

LONDON BOROUGH OF LAMBETH

Delegated Register 20/02179/P3M

Approver:	<i>Neil Smith</i>
	11/08/2020

Site: 81 - 83 Norwood High Street London SE27 9JS

Description: Application for prior approval for change of use of existing ground floors of 81 and 83 from Retail (Use Class A1) and Sue Generis to 4 self-contained studios (Use Class C3) and associated works to the front elevation.

Drawings: Covering Letter; Existing Ground Floor Plan - 978-A100; Proposed Ground Floor Plan - 978 -A120 B Existing Front Elevation - 978 -A500; Proposed Front Elevation - 978 -A510;

Case officer: Miss Nadia Harper

Recommendation: Refuse Permission

Recommendation date: 10th August 2020

Section 106: Required – not completed

1. Summary Designations

Designation/constraint
Key Industrial and Business Area - Norwood Commercial Area Key Industrial and Business Area
Neighbourhood Planning Areas - Norwood Planning Assembly

Site area

Total site area (sqm)	Total site area (hectares(ha))
140.22sqm	0.00

Floorspace comparison

Use class	Description	Existing floorspace (Gross External Area (GEA))	Proposed floorspace (GEA)
A1	Retail	135.52sqm	
C3	Dwellings		135.52sqm

2. Site Description

- 2.1 The application site comprises a 2 two storey mid-terrace building. The application relates to the ground floors. The site is not located within a conservation area and is not a listed building.
- 2.2 The site falls within West Norwood District Centre and falls within West Norwood Commercial Area, a Key Industrial and Business Area (KIBA). The site is not within a conservation area and contains no listed buildings.

3. Proposed Development

- 3.1 Application for prior approval for change of use of existing ground floors of 81 and 83 from Retail (Use Class A1) and Sue Generis to 4 self-contained studios (Use Class C3) and associated works to the front elevation.
- 3.2 Due to travel restrictions Officers did not carry out a site visit for this proposal. Nevertheless, officers were able to assess the merits of the application by viewing Google maps and streetview and this information is considered sufficient to reach and

4. Relevant Planning History

Planning Application History

85/01793/PLANAP - Application Permitted - Decision date: 19.11.1985
Continued use as a shop. (Regd. plan Nos.26570/1793/85 Applicant's plan Nos. Unnumbered).

5. Consultation

- 5.1 Public consultation was undertaken in accordance with statutory and council requirements as follows:

Neighbours

Number of neighbours consulted:	5
Number of objections:	0
Number in support:	0
Number neither supporting nor objecting:	0

No representations have been received

Consultees

Transport Lambeth

Access & Accessibility

The site has a PTAL rating of 5, which is considered 'very good'. Increased housing density is encouraged within areas of very good public transport accessibility, as are car free developments.

Car Parking

The site is not within a CPZ. No standard car parking is proposed. The applicant is requested to demonstrate how the impact of the development on the parking stress can be managed. The Council has an ongoing CPZ expansion programme and if the CPZ is implemented in

the future, the development will be precluded from applying for a parking permit. This needs to be secured via a s106 agreement. A car club membership for all residents needs to be provided for the period of three years.

Cycle Parking

The cycle storage needs to be provided for all flats and clearly shown on the plans. It needs to be secure, accessible, step free, covered and provided in line with Draft Revised Lambeth Local Plan Proposed Submission Version (DRLLP PSV) policy Q13 and T3, TfL's cycle parking guidance <http://content.tfl.gov.uk/lcds-chapter8-cycleparking.pdf> and in accordance with a draft new London Plan cycle parking minimum standard. Horizontal cycle parking stands should be provided, such as Sheffield stands, with a min spacing of 1m between the stands.

Refuse Storage

The refuse and recycling storage needs to be provided in line with Lambeth Waste & Recycling Storage and Collection Requirements, Technical Specification for Architects & Developers. Veolia need to be consulted.

Veolia Waste Lambeth Planning App

Change of use will not affect existing waste arrangements. This property should remain on bag collection for both refuse and recycling due to lack of off-street bin storage space.

Recycling bags can be obtained by residents from Lambeth Council website.

TFL Road Network Development (non-referable)

No response

6. Legislation

- 6.1 The Town and Country Planning (General Permitted Development) Order 2015 (as amended) applies to all land in England and Wales, other than land which is the subject of a special development order, and specifies various classes of development which may be undertaken without the permission of the local planning authority. Such development, referred to as "permitted development", is deemed to have planning permission by the Order, and does not require an application for planning permission to be submitted to the council.

- 6.2 Class M of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the Order") permits the following:

Class M – retail, takeaways and specified sui generis uses to dwelling houses

Permitted development

M. Development consisting of—

(a) a change of use of a building from—

(i) a use falling within Class A1 (shops), Class A2 (financial and professional services) or Class A5 (hot food takeaways) of the Schedule to the Use Classes Order,

(ii) a use as a betting office, pay day loan shop or launderette, or

(iii) a mixed-use combining use as a dwellinghouse with—

(aa) a use as a betting office, pay day loan shop or launderette, or

(bb) a use falling within either Class A1 (shops) or Class A2 (financial and professional services) of that Schedule (whether that use was granted permission under Class G of this Part or otherwise),

to a use falling within Class C3 (dwellinghouses) of that Schedule, and or

(b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

6.3 Complies - The proposed development is permitted by parts (a)(i) and (b)

Development not permitted

M.1 Development is not permitted by Class M if—

(a) the building was not used for one of the uses referred to in Class M(a)—

(i) on 20th March 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date,

when it was last in use;

6.4 Complies - 'building' includes part of a building (following the definition stated in Article 2 to the GPDO). On the balance of probability, Officers do not contend that no 81 and 83 a single unit (hairdresser) on 20 March 2013. This can be adduced from Google Streetview photos records.

(b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;

6.5 Complies - use as A1/A2 is not relied on in this case.

(c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;

6.6 Complies - the floorspace concerned is 135.52 square meters (GIA)

(d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;

6.7 **Complies** - there is no record of any previous grant under this Class

(e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

6.8 **Complies** - external dimensions of the building would be unchanged

(f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or

6.9 **Complies** - no demolition of the building, beyond those reasonably necessary, would be involved

(g) the building is—

(i) on article 2(3) land;

(ii) in a site of special scientific interest;

(iii) in a safety hazard area;

(iv) in a military explosive's storage area;

(v) a listed building; or

(vi) a scheduled monument.

Complies - none apply

Conditions

M.2—(1) Where the development proposed is development under Class M(a) together with development under Class M(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to -

(a) transport and highways impacts of the development,

(b) contamination risks in relation to the building,

(c) flooding risks in relation to the building,

(d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops), Class A2 (financial and professional services) or Class A5 (hot food takeaways) of that Schedule or, as the case may be, a building used as a launderette, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and

(e) the design or external appearance of the building,

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

6.10 Condition (1) noted – These considerations are assessed below

(2) Where the development proposed is development under Class M(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (d) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

This is such an application under (2) and the assessment is made on the basis that development has not begun.

(3) Development under Class M is permitted subject to the condition that—

(a) development under Class M(a), and under Class M(b), if any, must be completed within a period of 3 years starting with the prior approval date; and

(b) a building which has changed use under Class M is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse.

6.11 Condition (3) would be advised in the notice of any grant.

7. Policy

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

7.2 In this case, planning permission for the change of use is granted by the development order (GDPO), subject to meeting the conditions for prior approval. Development plan policies are

material considerations only insofar as they relate to the matters of which require prior approval.

- 7.3 The development plan in Lambeth is the London Plan (MALP 2016), and the Lambeth Local Plan (September 2015). Together with council Supplementary Planning Documents, the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are material considerations alongside the council's development plan.
- 7.4 Set out below are those policies most relevant to the application, however consideration is made against the development plan as a whole.

Lambeth Local Plan (2015) policies:

D2 Presumption in favour of sustainable development
D4 Planning obligations
ED1 Business, industrial and business areas
ED6 Town centres
ED10 Local centres, dispersed local shops
T6 Assessing impacts of development on transport capacity
T7 Parking
T8 Servicing
EN7 Sustainable waste management
Q5 Local distinctiveness
Q7 Urban design – new development
Q11 Building alterations and extensions
Q12 Refuse/recycling storage
Q13 Cycle storage

Supplementary Planning Documents (SPDs) & Other Relevant Documents:

Lambeth Building Alterations and Extensions SPD (2015)
Lambeth Refuse & Recycling Storage Design Guide
TfL London Cycle Design Guide

8. Prior approval considerations

(a) transport and highways impacts of the development

- 8.1 NPPF (2019, para 108) states planning decisions should ensure that appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location.

- 8.2 Policy T7 requires car-free development, and cycle parking to be provided in line with London Plan standards. Part (iii) requires new residential development to provide car club membership for all residents.
- 8.3 Policy Q13 sets out standards for design of cycle parking; there is relevant guidance contained in the TfL *London Cycle Design Standards*.
- 8.4 No cycle parking is indicated on the plans. The red line is restricted to the building and this would have to be provided inside the dwelling if it were secured by condition. The cycle parking needs to be provided for all flats and be secure, accessible, step free, covered and provided in line with Draft Revised Lambeth Local Plan Proposed Submission Version (DRLLP PSV) policy Q13 and T3, TfL's cycle parking guidance <http://content.tfl.gov.uk/lcds-chapter8-cycleparking.pdf> and in accordance with a draft new London Plan cycle parking minimum standard. Horizontal cycle parking stands should be provided, such as Sheffield stands, with a min spacing of 1m between the stands.
- 8.5 Further details of waste management would be sought as a condition of any approval.
- 8.6 The site is not located within a CPZ, the submission fails to include a parking survey in order to demonstrate how the impact of the development on the parking stress would be managed, therefore the proposal would be contrary to policy T6 of the Lambeth's Local Plan (2015).
- 8.7 In addition to the above the proposal would be required to be secured as car parking permit free and to make provision for car club memberships for the occupiers. In the absence of an enforceable mechanism to secure these obligations, the proposal would be contrary to Policy T7 and would fail to promote the uptake of sustainable modes of travel in accordance with the development plan and NPPF.

contamination risks in relation to the building

- 8.8 NPPF (para 179) states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 8.9 The council's relevant contaminated land maps indicate no known risk. There would be no apparent ground disturbance; a condition relating to ground contamination investigations and remediation is not therefore relevant or necessary in this case.

flooding risks in relation to the building

- 8.10 The site is not located within a flood risk area

impact of the change of use

- 8.11 It is necessary for the Council to assess whether the change of use to C3 would be undesirable in terms of its impact on the adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable

prospect of the building being used to provide such services (M2: d,i) and on the sustainability of any key shopping area (M2: d,ii).

- 8.12 Policy ED10(d) states that loss of A class uses outside of local centres will only be supported where premises have been actively marketed for a compatible A or D class use and it has not been possible to secure an occupier; and that essential daily goods are accessible within reasonable walking distance (400m).
- 8.13 The application site is located within a Norwood Commercial Area Key Industrial and Business Area. It is noted that the site is currently unoccupied, however policy ED1 states; Development in KIBAs will be permitted only for business, industrial, storage and waste management uses, including green industries and other compatible industrial and commercial uses (excluding large scale retail) ancillary to, or providing for, the needs of the KIBA , therefore It would be preferable to secure a new occupant for a use falling within the fields as outlined by the above policy, as it could provide a valuable service to the local community.
- 8.14 In the absence of marketing evidence to demonstrate otherwise, it has not been shown that there is no reasonable prospect of securing an occupier for commercial uses within the above classes. The submission fails to include detailed justification and analysis of supporting evidence for policy ED1 in this section are set, evidence required is of unsuccessful marketing of business and other commercial premises over a one-year period, before a change of use can be considered. Evidence of marketing should be clear and robust, based on an active, continuous and wide-ranging marketing campaign and realistic terms. The detailed requirements for marketing and the evidence required of applicants are set out in the council's Planning Guidance Note on the Marketing of Business Premise.

the design or external appearance of the building

- 8.15 NPPF (2019, para 124) states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Para.125 states that plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable.
- 8.16 Policy Q7 requires visually interesting, well detailed, well-proportioned with adequate detailing/architectural interest, and well-considered windows and doors/entrances in street and other public frontages. The council's *Building Alteration & Extensions SPD* provides clear advice for successful shopfront conversions to enable residential uses.
- 8.17 The proposed works to the front elevation would be acceptable given the alterations are modest, responding to the original architecture in terms of materials and openings, therefore the proposed design would comply with policies Q5 and Q11 of the Local Plan 2015.

9. Conclusion

- 9.1 Upon full assessment of the submitted material supporting the application it is considered that the conditions for granting prior approval have not been met.

10. Equality Duty and Human Rights

- 10.1 In line with the Public Sector Equality Duty the council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).
- 10.2 In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impact have been considered, with particular reference to Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 10.3 The Human Rights Act 1998 does not impair the right of the state to make decisions and enforce laws as deemed necessary in the public interest. The recommendation is considered appropriate in upholding the council's adopted and emerging policies and is not outweighed by any engaged rights.

11. Recommendation

Prior approval is required and refused.

12. Reasons for Refusal

- 1 The development would result in the loss of a commercial unit and has not demonstrated that there is no reasonable prospect of the building providing the sort of services within Class A1 or A2. The LPA cannot be satisfied that the proposal is meets Condition M.2 (1) (c) (i) of Part 3 Class M of the General Permitted Development Order 2015 (as amended).
- 2 In the absence of an enforceable mechanism to secure: i) appropriate mitigation by restricting future occupiers of the development from obtaining parking permits ii) provision of car club memberships for the occupiers and iv) appropriate monitoring, the proposed development would fail to promote up-take of sustainable modes of travel. The application is therefore contrary to Policies D4 and T7 of Lambeth's Local Plan (2015) and the NPPF. The development would not meet Condition M.2 (1) (a) of the Order.
- 3 The site is not located within a CPZ, In the absence of a detailed parking survey accompanying the application, the Council is unable to fully assess the impact of the

development on parking stress. As such, the proposals are contrary to the Policies T6 of the Lambeth's Local Plan (2015).

13. Informatives

Paragraph 38 of the NPFF sets out that expectation that local planning authorities will work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible. In this instance, the proposal is considered to be in significant conflict with the adopted development plan and requirements of the General Permitted Development Order.

A formal pre-application service is established but no advice was sought by the applicants prior to the application. Further details of the pre-application process are available on the Lambeth Planning website.