

Delegated Report		Analysis sheet		Expiry Date:		26/05/2011	
Members Briefing		N/A		Consultation Expiry Date:		05/05/2011	
Officer				Application Number			
John Sheehy				2011/0813/P			
Application Address				Drawing Numbers			
35 Grafton Way London W1T 5DB				Refer to draft decision			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal							
Change of use of part of the basement from internet cafe/ retail storage (Class A1) to use as a remote controlled minicab office (Class B1).							
Recommendation:		Grant conditional permission					
Application Type:		Full Planning Permission					
Conditions:							
Informatives:		Refer to Draft Decision Notice					
Consultations							
Adjoining Occupiers:		No. notified	16	No. of responses	0	No. of objections	0
Summary of consultation responses:		Site notice displayed for 3 weeks: no comments received from adjoining occupiers.					
Councillor/CAAC/Local groups comments:		Councillor Adam Harrison: "The taxi company in question, Ibys, dropped a card through my front door today displaying the address 35 Grafton Way on it, implying that customers will be able to go to that address to order and take cars from. This doesn't suggest it will be entirely a remote operation. The similar outfit on Warren St, which was given very similar permission a couple of months ago, also promised that it would remain entirely remote. So far one resident has said that he has seen cars waiting outside it, though I have yet to see it myself".					
		Bloomsbury CAAC: no comment.					
		Charlotte Street Association: strongly object "1. There is strong objection to the proposed Change of Use to use as a remote controlled minicab office (B1 Use), because from long experience elsewhere in Fitzrovia of radio-controlled offices the taxis still inevitably hang around in the area (both in the immediate street and streets in the vicinity) near the base because the drivers think that they will get the best jobs. This occurs regardless of any condition that no drivers or customers will visit the premises. In any case, the drivers usually need to come to the base to deal with paperwork and to settle accounts. Grafton Way is residential, and this part of nearby Whitfield Street is a highly residential part of Fitzrovia. 2. There are already problems with other examples of radio-controlled taxis in Fitzrovia, such as Cyclone (which has caused real problems over a long time period) with its base at 27-29 Whitfield Street (just south of Goodge Street). Even though it is radio-controlled, their taxis hang around the part of Whitfield Street to the north of Goodge Street and in the side street such as Scala Street, including in the evenings - these parts of these streets are residential. There are similar problems with a radio-controlled taxi office in Windmill Street, as well as with a previous one in Goodge Street (but now gone). 3. Recently, planning permission was granted for a similar radio-controlled office in the basement of a retail shop at 74 Warren Street/295 Euston Road (planning ref: 2011/0237/P). Residents tell us that, despite a condition forbidding it, minicabs are now hanging around in Warren Street. 4. There are also other minicab offices in residential streets of Fitzrovia which are not remotely-controlled (such as in Tottenham Street), where the minicabs and their drivers hang around day and night in the street. Thus, in terms of intensification there are already enough minicab offices in Fitzrovia affecting the residential amenity, regardless of whether or not they are remotely controlled.					

5. Thus, the radio-controlled taxi bases inevitably in practice here encourage traffic congestion in the local Fitzrovia area, which is against Camden's Clear Zone policy for the whole of the South of the Euston Road, (where these premises are located) to discourage congestion and eliminate unessential traffic. It should be noted that this policy does not apply to the borough north of the Euston Road, where other such applications may have been granted; and thus, we believe, a different context and a material consideration."

Additional comments from Charlotte Street Association – these were received after the publication of the report on an earlier Members Briefing Agenda however the application was not decided at this briefing meeting;

"1. We believe that the issues warrant this application being referred to the Development Control Committee. We think that there are sufficient differences, including due to the nature of the location in this case, compared with the appeal cases in the Report. If the DC Committee were still minded to grant the application, the Committee could also decide in having a Management Agreement which would be of much more value (compared with Conditions) because it could have stricter and wider conditions; for example, it could list streets or areas where the minicabs cannot wait/park to protect the residential amenity.

2. As the premises are located in the West End and with the proximity of entertainment venues (and thus the source for customers), the chances are much higher that minicabs and their drivers will hang around in the local streets, as described in our objection letter. The appeals referred to are for premises North of the Euston Road, where the context is quite different, without the same temptation to hang around.

3. With reference to the Appeals, their locations are north of the Euston Road. As we say in our objection letter, Camden's Clear Zone Policy applies to the whole of the South of the Euston Road, but not to the North (where both appeal premises are located); and thus we believe this is a different context and a material consideration. Royal College Street is a main road; and the Rear of 95 Fairfax Road relates to a supermarket.

4. Under "Assessment", the Report says of Charlotte Street Association's objections: "*... The objector to the application, raises general concerns about the location of the minicab offices in residential areas. However the site is not located in a residential area but in a mixed-use Central London location*". Yes, Fitzrovia is a mixed-use area... [but] this is very much a residential part of Fitzrovia:

(a). No. 35 Grafton Way is in a block where all the buildings contain residential except for the pub on the corner and No. 39. Nos. 41 and 43 and wholly residential. There is further residential on the opposite side of the street.

(b). In nearby Whitfield Street, all the buildings in the terrace (except for the corner building) between Grafton Way and Warren Street contain substantial residential. Also, many of these buildings are wholly residential including ground floor and basement. The residential buildings on the eastern side of Whitfield Street, overlooking Whitfield Place, are wholly residential.

5. We are not convinced that Ibys Cars will operate as remotely radio-controlled. Local residents have told us that Ibys Cars have distributed cards through their doors, giving their contact address as 35 Grafton Way. There is a brass plate on the door announcing "Ibys Cars: press buzzer for assistance". The Basement (proposed minicab office location) of No. 35 is accessible where, due to prominent signage for the internet café, members of the public are still encouraged to visit".

Site Description

The site is located on the southern side of Grafton Way, close to its junction with Tottenham Court Road.

The building on the site is a four-storey-with-basement terraced property. It is two bays wide and has a ground floor and basement commercial unit. The ground floor is in use as a 24-hour newsagents/ internet cafe (Class A1). The basement is linked to the ground floor by a spiral staircase to the front of the unit; a second stairs, for staff use, is located to the rear of the ground floor. The upper floors of the building are in residential use.

The site is located in Bloomsbury Conservation Area and the Central London Area. The building on the site is not listed, though the adjoining building to the west is Grade II listed. The site is not located in a Neighbourhood Centre or a protected retail frontage.

Relevant History

Application site

October 1995 Planning permission refused for change of use of basement and ground floors from retail use to use as a hot food take-away, ref. 9501652.

Enforcement History

December 2009 Investigation opened into illuminated signage at the premises. The alleged breach was investigated but it was not considered expedient to take action, ref. EN09/1102.

October 2010 Investigation opened into unauthorised mini cab use in the basement and illuminated box signage at ground floor level, ref. EN10/0953. Notice not issued, application for retention of use submitted and signage removed.

Other sites

174 Royal College Street

March 2010 Planning permission refused for change of use of basement from ancillary storage area of shop (Class A1) to Radio Controlled mini cab office (Sui Generis); new access via stairs in front lightwell and associated alterations to shop front, ref. 2010/0016/P.

(1) the lightwell would be detrimental to the appearance of building, the character of the terrace and character and appearance of the conservation area.

(2) in the absence of a legal agreement for management plan, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area to the detriment of highway and pedestrian safety and to have a detrimental impact on the occupiers of surrounding residential premises

Appeal allowed 03/11/2010.

Rear of 95 Fairfax Road

June 2010 Planning permission refused for change of use of part of the garage fronting Fairhazel Gardens from storage ancillary to the retail shop (Class A1) to a radio-controlled office (Class B1) for mini-cabs (following temporary planning permission granted 04/11/2005 for one year period (2005/3357/P)). Ref. 2010/2415/P

Reasons

(1) detrimental impact on the amenity of neighbouring residential occupiers through noise and disturbance

(2) increase in stopping and parking on the highway and on the pedestrian footway would have a detrimental impact on the highway and its operation

Appeal allowed 04/02/2011

295 Euston Road/74 Warren Street

March 2011 Planning permission granted for change of use of part of basement from retail use (Class A1) to use as a mini-cab control office (Class B1), ref. 2011/0237/P.

Relevant policies

LDF Core Strategy and Development Policies

CS5 Managing the impact of growth and development
CS7 Promoting Camden's shops and centres
CS8 Promoting a successful and inclusive Camden economy

DP10 Helping and promoting small and independent shops
DP17 Walking, cycling and public transport
DP19 Managing the impact of parking
DP26 Managing the impact of development on occupiers and neighbours
DP30 Shopfronts

Camden Planning Guidance 2006

Camden Planning Guidance 2011

Bloomsbury Conservation Area Statement

Assessment

Proposal: change of use of part of the basement floor from retail storage (Class A1) to office use (Class B1). It is proposed to use this part of the application unit as a remote minicab office where all contact with the taxi drivers would be by telephone.

The use would be carried out 24 hours per day.

Layout of the unit

The minicab office would be located at basement level at the front of the floor. The basement of the unit is laid out in a number of small spaces used for storage and office use for the shop, however the basement area is larger than is necessary for storage/ office use and not all of it is in active use.

The minicab office would be located in an existing room measuring ca.10m². The room contains an operating desk, telephone and computer terminal. The door to the room has a combination lock. It appears that this room was used as the operating point of the previous unauthorised minicab use and the layout has not been changed by the applicant.

During the officer site visit (which was not arranged in advance) brochures were piled on the operating desk and the door was locked, indicating that the room is not currently in use as a minicab office.

The applicant has confirmed that as part of the application the layout of the room would remain as existing and the combination lock would be retained.

There is currently an intercom attached to the shopfront which allows members of the public to contact "lbys Cars", the applicant, from street level. The intercom panel also provides a telephone number which officers have contacted – this has established that the company is currently trading. Internet searches also indicate that the lbys Cars is also currently trading. It is not clear where the use is in operating from – it appears to be from within the upper floors of the building.

Assessment

Camden's retail and town centre policies are aimed at protecting Class A1 retail units and small shops, in particular within neighbourhood and town centres. The proposal would not result in any tangible loss of ancillary retail storage space as the area affected by the application is not in active use for retail storage and appears not to have been in this use for a considerable period of time. In addition, the area affected by the application covers less than a quarter of the floorspace at basement level and the change of use of this small part of the floor would not affect the operation or viability of the retail unit.

Class B1 minicab offices, being radio controlled, differ from drop-in minicab offices (Sui Generis Class) which can cause traffic congestion due to stopping and queuing close to the location of the office causing harm to neighbour amenity and traffic conditions.

The layout of the proposed minicab office comprises a separate room at basement level, accessed by a steep spiral staircase and secured by a combination lock. It is considered that, by virtue of the location of the office and the layout of the entire basement floor there is very limited potential for the space to be used in practice by

walk-in customers. No customer waiting area or bathroom facilities are proposed as part of the application and the existing use of the majority of the basement area for the storage of retail stock would not be compatible with access or waiting by walk-in customers.

Based on the evidence that officers have gathered it appears that the minicab use is being carried out from a location close to the application premises. However, there have been no objections from neighbouring occupiers or complaints about the operation of the use. The enforcement investigations noted above stemmed from complaints about signage at the premises which led to further investigations about the use. The enforcement investigation did not therefore result from traffic congestion or disturbance/ loss of amenity by virtue of the operation of the use.

The objector to the application raises general concerns about the location of minicab offices in residential areas. However the site is not located in a residential area but in a mixed-use Central London location, adjacent to a busy TfL road and surrounded mainly by commercial uses at ground and upper floors. The objector has not provided evidence of any disturbance stemming from the existing use at the premises.

In light of the above considerations the proposal is considered to have minimal impact on traffic, residential amenity and the operation of the retail unit above.

The Council has concerns about the location of the existing intercom at street level and the potential for drop-in customers. However, the vast majority of business (and residential) premises have an intercom or doorbell at street level and the location of such means of communication is considered to be reasonable for a business use, in particular where it is not at ground level. Given that the area subject to this application is a discrete, self-contained space which operates independently of the remainder of the commercial unit at basement and ground floor, it would not be reasonable or enforceable to attach a condition to the decision notice to require the removal of this intercom.

Recent appeals

Rear of 95 Fairfax Road 2010/2415/P

Change of use of part of the garage fronting Fairhazel Gardens from storage ancillary to the retail shop (Class A1) to a radio-controlled office (Class B1) for mini-cabs (following temporary planning permission granted 04/11/2005 for one year period (2005/3357/P).

This was refused on 29/06/2010 for two reasons: (1) the detrimental impact on the amenity of neighbouring residential occupiers through noise and disturbance, and (2) the detrimental impact on the highway and its operation from the increase in stopping and parking on the highway and on the pedestrian footway.

This case was different to the current application that the proposed office was located on the ground floor which had a large glazed shopfront, waiting area, and potential for drop-in custom. It was also claimed that the premises were already being used as a minicab office with customers and drivers visiting the premises.

The Inspector identified two main issues – whether the proposed use would cause unacceptable noise and disturbance for the occupiers of neighbouring dwellings and whether parking associated with the use would have a detrimental impact on the operation of the highway.

The appellant stated that neither would occur because the office would be used purely to receive telephone requests for cabs and to pass them on to minicab drivers. The Inspector commented “*I have looked carefully at the objections raised by neighbouring residents. Nearly all make the assumption that cabs will be bound to want to park close to the office to wait for fares. I can see no reason why that should be so when the origins and destinations of virtually all cab journeys will be elsewhere and when communication by radio or mobile phone is nowadays the norm.*”

Whilst the Inspector accepted that a condition could not prevent cab drivers waiting in the vicinity he remarked that he could see very little reason why they should need to or wish to. The appeal was allowed on 04/02/2011 with a condition preventing cab drivers waiting in the office for fares and to preclude the use of the office as, in effect, a pick-up point for fares.

174 Royal College Street 2010/0016/P

Change of use of basement from ancillary storage area of shop (Class A1) to Radio Controlled mini cab office (Sui Generis); new access via stairs in front lightwell and associated alterations to shop front.

The application was refused on 31/03/2010 for two reasons: (1) the lightwell would be detrimental to the appearance of building, the character of the terrace and character and appearance of the conservation area, and (2) in the absence of a legal agreement for a management plan, it would be likely to contribute unacceptably to parking stress and congestion in the surrounding area to the detriment of highway and pedestrian safety and to have a detrimental impact on the occupiers of surrounding residential premises.

In this case, little information was submitted with regard to the nature of the operation. The Delegated Report stated that were the applicant to agree to a Management Plan secured by a legal agreement (s106) to ensure the office was a purely "remote" control office, with no customers making personal visits to the office and cars controlled remotely without returning to the office (i.e. point-to-point hire), it was likely that the proposal would have been acceptable. However, in absence of a legal agreement for a Management Plan to address the concerns, the proposal was considered to be unacceptable as it would have had a detrimental impact on local transport network, added to parking stress and raised concerns regarding pedestrian safety."

The Inspector noted that the Council's concerns relating to highway safety and the living conditions of nearby residents could be satisfactorily addressed by the completion of a legal agreement to secure a management plan. The Inspector also noted that the Delegated Report stated that the proposed use would be likely to be acceptable if the office operated purely as a "remote" control office, with no customers making personal visits to it and with taxi drivers being instructed to pick the customer up from wherever they were and deliver them to their destination without returning to the office. However, contrary to the Council's suggestion, he was satisfied that an appropriately worded planning condition could address these matters and that a separate legal agreement was not necessary.

The appeal was allowed on 03/11/2010 with a condition restricting the taxi office to use as a remote office, with no fares booked in person, no customers picked up or dropped off directly outside the office at any time and no taxi drivers to visit the office for any purpose other than to undertake administrative duties.

There have been no recent appeal decisions where the Inspector has granted permission for a Class B1 minicab office with a Management Plan secured by Legal Agreement. Camden's Transport Planners have commented on the proposal and recommend that permission should be granted subject to conditions. They have advised that based on the recent Inspector and Council decisions, all of which carry significant weight, a S106 Agreement securing a Service Management Plan is not required in this case.

Conclusion

Planning permission is recommended subject to conditions to ensure that the proposed use would be as a Class B1 minicab office.

Recommendation: grant subject to conditions.

DISCLAIMER

Decision route to be decided by nominated members on Monday 13th June 2011.

For further information see

<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>