Report of the Head of Planning & Enforcement Services

Address NO.2 WORLD BUSINESS CENTRE, HEATHROW NEWALL ROAD HEATHROW AIRPORT

- **Development:** Change of use of 1,363 sq.m internal floorspace for a temporary period of 6 years from directly related airport office to general office (Use Class B1) to allow occupation by non-airport related users.
- LBH Ref Nos: 50498/APP/2010/2028

Drawing Nos: Red Line Site Location Plan Blue Line Site Location Plan WBC101AA WBC200AA WBC203AA Planning Statement Planning Report

Date Plans Received: 27/08/2010

Date(s) of Amendment(s):

Date Application Valid: 20/09/2010

1. SUMMARY

The application seeks the change of use of 1,362sq.m of internal floorspace to general office use (Use Class B1) at No.2 World Business Centre. The building was constructed under Part 18 of the General Permitted Development Order and therefore can only be utilised in connection with the provision of services and facilities at a relevant airport. It is considered that the application should be considered in this context of general services and facilities in connection with the airport rather than in terms of only office space.

The proposal would allow the use of the floorspace for general office use (Use Class B1) which would not be related to the operation of the airport and would become an attraction to visitors and occupiers in its own right and would therefore be contrary to Policy A4 of the Saved Policies UDP.

The proposal would result in an unsustainable pattern of development by introducing a main town centre use in an out of centre location and the applicant has failed to demonstrate that the proposed use could not be adequately accommodated in a sequentially preferable location. Accordingly, the proposal would be contrary to Policies EC10, EC14, EC15 and EC17 of PPS4.

The applicant has failed to demonstrate any material considerations which would outweigh the concerns and policy requirements referenced above and accordingly the application is recommended for refusal.

2. **RECOMMENDATION**

REFUSAL for the following reasons:

1 NON2 Contrary to UDP Policy A4

The applicant has failed to adequately demonstrate that there is sufficient land available to accommodate the office floorspace (non-airport related) within the airport boundary

and to provide a sequential assessment of sites that lie outside the designated airport boundary, where demand for additional office floorspace could be met. As such the proposal fails to demonstrate that the proposed office use would not prejudice airport related development within the airport boundary, now or in the future. As such, the proposed development would be contrary to Policy A4 of the Hillingdon Unitary Development Plan Saved Policies September 2007.

2 NON2 Contrary to PPS4

The proposal by way of introducing a main town centre use in an out of centre location would result in an unsustainable form of development and the applicant has failed to demonstrate that the use could not be accommodated in a sequentially preferable location. As such the proposal is contrary to the requirements of Policies EC10, EC14, EC15 and EC17 of Planning Policy Statement 4: Planning for Sustainable Economic Development.

INFORMATIVES

1 152 Compulsory Informative (1)

The decision to REFUSE 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).

2 153 Compulsory Informative (2)

The decision to REFUSE 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.

A4 New development directly related to Heathrow Airport

3

You are advised that the Local Planning Authority is concerned that the application contained insufficient clarity in relation to which areas of floorspace the application sought change of use for. Had the principal of the proposal not been contrary to policy in other respects additional information would have been required to ensure that the proposals were sufficiently clear, concise and enforceable.

3. CONSIDERATIONS

3.1 Site and Locality

The World Business Centre 2 (WBC2) comprises four-storey office building, located at Newall Road, Heathrow, which forms part of the World Business Centre development; a four-phased office building development intended to serve the directly related Heathrow Airport office market. The World Business Centre development, located within the airport boundary, comprises WBC1, WBC2, WBC3 and Phase 4. Phase 4 is currently a cleared site.

The WBC2 was subject to a consultation in 1997 under Part 18 of the Town & Country

Planning (General Permitted Development) Order 1995 (the GDPO), permitting 6,500m2 gross external floor space. Development erected under Part 18 only allows development which is to be utilised in connection with the provision of services and facilities at a relevant airport. The floorspace within the building cannot therefore be utilised for any purposes not related to the airport.

Ancillary car parking is provided adjacent to each World Business Centre building and on the south side of Newall Road totalling 170 spaces. The car parking is controlled via an estate management agreement.

WBC2 was constructed and owned by BAA, initially being fully let to BAA and its subsidiary companies. The building is constructed in a manner so as to allow individual occupation of each floor. The previous occupiers were BAA's World Duty Free operation, BAA (Retail) and BAA (Heathrow East Terminal Team) vacated the premises on 02/07/09, 30/08/09 and 12/11/09, respectively. The BAA World Duty Free operation is now located off-airport, whereas the other occupiers now reside in the Compass Centre which is on-airport. WBC2 which has a total floorspace of 4065 sq.m is currently fully vacant.

The neighbouring building WBC1, is currently occupied at ground and first floor by BAA, on the second floor by Scadanavian Arilines and planning permission 50498/APP/2010/1058 was approved on the 30/06/10 allowing occupation of the third floor by Barclays Bank.

WBC2 along with WBC1 were purchased from BAA, by Arora group companies in 2008.

The WBC1 neighbours the eastern boundary of the application site and the Heathrow Academy neighbours the western boundary. Newall Road is to the south of the site and Bath Road is to the north of the site. The WBC1 may be accessed by way of Bath Road or Newall Road, via the Northern Perimeter Road. The wider surrounds of the site include commercial/light industrial buildings, office development, and Hotels, all of which are associated with the airport.

WBC1, along with WBC2 and Phase 4, are owned by holding companies controlled by Arora Management Services Limited. WBC3 is in separate and unrelated private ownership.

3.2 **Proposed Scheme**

The application seeks the change of use of 1,362sq.m of internal floorspace to general office use (Use Class B1) at No.2 World Business Centre.

The location of the floorspace within the building is not identified as the applicant seeks flexibility to accommodate differing occupier requirements.

3.3 Relevant Planning History

50498/APP/2010/1058 No.1 World Business Centre, Heathrow Newall Road Heathrow Airpo

Part change of use of third floor from airport related office use to Class B1 office for use by Barclays Bank.

Decision: 29-06-2010 Approved

50498/APP/2010/572 No.1 World Business Centre, Heathrow Newall Road Heathrow Airpo

Use as Class B1 offices for airport related use (Application for a Lawful Development Certificate for a Proposed Use)

Decision: 13-05-2010 Withdrawn

Comment on Relevant Planning History

The most relevant planning history to this proposal include:

WBC1:

50498/APP/2010/1058 -Part change of use of third floor from airport related office use to Class B1 office for use by Barclays Bank - Approved 30-06-2010.

50498/APP/2010/572 - Use of half of third floor by Barclays Bank as Class B1 offices for airport related use (Application for a Lawful Development Certificate for a Proposed Use) - Withdrawn 13/05/2010.

50498/96/0063 - Erection of an airport related office building (Phase 1) (Consultation under Part 18 of the Town & Country Planning (General Permitted Development) Order 1995 - No Objection 07/08/1996.

Cardinal Point Personal Planning Permission:

30796D/83/1539 - Use of ground and first floor of west wing by Barclays Bank Plc as a branch bank in non-compliance with Condition 2 of planning permission ref: 30796/81/1192 dated 9 March 1982 at Cardinal Point, Newall Road, Heathrow Airport - Approved 20/12/1983.

30796/APP/2004/9 - Use of ground floor of west wing by Jobcentre Play as a recruitment centre, in non-compliance with Condition 2 (use of building is restricted for use to airport related businesses only) of planning permission reference 30796/81/1192 dated 9 March 1982 (Consultation under circular 18/84 procedure) - Approved 16/02/2004. In 2004 the Job Centre took over the ground floor of the west wing from Barclays (433m2).

4. Planning Policies and Standards

(a) The London Plan

(b) Planning Policy Statement 1: Delivering Sustainable Development

(c) Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1

- (d) Planning Policy Statement 4: Planning for Sustainable Economic Growth
- (e) Planning Policy Guidance 13: Transport

UDP / LDF Designation and London Plan

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

Part 1 Policies:

PT1.18 To maintain, enhance and promote town centres as the principle centres for shopping, employment and community and cultural activities in the Borough.

Part 2 Policies:

A4 New development directly related to Heathrow Airport

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- 25th October 2010

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

The application has been advertised in accordance with the Town and Country Planning Act and 11 neighbouring owner/occupiers directly notified.

No comments have been received.

Internal Consultees

POLICY Object.

The site is located within the airport boundary. Policy A4 states that 'development not directly related to the operation of the airport will not be permitted within its boundary.'

The proposal is not directly related to the operation of the airport and that it would therefore be contrary to policy A4.

In addition the proposal seeks a change of use of the floorspace to office (Use Class B1) which represents a main town centre use. The proposal would be located out of centre and would not comply with the requirements of PPS4.

HIGHWAYS

No objection raised and the following comments are made:

-General network peak hours do not coincide with the airport peak traffic times

-On street parking is prohibited in the vicnity of the site

-The site has a PTAL of 3. Provided there are footpath links from the Bath Road towards the site for those using buses there are no objections to the proposal on highways grounds.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The application seeks the change of use of 1,362sq.m of internal floorspace to general office use (Use Class B1) at No.2 World Business Centre. The building was constructed under Part 18 of the General Permitted Development Order and therefore can only be utilised in connection with the provision of services and facilities at a relevant airport. It is considered that the application should be considered in this context of general services and facilities in connection with the airport rather than in terms of only office space.

The applicant has provided a planning statement in support of the application, the appendix to which contains reports/statements for proposals at other airports, information pertaining to terminal 5 and availability of land at Heathrow, and a 2006 committee report relating to Hatton Cross Centre. A planning report prepared by Colliers Cre has also been submitted providing comment and information relating to marketing of the buildings and the vacancy of airport related offices.

The applicant has also submitted a recent report by Uttlesfield Council relating to a similar type of development at Stansted, while the contents of the report is noted it is not considered that the economic situation of policy context within another Planning Authority are directly relevant. Nor do officers agree with the assessment which this report contains in relation to national policy.

Policy A4 of the Saved Policies UDP states 'New development directly-related to Heathrow Airport should normally be within its boundary and will not normally be permitted outside the airport. Development not directly-related to the operation of the airport will not be permitted within its boundary. For the purposes of this policy, directly-related development includes passenger and cargo terminals, maintenance facilities, oil storage depots, administrative offices, warehousing, storage and distribution facilities, car parking and catering facilities.'

The subtext to this policy indicates at paragraph 11.17 that 'Because Heathrow Airport is a major attractor of business and employment, there are pressures for commercial development at or around the airport. The Local Planning Authority would be concerned if activities not directly related to the operation of the airport precluded opportunities at the airport for activities which are directly related to its operation and resulted in pressures for development on Green Belt and other off-airport sites to cater for directly related uses by restricting development for non-essential activities and ensuring that ancillary facilities are limited to those needed for airport users and do not become major attractions in their own right.'

The reasoning for the policy is therefore to both ensure adequate land is retained for airport related development and to prevent other types of development at the airport from attracting visitors which are not related to the airport.

In terms of the retention of adequate land the applicant's supporting document quotes the information in BAA's submission relating to condition A77 - Airport Related Development of the Terminal 5 planning permission (ref: 47853/APP/2002/1882 dated 27/01/2003). This condition requires that BAA submit various details in relation to land and accommodation within the airport boundary, including demand and supply of office space. The BAA submission was prepared for the purposes of identifying sites within the airport boundary that could be used for airport related development and for assessing the future demands for the six categories of use identified by the Inspector (Offices, Air Cargo Transit Sheds, Car Hire Facilities, Flight Catering, Freight Forwarding and Airport Industry & Warehousing) that could be generated by a five terminal Heathrow.

In the submission BAA state that this information is provided three months after the Government announcement supporting the additional capacity provision at Heathrow, together with changes to the existing operating procedures at the airport, such as the ending of the Cranford Agreement. Officers consider that the High Court decision to 'refuse' the Third Runway (additional capacity provision) places a greater burden on BAA and indeed the Local Planning Authority to ensure that on-airport land is not eroded to non-airport related uses.

The BAA submission provides details of sites at Heathrow identified as being available for airport related development and details of sites at Heathrow which were identified in the previous A80 submission in 2002 and have since been developed for airport related development. Details are provided of the area of each site and a commentary on existing land uses as well as an assessment of the land/floorspace effective capacity of each site based on standard ratios for potential site coverage for the specific land use identified.

The 2009 submission stated that in total, 20.5ha of land has been identified as being available for airport related development. This compares to 29.82ha identified in the previous A80 submission, and 34.2ha identified at the T5 Inquiry. Also, 1.46ha of land that was previously identified as being available for airport related development within the airport boundary is no longer within BAA ownership. Based on the above, it shows that over time land availability is being reduced, particularly where BAA have sold land off.

In respect of developments becoming attractions in their own right, the proposal would allow use of the floorspace for general office use not associated with the airport. As such, any visitors to or employees of the proposed office would be travelling for the sole purpose of the office which would form an attraction in its own right.

The proposal would allow the use of the floorspace for general office use (Use Class B1) which would not be related to the operation of the airport and would become an attraction to visitors and occupiers in its own right and would therefore be contrary to Policy A4 of the Saved Policies UDP and should be refused unless other material considerations would outweigh this concern.

In addition the proposal relates to economic development and the starting point for consideration of the various planning merits in this respect is the contents of national guidance in the form of PPS4 : Planning for Sustainable Economic Growth. The proposed office use is considered to be a main town centre use as set out in paragraph 7 of PPS4. It is further made clear under Policy EC14.2 that the only time at which town centre policies should not be considered with respect to office accommodation is where the office is to be ancillary to economic development outside of a centre, this would not be the outcome of the proposal and therefore the application needs to be considered in the context of being a proposal for a main town centre use located outside a centre.

The relevant PPS4 policies are therefore EC10, EC14, EC15 and EC17.

Policy EC14 indicates that a sequential assessment in accordance with Policy EC15 is required for planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan. Policy EC15 sets out the requirements of sequential assessment, with the crux of the policy being that the assessment should demonstrate that there are no in-centre locations which could accommodate the proposal, assessment of such options should take account of genuine difficulty which may be experienced in operating the proposed business model from an incentre location. This approach of preventing main town centre uses locating in out of centre locations seeks to comply with the governments wider objectives of ensuring sustainable development.

The applicants submitted planning statement accepts that the proposal could be considered a main town centre use which should be subject to a sequential test but contends that 'this is a unique case where the proposal is not for new built development but for the removal of a user restriction at an existing vacant office building at Heathrow Airport where development plan policies are tailored to the specific requirements of the airport'. This contention cannot be supported by the Local Planning Authority. The existing building was constructed under permitted development rights and can in effect be considered office space ancillary to the primary use of the airport. This is materially different to the general office use for which permission is sought as acknowledged by Policy EC14.12 of PPS4, indeed the proposal would enable the use of the building by occupiers who should ideally be located in-centre in order to achieve the governments objectives for sustainable economic development.

The application is not supported by any form of sequential assessment and the Local Planning Authority is aware of a significant proportion of in-centre office space which remains vacant in the current situation. Further, the application seeks general office space and there is no apparent reason that the majority of potential occupiers (active office requirements) could not reasonably locate within a sequentially preferable in-centre site. The proposal therefore fails to demonstrate compliance with the sequential test as set out within Policy EC15.

Policy EC10.2 of PPS4 seeks to ensure that in general proposals for economic development seek to secure sustainable economic growth stating:

'All planning applications for economic development should be assessed against the following considerations:

a. whether the proposal has been planned over the lifetime of the the development to limit carbon dioxide emissions and minimise vulnerability and provide resilience to, climate change

b. the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured

c. whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions

d. the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives

e. the impact on local employment'

In respect to part a. of this policy the proposal would enable occupation of the building for a use which should strategically be located within a Town Centre and result in an pattern of development which would not be sustainable, in particular it would not facilitate linked trips, reduce the need to travel or support the vitality and viability of town centres. It is acknowledged that it can be beneficial to bring vacant buildings back into active use in order to ensure efficient use of land and reduce the use of raw materials, however this minor benefit is not considered to outweigh the detrimental impacts of the developments inappropriate location.

In respect of parts d. and e. of the policy it is not considered that occupation of the proposed building for general office use would be materially different from the occupation of other vacant office development in terms of employment generation. Further, it is considered that the occupation of vacant office space within town centre locations would better facilitate economic regeneration than the occupation of the application site. Occupation of the application site, even on a temporary basis, potentially means that a commensurate amount of floorspace elsewhere remains vacant and accordingly would be detrimental to economic regeneration.

Policy EC17.1 of PPS4 indicated that planning applications for main town centre uses should be refused where they fail to demonstrate compliance with the sequential approach (policy EC15) or would lad to significant adverse impacts in terms of policy EC10.2. Accordingly, the proposal should be refused.

The applicant has put the application forward on the basis that:

(a) the building has been vacant for some time and there are high vacancy rates at other

office locations both on and off airport;

(b) demand for floorspace from directly related aviation users has declined significantly;(c) the user restriction applying to the building prevents it being effectively marketed to other office users:

(d) it is unsustainable to retain vacant modern office accommodation over the long-term; (e) there is no prospect of any future increase in demand for directly related aviation office floorspace; and

(f) a temporary permission ensures that the LPA has control over future use of the building and can also influence the erection of new office buildings within the airport.

The majority of the issues above have been discussed in detail within the main body of this section. It is additionally noted that while vacancy rates and marketing information can represent a material consideration this is not considered to outweigh the harm in terms of the other matters identified above, it is also noted that the marketing information submitted indicates that the site has only been marketed for airport related office purposes and that this does not demonstrate that the existing building or site could not be utilised for other airport related purposes or uses which should not be located within a town centre.

It is also noted that even on a short term basis occupation of the application site by an occupier would potentially mean office space elsewhere within the borough, particularly within town centres, would remain vacant and the increase in availability of office space at Heathrow (either under this proposal or in general) would be detrimental to economic generation elsewhere in the borough.

7.02 Density of the proposed development

Not applicable to this application.

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

- Not applicable to this application.
- 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

Not applicable to this application.

7.08 Impact on neighbours

Not applicable to this application.

7.09 Living conditions for future occupiers

Not applicable to this application.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

The application site is served by existing parking areas next to the World Business Centre complex and would not result in a material difference in traffic generation or parking requirements to those which would exist were the floorspace to be utilised by an airport related occupier.

Accordingly, the proposal is considered acceptable in terms of traffic impact and car parking.

7.11 Urban design, access and security

Not applicable to this application.

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 IssuesNot applicable to this application.

7.19 Comments on Public Consultations

7.20 Planning obligations

Not applicable to this application.

7.21 Expediency of enforcement action Not applicable.

7.22 Other Issues

CLARITY OF PROPOSALS AND ENFORCEABILITY

The proposal seeks the change of use of 1,363 sq.m of floorspace within WBC2, however specifically seeks that the change of uses is determined on floorspace to allow flexibility. While the objective of ensuring flexibility is noted there is concern that the application would provide no certainty of which floorspace or areas could be utilised for non-airport related occupation if permission were to be granted.

This would make it difficult to monitor which floorspace was or was not being utilised by certain occupiers and make if difficult to monitor compliance with the planning permission.

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

The application seeks the change of use of 1,362sq.m of internal floorspace to general office use (Use Class B1) at No.2 World Business Centre. The building was constructed under Part 18 of the General Permitted Development Order and therefore can only be utilised in connection with the provision of services and facilities at a relevant airport. It is considered that the application should be considered in this context of general services and facilities in connection with the airport rather than in terms of only office space.

The proposal would allow the use of the floorspace for general office use (Use Class B1) which would not be related to the operation of the airport and would become an attraction to visitors and occupiers in its own right and would therefore be contrary to Policy A4 of the Saved Policies UDP.

The proposal would result in an unsustainable pattern of development by introducing a main town centre use in an out of centre location and the applicant has failed to demonstrate that the proposed use could not be adequately accommodated in a sequentially preferrable location. Accordingly, the proposal would be contrary to Policies EC10, EC14, EC15 and EC17 of PPS4.

The applicant has failed to demonstrate any material considerations which would outweight the concerns and policy requirements referenced above and accordingly the application is recommended for refusal.

11. Reference Documents

(a) The London Plan

(b) Planning Policy Statement 1: Delivering Sustainable Development

(c) Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1

- (d) Planning Policy Statement 4: Planning for Sustainable Economic Growth
- (e) Planning Policy Guidance 13: Transport

Contact Officer: Adrien Waite

Telephone No: 01895 250230

