



Appeal Decision

Site visit made on 26 August 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/R5510/W/25/3366903

The Venue, The Assembly Buildings, The Old Vinyl Factory, Powerhouse Lane, Hayes UB3 1FN

- 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 Weston Homes Plc against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref is 59872/APP/2024/523.
 - The development proposed is full planning application to convert consented commercial floor space / mezzanine space into 9 no. residential units comprising a mixture of apartments and duplexes, which include 1-, 2- and 3-bed units.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Weston Homes Plc against the Council of the London Borough of Hillingdon. This is subject to a separate decision.

Preliminary Matter

3. The description of development in the banner heading above is taken from the application form. I note that the appeal form states that the description of development has changed from that stated on the application form. However, the appellant has confirmed that the Council made this change without notification to the appellant, and in doing so narrowed the scope of the extant permission which refers to uses wider than Use Class E(c)(iii). The description of the development within the application form is therefore considered more accurate (albeit I note that according to the submitted plans, none of the units would have one bedroom).

Main Issues

4. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers, with regard to daylight, sunlight, privacy and private amenity space;
 - the effect of the proposal on the vitality of employment and commercial uses within the site and the surrounding area; and
 - whether the proposal makes adequate provision for affordable housing.

Reasons

Living conditions

5. Policy BE1 of the Hillingdon Local Plan (HLP) Part 1 (2012) relates to the built environment requiring, amongst other matters for development to create successful and sustainable neighbourhoods, where people enjoy living. Policy DMHB 11 of the HLP Part 2 (2020) provides specific design considerations, including considering the local context by taking into account surrounding gaps between structures and other streetscape elements.
6. Of the proposed nine units, seven would be single aspect. Policy D6 of the London Plan (LP) (2021) states, amongst other matters, that single aspect dwellings should only be provided where it is considered a more appropriate design solution in terms of Part B of Policy D3 of the LP. In consideration of Policy D3 of the LP, the proposal relates to a change of use in a high-density development which is sustainably located. According to Policy D6 of the LP, it would therefore be appropriate to deliver single aspect dwellings in this location provided that they would have adequate passive ventilation, daylight and privacy, and avoid overheating.
7. Passive ventilation would be achieved through openable windows which would allow for appropriate purge ventilation to meet the relevant requirements of building regulations. The units would be fitted with central extracts to extract air from the kitchen and bathroom spaces. The appellant has also confirmed that the proposed units would be built in accordance with the required building regulations in respect to overheating. The proposed units would therefore be acceptable in relation to passive ventilation and overheating.

Daylight and sunlight

8. A daylight and sunlight assessment has been provided which acknowledges the challenges associated with ground floor rooms in multi-block development given their outlook. It is stated that sunlight potential has been maximised in recognition of the sites constraints, and that daylight levels in the main living spaces would align with those on the second and third floors. Nevertheless, the majority of the rooms proposed would not achieve guideline recommendations for daylight levels. The rooms on the northern elevation would also receive below guidance levels for sunlight exposure.
9. I note that the guidelines referred to are purely an advisory document and are not set specifically in planning policy. However, they provide a clear indication that the likely levels of daylight and sunlight, for at the very least the single aspect units, would be heavily compromised. This is likely to create a living environment which would be oppressive and unattractive to spend long periods of time within.

Privacy

10. The proposed residential units would be positioned immediately adjacent to a pedestrian thoroughfare. Whilst at the time of my site visit, the use of this thoroughfare was modest, the wider area is still in the process of undergoing regeneration. Through time, as further development takes place and commercial units come to be occupied, it is highly likely that the level of pedestrian activity around the appeal site will increase.

11. The appellant has suggested that pedestrians will use the space in a transitional manner rather than as a space to linger. However, there is an acknowledgement that the invasion of privacy could occur in the brief instances of pedestrians passing by. In the likely event that the use of the footway increases in the future, a constant stream of pedestrian traffic could cumulatively be detrimental to the privacy of future occupiers, even if it remains of a transitional manner.
12. Again, this would create an unattractive internal living environment for occupiers, with little respite from the loss of privacy caused by overlooking from pedestrians. Although I note that there is no policy requirement which sets out a specific set back distance for residential dwellings, in this case, I have found that the relationship between the future occupiers and users of the public realm would be unacceptable.
13. It has been presented that the relationship with the public realm would be similar to that established by the units on Powerhouse Lane. I have limited details of these units in terms of their internal layout. However, I did observe the units on Powerhouse Lane during my site visit and noted that they are adjacent to a much narrower footway, which does not carry the same intention as a main pedestrian thoroughfare. I therefore do not find these units to be directly comparable to a degree that they would justify the development before me.
14. The appellant has suggested that additional landscaping, which could be secured through a condition, could act as a buffer in front of the units. However, as is demonstrated by the submitted elevation planting study, the actual scope for any meaningful screening through landscaping would be limited given the space available within the appeal site.
15. It is also suggested that opaque window film could be installed to alleviate privacy concerns. Whilst this may assist to some degree, I cannot be satisfied that the use of a film would not have consequential harmful impacts on daylight and sunlight levels within the units. The measures suggested would therefore not satisfactorily mitigate the identified harm to the living conditions of future occupiers.

Private amenity space

16. Policy D6 of the LP sets out minimum requirements for private outdoor amenity space but is explicit that these apply where there are no higher local standards in the borough development plan. In this case, Policy DMHB 18 of the HLP Part 2 states that all new residential development and conversions will be required to provide good quality and useable private outdoor amenity space in accordance with associated standards. The minimum private outdoor amenity space requirements for two and three bedroom flats are 25m² and 30m² respectively.
17. Each of the proposed units would have a recessed balcony at first floor, all of which would fall significantly short of the standards set by Policy DMHB 18 of the HLP in terms of their size. Whilst there would be some level of shared amenity provision through the podium at second floor and roof gardens, this would not be private and therefore would fail to achieve the standards set through Policy DMHB 18 of the HLP.
18. I note that the units would comply internally with the nationally described space standards, and that the recessed balconies would be comparable in size to the balconies which serve the existing residential units elsewhere within the building.

However, given the compromises of the internal living space (with respect to daylight, sunlight and privacy), the provision of adequate external living space would be critical. The non-compliance with the locally set standards for private amenity space would represent another sub-standard living quality for the proposed occupiers.

Summary on living conditions

19. The proposed development would fail to provide acceptable living conditions for future occupiers, with regard to daylight, sunlight, privacy and private amenity space. It would therefore be contrary to Policies D3 and D6 of the LP, Policy BE1 of the HLP Part 1 and Policies DMHB 11 and DMHB 18 of the HLP Part 2.

Vitality of uses

20. The appeal site forms part of The Old Vinyl Factory site, a mixed-use development with a complex and detailed planning history. Policy SA 2 of the HLP Part 2 refers to the approved planning permission relating to the re-development of the wider site, stating that the Council will support the development of a variety of uses including residential and commercial. The site is also within the Hayes Opportunity Area where there is general support for growth and regeneration through Policy SD1 of the LP.
21. The buildings within the appeal site are of recent construction comprising residential apartments built above five commercial units. At the time of my site visit, these commercial units all appeared to be vacant. The appeal proposal relates to the change of use of commercial floor space at ground and mezzanine level within approved Units 3 and 4 to create a total of nine residential units. Units 3 and 4 would remain available for commercial use, albeit at a lesser footprint and without the option for potential mezzanine space.
22. The public realm to the north of the appeal site forms what was envisaged to be a key pedestrian thoroughfare through the wider development, lined with commercial uses. I understand that the Council has a broader masterplan, facilitated in part by an Article 4 direction restricting changes from Use Class E to residential uses, to extend Hayes Town Centre and its associated social infrastructure to the west. The Council is of the view that the loss of commercial floor space in this location would undermine the Council's strategic vision for the area, contrary to the aims of the proposed masterplan for the wider mixed-use development.
23. Nevertheless, the proposal would retain a commercial presence at ground floor addressing the public realm, including the pedestrianised thoroughfare to the north. Whilst the break in commercial uses within the appeal site itself would be notable to the northern elevation, it would be less significant when taken in the context of the wider stretch of commercial uses to the east.
24. Rather than harming the vitality and vibrancy of the area, the introduction of residential units at ground floor would present the opportunity to activate part of the buildings frontage and increase natural surveillance to the public realm. The effect of the proposal on the character and the quality of the public realm would be limited but if anything, the proposal would have a minor benefit to the experience of the public realm when compared to the current vacancy of the ground floor units.

25. In this respect the proposal would comply with Policy BE1 of the HLP Part 1 and Policy DMHB 12 of the HLP Part 2, as well as Policy D8 of the LP which all relate in part to the public realm, requiring new development to improve its quality. It would also comply with Policy DMHB 11 of the HLP Part 2 which amongst other matters, requires development to harmonise with the local context, including in respect to the impact on neighbouring open spaces.
26. The Council has already accepted the loss of some of the originally approved mezzanine commercial space and surplus plant areas, through a change of use to three residential units through an earlier planning approval. However, the extent of commercial floor space proposed to be lost through the appeal proposal is greater and therefore the direct comparisons between the two schemes are limited.
27. Nevertheless, it is notable that in the officer report for the earlier application, it was acknowledged that the retail climate has changed since the original approval. Policy E9 of the LP recognises that surplus retail space can support other planning objectives, including with specific reference to residential development. Policy D3 of the LP relates to a design led approach, which amongst other matters requires development to make the best use of land optimising site capacity.
28. I understand that the original intention was for a cinema to form the anchor for the wider mixed-use development but that this has not materialised. This, and factors such as poor commercial market conditions following the Covid-19 pandemic, the fit-out costs associated with the units and parking availability, are presented as factors which have contributed towards the current high vacancy of the commercial units within the appeal site.
29. Whilst some evidence of previous marketing has been provided, this is limited in extent. Nevertheless, I have not been presented with the policy basis which would require evidence of robust marketing to justify the change of use proposed.
30. As above, the appeal site is within a wider mixed-use area where commercial floor space is significant. The Council has presented examples of recent commercial occupations within the wider area suggesting that there is an ongoing demand. Details of a community focused placemaking event have also been provided, demonstrating interest in the support of local businesses. This is also reflected in the level of representations received which have raised concern to the proposed loss of commercial space.
31. However, I remain to be convinced that demand for commercial unit occupation exceeds the availability of the remaining vacant units both within the appeal site and the wider mixed-use area. In addition, the appellant has presented that there are also vacant commercial units within the nearby town centre which could cater for further demand in a sustainable location.
32. Through its re-development, the wider area features a high concentration of residential units, to which the appeal proposal would further increase. Nevertheless, the level of commercial floor space and its associated employment and growth opportunities which would be retained within the appeal site, and the commercial floor space which would be easily accessible to residents within walking distance, would be sufficient to serve the residential uses that are existing, and the additional nine units proposed.

33. In the context of the location of the site, within a wider mixed-use area and close to the town centre, the loss of commercial floor space proposed would not be significant. The proposal would therefore have an acceptable effect on the vitality of employment and commercial uses within the site and the surrounding area. In respect to this main issue, the proposal would comply with Policies D3, D8, E9 and SD1 of the LP, as well as Policy BE1 of the HLP Part 1 and Policies DMHB 11, DMHB 12 and SA 2 of the HLP Part 2.

Affordable housing

34. The Council has suggested that the appellant should demonstrate that the proposed affordable housing is in line with the provisions secured through a previous reserved matters consent. However, there is acknowledgement elsewhere within the officer report that the application falls outside of the scope of the original outline and reserved matters approvals. It would therefore be perverse for the appeal proposal to revert to the previous reserved matters consent on this issue.
35. Notwithstanding this, the appellant is presenting that three of the nine units would be affordable as discount market sale units. A unilateral undertaking to this effect has been submitted with the appeal. Paragraph 58 of the National Planning Policy Framework (the Framework) sets out that planning obligations must only be sought where they meet three tests. One of these is that the obligation would be necessary to make the development acceptable in planning terms.
36. The proposal is for nine residential units, which falls below the major development threshold set within the Framework and Policy H4 of the LP for the delivery of affordable housing. I therefore do not find that the unilateral undertaking submitted to secure three affordable units would be required to make the development acceptable. On this basis it does not pass the tests set within the Framework and cannot be taken into account.
37. Policy H4 of the LP relates to the strategic aim of delivering affordable homes in London. The proposal would not meet the threshold for the provision of affordable housing, and therefore I find no direct conflict with this policy. The Council has also referred to Policy DMH 1 of the HLP Part 2 in the reason for refusal. This policy relates to safeguarding existing housing and therefore I find no direct relevance in respect to this main issue.

Other Matters

38. The appeal property is situated within the Botwell: Thorn EMI Conservation Area (CA) and near to Enterprise House, which is a Grade II listed building. Accordingly, I have applied the duties set out in Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which require me to have special regard to the desirability of preserving the setting of the listed building and to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
39. The Botwell: Thorn EMI CA is a modestly sized CA, focused around the Old Vinyl Factory site. The significance of the CA is derived in part from its historical associations with the production of vinyl records. The Grade II listed Enterprise House is close to the site on the opposite side of Blyth Road. The significance of

the listed building again arises in part from its historical associations with the factory site as well as its distinctive appearance.

40. The external alterations proposed to the building would be modest in comparison to the extant development. The appeal proposal would therefore preserve the setting of Enterprise House, the significance of which would not be harmed. It would also preserve the character and appearance of the CA. A lack of harm in this respect, however, does not alter my overall conclusions.
41. The proposal would not impose unacceptable effects on neighbouring living conditions. The design would be appropriate to the context of the existing building and refuse, recycling, cycle and car parking provisions would be acceptable. There would also be no adverse effects on a number of matters including flooding, drainage and ecology. Nevertheless, the absence of harm in relation to these matters does not weigh in favour of the proposal.
42. The delivery of nine additional residential units represents a benefit to the proposal. I recognise that the proposal would be an effective use of the land, which would have a positive effect in creating an active frontage to a currently vacant element of the building, and in doing so increase natural surveillance which in turn would potentially be beneficial to public safety. I have given the cumulation of these benefits moderate weight in the overall balance.
43. Nevertheless, I have identified harm in respect to the unacceptable living conditions for the future occupiers. I assign significant weight to that harm and therefore the benefits associated with the proposal would not outweigh the harm.
44. I note that the appellant feels dissatisfied with the Council's handling of the application including with regard to consultation responses not being shared throughout the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Conclusion

45. I have found that the proposal would have an acceptable effect on the vitality of employment and commercial uses within the site and the surrounding area. I have also identified no harm in respect to the provision of affordable housing. However, I am unable to conclude that the proposal would provide acceptable living conditions for future occupiers in respect to daylight, sunlight, privacy and private amenity space. Consequently, for the reasons given above, having regard to the development plan when read as a whole and all relevant material considerations, I conclude that the appeal should be dismissed.

L Gardner

INSPECTOR