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## Appeal Decision

Site visit made on 24 November 2014

**by Peter Rose BA MRTPI DMS MCMi**

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

**Decision date: 16 December 2014**

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**Appeal Ref: APP/X5210/A/14/2226073**

**21a and ground floor of 22-23 Brownlow Mews, London WC1N 2LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mach 1 Couriers against the Council of the London Borough of Camden.
  - The application, Ref 2014/1621/P, is dated 27 February 2014.
  - The development proposed is change of use of ground floor of 22-23 Brownlow Mews from Use Class B1 to sui generis use, and associated change of use of 21a Brownlow Mews from sui generis use to B1 use.
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### Decision

1. The appeal is dismissed and planning permission for change of use of ground floor of 22-23 Brownlow Mews from Use Class B1 to sui generis use, and associated change of use of 21a Brownlow Mews from sui generis use to B1 use, is refused.

### Procedural Matters

2. The Council has stated that, had it still been in a position to do so, it would have refused planning permission for the reason set out in paragraph 1.2 of its submission. This states: 'The proposed change of use, by reason of the type and volume of vehicles that would be generated by it in close proximity to residential units, would be detrimental to the amenity of those residents, contrary to Policy CS5 of the London Borough of Camden Local Development Framework Core Strategy (the Core Strategy) and Policy DP26 of the London Borough of Camden Local Development Framework Development Policies (the DPD)'.
3. Whilst the description of the development in the application form refers simply to a sui generis use, this is clarified in paragraph 4.2 of the appellant's statement as 'the movement to and from the ground floor of this premises of a number of vehicles, including vans, cars, bicycles and motorcycles associated with a courier business'. I note that No 21a also has planning permission for a private hire vehicle business.

### Main Issue

4. The main issue is the effect of the proposed development upon the living conditions of nearby residents with particular regard to the type and volume of vehicles that would be generated and the proximity to residential units.

## Reasons

5. The appeal site comprises mid-terrace premises located on the western side of Brownlow Mews. The Mews is a narrow, largely cobbled street with properties facing either side in close proximity. The Mews extends from Guilford Street in the north to Roger Street in the south, with general vehicular access to and from the Mews restricted from Guilford Street.
6. The Mews forms part of the Bloomsbury Conservation Area and the Council's Bloomsbury Conservation Area Appraisal and Management Strategy (April 2011) suggests the distinctive character of the Mews derives from the relatively small scale of the street, and the footprint and scale of the Mews buildings. I saw from my visit that the highly enclosed character of the Mews created by the facing terraces is a particularly distinguishing feature.
7. Notwithstanding its busy central London location, the Mews is a relatively quiet street. The planning character is one of mixed use, including significant numbers of residential properties side-by-side with commercial uses. Between No 21a and No 22-23 is a pedestrian entrance serving four residential units at Nos 21b-e, and further residential properties lie on the opposite side of the Mews in close proximity to the appeal site.
8. The proposal is described by the appellant as a 'swap' of uses between No 21a and No 22-23. No 21a is occupied by a courier business and private hire vehicle business following the grant of planning permission on appeal in October 2001, and a further planning permission granted by the local planning authority in August 2003. Use of the ground floor of No 22-23 for B1 purposes was granted on appeal in June 2011. The proposal would involve changing the use of some 144 square metres of the ground floor of No 22-23 to use as a sui generis courier and private hire vehicle business, and introducing a B1 use at No 21a. The premises at No 21a and No 22-23 would remain connected by a pedestrian link at first floor level.
9. I accept that the proposed scheme would incur significant benefits for the operation. I particularly note the appellant's statement that the success of the business revolves around the speed of the service and the arrangement at No 22-23 would facilitate a quicker turnaround of vehicles attending the premises. This, in turn, may also help to some degree address concerns raised by residents regarding loitering of delivery personnel in and around the Mews. I also acknowledge the extant planning permissions for the current sites and recognise these represent a significant fallback position to the appeal scheme.
10. Nevertheless, substantial evidence has been provided by local residents regarding the impact of the existing use upon local living conditions, particularly in terms of van and motorcycle movements generated, and associated disturbance, including noise, inconvenience and loitering.
11. The appellant states that the existing courier business operating from No 21a typically generates up to 80 daily vehicular movements, including approximately 40 vans, 20 motorbikes and 20 cars. This is in marked contrast to survey evidence accompanying the original appeal decision for the use dated 16 October 2001 (Appeal Ref APP/X5210/A/01/1058101). That decision described the courier use as involving a 'relatively large number of vehicles' defined to comprise 12 vans, 11 cars and 20 motor cycles excluding cycle couriers. The decision further recognised that this movement of vehicles to

- and from the premises, and the congregation of small groups of employees within the Mews for short periods, might be disturbing for some occupiers of residential premises within the Mews.
12. As with all successful businesses, the use appears to have grown over time. Vehicle movements appear to have intensified, and this is also confirmed by the representations of adjacent residents. I note the appellant states that the business is not now expanding and there would be no increase in vehicle movements as a consequence of the current scheme. Notwithstanding current plans, however, a planning permission would normally enure for the benefit of the land and apply in perpetuity, and I consider the potential to further consolidate and grow in the future cannot be discounted as a consideration in my decision.
  13. The detailed operational arrangements of the two uses and the allocations of floorspace to particular activities, including storage space linked to the vehicle generation, are unspecified on the submitted drawings. Nonetheless, even as a straightforward swap of existing uses as presented, I am unable to conclude this would have no further external impacts in terms of local living conditions. I note the proposed reduction in floorspace, but am unconvinced that necessarily indicates implications for comings and goings from the premises given the call-based nature of the courier use to be accommodated. Similarly, quicker turnaround times do not necessarily mean the same or fewer vehicle trips. The application also does not provide an effective basis for formally safeguarding against any other further impacts, such as additional loitering.
  14. The Council refers to the internal connection between No 21a and No 22-23. The appellant maintains that, whilst linked by an internal door, the scheme involves two separate uses. Nonetheless, the re-configuration of the operation would still involve a functional link between the uses. Although this access may help to limit external movement between the uses, its full implications for the environment of the Mews arising from the wider operation remain unclear.
  15. The implications of any further car and van movements upon living conditions would also now be compounded by the single point of access and egress into the Mews from Roger Street. This arrangement was introduced relatively recently and after the original permission was granted in 2001. Vans entering from Roger Street would generally have to travel along the length of the Mews to the appeal site, park in the Mews, and then have to exit by returning back along the same length of the Mews to Roger Street.
  16. Furthermore, it is significant that point d) of Policy CS5 of the Core Strategy seeks not just to protect the environment of the Borough, but to actually enhance it. In this respect, I cannot conclude that the opportunity presented is being taken to sufficiently enhance the quality of the Mews and the way it functions, particularly in relation to the implications of vehicle generation.
  17. I have noted the appellant's references to Appeal decision Ref APP/X5210/A/11/2143890 dated 9 June 2011 relating to No 22-23 for change of use to a mixed business (Class B1) and non-residential institution (Class D1) use. The decision refers to objections only arising because of the identity of the intended user, rather than due to the inherent planning character of the use itself. I accept that the identity of the parties is not normally a material consideration and this is not a consideration to which I attach weight. Nevertheless, the proposal before me is to transpose an existing use and I

must have regard to the particular planning characteristics of that existing use and of the implications arising.

18. Given the sensitivities of the existing use relative to the living conditions of adjacent occupiers and the highly enclosed and physically constrained character of the Mews, I do not consider, on balance, that the fallback position of the existing permissions would out-weigh the potential further harm arising from the re-configured operation. Whilst the proposal would offer significant operational benefits to the business, I cannot be satisfied from the details before me that the appellant's greater operational efficiency would not be at the expense of additional harm for adjacent residents.
19. I find, therefore, that the proposed development would be harmful to the living conditions of nearby residents with particular regard to the type and volume of vehicles that would be generated and the proximity to residential units. Accordingly, the scheme would be contrary to Policy CS5 of the Core Strategy and to Policy DP26 of the DPD. These policies seek, amongst other matters, to ensure that development protects and enhances the environment and that planning permission will only be granted for development which does not cause harm to amenity. I find these policies broadly consistent with the National Planning Policy Framework (the Framework) which seeks to ensure a good standard of amenity for existing and future occupants of land and buildings.

### **Other Matters**

20. I have considered all other matters raised, including concerns regarding congestion and dangers to users of the highway. These are not raised as objections by the Council and I have little reason to conclude the scheme would be harmful in those respects.
21. I have had regard to previous appeal decision APP/X5210/A/11/2167169 dated 28 June 2012 for variation of hours of operation at No 21a.
22. The Framework states that the government is committed to securing economic growth in order to create jobs and prosperity. A core principle is for planning to proactively drive and support sustainable economic development and the Framework encourages support for existing business sectors. I note in this regard the operational needs of the appellant.
23. The Council does not consider the proposed scheme would be harmful to the character or appearance of the Conservation Area and I agree.
24. None of the other matters raised are of such significance, however, either individually or collectively, that they would outweigh the considerations that have led to my conclusions on the main issue.

### **Conclusion**

25. For the above reasons, I conclude the appeal should be dismissed, and planning permission be refused.

*Peter Rose*

INSPECTOR