



# Appeal Decision

Site visit made on 7 September 2023

**by S Lo LLB M.SRA**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 April 2024**

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**Appeal Ref: APP/A5840/W/22/3312852**

**373 Lordship Lane, Southwark, London SE22 8JJ**

- 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 Mr Gbolahan Ladipo against the decision of the Council of the London Borough of Southwark.
  - The application Ref 22/AP/2819, dated 8 August 2022, was refused by notice dated 5 October 2022.
  - The development proposed is the subdivision of an existing retail ground floor to create rear, ground floor residential living accommodation with retail space to the front. Replace existing aluminium shopfront with new painted timber shopfront and other associated works.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

## Preliminary Matters

3. Under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. However, it is unclear whether this permitted development right would be available due to the extent of the works proposed. In any event, I note from the Council's officer report that an Article 4 direction is in place at the appeal site which removes this permitted development right.

## Main Issue

4. This main issue is the effect of the proposed development on the vitality and viability of the protected shopping frontage.

## Reasons

5. The appeal property is a four storey end of terrace building, located at the junction between Landells Road and Lordship Lane. The ground floor is used for commercial and retail purposes, as it is occupied by a small corner shop. The basement, first, second and attic floors are occupied by a residential apartment. The appeal site is located within the Lordship Lane Protected

Shopping Frontage, and the shop front directly faces Lordship Lane. The building is typical of the development in the surrounding area, as the immediate street scene is generally characterised by commercial and retail buildings with residential uses on the upper floors. This section of Lordship Lane contains numerous shops and other forms of commercial buildings, which includes supermarkets, dry cleaners and cafes. Indeed, the appeal property forms part of the busy local community, by supporting a high level of interaction between the public and retail uses in this shopping area.

6. The proposed living accommodation would substantially reduce the amount of space which is available for commercial purposes at the appeal site, thereby disrupting the surrounding pattern of development which supports a high level of interaction between the public and retail uses. The proposed development retains a small amount of Class E retail space on the ground floor, towards the protected shopping frontage. The appellant's evidence proposal is that this space would be used as a very small retail and display area for the sale of art pieces. However, it would not be easily visible to shoppers and passing foot traffic due to the presence of the proposed cedar batten fencing and the front courtyard, which both create distance between the display area and potential customers.
7. In addition to the poor visibility of the display area, there is no direct method for customers to enter this retail space due to the limited space available. As a consequence, customers would not be able to immediately interact with customer facing staff, directly inspect the merchandise or take them away from the display area. There would be no direct or immediate interaction between the shop front and the public. As such, the proposed development would result in a harmful effect on the vitality and viability of the shopping frontage.
8. In reaching this view, I have considered that the proposed development would mirror the prevailing trend towards online shopping by replacing the traditional store arrangement with a different model. There would be no immediate stock available on site nor any means of directly interacting with in person retail staff. However, it would not be directly comparable to the business model used by technology retailers, as these shop floors still provide a space for customers to both interact with items and retail staff. While the proposed development may be a viable option in some other locations, it would not be appropriate for this central area within the protected shopping frontage in this format. This is because it would greatly decrease the number of direct interactions and potential transactions between the public and the retail aspect of the building.
9. I recognise that the continued use of the appeal site as a corner shop has been affected by the location of a supermarket on the same parade. However, the appeal site is located where there are a significant number of different retail uses. There is no information before me which specifies how the appeal site may be hindered from the continuing use of the site as some form of retail unit. Indeed, no fundamental impediments have been brought to my attention which would prevent its use as a form of Class E retail unit. Having regard to the above, I cannot but conclude that the appeal site remains viable for its continuing use as a form of retail unit without the proposed development works. Additionally, there is no evidence before me that there is a demonstrable local retail need for the proposed development.

10. I recognise that other commercial, business or service operators could occupy the space to the front of the appeal site, albeit the proposal from the appellant has primarily focused on the use of this space for the sale of art pieces. However, due to the very restricted size, poor visibility and the lack of detail demonstrating how other Class E uses could be arranged and operated within the unit, there is no clear and detailed evidence to demonstrate that the use of this space unit would be viable.
11. Instead, the appellant has made broad reference to other businesses with a smaller footprint, with reference to coffee shops based in Bristol and Norwich. However, these establishments are not comparable to the proposed development. They still sell directly to the public, ensuring that direct transactions remain possible between customers and the retail use of the building. Additionally, even if they were comparable forms of development, there is no evidence to indicate what the specific circumstances of each case were which led to their respective approvals. I cannot therefore draw direct parallels to the proposed development in this appeal. Moreover, the effect of these developments would have on the protected shopping frontages remains unclear, as there are no other similar developments in the immediate area.
12. While the Dulwich Picture Gallery is located in the larger vicinity, it would not be comparable to the proposed development due to the limited size of the retail space. While it may be possible for art galleries to operate out of small spaces, 'The Smallest Gallery in Soho' is located within Soho, which is not a comparable retail area to the proposed development in terms of size and vitality. Furthermore, there is no evidence before me that the installation of an art gallery within a portable toilet was a permanent installation which is equivalent to the proposed development. Accordingly, there is limited weight I can attach to these cases. The appellant has also referred to other conversions of retail units to residential uses<sup>1</sup>, however, it does not appear that any retail use has been retained at those developments. Accordingly, they are not comparable to the proposed development. In any event, I am not aware of the particular circumstances of those cases and must consider this case on its own merits.
13. In conclusion, the proposed development would have an unacceptable effect on the vitality and viability of the shopping frontage, contrary to Policy P37 of the Southwark Plan (2022). The replacement retail and display area, with its much smaller frontage and floorspace, would fail to promote town centre vitality and viability, contrary to Policy SD6 of the London Plan (2021) and Section 7 of the National Planning Policy Framework.

### **Other Matters**

14. I have considered the benefits that would arise from the proposed development. There is a need for quality housing in Southwark. Given the location, the appeal site is located close to existing services, shops and public transport links. The renewal of the shopfront and restoration of the existing cornice and entablature would have a positive visual effect. The promotion of the work of local artists would result in progressive cultural outcomes. However, having taken these considerations into account, I find that the benefits would be relatively limited. Given the scale and nature of the development proposed as a very small art retail space, these considerations

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<sup>1</sup> Northcross Road SE22, Estcourt Road SW6 and Gillespie Road N5

neither outweigh the harm I have identified nor the conflict with the development plan.

**Conclusion**

15. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

*S Lo*

INSPECTOR