



Appeal Decision

Site visit made on 22 October 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/B0230/W/25/3369141

80 Talbot Road, Luton, LU2 7RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Maureen Peters against the decision of Luton Borough Council.
 - The application Ref 25/00271/FULHH was approved on 19 June 2025 and planning permission was granted subject to conditions.
 - The development permitted is erection of a single storey rear extension and a rear dormer with two front rooflights to facilitate a loft conversion.
 - The condition in dispute is No.5 which states that: The building(s) and/or site shall be used as a single family dwelling house as specified within Class C3 specified in the schedule to the Town and Country Planning (Use Classes) Order, 1987, (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and for no other purpose.
 - The reason given for the condition is: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.
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Decision

1. The appeal is dismissed.

Main Issue

2. The issue in this case is whether it is appropriate to use a condition to restrict the future use of permitted development rights on this permission having due regard to local housing needs and the advice of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

Reasons

3. The application relates to a two storey residential property situated in Talbot Road, Luton, a road of terraced houses. The surrounding area is comprised of residential dwellings of similar architectural design. Several other properties within the area have previously erected rear extensions and dormer windows.
4. In this case, I consider that the main policies that should guide my decision are set out in the NPPF and PPG. As the appellant points out, NPPF paragraph 55 is clear when it states, "*planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.*" It is contended that no such clear justification has been presented. The PPG says that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.

5. The appellant points out that the application was for a householder permission for modest additions to an existing property: the council appear to be using the appeal condition to restrict the owner's permitted development rights for a future use which may or may not occur.
6. Also of relevance is NPPF paragraph 57 stating: "*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*". The PPG states that the 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.
7. As set out in the banner heading above, the reason given for the imposition of the subject condition was "To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area". It is not unusual to have the reason for imposing a condition expressed in concise terms, but in this case, it is necessary to understand the council's reasons for the condition in some detail.
8. The council argues that the floor plans indicate that the dwelling would become a 5 bedroom dwelling and there is significant demand for 4+ bedroom dwellings as identified in the latest Strategic Housing Land Availability Assessment (SHLAA – November 2019), and this is a key objective for meeting local housing needs. An extract from the Local Authority Monitoring Report is submitted, as part of its statement of case. This shows that the predominant form of housing that has been delivered in recent times is in the form of flats. The proposed extension would result in the creation of a 5-bedroom property, which is classified as a larger family home and therefore of particular importance in contributing to the borough's strategic housing mix. Without the condition, the house could be converted into, for example, a small House in Multiple Occupation (HMO) under permitted development rights, which would not add to the stock of needed housing, but would exacerbate the preponderance of small housing units.
9. In this case, the council is not overtly wishing to limit permitted development rights as such, but is simply seeking to prevent a 4+ bedroom house from being divided into a dwelling that does not meet the urgent demand for larger dwellings. This may not be acceptable, save for the fact that the SHLAA presents clear evidence that backs the action. That evidence is sufficient for me to conclude that there are such exceptional circumstances in this instance, backed by a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms.
10. As for the powers of the local planning authority under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 which enable it to withdraw permitted development rights across a defined area, where justified, this is not a path that the council is embarking on, as it is simply responding to an individual case. The fact that this is a householder case does not, in essence, differentiate it from an ordinary application for planning permission. It is an application for planning permission and there is no restriction in applying proper planning consideration to its determination.
11. Turning to the NPPF paragraph 57 statement: "*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*". The PPG states that the 6 tests must all be satisfied each time a

decision to grant planning permission subject to conditions is made. In this case I find that i) the condition is necessary to safeguard the supply of 4-bedroom houses and above; ii) it is relevant to planning, as demonstrated by the SHLAA evidence, and iii) relevant to the extension of accommodation that is permitted; iv) it is enforceable, since evidence of the condition being broken would be reasonably available; v) it is readily understandable – precise in what it prevents; and vi), I consider it is reasonable in all other respects.

12. I would also comment that the reason given for the condition – “*To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area*” was poorly considered and may well have been taken from a standard list of reasons. The reason was not primarily to safeguard the amenities of the surrounding area, although the reason suggests this. However, the officer’s report clearly explains the reason for resisting any change that would result in a loss of a 4+ bedroom house.
13. With regard to the contention that there is nothing to stop the applicant or any neighbouring property from carrying out this development under permitted development rights and subsequently converting the property should they choose, does not appear to relate to this case, where a formal planning application was necessary and where permitted development rights were not relied on.
14. Having considered all the matters raised, in light of the considerations set out above, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR