



Appeal Decision

Hearing (Virtual) held on 22 October 2025

Site visit made on 23 September 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2025

Appeal Ref: APP/Z5630/W/25/3369625

26 Victoria Road, Surbiton KT6 4JZ

- 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 Nick Woodworth of QPD2 Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 25/00152/FUL.
 - The development proposed is the change of use from office at first and second floors to 6 no. residential units.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use from office at first and second floors to 6 no. residential units at 26 Victoria Road, Surbiton KT6 4JZ in accordance with the terms of the application, Ref 25/00152/FUL, and subject to the conditions in the attached schedule at the end of this decision.

Applications for costs

2. An application for costs has been made by Mr Nick Woodworth of QPD2 Ltd against the Council of the Royal Borough of Kingston Upon Thames (RBKT), this is the subject of a separate decision.

Preliminary Matters

3. A signed Section 106 agreement dated 23 October 2025 (S106) has been submitted after the close of the hearing. The S106 would provide a financial contribution towards affordable housing, along with an early and a late-stage review to assess whether any further affordable housing contribution would be required, and obligations regarding car free housing. The S106 is based on a version that was agreed between the main parties and referred to at the hearing. I shall return to the S106 later in my decision.
4. Both main parties have agreed that there are no relevant emerging planning policies that are relevant to the appeal, and the appeal has been determined on this basis.
5. The submissions made by both parties within their written responses to the appellant's costs application (that were provided after the hearing), commented further on the main issues on this appeal. Those comments have not been considered in my determination of the appeal as they were made after the closure of the hearing and outside of the timetable for providing comments. Furthermore,

there would be unfairness by me accepting the new information, when another party has not been able to comment on it.

Main Issues

6. The main issues are:

- the loss of the employment use at the appeal site;
- whether an affordable housing contribution would be required from the proposed development; and
- the proposed housing mix.

Reasons

Loss of employment use

7. Policy DM17 of the Royal Borough of Kingston Upon Thames Core Strategy, Local Development Framework, adopted April 2021 (CS) says all employment premises will be protected for employment uses, to meet business needs and provide employment. Alternative uses will not be acceptable on these sites 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. Policy E1 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) provides support for the re-use of offices for housing, although it also seeks to retain viable office uses, and its supporting text requires evidence of marketing for at least 12 months, or longer, if required by a Borough's development plan. Furthermore, LP Policy SD6 requires the vitality and viability of London's varied town centres, to be promoted and enhanced and also encourages residential development within or on the edge of town centres to optimise residential growth. In addition, CS Policy CS11 seeks to promote the redevelopment, renewal and modernisation of existing office stock (which may include integrating office space and residential uses into mixed use developments).
8. The Kingston Upon Thames Employment Land Review, Final Report, Royal Borough of Kingston Upon Thames, dated March 2022, prepared by Lichfields (ELR) finds that office space tends to be concentrated within and near town and district centres, rail and main road routes. It states that the market will rebound following the covid pandemic and prime areas such as Surbiton will continue seeing office demand in the future. Vacancies within RBKT's office stock was said to have increased due to the pandemic, vacancy rates are said to vary significantly by type, age and location. It also says that vacancies are generally low with good quality Grade A new office accommodation in areas such as Surbiton, with little demand for Grade B office space, particularly older premises that no longer meet modern business needs. The ELR says that when considering past trends and the covid pandemic, there would be a need for 42,750 square metres of office space up to 2041.
9. The office accommodation (covering 689 square metres of floorspace across first floor and second floor level), is said to be low quality and classed as Grade D, it has been vacant since 2015. The reasons why it is vacant are said to be related to its poor entrance into the building; obsolete specification; the start-up costs to occupy it; and its non-compliance with EPC requirements. The Statement provided

by Coughlan Real Estate shows that the first and second floor accommodation, the subject of this appeal, has been marketed since October 2022, for both rent and for sale, with very little interest and no offers. There is no dispute between the main parties regarding the office accommodation having been marketed for more than 2 years, nor the price it was marketed for sale or rent. In addition, there is no disagreement regarding the viability report that demonstrated upgrading the offices would not be viable, nor that the offices should be marketed for any other employment uses, and I also see no reason to disagree. The areas of disagreement relate to the 'shell' condition of the offices; whether its parking and accessibility should be reasons why a future occupier for the offices have not been found; home working changes following the covid pandemic; and future need for offices in this location.

10. The condition of the offices, although described by the appellant as an opportunity and a benefit to a prospective tenant, could deter a new user. However, I do accept the appellant's comments that they do not want to fit out the offices until a tenant is found, as it is unknown if they would occupy both floors or whether there would occupy separate parts of each floor, which would dictate the requirements for toilet and kitchen facilities.
11. I agree with the Council there is no mention of the 3-month turnaround for fitting out the offices within the marketing particulars, although the appellant said they would do this as soon as possible, should an agreement be made for an occupier(s) as they want to let the offices. I have no evidence to indicate that a relatively quick fit out would not be possible. It is also noted that whilst CS Policy DM17 and LP Policy E1 require marketing, neither specify the condition of the offices, and Mr Coughlan pointed out that the marketed price reflected the condition of the offices and the desire to find an occupier for them, and they would be available in either their current condition or as fitted out to suit. Against this, and the viability report agreed between the main parties, I was not persuaded that the 'shell condition' of the offices was a justified reason for refusal.
12. Neither Policy DM17 nor Policy E1 require offices to provide suitable car parking facilities. Although, the appeal site's lack of on-site parking and its location within a controlled parking Zone (CPZ) would not be attractive to some office occupiers, its location within the town centre, and proximity to Surbiton Train Station, and bus stops, could be an attraction to other occupiers. I am not convinced that the need to market the offices detailing the possibility of parking being available nearby, would be reasonable, and most prospective occupiers would be able to make their own enquiries regarding parking. Consequently, this would not be a justifiable reason to refuse the application.
13. Even if there would be a greater demand for office space in Surbiton Town Centre as set out within the ELR in the longer term, the proposed development must be considered now on the evidence available. There has been sufficient time since the covid pandemic to properly test the market, for such office demand according to current homeworking trends. It is also said that there is currently a vacancy rate of 44% of office space in Surbiton (and the proposal would reduce this to 41%), which is said to include Grade A office space in nearby Platinum House. The office space has been marketed in accordance with CS Policy DM17 and LP Policy E1, well beyond the 2-year marketing period, which has demonstrated there is no quantitative or qualitative demand for the offices, the points raised by the Council have not persuaded me that the marketing has not been rigorous or robust or that

longer term projection of office requirements within the ELR would override the relevant development plan policies.

14. The Council say it was always the intention of the appellant to undertake residential development and not find an occupier for the office space. However, after considering the evidence carefully I do not share that opinion.
15. It was also said that the extant permission granted in 2022¹ (the 2022 permission) for development including 8 no. flats allowed some loss of office space given the upgrading to the retained office space (the subject of this appeal). Be that as it may, that was a consideration on an earlier application, and it does not lead me to conclude differently regarding the demand for the office use on this appeal.
16. I therefore conclude that the loss of the office use at ground and first floor level for residential development within the town centre, would be acceptable and there is no demand for this office space at the appeal site. In doing so, I find the proposed residential development would comply with the relevant parts of LP Policies E1 and SD6, and CS Policies DM17 and CS11, in terms of the requirements which are set out above.

Affordable housing

17. There is no dispute between the main parties that in view of paragraph 65 of the Framework, which says affordable housing should not be sought for residential developments that are not major developments, is a significant material consideration that outweighed the earlier CS Policy DM15, which requires an affordable housing contribution from between 6-10 units. Consequently, it was agreed between the main parties that no affordable housing contribution was required from the proposed development of 6 no. flats on its own, and I see no reason to disagree.
18. The only point of disagreement is whether the proposed development and the 2022 permission should be considered together for affordable housing purposes, meaning such a contribution would be calculated based on 14 no. dwellings, which would be major development. In that eventuality, LP Policy H4 sets out a strategic target for 50 percent of all new homes delivered across London to be affordable and that major developments which trigger affordable housing requirements should be subject to the relevant threshold. Policy H5 sets a threshold level of 35% affordable housing in cases such as this proposed change of use. CS Policy CS10 also seeks to maximise the delivery of affordable housing. There was no relevant policy relating to what the Council say is a staggered delivery of housing, to avoid affordable housing contributions.
19. In response to the Council's claim that the 2022 permission was artificially staggered to avoid affordable housing, the appellant has submitted a copy of a HM Land Registry Transfer of Whole Registered Title Form dated 18 November 2022, after that permission had been granted. That transferred the appeal site from Marylebone Estates Limited to the appellant. At the hearing the appellant confirmed that there was no involvement or option to purchase the appeal property before it was granted permission, nor is there any ongoing business or legal relationship with the former owner. Their purchase was said to have occurred following marketing by an agent and a subsequent transaction between the

¹ Ref. 21/01831/FUL

respective companies taking place, all occurring after planning permission had been granted.

20. The appellant confirmed they implemented the 2022 planning permission, with the 8 no flats and ground floor Class E unit now said to be occupied. In relation to the first and second floor offices, the subject of this appeal, the appellant outlined how a lift shaft (part of the 2022 permission) has been constructed internally to serve them, and how alterations, including structural works, already undertaken would require significant re-working from that approved on the 2022 permission, to take account of this proposed change of use. All of which they say would not have been undertaken had they intended to convert these offices to residential use.
21. The 2 no. section 73 applications² and a minor material amendment application made by the appellant following their purchase of the appeal property relate to minor changes to the scheme. The appellant says they include compliance issues, to reflect works that had already been undertaken and they related to the development that was already approved.
22. It was also said that one of the section 73 applications was concerned with issues identified by the case officer on an application for a certificate of lawfulness³ relating to the implementation of the 2022 permission, that application was made in 2024 and is currently undetermined (the reasons for this were not clear), although the appellant maintains it is completed. Whilst some of the conditions on the 2022 permission and successive amendments may not have all been discharged, from my own site observations the 2022 permission appeared to be substantially complete, indeed comments have been received from interested parties who occupy some of the flats that were part of the 2022 permission. None of these section 73 or minor amendment applications are particularly unusual following planning permission having been granted, and I am not convinced they provide any evidence of the appellant deliberately seeking to artificially stagger the delivery of the flats to avoid an affordable housing contribution.
23. Moreover, there was an interval of nearly three years following the grant of planning permission for the 2022 permission and the submission of the appeal proposal, with intervening marketing of the first and second floors for an office use for most of this time. Against this background and my findings above, I have no evidence that the delivery of flats at the appeal site has been artificially staggered to avoid affordable housing contributions, nor do I consider on the basis of the information before me that it is likely to have occurred, neither would the proposed development be part of a continuous ongoing development. It is therefore not reasonable to combine this proposed development along with the 2022 permission to calculate any affordable housing contribution.
24. As a result, I do not find the £11,100 off-site financial contribution contained in the submitted S106 for this minor development to be reasonable or necessary to make the development acceptable, nor would the early and the late-stage review clauses be reasonable or necessary. In accordance with clause 4.7 of the S106, no weight is attached to the affordable housing obligations, and they are inconsistent with Regulation 122(2) of the Community Infrastructure Levy Regulations (CIL Regs.).

² Ref. 20. 24/01946/FUL and 24/02730/FUL

³ Ref. 23. 24/00433/CEU

25. I therefore conclude that no affordable housing contribution from the proposed development is necessary, and although there would be conflict with CS Policies CS10 and DM15 in terms of not maximising affordable housing contribution from a development of 6 no. units, this is outweighed in this case by paragraph 65 of the Framework, which is a significant material consideration, and says affordable housing contributions from residential developments should not be required from developments that are not classed as major development.
26. In view of my findings above, regarding the proposed development being assessed in isolation and not being major development, there would be no conflict with LP Policies H4 and H5.

Housing mix

27. The proposed development includes 2 no. 2 bedroom flats and 4 no. 1 bedroom flats. CS Policy DM13 says amongst other things, that to deliver the most appropriate type of housing, developments should incorporate a mix of unit sizes and types and provide a minimum of 30% of dwellings as 3 or more bedroom units, unless it can be robustly demonstrated that this would be unsuitable or unviable.
28. LP Policy H10 also supports a mix of housing units, as required by local need. It further states that consideration should be given to optimising housing, with a higher proportion of one and two bed units generally more appropriate in locations which are closer to a town centre or with good connectivity. It also adds that when considering the need for additional family housing, the role of one and two bed units in freeing up existing family housing can be relevant. The Kingston Local Housing Needs Assessment, Final Report, dated September 2024, prepared by Icení (LHNA) shows a need for 3-bedroom market housing, recommending that 50% of units should be 3-bedroom, 25% should be 2-bedroom, and 5% should be 1 bedroom. Furthermore, at paragraph 8.36, of the LHNA there is acknowledgement that the nature and the location of a site amongst other factors may mean that its desired housing mix is not always possible, and that it should not be applied prescriptively in every case.
29. The proposed flats would be at first and second floor level, accessed by stairs, with no private amenity space. Shared communal space at roof level on the fourth floor of the appeal property would be accessed via another entrance to the building to its rear side from St Andrew's Road. Notwithstanding the flats approved on the 2022 permission, which have a different layout, in this case the arrangement and layout of the proposed flats including access to communal amenity space, together with their location in the town centre, strongly indicates to me that they would not be suitable for family sized 3-bedroom accommodation.
30. Whilst the proposed housing mix would not directly meet the need for 3-bedroom accommodation, the LHNA also shows a need for 1- and 2-bedroom properties, and the proposed flats could help release family sized accommodation by allowing opportunities for occupiers to downsize. In addition, the LHNA is clear that its identified housing mix should not be rigidly applied in every case.
31. At the hearing the Council said the appeal site was an 8-minute walk from The Wood, an area of public open space. That space is located on the opposite side of the railway line and was said not to provide any play equipment. Whilst this would likely be of some benefit to future occupiers of the proposed development it is

unlikely to justify why the proposed development would be suitable for 3 or more bedroom units (family sized accommodation), given its separation from the appeal site.

32. I therefore conclude that it would be unsuitable to provide units of accommodation that have 3 or more bedrooms within the proposed development, and there would be a satisfactory housing mix, which would comply with relevant requirements of CS Policy DM13 and LP Policy H10, in terms of the requirements which are set out above.

Other Matters

Car-free housing

33. In view of my findings above, I must also assess whether the car free housing obligations within the S106 meet the tests set out in Regulation 122(2) of the CIL Regs., and paragraph 58 of the Framework.
34. The appeal site has a Public Transport Accessibility Level 4 (PTAL 4), which indicates it has a good level of connectivity. Victoria Road and neighbouring St Andrews Road are located within the CPZ, with parking restricted at certain times, whereby a resident parking permit would be required to occupy a parking space. Although only a snapshot in time, I saw on my site inspection that there was limited available parking spaces in the immediate area surrounding the appeal site and most of the areas immediately in front of it had double yellow lines. There is also no off-street parking available at the appeal site itself.
35. The S106 prevents occupiers of the proposed dwellings, except for disabled persons, from obtaining a parking permit that enables them to park within the CPZ, and requires the provision of a Car Club scheme be available for future occupiers of the proposed development.
36. LP Policy T6 says that car free development should be the starting point for all new development in well-connected areas, and that in such areas there should be no general parking for future occupiers, except disabled persons. It is also noted that there are bus stops near to the appeal site and Surbiton Train Station is a short distance away. The proposed development also provides for other sustainable travel options, including cycling.
37. Against this background I find the car free housing obligation is reasonable and necessary to make the development acceptable and related in scale and kind to it, as such it meets the tests set out in Regulation 122(2) of the CIL Regs., and paragraph 58 of the Framework and complies with LP Policy T6.
38. In accordance with Clause 4.7 of the S106 I attach weight to the car-free housing obligations in my decision.

Heritage Assets

39. The appeal site is located within the Surbiton Town Centre Conservation Area (the CA), which includes a variety of architecture and uses, mainly along part of this side of Victoria Road and part of Brighton Road. It is designated due to its special architectural and historic interest, and comprises mainly terraced buildings, many having commercial uses. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in

conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In this case, the proposed change from an office to 6no. flats at first and second floor level, would involve minimal external alterations, limited to a high-level vent. I find the change of use and minor alteration would ensure the character and appearance of the CA would be preserved, consistent with the duty within the Act.

40. For the same reasons above, and due to the separation distance, I also find there would be no harmful effects upon the setting of nearby St Andrews Square Conservation Area.
41. I have also had regard to objections from local residents and others received in addition to the issues above, including but not limited to, the effect of the proposed development on the living conditions of neighbouring occupiers, including from construction works, its effect on the Surbiton Town Centre and local economy, and the effects on the character and appearance of the area. Whilst I can understand the concerns, subject to planning conditions as appropriate, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Conditions

42. The main parties provided a list of agreed conditions after the event. This list has formed the basis of the conditions I have imposed, which have been altered to ensure they meet the tests set out in paragraph 57 of the Framework. The appellant confirmed their written agreement to the pre-commencement condition (3) is contained within the Statement of Common Ground.
43. A standard implementation condition has been imposed (1), along with a condition listing the approved plans (2), to provide certainty over what has been approved.
44. To protect the living conditions of neighbouring occupiers, a condition (3) is necessary in respect of a Construction Method Statement (CMS). This condition has also combined a recommended condition relating to the noise levels of machinery. The suggested condition referred to GLA guidance, which I did not have a copy of, so I could not be certain it was reasonable to require adherence to that guidance within the condition I imposed.
45. Condition 4 prevents use of parts of the roofs other than already approved uses, and Condition 5 limits any new external plant, fans, louvres, ducts, and lighting not already shown on the approved plans, these conditions are both reasonable and necessary to protect the character and appearance of the building and the area, and also to protect the living conditions of future and existing occupiers. Condition 4 also incorporates a suggested condition relating to noise ratings for any plant. A condition (7) has also been imposed to ensure that future occupiers have satisfactory living conditions in respect of noise and ventilation and to ensure compliance with a submitted noise assessment.
46. A condition (8) is necessary to ensure adequate provision in accordance with the submitted details is provided for refuse and recycling at the appeal property to provide satisfactory living conditions for future occupiers. To also ensure future occupiers have access to sustainable travel options and ensure the safety of their cycles, condition (9) is necessary regarding the installation of secure cycle parking in accordance with those details shown on the approved plans. Conditions (9 and

10) are also necessary to minimise fire risks for future occupiers and to ensure they have access to the existing rooftop communal amenity area respectively, both conditions are necessary to ensure future occupiers have satisfactory living conditions. Condition 11 to limit water consumption is reasonable and necessary to comply with CS Policies DM3 and DM4.

47. I was not persuaded that a condition relating to access requirements in relation to building regulations was reasonable and necessary, given that the proposed development is changing the use of existing accommodation at first and second floor level, and the staircase and access is already existing, and because no concerns have been raised regarding this existing arrangement.

Conclusion

48. Although there would be minor conflict with CS Policies CS10 and DM15, this is outweighed by paragraph 65 of the Framework, and the proposed development would accord with the development plan when taken as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. For the reasons given above, I conclude that the appeal should be allowed.

A Hunter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jonathan Woodcock, Architect (ARB)	Director - QPD2 Ltd
Mr Sam Stackhouse, MRTPI	Partner - Montagu Evans
Mr Nick Coughlan	Director - Coughlan Real Estate
Mrs Trina Froud, Senior Development & Viability Surveyor	Kempton Carr Croft

FOR THE COUNCIL:

Miss Lucy Barrett (B Urban and Regional Planning (Hons)	Team Lead - Development Management – RBKT
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DOCUMENTS

The appellant's Vacant Building Credit Note, undated, received by email dated 10 October 2025.

Commuted Sum Calculation Addendum, dated 10 October 2025, by Kempton Carr Croft, received by email dated 10 October 2025.

A signed Section 106 Agreement, dated 23 October 2025, provided by email dated 24 October 2025.

A list of agreed conditions, provided by email dated 24 October 2025.

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The approved development shall be carried out in accordance with the following drawing no's: 001 rev B (site location plan); 002 rev A (proposed block plan); 004 rev A (proposed site plan); 150 rev A (proposed ground floor plan); 151 rev A (proposed first floor plan); 152 rev A (proposed second floor plan); 153 rev A (proposed roof terrace plan); 190 rev A (proposed fire assembly point); 301 rev A (proposed elevations); 204 rev B (existing and proposed section); 302 (proposed rear and side elevations); 200 (proposed ground floor fire safety plan); 201 (proposed first floor fire safety plan); 202 (proposed second floor fire safety plan); and 203 (proposed roof terrace fire safety plan).
- 3) No development shall take place (including any works of demolition) until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall provide for:
 - (a) Hours of working that shall be limited to 08.00 to 18.00 Mondays to Fridays and between 08.00 to 13.00 on Saturdays and not at all on Bank Holidays and Sunday);
 - (b) Details of how materials and plant will be loaded/unloaded and stored at the appeal site;
 - (c) How deliveries to the appeal site will be managed;
 - (d) Any signing system for construction works traffic;
 - (e) The parking of vehicles associated with the construction works, including by employees/contractors and visitors; and,
 - (f) Measures to mitigate impacts from dust, emissions, and noise during the demolition and/or construction phase, including what machinery would be used, such as Non-Road Mobile Machinery (NRMM).The approved construction management plan shall be adhered to throughout the construction period.
- 4) With the exception of the area identified as "Landscape Terrace" on Drawing No. 153 rev A (proposed roof terrace plan), the flat roof areas of the development to which this permission relates shall not be used as a roof garden, balcony, seating area or other similar amenity area, and they shall not be accessed except for the purpose of maintenance or in the case of emergency.
- 5) No fans, louvres, ducts, external lighting or other external plant, other than those shown on the drawings hereby approved shall be installed without the written approval of the Local Planning Authority. Except for any external lighting, such a request shall include details of the noise rating of the equipment to be installed. Any approved fans, louvres, ducts, external lighting or other external plant shall thereafter be installed in accordance with the approved details.
- 6) Prior to the first occupation of development hereby approved, the measures contained within Sections 8 and 9 of the submitted Noise Impact Assessment (ref: v1.1, dated 11th December 2024), shall be implemented in full and permanently retained thereafter.
- 7) Prior to the first occupation of the development hereby approved, precise details of secure cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved cycle parking facilities shall also be installed and available for use prior to the first occupation of the development and shall thereafter be permanently retained for that purpose and kept free from obstruction.
- 8) Prior to the first occupation of the development hereby approved, precise details of waste and recycling facilities shall be submitted to and approved in writing by the

local planning authority. The approved refuse and recycling facilities shall also be installed prior to the first occupation of the development and shall be permanently retained for that purpose thereafter.

- 9) The development shall be undertaken in accordance with the approved Fire Safety Strategy (dated January 2025) and thereafter maintained.
- 10) The occupiers of the development hereby approved, shall have unrestricted access to the rooftop amenity space as shown on drawing no. 153 rev A from their first occupation, and for the lifetime of the development hereby approved.
- 11) Prior to the first occupation of the development hereby approved, precise details to demonstrate internal water usage rates of no greater than 105 litres per person per day shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details and maintained throughout the lifetime of the development.

End of Schedule of Conditions