



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/25/3370593

572 Caledonian Road, Islington, London N7 9SD

- 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 Getter against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2025/1330/S73.
 - The application sought planning permission for the subdivision of the property to create 1x 3-bed 4p unit and 1x 2-bed 4p unit, along with external works including fenestration works, new refuse enclosure to front garden and hard and soft landscaping works to front and rear garden without complying with a condition attached to planning permission Ref P2023/1929/FUL, dated 8 August 2024.
 - The condition in dispute is No 6 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 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 reasons 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 Getter 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 2024 under reference P2023/1929/FUL, subject to conditions for the subdivision of 572 Caledonian Road. This mid-terraced two-storey property has been converted into two residential units. Condition 6 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. The GPDO states the interpretation of "dwellinghouse", except in Part 3 (changes of use), does not include a building containing one or more flats, or a flat contained within such a building.

4. I am also the Inspector dealing with an appeal¹ on a nearby site within the same Borough 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 Issues

5. The main issues are whether the condition is necessary, relevant to planning and to the development, enforceable, precise and reasonable in relation to i) the supply and mix of housing and local needs; and ii) living conditions of the occupiers of neighbouring properties.

Reasons

Supply of housing

6. 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.
7. 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.
8. 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.
9. 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 APP/V5570/W/25/3370616

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

10. 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.
11. 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 housing would apply to the consideration of the appeal scheme.
12. The officer report for the original application considered the conversion of the former single dwellinghouse against Local Plan Policy H2. It fulfilled the criteria relating to the principle of conversion of a single dwelling and housing mix to provide a three-bed and a two-bed self-contained homes capable of being occupied by families. In this regard 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. This would run counter to the aims contained in the development plan.
13. As such, not only can harm be derived from the removal of the condition which result in the loss of much needed self-contained/family housing from the housing stock, if often repeated it could erode the Council's ability to maintain a supply of self-contained/family housing, which could make it more difficult for families to find homes close to where they work, where children go to school thus impacting on the well-being and balance of communities. Representations from interested parties suggest that subsequent changes of use of flats to HMO accommodation does occur. As such, the proposal could exacerbate the effects of not providing the right type and mix of housing, which already requires careful management through Local Plan Policies.
14. I do note 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. However, the PPG does not require this or entirely prohibit conditions to restrict future use of permitted development rights. In this particular instance, in the absence of an Article 4 Direction, the use of a planning condition is a justified approach where it can be tailored to tackle a specific matter in the Borough on a case by case basis. Neither approach would prevent an application being submitted for HMO accommodation and for such a case to be considered on its own merits.
15. I have carefully considered whether the condition is justified. However, the removal of the condition would make the requirements of Local Plan Policy H2 ineffective. It has also not been demonstrated that there is a specific Borough need for HMO accommodation. In my view the loss of both units would be akin to creating a large

HMO and could result in the loss of two self-contained units. Resulting HMO accommodation would not meet the Council's housing size mix priorities.

16. I therefore conclude that the imposition of Condition 6 in this instance is reasonable and necessary and is 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.

Living conditions

17. The supporting text to Local Plan Policy H10 states that within Islington, a HMO is defined as a residential property that takes the form of shared houses, flats and non-self-contained housing let to three or more unrelated tenants who form two or more households and share a kitchen, bathroom or toilet. Households are families, including single persons and co-habiting couples.
18. There could essentially be 8 households formed within the appeal building. The activity generated by eight persons living independent lives, along with their visitors, and their coming and goings could lead to an level of activity that would be more marked and intensive than that which could reasonably be expected to be associated with two single households which also contained 8 people. In my view, activity is more likely to be noticeable in this location due to the close knit relationship of the terraced properties.
19. The proposal would see additional HMO rooms created at first floor level. Taking into account the overall general activity associated with those rooms could be intensified, the proposal could give rise to unacceptable noise transmission through the party walls into the neighbouring dwellings. Ultimately the characteristic of the units have the potential to afford significant opportunities for interaction and heighten awareness and disturbance from an increased number of households. Furthermore, I have no existing floor plans to be certain that the internal layout or any internal alterations could not accommodate more people.
20. The appellant suggests that a condition could be imposed for a HMO management plan. Policy H10 advises that the exact scope of a management plan must be agreed with the Council on a case-by-case basis. There is no such plan before me in this appeal. However, as noise and disturbance would be likely to arise from the normal way in which two HMOs would be used, I am not satisfied that a management plan would adequately mitigate the impact on neighbours. Such a condition would be difficult to enforce.
21. I conclude that Condition 6 is therefore reasonable and necessary so the effects on the living conditions of the occupiers of neighbouring properties can be adequately assessed. In the absence of sufficient information, its deletion would therefore conflict with those parts of Local Plan Policies PLAN1 and H10 which require development proposals to provide a good level of amenity.

Other Matters

22. 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.
23. Consequently, and whilst I acknowledge that No 572 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.
24. 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.
25. 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.
26. 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 in an accessible location. This is tempered by the lack of evidence that there is a need for such units within Islington and detailed information. 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 Local Plan policies.

³ APP/M5450/W/23/3332879, APP/A2280/W/23/3316780 and APP/R1845/W/20/3255007, APP/W0530/W/21/3272766

Conclusion

27. Having regard to the Framework and the PPG, the disputed condition meets the tests of reasonableness and necessity. The proposal conflicts 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