



Appeal Decision

Inquiry held on 12, 13, 14 & 15 May 2009

Site visit made on 14 May 2009

by **Richard Thomas BA, Dip Arch, RIBA, IHBC**

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
11 June 2009

Appeal Ref: APP/M5450/A/08/2087875

Land off Neptune Road/Pinner Road, Harrow, HA1 4ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by London Underground and Parkridge Developments Ltd against the decision of the Council of the London Borough of Harrow.
- The application Ref.P/0596/08/CFU, dated 11 February 2008, was refused by notice dated 10 September 2008.
- The development proposed is described as: *Redevelopment of the site for a mix of uses including Sainsbury's food store, café/restaurant and residential apartments together with associated access, car parking and servicing. The application also involves the creation of landscaped roof gardens, improvement to the local highway network and significant public realm improvements.*

Preliminary Matters

1. Notwithstanding the appellants' description of the development, the Council amended it to a more precise form, which I shall adopt for the purposes of this decision.

Decision

2. I allow the appeal, and grant planning permission for the redevelopment of builders yard; nine storey building with basement comprising a ground floor café/restaurant (Class A3 use), 3,458sq.m2 second floor Sainsbury's food store (Class A1 use) with 220 retail parking spaces; 146 flats in four to six storeys above the retail use, 75 residential parking spaces, secure cycle parking (1 per dwelling and 51 for the retail use); retail parking off Pinner Road, residential and service access off Neptune Road, improvements to Pinner Road/Neptune Road junction and public realm improvements of pedestrian underpass on land off Neptune Road/Pinner Road, Harrow, HA1 4ES in accordance with the terms of the application, Ref.P/0596/08/CFU, dated 11 February 2008, and the plans submitted with it, subject to the conditions set out below in the Schedule of Conditions.

Main issues

- The impact of the proposed development upon the character and quality of the surrounding area.
 - Whether the proposed development would provide acceptable standard of residential amenity for its future occupiers.
 - The impact of the proposed development upon traffic flows in the surrounding area.
-

Reasons

Character and Quality

The Site

3. The appeal site is located in a prominent position on the western edge of the Harrow Metropolitan Centre in an area of mixed commercial/residential character. It is currently occupied by a builders' merchant and a vacant timber yard. The site presently contains a range of warehouse/industrial type buildings which are acknowledged to make no positive contribution to the character of the street scene.
4. The site is bounded to the south by railway tracks used by the London Underground Metropolitan Line and Chiltern Mainline trains, while the 2-3 storey Quality Hotel lies to the north on the opposite side of Pinner Road. Adjacent to the western boundary of the site is an existing 4 storey office building at 21-27 Pinner Road and, to its rear, warehouse buildings accessed via Neptune Road. To the east across the Pinner Road/Bessborough Road roundabout lies the 6/7 storey high Aspect Gate building, the 9 storey Roxborough Heights building and the partly constructed 10 storey Bradstowe House building.
5. The site is within 430m of Harrow Bus Station and Harrow-on-the-Hill train and underground station and consequently the site has a high PTAL rating of 5/6. While I note that this accessibility designation does not take account of any intervening steps or road crossings, I saw that there were no significant obstacles to pedestrian access to these facilities, to the primary town centre shopping and services or to the extensive Harrow Recreation Ground to the north of the site.
6. It is common ground that the context for the application site is one of an edge of town centre location, in an area of mixed land use character with large scale commercial uses to the east and smaller scale residential, office and industrial uses to the north and west. The railway separates residential development to the south and the nearest residential properties are some 50m from the application site.
7. It is also agreed that the application site currently sits at a main approach to the town centre from the west and that the storage yards and unattractive buildings currently on the site form a poor first impression for visitors to Harrow Town Centre. They also fail to provide any frontage to surrounding streets or surveillance of pedestrian routes, while the site and surrounding area, particularly the underpass, create an uninspiring and unwelcoming approach to the town from the west.
8. The Council acknowledges that the site currently detracts from the appearance and safety of the area, and that the redevelopment of the site therefore represents a significant opportunity to improve its contribution to Harrow and to the street scene immediately surrounding the site. It agrees that the opportunity exists to create a development with its own distinct character and sense of place, compatible with the different scale and character of the adjoining uses to the west, north and east. In particular it is agreed that development of this prominent corner will enable the re-creation of a street

frontage and revitalise the existing underpass area, improving the connection between the site and the Harrow Metropolitan Centre.

9. The principle of accommodating 147 housing units on the site is established, with it forming the second largest source of housing in the Council's 2007-2008 Annual Monitoring Review. Similarly, a high quality supermarket is seen as a key element in the regeneration of Harrow as a metropolitan retail centre, and the site lies within the area identified for the expansion of Harrow town centre in both the Harrow Central Growth Corridor and the Public Transport Growth Focus Options in the emerging Core Strategy¹.

The Context

10. There is no dispute between the parties that good design lies at the core of national planning policy guidance. Planning Policy Statement 1 *Delivering Sustainable Development* (PPS1) advises at paragraph 43 that design which is inappropriate in its context, or fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. It also encourages the efficient use of land and the use of higher densities, although not at the expense of good design. This is clearly stated in paragraph 48 of Planning Policy Statement 3 Housing (PPS3), which states: *Good design is fundamental to using land efficiently. Local planning authorities should facilitate good design by identifying the distinctive features that define the character of the local area.*
11. *By Design*² identifies the analysis and understanding of the character of an area as an essential prelude to the design of any proposed development. The appellants have carried out such an analysis³ and identified five distinct character areas in the immediate surroundings of the appeal site, a conclusion with which the Council concurs. The fact that these areas effectively meet along the short length of Bessborough Road between the Pinner Road and Lowlands Road roundabouts is indicative of the complexity of the urban design challenge facing the designers of any development on the appeal site.
12. The appellants have assessed the relationship between the appeal site and each of the character areas and concluded that each had only a minor relationship with the appeal site, with the exception of the Town Centre Character Area B which had a moderate relationship. On the basis of the evidence I heard and from what I saw during my site inspection, I concur with that assessment. While it is actually located within Character Area A, I saw that the appeal site is not readily apparent from within the area itself, having only a short length of street frontage to Pinner Road being readily visible to public view. Although the upper parts of the existing buildings can be glimpsed from other locations, the site is more noticeable by its lack of visual presence within the street scene, appearing more as a void in the otherwise built up areas that surround the town centre.
13. Because of the appeal site's location alongside the open space created by the ring road gyratory system and the absence of substantial buildings behind it, any new building more than 3 or 4 storeys in height would be visible in views from each of the surrounding character areas. It would also be viewed in

¹ *Core Strategy Draft Preferred Options – Public Consultation* Harrow Council 2008

² *By Design – Urban Design in the planning System; towards better practice* CABE 2000

³ Figures 2 & 3 of Andrew Williams' Urban Design Proof of Evidence

conjunction with Aspect Gate, Roxborough Heights and Bradstowe House, as these tall buildings are predominant in general views of the area surrounding the western end of the town centre, as illustrated in a range of photographs submitted in evidence. In addition to the strong high level visual links with the town centre, the ground level approach via the underpass creates both visual and functional linkage to the Town Centre Character Area B.

14. Consequently, while the appeal site is physically located within Character Area A, it would have a more meaningful visual and functional linkage with the town centre. In my view, because of the substantial scale and close proximity of the existing town centre buildings, the proposed development would either have to be of sufficient scale and mass to compete with and to complement them so as not to appear incongruous, or else be of such a diminutive scale as to be insignificant in the streetscene and thus make little or no positive contribution to it.
15. Since such a modest proposal would neither meet the appellants' nor Council's aspirations for the site, nor make efficient use of land, I consider that the appellants' design approach is more appropriate, inasmuch as the proposed development primarily addresses the scale of the neighbouring town centre character area, whilst also having due regard to its more immediate surroundings.

The Design

16. The proposals are for the redevelopment of the site for a mix of uses including a food store, a café/restaurant and residential apartments, together with segregated parking for the commercial and residential uses. The Council accepts that the proposed development would make full and effective use of previously used site in a highly sustainable location, in accordance with the general objectives of policy S1.
17. However, the appeal site is relatively compact and the proposed food store, if constructed at ground floor level alone, would occupy most of the site area. Consequently, given the impracticality of operating a multi-storey food store, I see little scope for siting the store away from the surrounding roads and towards the railway boundary, as suggested by CABE⁴. Because of the extent of its site coverage, the proposed development necessarily has to address the road frontage along its northern edge.
18. Given the lack of visibility of the existing site, the proposed location of the food store at the level of the adjoining elevated roadway would ensure that it is readily visible to passers-by and add interest to the car-dominated street scene. Also, as a result of its raised location it could make a significant positive contribution to the character and visual interest of the proposed development itself, with the fully glazed façade allowing views of the lighting and activity within the store.
19. For reasons of traffic noise, daylight and outlook, any residential accommodation would be better sited as high as possible above the level of the surrounding road system. The proposal to place the proposed flats above the food store would meet this objective, allowing its large roof area can be utilised

⁴ CABE letter dated 3 October 2007

to form a landscaped open amenity space for the occupiers of the flats. The proposed arrangement of flats above an elevated food store also leaves space beneath for two storeys and a basement dedicated to car parking, while the principal elevation to Pinner Road would have a large glazed façade at street level in front of a café/restaurant and entrances to the store and flats above. This would ensure an active street frontage at pavement level, bringing people and activity to the pedestrian underpass beneath the roundabout.

20. Inevitably, the disposition of large elements of widely differing functions and structural requirements one above another would result in a layered structure with a distinct horizontal architectural character. The design of the proposed elevations expresses this functional differentiation, since their articulation is also governed by practical needs. The glazed restaurant area would hide the car parking behind and provide an active frontage at pavement level, so as to bring vitality and interest to the pedestrian underpass area and to act as a focus for view along Junction Road.
21. The supermarket is intended to be the focal point of views at the level of the roundabout, while the 9 storey tower element would act as a suitable foil to the height and mass of Aspect Gate, Roxborough Heights and Bradstowe House opposite. The elevations of the flats would be given a strong vertical emphasis by the enclosure of the balconies, which would create a strong vertical rhythm, especially in oblique views when they would be seen in conjunction with the glazed stair towers at each end of the principal Pinner Road elevation.

The visual impact of the proposed development

22. Policy D31 seeks to protect important local views, panoramas and prospects, including views of Harrow Hill and Harrow Weald Ridge, which are key features within the area. It also identifies a number of specific views, of which that from the entrance to Harrow Recreation Ground from Cunningham Park is one. I saw that the proposed development would be visible from this location, but would be situated below the skyline of Harrow Hill. As one walks down through the Recreation Ground, the proposed development would become more prominent from open areas, although obscured to a significant degree by the existing trees when in leaf. I also noted that the separation between the proposed development and Aspect Gate, Roxborough Heights and Bradstowe House would leave a distinct gap which would frame views of the top of Harrow Hill and the church spire from the cricket pitch behind Pinner Road. While I accept that the proposed development would change each of these views to a varying extent, I consider that it would not intrude upon or detract from them to an unacceptable degree, and thus would conform to policy D31.
23. The proposed development would have a significant bulk and mass but, for the reasons given above, I consider that the scale of the building would be an appropriate response to its location in both functional and urban design terms. I saw that in views from the west along Pinner Road, Bradstowe House begins to close the long vista as one approaches the appeal site. The proposed development would not become prominent in one's view until one draws near to the 4 storey NHS building, at which point the proposed new building would appear to step up to match those on the opposite side of the gyratory system. In other views, such as from the south and from the east along Greenhill Way, the height and scale of the proposed building would be appropriate in the context of the existing buildings that frame these views.

24. The proposed development is described by the Council as having a 'fortress like' appearance and much of its evidence criticised the visual separation of its various functional elements in the elevational treatment. This view was based upon the comments made in CABE's initial consultation letter and reiterated in the second one⁵.
25. The initial CABE letter was based upon sight of a briefing pack containing a range of illustrations that indicated the general architectural treatment. I heard that CABE's comments, together with those made by the Council's Pre-Application Team were taken into account by the architect when amending the scheme to address these concerns as far as possible. The resultant final proposals satisfied both the Council and the Greater London Authority (GLA)⁶. It was recommended for approval by the officers and, prior to consideration by members, CABE was requested to re-consider its objections to the proposal in the light of a detailed response to its criticisms from the Council's Major Team Planner⁷. CABE did not respond to this request.
26. I consider that the maintenance of the separation between the functional elements and the resultant interplay of vertical and horizontal emphases prevents the coalescence of these differing elements into a visually overwhelming homogenous mass. The various parts of the proposed building would respond to the different ways in which it would be experienced: the café/restaurant bringing life to the ground level street scene experienced at close quarters by pedestrians, the store as a distinctive part of the urban fabric that responds to the scale of the adjacent roads, and the tower as an element of the wider landscape in distant views. In the light of these factors, I agree with the Council and conclude that the proposed development would be of an appropriate scale and character for the site and would thus conform to policy D4 in these respects.
27. The town centre is bounded to the west and north by the busy ring road and by the railway and Lowlands Road to the south, all of which serve to isolate the retail core of the town. Together with the scale and mass of the perimeter buildings, the encircling roads and railway create the impression of a walled city surrounded by a moat. This is reinforced by the relative complexity of gaining access by motor vehicles and by pedestrians being encouraged to resort to subterranean passages to cross beneath the 'moat' and find their way through the dead frontages of Junction Road and Kimberly Street before reaching the bustle of the retail centre.
28. While the proposed development would not be a 'gateway' in the literal sense that one passes between it and the tall buildings opposite to enter the town centre, the proposed 9 storey block would signal the start of the retail experience for pedestrians entering the town centre from the west. Passing alongside the proposed café/restaurant and beneath the enhanced underpass area, they would pass the planned ground floor retail space of the Bradstowe House development, with only the dead frontage on Kimberly Road separating them from the entrance to the St Georges shopping centre. As a result, I conclude that the proposed development would make a significant contribution

⁵ CABE letters dated 3 October 2007 and 6 May 2008

⁶ Letter from Giles Dolphin, Head of Planning Decisions, dated 20 January 2009

⁷ Email from David Charteris, dated 24 June 2008

in terms of access and movement and in enhancing the public realm, in accordance with policy D4.

Residential Amenity

Corridor Access

29. The proposed residential flats would be set out in three main blocks: along the Pinner Road frontage, at right angles to that above the supermarket and in a tower adjacent to the bridge. These would be served by two principal entrances at ground floor level, with lifts and stairs to each floor. The main entrance and the entrance doors to each floor would be controlled by an electronic access system giving each occupier access only to the particular corridor serving their flat.
30. Each corridor would serve between four and eight flats, ensuring that neighbouring occupiers would not be faced by total strangers in the immediate vicinity of the entrance to their flats. I consider that this arrangement would afford appropriate levels of privacy and security for future occupiers and would not result in unacceptably long corridors.

Single Aspect Flats & Sunlight and Daylight

31. The Council criticised the use of single aspect flats in the proposed development, especially those facing northwest which, it contended, would receive little daylight or sunlight as a consequence. However, CABA's *Building for Life* website shows schemes that are dominated by single aspect flats facing north-east and north-west, and I also note that the Council has resolved to grant planning permission for a scheme on the Gayton Road Library site that contains a similar arrangement. While CABA is not generally supportive of single aspect dwellings, it acknowledges their benefits in providing greater opportunities to create varied street layouts, as evidenced by their use in the award winning schemes illustrated⁸.
32. I consider that the use of such a plan form in the residential element of the proposed development would assist in making efficient use of the site and would not necessarily result in unacceptable living conditions for future occupiers, provided adequate daylight levels were provided within each proposed flat. In this case the appellant has submitted detailed studies of the levels of daylight and sunlight that would be experienced within the north-east facing flats and demonstrated that each flat will receive levels of daylight that exceed Building Research Establishment (BRE) daylight criteria and, where applicable, BRE sunlight criteria.
33. While all parties acknowledge that single aspect flats have drawbacks, they also can allow residential development to make more efficient use of land in situations where dual aspect flats are impractical, as demonstrated by their inclusion in CABA's illustrations. In this case, they are arranged in groups of up to eight flats and served by a private corridor, ensuring an acceptable level of security for occupiers in the vicinity of their homes. None would face north, and all meet, or are capable of meeting the applicable daylight and sunlight standards. As a result, I consider that the proposed flats would provide

⁸ Hinkin: Proof of Evidence, Section 6.5

acceptable living conditions for future occupiers and thus conform to policies S1 and D4 in that respect.

Impact on Traffic Flows

34. The appellants submitted a detailed Transport Assessment as part of the planning application package, which concluded that the proposed development would have an acceptable impact upon traffic flows in the surrounding highway network, subject to minor improvements to the Pinner Road / Bessborough Road roundabout to improve its capacity. The baseline data used in the assessment was derived from surveys undertaken by the appellants' consultants and processed using industry standard computer models. Their results and recommendations were accepted by both the highways authority and the Greater London Authority.
35. However, the results were questioned by the Campaign for a Better Harrow Environment (CBHE) who on the basis of their local knowledge argued that the baseline traffic levels were underestimated. CBHE also carried out traffic counts at peak hours, demonstrating flows in excess of those used in the assessment. It was accepted by both the appellants and CBHE that traffic flows varied considerably from day to day, as evidenced by the significant differences in CBHE's own survey data, and that as a consequence, a 'typical day' is hard to identify. I therefore cannot attach more weight to the CBHE figures than those of the appellant and, on the basis of the data and my own observations, have come to the view that the junctions in question operate at or near capacity in peak hours.
36. However, the assessment of the traffic levels generated by the proposed development used robust assumptions, such as basing trip generation rates on data from sites with lower PTAL scores, making a conservative reduction for trips diverted from the town centre and not offsetting traffic generated by the existing site uses. As a consequence, I consider that the resulting traffic generation figures used in the assessment are likely to be an overestimate of the actual figures. I agree with the appellant and the Council that when these are set against existing levels, there would not be any significant impact on traffic flows as a result of additional trips generated by the proposed development, especially when the majority of shopping trips take place outside of the peak hours.
37. Notwithstanding CBHE's arguments, I consider that the site is well located in terms of pedestrian accessibility and is also likely to result in a reduction of overall private car mileage as a consequence of attracting those customers who presently travel by car to other more distant supermarkets, as well as those who might choose to walk or switch to public transport because of the proximity of the proposed supermarket to other attractions in the town centre.
38. I concur with the highway authority's view of the acceptability of the proposed junction of Neptune Road with Pinner Road, and with the 'left in – left out' design of the car park entrance. The proposed car parking area would have a long lead-in which would allow incoming vehicles to queue off the road to prevent undue obstruction of vehicles leaving the roundabout.

Conditions

39. An executed unilateral undertaking under section 106 of the Act was submitted by the appellants at the Inquiry. This makes provision for affordable housing units, the implementation of approved Travel, Recruitment and Training, Landscaping maintenance management and Environmental Improvement plans. It also requires the appellants to enter into a Highways Agreement and to notify each resident in writing that they will not be allowed either a Resident or a Visitor Parking Permit unless they hold a disabled persons badge. The Council confirmed that this undertaking satisfied its requirements in respect of these matters and the undertaking is a significant factor in my consideration of this appeal.
40. I have had regard to the Council's suggested conditions and, subject to alterations discussed at the Inquiry and revisions for clarity or conformity with Circular 11/95, have adopted them. In addition to the standard implementation condition, I shall require the substantive completion of the whole building before the first use of the supermarket, together with the restriction of the sales of comparison goods, in the interest of the regeneration of the town centre.
41. In the interest of the safety and amenity of the occupiers, I shall require measures to minimise the risk of crime, to meet Lifetime and Wheelchair Home Standards; the attenuation of externally generated noise and vibration; the provision and maintenance of all landscaped areas, including roof gardens and amenity areas; the amendment of the design of certain balconies; the provision of appropriate and adequate external lighting, together with the provision for the storage and disposal of waste and recyclables.
42. In the interest of highway safety I shall require the creation of any new accesses prior to the commencement of construction work and their completion prior to the occupation of the completed building, together the closure of all redundant access points, and the reinstatement of the highway. For the same reason, I shall also require the provision and retention of parking and manoeuvring areas for cars and cycles within the development.
43. So as to minimise the impact of the construction works upon neighbouring occupiers and to ensure public safety, I shall require the submission and approval of a Construction Method Statement, the fencing of the site and shall restrict site working hours. For the same reason, I shall require a site investigation to establish the nature and extent of any contamination and the satisfactory implementation of any measures found to be necessary.
44. In the interest of the character and appearance of the surrounding area, I shall require the prior approval of levels of the building and surrounding roads and footpaths and of all facing materials, hard surfacing and boundary treatments. So as to maximise the sustainability of the proposed development, I shall require that approved energy efficiency measures are implemented and that appropriate CHP equipment is installed and retained, together with the provision for a future connection to a district heating system.

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) Prior to occupation of the development hereby permitted, measures to minimise the risk of crime in a visually acceptable manner and meet the specific security needs of the application site / development shall be installed in accordance with details to be submitted to and approved in writing by the local planning authority. Any such measures should follow the design principles set out in the relevant Secured by Design *Design Guides* and shall include the following requirements:
 - i) all main entrance door sets to individual dwellings and communal entrance door sets shall be made secure to standards, independently certified, as set out in BS PAS 24-1:1999 'Security standard for domestic door sets';
 - ii) all window sets on the ground floor of the development and those adjacent to flat roofs or large rainwater downpipes shall be made secure to standards, independently certified, as set out in BS.7950 'Security standard for domestic window sets'.

Following implementation the works shall thereafter be retained.

- 3) The development hereby permitted, as detailed in the submitted and approved drawings, shall be built to Lifetime Home Standards and Wheelchair Homes Standards, and thereafter retained to those standards.
- 4) No demolition or site works in connection with the development hereby permitted shall commence before the boundary of the site is enclosed by a close-boarded fence to a minimum height of 2 metres. Such fencing shall remain until works and clearance have been completed, and the development is ready for occupation.
- 5) The existing accesses shall be closed when the new accesses hereby permitted are brought into use, and the highway shall be reinstated in accordance with details to be submitted to, and approved by, the local planning authority. The development shall not be used or occupied until the reinstatement works have been completed in accordance with the approved details. The works shall thereafter be retained.
- 6) The access to the highway shall be constructed to base course in accordance with the specification and levels agreed before works commence on the building hereby permitted, and the carriageway and footways completed before any building is occupied in accordance with details to be submitted to, and approved by, the local planning authority. The development shall thereafter be retained.
- 7) The development hereby permitted shall not commence until there has been submitted to, and approved by, the local planning authority, a scheme of hard and soft landscape works which shall include a survey of all existing trees and hedgerows on the land, indicating those to be retained and those to be lost. Details of those to be retained, together with measures for their protection in the course of the development, shall also be submitted and approved, and carried out in

accordance with such approval, prior to any demolition or any other site works, and retained until the development is completed. Soft landscape works shall include: planting plans, and schedules of plants, noting species, plant sizes and proposed numbers / densities. The scheme shall also include details of the green and brown roofs, roof gardens and roof amenity spaces.

- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building, or the completion of the development, whichever is the sooner. Any existing or new trees or shrubs which, within a period of 2 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species, unless the local authority agrees any variation in writing.
- 9) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to, and approved in writing by, the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
- 10) No site works or development shall commence until details of the levels of the building, roads and footpaths in relation to the adjoining land and highways, and any other changes proposed in the levels of the site, have been submitted to, and approved by, the local planning authority.
- 11) The development hereby permitted shall not exceed ground level damp proof course in height until samples of the materials to be used in the construction of the external surfaces noted below have been submitted to, and approved in writing by, the local planning authority:
 - i) the building
 - ii) the ground surfacing
 - iii) the boundary treatmentThe development shall be carried out in accordance with the approved details and shall thereafter be retained.
- 12) The development hereby permitted shall not commence until details of the provision for attenuation against externally generated noise and vibration have been submitted to, and approved in writing by, the local planning authority. The development shall not be occupied or used until the works have been completed in accordance with the approved details and shall thereafter be retained.
- 13) The development hereby permitted shall not be occupied until the car parking, turning and loading areas shown on the approved plan numbers PL100F, PL101K, and PL102J have been constructed and surfaced with impervious materials, and drained in accordance with details submitted to, and approved in writing by, the local planning authority. The car parking spaces shall be permanently marked out and

- used for no other purpose, at any time, without the written permission of the local planning authority.
- 14) The development hereby permitted shall not commence until a scheme for the storage and disposal of refuse / waste and vehicular access thereto has been submitted to, and approved in writing by, the local planning authority. The development shall not be occupied or used until the works have been completed in accordance with the approved details and shall thereafter be retained.
 - 15) The development of any buildings hereby permitted shall not be commenced until surface water attenuation / storage works have been provided in accordance with details to be submitted to, and approved in writing by, the local planning authority. The works shall thereafter be retained.
 - 16) The approved energy efficiency measures, and bio-fuel fuelled combined heat and power system that shows a 20.4% target reduction in carbon emissions from renewable energy sources, shall be implemented in accordance with the Energy Statement dated January 2008 and retained for so long as the development shall exist except to the extent approved in writing by the local planning authority.
 - 17) The development hereby permitted shall not commence until details of measures to be implemented to ensure the scheme is capable of connection to a future district heating system have been submitted to, and approved in writing by, the local planning authority.
 - 18) The development hereby permitted shall not commence beyond the height of the ground level damp proof course until details showing how the site will be externally lit at night times and during hours of darkness have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.
 - 19) The supermarket retail use hereby permitted as part of this planning permission shall not be subdivided to form smaller retail units and shall not devote more than 20% sales floor area to comparison goods as defined in PPS6 Annex A, Table 3 without the prior written approval of the local planning authority.
 - 20) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) an assessment of the potential risks to:
 1. human health

2. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 3. adjoining land
 4. groundwaters and surface waters
 5. ecological systems
 6. archeological sites and ancient monuments;
- iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's *Model Procedures for the Management of Land Contamination, CLR 1'*.
- 21) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the and after remediation.
- 22) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.
- 23) Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
- 24) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 20, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 21, which is subject to the approval in writing of the Local Planning Authority.
- 25) Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 22.
- 26) The development hereby permitted shall not commence until details of the Combined Heat and Power engine to be used, the manufacturers warranty and evidence that the choice of fuel will not compromise the ongoing operation and maintenance cover for the engine have been submitted to and approved in writing by the local planning authority.

- 27) The supermarket shall not be first brought into use before the external envelope of the entire building is substantially complete.
- 28) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 29) Demolition or construction works shall not take place outside 0730 hours to 1800 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 30) Notwithstanding the details shown on the submitted plans, prior to the commencement of the development details in accordance with plans numbered ENV/701 and 0136/ SD 100 are to be submitted and approved in writing by the local planning authority and thereafter implemented in accordance with the approved details.

Conclusions

45. I heard that in order to meet contractual obligations the appellants would be obliged to complete the proposed development within two years of the planning permission being granted. I also heard that dismissal of the appeal would prevent any redevelopment of the site for the foreseeable future due to leasehold issues. The government and the Council are seeking to encourage economic regeneration and development, and the willingness and ability of the appellants to complete the proposed development within a short time span, minimising the risk of a further partially completed development hindering the regeneration of the town centre, is to be welcomed. However, I have attached little weight to these contractual and financial matters and have considered the proposal on its planning merits.
46. Having regard to my conclusions above and having regard to all other matters raised before and at the Inquiry, I conclude that, subject to the conditions set out in the schedule above, the appeal should succeed.

Richard Thomas

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Morgan of Counsel
Instructed by Director of Harrow Legal & Governance Services, PO
Box 2, Civic Centre, Section Road, Harrow, HA1 2UH

He called

Ransford Stewart <i>BA, MCIM</i>	Director of Stewart Management and Planning Solutions
David Russell Craig <i>BArch, MRTPI, Dip Bldg Sc</i>	Managing Director of BEAMS Ltd.

FOR THE APPELLANT:

Christopher Katkowski Of Queen's Counsel
Instructed by Marrons Solicitors, 1 Meridian South, Meridian Business
Park, Leicester LE19 1WY

He called

Mr Andreas Markides <i>BSc, MSc, Ceng, MICE, FIHT</i>	Chartered Civil Engineer, Colin Buchanan
Mr Paul Hinkin <i>BSc (Hons) BArch MSc RIBA</i>	Architect, Black Architecture Ltd
Mr Andrew Williams <i>BA (Hons) Dip LA DipUD MLI</i>	Urban Designer & Chartered Landscape Architect Capita Lovejoy
Mr Ben Holmes <i>MA BA (Hons) MRTPI</i>	Chartered Town Planner, Holmes Antill

INTERESTED PERSONS:

Mrs Jane Galbraith	CBHE, 78 Roxborough Road, Harrow, HA1 1PB
Mr Gerard Devine	35 Beresford Road, Harrow, HA1 4QP
CLlr Marilyn Ashton	Chestnut Cottage, Tanglewood Close, Stanmore, HA7 3JA
CLlr Bill Stephenson	13 Cunningham Park, Harrow, HA1 4QW

DOCUMENTS

Document	1	Notice of the Hearing and list of recipients
Document	2	Bundle of representations in response to the Notice
Document	3	Corrigenda to Statement of Common Ground
Document	4	Appellants' Inquiry Note on emerging PPS4 and London Plan
Document	5	Inquiry statement and folder – <i>New Evidence from the Campaign for Better Harrow Environment</i>
Document	6	Unilateral Undertaking by the appellants, dated 1 May 2009

PLANS

Application Plans

0136-PL-: 010, 050B, 090 C,
100F, 101L, 102J, 103I, 104J, 105G, 106G, 107G, 108H, 109H
110 D
200E, 201E
301E, 302E, 303E
401A, 402A, 403A, 404A, 405A, 408A, 409A
410A, 411A, 412A, 413A, 414A, 415A, 416A, 417A, 418A, 419-
421-, 422 -

3325/L/: 21C, 22B, 23B, 24B

123191/: Figure 9, Figure 21

Further Plans relating to balcony amendments

ENV/: 701

0136-SO: 100