
Appeal Decision

Site visit made on 21 October 2025

by **N Duff BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 December 2025

Appeal Ref: APP/V5570/W/25/3370575

29 Arthur Road, Islington, London N7 6DS

- 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 Jordan Saul against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2025/1397/S73.
 - The application sought planning permission for conversion from a single dwellinghouse to 2 no. self-contained flats with associated works including provision of cycle storage enclosure and a dedicated refuse storage area to front garden without complying with a condition attached to planning permission Ref P2024/1232/FUL, dated 7 May 2025.
 - The condition in dispute is No 4 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 Jordan Saul against the Council of the London Borough of Islington. This application is subject of a separate decision.

Main Issues and Background

3. The condition in dispute removed permitted development (PD) rights at the site. This is numbered condition 4 following the grant of planning permission which was for the conversion of a single dwellinghouse to 2 self-contained flats with associated works including provision of cycle storage enclosure and a dedicated refuse area to the front garden.
4. Condition 4 removes PD rights for changes of use permitted under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 which permits small HMOs to dwellinghouses and vice versa.
5. The Council refused the Section 73 application, citing concerns that removing the condition would facilitate the loss of high quality and locally in-demand family housing without any replacement equivalent floorspace and would have an unacceptable effect on the amenity of neighbouring residents by way of increased

noise and disturbance. The appellant contends that the condition is not necessary or reasonable and seeks to remove it.

6. The main issues in this appeal are the effect removing the condition would have on the provision of family dwellinghouses within the local area and on the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

Provision of family dwellinghouses within the local area

7. The appeal site is a traditional terraced property located on Arthur Road. The area is suburban in character with a high density of housing following traditional street patterns.
8. The site has planning permission for conversion to two self-contained flats. The proposed development provides 1 x 3 bedroom flat and 1 x 2 bedroom flat. Both of which could accommodate families.
9. Condition 4 would remove PD rights for the change of use from dwellinghouses to Houses of Multiple Occupation (HMO). Therefore, without the condition, one of the dwellinghouses could be subdivided and have up to 6 persons living independently within it subject to other restrictions, as opposed to the approved two households across the site.
10. Policy H1 of the Islington Local Plan Strategic and Development Management Policies (ILP) states that the size mix of new housing must reflect local need, with priority for units suitable for families, which is further detailed in Policy H2 of the ILP which states that concentrations of one-bedroom units will not be acceptable. Further, that to maintain a supply of family homes, the conversion of a residential unit into a larger number of self-contained units will only be permitted where among other criteria the dwelling mix does not contain any studio/bedsit units or more than one one-bedroom unit. Whilst an HMO is not considered by the Council to be self-contained due to shared living spaces, the above policies indicate that the housing priority is for larger self-contained units.
11. Whilst I do not have detailed evidence relating to the numbers and concentration of HMOs in the area, I am satisfied that a clear priority of the ILP is to provide and maintain a supply of family housing. The appellant has stated that a change of use would not result in the loss of a dwellinghouse, as C4 is a residential use class which is confirmed in case law¹. Whilst this may be the case, a family housing unit would be lost if either of the units were converted to a small HMO.
12. The National Planning Policy Framework (the Framework) sets out that conditions should be kept to a minimum and only imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. A condition must meet all six tests to be justified. The Framework is clear at paragraph 55 that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. Further, the Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.

¹ London Borough of Brent v Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 2051 (Admin).

13. Whilst PD rights should only be removed where there is clear justification to do so. It is clear from the Council's policies that the need to retain housing suitable for families, which this development would do if this large dwelling were converted in accordance with the planning permission. However, if the PD rights were exercised in full, the further subdivision of the building would result in the loss of one of the flats, either the 2 bedroom unit which is a high priority for market housing, or a 3 bedroom unit which is a medium priority according to the Council, which would be at odds with the aim of the ILP.
14. Regarding appeal decisions at 108 Imperial Drive², Land off Berengrave Lane³, Church View⁴ and Land to rear of 30 Gardners Meadow⁵ I do not have the full circumstances of these decisions before me and therefore cannot be certain they are wholly comparable to the appeal scheme before me. Moreover, each application is determined on its own merits. Nevertheless, given the site-specific context of the appeal before me and for the reasons I have set out above regarding the loss of family dwellinghouses, these do not lead me to a different conclusion.
15. The appellant has stated that the condition is not necessary or reasonable however, for the above reasons, I consider that Condition 4 remains necessary and reasonable to safeguard the provision of family housing units.
16. For the reasons set out above, I conclude that the removal of Condition 4 would have a harmful effect on the supply of family dwellinghouses should permitted development rights be exercised, due to the loss of either a 2- or 3-bedroom unit. Consequently, the removal of condition 4 would not accord with Policies H1 and H2 of the ILP which collectively seek to ensure that the size mix of new housing must reflect local need with priority for units for families and that loss of existing self-contained housing is replaced by at least equivalent floorspace. The removal of condition 4 would also not accord with Policy H8 of the London Plan which sets out that a loss of existing self-contained housing is replaced.

Living Conditions

17. The property is located within a mid-terrace and therefore has neighbouring properties adjoining it on both sides and is in a reasonably quiet residential area. The approved proposal would create two households. However, should either of the units be converted under permitted development to an HMO, this could mean up to 6 persons living independently, within either of the units, dependent on the internal configuration of the unit.
18. I consider that increased comings and goings could occur through a larger number of persons living independently, likely with different schedules, over and above the existing two units that have been approved. This could have an impact by way of noise and disturbance not only on existing residents living either side of the property but could also have an impact on the remaining unit within the building that is not changed to an HMO, either above or below the neighbouring property.

² Appeal Ref: APP/M5450/W/23/3332879

³ Appeal Ref: APP/A2280/W/23/3316780

⁴ Appeal Ref: APP/W0530/W/21/3272766

⁵ Appeal Ref: APP/R1845/W/20/3255007

19. Therefore, controlling any potential future changes of use to either of the approved units would align with carefully managing the living conditions of neighbouring occupiers.
20. Therefore, I consider Condition 4 to be reasonable and necessary in order to ensure that the living conditions of neighbouring occupiers are not compromised particularly by noise or disturbance.
21. Given the importance of context in relation to living conditions, I do not have the full circumstances of the appeal decisions submitted by the appellant at 108 Imperial Drive, Berengrave Lane, Church View, Land to rear of 30 Gardners Meadow therefore I cannot be certain that they are wholly comparable. Given that each case is determined on its own merits, for the reasons set out above regarding harm to living conditions, these decisions do not lead me to a different conclusion.
22. Whilst I do not have substantial evidence from the Council of complaints relating to HMOs in Arthur Road before me in terms of noise or disturbance, this does not convince me that issues regarding noise and disturbance could not exist. The appellant has suggested that a condition requesting a management plan could mitigate concerns regarding the future management of an HMO at the site. However, without a detailed management plan before me with suggested mitigation measures I cannot be satisfied that such a plan would be sufficient to resolve my concerns regarding living conditions, given the proximity of neighbouring properties. Therefore, this does not affect my conclusions regarding this main issue.
23. For the above reasons, I conclude that the removal of Condition 4 would have a harmful effect on the living conditions of nearby residents with particular regard to noise and disturbance. Consequently, the removal of Condition 4 would conflict with Policies PLAN1 and H10 of the ILP, which combined seek to ensure that all development must not give rise to any significant adverse amenity impacts on the surrounding neighbourhood and must comply with design principles which include that a good level of amenity must be provided, including consideration of noise and the impact of disturbance.

Other Considerations

24. The appellant refers to a fallback position whereby the property could have been converted to a 6-person House in Multiple Occupation (HMO) without planning permission, prior to the implementation of the approved scheme. Whilst the number of residents could be similar the approved scheme, the fallback would result in more people living individually. Therefore, comings and goings could be greater than the approved scheme and could be similar if condition 4 were removed and PD rights implemented in full. However, there is no substantial evidence that the fallback position is greater than a theoretical possibility or that if the appeal is dismissed the fallback would be pursued. As a consequence, I find the suggested fallback position to have modest weight in the determination of the appeal.
25. The appellant has stated that an Article 4 direction would be the most suitable method to manage permitted development rights in areas such as this. Whilst this could be an effective way of managing permitted development rights across an area, the potential for an Article 4 direction is not before me and is not within the

scope of this appeal, therefore this matter does not affect the conclusion I have reached.

26. The appellant has stated that impacts of a HMO relating to refuse, servicing and storage would be broadly similar to the approved scheme of two flats. Based on the information before me and my observations I concur that the removal of condition 4 would be acceptable in these regards. However, these matters are not benefits associated with the removal of condition 4 and therefore do not weigh in favour of approval.

Conclusion

27. The proposal conflicts with the development plan as a whole, and there are no material considerations which indicate my decision should be made other than in accordance with the development plan in this instance. For the reasons given above the appeal is dismissed.

N Duff

INSPECTOR