

## Report of the Head of Planning & Enforcement

**Address:** CHEQUERS SQUARE, UXBRIDGE

**Development:** The consolidation of 15 existing units within the Pavilions shopping centre to create a single, large format retail unit, including reconfiguration works at basement level, insertion of new mezzanine floor and associated works at roof level.

**LBH Ref Nos:** 35214/APP/2014/2232

**Drawing Nos:** N/A

**Date applications approved at Committee** Application heard at 29<sup>th</sup> October 2014 Majors Application Committee. Members resolved to approve the scheme subject to signing of the S106 Agreement.

**S106 Agreement** That the recommendation to allow the removal of Heads of Terms ii) Lift provision and iii) Entrance Design to be approved.

### 1.0 CONSULTATIONS

#### 1.1 Internal Consultees

<b>Planning Obligations Officer</b>	<p><b>The following Heads of Terms to be removed:</b></p> <p><b>ii) Secure enhanced access/additional lift provision to car park without access to Pavillions - to ensure access is not disrupted between shops and car park through introduction of store (e.g. phase 3 in the D&amp;A) - timescale for application and provision to be negotiated.</b></p> <p><b>iii) Secure application and implementation for entrance design (including provision of new canopy for this entrance and consistent external treatment of entrances to the shopping centre (e.g. phase 2 in the D&amp;A) - timescale for application and provision to be negotiated.</b></p> <p><b>Head of Term ii) required the applicant to provide a new external lift to the car park. At the time the application was originally heard at Committee, Officers were unsure whether adequate access could be maintained to the car park as a result of the development. The Council's Corporate Property Team also advised at the time that the new lift was required. However, upon drafting the S106 Heads of Terms in became apparent that, as a result of Head of Terms 'v) Link Walkways - Opening Times, Kept Clear etc', adequate</b></p>
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	<p><b>access would be maintained to the lift located within the proposed retail unit.</b></p> <p><b>In terms of Head Of Term iii) Entrance Design, the applicant's Design &amp; Access Statement showed outline sketches of a entrance canopy design to the Pavilions Shopping Centre, and Officers were keen to ensure that this came forward. Following objections from the applicant , Officer's reviewed CIL Regulation 122 and are of the view that the Head of Terms does not meet the three tests set out within it and cannot therefore be sought.</b></p> <p><b>No objections raised.</b></p>
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## **2.0 RECOMMENDATION**

**That the request for Heads Of Terms ii and iii to be removed be approved.**

## **3.0 KEY PLANNING ISSUES**

- 3.1 Please refer to S10 Officer Comments above.
- 3.2 The Council's S106 Officer reviewed the proposal and raises no objection.
- 3.3 Approval is recommended.

## **OBSERVATIONS OF 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'.

## **OBSERVATIONS OF THE DIRECTOR OF FINANCE**

The report indicates that the costs of the development will be fully met by the developer, and the developer will make a Section 106 contribution to the Council towards associated public facilities. The developer will also meet the reasonable costs of the Council in the preparation of the Section 106 agreement and any abortive work as a result of the agreement not being completed. Consequently, there are no financial implications for this Planning Committee or the Council.

## **Reference Documents**

None.

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