

**9-42 The Broadway (Arcadia), Ealing**

in the London Borough of Ealing

planning application no. P/2015/3479

**Strategic planning application stage II referral**

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

**The proposal**

Since stage 1 proposal has been subject to a resubmission set out below are descriptions of the original and the amended scheme.

The original application (D&P/1668a)

Redevelopment and demolition of existing buildings (9-42 The Broadway and 1-4 Haven Place) within the Ealing town centre conservation area and construction of 8 new buildings (ranging from 2 storeys to 18 storeys) to provide 191 residential units (Use Class C3), 6,667 sq.m. flexible retail floorspace (Use Class A1/A3), 784 sq.m. flexible retail / leisure floorspace (Use Class A1/A3/D1/D2), 514 sq.m. bar / nightclub (Use Class A4 / Sui Generis) with basement car parking, new publically accessible route, associated public realm and landscaping, residential vehicular access off The Broadway and primary servicing off Springbridge Road via existing servicing route for 1-8 The Broadway and associated works.

Revised application (D&P/1668b)

Redevelopment and demolition of 9-42 The Broadway and 1-4 Haven Place (retaining No.9 and the front facades of No.14 and No.15 & 16 The Broadway) and erection of 8 new buildings (ranging from 2 storeys to 18 storeys) to provide 188 residential units (Use Class C3), 6,667 sq.m. flexible retail floorspace (Use Class A1/A3), 784 sq.m. flexible retail/leisure floorspace (Use Class A1/A3/D1/D2), 514 sq.m. bar/nightclub (Use Class A4/Sui Generis) with basement car parking, new publically accessible route, associated public realm and landscaping, residential vehicular access off The Broadway and primary servicing off Springbridge Road via existing servicing route for 1-8 The Broadway and associated works.

**The applicant**

The applicant is **BE Broadway BV**, the architect is **Allies and Morrison** and the agent is **DP9 Ltd**.

**Strategic issues**

Strategic issues have been resolved in relation to **town centres, housing mix, affordable housing, density, children and young person's play, historic environment/urban design, inclusive access, energy, ambient noise and transport**.

## **The Council's decision**

In this instance Ealing Council has resolved to grant permission.

## **Recommendation**

That Ealing Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal or direct that he is to be the local planning authority.

## **Context**

1 On 17 September 2015 the Mayor of London received documents from Ealing Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. This was referred to the Mayor under Category 1A and 1C of the Schedule to the Order 2008:

- *1A: Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.*
- *1c: Development which comprises or includes the erection of a building of one or more of the following descriptions: (c) the building is more than 30 metres high and is outside the City of London.*

2 On 27 October 2015 the Mayor considered planning report D&P/1668a/01, and subsequently advised Ealing Council that the application did not comply with the London Plan, for the reasons set out in paragraph 76 of the above-mentioned report; but that the possible remedies set out in that paragraph could address these deficiencies.

3 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. Since then, the application has been revised in response to the Mayor's concerns (see below). On 24 February 2016 Ealing Council decided that it was minded to grant planning permission and on 8 March 2016 it advised the Mayor of this decision. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged, direct Ealing Council under Article 6 to refuse the application or issue a direction to Ealing Council under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application and any connected application. The Mayor has until 21 March 2016 to notify the Council of his decision and to issue any direction.

4 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 has been taken into account in the consideration of this case.

5 The decision on this case, and the reasons will be made available on the GLA's website [www.london.gov.uk](http://www.london.gov.uk).

## Update

### Original and revised applications

6 Following stage 1 the issues raised in relation to the loss of historic buildings resulted in the applicant revising its application.

7 At the consultation stage of the original submission Ealing Council was advised that while the application is generally acceptable in strategic planning terms the application does not comply with the London Plan, for the reasons set out in paragraph 76 of this report; but that the possible remedies set out in that paragraph could address these deficiencies:

- **Housing mix:** The development includes provision of 191 residential units with 43% studio or 1 bed units. Since the pre-application stage the applicant has adjusted the housing mix reducing the percentage of studio units and this is welcome. Although it is accepted the site is in a town centre location, the proportion 3 bed units is still too low and should be increased.
- **Affordable housing:** The applicant's initial affordable housing offer of 30% discounted market rent is not compliant with London Plan policy 3.11 and the applicant should contribute to the policy aim of a diverse housing sector. The applicant should respond positively to policy 3.11 target that 60% affordable and affordable rent and 40% for intermediate rent or sale.

The applicant's affordable housing viability appraisal should demonstrate why no affordable rented homes are accommodated on site and why a broader range of affordable housing needs cannot be met on site, including affordable rent.

The applicant affordable housing viability assessment should be independently reviewed on behalf of Ealing Council before the offer is accepted and GLA officers should be provided with a copy of the viability assessment review document.

- **Density:** Although a scheme of the proposed density could be acceptable, the applicant should address concerns relating to heritage and design before a development of the proposed density can be supported.
- **Children and young person's play:** The applicant has identified locations for playspace within the podium level courtyards and proposes a natural play garden in courtyard 2 which is welcome. Clarification should however be given the space requirements are met for each age group 0-5, 5-11 and 11-15, due to apparent lack of provision and practicality of available amenity areas for the 11-15 age group the applicant should provide funding for improving off-site facilities at Haven Green.
- **Historic environment/urban design:** The clean slate redevelopment of the site is not supported due to the loss of historic buildings of merit and impact on the surrounding conservation areas.
- The proposed overall massing strategy with the height increasing and stepping back from the Broadway frontage with an 18 storey residential tower is supported.
- **Energy:** The carbon dioxide savings fall short of the target within Policy 5.2 of the London Plan. The applicant should consider the scope for additional carbon savings through CHP and PV as discussed above. Should it be demonstrated that there is little

further potential for carbon dioxide reductions onsite, in liaison with the borough the developer should ensure the short fall in carbon dioxide reductions is met off-site. The applicant should also provide further information on how the carbon savings through the lighting strategy will be achieved in practice.

- **Noise:** The applicant has completed a noise and vibration surveys and mitigation measures have been adopted and this is welcome.
- **Transport:** TfL supports the principle of the application and in particular its improvements to permeability and connectivity for pedestrians and cyclists. However, it considers there is a lack of supporting/explanatory information on the access arrangements which should be addressed through a Road Safety Audit prior to approval of access details, plus the Travel Plan requires minor revision. The distribution of visitor cycle parking needs to be revisited. TfL will be seeking a contribution towards Legible London signage.

8 In assessing how the issues have been resolved GLA officers have made reference to the revised submission and the changes to the scheme in terms of the changes to the design and the slight adjustment in the number of residential units.

## Housing mix

9 At stage 1 the development included provision of 191 residential units and this has subsequently been reduced to 188 in the revised application. The applicant has also adjusted the housing mix to reduce the percentage of studio and 1 bedroom units and this is welcome. It is also noted that a high proportion of the 2 bedroom units would be suitable for 4 persons and given the site location and the steer from the borough on the housing mix this aspect of the application is compliant with the London Plan.

## Affordable housing

10 At stage 1 the applicant's initial affordable housing offer was viewed as not being compliant with the London Plan policy 3.11 and the applicant and applicant was requested to contribute to the policy aim of a diverse housing sector and should respond positively to policy 3.11 target that 60% affordable and affordable rent and 40% for intermediate rent or sale. Priority within this affordable provision should be affordable family housing.

Table 1: Revised scheme affordable housing mix

Studio	1 bed	2 bed	Total
7	26	23	51
12%	46%	42%	100%

11 The revised proposal would provide a minimum of 51 affordable housing units comprising (28%) of units and 18% of all habitable rooms within the development. All units would be Discount Market Rent (DMR) Intermediate Housing for a fixed term of 25 years for people in Ealing who are not able to afford the market rents in this central Ealing location. The proposed rents would be evenly distributed across a range of household incomes from £31,000 to £71,000 pa with a range of discounts within the GLA's affordability criteria (see table 2)

Table 2: Discount Market Rent (DMR)

Income band	% of Units	GLA income thresholds	% GLA income thresholds
£35K pa	20%	£71K pa	49%
£45K pa	20%	£71K pa	63%
£55K pa	20%	£71K pa	77%
£65K pa	20%	£71K pa	92%
£71K pa	20%	£71K pa	100%

12 The scheme is offering a lower % of larger properties than recommended in the London Plan, but it is accepted that the larger proportion of smaller properties would be more affordable in this central, town centre location and this tenure mix is supported. The Applicant has also put forward a number of points which are considered to support the DMR offer and these are as follows:

- The proposed rent levels would equate to between 40% and 80% of the local market rent depending on the income band and unit type.
- A high % of smaller units allows homes to be offered to households on lower household incomes.
- DMR avoids the need for deposits/mortgage so ensures greater affordability.
- It is proposed to offer `Assured Short Hold Tenancies` with the option for up to 5 year tenancies.
- The applicant proposes to manage/let units with priority to Ealing residents.

13 Ealing Council have, as requested at stage 1, had the applicant's affordable housing viability report independently reviewed and this assessment concludes that the scheme cannot support the provision of 50% affordable housing, and that the 28% provision proposed would be the maximum viable. The Council has also proposed to include an affordable housing and review mechanism and other relevant clauses would be secured in the proposed S. 106 agreement. The provision of a time limited discounted rent product aimed at Ealing residents on a range of incomes is welcomed, in the context of challenging viability. This aspect of the application is compliant with the London Plan.

## Children & young person's play

14 The applicant has identified locations for playspace within the podium level courtyards and proposes a natural play garden in courtyard 2 which is welcome. The applicant has agreed an appropriate financial contribution to improve Haven Green and other local open space in the vicinity of the site and this aspect of the application is compliant with the London Plan.

## Heritage & urban design

15 As stated at stage 1 the wholesale demolition of a large site within a conservation area is always controversial particularly one that contains some buildings of townscape merit that make a positive contribution to the character of the conservation area as in this case. Most of the existing buildings on the site exert a neutral or negative impact (described in Ealing Council's Conservation Area appraisal as 'mediocre').

16 As required at stage 1 the revised design has focused on the retention of historic buildings of local interest at Nos. 9, 14 and 15-16 The Broadway. This is welcome as the development now

responds to the immediate sensitive setting of the historic buildings diagonally opposite in the parade of locally listed buildings on The Mall and the Grade II listed National Westminster Bank. It has also responded to concerns raised in relation to the impact of the building massing on the outstanding Grade II\* listed Church of Christ the Saviour.

17 In the revised scheme the frontage to the development facing The Broadway has been modified with the retention of four key positive contributors to this part of the conservation area, No.9 The Broadway, is retained in its entirety and the facades of two further historic buildings (No. 14 and Nos. 15-16) will be integrated into The Broadway frontage elevation providing an entrance to The Place mews shopping street and provide shop frontages to new retail units. The retention of these elements of the historic townscape and their incorporation within the overall new-build redevelopment results in a variation of building height and form of the historic street whilst ensuring the proposals now contribute positively to the conservation area.

18 The proposed four storey frontage buildings facing the Broadway now respect the general scale, height, verticality and massing of the established Victorian and Edwardian streetscape of the Ealing Town Centre Conservation Area and act as an effective foil to the taller buildings set back behind. The red brick and stone palette of materials echoes that of many of the turn-of-the late 19th/early 20th century heritage assets in the vicinity. The reduction in height of Building 4A next to the retained buildings is a welcome revision as this reveals the spire of the Grade II\* listed Church of Christ the Saviour when viewed down The Broadway. The proposed elevations are of good quality and well-articulated with recessed elements and the revisions to the façade details in introducing greater variety of brick hues is also an improvement on the previous submitted scheme.

19 The demolition of most of the other buildings on the site which are mostly unexceptional is supported as this allows for an integrated piece of the town centre to emerge in the development proposals. As previously stated at stage 1 the masterplan design based on the introduction of the new thoroughfare Haven Place is welcomed as this is a great improvement on the existing right of way and should enhance the permeability of this quarter of the town centre whilst also contributing additional retail floorspace as active frontages to this route. A further benefit of this new route is it opens a new view of Grade II\* listed Church of Christ the Saviour.

20 The replacement of the corner building at No 35 is on balance acceptable as its retention would have locally identified benefits of allowing for a comprehensive improvement to the pedestrian public realm and landscaping where a currently narrow paving area exists, open the views to the station and allow for much needed road junction improvements. It is noted that Ealing Council's Ealing Broadway Interchange Study identified that the Broadway Station/Station Broadway/ The Mall pedestrian realm is in need of improvement because as one of the busiest pedestrian routes the pavements are very narrow and the pedestrian flows are expected to increase with the introduction of Crossrail services. The development proposals and the setting back of the existing building line on the corner currently occupied by No.35 will allow for the remodelling of junction signal layout, pedestrian crossing, widened footways and contra-flow cycle lane. Retaining the corner building would require the undercutting on the lower floors of the existing building which in turn will compromise the structure and its built form.

21 The replacement corner building steps down in height from the adjacent 9 storey block and is of good quality stone and brick with the façade it is influenced by the Edwardian architecture of surrounding buildings without being a pastiche. Since pre-application stage the height/massing and design of the adjacent taller 9 storey blocks facing east on the approach to the railway station have been amended with a set back of the 9 floor. Changes have also been made to improve the appearance of the building form by balancing the facade design of the entry building to Haven Place by increasing the brick frontage and pulling back the upper floor lantern. Whilst it is accepted the building is substantially taller than the immediately adjacent historic built form, some increase in density and therefore height would be expected in new developments adjacent to

railway/cross rail stations. It is taller than historic buildings such as the Grade II listed Nat West bank building on the corner of The Mall but in context of more recent retail developments in The Broadway Metropolitan shopping centre it is not out of scale with its wider context and it is appropriate that a buildings of scale mark the arrival point of the railway/Crossrail station. The proposed building as an addition to the townscape is of a good quality design providing retail ground floor frontage with a residential entrance to the street which activate the streetscape in an affective manner, with the added benefits of a much wider public footpath allowing for improvement to pedestrian movement on this side of the street.

22 At stage 1 the 18-storey tower was supported and it was noted that it is much lower than the previous much taller scheme. Although exerting some impact on Haven Green Conservation Area, the scheme is being brought forward in a location where Villiers House is already very prominent on the skyline and the proposed building has substantially less mass and bulk due to its slimmer built form. The tower is located adjacent to the railway line which provides a clear separation of the tower from public park land and it is situated at edge of the site reducing direct impact on The Broadway. Although it is considered to have some harm on the setting of the Haven Green Conservation Area this harm is less than substantial and is outweighed by public benefits of the scheme to Ealing metropolitan centre.

## **Sustainable energy**

23 Since stage 1 the applicant has increases carbon savings and provided the requested verification information to support its energy strategy and this aspect of the application is therefore compliant with London Plan Policy.

## **Transport**

24 At consultation Stage 1, the principle of redevelopment was supported, in particular the site's improvements towards better permeability and connectivity for cyclists and pedestrians. TfL however encouraged the applicant to reduce the number of parking spaces proposed in recognition of the excellent access to public transport and cycling infrastructure. While it is conceded that the proposed level is within London Plan standards, it is disappointing that no reduction in non-disabled spaces has been agreed by the applicant.

25 TfL also requested further clarification on the proposed new access to basement parking. The applicant allayed its safety concerns as part of the further analysis provided - including the requested safety audit - and update on the on-street contra-flow cycle lane scheme proposed by Ealing Council.

26 The applicant has improved the location and spread - hence the quality - of its proposed visitor cycle parking to TfL's satisfaction. The usual condition is to be applied to all cycle storage to ensure safe, covered, well-lit and with the additional TfL requirement that the facilities shall be retained in useable and workable condition, so as to be always available and attractive to use. Long-stay cycle parking is provided on site in accordance with London Plan standards and the staff shower and changing facilities are welcomed.

27 TfL's concern about securing proposed on-site servicing was addressed with a s106 obligation to provide this prior to first occupation of the development and to retain the service bay for the lifetime of the development. Revisions to the residential Travel Plan framework have been approved and a workplace plan conditioned. Similarly, a construction logistics plan and delivery and servicing plan are to be conditioned.

28 The inclusion of Legible London signposting as requested in the mitigations listed in the Heads of Terms is welcomed as well as the following s106 contributions, all payable to Ealing:

£403,000 towards transport and highways improvements and £1,000,000 for public realm improvements.

## **Response to consultation**

### **Public consultation**

29 Ealing Council consulted through site notices and press notices in the Acton Gazette. An consultation was unertaken for the original application and a re-consultation was undertaken in respect to the revisions to the application.

30 A total of 25 letters/e-mail representations were received (including 7 from the second round consultation). These are summarised as follows:

- Excessive height and scale and the impact of the building on surrounding buildings and Haven Green.
- Tall buildings impacts of overshadowing and wind.
- Over development of the site and cramming in too much development.
- Impact on the Conservation Area and heritage assets of building height scale and design.
- Transport and highways concerns in relation to vehicular access and impact on road and pedestrian movement.
- Impact on local services of additional units.
- Consultation was inadequate.
- A lack of an area specific plan in which the site can be developed; why has the Arcadia SPD not been adopted in advance of the scheme; the scheme is not compliant with the draft Arcadia SPD .

### Ealing BID (support)

31 A letter was received from Ealing Business Improvement District which supports the development proposals as the new floorspace would increase the vibrancy of Ealing.

### **Objections from local organisations**

32 A number of objections were received from local civic, conservation and heritage bodies these included: Ealing Civic Society, Save Ealing's Centre, Central Ealing Residents Association, Ealing Town Centre Conservation Area Advisory Panel, Haven Green Conservation Area Advisory Panel, Ealing Common/ Creffield Area Conservation Area Advisory Panel, Hanwell Village Green Conservation Area Resident's Association. These organisations raised a number s issues with the development proposals, the most prominent of which are as follows :

- Loss of some of the historic listed buildings/facades (heritage assets) along the north side of the Broadway
- Concern over height and bulk of perimeter buildings on Ealing Broadway and facing station
- Out of context - ignores existing character and quality of the earlier grain of the Conservation Area.



- Block 1b, replacing No. 35 (Carphone Warehouse) does not satisfactorily “turn” this highly visible corner especially when compared with the opposite corner
- Design of the upper storeys of blocks perimeter blocks is incongruous and out of keeping with the existing street scene;
- Bulk and width of the 18 storey block, which is too high and overbearing would have particularly adverse impact on Haven Green, Haven Green Conservation Area and other Conservation Areas.
- Architectural quality does not respond to setting
- Potential negative effects on proposed segregated cycle route /cycle hub at station and pedestrian and bus movements
- Insufficient emphasis on need for affordable, key worker and social housing
- Insufficient provision of Town centre uses.
- Change balance of uses from currently 93% retail to predominately housing scheme with 30% retail;
- Roofs - especially of the taller buildings, visible from a considerable distance, and will characterise the development.
- Over development - cramming.
- Featureless, rectilinear design unsympathetic to surrounding buildings -Oppressive massing.
- The scale of the new build elements would also be harmful to the setting of a number of listed buildings, in particular the listed church of Christ the Saviour,

## **Historic England**

33 Historic England strongly objected to the original proposed scheme finding the development form would cause substantial harm to the historic environment as a result of the proposals to demolish and entire urban block. For the revised scheme it maintains strong objections because the proposed modifications (retaining one building and two street facades) only go part of the way to responding to fundamental concerns. Other objections of Historic England are summarised as follows:

- 18 storey tower would dominate important public areas in the Conservation Area and will compete with and challenge the visual dominance of existing landmarks.
- New higher buildings behind frontage – step back are insufficient compared to Dickens Yard where this has been done effectively.
- 9 storey buildings (on east side opposite station) - view as unacceptable due to incongruous relationship to `low-rise` context and are overbearing and damaging to the character/appearance of Conservation Area and setting on listed buildings on other side of street.
- Harm to setting of nearby/ surrounding heritage assets - the scale and form of development fails to respond to the character of the CA and would have a significant impact on the setting of nearby designated heritage assets.
- Impact on setting of Grade II\* Church Christ the Saviour due to height, scale and massing of the proposals.
- Impact on setting of Grade II\* listed Nat West Bank (On north-west corner of The Mall) because size, bulk and elevation treatment of proposed new corner building.

- Impact on views from several neighbouring Conservation Areas (Montpelier Park, Manor Park, and Mount Park, Ealing Common and Ealing Green – including the setting of Walpole Park, a Grade II listed registered Park and Garden linked to the Grade I listed Pitzhanger Manor).
- Impact on Haven Green Conservation Area.

### **Letters to The Mayor/GLA officers**

34 At the time of writing a total of 25 letters have been received by the Mayor and GLA officers in relation to the 9-42 The Broadway application, some request the take over of the application. A summary of issues raised are as follows:

- Loss of historic/listed buildings and impact on conservation areas/ historic buildings.
- Height of 18 storey tower and impact on conservation areas.
- Over development of the site and too high density.
- Nine storey height of building facing the station.
- The incorporation of listed building facades is poorly done and half-hearted design solution.
- Request that the application should be called in by The Mayor.
- Design and architectural quality is poor.
- The design is out of keeping with the existing town centre character.

### **GLA response to consultation**

35 A number of objections have been raised in relation to the loss of listed and historic buildings. As already stated in the heritage and urban design section, the revised application was subject of a meeting between GLA officers, Ealing Council officers and the applicant. Following the concern raised at stage about the complete clearance of the site and the loss of heritage assets.

36 Redevelopment of the site in any economically viable form would impact on the existing buildings and the conservation area. The revised scheme does respond positively to concerns raised in relation to the loss of heritage assets identified at stage 1 with the integration of No.9 The Broadway in its entirety and the facades of No. 14 and Nos. 15-16 have been retained and integrated into The Broadway street elevation. A fourth building identified at no.35 has been lost and this has on balance been accepted given the benefits of improving the street corner footpath, the opening up of views to the station and improvements to the road junction. The remaining buildings were seen of limited value at stage 1 and the design layout of improving the site permeability through a new mews form lane (Haven Place) was supported.

37 The building height of the 18 storey tower raised no concern at stage 1 given town centre location adjacent to a railway station/ Crossrail station, an increase in height and density would be expected. The tower is located adjacent to the railway line at the rear of the site and not adjacent to The Broadway, it has the railway line separating it from Haven Green. It is further noted that Villiers House slab block already sits prominently on the skyline and can be seen in the conservation areas highlighted by Historic England and where local heritage bodies have raised

concern. It is officers opinion the building is not overbearing on any heritage assets due its location on the railway line edge

38 As raised at Stage 1 a number of concerns were raised in relation to the massing of the building frontage to The Broadway and its impact on views of Grade II\* Church Christ the Saviour – this also related to the aforementioned loss of historic buildings. In the revised scheme the massing has been adjusted by the reduction in height and setting back of the top floor of the proposed new building 4A adjacent to retained No.9 The Broadway. This has had the benefit of revealing the top part of the clockface and belfry together with the entire spire which does respond positively to concerns raised by GLA officers. The retained facade of no.14 now provides part of the entrance gateway to Haven Place (the developments internal shopping mews) and provides a strong entrance feature whilst retain part of the historic built form and offers variety to the street form.

39 The 9 storey east building on the east side of the development opposite the station has raised objections during consultation. Whilst it is accepted the building is taller than the surrounding historic built form, density and therefore height would be expected in new developments adjacent to existing railway/cross rail stations compared to historic building such as the Grade II listed Nat West bank building on the corner of The Mall from an earlier period. In terms of evolving townscape quality the design as already mentioned has benefits to the pedestrian of wider footpaths and the height and mass is equivalent to many other recent new mixed use retail/residential led developments in Ealing metropolitan centre. The building itself is of good design in that it has a strong and well defined active ground floor has traditional brick elevation treatment and a well-defined upper floors and read as individual elements on the street front.

40 After evaluating the design of the revised scheme consideration also needs to be given to the weight of the benefits of the new retail floorspace on maintaining the vitality and viability of Ealing town centre. The retail environment is very competitive and Ealing Metropolitan centre needs to compete with other centres (Westfield etc) where major retail schemes have come forward and also the challenges of competition of on-line retailing which has put further pressure on retail town centres resulting in a decline in floorspace. It is positive that Ealing Metropolitan centre can attract development of new retail floorspace in this highly competitive environment and for the vitality and viability of the town centre the new floorspace and retail floorspace is a welcome aspect of this development.

## Statutory consultation

41 Representations were also received from the following statutory organisations and bodies:

- **Environmental Agency:** no comment, standard condition included in respect to drainage.
- **Thames Water:** No comments received, standard condition included in respect to drainage and water supply.
- **Crossrail:** No objection

## Other Matters

42 Ealing Council Committee report and draft S106 secures the following:

*‘Contribution of £403,000 (four hundred and three thousand pounds) towards transport and highway infrastructure works delivered in accordance with a programme agreed between the parties including*

- a) *Improvements to pedestrian crossing outside Ealing Broadway Station and contra-flow cycle lane on Haven Green;*
- b) *Pedestrian safety improvements along The Broadway/ New Broadway, consisting kerb realignment, inset loading bays, raised junctions and wider pedestrian crossing and legible London signage;*
- c) *Contribution towards bus & rail interchange improvements at Haven Green; and*
- d) *Travel Plan Monitoring.'*

## **Article 7: Direction that the Mayor is to be the local planning authority**

43 Under Article 7 of the Order the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at stage 1, therefore there is no sound planning reason for the Mayor to take over this application.

### **Legal considerations**

44 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. He also has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application and any connected application. The Mayor may also leave the decision to the local authority. In directing refusal the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice. If the Mayor decides to direct that he is to be the local planning authority, he must have regard to the matters set out in Article 7(3) and set out his reasons in the direction.

### **Financial considerations**

45 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

46 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

47 Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for determining any reserved matters applications (unless he directs the council to do so) and determining any approval of details (unless the council agrees to do so).

## Conclusion

48 Having regard to the details of the application, the matters set out in Ealing Council's committee report, its draft decision notice and the draft heads of terms, the scheme is acceptable in strategic terms. Further information has been provided and conditions and planning obligations have been secured where appropriate which address the outstanding issues that were raised at Stage 1. On this basis, there are no sound reasons for the Mayor to intervene in this particular case.

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