



Appeal Decision

Site visit made on 5 July 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 JULY 2021

Appeal Ref: APP/N5660/W/21/3267141

81-83 Norwood High Street, London SE27 9JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant approval required under Schedule 2, Part 3, Class M of the Town & Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) (as amended).
 - The appeal is made by Zenwish Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/02179/P3M, dated 24 June 2020, was refused by notice dated 12 August 2020.
 - The development proposed is for prior approval for change of use of the existing ground floors of No 81 and 83 from Retail (Use Class A1) and Sui Generis to 4 self-contained studios (Use Class C3) and associated works to the front elevation.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class M of the Town & Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for change of use of the existing ground floors of No 81 and 83 from Retail (Use Class A1) and Sui Generis to 4 self-contained studios (Use Class C3) and associated works to the front elevation at 81-83 Norwood High Street, London SE27 9JS, in accordance with the details submitted pursuant to Schedule 2, Part 3, Class M of the GPDO.

Procedural Matters

2. I have used the description of the proposal given on the Council's Decision Notice. The description adequately and simply describes the proposed development instead of the more detailed description given on the application form which includes elements that are not a description of development.
3. Changes to the Town and Country Planning (Use Classes) Order 1987 from 1st September 2020, includes a new Class E that replaces Class A. However, planning applications which were submitted prior to 1st September 2020 must be determined by reference to the previous use classes. In this case the application was submitted prior to this date. Therefore, I have proceeded in accordance with, and reference to, the previous use classes.

Background and Main Issues

4. The two-storey, mid-terrace appeal properties are vacant commercial premises located on Norwood High Street where a mix of commercial as well as residential properties can be seen that lie within the West Norwood District Centre and the West Norwood Commercial Area, which is known as a Key Industrial Business Area (KIBA).

5. Nos 81-83 Norwood High Street are serviced by a regular bus route, and the rail station of West Norwood which is within walking distance. Parking on the well-used highway is restricted in part by double yellow lines and there are sections of the footway that are lined by parking bollards.
6. The proposal is for a change of use of Nos 81-83 from a retail Class A1 and Sui Generis to a Class C3 (residential) use that would result in the provision of 4 self-contained studio flats. Alterations to the buildings would be relatively modest and would retain an external appearance similar to the existing premises.
7. The main parties agree that in this case, Schedule 2, Part 3, Class M of the GPDO provides for a permitted development right for the change of use of the appeal buildings falling within use class A1 (shops) to dwelling houses (C3). I see no reason to disagree and conclude therefore, that the proposal would be permitted development.
8. Therefore, the main issues are:
 - whether prior approval is required, with particular reference to criteria a) M.2 (1) (d) (i), and b) M.2 (1) (a) of the GPDO, and;
 - highway safety.

Reasons

Prior approval

a) Reasonable prospects - Criteria M.2 (1) (d) (i)

9. The Council contend that it has not been demonstrated by the Appellant that there is no reasonable prospect of the buildings providing the sort of services within Class A1 or A2. However, whether marketing of the premises for one year as required by the Council is over zealous in consideration of a prior approval or not, the Appellant nevertheless carried out a shopping survey of West Norwood District Centre on 26th August 2020. As such, given the impact of the 'Covid' pandemic on economic activity generally, while the Appellant recorded a high percentage of vacant or unused units on this date, I am not persuaded by the limited evidence before me that there is no reasonable prospect of the appeal buildings providing the services within Use Classes A1 or A2.
10. Indeed, notwithstanding a number of other residential dwellings on this stretch of Norwood High Street, I conclude that there is still a reasonable prospect of the premises being used for A1 or A2 purposes as the economy recovers from the impact of the pandemic.
11. Therefore, notwithstanding that the Council has a stated preference for uses that would meet the needs of the KIBA, as there is a reasonable prospect of the building being used for A1 or A2 purposes, the first part of Paragraph M.2 (1)(d)(i) of the GPDO is engaged. This requires an assessment of whether it is undesirable for the change of use to occur, having regard to the impact on the adequate provision of shops of the sort that may be provided by a building falling within Class A1 and A2.

12. In this case the site is in walking distance to, for example, the shops on 'Knight's Hill' that is adjacent to West Norwood rail station, which provide a good range of retail facilities in addition to the shops found along Norwood High Street. Indeed, at my site visit I noted that there is an extensive choice of up to date A1 and A2 premises across the West Norwood District Centre. As such, the footfall in this highly sustainable shopper location, including that which would be associated with the 4 new studio flats, is likely to be attractive to, and support the viability of existing and future A1 or A2 businesses. These considerations lead me to the view, were a change of use to occur, that there would be an adequate provision of services in walking distance of Norwood High Street of the type that may be provided by Class A1 and A2 premises. Consequently, I conclude that the proposal meets the requirements of criteria M.2 (1) (d) (i) of the GPDO.

b) Transport and highways - Criteria M.2 (1) (a)

13. I observed at my site visit that on-street parking in the area is limited. Indeed, all the while Norwood High Street is not within a Controlled Parking Zone (CPZ), whereby parking spaces would be controlled by resident parking permits, parking is likely to be in demand. Moreover, notwithstanding the relatively sustainable location, the prior approval scheme would result in the creation of 4 new households that would be likely to place an additional strain on the existing on-street parking spaces.
14. With that in mind, the Appellant has completed a Unilateral Undertaking ('UU') under Section 106 of the Act¹ which requires that future residents of the development will not be entitled to a residents' parking permit in the vicinity of the site, but rather have access to a 'car club' membership. I consider that the agreement would meet the tests set out in Regulation 122 of the Community Infrastructure Levy (Amendment) Regulations 2015 (the CIL Regs) as it would be necessary, relevant and fairly related to the proposed development. I therefore find that this resolves the issue, and that the proposal now accords with the requirements of the transport and highways criteria in Class M.2 (1) (a) of the GPDO.

Highway safety

15. The Appellant has submitted a Parking Survey prepared by 'Cotswold Transport Planning' as part of a Transport Statement in support of this appeal. While I cannot be certain whether Norwood High Street will form part of a future CPZ or not, the findings of the comprehensive survey, which has been carried out in accordance with the Lambeth Parking Survey methodology, in combination with the submitted 'UU' in the event of a CPZ, lead me to conclude that the proposal for prior approval would not lead to parking stress or harm highway safety.
16. Accordingly, the proposal meets with Policy T6 of the Lambeth Local Plan 2015, which says amongst other things that planning applications will be supported where they do not have unacceptable transport impacts, including cumulative impacts on highway safety, and Paragraph 102 of the *National Planning Policy Framework*, which requires that transport issues should be considered from the earliest stages of plan-making and development proposals, so that the potential impacts of development on transport networks can be addressed.

¹ The Town and Country Planning Act 1990

Conditions

17. Paragraph W(13) of the GPDO enables the grant of a prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has not suggested any conditions. Moreover, from the evidence before me, no conditions are required in relation to any of the matters which are subject to prior approval, and therefore I have not imposed any.
18. Nonetheless, the development has to be carried out in accordance with approved plans to accord with the requirements of Paragraph W(12)(b) of the GPDO. For certainty:
- Drawing - 978-004 - Site Location Plan
 - Drawing - 978-A100 - Existing Ground Floor Plan
 - Drawing - 978-A500 - Existing Front Elevation
 - Drawing - 978-A120B - Proposed Ground Floor Plan
 - Drawing - 978-A510 - Proposed Front Elevation
19. The Appellant is also reminded that in granting approval the GPDO requires the development to be completed within a period of 3 years from the date of this permission, and that the buildings which have changed use can only be used as a dwelling house and for no other purpose.

Conclusions

20. For the reasons given above I conclude that the appeal should be allowed and prior approval granted.

J E JOLLY

INSPECTOR