



Appeal Decision

Site visit made on 3 November 2021

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/N5660/W/21/3269168

354 Norwood Road, Lambeth, London, SE27 9AA

- 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 The Lower Norwood Co-operative against the decision of London Borough of Lambeth.
 - The application Ref 20/01985/FUL, dated 17 June 2020, was refused by notice dated 21 August 2020.
 - The development proposed is extension of first floor and use from a B1(Office) to a C3 (Residential) to form a 1x2 bedroom flat and replace existing flat roof with mansard set behind raised parapet wall to create a 1x1 bedroom flat on new second floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal relates to a two storey building comprising a ground floor shop unit with a vacant office above. The Council's first refusal reason incorrectly refers to the loss of employment floor area relating to ground floor and basement levels. There is no basement, and the ground floor would remain as a shop. The Council has confirmed a typographical error in the reason.
3. Subsequent to the issue of the Council's decision notice, a new London Plan (2021) and a new Lambeth Local Plan (2021) (LLP) have been adopted. The policies quoted in the decision notice are therefore out of date. My decision has taken account of the equivalent policies in the new development plans which are up to date, and which attract full weight.

Main Issues

4. Having regard to the Council's decision notice and to representations received the main issues are:
 - (a) whether it is reasonable to require evidence of an absence of demand for use of the upper floor for employment purposes,
 - (b) whether a contribution towards off site affordable housing provision is warranted,
 - (c) whether a legal agreement should be required in relation to on street car parking permits and a car club membership and
 - (d) the impact of the additional floor area on the living conditions of adjoining occupiers in relation to outlook, overlooking and loss of privacy.
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Reasons

Employment

5. The premises are part of a parade which appears to include residential uses on upper floors, but the appellant has confirmed that the currently vacant first floor was last in office use. Policy ED2 of the former Lambeth Local Plan (2015) states that the loss of floorspace in business or in employment-generating sui generis use, will not be supported without submission of evidence to show no demand for the floorspace. Policy ED1 of the LLP (2021) is similar, resisting the loss of office floorspace without demonstration of evidence that floorspace has been vacant and continuously marketed for a period of at least two years.
6. Whilst the first floor office would appear to have been vacant for a considerable time, there is no evidence before me of the period of vacancy or of marketing for any period of time. Accordingly, the proposal would be contrary to LLP Policy.
7. The appellant points out that the former Class B1(a) office use would now be classified as Class E(g), an office within a use class covering commercial, business and service uses. Whilst this is correct, it does not provide an exemption from an adopted development plan policy to market vacant office floorspace before a change to a residential use can be justified.

Affordable housing

8. Policy H2 of the 2015 Local Plan states *"on sites providing fewer than 10 units, a financial contribution towards the delivery of off-site affordable housing will be sought in line with the council's preferred methodology"*. However, Policy H2 of the 2021 LLP relates to the delivery of affordable housing on sites proposing 10 or more units. This is in accordance with Paragraph 64 of the National Planning Policy Framework which states that in urban areas the provision of affordable housing should not be sought for residential developments that are not major developments (10 units or more).
9. Whereas it was reasonable to investigate a contribution towards affordable housing provision under the 2015 Plan, it is not appropriate to do so for a scheme of just 2 units under the 2021 Plan. A contribution towards affordable housing provision is not warranted and there is no conflict with LLP Policy H2.

Parking

10. The site is located within the primary shopping area of the West Norwood District Centre. It has a Public Transport Accessibility Level (PTAL) score of 6a, which is considered to be excellent. No on-site parking is possible. The site is not located within a Controlled Parking Zone but there are few opportunities for on-street parking nearby.
11. Policy H6 of the LLP (2021) states that the Council will apply London Plan Policy T6 to promote a reduction in car ownership and private car trips. Clause D states that development should be permit free where there is a PTAL of 4-6, make car club membership available to all residents and that all development schemes should promote and provide for car club membership or car pool schemes in place of private parking. Supporting paragraphs 8.33 states *"Section 106 agreements will be used to secure car-free developments"*.

12. The policy clearly supports provision of a legal agreement to restrict residents of the proposed flats being able to apply for on street car parking permits and to promote the opportunity for car club membership as an alternative. The proposal is not accompanied by such a legal agreement. In my judgement, such an obligation is necessary to make the proposal acceptable in line with the tests contained within Regulation 122 of the CIL Regulations (2010). This is not a matter that can be covered by a planning condition. The proposal would thereby be contrary to LLP Policy H6.

Living conditions

13. The proposal involves a first floor rear extension and construction of a second floor to a lesser depth. The flats at first and second floor level would have rear facing balconies. The second floor flat would also have access to a front balcony behind the present frontage parapet wall. Immediately to the north of the site is an Iceland supermarket with a long flank wall adjacent to Waylett Place. Above the supermarket are several apartments arranged over two floors. Two have their main outlook towards Norwood Road, but the majority have a southerly rear aspect with an open terrace abutting the thin sliver of land to the rear of the appeal building. Apartment 2 at 20 Waylett Place has a recessed second floor allowing for a front east facing terrace with a southerly return abutting the appeal site.
14. Whilst the profile of the mansard roof to the proposed second floor would be largely screened by the parapet wall in views from street level, it would be a close feature from the terrace at apartment 2 and there would be some intervisibility between the front balcony areas. The mass of the rearward building works would impact on the rear outlook from apartment 3. Persons standing on the first and second floor rear balconies would be able to overlook the rear facing windows and open terraces at apartments 3, 4 and 5. Given the proximity of these areas, there would be a significant loss of privacy.
15. The proposal would conflict with Policy Q2 of the LLP (2021) which requires that visual amenity from adjoining sites is not unacceptably compromised, that acceptable standards of privacy are provided and that adequate outlooks are provided avoiding wherever possible any undue sense of enclosure or unacceptable levels of overlooking.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR