



Appeal Decision

Site visit made on 21 October 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2025

Appeal Ref: APP/V5570/W/25/3370616

44 Tollington Road, London N7 6PG

- 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 Mr Shloimy Rand against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2025/1386/S73.
 - The application sought planning permission for the conversion of an existing single dwelling house to create two new flats, comprising one 4-bedroom, 5-person unit and one 2-bedroom, 3-person unit. The project includes the demolition of the existing rear ground floor extension and the erection of new rear ground and first floor extensions. Additionally, the existing front single dormer will be replaced with two front dormer windows, and the existing rear dormer will be enlarged. The proposal also includes the provision of cycle storage facilities at both the front and rear of the property, the installation of solar panels, and the installation of an Air Source Heat Pump (ASHP) to the rear without complying with a conditions attached to planning permission Ref P2023/3058/FUL, dated 28 April 2025.
 - The condition in dispute is No 9 which states that: *Notwithstanding the provisions of Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that Order with or without modifications), no change of use from C3 (dwellinghouses) to C4 (Houses in Multiple Occupation) shall take place.*
 - The reason given for the condition is: *To protect amenity, ensure there is no loss of existing larger homes and to ensure an appropriate mix of dwellings.*
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Shloimy Rand against the Council of the London Borough of Islington This application is the subject of a separate decision.

Background and Preliminary Matters

3. Permission was granted in 2025 under reference P2023/3058/FUL for the conversion of 44 Tollington Road into a four-bed, five-person flat and two-bed, three-person flat subject to conditions. There is nothing before me to indicate that the approved development has not been implemented.
4. Condition 9 of the above permission removed permitted development rights contained in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). This permits dwellinghouses to change use into a House in Multiple Occupation (HMO) as

defined within Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 (the UCO) if they meet the relevant conditions.

5. I am also the Inspector dealing with an appeal¹ on another site within the same Borough also for the removal of a similar condition. Given the comparable policy contexts, the reasons for refusal and arguments presented in each case, there is a degree of similarity between my appeal decisions. However, each case has been determined on its own individual merits.

Main Issue

6. The main issue is whether the condition is necessary, relevant to planning and to the development, enforceable, precise and reasonable in relation to the supply and mix of housing and local needs.

Reasons

7. The National Planning Policy Framework (the Framework) at paragraph 55 states planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guide² also advises that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.
8. Although the explanatory memorandum to the GPDO seeks to allow flexibility in the housing market, paragraph 61 of the Framework states that in order to deliver a sufficient supply of homes that the overall aim should be to meet an area's identified housing need. Paragraph 63 goes on to state that in terms of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
9. Policy H1 of the Islington Local Plan, Strategic and Development Management Policies, adopted September 2023 (the Local Plan) requires new housing to contribute to the delivery of the Local Plan Vision and this also includes a requirement for the size of new housing to reflect local needs. There is an emphasis on units suitable for families. The supporting text advises that the Strategic Housing Land Availability Assessment process has highlighted that there is dwindling capacity for new residential development in Islington, insufficient to meet local housing need. Furthermore, large scale HMOs are not considered the most appropriate use, as they are not considered to make the best use of land and deliver the priorities of the Local Plan and will generally be resisted.
10. Local Plan Policy H2 expands upon the need to optimise sites to meet particular housing needs. The supporting text advises the loss of conventional housing will directly affect the ability of the Council to meet housing targets. Existing housing should be retained, except where housing will be re-provided on the site with at least equivalent floorspace and where no more than one unit is lost. It also advises that concentrations of one-bedroom units will not be acceptable. It also states that the highest priority for housing types contained within Table 3.2 of Policy H2 of the relatively recently adopted Local Plan are two-bedroom units, with a medium priority for units with three-bedrooms.

¹ Appeal Ref: APP/V5570/W/25/3370593

² Paragraph: 017 Reference ID: 21a-017-20190723

11. Whilst HMO accommodation is a form of housing, and no housing floorspace would be lost, The Housing Act 2024 advises that self-contained units are those with amenities for the exclusive use of the occupier, without passing through common parts of the accommodation. A HMO typically involves accommodation where occupiers share one or more basic facilities, such as personal washing or cooking facilities. Similarly the Council advises that HMOs are not considered self-contained accommodation.
12. Policy H8 of The London Plan, The Spatial Strategy for Greater London, March 2021 (the London Plan) is a London-wide strategic aim which seeks to ensure the replacement of existing housing with housing at existing or higher densities with at least the equivalent level of overall floorspace. The proposal would not result in the loss of residential accommodation. However, the supporting text refers to the need to balance the replacement of existing homes against any potential harm. In this regard, it would result in the replacement of a specific type of self-contained/family home. As such, I consider Policy H8 of the London Plan resisting the loss of residential accommodation would apply to the consideration of the appeal scheme.
13. The approved development delivers two self-contained units. The Council advises that the four-bedroom dwelling has access to private outdoor space. As such I agree that it would be particularly suitable as a family home. In this regard had permitted development rights not been removed, either one or both self-contained units, could potentially have been altered to form HMO accommodation. The proposal could result in the loss of two self-contained units, and any resultant HMO accommodation would not meet the Council's housing size mix priorities. This would run counter to the aims contained in the development plan when the permission was granted for the subdivision of the dwelling into two units. It has also not been demonstrated that there is a specific Borough need for HMO accommodation.
14. Had permitted development rights not been removed, either one or both units, could potentially be altered to form a concentration of single bed units in the form HMO accommodation. Harm can be derived from the removal of the condition which undermine the aims and objectives of Local Plan policies and could result in the loss of two much needed self-contained/family homes from the housing stock. This proposal if often repeated could erode the Council's ability to maintain the supply of self-contained/family housing which already requires careful management through Local Plan Policies in order to achieve its vision. This could impact on the well-being and balance of communities and existing residents who may be in inadequate accommodation and/or, who may find it difficult to find a home close to children's schools, jobs, their community or family.
15. There is no suggestion within Local Plan Policy H2, that permitted development rights would be removed for such proposals to prevent the loss of self-contained/family housing. Nor has the Council imposed an Article 4 Direction to remove permitted development rights in the area. However, this is not a statutory requirement, and the PPG does not require this or entirely prohibit conditions to restrict future use of permitted development rights. I have carefully considered whether the condition is justified. In this particular instance, in the absence of an Article 4 Direction, the use of a planning condition is a reasonable approach where it can be tailored to tackle a specific problem in the Borough. Furthermore, it does not prevent an application being submitted and for such a case to be considered on its own merits.

16. I therefore conclude that the imposition of Condition 9 as reasonable and necessary and therefore justified as a means of regulating and controlling changes of use at the appeal site in relation to the supply of housing and local needs. In this regard, the removal of the condition would conflict with Local Plan Policies H1, H2 and London Plan Policy H8. Together, amongst other things, these seek to ensure all new housing contributes to the delivery of the Local Plan vision and objectives, making the borough a fairer place through the delivery of the right type of housing that meets identified needs.

Other Matters

17. The appellant maintains that prior to the subdivision, the former single house could have been lawfully converted to a 6-person HMO. Such a fallback can attract significant weight as a material consideration, however, there must be a realistic prospect of the fallback being implemented. In this case whilst the appellant stated that the property could have been used as a HMO, an application for the conversion of the single dwelling was submitted, and there has been a material change in circumstances. Permitted development rights are not granted retrospectively, as such the loss of a single self-contained or family home cannot occur.
18. Consequently, and whilst I acknowledge that No 44 could have been used as a single HMO, it has not been demonstrated that it could not easily have been returned to its former state in those circumstances. Furthermore, this proposal could facilitate two HMOs, which would be more intensive than a single smaller HMO. I am not satisfied that a realistic fallback position has been established and it is therefore a matter of limited weight in my assessment. Although it may be contended that the proposal unfairly penalises this site compared to others without such restrictions, the planning system is concerned with land use in the public interest.
19. My attention has been drawn to appeal decisions in other local authority areas³. In relation to the Harrow appeal, the condition was not justified in terms of the character and appearance of the area or to maintain a balanced community. Whilst similar to the case before me, there is no indication that the two flats in that case were granted approval under policy which was similar to Local Plan Policy H2. The Inspector for the Rainham appeal did not impose a condition because there was no clear justification to do so. Unlike this appeal there is nothing to suggest that there was a similar need for the specific types of housing that were proposed. The Stow-Cum-Quy and Bewdley appeals relate to different sections of the GPDO, which allows small scale alterations. Both Inspectors also undertook an assessment of the effects of removing these conditions and did not find harm in doing so.
20. However, I have not been provided with the full details of the above appeals and they will have been determined under a different set of circumstances, planning policies and other evidence which is not before me in this appeal. There is a degree of consideration and planning judgement on these matters and those put forward in support of those proposals which require site specific decisions to be made and for these reasons I attach limited weight to these.

³ APP/A2280/W/23/3316780, APP/R1845/W/20/3255007, APP/R1845/W/20/3255007 and APP/W0530/W/21/3272766.

21. The appeal property comprises as substantial building located on a busy thoroughfare. The Council has been provided with a management plan that it considers provides adequate measures to ensure that neighbouring amenity is protected from one small HMO. However, the removal of the condition, could facilitate two HMOs. I am not certain that the units would not be served by the single entrance point at the front of the dwelling and have no internal drawings of the units. As such, I cannot be certain the management plan would be acceptable and furthermore both together would be akin to a large HMO, which the management plan does not address. However, as I am dismissing the appeal for other reasons it is not necessary for me to consider this matter further.
22. The appellant has provided a document issued by the Planning Inspectorate from 2014⁴. I do not disagree that HMO is a form of residential accommodation. For the purposes of the GDPO a “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building. However, the GPDO provides an interpretation of dwellinghouse. The definition essentially clarifies that a dwellinghouse refers specifically to traditional single-family houses and specifically excludes buildings that contain multiple flats as well as any individual flat within such a building. However, the text also lists specific sections (Parts 3, 11 Class B, 12A, and 20 of Schedule 2) where this exclusion does not apply, meaning that in those specific contexts, the term dwellinghouse can encompass flats or buildings containing multiple flats. However, in this case, I have considered there would be a loss of a specific type of accommodation.
23. The benefits of removing the condition would be to allow the appeal property to be capable of providing HMO accommodation in a more flexible way for different groups in the community in an accessible location. This is tempered by the lack of evidence that there is a need for such units within Islington. However, these benefits would also be limited in scale. Outweighing these is the harm arising from the potential loss of needed self-contained/ family homes, potential harm to neighbours’ living conditions and associated conflict with the relevant development plan policies. The Council’s acceptance of a management plan for one unit does not outweigh the harm identified.

Conclusion

24. The proposed development would conflict with the development plan and material considerations indicate that a decision should not be made other than in accordance with it. For the reasons given above the appeal should be dismissed.

K Williams

INSPECTOR

⁴ Advice produced by the Planning Inspectorate for use by its Inspectors – 15 January 2014