

APPLICATION NO: 15/00321/OUT		OFFICER: Mr Martin Chandler
DATE REGISTERED: 12th March 2015		DATE OF EXPIRY: 11th June 2015
WARD: Swindon Village		PARISH: Swindon
APPLICANT:	Hinton Properties (Cheltenham) Ltd	
AGENT:	Mr James Griffin	
LOCATION:	Cotswold BMW, Tewkesbury Road, Cheltenham	
PROPOSAL:	Outline Planning Application for up to 3, 892 sq.m of Class A1 (shops) floorspace, up to 603 sq.m of A4 (drinking establishment) floorspace and up to 1, 395 sq.m of D2 (gym) floorspace with associated parking.	

Update to Officer Report

1. OFFICER COMMENTS

- 1.1. Attached is a further representation on behalf of the owners of The Brewery and the Regent Arcade. Officers understand that this has already been circulated to members in advance of the meeting.
- 1.2. The representation has been given due consideration, but members are advised that it does not introduce any new considerations. The key point relates to a disagreement with the Council's interpretation of the sequential test and the impact tests and therefore disagreement with the recommendation to support the application.
- 1.3. Officers accept that this application presents a difficult balancing act and this is fully acknowledged in the papers that members already have. Sequentially, it is possible to put a case together to suggest that both North Place and both phases of the Brewery development are preferable for a retail development of this nature but, in the absence of a significant impact on the town centre in terms of its vitality and viability as well as inward investment, members are advised that this would be a very difficult case to sustain at appeal.
- 1.4. Both the sequential test and impact tests are designed to promote and protect the town centre and the importance of these policies are well understood by officers. In the absence of impact, officers consider that the refusal of planning permission would be providing an unnecessary level of protection for the town centre; in this respect it is the health of the town centre that enables this development, subject to restrictions, to be supported.
- 1.5. In preparing the recommendation, officers have been acutely aware of the advice within the NPPF at paragraphs 186 and 187 which states that LPAs should approach decision-taking in a positive way and seek to approve applications for sustainable development where possible. It is considered that, on balance, the proposal is a sustainable form of development and is therefore one that should be supported.

2. Suggested conditions

- 2.1. As well as the conditions already circulated, members are advised that the following condition should also be attached to control the development, if approved:
- 2.2. *The development hereby approved provides for the following: up to 3, 892 sq.m of Class A1 (shops) floor space, up to 603 sq.m of A4 (drinking establishment) floor space and up to 1, 395 sq.m of D2 (gym) floor space.*

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any development revoking and re-enacting that order with or without modification), the development shall be implemented strictly in accordance with terms of this condition.

- a) *No unit within the development hereby approved shall provide more than 1,860 sq.m (GIA) of use class A1 (retail) floor space;*
- b) *Other than in accordance with the terms of part 'c' and 'd' of this condition, the retail floor space hereby approved shall be used for the sale of furniture, electricals, carpets/floor coverings, DIY- related and garden products, and the sale of ancillary goods which are part of the usual product mix of retailers of the foregoing only;*
- c) *As well as the product mix identified in part 'b' of this condition, one unit of up to 1,860 sq.m (GIA) is permitted to be used to sell or display the following:-*
- *Hobbies and craft equipment and materials;*
 - *Cleaning materials primarily used in connection with home improvement, car maintenance, garden activities or hobbies/crafts;*
 - *Linen, bedding, textiles/fabrics, cushions;*
 - *Toys;*
 - *Shoes/footwear;*
 - *Baby/Children's goods;*
 - *Health and leisure services/facilities;*
 - *Watches, clocks, jewellery and sunglasses;*
 - *Homewares including cooking utensils and equipment, crockery, glassware, picture frames and other home furnishing products;*
 - *Travel cases, bags, purses and wallets;*
 - *Clothing, and fashion accessories;*
 - *Cosmetics, hosiery; and*
 - *Confectionery, seasonal food goods and other associated food items (provided such food good occupy no more than 2% of the net sales area).*
- d) *As well as the product mix identified in part 'b' of this condition, one unit of up to 640 sq.m is permitted to be used for the sale of shoes and footwear, and ancillary goods which are part of the usual product mix of footwear retailers only;*
- e) *Within the product range identified in part 'c', no more than 70% of the net sales area of any resultant unit shall be used to sell or display clothing;*
- f) *Any unit subsequently developed as a result of this permission shall not be subdivided without the prior express permission of the Local Planning Authority.*

- g) *Unless approved at reserved matters stage, the installation of a mezzanine floor in any unit within the development hereby approved shall require the express benefit of planning permission.*

Reason: The impact on the vitality and viability of the town centre has been assessed on the basis of the terms set out above and has been found to be acceptable. These restrictions are therefore necessary to ensure that the development approved does not prejudice the continuing vitality and viability of the town centre.

3. Legal agreement: heads of terms

- 3.1. Further progress has been made in relation to the necessary agreement to mitigate impact on the town centre. The suggested wording is as follows:

For a period of 5 years from first commencement of retail trading on the Site, new retail units on the Site shall only be permitted to be occupied by a retail trader that either:

- a) *has not traded from the Core Commercial Area of Cheltenham in the preceding 12 calendar months; or*
- b) *if they have so traded, they shall retain their existing retail trading unit and continue to trade from that retail trading unit in the Core Commercial Area of Cheltenham or shall otherwise continue to maintain their trading in the Core Commercial Area of Cheltenham in an alternative trading unit provided such unit is not of a lesser net floorspace as that in which they were occupying as at the date they first commence occupation of a new retail unit on the Site.*

4. Summary

- 4.1. The objections from The Brewery and the Regent Arcade are well understood and the recommendation that is presented to members is one that has been carefully balanced in terms of the retail assessment.
- 4.2. Having scrutinised the proposal, the advice to members is that there is not a sufficiently strong case to refuse planning permission, particularly in light of the suggested conditions and legal agreement which will help mitigate the impact on the town centre. In this regard, members are reminding that when initially submitted, the application was for an open A1 use which would have had a greater impact on the town centre.
- 4.3. It is recommended that outline planning permission be granted subject to the suggested conditions and necessary legal agreement.