



Appeal Decision

Site visit made on 4 November 2025

by E Everitt BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2025

Appeal Ref: APP/Z5630/W/25/3370343

60 Richmond Road, Kingston Upon Thames KT2 5EH

- 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 Peter Wheatley of Rushcatch Limited against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 25/00090/FUL.
 - The development proposed is change of use from office to 2 no 1bed flats, refurbishment of the upper two floors, erection of rear dormer with rear access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a revised plan as part of the appeal process, reducing the size of the proposed bedrooms. While I note the Council's comments on this matter and the appeal process should not be used to evolve a scheme, the revised plan would not materially change the proposal subject of the original application. Given that interested parties have had the opportunity to comment on the revisions, I do not consider that the Council or other parties would be prejudiced by my acceptance of the revised plan. I have, therefore, had regard to it in determining the appeal.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the supply of employment floorspace; and
 - whether the proposed development would provide acceptable living conditions for future occupiers, with regard to the provision of internal space.

Reasons

Employment floorspace

4. The appeal property currently comprises office space located at first and second floor level, above a hot food takeaway. The building forms part of a parade which consists of predominantly commercial uses at ground floor level and a range of uses at first and second floor level.

5. I observed on site that the office space is vacant. Within the appellant's submission it is asserted that the office has been effectively vacant since 2023. However, details have been provided of a lease which was terminated as at June 2025, some months after the planning application for the proposed development was determined.
6. The appellant has provided a letter from an agent which comments upon the current market for office space such as that provided within the appeal property. The letter asserts that there is limited prospect of finding a new tenant for the office at an acceptable market rent. In a similar vein, my attention has been drawn to the Council's Employment Land Review from 2022 which identifies that demand is very limited for Grade B premises, particularly within older premises.
7. Nevertheless, there is no evidence of marketing of the appeal property before me. As such, in the context of there having been a recent lease agreement, it has not been demonstrated that there is no demand for the office space.
8. I acknowledge that planning permission has been granted for the loss of commercial floorspace elsewhere within the parade of which the appeal site forms part, for example at No 52. Whilst I do not have full details of the case before me, the redevelopment of No 52 included the loss of a different commercial use. The case is, therefore, not directly comparable to the proposal before me. In any event, each case must be assessed on its own individual circumstances.
9. For these reasons, I conclude that the proposed development would have a harmful effect on the supply of employment floorspace. As such, the proposal would not comply with the relevant provisions of Policy DM17 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy 2012 (Core Strategy) and Policies E1 and E2 of the London Plan 2021. These policies seek, among other matters, to protect existing employment floorspace unless it has been demonstrated by sound evidence and rigorous marketing that there is no quantitative or qualitative need for a range of employment uses.
10. Refusal reason 1 on the Council's decision notice also refers to Policies E3 and E9 of the London Plan 2021. However, these policies relate to the provision of affordable workspace and retail which are not matters in dispute between the parties. Accordingly, I find no conflict with Policies E3 and E9 in relation to this main issue.

Living conditions

11. The proposal development would create 2 flats which would have a floorspace of 40sqm and 46sqm respectively. I acknowledge that the appellant indicates that each flat is intended for single-occupancy and that the floorspace exceeds the minimum space requirements for a one person flat identified within Policy D6 of the London Plan 2021.
12. However, the plans before me demonstrate that the bedrooms proposed would be of sufficient size to be 2 bedspace bedrooms in accordance with the standards set out in Policy D6. The total floorspace for the flats would not accord with the relevant space standard for a 2-person dwelling, with shortfalls of 10sqm and 4sqm respectively. While neither would be acceptable, the shortfall of 10sqm compared to the standard, which itself is to be treated as a minimum, represents a particularly substantial shortfall in internal space provision.

13. The appellant has brought to my attention 2 appeal decisions regarding this matter¹. Although I have only limited information before me in respect of those cases, they, notably, are located in different Boroughs and one predates the current London Plan. These decisions, therefore, only carry limited weight in favour of the development. In any event, each case must be assessed on the basis of its own individual circumstances. I have reasoned above why I have identified harm based on the proposal before me. Ultimately, therefore, the findings in those other cases do not lead me to change my conclusion in respect of the appeal site.
14. Taking account of the above, I conclude that the proposed development would not provide acceptable living conditions for future occupiers, with regard to the provision of internal space. In this regard, the proposal would not accord with the relevant provisions of Policy DM10 of the Core Strategy and Policy D6 of the London Plan 2021. Amongst other matters, these policies seek the provision of adequately sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners and development which has regard to the amenities of occupants.

Other Matters

15. The appellant has drawn my attention to the Kingston Town Centre Area Action Plan 2008, in particular to Policies K2, K7 and P20. These policies, amongst other matters, support the provision of new housing in the town centre and the change of use of upper floors above shops to uses including residential which maintain or enhance the character and vitality of the centre and broaden the range of services. The Council has also brought to my attention Policy K4 which seeks to protect existing office floorspace, unless a loss would be outweighed by the achievement of other objectives in the Area Action Plan. The provision of housing on the appeal site would contribute towards the achievement of objectives relating to housing and the vitality of the centre. However, I have reasoned above why I have identified harm based on the proposals before me and my observations on site. As such, the Area Action Plan, taken as a whole, does not lead me to an alternative conclusion on the main issues.
16. The appellant has provided a Unilateral Undertaking which would restrict the occupiers of the proposed flats from applying for on-street car parking permits. While I acknowledge that this would mitigate the effect of the proposed development on parking demand, this matter does not lead me to an alternative conclusion on the main issues.
17. There is no dispute between the Council and the appellant regarding the unit mix, the impact of the proposed development upon the living conditions of occupiers of neighbouring properties or, subject to an appropriate condition being secured in relation to replacement windows, the impact of the proposal on character and appearance. No statutory consultees object to the proposed development. Ultimately, however, these matters do not lead me to an alternative conclusion on the main issues.

¹ APP/G5180/W/22/3299633 and APP/Q5300/W/17/3176904

Planning Balance and Conclusion

18. The appeal proposal would have a harmful effect on the supply of employment floorspace, with no robust evidence provided to demonstrate a lack of demand. It would also not provide acceptable living conditions for future occupiers. As such, the proposal would conflict with the development plan as a whole. I acknowledge that policies adopted by the Council date from 2008 and 2012. However, the Framework make clear that policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework. Policies relating to the protection of employment floorspace and the vitality of Kingston Town Centre are consistent with the emphasis within the Framework of the need to support economic growth and productivity and ensuring the vitality of town centres. As such, I afford them due weight.
19. Nevertheless, the delivery of housing over the past three years has been substantially below the housing requirement. In addition, the Council is currently unable to demonstrate a 5 year housing land supply, with supply currently standing at 1.48 years which represents a serious shortfall. The parties agree that in these circumstances, footnote 8 of the Framework means that paragraph 11d) of the Framework is engaged.
20. Paragraph 11d) establishes that where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless i. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
21. There are no policies in the Framework relevant to the appeal site which protect areas or assets of particular importance, and which provide a strong reason for refusal. Therefore, the balance in paragraph 11d)ii of the Framework applies.
22. The proposal would contribute positively towards the supply of housing in an area where there is a serious shortfall. The housing would be provided in a location which benefits from good access to public transport and on previously developed land, support for which is found in the Framework and the July 2024 Written Ministerial Statement. The development would deliver dwellings which benefit from adequate natural light, ventilation, outlook, privacy and cycle parking. The use would contribute towards the ongoing vitality of the parade. Alongside the benefits once completed, the proposal would result in economic benefits during construction. I give significant favourable weight to these cumulative benefits. However, given the scale and nature of the proposed development, the contribution to housing supply and benefits would be limited in extent.
23. Balanced against this are key policies in the Framework. Paragraph 85 emphasises that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 125 caveats that proposals using brownfield land within settlements should be approved unless substantial

harm would be caused. Paragraph 129 supports the efficient use of land but this is qualified, and account must be taken of the importance of securing well-designed, attractive and healthy places. Paragraph 135 stipulates that planning decisions should ensure that development create places with a high standard of amenity for existing and future users. For the reasons set out in relation to the main issues, I find that the proposal would fall short of these expectations of the Framework.

24. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
25. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. There are no material considerations, including the provisions of the Framework, which would justify determining the proposal other than in accordance with the development plan. Therefore, the appeal should be dismissed.

E Everitt

INSPECTOR