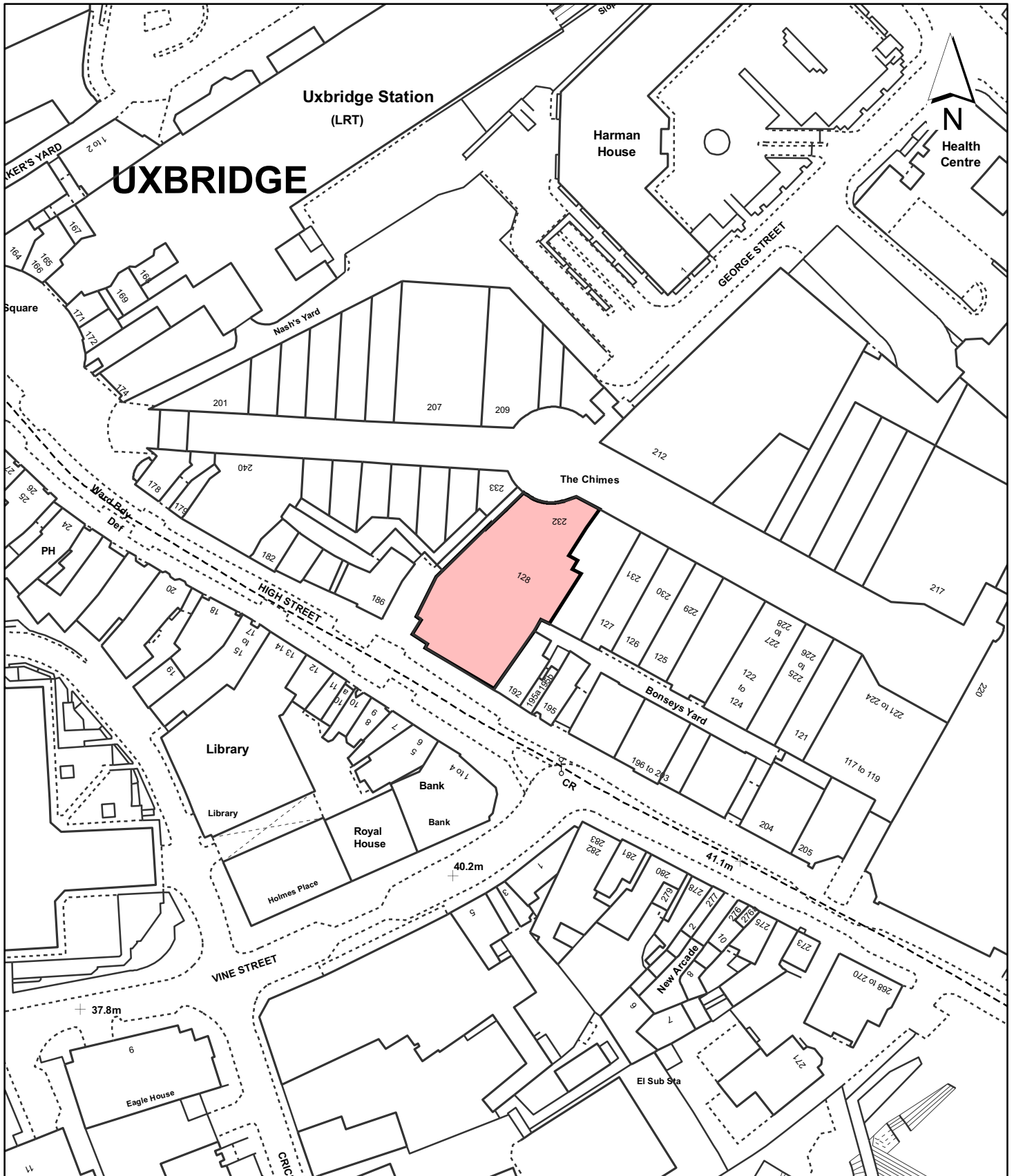
recommended for approval.

11. Reference Documents

Hillingdon Unitary Development Plan Saved Policies September 2007
The London Plan (2008)

Contact Officer: Catherine Hems

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Notes

 Site boundary

For identification purposes only.

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Site Address

**128 The Chimes Shopping Centre
High Street
Uxbridge**

**LONDON BOROUGH
OF HILLINGDON
Planning &
Community Services**

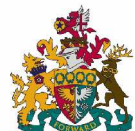
Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111

Planning Application Ref:
55479/APP/2010/149

Scale
1:1,250

Planning Committee
Central and South

Date
February 2010



HILLINGDON
LONDON