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# Appeal Decision

Site visit made 26 October 2010

by **Peter Eggleton MRTPI**

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

Decision date: 17 November 2010

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## Appeal Ref: APP/X5210/A/10/2134479

### Unit 21 Cheriton, Queens Crescent, London NW5 4EZ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Nargus Alvi against the decision of the London Borough of Camden Council.
  - The application Ref 2010/1593/P, dated 22 March 2010, was refused by notice dated 12 July 2010.
  - The development proposed is the change of use from one shop to two and the signboards over existing areas.
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### Decision

1. I dismiss the appeal.

### Main Issues

2. The main issues are the effect of the proposal on parking provision, road safety and the use of sustainable transport; the effect on the character, function, vitality and viability of the Neighbourhood Shopping Centre; and the effect on the living conditions of local residents with regard to noise and disturbance.

### Reasons

3. The Council describe the proposal as the sub-division and part change of use of an existing retail shop (Class A1) to provide a retail unit (Class A1) and a minicab office (Sui Generis), plus alterations to the shop front. I consider this to be a more accurate description of the development.

### *Transport concerns*

4. The Council are concerned that the minicab office would be detrimental to local traffic and parking conditions and would encourage travel by private cars instead of more sustainable modes of transport. It is proposed that the unit would be used as a communication centre but also a base for drivers who would be able to use the office for breaks and to use the toilet.
  5. Although the appellant is clear that the office would not be used as a pick-up point, drivers would obviously have to park whilst visiting. The appellant suggests that a parking space is already available but I do not have any detail of this. It is also suggested that only one further space would be required. I am not clear how this would be secured or where it would be. Concerns have
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been raised that parking would occur illegally and whilst this would be a matter for the Council's parking enforcement section, development proposals should clearly demonstrate how such requirements would be met. Furthermore, I am advised that this area already suffers from parking stress.

6. Given the lack of information, I am not satisfied that there would be adequate provision for the visiting drivers. The proposal would add to the parking stress and may result in illegal parking. I find that the proposal would result in increased inconvenience for local residents and increase highway safety concerns.
7. Although the Council have referred to a range of transport policies, I find two to be directly relevant. The proposal would be contrary to Policy T9A of the London Borough of Camden Replacement Unitary Development Plan (UDP) as this seeks to avoid harm to on-street parking conditions. It also seeks to prevent additional parking demand in locations where the existing provision is insufficient. Policy R6 requires that consideration be given to the vehicular stopping and parking characteristics of new development. The limited evidence is not sufficient to demonstrate compliance with this requirement.
8. The Council state that there are sufficient private hire services in the area and suggest that this additional office would compete for customers with the other offices but would also compete with public transport. As other private hire operators exist locally, I have no reason to believe that this additional facility, although increasing competition, would result in a significant change in transport choices for the public. I am not persuaded that the facility would result in less people using the bus, tube or train.
9. With regard to the first issue, I find that this proposal would not result in harm with regard to sustainability objectives. However, the details fail to demonstrate how it would function in terms of parking provision for the visiting drivers. I find this lack of information unsatisfactory and I am unable to conclude that the proposal would not be harmful to road safety or the convenience of local residents. The weight I give to this concern is however limited given the scale of the use proposed and its Neighbourhood Shopping Centre location.

*Loss of retail floorspace*

10. The Council are concerned that the proposal would result in harm to the Neighbourhood Shopping Centre. Although the centre overall appears vibrant and well used, this small element of it is clearly not currently adding to its overall function. The empty and vandalised shops detract from the character of the area overall and this parade in particular.
11. UDP Policy R7 seeks to protect shopping frontages and local shops and only encourages development that would not cause harm to the character, function, vitality and viability of the centre. It also seeks to ensure that the centre remains capable of providing a range of convenience shopping. Much of the remaining parade would remain available for new convenience shopping. Although this unit accommodates the only remaining Class A1 activity, its sub-division could not be considered to have a significant impact on the Neighbourhood Shopping Centre given the current contribution of this parade.

12. I acknowledge the appellant's determination to make use of this unit. The parade detracts from the character of the area and it is not a welcoming or comfortable environment, even during the day. An active use would have benefits in this respect. Although I have no evidence that the current use is unsustainable, if it were to cease trading, I would not be confident that a replacement would follow. The continued use of this property would make the vandalism that has resulted to the other units less likely. Its active use would also be more likely to encourage others to consider this parade for their business.
13. Overall, I find the proposal to offer significant benefits to this parade which is clearly failing. I have not been persuaded that there are any other measures in place which seek its regeneration. Although I note concerns expressed with regard to other uses that have taken place in this small area, in the absence of any information with regard to the medium or long term objectives for this parade, I consider that this use, as it would encourage activity, would be a benefit. I do not find that this proposal would be harmful to the character, function, vitality and viability of the Neighbourhood Shopping Centre or that it would be contrary to Policy R7. I consider that there are benefits to the proposal that weigh in its favour.

*Impact on local residents*

14. The unit is closely associated with the residential accommodation above. The overall design of this mixed use development creates a partially enclosed pedestrian courtyard area. Given this layout, even relatively limited night-time activity would result in disturbance of the residents in the accommodation above.
15. Drivers coming and going and staff taking breaks would potentially disturb the neighbouring residents. Whilst it has been suggested that customers would not be encouraged to visit the premises, any that did visit, particularly late at night, would be likely to disturb the local residents. I do not consider this to be a suitable location for a 24 hour use such as this. I find the potential for late night activity to conflict with UDP Policies R6 and SD6 which seek to protect residents from noise.

*Conclusion*

16. The introduction of an additional use into this parade would be a positive aspect of this proposal and this weighs in its favour. Whilst the appellant has not provided sufficient information with regard to parking, my main concern is that the layout of this mixed use building would not be suited to a 24 hour use such as this. I consider that the operation of a minicab office would be harmful to the living conditions of the neighbouring residents. I conclude that the potential benefits of this proposal would not be sufficient to outweigh this concern. Whilst the appellant has suggested that concerns could be overcome by a legal agreement, I do not have one before me and the details would need to be agreed with the Council. On the basis of the submitted information, I dismiss the appeal.

*Peter Eggleton*

INSPECTOR