

# **REPORT FOR: Planning Committee.**

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**Date of Meeting:** 9 February 2011

**Subject:** **INFORMATION REPORT –  
Urgent Non-Executive Decision:  
North Harrow Community  
Centre**

**Responsible Officer:** Hugh Peart – Director of Legal and  
Governance Services

**Exempt:** No

**Enclosures:** Appendix A - additional conditions as  
part of the planning permission

## **Section 1 – Summary**

The Urgent Non-Executive Decision procedure, set out in Part 3 of the Council's Constitution, requires all decisions taken under the procedure to be reported to the appropriate Committee. The Committee is requested to note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2 below.

**FOR INFORMATION**

## **Section 2 – Report**

### CIRCUMSTANCES

On 13 October 2010 the Council's Planning Committee resolved to grant planning permission for the construction of a community centre, prayer hall (and other ancillary facilities) at the North Harrow Community Centre subject to the completion of a section 106 legal agreement.

The heads of terms for the legal agreement approved by the Planning Committee on 13 October 2010 included (among others) the following:

- i) **Hours of Operation:** The premises shall only be open or occupied: Mon-Thu inclusive [08:00hrs-23:00hrs]; Fri-Sat inclusive [08:00hrs-00:00hrs] and Sun [08:00hrs-22:00hrs] with the exception of the gym facilities, which shall only be open or occupied Mon-Sat inclusive [06:00hrs-23:00hrs]. On Event Days, if an extension of hours in excess of the permitted hours is required, this would be subject to the approval in writing by the Director of Planning at least 28 days prior to that event taking place;
- ii) **Capacity:** The development hereby permitted shall not be occupied by more than 250 persons at any time except for on Event Management Days;
- iii) **Maximum Number of Event Days:** There shall be no more than six Event Days per calendar year [Jan–Dec inclusive] unless otherwise agreed in writing by the Director of Planning;
- iv) **Green Wall and Brown Roof Management:** The Green Wall and Brown Roof shall be maintained for the life of the development and would include the submission of a Method Statement for the maintenance of the Green Wall prior to first use of any part of the development;

The Planning Committee also resolved that if the s106 legal agreement is not completed by 12 January 2011, the application should be refused in accordance with recommendation B in the officer's report.

On 9 November 2010, the Council received a letter from the applicant's planning agent, enclosing a legal opinion from a QC. In the opinion, the QC advised that all of the heads of terms in the officer report could be imposed as conditions rather than as planning obligations.

In response to the QC's opinion, the Council's legal officers wrote a letter rebutting the suggestion that all of the heads of terms could be imposed as conditions. However, given the advice in Circular 11/95 on the use of conditions, officers do acknowledge that the heads of terms set out above could reasonably be imposed as planning conditions.

The Secretary of State's advice in paragraph 12 of Circular 11/95 is that a local planning authority should refrain from using planning obligations if a condition can equally be used to overcome a planning objection to the proposed development.

It is considered that changing the above heads of terms to planning conditions would not materially affect the scheme approved by the Committee and would not result in any detrimental impact to the amenity of neighbouring residents.

Accordingly, authority was requested to modify the heads of terms and to add the conditions set out in Appendix A to the planning permission.

### **Section 3 – Further Information**

#### Action Sought

Agreement to the modification of the section 106 heads of terms approved by the Planning Committee on 13 October 2010 to enable some of the heads of terms to be secured by way of planning conditions instead of by way of a legal agreement

The addition of the conditions set out in Appendix A to the planning permission.

#### Date of Request for Action:

17 December 2010

#### Reason for urgency:

The applicant had until 12 January 2011 to complete the Section 106 Agreement, failing which the Planning Committee resolved that planning permission should be refused. As the next Planning Committee meeting was not until the evening of 12 January, it was not practicable to obtain the approval of the Planning Committee to the actions proposed in the report.

Decision: Officer recommendation agreed.

### **Section 4 – Financial Implications**

None

### **Section 5 – Corporate Priorities**

The proposal would be in line with the corporate objective of building stronger communities.

Name: Kanta Hirani



on behalf of the  
Chief Financial Officer

Date: 27 January 2011

## **Section 6 - Contact Details and Background Papers**

Contact: Miriam Wearing, Senior Democratic Services Officer, 020 8424 1542

Background Papers: Individual Urgent Non-Executive Decision Form, as reported.

### **APPENDIX A**

#### **ADDITIONAL CONDITIONS AS PART OF THE PLANNING PERMISSION**

- i) The development shall only be open or occupied: Mon-Thu inclusive [08:00hrs-23:00hrs]; Fri-Sat inclusive [08:00hrs-00:00hrs] and Sun [08:00hrs-22:00hrs] with the exception of the gym facilities, which shall only be open or occupied Mon-Sat inclusive [06:00hrs-23:00hrs]. Except on Event Days where should an extension of hours in excess of the permitted hours is required, this would be subject to the approval in writing by the Director of Planning at least 28 days prior to that event taking place.

REASON: To safeguard the amenity of neighbouring residents.

- ii) The development hereby permitted shall not be occupied by more than 250 persons at any time except for Event Days. On Event Days the the development shall not be occupied by no more than 500 persons.

REASON: In the interest of health and safety of users of the site.

- iii) There shall be no more than six Event Days per calendar year [Jan-Dec inclusive] unless otherwise agreed in writing by the Director of Planning, not less than 35 days prior to such additional events occurring.

REASON: To safeguard the amenity of neighbouring residents.

- iv) The Green Wall and Brown Roof shall be maintained for the life of the development and would include the submission of a Method

Statement for the maintenance of the Green Wall prior to first use of any part of the development;

REASON: To ensure a sustainable form of development.

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