



Appeal Decision

Site visit made on 21 August 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 October 2025

Appeal Ref: APP/T5150/W/25/3367406

109B Dudden Hill Lane, London NW10 1BJ

- 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 M Vanat against the decision of the Council of the London Borough of Brent.
- The application reference is 24/1016.
- The development proposed is demolition of the existing single storey building and erection of a detached 3-4 storey building comprising commercial unit at ground floor and 5 No residential units with associated landscaping, bin, and cycle store.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site address was given “Duddenhill Lane” on the planning application form, though “Dudden Hill Lane” was used more frequently in the documentation before me. I have used the latter version throughout my decision as, based on the street signs I saw near the appeal site, that appears to be the correct spelling¹.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the provision of employment floorspace, including whether any such loss has been adequately justified;
 - Whether the development would make an appropriate provision of, or contribution to the provision of, affordable housing; and
 - The effect of the proposed development on the safe and efficient operation of the highway.

Reasons

Employment floorspace

4. The appeal relates to a single-storey building on the eastern side of Dudden Hill Lane close to its junction with Burnley Road. The premises were most recently used for the manufacture of windows and, while that activity has ceased, its lawful use is unchanged. The proposed development is the demolition of the existing building, and the erection of a new four-storey building with a commercial unit on the ground floor, and a total of five flats across the three upper floors.

¹ Though, having seen more than one misspelled street sign during my career, I accept that this may not be a foolproof approach.

5. The existing building has an internal floorspace of 245m², all in light industrial use within Use Class E(g)(iii); the proposed development would include 103.7m² of commercial floorspace identified as operational or administrative offices within Use Class E(g)(i)². There would therefore be a loss of employment floorspace. Policy BE3 of the 2022 Brent Local Plan (“the BLP”) seeks the retention of Local Employment Sites – that is, existing employment land and premises outside the borough’s Strategic Industrial Locations and Locally-Significant Industrial Sites – and, where possible, the intensification of their use for research and development, light or general industrial purposes, or for storage and distribution. Policy E7 of the London Plan 2021 sets out similar requirements in respect of Non-Designated Industrial Sites.
6. Policy BE3 of the BLP goes on to state that the release of Local Employment Sites for non-employment uses will only be allowed (a) where continued wholly employment use is unviable; (b) where development increases the amount of workspace (as well as retaining the existing employment use or providing additional affordable workspace); or (c) where the site is allocated for development. Where redevelopment would fall under criterion (a), the supporting text to the policy is clear that evidence must be submitted that the site has been marketed “at realistic prices” for a 24 month period. Where redevelopment would fall under criteria (a) or (c), the policy seeks the “maximum viable replacement of the existing employment floorspace”.
7. The planning application included an Employment and Commercial Land Report³ (“the ECLR”) which included a review of the supply of, and demand for, industrial premises and offices across the borough, and a closer look at the commercial property market (including rental and investment values) in the local area around the appeal site. It concluded, among other things, that the internal areas of the existing building are of poor quality, the shape and layout make it inflexible, and these would be expensive and uneconomic to remedy within the current building. It also pointed to changes both locally (such as the shifting characteristics of uses around Dudden Hill Lane) and more generally (including changing working practices), which mean that the premises are not competitive, or indeed suited to continuing, in an industrial or storage/distribution use, although it went on to note that the appeal scheme would replace the outdated floorspace with a qualitatively-improved commercial space suitable for a wider and more flexible range of potential occupiers.
8. It was apparent during my visit that the area was one where some change has taken place recently – the “Middle Yard” development across Dudden Hill Lane from the appeal site had several substantial blocks of new-looking flats, though I do not know the previous use of that site. I also note that the Council was prepared to accept that, for example, demand for the appeal site as employment premises may be low in view of its location, configuration, and current condition. Even so, the ECLR did not include evidence that the appeal site has been marketed for a period of 24 months. A separate single page marketing “flyer” and accompanying letter dated 1 December 2022⁴ stating that an agent had been “trying to rent [t]his commercial unit since 2019” but had been “unable to find any suitable tenants” does not amount to the “thorough marketing exercise” sought by the development

² The first of these floorspace figures is taken from the planning application form the second from the appellant’s statement.

³ Chilmark Consulting, August 2024

⁴ Chase Residential Ltd

plan. There was also no evidence put forward to demonstrate that the amount of replacement employment floorspace proposed would be the “maximum viable”.

9. I conclude that the proposed development would lead to a loss of employment floorspace which has not been adequately justified in the terms set out in the development plan. The proposal would therefore conflict with Policy B3 of the BLP, and with Policy E7 of the London Plan 2021, the principal relevant provisions of which I have set out above.

Affordable housing

10. Policy BH5 of the BLP requires residential developments of between five and nine dwellings to make a financial contribution for the provision of affordable housing off-site. The Council’s 2022 *Planning Obligations* Supplementary Planning Document (“the SPD”) sets out the level of contributions which will be sought, with a zoned approach to lower- and higher-value areas within the borough. As development viability is generally considered at the plan-making stage the SPD states that, where a development cannot support the required contributions while remaining viable, a viability assessment will be required.
11. The appellant submitted a Financial Viability Appraisal⁵ (“the FVA”) as part of the planning application, which indicated that the proposed development would generate a deficit of around £0.31m⁶ and so would not be able to support an affordable housing contribution. The Council commissioned its own assessment of the FVA which highlighted several areas of disagreement; it concluded that the scheme would see a surplus of around £0.42m, and would therefore be able to make the required affordable housing contribution.
12. The appellant did not seek to challenge the Council’s assessment of the FVA during the appeal, commenting instead that the decision on the planning application had been “issued before both parties reached agreement on contributions”. The implication of that comment appears to be that some means of securing the financial contribution – whether by agreement or unilateral undertaking under section 106 of the Act – would be forthcoming. However, no such mechanism has been provided to me.
13. In the absence of a means of securing a financial contribution, I conclude that the proposed development would not make an appropriate contribution to the provision of affordable housing. It would therefore conflict with Policy BH5 of the BLP, the principal relevant requirement of which I have set out above.

Highways

14. Dudden Hill Lane is described as a “London Distributor Road”; at the time of my site visit, which was carried out at around lunchtime on a weekday, it was busy with a variety of private and commercial traffic. There is a peak hour southbound bus lane, with simultaneous parking restrictions, outside the appeal property, and bus stops close by on both sides of the road.
15. The appellant noted during the appeal that the development would be car-free, in view of the excellent public transport available. The site has a Public Transport Accessibility Level of 4; while that signifies “good” rather than “excellent”

⁵ S106 Management, August 2024

⁶ That is, below the “target return” – not a loss in absolute terms.

accessibility, the provision of car-free residential and office uses would be supported by Policy 6.1 of the London Plan 2021. Measures to secure car-free status, including preventing occupiers of the proposed flats from holding residents' parking permits for controlled parking zones would ideally be secured by planning obligation, but could potentially (though less satisfactorily) be dealt with by condition in the event of the proposal being otherwise acceptable. However, the Council's particular concerns in respect of highways relate to *servicing* the proposed commercial unit rather than car parking.

16. Policy BT3 of the BLP seeks to ensure that appropriate servicing facilities are provided for all development in line with the standards set out in Appendix 5 of the BLP. For Class E(g) uses, the standard requires one transit-sized bay; Policy BT3 says that "wherever possible servicing should be provided off the highway".
17. At present there is a yard at the side of the building which, while narrow, provides a safe off-road area for loading and unloading. The proposed development includes no off-street space for service or deliveries, as the existing yard would be removed. The Council suggested that a hardstanding at the front of the proposed building (which the submitted drawings do not suggest would be a parking or servicing space) should be widened to provide the required servicing space; this would also require measures to be put in place to ensure that drivers would have adequate visibility, and that they could cross the footway safely. However, these concerns were not directly addressed by the appellant.
18. In its current form the proposed development would be likely to lead to servicing vehicles obstructing the bus lane outside the appeal site, which would be detrimental to the safe and efficient operation of the highway. It would conflict with Policy BT3 of the BLP which requires the provision of appropriate servicing facilities.

Conclusion

19. While I have considered the benefits of the scheme which have been put to me, there are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector