



Appeal Decision

Site visit made on 30 July 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Appeal Ref: APP/P5870/W/24/3353771

26a-28 St Dunstan's Hill, Cheam SM11 2EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Adel Al Hassany on behalf of Trevi Homes Ltd against the decision of the Council of the London Borough of Sutton.
 - The application Ref is DM2024/00048.
 - The development proposed is the demolition of existing buildings and erection of a part 1, part 3 storey building, comprising Use Class E (retail) commercial space at ground floor and 3 self-contained residential units above, together with amenity space, provision of refuse storage and car parking to the front.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of a part 1, part 3 storey building, comprising Use Class E (retail) commercial space at ground floor and 3 self-contained residential units above, together with amenity space, provision of refuse storage and car parking to the front at 26a-28 St Dunstan's Hill, Cheam, SM11 2EU in accordance with the terms of the application, Ref DM2024/00048, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs was made by Mr Adel Al Hassany on behalf of Trevi Homes Ltd against the Council of the London Borough of Sutton. This application is the subject of a separate Decision.

Preliminary Matters

3. I have used the Council's description of development as set out on the Decision Notice in the banner heading above. It is more precise than that used by the appellant, and I note that the revised description has been used on the appeal form.
4. The Council has confirmed that, in light of additional information submitted as part of the appeal, the third and fourth reasons for refusal, which relate to highway safety and sustainability, have been addressed. In this context, these refusal reasons have fallen away and do not form main issues in my determination of the appeal.
5. Details relating to the marketing of the property which has taken place were submitted as part of the appeal. As the Council has had the opportunity to comment on this information through the appeal process, and I do not consider

that any other party would be prejudiced by my acceptance of them, I have therefore determined the appeal based on this evidence.

Main Issues

6. The main issues are the effect of the proposed development on:
- the supply of employment land to meet current and future demand, and;
 - the character and appearance of the area.

Reasons

Effect on employment land supply

7. The appeal site comprises an existing detached dwelling, converted into flats, and a warehouse/showroom building fronting St Dunstan's Hill. The surrounding area includes a mix of residential and commercial buildings of a range of architectural styles. The appeal proposal seeks to demolish the existing buildings on the site and replace them with a building comprising 2 retail units at ground floor and 3 residential units across the 2 floors above.
8. Policy 14 of the Sutton Local Plan 2016-2031, adopted February 2018 (SLP) sets out that, outside the Strategic Industrial Locations and Established Industrial Areas, proposals resulting in the loss of industrial/business floorspace will not be granted planning permission unless it can be demonstrated that specific criteria are met, including that there is genuine evidence that the site has been marketed for a period of 12 months at a reasonable market rent for its location and condition.
9. The appellant's submissions indicate that the commercial unit at the site has been substantially unused or underused for a decade and more recently attempts have been made to let or sell the property. While details of marketing did not form part of the planning application, the appellant's appeal submissions indicate that marketing of the property was undertaken for a period of 18 months from January 2023, both online and in print. While I have been provided with a copy of the printed advertisement, which clearly sets out the sales particulars, there is no specific information pertaining to the online advert before me, or details of specifically where the adverts were published and when. In addition, it is unclear from the details submitted whether for sale boards were placed at or near the premises.
10. Notwithstanding this, the appellant nonetheless confirms that the property was advertised for sale by an estate agent, both on the internet and in hardcopy, for a period in excess of the 12 months stipulated in Policy 14. Moreover, in the absence of an alternative valuation, there is no substantive evidence that the asking price for the property was not competitive, having regard to the location and condition of the building. In light of these considerations, I am satisfied that genuine attempts have been made to sell the property for commercial use and that the lack of success in that regard subsequently indicates a lack of demand for the commercial property to justify the loss of industrial/business floorspace in this case.

11. While I appreciate my findings in that regard differ from the Inspector in the appeal at Stonecot Nursery¹, I have determined the appeal on its own merits, based on the evidence before me.
12. For the foregoing reasons I conclude that the proposed development would not have an adverse effect on the supply of employment land to meet current and future demand and as such would not conflict with the aims of Policy 14 of the SLP.

Character and appearance

13. The proposed development would reflect the general form of the neighbouring commercial property at 26 St Dunstan's Hill (No.26). The front elevation of the proposed building, like that of No.26, would be at an oblique angle, so that it would be broadly in line with both No.26 on one side and 10 Abbotts Road (No.10) on the other and would thus reflect the staggered nature of the buildings in this part of the row. While the proposed building would sit closer to the front boundary of the site than the existing buildings which occupy the site, the footprint would project only a very modest distance beyond the front of No.10. Furthermore, the use of metal cladding in the external surfaces of the building would be akin to the contemporary appearance of No.26.
14. The proposed residential unit to the second floor would include a triangular terrace area to the front elevation, which would reflect the footprint of the building. Terraces to the front of residential buildings are not commonplace in the surrounding area, however, there is a terrace feature of a similar nature to that proposed at the appeal site, to the front of No. 26. While I am mindful this is a commercial building, the terrace nonetheless forms part of the character and appearance of the immediate area, which the appeal proposal would reflect.
15. There are some gaps between the buildings in the vicinity of the site along the side of the road on which the appeal site sits. However, these are somewhat limited in width and are not a consistent feature in the pattern of the nearby development, for that reason, the surrounding development does not appear particularly spacious. As such, while the overall height and massing of the proposed building, together with its siting in relation to No. 26, would reduce the space between the existing and proposed buildings, this would not be significantly at odds with the prevailing layout of the nearby development to the detriment of the character and appearance of the area. Consequently, the proposed development would not appear unduly visually prominent in the street scene by virtue of its design, position on the plot, having regard to the adjoining properties, or external materials.
16. Thus, in light of the foregoing considerations, I find that the proposal would not harm the character and appearance of the area. In that regard it would not conflict with the aims of Policy 28 of the SLP which requires new development to, among other things, be attractive, designed to the highest standard, especially with regard to architectural detailing, and use high-quality materials, respect the local context and respond to local character and be of a suitable scale, massing and height to the setting of the site and/or townscape.

¹ APP/P5870/W/23/3317492

Conditions

17. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the National Planning Policy Framework. In addition to the standard condition controlling the timescale within which the development must commence, a condition is required to specify the relevant plans, in the interests of certainty. Conditions to agree details of the external materials to be used and hard and soft landscaping of the site are necessary in the interest of the character and appearance of the area, as well as details of boundary treatment, so as to safeguard the living conditions of the occupiers of the adjoining residential property.
18. Conditions are necessary to ensure that adequate facilities are available for the storage of refuse, off street parking and cycle storage prior to the first occupation of the dwellings, in the interests of the character and appearance of the area, highway safety and to encourage sustainable modes of transport.
19. A condition is required to secure the provision of a Construction Logistics Plan (CLP), both in the interests of living conditions of nearby residential properties and highway safety. This is a pre commencement condition so that measures are in place in the interests of highway safety and to safeguard the living conditions of the occupiers of neighbouring properties throughout the construction process. As the CLP would include details of delivery, demolition and construction working hours a separate condition to restrict the hours of building works is not necessary.
20. A condition to require a revised Energy Statement is necessary to demonstrate that the proposal would meet targets for reducing CO₂ emissions. I have replaced the detailed requirements suggested by the Council with a requirement to accord with Policy 31 of the SLP. This condition is pre-commencement as measures may comprise an integral part of the development that may affect how it is constructed. A condition is also necessary to require the submission of an 'as-built' Standard Assessment Procedure (SAP) to demonstrate that the development has achieved the targets. I have imposed a condition relating to water consumption, in accordance with Policy 33 of the SLP.
21. In order to ensure that the development would provide satisfactory living conditions for future occupiers having regard to external noise, a condition is necessary to secure a noise mitigation scheme, together with a scheme of noise mitigation to ensure the proposal would achieve acceptable standards, having regard to external noise and noise within the building. These are pre-commencement conditions as measures may be integral to the construction of the building.
22. Given the previous use of the site for commercial purposes a condition to require the reporting of any contamination identified during construction is necessary to ensure the safety of construction workers and future occupiers of the development. In the interest of fire safety, a condition is necessary to ensure compliance with the submitted Fire Strategy.

Conclusion

23. For the reasons given above the appeal should be allowed.

E Worley INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: 011, 014, 013, 015, 012, 016, 310, 312, 311, 313, 010, 314, 315, 001, 021, 020, 026, 025, 002, 030, 031, 040, 033 and 032.
 - 3) No development above damp proof course shall take place until details of the type and treatment of the materials, including samples, to be used on the exterior of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter in perpetuity.
 - 4) Prior to the first occupation of the development hereby approved, full details of refuse and recycling storage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter for the lifetime of the development.
 - 5) No development shall begin, including demolition and site clearance works, until a Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the parking of vehicles of site operatives and visitors;
 - provision of boundary hoarding, behind any visibility zones of construction traffic routing;
 - delivery, demolition and construction working hours;
 - means to prevent deposition of mud on the highway
- The approved CLP shall be adhered to throughout the construction period for the development.
- 6) Prior to the commencement of development, a revised Energy Statement incorporating updated 'as-designed' Standard Assessment Procedure (SAP) outputs shall be submitted to and approved in writing by the Local Planning Authority which demonstrates how the development would accord with Policy 31 of the Sutton Local Plan 2016-2031. The approved measures shall be fully implemented prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development.
 - 7) Prior to the first occupation of the development hereby approved, 'as-built' Standard Assessment Procedure (SAP) outputs shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the development has achieved the targeted reduction in CO₂ emissions.
 - 8) Prior to first occupation of the development, a completed Water Efficiency Calculator for New Dwellings shall be submitted to, and approved in writing by, the Local Planning Authority to show that internal potable water consumption will be

limited to 110 litres per person per day (l/p/d) based on the Government's national calculation method for the purposes of Part G of the Building Regulations.

- 9) Prior to any development above damp proof course a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the noise level of 35 dB LAeq,16 hour in living rooms and bedrooms during the daytime (0700 to 2300 hours) and 30 dB LAeq,8 hour during the night time (2300 to 0700 hours) in bedrooms, in accordance with BS8233:2014, shall not be exceeded. Noise levels in bedrooms should also not normally exceed 45 dB LAmax,F more than 10 times during the night time. Where these levels cannot be met with windows open appropriate acoustic ventilation should be provided so that the room can be sufficiently ventilated. The acoustic performance of any passive vent, variable speed mechanical air supply unit or whole house ventilation must be sufficient to ensure that the noise level standards given above are not compromised. The development shall be carried out in accordance with the approved details prior to the occupation of the development and shall be retained as such thereafter in perpetuity.
- 10) Prior to any development above damp proof course a scheme shall be submitted to and approved by the Local Planning Authority for sound transmission reduction measures to be installed between the ground floor Class E uses and the first floor flats. The scheme shall be designed to be 5dB better than that given in Approved Document E (2003 Edition incorporating 2004 and 2010 amendments) of the Building Regulations (Table 0.1a, page 12). The development shall be carried out in accordance with the approved details prior to the occupation of the development and shall be retained as such thereafter in perpetuity.
- 11) Prior to the first occupation of the development hereby approved, details of both hard and soft landscaping, including an implementation programme and scheme of management and/or maintenance shall be submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) Prior to the first occupation of the development hereby approved, full details of the position, design, materials and type of boundary treatments/means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and retained thereafter in perpetuity.
- 13) Prior to the first occupation of the development hereby approved, full details of the secure cycle storage facilities shall be submitted to, and approved in writing by, the Local Planning Authority. Details shall include the position within the site, size, materials and the means of access. The approved details shall be completed prior to the first occupation of the development hereby approved and thereafter permanently retained thereafter.

- 14) If during the construction of the development, contamination is encountered that was not previously identified development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found that part of the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 15) The development must be carried out and operated in accordance with the Planning Fire Safety Strategy prepared by Whiteman Architects dated 18/09/20
- 16) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing no. 1238-SK1_RevA. Thereafter those spaces shall be retained for the parking of vehicles only.

*******end of conditions*******