

**Proof of Evidence for Covent Garden Community Association  
re Servicing Requirements of the development**

**Document ref. no. 2.2**

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My name is Elizabeth Bax.

I have lived in Covent Garden for the past 20 years. I have chaired the CGCA's Planning Subcommittee for about the last 9 years.

Over the years I have had experience of servicing & delivery arrangements that have made residents lives difficult. In some cases things have been so bad as to have made the lives of people living nearby miserable for many years and families have moved away.

My experience is that Service and Management Plans are very difficult, if not impossible, for an LPA to enforce. As an example I will refer to what is probably the most glaring example, the Hospital Club. This is a large members club and exhibition space converted from the famous old Endell Street Hospital. The application for redevelopment was approved on 07/04/2000 (ref: PS9904338/R1). It included a requirement for a Servicing Management Plan to be included in the S106 agreement. This plan included measures which local residents had told the applicant and Council would be needed to mitigate impacts on the surrounding roads.

It is now 17 years since the building opened and 12 years since the Council threatened to take legal action to ensure compliance with the plan. Yet, up until it ceased operations because of COVID-19, deliveries were still being made to the building in a way which was not compliant with the agreed Servicing Plan and no enforcement action has been taken by the Council.

I explain below the history in more detail.

The planning permission for the building required that a service road through the building would be used for deliveries and collections of waste and this was reflected in S106 Agreement and in the Servicing Management Plan. The building opened in August 2003 but immediately deliveries were not in accordance with the agreed plan. The operator claimed that this was due to the available height in the service road. As a result vehicles used Shorts Gardens or Betterton Street to make deliveries. Neither street is suitable because of its width for delivery vehicles other than small vans. Anything wider than this requires passing traffic to mount the kerb. This was precisely the reason that the use of the Service Road was included in the Service and Management Plan and why residents had been clear in their feedback to both Camden and to the Hospital Group that it would not be possible to service from the surrounding streets. The issues associated with the subsequent failure to follow Servicing Management Plan were also pointed out to Camden on many occasions.

In 2008, after 5 years of operation, an application (2008/2007/P) was made to vary the waste section of the plan on the grounds that the operator wanted to bring the plan in line with what they were actually doing. In analysing the responses Officers appeared to realise that the Delivery part of the Servicing Plan was not being adhered to. A section of the Officers Report dealing with this application is included in Appendix 1. This states (Para 6.11) that:

*As a result of this issue, the Development Control Committee also authorised the commencement of Court proceedings to seek an Injunction against The Hospital to require compliance with the S106. However, before the Council approaches the Court, a remedy*

*equitable to both the Council (on behalf of the residents) and The Hospital would need to be sought.*

The applicant withdrew this application and subsequent to this there were proposals made for changes to road layout which would allow larger vehicles to deliver from Shorts Gardens without disrupting traffic. The CGCA participated in a number of meetings about these and gave detailed comments and inputs. Trials were proposed (in 2012) but these did not take place. No formal application has since been made to modify the Servicing Plan and, until the COVID19 lockdown, deliveries have continued to be made which are not in compliance with the Servicing Plan which forms part of the S106 agreement.

I have set out the above example in some detail to show why a servicing management plan (attached to a S106 agreement) is worth only as much as the goodwill of the operator of the business. To believe that a Servicing Plan will be complied with, or that non-compliance will be enforced against by an LPA, is wishful thinking. Until enforcement against non-compliance is given real teeth, I believe that this will remain the case.

Other current issues with servicing in the area include Mercer Walk and St. Martin's Courtyard. These cause problems even though we have good relationships with all 3 landowners and with officers at both Camden and Westminster councils.

In relation to consent for the development of St. Martin's Courtyard (in 2010) and Mercer Walk (in 2013) the LPA knew that delivery and servicing requirements would be too heavy for the existing, narrow streets at the Southern end of Seven Dials to cope with. So the CGCA pressed for conditions on hours and locations of deliveries, and these were attached to the planning consents. For example, all deliveries must be made after 7.30am and all vehicles must park within the curtilage of the developments, not in the surrounding streets. Yet even after more than 7 years drivers still hang around and wait wherever they please, refrigerated vans sit with their engines on under bedroom windows sometimes as early as 6am. Vehicles park on the street and on the pavement all along the street so that people cannot pass. After many years there continue to be daily problems. Residents have taken pictures by the dozen and sent them to the landlords and to the council, but very little is done.

I fear that there is no reason that the same situation would not occur with a development such as the one proposed for the Odeon building on Shaftesbury Avenue.



*A typical morning in Mercer Street, where no deliveries are supposed to take place.*

## Ongoing issue with Servicing at the Hospital Group

Extract from Officers Report for Application 2008/2007/P - 17/04/2008  
Section headed Assessment

### **Background**

- 6.1 The application follows on from a previous submission to vary the condition which was refused in June 2007. The Hospital Group has engaged in discussions with Camden to find a way forward, culminating in the latest application. Further discussions have ensued since then with officers to refine the submitted plans to ensure they are acceptable in transport and highway terms.
- 6.2 Originally with the previous application in 2006, the applicants considered that the existing waste removal arrangements did not result in a nuisance for local residents because no collections occur before 8am and there are no weekend collections at all. The applicants also considered that the refuse vehicles park in such a way that traffic can pass by whilst operatives gather bins, and glass collections are arranged on a bin exchange basis and glass is not tipped.
- 6.3 The response to the consultation exercise indicated that local residents did suffer from noise, disturbance, traffic and parking difficulties arising from refuse collection vehicles parking on Shorts Gardens whilst refuse is collected. Local residents also made it clear that refuse vehicles do not park in such a way that traffic can pass by, but early morning collections and noise from glass collections did not appear to be problems.
- 6.4 In the Committee report for the original redevelopment application for this site (ref: PS9904338R1) granted permission on 7.4.00, it was considered that the provision of an internal service bay was important as it would mean that all service vehicles would be able to unload
- without causing detriment to residential amenity from noise, or affecting the free flow of traffic on the surrounding roads. Given the large number of residential premises nearby, and the narrow and crowded nature of the adjoining streets, the importance of the internal service bay is understandable.
- 6.5 The importance of the loading bay is also expressed via the conditions attached to the planning permission for the redevelopment, whereby two conditions control the use of the service bay and the hours it can be used, in addition to the condition that reserved details of refuse removal. Similarly, the service bay forms the subject of the Servicing Plan approved consequent to the associated legal agreement which requires the applicant to manage the development in accordance with the approved Plan.
- 6.6 The problems associated with the existing waste collection arrangements stem from the fact that the waste collection vehicles are too large to use the service bay, and are therefore forced to use the street. It was considered that this arrangement was contrary to the expectation at the time the redevelopment was considered in principle, and contrary to the approved waste collection details. As the approved waste removal details were approved about two years before the use of the building commenced, it is not surprising the details required amendment following the experience of operating the use. However, the approved details would have ensured that refuse vehicles could collect refuse from within the service bay.
- 6.7 As noted in the history section, a planning application was submitted in 2006 seeking a variation of the details of the method of waste storage and removal required by condition 6. It was however considered at the time that insufficient evidence had been provided to demonstrate the site could not be serviced from within the site (i.e. from the internal loading bay) in such a way that would not result in harm to both road users and the amenity of surrounding residents. It was concluded that the existing waste collection arrangements were contrary to the requirements of policy SD6(f) as harm was being caused to the amenity of neighbours, and of policy T16B as the existing service vehicles could not be accommodated on site. The existing arrangements also failed to comply with the associated guidance.

- 6.8 In view of the continuing harm being caused to local amenity and traffic conditions by the existing arrangements, it was considered that this application to vary the relevant condition should be refused, and a Breach of Condition Notice be served to require compliance with the approved waste removal methods. The Council's intention at the time of assessing this application was to use the Notice to require the operators to use the service bay rather than the street for refuse collection, and would be willing to consider a different arrangement from that previously approved if it achieved that objective.
- 6.9 The current application now under consideration has been submitted with further information, justifying the need for the current operation as well as refining certain aspects of it, which has been further revised following later discussions with officers. Essentially the waste management operations which currently take place and as originally proposed in this application are the same as those proposed in the previous application which was refused in 19.06.07, although the collection timings have been revised. However details of the servicing management operations have been expanded from this previous submission and further clarified with hours of deliveries specified. The applicant has also offered a planning obligation to secure a revised Servicing and Waste Management Plan.
- 6.10 The consultation responses for both the previous application and the current application have brought to light another related problem of goods being delivered to the premises from the street rather than from the service bay, as required by the Servicing Plan that forms part of the Section 106 Agreement. Whilst it is accepted that there will be occasions whereby a certain event is being held within the building that requires the use of larger vehicles that cannot use the service bay, the comments received from neighbours indicates that this is a much more common event. Some residents have referred to on-street servicing as a regular event, which is a clear and continuing breach of the S106.
- 6.11 As a result of this issue, the Development Control Committee also authorised the commencement of Court proceedings to seek an Injunction against The Hospital to require compliance with the S106. However, before the Council approaches the Court, a remedy equitable to both the Council (on behalf of the residents) and The Hospital would need to be sought. The current application also seeks to set out procedures for servicing of the hospital to avoid such an Injunction.