

DATED

1st
November

2023

**MANACOR (JERSEY) LIMITED AND MANACOR NOMINEES (JERSEY) LIMITED (AS JOINT
TRUSTEES OF THE METROPOLITAN RETAIL JV (JERSEY) UNIT TRUST)**

and

THE LONDON BOROUGH OF HILLINGDON

DEED OF VARIATION

PURSUANT TO
SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990
RELATING TO THE DEVELOPMENT OF LAND AT

The Chimes Shopping Centre, High Street, Uxbridge, UB8 1LA

42966/APP/2023/70

Planning and Corporate Team
Legal Services
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
Middlesex UB8 1UW
Ref: 3E/04/JAV021580

THIS DEED IS MADE ON THE 15th DAY OF November 2023

BETWEEN

1. **MANACOR (JERSEY) LIMITED** (a company incorporated in Jersey under number: 10518 and whose overseas entity ID issued by Companies House is OE007522) and **NOMINEES (JERSEY) LIMITED** (a company incorporated in Jersey under number: 50049 and whose overseas entity ID issued by Companies House is OE007537) both of whose registered office is at Level 1 IFC1 Esplanade St Helier Jersey JE2 3BX Channel Islands in their capacity as joint trustees of the Metropolitan Retail JV (Jersey) Unit Trust ("Owner")
2. **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW ("the Council").

WHEREAS

- (A) The Council is the Local Planning Authority for the purposes of the Act in respect of the Site and by whom the obligations in this Deed are enforceable.
- (B) The Owner has the freehold interest in the Site registered under Title Number AGL69240 at the Land Registry.
- (C) This agreement is supplemental to the Original Deed dated 12th November 1997 and the supplemental agreement dated 12th November 1997 between the London Borough of Hillingdon and Sun Alliance and London Assurance Company Limited, as amended by a supplemental agreement dated 6th December 2001 entered into between the London Borough of Hillingdon and CSC Uxbridge Limited and amended by a supplemental agreement dated 12th March 2002 between the London Borough of Hillingdon and CSC Uxbridge Limited
- (D) For the purpose of securing satisfactory arrangements for the development of the Site and without prejudice to the terms of the other covenants contained in the Original Deed the Parties hereto have agreed to vary the terms of the Original Deed pursuant to the Planning Application being granted as hereinafter provided.
- (E) The Council resolved at its Major Applications Planning Committee meeting on 14th September 2023 to delegate authority to determine the Planning Application to the Director of Planning Regeneration and Public Realm subject to the prior completion of this Deed of Variation.
- (F) The Council has considered the provisions of the development plan and taken into account planning considerations affecting the Site and considers that in the interests of the proper planning of its area the Development of the Site ought to only be permitted subject to the terms of this Deed and for that purpose the parties are willing to enter into this Deed.

1.
IT IS AGREED AS FOLLOWS:-

INTERPRETATION & DEFINITIONS

In this Deed the following definitions apply unless the context otherwise requires:

"the Act"	the Town and Country Planning Act 1990
"this Deed"	this deed of variation
"Plan"	the red line plan of the Site reference 001 at Appendix 2 of this Deed
"Original Deed "	the legal agreement dated 12 th November 1997 under Section 106 of the Act between the London Borough of Hillingdon and Sun Alliance and London Assurance Company Limited under planning permission reference number 42966AH/96/1862, as amended by a supplemental agreement dated 12 th November 1997 between the London Borough of Hillingdon and Sun Alliance and London Assurance Company Limited, as amended by a supplemental agreement dated 6 th December 2001 entered into between the London Borough of Hillingdon and CSC Uxbridge Limited and amended by a supplemental agreement dated 12 th March 2002 between the London Borough of Hillingdon and CSC Uxbridge Limited
"Planning Application"	the planning application submitted to the Council on 13 th December 2022 and validated on 21 December 2022 under planning application reference number 42966/APP/2023/70 to modify the Original Deed to amend the wording to the restrictions on retail use (Class A1) in light of the changes to the Town and Country Planning (Use Classes) Order 1987; namely the introduction of Class E Commercial, Business and Service use and associated revocation of Class A1 Retail use. The Town and Country Planning (Use Classes) (Amendments) (England) Regulations 2020
"Planning Permission"	the planning permission granted pursuant to the Planning Application
"the Parties"	the Council and the Owner;
"Site"	land edged red on the attached Plan known as The Chimes Shopping Centre, High Street (formerly known as Land at Nash's Yard, George Street, Chippendale Way, High Street) contained within title number AGL69240

2. THE FOLLOWING RULES OF INTERPRETATION APPLY IN THIS DEED

2.1 Unless the same are given alternative definitions in this Deed all words and phrases defined in the Original Deed shall have the same meaning in this Deed and for the avoidance of doubt the Original Deed shall remain in full force and effect save as varied by this Deed.

2.2 All references in this Deed to clauses in the Original Deed are to clauses within the Original Deed.

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Deed.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Deed and shall not affect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

2.7 A reference to any party shall include that party's personal representatives, successors in title or permitted assigns or any person deriving title through or under that party and in the case of the Council the successors to its respective statutory functions.

2.8 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2.9 The provisions of the Original Deed in relation to its interpretation and in relation to statutory provisions, interests bound, disputes, liability notices and jurisdiction apply to this Deed except to the extent that they are expressly varied by this Deed.

3. VARIATIONS TO THE ORIGINAL DEED

3.1 The Parties agree that, except as varied by this Deed the Original Deed shall remain in full force and effect.

3.2 Nothing in this Deed affects the Council's powers in respect of any antecedent breach or omission in relation to the Original Deed.

3.3 The Parties agree that upon the issue of Planning Permission the following amendments shall be made to the Original Deed:

3.4 There shall be inserted a new clause 2.9 into the recitals as follows:
"2.9 On 13th December 2022 the Owner submitted an application to the Council registered under planning application reference number 42966/APP/2023/70 to modify the Original Deed to amend the wording to the restrictions on retail use (Class A1) in light of the changes to the Town and Country Planning (Use Classes) Order 1987, namely the introduction of Class E Commercial, Business and Service use and associated revocation of Class A1 Retail use. The Town and Country Planning (Use Classes) (Amendments) (England) Regulations 2020".

3.5 There shall be a new definition inserted as follows:
"106A 2023 Planning Application" means the application submitted to the Council on 13th December 2022 to amend the wording to the restrictions on retail use (Class A1) in light of the changes to the Town and Country Planning (Use Classes) Order 1987, namely the introduction of Class E Commercial, Business and Service use and associated revocation of Class A1 Retail use. The Town and Country Planning (Use Classes) (Amendments) (England) Regulations 2020".

3.6 There shall be a new definition inserted as follows:

"106A 2023 Planning Permission" means the planning permission issued by the Council pursuant to the 106A 2023 Planning Application"

3.7 The definition of Planning Permission shall be amended to include the following "and the 106A 2023 Planning Permission" at the end of the definition.

3.8 There shall be a new definition inserted as follows:

"Retail Commercial Floorspace" means the aggregate of the area of the floor space within the Development designed for retail commercial, business and service purposes (and 5 specifically excluding the multi-screen cinema 219/221 and 222 High Street the Timber Framed Building and the Creche)".

3.9 The definition of "Retail Floor Space" shall be deleted.

3.10 There shall be a new definition as follows:

"Use Class E means the use prescribed in Schedule 2, Part A, Commercial, Business and Service Town and Country Planning (Use Classes) Order 1987 (as amended) as follows:

Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes—

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
 - (i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process,
- (h) any use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit".

3.11 Clause 12 RESTRICTIONS ON USE; including Clause 12.1, 12.2. and 12.3 of the Original Deed shall be deleted.

3.12 There shall be a new Paragraph 12 inserted as follows:

"12. RESTRICTIONS ON USE

- 12.1 Not less than eighty per centum (80%) of the Retail Commercial Floorspace shall be used as commercial, business and service space within Use Class E of PROVIDED THAT for the purposes of this clause space used for purposes ancillary to retail commercial, business and service use within such Use Class E shall itself be treated as being used for purposes within such Use Class E PROVIDED ALSO THAT for the avoidance of doubt this obligation shall not be construed as a positive obligation to trade.
- 12.2 The uses falling within Use Class E of the said order carried on in the commercial, business and service units situated at the date hereof on part of the High Street frontage of the Site shall not be changed to a use falling outside that use class other than in accordance with a grant of planning permission unless such units have the benefit of a certificate of lawful use within the meaning of Section 191 of the 1990 Act.
- 12.3 The remaining 20% of the Retail Commercial Floorspace, not subject to clause 12.1, can fall within any Use Class (or sui generis use), subject to any grant of planning permission, so long as the 80% Class E minimum threshold is maintained"

3.13 The Parties agree that upon the grant of the 106A 2023 Planning Permission Appendix 1 of this Deed shall be appended to the Original Deed as though it had been originally annexed.

4. STATUTORY PROVISION

This Deed is made pursuant to Sections 106 and 106A of the Act, Section 111 of the Local Government Act 1972, Section 16 of the Greater London Council (General Powers) Act 1974, Section 1 of the Localism Act 2011 and any other enabling powers, to the intent that it will bind the Owner and their successors in title to the Site.

5. COVENANTS TO THE COUNCIL

The Owner covenant to observe and perform the covenants, restrictions and obligations contained in the Original Deed as varied by this Deed.

6. REGISTRATION AS LOCAL LAND CHARGE

The covenants in the Original Deed as modified by this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as provided in the Original Deed as modified by this Deed and the Council shall register this Deed in its register of Local Land Charges.

7. THIRD PARTIES

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

8. INVALIDITY OF CERTAIN PROVISIONS

If any of this Deed or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable the same shall be severable and the remainder of this Deed as to the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Deed shall be valid and enforced to the fullest extent permitted by law.

9. CONFIRMATION

It is hereby declared by the Parties to this Deed saving and excepting for as is expressly provided for by the provisions of this Deed the covenants and provisions contained in the Original Deed continue to have full force and effect.

10. COSTS

On or before the completion of this Deed the Owners shall pay to the Council the Council's reasonable legal costs in this matter.

11. VALUE ADDED TAX

All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.

11.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of the Site and the Contributions then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

12. JURISDICTION

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

13. MISCELLANEOUS

13.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties and obligations under all public and private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

13.2 Unless expressly agreed otherwise in this Agreement, the covenants in this Agreement shall be enforceable without any limit of time against the Owner and any successors in title to the Site and assigns of the Owner in an interest or estate to the Site or any part or parts of the Site as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.

13.3 No party to this Agreement nor its successors in title nor any person deriving title from or under them shall be liable for any breach of any of the planning obligations or other obligations contained in this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

13.4 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed or revoked or otherwise withdrawn or (without the consent of the Owner or their successors in title) is modified by any statutory procedure or expires prior to Commencement of Development.

In witness whereof this document has been executed and delivered as a deed on the date first stated above.

Appendix 1
106A 2023 Planning Permission

DRAFT

Application Ref: 42966/APP/2023/70

Mr Barry Cansfield
Pegasus Group
21 Ganton Street
London
W1F 9BN

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

The Council of the London Borough of Hillingdon as the Local Planning Authority within the meaning of the above Act and associated Orders permission for the following:

Description of development:

Application to modify the Section 106 agreement associated with planning permission ref. 42966AH/96/1862 granted 11-11-1997 relating to the Chimes Shopping Centre, High Street, Uxbridge (for the introduction of Class E Commercial, Business and Service use and associated revocation of Class A1 Retail use).

Location of development: Intu Shopping Centre High Street Uxbridge

Date of application: 21st December 2022

Plan Numbers: See attached Schedule of plans

Permission is subject to the condition(s) listed on the attached schedule:-

Draft Decision Notice produced:

Checked by:..... **Date:**.....

Amendments required: YES / NO

DRAFT

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Application Ref: 42966/APP/2023/70

SCHEDULE OF CONDITIONS

INFORMATIVES

1 APPROVAL of:

The variation of Section 106 legal agreement attached to planning permission ref. 42966AH/96/1862 granted 11 November 1997 relating to The Chimes Shopping Centre, in order to secure:

- 1) the amendment to the wording to the restrictions on retail use (Class A1), in light of the changes to the Town and Country Planning (Use Classes) Order 1987; namely the introduction of Class E Commercial, Business and Service use and associated revocation of Class A1 Retail use.

END OF SCHEDULE

Address:

Development Management
Directorate of Place
Hillingdon Council
3 North, Civic Centre, High Street, Uxbridge UB8 1UW
www.hillingdon.gov.uk

DRAFT

Application Ref: 42966/APP/2023/70

SCHEDULE OF PLANS

PLAN 1 - received 11 Jan 2023

Covering Letter dated December 2022 - received 11 Jan 2023

The Chimes - Tenants and unit sizes - received 31 Jul 2023

RIGHTS OF APPLICANTS AGRIEVED BY DECISION OF LOCAL PLANNING AUTHORITY

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the office of the First Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from the Planning Inspectorate at Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2, The Square, Temple Quay, Bristol, BS1 6PN (Tel 0117 372 8424). Appeal forms can be downloaded from the Planning Inspectorate website at www.Planning-inspectorate.gov.uk

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are available at www.gov.uk/government/collections/casework-dealt-with-by-inquiries

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of an appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

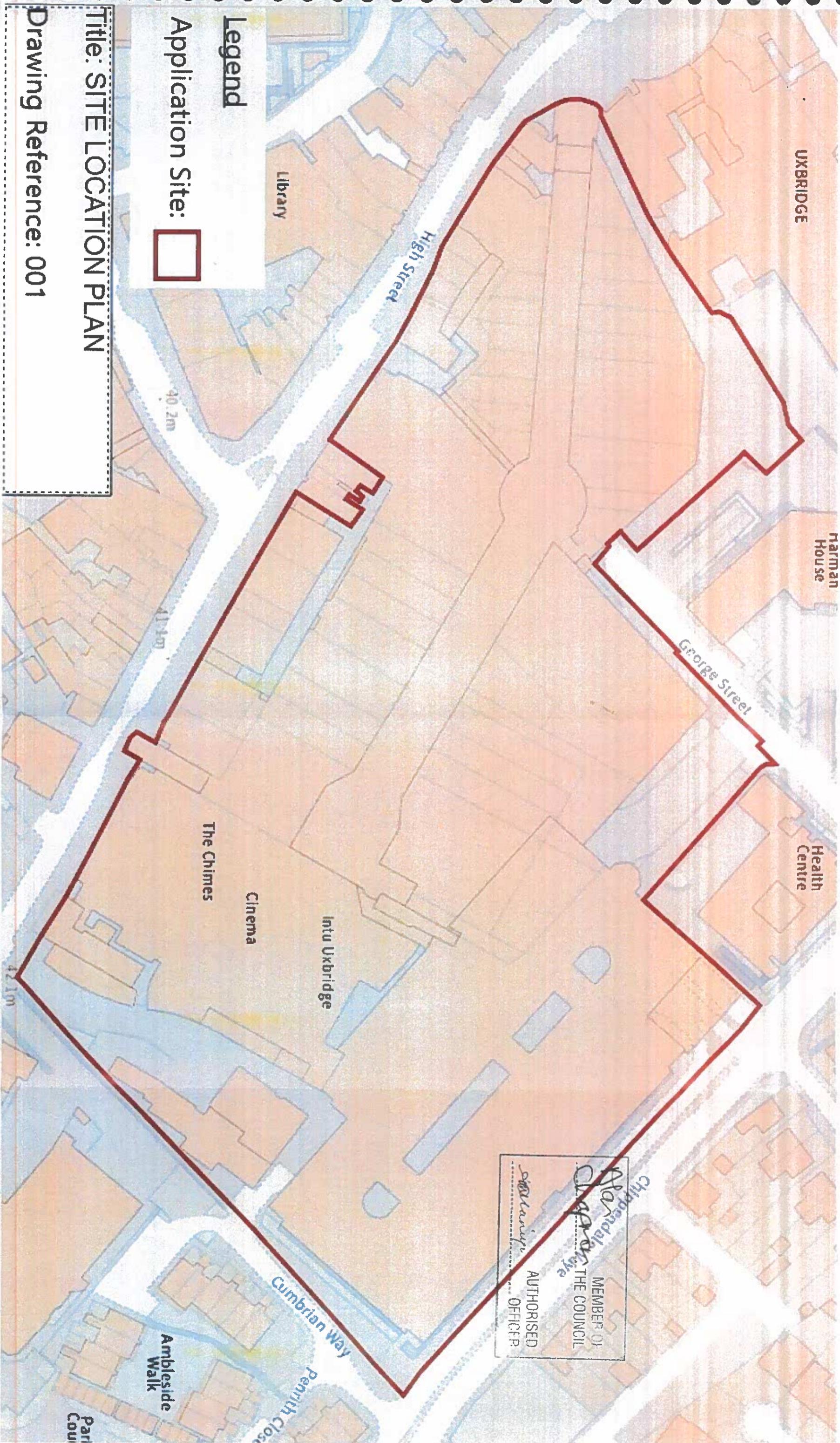
In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices.

If either the local planning authority or the officer of the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix 2
The Plan



Mr C

THE COMMON SEAL of the

MAYOR AND BURGESSSES OF HILLINGDON

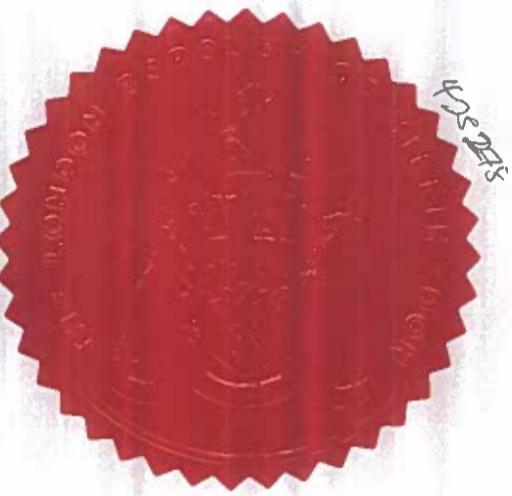
was duly affixed to this Deed in the presence of:

MEMBER OF THE COUNCIL

Alan Chapman

AUTHORISED OFFICER

Alan Chapman



EXECUTED as a deed by

MANACOR (JERSEY) LIMITED, a

company incorporated in Jersey,

as trustee of the Metropolitan

Retail JV (Jersey) Unit Trust,

acting by

Signature in the name of the company:
Manacor (Jersey) Limited

and

MARY LINDSAY

being persons who, in accordance

with the laws of that territory, are

acting under the authority of the

company.

Signature of authorised signatory
M

Signature of authorised signatory
C

EXECUTED as a deed by
NOMINEES (JERSEY) LIMITED, a company

incorporated in Jersey, as trustee

of the Metropolitan Retail JV

(Jersey) Unit Trust, acting by

Signature in the name of the company:
Manacor Nominees (Jersey) Limited

and

MARY LINDSAY

who, in accordance with the laws

of that territory, are acting under

the authority of the company.

Signature of authorised signatory
M

Signature of authorised signatory
M