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L250401 SAV Cover Letter s73



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Dear Neil,

**SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
APPLICATION FOR PLANNING PERMISSION FOR DEVELOPMENT WITHOUT COMPLIANCE WITH  
CONDITION 3 ATTACHED TO PLANNING PERMISSION PSX0104561  
BRUNSWICK SHOPPING CENTRE, BLOOMSBURY, LONDON, WC1N 1BS  
LAZARI PROPERTIES 2 LIMITED**

**Introduction**

We write on behalf of our client, Lazari Properties 2 Limited, to apply pursuant to Section 73 of the 1990 Act for planning permission for development without compliance with Condition 3 attached to Planning Permission: PSX0104561 dated 1 September 2003.

The application specifically seeks a “variation” of Condition 3 attached to this Planning Permission to facilitate greater flexibility for the use of the commercial floorspace at Ground and Upper and Lower Basement levels.

In accordance with the Town and Country Planning (Development Management Procedure) Order 2015, the application comprises the following:

- This covering letter;
- The completed Application and CIL Form;
- A copy of Planning Permission: PSX0104561;
- Drawing Ref: 1564-E02-GA;
- Drawing Ref: 1564-E02-UB;
- Drawing Ref: 1564-E02-LB; and
- Brunswick Centre Area and Use Schedule (April 2025).

The application has been submitted and the relevant application fee of £2,000 paid electronically via the Planning Portal (Ref: PP-13218066).

**The Application Site**

The application site encompasses the Brunswick Shopping Centre; an existing commercial destination comprising a mix of retail, service and leisure uses configured across Ground and two Basement levels (the ‘Site’).

There is pedestrian access to the commercial floorspace at the Site from all of the surrounding streets including: Handel Street, Hunter Street, Bernard Street and Marchmont Street.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East..

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The building comprises a mix of commercial floorspace which is configured across the Ground (Level A) and Lower Basement Levels.

The configuration of the floorspace is illustrated on Drawing Refs: 1564-E02-GA, 1564-E02-UP and 1564-E02-LB as included within this submission.

The wider development includes a cinema (Ground Floor and Upper and Lower Basements) and residential floorspace at upper levels with communal access at Ground. The proposed development does not impact or change these elements.

## Relevant Planning History

On 1 September 2003, planning permission was granted for:

*'Refurbishment of The Brunswick centre; the forward extension of the existing retail units fronting the pedestrian concourse; the creation of a new supermarket (Class A1) across northern end of the pedestrian concourse; creation of new retail units (Class A1) within redundant access stairs to the residential terrace; erection of new structure above Brunswick Square for potential alternative use as retail (Classes A1, A2 and A3), business (Class B1) or as non-residential institutions (Class D1); redesign of the cinema entrance; redesign of existing steps and ramps at the Brunswick Square, Handel Street and Bernard Street entrances, removal of two existing car park entrances at pedestrian concourse level, installation of retail display windows within Bernard Street elevation, redesign of the existing southern car park stairway; replacement of waterproofing layers to the pedestrian concourse and the residential terrace; concrete repair works and introduction of new hard and soft landscaping surfaces and works' (App Ref: PSX0104561) (the '2003 Permission').*

The 2003 Permission granted planning permission for a flexible use of the floorspace at the Site including for uses within: Classes A1, A2, A3, B1 and D1<sup>1</sup>. It provides the primary, operative controls for the floorspace at the Site.

The 2003 Permission was granted subject to 22 planning conditions and a legal agreement, made pursuant to Section 106 of the Act, dated 1 September 2003 ('**2003 Agreement**'). The 2003 Agreement does not impose any ongoing controls on the permitted use of the floorspace.

Condition 3 of the 2003 Permission relates to the quantum and use of the approved floorspace at ground and basement levels. It states:

*"Up to a maximum of 40% of the retail floorspace equating to 3,386 sq. m (excluding the supermarket and eye-catcher) is permitted to be used within Use Classes A2 and A3 of the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order".*

There are a series of additional operational controls which are imposed on the commercial floorspace at the Site via planning conditions on the 2003 Permission. For example Condition 5 attached to the 2003 Permission requires the 'supermarket' to be used only for retail purposes and Condition 11 precludes the use of Units: 36, 38, 40, 42 and 69 as a 'restaurant'.

This application does not propose any changes to those controls and they should be reinstated on any new decision notice issued pursuant to this application.

<sup>1</sup> The 2003 Permission only related to physical works to the entrance to the 'cinema' rather than granting specific provision for its use.

## **The Proposed Development**

### ***Background to the Proposals***

As set out above, the redevelopment of the Site was granted by the 2003 Permission.

The Local Planning Authority ('LPA') is aware that retail has been particularly adversely affected by the restrictions caused by Covid-19. This has accelerated pre-existing retail trends, including a move away from physical premises to online shopping, itself a response to changing consumer behaviour and the particular effect of business rates on retail premises. This has resulted in significant closures of retail premises and Company Voluntary Agreements (CVAs) that have reduced retail values.

The macro position in respect of commercial demand is reflected in the local characteristics at the Site with a decline in retail demand.

The above situation has contributed to the Government's approach which now specifically seeks to provide flexibility, enabling high streets and town centres to both survive and thrive.

On 21 July 2020, Statutory Instrument 2020 No. 757 was laid before parliament by the Government. It comprises a number of changes to the Town and Country Planning (Use Classes) Order 1987 (the "UCO"). The changes outlined within the Statutory Instrument became effective on 1 September 2020.

The amendments to the UCO sought to simplify the classification of commercial uses and create greater flexibility for owners and operators. The effect of the legislation was to revoke Use Classes A, B1 and D2 and replace those classes with a new, single classification covering 'Commercial, business and service' uses (Class E).

The new Class E includes the uses granted at the Site by the 2003 Permission (e.g. retail, restaurants and financial services) amongst other uses. The use of the commercial floorspace<sup>2</sup> at the Site is now correctly described as being within Class E of the UCO despite references in the 2003 Permission to the old classes (such as A1, A2 and A3).

Moving from one operation to another within the same use classification is not development as defined by Section 55(2)(f) of the Town and Country Planning Act 1990. Consequently, changes between operations within the new Class E would not require planning permission provided they do not conflict with any of the other conditions imposed on the 2003 Permission.

The introduction of greater flexibility afforded by the amendments to the UCO is currently impeded at the Site by Condition 3 of the 2003 Permission. The controls imposed by Condition 3 impose a cap on the maximum floorspace area (3,386 sq. m) that can be used for: cafes / restaurants and financial services.

The Applicant is seeking an increased floorspace provision for those specific operations at the Site to maximise opportunities for new lettings and increase overall vitality and viability of the Centre.

### ***The Proposed Amendments***

This application is made pursuant to Section 73 of the 1990 Act for planning permission for development without compliance with Condition 3 attached to the 2003 Permission.

As set out above, it seeks to introduce greater flexibility for the use of the commercial floorspace and increase the provision for the amount of floorspace that can be used for: cafes / restaurants and financial services.

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<sup>2</sup> There are some exceptions to this for example the 'cinema' operates within the Sui Generis class.

The proposed amended wording for the new condition is as follows:

***“Up to a maximum of 4,233 sq. m is permitted to be used within Use Classes A2 and A3 of the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order in the units identified by the green line on Drawing References: 1564-E02-GA, 1564-E02-UB and 1564-E02-LB.”***

The proposed variation will provide greater flexibility for the owner and create greater prospect for the re-occupation of vacant floorspace having due regard to changing market demands.

The principle of the development has been agreed as part of the formal pre-application process undertaken with the LPA.

The proposed increase in the floorspace area quoted in the condition represents an increase in the proportion of the relevant area<sup>3</sup> from 40% (the original wording of the condition) to 50%. In real terms it represents an increase in the permitted floorspace of just 847 sq. m (GIA).

The proposed increase in non-retail uses remains compliant with the development plan. Appendix 4 of the Camden Local Plan confirms that up to 50% of the frontages in the Brunswick Shopping Centre can be for non-retail uses.

The wording for the proposed condition continues to refer to the old use classes for consistency with the remainder of the 2003 Permission. However the two use classes to which Condition 3 relates are now: Class E(b) (formerly A3) and Class E(c) (formerly Class A2). It has been agreed as part of the pre-application process that an ‘Informative’ would be added to any future decision notice which clarifies that the references to the old use classes should be read and understood within the new UCO regime as the commercial floorspace at the Shopping Centre is now correctly defined as operating within Class E.

### **Relevant Floorspace and Monitoring**

As the 2003 Permission related to the Brunswick Centre in its entirety (including both commercial and residential floorspace), included with this application are three new plans which identify the areas of commercial floorspace to which the provisions of the new Condition 3 apply.

The green line on Drawing References: 1564-E02-GA, 1564-E02-UB and 1564-E02-LB identifies the relevant floorspace for the purpose of the new Condition 3. It identifies the commercial floorspace at Ground and Upper and Lower Basement Levels. The new condition is explicit that no more than 4,233 sq. m of floorspace can be used within the commercial units identified on the plans at any time.

A Schedule of the units within those areas is also included as part of this application submission. The Schedule identifies: the units as currently configured; the floor area (GIA) and the current land use. It provides a summary of the area currently in primary use as a: café / restaurant and financial service.

The Applicant will keep the Schedule up to date which will aid ongoing management and monitoring of the use of the floorspace at the Centre and compliance with the new Condition 3. A copy of the latest version of the Schedule can be provided to the LPA on request (once annually) and should there be any formal query in respect of any breach of the floorspace allowance.

### **Summary and Conclusion**

This application is made pursuant to Section 73 of the 1990 Act for planning permission for development without compliance with Condition 3 attached to the 2003 Permission.

<sup>3</sup> Informative 15 attached to the 2003 Permission established the original floor area for the calculation in Condition 3.

It specifically seeks a "variation" of Condition 3 attached to the 2003 Permission to introduce greater flexibility for the use of the commercial floorspace at the Shopping Centre. It will increase the total allowance for 'café / restaurant' and 'financial services' by just 847 sq. m from 3,386 sq. m to 4,233 sq. m.

The proposed quantum of non-retail floorspace referred to in Condition 3 is well within the 50% provision as established by Appendix 4 of the Local Plan.

The proposed amendments are considered to be minor in their extent. They will not materially or substantially alter the development as approved and do not trigger any greater impacts over and above those previously considered and accepted in the original grant of planning permission.

It follows that the proposal accords with the development plan and the relevant policies within the NPPF, as set out above, and planning permission should be granted in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

We trust that the information provided is sufficient for the Council to register and consider this application. We will endeavour to contact you within the next few days to establish your timetable for decision making.

In the meantime, should you require any clarification or additional information, please do not hesitate to contact Chris Moore or Tim Price at these offices.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Savills", written in a cursive, stylized script.

**Savills (UK) Limited**

Encs.