



Appeal Decision

Hearing held on 7 September 2021

Site visit made on 8 September 2021

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/N5660/W/19/3238907

294 - 298 Norwood Road, London, SE27 9AF.

- 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 Mr Anthony Thomas against the London Borough of Lambeth.
 - The application Ref 19/00398/FUL, is dated 11 March 2019.
 - The development proposed is erection of a part two, part three and part four storey building to provide 4 art studios (Use Class B1c) and 1 residential unit (1 x 1-bed) (Use Class C3) at the ground floor and 8 residential units above (2 x 1-bed and 6 x 2- bed) (Use Class C3) together with provision of refuse and cycle storage and landscaping plus installation of solar panels.
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Decision

1. The appeal is dismissed and planning permission for erection of a part two, part three and part four storey building to provide 4 art studios (Use Class B1c) and 1 residential unit (1 x 1-bed) (Use Class C3) at the ground floor and 8 residential units above (2 x 1-bed and 6 x 2- bed) (Use Class C3) together with provision of refuse and cycle storage and landscaping plus installation of solar panels is refused.

Application for costs

2. An application for costs was made by Mr Anthony Thomas against the London Borough of Lambeth. This application is the subject of a separate decision.

Procedural Matters

3. There are discrepancies with the address and description of development supplied on the application and appeal forms. The main parties supplied an agreed address and description of development in the Statement of Common Ground (SOCG) completed and signed on 16 August 2021. I have used the agreed address and description of development in the banner heading.
4. The Lambeth Local Plan 2015 was in place when the appeal was submitted. The Lambeth Local Plan 2020 - 2035 (LLP) was found sound on 22 July 2021, subject to main modifications. It was subsequently adopted on 22 September 2021. The London Plan 2021 has also been adopted since the application was determined and the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The main parties have had the opportunity to comment on these documents and I have taken account of any comments received in reaching my decision.

5. The day prior to the hearing, the appellant sought to introduce amended plans which provided larger terraces and private external areas for the proposed development. The proposed amendments would enlarge the proposed building and bring it closer to the rear of the residential units within the existing frontage building at 294 – 298 Norwood Road. There had been no consultation on the amended plans and the amended plans were floorplans which did not match the corresponding proposed elevations. In order to ensure that any interested parties' interests would not be prejudiced, I confirmed at the hearing that I would not be considering the amended plans.
6. A completed legal agreement dated 21 September 2021 was submitted on 22 September 2021.

Main Issues

7. In reaching my decision, I have had regard to the SOCG which confirms that the Council no longer wishes to pursue its putative reasons for refusal relating to the effect of the proposed development on the regeneration of the wider Norwood Town Centre Opportunity Area (reason 1) and affordable housing (reason 5). These matters were not discussed in detail at the hearing. The main issues in this appeal are therefore:
 - a) The effect of the proposed development on access to the site for different users, with particular reference to the safety of future occupiers of the residential units;
 - b) The effect of the proposed development on living conditions for future occupiers of the residential units, with particular regard to communal and private amenity space; and
 - c) Whether the proposed development would provide adequate and accessible waste management facilities.

Reasons

Access

8. The proposed development is located to the rear of the existing three storey frontage building at 294 – 298 Norwood Road. It is presently occupied by vegetation following the demolition of the previous warehouse building on the site. Nos 294 – 298 consist of a public house and consented A3 use at ground floor level with flats at first and second floors. There is a beer garden located to the rear of the public house which adjoins the site and its access. The access can be used by the public house for emergency and servicing purposes. The existing flats are accessed from the front of the building, but also have a fire escape staircase which leads into the beer garden of the public house and to the access for the site.
9. Sited adjacent to the southern elevation of the frontage building at Nos 294 – 298 Norwood Road and the brick wall marking the boundary of the neighbouring petrol station, the existing and proposed access to the site is some 3 metres in width and 35 metres in length.
10. Although not yet fully implemented, the consented scheme for the frontage building would allow for further glazed openings in the side of Nos 294 – 298 and would also permit some seating to be located within the access for use by

customers of the adjacent A3 use. The consented scheme would also involve the beer garden being expanded to use the width of the rear of the site, with tables and chairs located at the end of the access. Condition 13 of the consented scheme has been discharged¹ and shows the loading and unloading zone for vehicles as being at the Norwood Road end of the access between the frontage building and the boundary wall.

11. The proposed development would include both art studios and flats. To access the proposed development, occupiers and visitors would walk or cycle down a long and narrow access, bounded by walls on both sides. As this access would be shared with the other uses at Nos 294 – 298, people entering the site would be likely to pass people using the gated beer garden and seating along the access. The external seating associated with the public house and the consented A3 use are conditioned for use between the hours of 0900 and 2200 daily. Depending on the time of day or night and the level of activity from other uses, this would be potentially noisy and intimidating. Once the consented scheme is fully implemented, CCTV cameras and security lighting would serve the access and beer garden. While CCTV data would be kept for a 30 day period as a licensing condition, this would not prevent potential for future occupiers to feel unsafe when using the access.
12. Servicing of the ground floor uses at Nos 294 – 298 currently takes place in the access with two to three deliveries a day on average. During my site visit, I saw parking by vehicles servicing the public house and by a vehicle fly-parking. Given the width of the access, it was difficult to pass those vehicles to reach the site. Even with improvements to the surfacing and condition of the access, the access remains very narrow and vehicles dominate when they are present. When in use by a van or large car, the access would be impassable by someone with a bicycle, pushchair or wheelchair.
13. Accesses such as this are to be found in many town centre locations. Notwithstanding the natural surveillance enjoyed in active town centres and the scope for glazed openings in Nos 294 – 298, the access is long and narrow and views of it are limited by buildings and the boundary wall. The access would be used more consistently if the proposed development came forward, with the potential to reduce fly-tipping and fly-parking in the access. However, this would not overcome my concerns about its dimensions, scope for conflict with other users and visibility.
14. The adjacent land to the rear of 300 – 302 Norwood Road (Nos 300 – 302) was recently the subject of an appeal² for redevelopment of the site for residential, community and office use. The Inspector found in that appeal that the pedestrian linkages off Norwood Road via the petrol station forecourt and off York Hill would be safe and satisfactory. Though far from ideal, the proposed linkage to the land to the rear of Nos 300 – 302 would have had the benefit of not being enclosed by two walls. In this regard, it differs significantly from the access for this appeal. Furthermore, the land to the rear of Nos 300 – 302 would have had the advantage of an alternative access.
15. The site has previously been subject of a dismissed appeal³ for a three-storey building for five A1-A3 units and six flats. While the access was not one of the

¹ 18/00276/DET

² APP/N5660/W/15/3226764, decision issued 10 July 2020.

³ APP/N5660/W/15/3136505, decision issued 24 May 2016.

main issues in that appeal, the previous Inspector did have concerns about residents passing busy outdoor drinking areas to access the flats. Despite the gated access proposed to the beer garden, there would still be seating within the access which would be used during the evening.

16. I do not doubt that the access presently lacks vigour and interest. This insipidity may well change for the better and connections would be improved if the consented scheme is fully implemented. While I am aware this is the only access available to the appellant at present, this does not outweigh my concerns.
17. In conclusion, I find that the proposed development would have an unduly harmful effect on access to the site for different users, with particular reference to the safety of future occupiers of the residential units. The Council referred to LLP Policy T6 in their putative reason for refusal. This policy deals with transport infrastructure. It was agreed at the hearing that LLP Policy Q6 was relevant rather than LLP Policy T6. Accordingly, the proposed development would be contrary to LLP Policy Q6, which deals with the public realm. Amongst other things, it requires safe, attractive, uncluttered public realm and pedestrian and cycle-priority environments which are not dominated by moving or parked vehicles.

Amenity space

18. Policy D6 of the London Plan 2021 deals with internal and external space for housing developments. Of particular relevance to this appeal, criterion 9 of the policy advises that where there are no higher local standards in borough Development Plan Documents, a minimum of 5 square metres of private outdoor space should be provided for 1-2 person dwellings and an extra square metre should be provided for each additional occupant. Furthermore, it advises that the outdoor space must achieve a minimum depth and width of 1.5m.
19. LLP Policy H5 addresses housing standards. Amongst other things, it confirms that for new flatted developments, it expects amenity space of at least 10 square metres per flat either as a balcony/terrace/private garden or consolidated with communal amenity space. As the standards in the newly adopted LLP are higher than those in Policy D6 of the London Plan, the LLP standards have precedence in this instance.
20. All the proposed residential units would have terraces, ranging in size from 3.5 square metres to 8 square metres. In purely numeric terms, the residential units within the proposed development would all fall beneath the 10 square metre standard, with the exception of the proposed ground floor Flat 1. Flat 1 would have two outdoor spaces to the front and rear of the unit respectively. However, the terrace to the front of Flat 1 would be directly adjacent to the site's only pedestrian and vehicular access. Given its ground floor location and proximity to the access, this would not be adequate as it is unlikely to function as a private amenity space, even with the use of plants to create defensible space. No communal amenity space is to be provided. The access route provided to the frontage of the proposed building would function as an access and for bicycle storage and would not constitute communal amenity space.
21. The proposed flats would be dual aspect and would have folding doors which would allow future occupiers to use both internal and external space at the same time. Additionally, all the proposed flats would exceed the minimum

internal area for such units as set out in Policy D6 of the London Plan 2021. The Mayor of London's Housing Supplementary Planning Guidance 2016 confirms that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement. This has not been achieved as many of the units only slightly exceed the minimum standard. I find that the dual aspect, internal floorspace, and layout of the proposed units would not overcome the relative narrowness of each terrace and the paucity of private amenity space provision overall.

22. Reference has been made to proximity to public open spaces such as Brockwell Park, Tivoli Park and Norwood Park. However, all of these parks are at least 15 minutes' walk from the site. In my view, this is not sufficiently close to indicate that an under-provision of private amenity space on site could be addressed by future occupiers using public open spaces. As noted at the hearing, the restrictions put in place during the Covid-19 pandemic have highlighted the importance of open space provision for health and well-being.
23. The existing flats within the frontage building at Nos 294 – 298 do not benefit from private amenity space, have small windows and poor access, and lack cycle and bin stores. While the proposed development would represent a significantly higher quality development than the existing flats, this does not overcome the identified shortcomings of the proposed development. Any increase in width of the proposed terraces would need to be addressed in a subsequent application. Overall, the lack of communal private space and adequate private amenity space would result in substandard accommodation.
24. Concluding on this main issue, the proposed development would have a detrimental effect on living conditions for future occupiers of the residential units, with particular regard to communal and private amenity space. Although there would not be direct conflict with London Plan 2021 Policy D6, there would be conflict with LLP Policy H5 as outlined above.

Waste management

25. The existing waste management arrangements for the ground floor uses within the frontage involve bins being pulled from near the beer garden down the access to a collection point along the frontage building's wall within the access. Staff of the public house pull the bins out and back, while a private refuse collector empties the bins.
26. The consented scheme indicates that the bin store for the ground floor uses within the frontage building would be located within the beer garden adjacent to the access and it would be large enough to accommodate five Euro-bins. The collection arrangements would be the same as the existing arrangements.
27. No waste management plan was provided with the application. The proposed bin store for the proposed development would be located adjacent to the gated entrance to the proposed development at the end of the access. The proposed bin store would also be adjacent to the beer garden and would be co-located with the bin store for the public house and consented A3 use in the frontage building. It would contain five Euro-bins for the proposed development and the public house and consented A3 use. The bins would be made available for collection as for the existing refuse collection.

28. The Council's putative reason for refusal refers to Lambeth Local Plan 2015 Policies EN7 and T8, which have now been replaced by their respective LLP counterparts EN7 and T7. It was agreed at the hearing that LLP Policy EN7 is applicable to strategic sustainable waste management and is not directly relevant in this instance. LLP Policy T7 deals with servicing and states that new development, including mixed-use development, will only be permitted where adequate provision is made for servicing, appropriate to the scale, form and location of the proposed development. The supporting text to the policy confirms that servicing provision includes waste collection facilities.
29. The Council's Refuse & Recycling Storage Design Guide July 2013 (the Guide) sets out guidance on the location and design of refuse and recycling storage. It also advises that an apartment block of less than 10 households with units of up to three bedrooms would be expected to provide 810L storage for waste and 495L for recycling, while offices would have 2 cubic metres of storage for every 1,000 square metres gross floor space. No specific provision is given in the Guide for art studios. The Guide confirms that the Council's waste collection operatives should not be required to move wheeled bins more than 25 metres and that roads should have a minimum width of 5 metres.
30. The Council's Waste & Recycling Storage and Collection Requirements: technical Specification for Architects & Developers October 2013 (the Requirements) also sets out guidance on waste storage and collection. It states that permission will not normally be granted in advance of submission of details indicating satisfactory storage arrangements for waste and recyclable material. It also confirms that provision should be made for sufficient storage space for waste and recyclable material for seven days' output, as multiple collections per week are not always feasible. For developments where one collection per week may not be suitable, contact must be made with the Council at an early stage to discuss options available.
31. The proposed bin store would be in a relatively convenient location for the art studios and residential units. However, there is a lack of clarity as to whether the level of provision would adequately provide for the mix of existing, consented and proposed different uses. The proposed bin store represents a reduction of three Euro-bins for the public house and consented A3 use in comparison to the consented scheme. Additionally, it is not clear what the proposed volume of waste provision would be relative to the likely level of refuse generation for the art studios and the residential units proposed. Furthermore, there is no separation for different types of refuse.
32. The appellant has highlighted that the existing refuse collection arrangements are private and could be more frequent than a once weekly collection for the existing, consented and proposed development. While this could address potential capacity issues, this would involve additional disruption from large bins being placed at a collection point along the narrow access. There is no scope for waste collection vehicles to travel the length of the access, so a collection point along the access would continue to be necessary.
33. The appellant has suggested changing behaviour by using smaller bins or using more space to the rear of the public house for waste storage, and has also highlighted the lack of problems with the refuse storage for the flats within the frontage building. Notwithstanding these points, I am concerned about the quantum of refuse storage provision, the lack of separation of refuse types,

and disruption to the use of the access during refuse collections. While refuse and recycling provision is often dealt with by condition, the level of uncertainty leads me to the conclusion that a condition would not represent an adequate solution in this instance.

34. I conclude that the proposed development would not provide adequate and accessible waste management facilities. This would be contrary to LLP Policy T7, the Guide and the Requirements as set out above.

Other Matters

35. After the hearing, a signed and executed legal agreement was submitted. This agreement would remove future occupiers' ability to apply for on-street parking permits in the event that a Controlled Parking Zone (CPZ) was implemented; support the consultation on and implementation of a CPZ; and fund car club membership for the proposed development. Given that I am dismissing this appeal for other reasons, it has not been necessary for me to consider this agreement in terms of compliance with national policy and legal tests.
36. I note that there is a current planning application for development on the site and that there is a long history of development proposals on site, including a previous appeal and a recent refusal for discharge of condition. With reference to paragraphs 53 and 57 – 58 of the recent LLP Inspector's Report, the appellant has highlighted the importance of delivering housing on small sites and meeting and exceeding the housing requirement.

Conclusion and Planning Balance

37. The proposed development would provide social, environmental and economic benefits associated with the provision of nine dual aspect, green roofed residential units and four art studios with access to high quality public transport. Located in a busy town centre location with good access to services and facilities, it would also benefit in noise terms from being set back from Norwood Road but would support the area's vitality and activity. It would add to the mix of uses locally, make effective use of land, and regenerate presently derelict land in the short term. It would also deliver economic benefits in terms of local construction jobs and increased use of shops and services.
38. Despite progress having been made on dealing with putative reasons for refusal and having recognised the imperative to deliver more homes on small sites, weighed against any benefits of the proposed development are the safety of the access, the level of provision of external amenity space, and the adequacy of waste storage facilities. The proposed development is contrary to a number of development plan policies and the adverse impacts of the proposed development outweigh any benefits associated with it. There are no material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan.
39. Consequently, for the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed and planning permission should be refused.

Joanna Gilbert

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Anthony Thomas	Appellant
Mr Ian Coward	Director, Collins and Coward
Miss Maria Gallego Lopez	Architect, Antic London

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Ruth Smithson	Principal Planner, Sustainable growth and Opportunity Directorate, London Borough of Lambeth
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DOCUMENTS SUBMITTED AFTER THE HEARING

- 1) Decision notice, plan NW 400 LUL and delivery and servicing management plan for 18/00276/DET Approval of details pursuant to condition 13 (management of deliveries and servicing) of planning permission 15/06607/VOC
- 2) Completed Legal Agreement dated 21 September 2021
- 3) Adopted Lambeth Local Plan 2020 - 2035