

<b>Address:</b>	22-23 Brownlow Mews, London, WC1N 2LA	
<b>Application Number:</b>	2009/5309/P	<b>Officer:</b> Jonathan Markwell
<b>Ward:</b>	Holborn & Covent Garden	
<b>Date Received:</b>	11/11/2009	
<b>Proposal:</b> Part retrospective application for change of use from educational (Sui Generis) use to a mixed business (Class B1) and non-residential institution uses (Class D1); Business use is proposed at ground and part first and second floor level and the retention of the non-residential institution use is proposed at part first and second floor levels.		
<b>Drawing Numbers:</b> Site Location Plan, as received 18/03/2010; 01 Ground Floor Plan Existing; 02 First Floor Plan Existing; 03 Second Floor Plan; 10 Ground Floor Plan Proposed; 11 First Floor Plan Proposed; Letter from Morgan Lambert & Partners PDM/Brownlow Mews.		
<b>RECOMMENDATION SUMMARY: Grant Planning Permission</b>		
<b>Applicant:</b>	<b>Agent:</b>	
Jennifer Gregson c/o Agent	Cunnane Town Planning 67 Strathmore Road, Teddington, Middlesex, TW11 8UH	

## ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing (Lawful use)	<i>Sui Generis</i>		390m <sup>2</sup>
Proposed	<i>B1 Business</i> <i>D1 Non-Residential Institution</i>		244m <sup>2</sup> 146m <sup>2</sup>

## OFFICERS' REPORT

### Reason for Referral to Committee:

The Director of Culture and Environment has referred the application for consideration after briefing members [Clause 3 (ix)]. This application was withdrawn from the 06/03/2010 DCC agenda by the Director of Culture and Environment due to the size of the committee agenda. This item was withdrawn prior to consideration by Members of the Committee.

## **1. SITE**

- 1.1 The application site comprises a three storey building located on the south-west side of Brownlow Mews, mid-way between the junctions with Guilford Street (to the north-west) and Roger Street (to the south-east). Brownlow Mews is a cobbled mews consisting of predominantly two and three storey buildings and predominantly comprises a mix of residential and small commercial units, including a public house. A greater number of residential uses are on the north-east side of Brownlow Mews, on the opposite side to the application site. Brownlow Mews runs parallel to Gray's Inn Road (to the east of the application site) and Doughty Street (to the west). Immediately to the north-west of the site at ground floor level is the entrance to the four residential units found to the west of the application site (as granted by permission 2004/4274/P in 2005 – see section 3 for details). Beyond this entrance is 21a Brownlow Mews, which is in active use as a courier company business, utilising a sui generis permission granted on appeal (see section 3 for details). At first floor level the application site borders the first floor level of No. 21a.
- 1.2 Although the application site does not include a listed building, it is located within Bloomsbury Conservation Area. The eastern boundary of the conservation area is located along the Brownlow Mews highway, meaning all buildings on the south-west side of Brownlow Mews are within the conservation area, but those on the north-east side of Brownlow Mews are outside of the conservation area. The application site building, like all those on the south-west side of Brownlow Mews, is considered to make a positive contribution to the character and appearance of the conservation area.

## **2. THE PROPOSAL**

- 2.1 Planning permission is sought for the change of use of No. 22-23 Brownlow Mews from an educational (Sui Generis) use to a mixed business (Class B1) and non-residential institution uses (Class D1). The business use is proposed at ground floor level of both No 22 and 23 and part first and second floor level, within the part of the building indicated to be No. 22. The non-residential institution use is proposed at part first and second floor levels, within the part of the building indicated to be No. 23.
- 2.2 Following a site visit undertaken on 14/12/2009 it was confirmed that some internal works for the proposed change of use had already been carried out and the proposed Class D1 non-residential education use was seen to be in operation. However, the business use at ground floor and part first and second floor level had not actually been implemented (although internal alterations had in anticipation of the proposed use). Given that planning permission is not required for internal alterations to an unlisted building, no breach is considered to have taken place with respect of the proposed business use. However, given the non-residential education use was in active use, this element of the proposed change of use is therefore sought retrospectively.

- 2.3 The applicant has indicated that the proposed Class B1 use (244m<sup>2</sup>) is to comprise the accounting and administrative functions of the nearby sui generis courier company business at No. 21a Brownlow Mews. The applicant has reiterated during the course of the application that the proposed application site would not be used as a depot for vehicles and the function of the space would be for Class B1 purposes and not an extension to the sui generis use at No. 21a.
- 2.4 With respect of the proposed Class D1 use (146m<sup>2</sup>), the applicant has outlined that this part of the building (first and second floor of No. 23) is being used for an executive coach, providing leadership development training to business executives. Such a use is considered to be a non-residential institution use falling within Class D1.

### 3. RELEVANT HISTORY

#### **Applications at 22 and 23 Brownlow Mews or those which incorporate 22 and 23 Brownlow Mews as part of a wider application site**

- 3.1 21B, 22, 22A, 23 & 23A Brownlow Mews - PS9804853/ - Part redevelopment and change of use from use as car park and Class B1 use, to a sui generis educational use on the whole site comprising classrooms, office and 12 single or double student study bedrooms, which include self contained shower rooms and kitchenettes. Granted 25/05/2001.
- 3.2 21B, 22A, 22 & 23 Brownlow Mews - PSX0204562 - Variations to planning permission dated 25th May 2001 (ref. PS9804853/R4) for part redevelopment and change of use from a car park and Class B1 use to a sui generis educational use comprising classrooms, offices and 12 units for student accommodation, involving alterations to roof pitch, the rear fenestration and main entrance to Brownlow Mews. Granted 08/10/2003.
- 3.3 21b Brownlow Mews - 2004/4274/P - The development of a vacant site by the construction of 4 x 3 storey plus roof terrace 3 bedroom residential dwellings. Granted 10/03/2005. This permission was implemented and those units are known as 21b, c, d and e Brownlow Mews.
- 3.4 22/23 Brownlow Mews - 2009/1278/P - Change of use of premises from educational use (Class D1) to business accommodation (Class B1) at ground, first and second floor levels. Withdrawn 11/06/2009.
- 3.5 23 Brownlow Mews - P9600691 - Temporary change of use of first floor from studios to residential. Granted 08/08/1996 for a temporary period until 1 May 1997. Appeal submitted against time period of use condition (APP/X5210/A/96/272447/P9). Appeal allowed 24/01/1997 to allow a residential use for no longer than 12 months from 24/01/1997.

#### **Applications not within the application site but of relevance**

- 3.6 21a Brownlow Mews - PSX0004899 - The retention of a ground floor courier head office and control centre. Refused and enforced 11/01/2001. Planning and enforcement appeals allowed for the retention of a courier head office and control centre on 16 October 2001 (ref. APP/X5210/A/01/1058101), subject to a condition specifying that the use of the ground floor as a courier head office shall not operate, and no deliveries shall be taken at or goods despatched from the site, outside the hours of 07.00 to 20.00 Monday to Friday nor at any time on Saturdays, Sundays, Bank or Public Holidays.
- 3.7 21a Brownlow Mews - 2003/0083/P - Change of use to allow head office and control centre of a courier company to be used in conjunction with private hire vehicles business (chauffeurs). Granted 18/08/2003. The same operating/delivery hours condition (as PSX0004899) was added, together with a further condition specifying that the change of use shall not include the collection of customers from the site premises at any daytime or evening hours.
- 3.8 21a Brownlow Mews - 2007/3106/P - Erection of mezzanine floor, a new roof incorporating a roof terrace with screening (enclosure) to existing two storey building for additional office space in association with private hire company (sui generis). Granted 30/08/2007.

#### **Recent/Current Enforcement cases within/close to the application site**

- 3.9 22-23 Brownlow Mews - EN09/0443 - Construction work taken place to convert the premises into office accommodation without planning permission being granted for such a use. This case was opened on 17/06/2009 and closed on 23/09/2009 following discussions with the occupier indicating a previously withdrawn planning application at the site (2009/1278/P – see above) and intention (at that point in time) to submit a re-submission in the future (this planning application). Please note that should planning permission be subsequently refused enforcement action is likely to be taken regarding the Class D1 use at the site (given this part of the application is retrospective). No formal action has been taken to date pending the outcome of this part retrospective planning application.
- 3.10 21a Brownlow Mews - EN09/0496 - Failure to comply with condition 2 of the planning permission granted 18 August 2003 reference number 2003/0083/P namely; "The use of the property as a courier head office and control centre for both a courier and private hire vehicles (chauffeurs) business shall not operate, and no deliveries shall be taken at or good dispatched from the site, outside of the hours of 7.00 to 20.00 Monday to Friday nor at any time on Saturdays, Sundays, Bank Holidays or Public Holidays." Current investigation by Compliance and Enforcement team. A Planning Contravention Notice was served on 17/11/2009. A Breach of Condition Notice was issued on 26/01/2010. This matter is currently on-going.

#### **4. CONSULTATIONS**

##### **Conservation Area Advisory Committee**

- 4.1 Bloomsbury CAAC indicated that they have no comments on the application.

### **Adjoining Occupiers**

	<b>Original</b>
<i>Number of letters sent</i>	33
<i>Total number of responses received</i>	56
<i>Number of electronic responses</i>	54
<i>Number in support</i>	2
<i>Number of objections</i>	41

- 4.2 In addition to the neighbouring occupiers being formally consulted, a site notice was erected on 20/11/2009, expiring on 11/12/2009. Two letters of support from occupiers at No. 27 Brownlow Mews and Rudi's Sandwich Bar, Roger Street / 81b Grays Inn Road have been received. One letter states that the nature of the business creates very little traffic, while the other comments that the proposed use will bring more business to the area.
- 4.3 A total of 41 objections have been received from occupiers in Brownlow Mews and elsewhere. Objections have been received from the following occupiers within Brownlow Mews: 5 (objections from two different occupiers have been received); Flat 2, 7; Flat 3, 7; Flat 6, 7 (objections from two different occupiers have been received); Flat 7, 7; 9; 9a (objections from two different occupiers have been received); Unspecified Flat, 10-13; Flat 2, 10-13; Flat 5, 10-13; Flat 6, 10-13; Flat 7, 10-13; 15 (two separate submissions); 16 (three separate objections from different occupiers/employees – eight separate submissions by one occupier and three separate submissions from another occupier); 20; 21 (unspecified flat number); 21b; 21c (two separate submissions); 21d (two separate submissions); 21e; 24-26; 27a (two separate submissions).
- 4.4 Outside of Brownlow Mews, objections have also been received from the following addresses: 22 Crane Grove, London, N7 8LE; 2 Doughty Street; 1 Eynsford Court, Hitchin, Hertfordshire, SG4 9JS; 2 Guilford Street; 4 Kings Mews (objections from two different occupiers have been received); 13 Kings Mews; 2a Muswell Road, Muswell Hill, N10 2BH (denoted as an employee at No. 16 Brownlow Mews); Flat 3, 10-12 North Mews; Flat 8, 10-12 North Mews; 6 North Mews; 43a Store Street. In addition, objections have been received from two unknown addresses, but referred to as “patients” – one specified as patient of massage therapist at No. 16 Brownlow Mews; the other not specified.
- 4.5 A summary of the issues raised are as follows:
- Proposed use is an intensification of the existing sui generis courier company use at No. 21a Brownlow Mews (a number of objectors denote this application to be a cover for the doubling/tripling in size of the courier company business). This neighbouring building has been expanded since permission was granted for the use to continue, on appeal, in 2001. In addition, objectors state that the occupier at 21a has not been adhering to planning conditions added to permissions at this site (see section 3 for details). An implication of this intensification is nuisance problems for neighbouring occupiers and the present use at No. 21a is not considered to

sit comfortably within a residential area – “therefore any further intensification as suggested by the application should be viewed as unacceptable”. More specifically, “given the history of the use the intensification of the courier operation would have an unacceptable impact on residential amenity”. With particular regard to policy SD6 noise and vibration levels and odour, fumes and dust factors are highlighted (from the increase in number of vehicles, these vehicles being left running and people at the site / within Brownlow Mews). Local residents view the current operations at No. 21a as detrimental to their residential amenity and this will be exacerbated by the proposed use, turning the courier company use to cover 25% of the length of the mews, changing the overall character of the mews “from a resident cum quiet offices to a courier centre front yard”.

- Part of the proposed use should not be considered as B1 office but as a sui generis use. This is given the supporting information submitted by the applicant, notes that the B1 office function will be ‘some of the accounting and administrative function of the courier business at 21a Brownlow Mews’. Thus ‘the proposed use is part of the Mach 1 business and hence it must follow that it falls within the same use class”.
- An internal door at first floor level between 22 and 23 and 21a has been installed without planning permission, linking the two buildings internally so as to allow the whole site to function as an integrated office for a courier centre. A further concern is that it will be difficult to discover if a breach in this regard has occurred if/when planning permission is granted and if it is, whether it would be enforceable. This is considered to “show the fraudulent attitude of the couriers and the door allows them to expand their business significantly ridiculing usage distinction between 22/23 and 21a”. In summary the main concern is “how can one stop 21a and 22/23 melting into one single courier centre?”
- Lack of a transport assessment or transport statement being submitted for “LB Camden to make an informed decision on implications of the application”. Concern that transport movements will increase with the intensification of the use, causing harm to the residential amenity (for example safety of pedestrians, especially young children) of neighbouring occupiers. It is also noted that parking in the mews (some blocking entrances) may also increase and the present use at No. 21a is presently parking in nearby roads such as Guilford Street and North Mews. The present situation is described as such: More specific concerns regard “35-60 vans/limousines, 20-40 motorcycles and 10-15 bikes are visiting the offices. From 7am to 8pm many stay and socialise outside the offices for a long time – generating noise from carrying parcels in and out, doors slamming, radios, walkie talkies, mobile phones, conversations etc. There is also outdoor management controls of vehicle meeting standards”. The cumulative impact is to the detriment of the amenity of neighbouring occupiers.
- Lack of information on proposed hours, denoted as ‘unknown’, is “wholly unacceptable, and does not provide LB Camden with the required information to make a robust decision”.

- With regard to the proposed D1 use, although welcomed in principle, it is considered to be “extremely important that there is a clear demarcation of this use and the retention of D1 use in perpetuity, as further intensification of the sui generis (courier company) use in the long term would be contrary to policy and unacceptable in terms of impact on residential amenity”. Further clarity sought as to how LB Camden seek to monitor the D1 use, with view to possible enforcement action “given the ‘shared’ nature of the building for the two separate uses”. One objector specifies that CCTV has shown that the applicant has “hardly ever” been seen at the application site, while the owner of No. 21a has been seen there “daily and regularly”. Hence concern over how the Council will ensure the proposed D1 use is “not just a cover operation” for the B1 use.
- Based on previous experiences with the applicant’s business at No. 21a, one objector queries whether conditions added to a permission at No. 22-23 would be able to be subsequently enforced if not adhered to by the applicant (for example operating hours); A further submission has queried how the Council would be able to enforce against No. 22-23 sliding into a sui generis use, with likely arguments from the applicant that even if conditions/uses are not adhered to, this is only occurring occasionally and not causing sufficient harm to neighbouring occupiers to warrant enforcement action.
- One objector asks for the Council to put restrictions on the size (number of employees) of the business at 22-23, but there is doubt raised as to how enforceable any such conditions would be.
- One objector states that insufficient efforts have been made to let the D1 space at the site and that there has been insufficient “proof for lack of demand of D1 use”.
- Two objectors note that the application site is already in use for the proposed uses prior to planning permission being granted. This is seven days a week, 24 hours per day operation (photographs have been submitted). A further submission has indicated that the application site building is currently in use as ‘a night-time telephone centre and as a courier storage and distribution centre’; thus it is suggested the existing uses already taking place at the site are akin to a ‘full functional courier company centre’ sui generis use rather than a the proposed office/D1 use sought.

## 5. POLICIES

### 5.1 Replacement Unitary Development Plan 2006

SD1	Quality of life
SD6	Amenity for occupiers and neighbours
B7	Conservation areas
T3	Pedestrians and cycling
T7	Off-street parking, city car clubs and city bike schemes
T9	Impact of parking

E1	Location of business uses
C2	Protecting community uses

## 5.2 **LDF Core Strategy and Development Policies**

As the draft LDF Core Strategy and Development Policies documents have now been published they are material planning considerations particularly where they directly stem from and accord with national policy. However, as a matter of law, limited weight should be attached to them at this stage because they cannot override the Council's legal duty to determine planning applications in accordance with its existing development plan unless material considerations indicate otherwise. At the present time it is likely to be difficult to justify refusal of any application based solely on draft LDF policies and members should always seek specific officer advice before considering voting for refusals on this basis.

### **Draft LDF Core Strategy**

CS1	Distribution of growth
CS5	Managing the impact of growth and development
CS8	Promoting a successful and inclusive Camden economy
CS10	Supporting community facilities and services
CS11	Promoting sustainable and efficient travel
CS14	Promoting high quality places and conserving our heritage

### **Draft Development Policies**

DP17	Walking, cycling and public transport
DP19	Managing the impact of parking
DP25	Conserving Camden's heritage
DP26	Managing the impact of development on occupiers and neighbours
DP29	Improving access

## 5.3 **Other Relevant Planning Policies**

Camden Planning Guidance 2006 (CPG)

## 5.4 **Supplementary Planning Policies**

Bloomsbury Conservation Area Statement (Draft)

## 6. **ASSESSMENT**

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Principle of development – change of use
- Design
- Amenity
- Transport

### **Background contextual information**



- 6.2 As a result of responses to the public consultation on the application, alleging a door opening at first floor level between No. 21a and No. 22 and 23 had been made and was being used to merge the two buildings, a further arranged site visit was carried out on 30/03/2010. This witnessed a door opening between the two buildings at first floor level. After this point the door opening has been boarded up by the applicant, as witnessed during an arranged site visit on 21/04/2010 and an unarranged site visit on 10/05/2010. Thus, based on the evidence of these site visits, there is not considered to be a physical link between the two buildings. As such, 21a is considered to be a separate planning unit to 22 and 23 Brownlow Mews.

### **Principle of development – change of use**

- 6.3 At present the existing lawful use of No. 22 and 23 is an educational sui generis use. The Use Classes Order specifies that there are no permitted changes from such a sui generis use. As such, permission is sought for a part Class B1 and part Class D1 uses at the site.
- 6.4 It is important to first verify the planning history of the building, which is complex and worthy of explanation. Up until planning permission PS9804853/ (granted 25/05/2001) the site was in Class B1 use, although it is also noted that the first floor of No. 23 was given temporary permission for a period of one year for a Class C3 residential unit (P9600691) in 1997. The site for the 2001 permission included a larger application site than is now covered by the current application site. The 2001 permission granted classrooms and offices in the area of the current application site, with 12 single or double study bedrooms and associated works in a car park area to the west of the current application site.
- 6.5 Subsequent to the 2001 permission amendments were granted on 08/10/2003 (PSX0204562). Another application covering just the area to the west of the current application site (granted for the 12 single or double study bedrooms and associated facilities in the 2001 and 2003 permissions) granted permission on 10/03/2005 for 4 x 3 storey residential dwellings (2004/4274/P). The committee report for this application makes reference to the 2001 and 2003 permissions not being implemented. It was seen during the site visit on 14/12/2009 that the residential scheme (known as 21b-e Brownlow Mews) has been implemented.
- 6.6 It is understood from the supporting information submitted by the applicant that No. 22-23 meanwhile was occupied by Marymount College until January 2009. As such, the 2001 and 2003 permissions were in-fact part implemented. Part of the permission (the study bedrooms and associated works) was not implemented and instead developed under a separate permission for residential (Class C3) units (2004/4274/P). From the information above it is however confirmed that a sui generis educational use occupied the application site until January 2009. The applicant has clarified that the Marymount College was a private American college educational establishment specialising in dance tuition. Although the lawful use of No. 22 and 23 is sui generis it is noted that the educational use such as that outlined above would usually be considered as a Class D1 use.

- 6.7 In light of the history of the site the key policy issues to consider are the loss of part of the educational use on the site and introduction of Class B1 and D1 uses.
- 6.8 With regard to the existing lawful educational use at the site, policy C2 of the UDP (Protecting Community Uses) seeks to retain community uses within the borough unless it can be demonstrated that an adequate replacement facility has been provided in a suitable alternative location; or the specific community use is no longer required, and it can be demonstrated that there is no demand for alternative community use.
- 6.9 The applicant has contended that this policy does not apply as the community use involves a residential element. However, as noted above in the introduction section, the 2001/2003 permissions were only part implemented and the residential elements were not implemented and subsequently developed separately as three single dwellinghouses (by permission 2004/4274/P). Paragraph 8.2 of the UDP does outline what constitutes community uses, and states that educational uses are considered to be community uses, where there is no residential element. As such, this policy is considered to be relevant.
- 6.10 However, it is considered necessary to detail the nature of the previous College use. Marymount College was a private American University, which accommodated American students temporarily studying in London. The College was not HEFCE (Higher Education Funding Council for England) funded and is not a recognised UK higher education institution; therefore the fees involved in studying at such a College would not be regulated. It seems clear that access to this College would not have been open to all. In light of this it is considered difficult to argue that the previous occupier was a genuine 'community' use, serving either Camden residents or providing genuine educational facilities for all. Thus the proposed loss of the educational use at the site is not considered to result in the removal of a genuine community facility.
- 6.11 Moreover, it is important to verify that part of the premises have been vacant for in excess of one year. An undated supporting letter from Morgan Lambert and Partners has outlined a chronology of the marketing of the premises. This indicates that since marketing of the building was commenced (which was in 2008 prior to the College vacating), no interest from an educational/community use was received, despite marketing on various websites and publications.
- 6.12 Finally, it is also important to note that the proposals would not result in the entire loss of a Class D1 use, as the proposals provide 146m<sup>2</sup> of Class D1 accommodation. In overall terms the loss of the existing use is not considered to raise any policy concerns that are considered to be sustainable should they be considered at appeal.
- 6.13 Turning to the proposed uses, new Class B1 office space is proposed. The applicant has indicated that the proposed Class B1 use (244m<sup>2</sup>) is to comprise the accounting and administrative functions of the nearby sui generis courier company business at No. 21a Brownlow Mews. A number of objections have subsequently queried whether such a use should be considered as a sui generis use and not the Class B1 use proposed. Given that the two buildings are not physically connected

at ground floor level (the entrance to No. 21b-e separates the two buildings) or at first floor level (as outlined in paragraph 6.2 following both prior arranged and unannounced follow up site visits) and the applicant has indicated the proposed uses are accounting and administrative functions, which are considered to be Class B1 uses, the application will thus be considered as such.

- 6.14 Moreover, the applicant has been made aware that should there be a large number of deliveries or vehicles moving into and out of the site, as outlined by objections received; this is likely to constitute a sui generis use. If such a sui generis use subsequently occurs the Council would have the necessary means to take enforcement action given the conditions recommended to be added (as detailed below).
- 6.15 Policy E1 (Location of new business use) of the UDP states that the Council will grant planning permission for office development in locations accessible by a choice of a means of transport. This site is considered to be located in a highly accessible location and it is thus considered to be a suitable location for office use. Mews such as these have traditionally been used for small and medium sized businesses, and in certain instances such uses are specifically protected and encouraged. Indeed, the property itself has a history of business use on the site and Brownlow Mews has a mixed character of residential and commercial buildings. Furthermore, the site is in the Central London Area, is easily accessible to the TfL road network (for example Gray's Inn Road) and by means other than the private car. Therefore the provision of a Class B1 use is considered in planning policy terms to be appropriate in principle.
- 6.16 With regard to the proposed Class D1 space, this is similarly considered to be an appropriate location for such a use given the same accessibility reasons as outlined in the paragraph above regarding the Class B1 use.

## **Design**

- 6.17 This application is purely for the change of use of the premises and involves no external alterations. Given the building is not listed, planning permission is not required for internal alterations. Thus there are no design considerations as part of this application.

## **Amenity**

- 6.18 A number of objections have been received in respect of the impact the proposed uses will have on neighbouring residential amenity. In particular the proposals are seen as an extension to the existing sui generis courier company at No. 21a, where there is presently enforcement action on-going at this site regarding the hours of operation.
- 6.19 Although these concerns are acknowledged, it is important to first point out that the proposed uses for this separate planning unit (22 and 23 Brownlow Mews) are for Class B1 and Class D1 uses. Permission is not sought for a courier business operation, which is considered to be a sui generis use. The physical separation that exists between the two planning units (21a and 22-23 Brownlow Mews) results in

different uses being possible at the two separate addresses, although the operations may be carried out by the same business. This is the case in this instance; the accounting and administrative functions (Class B1 uses) of the courier company have been denoted as being proposed at 22 and 23; the main courier company activities (Sui generis) remain unaltered at 21a, where permission for such a use is authorised. Moreover, the Council must consider the application on the basis of any Class B1 use and not necessarily the accounting and administrative functions denoted by the applicant to be the proposed uses.

- 6.20 Specific concerns have been raised regarding the noise and disturbance implications of the proposed use. It is not considered that the Class B1 and Class D1 uses proposed would result in such levels of noise and disturbance to warrant a sustainable reason for the refusal of the application. A Class B1 business use, such as the offices indicated by the applicant, is considered unlikely in itself to generate noise and disturbance of a level which would significantly harm the amenity of neighbouring occupiers. It is acknowledged that there would be some movement of both people and vehicles within the mews, but of a nature and level seen at other businesses within the mews and not at a level to be able to warrant refusal of the application on this basis. Furthermore, it is not considered practical or enforceable to add a condition limiting the number of employees at the site.
- 6.21 Similar conclusions are anticipated with regard to a Class D1 use of the nature proposed at the site. The applicant has indicated that the coaching use would usually have 2 or 3 visitors per week. Although the number of visitors is not considered possible to be controlled by condition, it is not envisaged to be at such a level to cause an unacceptable level of noise or disturbance to neighbouring occupiers.
- 6.22 Objections have also specified that the business use will be an extension to the courier company use at 21a. Although the applicant has acknowledged the intention to use the Class B1 element as the accounting and administrative functions of the courier company, this will be within a physically separate building from the courier company business and thus must be considered on this basis. The proposed uses clearly fall within Class B1 and thus must be considered by the Council in this manner and not as an extension to the courier company business. It is also acknowledged that during the course of the application an opening connecting the two units (21a and 22-23) appeared. This was subsequently boarded up and during two further site visits was seen in this boarded up manner. Thus it is considered that there is no connection between the two buildings. An informative is recommended to be added denoting that an application for planning permission would be required should an opening between the two buildings wish to be created. Moreover the creation of an opening without the benefit of planning permission being granted is likely to be subject to investigation by the Council's Compliance and Enforcement Team as it would result in two planning units becoming one.
- 6.23 It is acknowledged that the use of part of 22 and 23 Brownlow Mews for the accounting and administrative functions of the courier business at 21a may subsequently lead to an increase in activities at 21a. However, it is considered unlikely that the Council would be able to sustain a reason for refusal (if the

application were in future considered in an appeal scenario) on the basis of the impact the proposed change of use would have on activities at the nearby 21a Brownlow Mews (and subsequent loss of significant amenity for neighbouring occupiers). This is partly owing to the separation of the two planning units and the basis that the Council must also consider the application on any Class B1 use at the site and not only the intended use specified by the applicant.

- 6.24 However, in order to maintain the amenity of neighbouring and nearby occupiers, it is considered necessary to impose a number of conditions with regard the hours of operation and the specific uses at the site. All of the recommended conditions are considered to be necessary and enforceable if required in the future. Moreover, these conditions, as outlined in the paragraphs below, are considered to be sufficient in maintaining amenity levels in the local area.
- 6.25 At the present time the applicant has not specified the proposed operating hours of the Class B1 / D1 uses. Given the nature of the local area, as outlined in the section 1 of this report, it is considered necessary for the Council to impose a condition specifying the hours of use. It is considered that the typical operating hours of a Class B1 business use and a Class D1 non-educational institution, the uses proposed, would be from 08:00 to 19:00 hours during weekdays (Monday to Friday). Such uses are not considered to typically operate during evening hours or at weekends or Bank Holidays. Therefore an hours of use condition specifying 08:00 to 19:00 Mondays to Fridays and not at all on Saturdays, Sundays or Bank Holidays is considered to be appropriate. Moreover, it shall also be enforceable in order to protect the amenity of nearby occupiers if such hours are breached should the recommended permission subsequently be implemented.
- 6.26 This hours of use condition is recommended to be complimented by a further condition specifying that no persons shall be permitted to be on the premises between 20:00 and 07:00 Mondays to Fridays and at no time on Saturdays, Sundays and Bank Holidays. This is approximately one hour prior to and after the recommended hours of use condition. Such a period is considered to provide sufficient time for employees to enter/exit the building prior to/after the operating hours and also for cleaners to undertake functions outside of the operating hours of the building. Such a condition seeks to ensure that no persons remain on the site outside of these hours, in order to maintain the amenity of neighbouring and nearby occupiers within the mews.
- 6.27 In relation to the Class D1 use, although the non-education institution use specified by the applicant is considered to be appropriate, there are a wide variety of uses within Class D1. Thus it is considered necessary to add a condition denoting that this part of the building (part first and second floor level in the area denoted as No. 23) shall only be allowed to be used as a non-residential education and training centre use and no other purpose. This is to enable the Council to have reasonable control of the future use of the building. More specifically it will require other uses within Class D1, such as places of worship, to require an application to be submitted to the Council for planning permission. This is considered to be necessary in order to protect the residential amenity of neighbours and occupiers. In addition, other Class D1 uses, such as places of worship, may potentially lead to increased levels of vehicular movements in the mews; this condition would

therefore also protect residents from potential disturbance from such vehicular movements.

- 6.28 Similarly, in relation to the proposed Class B1 use, it is considered that the uses within Class B1 are appropriate for the site. However, there is also scope for changes of use to a Class B8 use to be undertaken under permitted development rights (providing it involves no more than 235m<sup>2</sup>). It is considered that a Class B8 use (Storage and Distribution) at the premises could give rise to a significantly larger number of vehicular movements at the site in comparison with a proposed Class B1 use. Given the nature of the surrounding area and the context of the application, it is therefore considered necessary and appropriate for the Council to have reasonable control of the future use of the building. Thus a condition is recommended to be added stating that this part of the building will be used for business uses within Class B1 and no other purpose. This will seek to protect the residential amenity of neighbouring occupiers. It will also provide the Council with sufficient control should operations falling outside the Class B1 use take place within the premises without planning permission being granted.
- 6.29 Finally, in terms of outlook/sense of enclosure, overlooking/loss of privacy and sunlight/daylight impacts, no additional adverse impacts are considered to arise from the proposed development with regard to these matters. To clarify, there are no external alterations proposed and thereby the proposed changes of use are not considered to give rise to any additional adverse amenity impacts in these regards.

### **Transport**

- 6.30 It is acknowledged that a number of objections have raised concerns regarding the impact of the proposed uses on the number of vehicles within the mews and the subsequent adverse impacts on pedestrian safety and residential amenity. There is no vehicular access to the application site and none is proposed.
- 6.31 From a transport planning perspective there is not anticipated to be a significant increase in trips as a result of the proposed changes of use to Class B1 / Class D1. It is considered that some vehicular movements would result from the operations proposed. This would typically be in association with the office/non-residential institution functions proposed, such as delivery of goods to support the proposed functions or for staff members. However this is not to such a level, given the floorspaces involved and the site having a Public Transport Accessibility Level (PTAL) of 6a (excellent), which would require a transport assessment to be submitted or a travel plan to be secured as part of this application at No. 22 and 23 Brownlow Mews.
- 6.32 To reiterate, the application is for a Class B1 / D1 use in a separate planning unit to the neighbouring sui generis courier company use at No. 21a. Therefore, the application is considered on this basis and not as an extension to the sui generis courier company business. Should planning permission be subsequently granted and the two buildings physically merge into one or the uses within the application site operate outside of the uses proposed, it is considered that the Council would have sufficient powers, given the recommended conditions outlined above, to take

the necessary enforcement action to protect highway safety and the amenity of neighbouring occupiers.

- 6.33 It has been suggested by responses received as part of the public consultation process that conditions should be imposed limiting the number of vehicular movements to and from the site. This is not considered to be appropriate for the Class B1 and D1 uses proposed by this application, which are not anticipated to result in a significant number of vehicular movements. Moreover, such a condition would be difficult for the Council to reasonably enforce and therefore is not recommended to be added.
- 6.34 In terms of cycle parking, the proposed floor area is not large enough to warrant the requirement of cycle spaces to be provided on site for future occupiers of the building. This is based on the Council's cycle parking standards and thus no cycle parking is sought in this instance.

## **7. CONCLUSION**

- 7.1 The application site building is subject to a complex planning history. The existing lawful use of the premises has been shown to be an educational sui generis use. The principle of the loss of this community facility is considered to be supported owing mainly to the nature of the previous use not serving Camden residents or providing genuine educational facilities for all; resulting in the proposals not leading to what is considered to be a loss of a genuine community use. In addition, the principle of the proposed Class B1 and Class D1 uses are considered to be appropriate, given the highly sustainable location of the application site and the nature of the mews area, which traditionally comprises a mix of small and medium sized businesses and more recently a mix of business and residential uses.
- 7.2 Considerable levels of objections have been raised as to the implications the proposed uses will have on the character of the mews and in particular the amenity of neighbouring and nearby residential occupiers. This is primarily on the basis of the nearby courier company operations at 21a Brownlow Mews and the proposals being seen as an extension of these operations, to the detriment of residential amenity. It is considered that the proposed uses are unlikely in themselves to lead to a significant loss of amenity to warrant the refusal of the application. Moreover, with the use of careful conditions relating to the specific uses and hours of use and operation of the application site building, it is considered that levels of residential amenity, in particular noise and disturbance, will be maintained at a sufficient level.

## **8. LEGAL COMMENTS**

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

## **9. RECOMMENDATION**

- 9.1 Planning Permission is recommended subject to conditions.

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