

Background and Planning Policy Considerations

26-29 St Cross Street, London, EC1N 8UH

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1. Introduction and background

- 1.1 This application ("the Application") is being made to the London Borough of Camden ("the Council") to vary condition 2 in planning permission PS9904721/R2 ("the Original Permission"), which relates to 26-29 St Cross Street, London, EC1N 8UH ("the Property"), and is being made by Takara Trading Limited ("the Applicant", being the current owners of the Property).
- 1.2 The Original Permission was granted on 21st July 2000, for ***"External alterations including the replacement of existing shutters and existing entrance with new glazed entrances and a folding security grille in association with the use of the property as offices (Class B1) for the basement, garage, ground and first floors together with the change of use of the third floor from the assembly and sale of diamond jewellery to light industrial (class B1c use), as shown by drawing numbers PL001 - 09; 11 and 12 and unilateral undertaking of 2nd February 2000; SK28.8.99/001; A361/027B; and A361/061A"***.
- 1.3 The Original Permission was supported by a s.106 Agreement dated the same date, which contained an obligation that (save with the written consent of the Council given in accordance with the requirements of the document) to (i) surrender and discontinue all existing lawful use rights to use the Second Floor and the Third Floor of the Property for any use currently within Class B1(a) or B1(b) of the Use Classes Order and (ii) not to permit the use of the Second Floor and the Third Floor for any use except a use for an industrial process currently falling within Class B1(c) of the Use Classes Order.
- 1.4 Following the grant of the Planning Permission by the Council, the Applicant acquired the Property and continued to occupy it lawfully in accordance with the Permission. However, the Applicant no longer requires the Property; in the meantime, the commercial property market has changed, and following an extensive marketing exercise the Application now seeks to vary condition 2 in the Permission to allow B1 uses, including B1(a) office use, throughout the Property. (If approved, it will be necessary to also enter into new s.106 planning obligations to vary the existing s.106 agreement and to reinforce the ongoing business use of the Property.)
- 1.5 This document considers the relevant policies relating to the proposed variation of condition. It has been prepared by Philip Kratz, a consultant with Birketts LLP. Mr Kratz is a former local government chief officer; he is accredited as a planning specialist by the Law Society, a legal associate member of the Royal Town Planning Institute, and a current member of the Law Society's Planning and Environmental Law Committee. He is well acquainted with the Property, the planning history of it and the surrounding area, and the planning policy background.

2. **Policy considerations**

- 2.1 National planning policy is now contained in the National Planning Policy Framework ("NPPF"). Paragraph 2 of the NPPF reflects the statutory position, and states that planning decisions should be taken in accordance with the development plan, unless "other material considerations indicate otherwise"; this is reiterated in paragraphs 12 to 14. Paragraph 17 contains the core planning principles, including a requirement for local planning authorities to proactively drive and support sustainable economic development to deliver the business units that the country needs, and requiring plans to take account of market signals, taking account of the needs of the business community. Paragraph 21 requires local planning authorities to (inter alia) support business. Paragraph 186 requires local planning authorities to approach decision-taking in a positive way, and paragraph 187 to look for solutions rather than problems, stating that decision-takers at every level should seek to approve applications for sustainable development where possible.
- 2.2 The development plan for these purposes comprises the London Plan, the Unitary Development Plan ("UDP") and the emerging Local Plan.
- 2.3 By way of context, the Property is in the London Central Activities Zone ("CAZ"), as defined in the London Plan. The London Plan deals with the strategic functions of the CAZ, and seeks to prevent the further loss of "office and employment" floorspace, and the relevant provisions of the Plan overall are very supportive of B1 office use in this location.
- 2.4 The UDP seeks to ensure the retention of a stock of small industrial premises associated with specialist trades (not limited to jewellery); manufacturing activity in this area is said to contribute significantly to its special character and will be "protected and preserved" through UDP policies E2 and E3B. However, the UDP also recognises the decrease in availability of B1(a) offices in the immediate Hatton Garden area (mainly because of **residential** pressure), and suggests these might be allowed to grow.
- 2.5 The new, emerging plan seeks to preserve existing jewellery workshop premises, and also (where permission is given for additional floorspace – not relevant here - requires some space to be provided on an "affordable rent" basis (or money in lieu - see Policy DP1).

3. **The proposal**

- 3.1 Colliers International, a specialist firm of chartered commercial property surveyors based in London, with offices at 27 Old Street, London, EC1V 9HL, were instructed to advise on the marketing of the Property in June 2016, with a request to market vigorously and to consider flexible terms; they were made aware of the authorised

planning use of the Property, including the predominant B1(a) office use, and the restriction requiring the use of the second and third floors (subject to detailed provisions) for B1(c) light industrial purposes (albeit not limited to the jewellery sector).

- 3.2 The report of Colliers accompanies the Application; it analyses the marketing exercise and concludes (reflecting their experience over the last few years) that it would now be reasonable to consider alternative uses. Whilst the demand for B1(c) light industrial space has been non-existent, the demand for flexible office space has risen over the last few years, reflecting the pressures to redevelop for residential purposes, and the permanent loss of such space. The market for B1(c) accommodation has probably changed on a permanent basis and in any event they conclude that there is no current demand. Further, they do not see any reasonable prospect of finding a B1(c) occupier in the foreseeable future.
- 3.3 In this context, condition 2 of the Permission provides, “**Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any order revoking and re-enacting that provision with or without modification, the use herein permitted for the third floor shall be restricted to light industrial purposes falling within class Bi c of the above Order and no other use in class B1 of that order**”. Without this condition, it would be permissible to switch between the uses allowed by the B1 use class.
- 3.4 The variation of condition 2 in the Permission to allow any of the B1 uses throughout the Property would be consistent with the NPPF, the London Plan, the UDP and the Local Plan; it gives rise to no “harm”, and in any event would be justifiable on its own merits both within the terms of the relevant policies and as a case where material considerations indicate that permission should be granted (there being no material considerations that would justify refusal).
- 3.5 Further, the major problem in the locality is the loss of business floorspace to residential use. By allowing B1 use, the premises would be available for B1(a), B1(b) or B1(c) use, and the danger of permanent loss to residential use would be avoided; this could be reinforced by fresh s.106 planning obligations to prevent a change to residential use, thus providing a real planning benefit.
- 3.6 It is therefore suggested that condition 2 of the Permission be varied so that it reads:-

“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting those Orders with or without modification), the use of the premises shall be restricted to uses falling within class B1 of the Town and

Country Planning (Use Classes) Order 1987 (as amended) and no other use unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.

The reason for the condition is, "***In order to safeguard business floorspace and prevent its loss to other uses***".

- 3.7 It is also suggested that new s.106 planning obligations be entered into, requiring that the whole of the Property be used for B1 uses and no other use.

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