



Appeal Decision

Site visit made on 8 October 2025

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 November 2025

Appeal Ref: APP/Z5630/W/25/3370390

Red Lion Business Park, Unit 6, Red Lion Road, Tolworth, Kingston-upon-Thames KT6 7QD

- 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 Davita UK Limited against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/03000/FUL.
 - The development proposed is change of use of Units 6 and 7 to create a haemodialysis centre, with external alterations to amend openings and the installation of 1No external plant compound and 1No external bin store.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of Units 6 and 7 to create a haemodialysis centre, with external alterations to amend openings and the installation of 1No external plant compound and 1No external bin store at Red Lion Business Park, Unit 6, Red Lion Road, Tolworth, Kingston-upon-Thames, KT6 7QD in accordance with the terms of the application, Ref 24/03000/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. The appellant has submitted additional evidence in the form of further sites appraised since the refusal of the planning application and a copy of a marketing brochure sent to interested parties following the refusal of the planning application. This additional evidence would not result in a development substantially different from that applied for. Given the nature of this evidence, it would not deprive those who were entitled to be consulted on the application of the opportunity to make representations that they may have wanted to make. Its acceptance does not give rise to procedural unfairness, and I have therefore considered it in my assessment.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The supply of employment land, and;
 - The vitality and viability of the town centre network.

Reasons

Employment land

4. The appeal site is located within an industrial estate and is designated as a Locally Significant Industrial Site (LSIS). The surrounding area is a mix of industrial, commercial and residential uses.
5. Policy DM17 of the Core Strategy 2012 (the Core Strategy) seeks to protect all employment land and premises in certain parts of the Borough, including LSISs. It states that together LSISs form the main supply of industrial/business land and will be protected for B1, B2 and B8 uses and other uses of an industrial and employment nature (excluding retail). Reference to B1 uses does not reflect the current use class order and permitted development rights. Notwithstanding this, the principle of retaining and protecting such uses without appropriate justification remains relevant. This is supported by Policies E4 and E6 of the London Plan 2021 (the London Plan), which amongst other things, seek a sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions.
6. Irrespective of the use classes listed within Policy DM17 of the Core Strategy, the use of the appeal site is restricted to Use Classes E(g)(iii) and B8. It is not within the scope of this appeal for me to determine whether the proposed development would fall within either of these use classes. The proposal seeks planning permission for a change of use, and I have therefore dealt with the appeal on this basis.
7. As required by Policy DM17 of the Core Strategy, alternative uses within LSISs will not be acceptable in these areas, unless it has been demonstrated by sound evidence and rigorous marketing over a number of years (up to two years) that there is no quantitative or qualitative need for a range of employment uses.
8. The appellant states that the appeal site has been actively marketed since November 2021, as detailed in a marketing report (the marketing report)¹ outlining efforts through to October 2024. Several marketing initiatives were used including: press releases, targeted emails to businesses and agents, website listings, postcards and social media posts. A brochure sent to interested parties following the refusal of the planning application supports the claim of continuous marketing.
9. The marketing report concluded that the industrial market had been challenging over the last two years and demand had been low, but this has not been supported by any detailed research. Even if I were to accept that marketing and lease pricing in themselves are not material planning considerations, these details provide a helpful picture of the rigorousness of the marketing. There is no substantive evidence to show that the pricing and leasing terms for other premises were either comparable or more onerous than the appeal site.
10. The enquiries schedule² lists numerous enquiries that were received from a wide range of businesses over the marketing period. The reasons for not taking the site are varied. Although I am mindful of the commercial nature of these enquiries and

¹ Metroplex Park Tolworth Marketing report – November 2024 prepared by JLL.

² Appendix 1 in Marketing report

data protection, the enquiries schedule is given limited weight as it is not supported by any substantial evidence.

11. Although the proposed development would provide more jobs than the current use, uplift in employment does not form part of the relevant policy tests. The appellant highlights other sites where similar developments were approved without marketing evidence. However, these sites lie outside the development plan boundary, and their policy context is unclear. As such, they carry limited weight and do not form a justified reason for departure from policy requirements.
12. Drawing all of the above together, whilst the marketing period covers two years, it is not supported by sound evidence. It has therefore not been demonstrated that there is no quantitative or qualitative need for a range of employment uses. The proposed development would result in the loss of industrial land which would be harmful to the supply of employment land. The proposed development would therefore conflict with Policy DM17 of the Core Strategy and Policies E4 and E6 of the London Plan, the purposes of which have been set out above.

Vitality and viability of the town centre network

13. Amongst other things, Policy 12 of the Core Strategy seeks to enhance the vitality and viability of District Centres so that they complement the role of Kingston Town Centre and remain the focus for “walk to” services, shopping and other town centre uses. This is supported by Policy SD7 of the London Plan which sets out that boroughs should take a town centre first approach, discouraging out-of-centre development of main town centre uses.
14. The appeal site is located outside a defined town or local centre boundary. The definition of a main town centre use in the National Planning Policy Framework (the Framework) does refer to ‘health and fitness centres’. However, this is in the case of leisure, entertainment and more intensive sport and recreation uses, which the haemodialysis centre would not be.
15. The haemodialysis centre would offer a specialist medical service to NHS patients by appointment only. There is no evidence of any commercial activity. While open to the public, due to their acute medical needs, patients' visits would be unlikely to generate footfall compared to typical commercial uses. There is nothing before me to suggest there are similar medical and health related services within nearby town centres. As a highly specialised facility, the centre is therefore unlikely to compete with or divert trade from town centre businesses. It can also be controlled by condition so that other Class E uses are not permitted. Although medical and health services can be found in town centres, the specialist nature of the haemodialysis centre means it does not qualify as a main town centre use. Therefore, a sequential impact assessment is not required.
16. For these reasons, I conclude that the proposed development would not harm the vitality and viability of the town centre network. It would not conflict with Policy 12 of the Core Strategy and Policy SD7 of the London Plan in terms of the role of the town centres as the main focus, as set out above.

Other Matters

17. The appellant raises concerns regarding how the Council handled the planning application, however, this would not alter my conclusions on the merits of the proposed development.

Planning Balance

18. The proposed development would conflict with Policy DM17 of the Core Strategy and Policies E4 and E6 of the London Plan. This conflict means that the development conflicts with the development plan as a whole.
19. The Framework states that significant weight should be placed on the need to support economic growth and productivity and planning decisions should promote an effective use of land. On the other hand, the Framework advocates for the faster delivery of public health infrastructure such as health, and states that significant weight should be placed on the importance of new, expanded or upgraded public service infrastructure when considering proposals for development.
20. The proposed development would result in the loss of industrial land at a LSIS and would harm the supply of employment land. The Council Employment Land Review³ sets out that against the emerging supply, there is a shortfall in excess of 13,000 sq.m for industrial floorspace. I give significant weight to this harm, on account of the amount of industrial floorspace that would be lost in the context of the Council's shortfall.
21. Set against this harm, the proposed development would replace an existing treatment centre, which is no longer capable of providing such service. There is an urgent need for the development as the closest alternative centres to the current treatment centre do not have capacity to accommodate displaced patients, as confirmed by the supporting evidence. Furthermore, there are limited options in terms of alternative sites where such development could come forward because of the locational and operational requirements. The proposed dialysis centre would provide lifesaving treatment for patients and would enhance their quality of life. These are important material planning considerations to which I give significant weight.
22. There would be employment opportunities through the creation of 17 jobs as well as employment associated with the construction phase. There would also be a likely contribution to the wider economy through the use of other services. The proposed development would also utilise the appeal site which appears to have been vacant for some time. These benefits attract moderate weight in favour of the appeal.
23. On balance, although there is some conflict with the development plan, when taking all of the above into account, given the extent of, and degree of weight afforded collectively to the benefits in support of the appeal, the adverse impacts on the supply of employment land would not significantly and demonstrably outweigh the benefits.

³ Kingston upon Thames Employment Land Review Final Report – March 2022.

Conditions

24. I have made some minor revisions to the Council's suggested conditions in the interest of clarity and enforceability. I have imposed the statutory implementation condition [1], along with a condition listing the approved plans to provide certainty [2].
25. To protect the vitality and viability of the town centres, I have removed permitted development rights so that the units can only be used for the provision of medical or health services [3]. Imposing a condition which would allow the units to revert to the existing use, if the haemodialysis centre should cease use, is not necessary to make the development acceptable.
26. To protect the living conditions of nearby occupiers, it is necessary to require an operational management plan to be submitted [4], the measures within the Noise Assessment to be implemented [5] and a restriction on the noise levels of the plant equipment [6].
27. Conditions relating to transport and highway matters in the form of electric vehicle parking [7], cycle parking [8] and a delivery and service plan [10] are necessary. To protect the character and appearance of the area, it is necessary for the waste and recycling facilities to be installed as shown on the submitted plans [9]. In the interests of fire safety, it is also necessary for a fire safety strategy to be secured and implemented by condition [11].
28. I have not imposed conditions relating to a construction management plan and the use of Non-Road Mobile Machinery during demolition, site preparation and construction, as no such works are proposed.

Conclusion

29. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be allowed.

L Reid

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: 01 – Site Location Plan, C24/001/P05 - Renal Dialysis Unit: Planning: Waste Bin Store & HVAC Compound - As Proposed, 564_RDU_EL-100 - UNIT 6 & 7 PROPOSED ELEVATIONS AND SECTIONS, 564_RDU_PL-100 - PROPOSED FLOOR PLANS, C24/001/P02 Rev A - Renal Dialysis Unit: Planning: Site Layout Plan - As Proposed.
3. The units shall be used for the provision of medical or health services (Use Class E(e)) and for no other purposes (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
4. Prior to first occupation of the development hereby permitted, an Operational Management Plan shall be submitted to and approved in writing by the local planning authority. Details on the following must be provided:
 - a. visitor and staff numbers;
 - b. staffed hours;
 - c. operating hours;
 - d. how operations will be strictly limited to within the units.

The development shall be carried out in accordance with the approved Operational Management Plan and thereafter maintained.

5. Prior to first occupation of the development hereby permitted, the measures contained within the Noise Assessment report reference: NJD24-0141-001R October 2024 shall be implemented in full and thereafter retained.
6. The rating level of the cumulative sound emissions of the plant hereby permitted, shall be at least 5dBA lower than the existing background noise level at any given time of operation. The noise levels shall be measured or predicted 1m externally to any window at the nearest residential facade. Measurements and assessment shall be made in accordance with BS 4142:2014.
7. Prior to first occupation of the development hereby permitted, 4 car parking spaces with active provision for electric vehicle charging points and 5 car parking spaces with passive charging points shall be provided and thereafter retained.
8. Prior to their installation, details of secure cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be installed and made available for use before the development is first occupied and shall thereafter be retained and kept free from obstructions.

9. Prior to the first occupation of the development, the waste and recycling facilities as shown on drawing no. C24/001/P05 - Renal Dialysis Unit: Planning: Waste Bin Store & HVAC Compound - As Proposed, shall be installed and made available and shall thereafter be retained.
10. Prior to first occupation of the development hereby permitted, a Delivery and Service plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plan.
11. Prior to first occupation of the development hereby permitted, a Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The Fire Safety Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details:
 - a. suitably positioned outside space for fire appliances/ an evacuation assembly point;
 - b. appropriate fire alarm systems;
 - c. passive and active fire safety measures;
 - d. appropriate construction details to minimise the risk of fire spread;
 - e. provision of suitable and convenient means of escape/ an evacuation strategy;
 - f. provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development.

The development shall be carried out in accordance with the approved Fire Safety Strategy.

END OF CONDITIONS