
Appeal Decision

Site visit made on 20 August 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2019

Appeal Ref: APP/N5660/W/19/3231992

Ground floor, 130 Landor Road, London SW9 9JB

- 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 Alexander Teasdale of Full Moon Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 19/00697/FUL, dated 25 February 2019, was refused by notice dated 9 May 2019.
 - The development proposed is described as a change of use from A3 to residential, two bedroom ground floor flat. Creation of a small courtyard for ventilation and light penetration. New main facade to accommodate waste storage, new fenestration and more sympathetic design.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effect of the proposal on the provision of active frontage uses in the Borough; (ii) whether the proposal makes adequate provision for cycle parking and refuse storage provision; (iii) whether the proposal makes adequate provision for affordable housing; and (iv) the effect of the proposal on parking pressure in the local area.

Reasons

3. The appeal site is the ground floor of a three storey, mid terraced property on the northern side of Landor Road. The ground floor was occupied by a café, but it is currently vacant. The upper floors are in residential use. The site was at one time part of an undesignated parade of shops, but four of the adjoining properties have been converted to residential use (122 to 128 Landor Road). The appeal property is about a 10-minute walk away from Clapham High Street. Between the site and the High Street there also is another parade of shops on Landor Road, a designated Local Centre.

Provision of active frontage uses

4. Policy ED10 of the Lambeth Local Plan (LLP) states that the Council will support and protect the role of local centres and local shops in meeting the day to day needs of communities. Active frontage uses, and particularly retail (A1) uses, will be encouraged and protected. Part (d) of the policy explains that the loss of dispersed local shops (A class uses) outside of local centres will only be supported where: the premises have been actively marketed over a continuous

- period of at least one year for an alternative A or D class use compatible with the location, and it has not been possible to secure an occupier; and there is a town centre or accessible provision of essential daily goods within reasonable walking distance (within 400 metres).
5. Landor Local Centre is about 180 metres away to the south-west. Hence, the dispute between the main parties' rests on whether the property has been actively marketed. Paragraph 6.48 of the LLP explains the importance and role that many solitary shops can play in supporting and serving the local community and offering local employment and a contribution to the character and identity of the area.
 6. The appellant recognises the aims of the policy and accepts that no marketing information has been submitted. Thus, the proposal conflicts with LLP Policy ED10. I note the schemes at 120 and 122 Landor Road¹ which resulted in the conversion of these properties into residential flats from retail (Use Class A1). I have limited details of these prior approval schemes. The conditions², among other matters, require consideration as to whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) because of the impact of the change of use on the adequate provision of services of the sort that may be provided by a building falling within Class A1 (retail). That said, LLP Policy ED10 is more widely drawn as it requires consideration of alternative A or D class uses compatible with the location. Accordingly, the examples at Nos 120 and 122 carry little weight as the findings reached by the Council are not directly comparable. Furthermore, the schemes at 124 and 128 Landor Road³ were considered within different policy contexts, and as such I cannot be certain that the exact same circumstances apply.
 7. Even if the appeal property was previously used as a doctor's surgery, there is no substantive evidence before me to explain why the property was converted into a café. Moreover, 134-136 Landor Road was in use as a nursery. This does not support the appellant's view that the property is unlikely to be occupied by a pre-school provider. Lastly, even if I were to accept that the local area is too noisy for the property to be used as a place of worship, there are other uses within the A or D use classes that have not been explored.
 8. Due to the proximity of the Local Centre and the provision of A3 uses here there may not be a harmful effect caused if the appeal property was no longer used as an A3 use class. Even so, LLP Policy ED10 looks at active frontage uses and not just A3 use class uses. Hence, while nearby properties may have been converted, there is no substantive marketing evidence to show that the property could not provide a valuable service in meeting the day-to-day needs of communities.
 9. Although the Council cite LLP Policy D1, I conclude that the proposal does not conflict with this policy as the proposal would maximise the use of previously developed land and vacant buildings. However, my findings in this respect are outweighed by my conclusion, on this issue, that the proposal would have a significant effect on the provision of active frontage uses in the Borough. The proposal would conflict with LLP Policy ED10 which seeks to encourage and protect active frontage uses and avoid the loss of dispersed local shops outside

¹ Council Refs: 17/04322/P3M and 15/03699/P3M

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class M, M.2

³ Council Refs: 96/02026/PLANAP and 99/01850/FUL

of local centres only if they have been marketed for at least one year for an alternative A or D class use compatible with the location.

Cycle parking and refuse storage

10. Policy 6.9 of the London Plan (LP) states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3. This is to bring about a significant increase in cycling in London. It is common ground that the appeal scheme attracts a minimum provision of two cycle parking spaces.
11. No cycle parking is shown on the submitted plans and the rear courtyard is the only possible location that could support such provision. The appellant suggests that a cycle locker could be secured through a suitably worded planning condition. However, the provision should be convenient and accessible. The courtyard is around 20 metres from the front door leading onto Landor Road. This distance is not ideal, and it would be a disincentive to some occupants from using their bicycles, even if the corridors are wide enough for a person and a bike. Added to this, future occupants would need to navigate through two doors and a corridor which would wind around a staircase and a bathroom. While some future occupants may welcome the proposed cycle provision as it would be more secure, especially if the cycles are of a high value. However, the proposed provision needs to work for everyone and not just the few.
12. Turning to refuse and recycling storage. Space for a 240-litre refuse bin and a 240-litre green recycling bin are required for the proposed flat. Waste storage is identified on the proposed floor plan next to the front door, but it is unclear whether this would be large enough to accommodate the two receptacles. Furthermore, there are no details of where the upper floor flat will store their refuse and recycling. While, a planning condition could be used to secure further details, and address the Council's concern about ventilation, I am not certain that this could be fulfilled without resulting in changes to the layout of the proposed flat especially without clarification on how the first-floor flat stores their refuse and recycling. Nor am I satisfied that the rear courtyard would be large enough to accommodate the required provision if it is used for cycle parking and as an amenity area. Although the Council raise concerns about noise, I do not share these concerns as Landor Road is a busy road.
13. For these reasons, I conclude, on this issue that the proposal does not make adequate provision for cycle parking and refuse storage provision. As a result, the proposal would result in significant conflict with LLP policies T1, T3, T6, Q12, Q13 and LP Policy 6.9; which jointly, among other things, seek developments to provide: adequate refuse and recycling storage large enough to accommodate the refuse and recycling containers; and the provision of convenient, accessible, secure and covered cycle parking facilities in accordance with the minimum standards set out in the LP.

Affordable housing

14. LLP Policy D4 states that Section 106 planning obligations will be sought to, among other things, secure affordable housing. To deliver the maximum reasonable amount of affordable housing LLP Policy H2(a)(ii) seeks a financial contribution towards the delivery of off-site affordable housing on sites providing fewer than 10 units.
15. The appellant does not dispute the Council's evidence that there is a significant

need for affordable housing, and that sites with fewer than 10 units can make a significant contribution to the overall supply of housing in the Borough. Paragraph 63 of the National Planning Policy Framework (the Framework) states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. The appeal scheme does not accord with the Framework's definition of major development. Consequently, there is tension between LLP Policy H2 (a) (ii) and Framework paragraph 63. Even so, Framework paragraph 213 explains that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Section 38(6) of the Planning and Compulsory Purchase Act 2004 also requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

16. Both parties have referred to appeal decisions⁴ on this issue which take different stances in respect of the tension that exists between the development plan and the Framework. I am not, however, certain of what evidence was before each Inspector when they considered these cases. As such, whilst I note the views taken in each case, I have considered this appeal on its own merits as I am not sure that any of the other schemes referred to present directly comparable circumstances.
17. Having regard to the evidence provided by the Council, I consider that the local circumstances in this case warrant determining the proposal based on the approach set out in the development plan, namely LLP Policy H2. Hence, the material consideration of the Framework does not outweigh the development plan in this instance.
18. LLP Policy H2 (c) and (d) jointly explain that the Council will take into account the specific circumstances of individual sites, including development viability when considering affordable housing. To demonstrate this a financial appraisal will be required if the affordable housing provision is less than the specified policy requirements. As no such assessment has been submitted by the appellant, I am unable to assess the viability of the proposal and determine whether an affordable housing contribution could be made in this case.
19. On this issue, I conclude that the proposal would not make adequate provision for affordable housing and thus does not accord with LLP Policies H2 and D4 which jointly seek to secure affordable housing in the Borough.

Car parking

20. The appeal site is located within a Controlled Parking Zone (CPZ) which means that car parking is restricted to permit holders during 08:30 to 17:30 Monday to Friday for 30 minutes. No car parking is proposed; however, the site lies within an area with a Public Transport Accessibility Level rating of 6a. Hence future residents would be expected to make use of the excellent access to public transport in the area. The Council does not raise concern with this approach having regard to LLP Policy T7, subject to a suitable mechanism to ensure that the development would be car free, including permit free. Without a suitable mechanism to prevent future occupants from applying for car

⁴ Appeal Decision Refs: 3196509; 3189818; 3195581; 3204619; 3197733; 3205862; 3198397; 3192507; 3205413; 3206605; 3211080; 3218799; 3191098 and 3218018

- parking permits or to deliver the provision of a car club membership, the proposal would be likely to add to the existing parking pressure in the area.
21. The appellant submitted two versions of a Unilateral Undertaking (UU). The first is dated 15 August 2019. The second is dated 13 August 2019. I note the Council's comments in respect of the UU dated 15 August 2019 and the registered title provided by the Council, but my findings solely relate to the UU dated 13 August 2019 as this is the UU that the appellant has confirmed that they wish to be considered as part of the appeal.
22. The UU would restrict residents parking permits and provide for car club membership. The UU could therefore ensure that the impacts upon parking capacity would be acceptable. However, regardless of who has given the UU, there are no details of the freehold title number that the UU would relate to. Given that a UU should run with the land, the submitted UU would not be enforceable or binding on any successors in title.
23. As such, I conclude, in respect of this issue, that the proposal would unduly add to the existing parking pressure in the local area and it would not accord with LLP policies D2, D4, T1, T6 and T7. Collectively, among other things, these seek to manage traffic and minimise the need to travel, prevent unacceptable impacts on highway safety, and ensure that development is car free and permit free in areas where public accessibility is high.

Conclusion

24. I recognise that the proposal would contribute towards the supply and mix of housing in the area which would help the Council to deliver the homes that it needs in the short term. Furthermore, the proposal would bring a vacant premise back into use within the urban area near to services and facilities. However, these matters are outweighed by the harm that I have found in respect of active frontage uses, cycle parking and refuse storage, affordable housing and car parking.
25. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR