
Appeal Decision

Site visit made on 30 September 2025

by **N Armstrong BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2025

Appeal Ref: APP/H5390/W/25/3364782

Talina Centre, 23A Bagley's Lane, Hammersmith and Fulham, London SW6 2BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by CC Construction against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2024/03220/VAR.
 - The application sought planning permission for use of the industrial units to allow flexible uses of the units within Classes B8/E(e)/E(g) without complying with a condition attached to planning permission Ref 2023/02158/FUL, dated 19 April 2024.
 - The condition in dispute is No 14 which states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) and the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, no change of use from Use Class E (commercial, business and service uses) to Use Class C3 (dwellinghouses) shall take place without the benefit of an express planning permission"*.
 - The reason given for the condition is: *"To safeguard the continued use of the light industrial estate as commercial premises and in the interest of the protection of residential amenity and living conditions in accordance with policies CC11, CC13, E1, E2, E4 and HO11 of the Local Plan (2018)"*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A representation has been submitted by an interested party suggesting that the appeal does not relate to a valid planning application. The appellant and the Council have had the opportunity to comment on this. I have no compelling evidence to clearly demonstrate that the requirements of Article 13(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) have not been adequately satisfied with regard to the serving of notice of the application. I have therefore proceeded to deal with the appeal on the basis of the information before me.

Background and Main Issues

3. The planning permission granted under application reference 2023/02158/FUL permitted flexible use of the industrial units at the appeal site. Condition 3 of the permission restricts the use of the units to those described as "Use Class B8 - storage and distribution, Use Class E(e) - medical services not attached to the residence of the practitioner, Use Class E(g) - i. office, ii. the research and development of products or processes or iii. any industrial process (which can be

carried out in any residential area without causing detriment to the amenity of the area)".

4. Condition 14 of the permission is the subject of this appeal, which restricts the change of use from Use Class E (commercial, business and service uses) to Use Class C3 (dwellinghouses). In the absence of any restriction otherwise, such development is normally permitted under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), subject to conditions and limitations.
5. The main issues are whether the condition is necessary and reasonable to fully consider the effects of a proposal on:
 - the amount of land available for industrial, commercial and employment use; and
 - the living conditions of potential future occupiers of residential use.

Reasons

Availability of land for industrial, commercial and employment use

6. The appeal site comprises a relatively large group of purpose-built commercial properties that are occupied by various uses, excluding one unit, which the evidence indicates is in residential use previously permitted under the GPDO. The units are laid out in a linear pattern either side of the internal access roads and are of similar form and appearance. Due to their scale and design, including materials, glazed openings and roller shutter doors, they are fairly typical of buildings that could be used for lighter industrial, warehouse and office type uses.
7. The site has been subject to an earlier permission¹ allowing light industrial development, which restricted the use of the site and subsequent changes of use by conditions. Condition 14 was imposed on the current permission "to safeguard the continued use of the light industrial estate as commercial premises and in the interest of the protection of residential amenity and living conditions". This provides clear and precise reasons for imposing it at the time planning permission was granted. The granting of the permission and the current use of the site suggest a continuing need for the uses that fall within the terms of the permission. I have no evidence before me to indicate that there is an issue with vacancy of the units or that this is not a suitable location for the types of businesses that are permitted. The planning application also appears to have been submitted with the intention of widening the flexibility for employment uses to operate on the site to maintain its vitality and viability.
8. Amongst other things, Policies E1 and E2 of the Hammersmith & Fulham Local Plan (2018) (the LP) support the retention of existing employment uses and seek the retention of land and premises capable of providing continued accommodation for employment. In particular, Policy E2 sets out specific criteria that need to be satisfied when assessing proposals for the loss of employment use. The justification for the policies highlights a demand for accommodation from small and medium sized enterprises, as well as the loss of what was then 'B class' stock in the borough, partly as a result of permitted development as well as planning permissions. Robust evidence is required in respect of applications for the loss of

¹ Application ref 1983/01351/FUL

employment use, indicating aims to retain such land and buildings to support the economic development objectives in the borough.

9. Whilst it is not an allocated site in the development plan, there is no dispute between the parties that the site is part of the Council's non-immediate Article 4 Direction intended to restrict Class MA permitted development rights, which is scheduled to come into force on the 5 December 2025. The Council suggests that the evidence base for this highlights the site is of considerable importance to the borough as light industrial/employment land for small and medium enterprises, although I have not been provided with any further details of this or the Article 4 Direction. I therefore give the proposed Article 4 Direction limited weight at this stage. However, as this relates specifically to Class MA of the GPDO, it gives an indication of the Council's intention to remove these permitted development rights for the site. This is consistent with the objectives of the development plan.
10. If allowed, the removal of the condition, would apply to all of the units on the appeal site. Whilst it may not be the case that all units would change to residential use, the extent of the permitted development rights and potential loss of the units for their current permitted uses would significantly undermine the economic development objectives of the LP. It would also undermine the intentions of the proposed Article 4 Direction. The condition removing permitted development rights would not preclude any development from taking place at all but would enable further assessment of any proposals. This would include whether a satisfactory form of development could be achieved having regard to the development plan and that sufficient employment land is available to meet the economic development needs of the area.
11. I have had regard to paragraph 55 of the National Planning Policy Framework (the Framework), which states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so, as well as the Planning Practice Guidance (PPG) on the use of conditions. For the reasons that I have given, I find that clear justification exists on this main issue.
12. I conclude that the condition is necessary and reasonable in order to be able to fully consider the effects of any future proposal to change the use of the units, with regard to the amount of land available for industrial, commercial and employment use. The proposal therefore conflicts with Policies E1 and E2 of the LP, the aims of which are set out above. I also find that the condition passes the tests in the Framework and the PPG, and it is necessary and reasonable having regard to these.

Living conditions

13. The appeal site is situated in an area with a mix of uses, which include those commercial units on the site itself and a relatively large depot facility immediately adjoining the full length of its eastern boundary. Residential development is prevalent in the wider area of the appeal site. During my visit I did not find the site and surrounding area to be a significantly noisy environment, although this was for a limited time of the day. Background noise was generally consistent with what might be expected in an urban environment with a mix of uses, and this predominantly consisted of road traffic and vehicles manoeuvring around the appeal site and the adjacent depot.

14. Before beginning development under Class MA of the GPDO, a developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required for certain matters. Amongst other things, these include “impacts of noise from commercial premises on the intended occupiers of the development”, and “the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses”.
15. Due to the proximity to commercial uses on the site and in the immediate area, the potential effects from noise on the living conditions of any future residents would be an important material consideration to ensure an acceptable form of residential development with high standards of amenity for future occupiers could be achieved. This would also be particularly relevant to assess a proposal in the context of the ‘agent of change’ principle and any necessary mitigation as set out in the development plan and at paragraph 200 of the Framework.
16. Whilst I acknowledge these concerns, as well as the possibility that residential use could potentially be introduced to any number of units, taking into account the nature of the uses that are already permitted on the appeal site, the potential effects of a change of use on future occupiers could reasonably be assessed where necessary under the existing provisions of the Class MA prior approval procedure.
17. I have limited information before me to indicate that there are a lack of residential facilities in the area, or that this would not be a suitable location for residential development in terms of access to services. From my observations, the site would be compatible with other residential development in the area in terms of its location and accessibility. Overall, I do not have any compelling evidence to demonstrate that condition 14 is required in relation to its location relative to services and facilities, or to be able to consider the impacts of any future change of use on the amenity of future residents.
18. I conclude that the condition is not necessary and reasonable to fully assess a proposal on the living conditions of potential future occupiers of residential use. Therefore, the proposal would not conflict with Policies CC11, HO4, HO11 and D13 of the LP in this respect. Amongst other things, these policies seek to ensure noise sensitive development is situated in the most appropriate locations, and housing development provides a high quality residential environment and standard.

Other Matters

19. I note the reference to other applications² that have permitted the change of use to residential development in this location. These were submitted prior to the grant of planning permission to which this appeal relates, and were determined under previous versions of the GPDO with different requirements to the current Class MA. I do not have full details of these before me, however, I have assessed the current application on its planning merits, and these previous approvals do not alter my conclusion that the condition is necessary and reasonable for the reasons set out.

² Application refs 2016/03712/PD56 and 2017/00822/PD56

Conclusion

20. Without the condition, it would not be possible to fully consider the effects of any future changes of use of any of the existing units. Therefore, the condition is necessary and reasonable in the interests of ensuring there is sufficient land available for industrial, commercial and employment use in the area. For the reasons given above, I conclude that the appeal should be dismissed.

N Armstrong

INSPECTOR