



Appeal Decision

Hearing Held on 21 June 2018

Site visit made on 21 June 2018

by G. Rollings, BA(Hons) MA(UD) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11th September 2018

Appeal Ref: APP/X5210/W/17/3190432 26-29 St Cross Street, London, EC1N 8UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Takara Trading Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref: 2017/3650/P dated 23 June 2017 was refused by notice dated 15 November 2017.
 - The application sought planning permission 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 – 90; 11 and 12 and unilateral undertaking of 2nd February 2000, SK28.8.99/001; A361/027B; and A361/061A," without complying with a condition attached to planning permission Ref: PS9904721/R2 dated 21 July 2000.
 - The condition in dispute is No. 2 which states that: *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 B1 c of the above Order and no other use in class B1 of that order.*
 - The reason given for the condition is: *In order to safeguard light industrial floorspace in the Central London Area in pursuance of policy CLA2 of the draft Unitary Development Plan.*
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published an updated version of the *National Planning Policy Framework* (the Framework) on 24 July 2018. This supersedes the previous 2012 version and applies to all planning decisions from this date. As it was published after the Hearing but before the issue of my decision, I provided the main parties with an opportunity to comment on the updated Framework and its impact on the appeal case.
3. During its consideration of the application and since its decision, the Council adopted its revised the *Camden Local Plan (2017)*, the *Hatton Garden*

Conservation Area Appraisal and Management Strategy (2017), and *Employment Sites and Business Premises Camden Planning Guidance (2018)* (Employment CPG). The appellant has had the opportunity to comment on these within evidence and at the Hearing.

4. The appeal site is within a conservation area, and there is no dispute between the parties that there would be any physical works to the property that would have an adverse effect on, nor fail to preserve, the character or appearance of the Conservation Area.

Main Issue

5. The appellant seeks to vary the condition, to remove the specific reference to light industrial purposes on the third floor of the building, to allow uses within the B1 use class throughout the building. As such, the main issue is the effect that varying the condition would have on the supply of light industrial floorspace in the area, and on the supply of floorspace for occupation by the jewellery industry.

Reasons

6. The multi-storey, inner-city building was until recently occupied in accordance with the description of development of the 2000 permission. At the time of the Hearing, floors 2 and 3 were occupied, with the other floors vacant. The building is within the Hatton Garden Conservation Area, and also within a Business Improvement District.
7. Hatton Garden and its surrounding streets, which include the appeal site, are known for its associations with the jewellery making trade, in terms of both manufacturing and trading. This is recognised by the Council's various adopted policies and guidance, including Local Plan Policies E1 and E2, the Conservation Area appraisal, *Town Centres, Retail and Employment Camden Planning Guidance 5 (2013)* (CPG5), and the Employment CPG. The latter are supplementary planning documents, which seek to protect existing employment floorspace engaged by the trade, particularly workshops.
8. The majority of the relevant Council policies and guidance have been adopted recently. From the evidence provided at the hearing, I could see that it has relied on a reasonably up-to-date evidence base which informed its current policy provision, which includes employment studies from 2009 and 2014. The fact that the Council's policies and guidance and substantially balanced towards the retention of jewellery industry floorspace carries significant weight in my decision.
9. The appellant is a long-term occupier and contributor to the trade, with specialised knowledge and strong connections to the industry. The reasons that were put forward as to why the existing floorspace is no longer viable in its currently allowed use included the fact that long-term trends that have led to the decline of the jewellery trade in the area, along with changes in trading patterns and online competition. I heard that these conditions have also resulted in increased workshop vacancies in the area and are causing significant pressures for other trade occupiers.
10. The appellant also suggested that the building was not suitable for jewellery workshop occupation, partly due to the large footprint of the building, but also issues with sourcing appropriate labour, fitting-out costs and other reasons. I

saw in my visit to the area that there was evidence of new purpose-built floorspace at The Record Hall, an example of new workshop space close to the appeal site, which offers studios of various sizes. I appreciate that this is an example of purpose-built development that was developed in partnership with the Council. However, the existence of spaces of various sizes, with various conditions such as lighting, suggests that similar spaces could be provided within the appeal building, with suitable conversion. I have no firm evidence before me to suggest that the costs of conversion would cause such an undertaking to become unviable.

11. The Council advised that protected uses, such as the jewellery trade around Hatton Garden, require protection from higher rents encroaching in the area. However the Council considers that the planning system can assist in keeping rents for trade uses at lower levels by limiting changes of land use. Despite the partial decline of the trade in the area, it is evident from the retained amount of trade-related uses in the area – which are distinct from the differing uses of surrounding areas – that this approach has been successful in assisting the trade to maintain its presence in the area, at least in part, by shielding premises from the commercial demands of alternative uses.
12. The Council's evidence indicates that there is also a high level of demand for office space within the area, but that the floorspace for the jewellery industry is under pressure from demand for alternative higher value uses. The text accompanying Local Plan Policy E1 indicates that demand for office floorspace will be met in other areas of the borough and as such, allowing the change of use would not necessarily fulfil a need for such floorspace in this area.
13. Conversely, one of the aforementioned Council employment studies noted as recently as 2014 that industrial floorspace demand was strong in the area around Hatton Garden, with low levels of vacant space.¹ Future changes to demand were forecast as a result of the commencement of Crossrail services to nearby Farringdon station, but on the whole there is nothing in the Council's evidence to support the pessimistic forecast that I heard from the appellant. I acknowledge that the appellant's significant experience provides unique position to observe long-term trends over time, but given the Council's strong policy base and past analysis, I am confident that any harmful trends would be identified and accounted for in the future. Piecemeal changes of use such as that proposed in this appeal, which could encourage otherwise protected floorspace to be occupied by non-trade uses, would only serve to hasten any decline of the trade in the area.
14. Turning now to the appellant's marketing exercise, the Council's Local Plan Policy E2 is restrictive in allowing the change of use of buildings previously used for employment purposes, with special consideration for properties in Hatton Garden. The accompanying text sets out that the conversion of employment premises in this area will require the undertaking of a marketing exercise of at least two years' duration, explicitly for the jewellery industry through appropriate media.
15. The Council's requirements for marketing are set out in the Employment CPG at paragraph 46. The terms of the original section 106 agreement were discussed at the Hearing, but its marketing obligations applied only for 12 months following the implementation of that permission. A marketing report

¹ *LB Camden Employment Land Study – Final Report*, prepared by URS, August 2014.

provided by the appellant, prepared by Colliers International in 2017, set out the activities that had been undertaken to that time.

16. Only one serious occupation offer was made during the marketing period, and this was not successful. I heard from the Council that the appellant had not complied with the onerous marketing requirements set out in the CPG, and from the evidence before me, there are indications that the building has been marketed for much, but not all, of the two-year period. I appreciate that the appellant was open to the possibility of flexible floorspace uses and terms, but the fact that the only written marketing evidence before me refers to the building's floorspace as office space, with no reference to other uses, does not support this position.
17. I heard from the appellant that much of the area's trade relies on established relationships between occupiers and operators in the area, and occurs informally. Even taking this into account, I am not satisfied that the Council's marketing requirements have been fully undertaken.
18. Taking all of the above into consideration, I am not convinced that the variation of the condition would continue to support the area's traditional trade, in accordance with the development plan for the area. I therefore conclude that varying the condition would have a detrimental effect on the supply of light industrial floorspace in the area, and a harmful effect on the supply of floorspace for occupation by the jewellery industry. It would conflict with Local Plan Policies E1 and E2, for the reasons that I have set out above.

Other issues

19. The terms of the section 106 agreement, as submitted with the original 2000 application, were discussed at the Hearing. Also discussed were the potential revisions that could be introduced by the appellant if the appeal were to be allowed, including references to use of the second floor of the building. However, as I am dismissing the appeal, it has not been necessary for me to consider these matters in further detail.

Conclusion

20. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Hakimian	Appellant
Alan Hakimian	Appellant
Philip Kratz BA (Hons) Solicitor, MRTPI	Birketts LLP
Michael Raibin	Colliers
Joshua Perlmutter	Colliers

FOR THE LOCAL PLANNING AUTHORITY:

Alyce Keen	Planning
Jonathan McClue	Planning
Stuart Clapham	Planning
Kate Gibbs	Economic Development
Olga Obshenkova	Legal
Laura Neale	Legal

DOCUMENTS SUBMITTED DURING THE HEARING

1. Planning application form for original development, dated 20 July 1999.
2. Draft Unilateral Obligation and accompanying letter to Camden Council from Slaughter & May, dated 2 February 2000.
3. Council officer's report for original application, dated 15 March 2000.
4. Workspace availability and pricing information as of 20 June 2018 for The Record Hall, London, EC1N 7RJ.
5. Public Examination of Camden's Local Plan – Inspector's Post Hearing Note to the Council, dated 2 November 2016, paragraph 2.4, and Council response.
6. London Borough of Camden Employment Land Study, Final Report, prepared by URS, dated August 2014.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Photographs of the marketing board outside the appeal property.