



Appeal Decision

Site visit made on 24 February 2026

by N Armstrong BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2026

Appeal Ref: APP/U5360/W/25/3376293

63 Fairholt Road, Hackney, London N16 5EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Abraham Gluck of Narod Investments Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2024/2703.
 - The development is the change of use of the basement from a residential flat to an internet cafe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that the change of use applied for was completed in February 2024. I saw during my visit that the property was in use for the development, although the layout differed from that shown on the submitted plans, with no internal wall or door evident between computer room 01 and 02.
3. The evidence indicates that the basement level of the appeal property previously comprised a self-contained flat and the pre-existing floor plan shows a one-bedroomed unit in part of this area. The plan also shows an internet cafe to the remaining part of the basement. However, it is not clear if either use was lawful development. Within the context of an appeal under section 78 of the Town and Country Planning Act 1990 it is not within my remit to formally determine whether an existing use is lawful or not. In any event, the Council determined the application on the basis of the submitted information and that the basement comprised a self-contained flat. Likewise, I have dealt with the appeal on the basis that planning permission is sought for the development as set out in the application and the submitted plans before me.
4. The emerging Stamford Hill Area Action Plan (February 2024) (the AAP) was subject to examination in September 2025 and is at an advanced stage. The weight to be given to the policies is dependent upon the extent to which there are unresolved objections, and the degree of consistency with the National Planning Policy Framework (the Framework). I have referred to the emerging policies as needed in my decision.

Main Issues

5. The main issues are:

- whether the property is suitable for the development, with particular regard to its location and the effect on the provision of housing; and
- the effect of the development on the living conditions of neighbouring residents, with particular reference to noise and disturbance.

Reasons

Suitability

6. The appeal site comprises the basement floor level of a semi-detached residential property situated in a street predominantly characterised by similar residential properties. The basement level is accessed from the paved front garden area of the property, with its own door separate from the main front access of No 63.
7. The appellant describes the use as falling within Use Class E(c)(ii), which comprises professional services (other than health or medical services). There is no indication that there is any provision of food or drink on the premises within the application, nor did I observe any related facilities other than a small area with kitchen units and sink. The above use class would therefore appear to accurately reflect the nature of the development.
8. The Council seeks to increase overall housing stock in the borough, and Policy LP24 of the Hackney Local Plan 2033 (adopted July 2020) (the HLP) aims to prevent the loss of residential floorspace. Such proposals will only be permitted where at least one of the stated conditions are met. These include that the land or buildings are no longer suitable for residential use and it is considered inappropriate to re-provide residential accommodation, or the proposal is for an essential community use or infrastructure for which there is demonstrable need, and it can only be provided by the loss of existing residential floorspace. Policy H8 of The London Plan (March 2021) (the LP) aims for the loss of existing housing to be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace. The benefits of development proposals that involve the replacement of existing homes should be balanced against any potential harm.
9. Paragraph 91 of the Framework sets out the circumstances when a sequential test should be applied to planning applications for main town centre uses. Policy LP37 of the HLP relates to retail development, which I do not find to be relevant to the appeal given the use that is sought in this instance. The use does not appear to constitute a main town centre use requiring a sequential test, although HLP Policy LP24 is clear on the circumstances when the loss of residential floorspace will be resisted.
10. There is evidence to suggest a need for the service provided at the appeal site within the local community, including for day-to-day needs and some reference to workspace. I also note specific requirements that the use aims to meet, including providing internet facilities with suitable filters and separate timings for different groups. However, the information before me does not sufficiently demonstrate it can only be provided through the loss of residential floorspace at the appeal property. Some representations from interested parties indicate that users may

travel to the site from further afield as well as from within the immediate area. This suggests that the catchment of the use may well serve a wider area, whilst there is no compelling evidence that it needs to be focussed solely in the immediate area of the appeal site.

11. Even if any previous use of the premises did not meet current internal space or other standards, this does not justify the loss of residential floorspace having regard to HLP Policy LP24 given its intention to increase housing stock. Furthermore, there is nothing before me to indicate that the internet cafe shown on the pre-existing floor plan was lawful, or whether this area was residential or could increase the space available for a residential flat. Accordingly, despite some apparent limitations in terms of size and quality given the basement location, the residential use of the appeal site would nevertheless contribute to the housing stock of the area, and there is limited evidence to suggest that future occupiers could not be provided with suitable living conditions.
12. For the above reasons, I conclude that the appeal property is not suitable for the development, with particular regard to its location and the effect on the provision of housing. The development therefore conflicts with Policy H8 of the LP and Policy LP24 of the HLP, the aims of which are set out above.
13. Policy AAP5 of the emerging AAP has been subject to main modifications following examination. Part B) of the policy directs proposals for new or improved community facilities to certain locations in order of priority. Conversions of residential buildings in areas or streets characterised by a mixture of uses are fourth in this order of priority. The supporting text highlights an urgent need to facilitate delivery through a locally based policy approach which permits the conversion, redevelopment or change of use from residential to community use where alternative locations cannot be identified. In addition, planning applications should be supported by evidence identifying other sites/properties in the area that have been considered and explaining why they are unsuitable. Key considerations for this evidence will include size requirements for the proposed facility and its catchment area. Part C) of the policy relates to a change of use to education facilities, places of worship or health facilities, therefore I do not consider this to be determinative to the appeal scheme.
14. As the AAP has been subject to further consultation on main modifications, albeit with a minor change to Policy AAP5, it cannot carry full weight at this stage. In any event, given the absence of information on the potential for alternative locations and as the site is not in a street characterised by a mix of uses, the development does not accord with Policy AAP5 and its aims set out above.

Living conditions

15. As established above, Fairholt Road is a predominantly residential area. At the time of my visit, I observed a moderate degree of activity along the street with traffic and pedestrians passing along it. There were low levels of activity at the appeal site and no obvious external appearance of commercial use at the property, although the intensity of use will likely fluctuate at different times during the day. A school is located nearby, and coaches were parked on Fairholt Road. The street appeared to be a quieter environment in comparison to the busier Dunsmure Road further to the east, where activity from traffic and pedestrians increased around the mix of commercial uses and other services in this area.

16. The submitted plans indicate capacity for 22 computer stations within the two computer rooms alongside a reception, administration office and meeting room. The application form does not provide any details of the hours of use and suggests that there would be no employees at the site. However, in response to the Council's proposed condition on hours of use, the appellant states that the use currently operates up until 2200 and suggests that were permission to be granted, it should operate on that basis.
17. The use will likely generate significantly increased comings and goings during the hours of operation in comparison to the residential use of the property. It has introduced a commercial use into a residential setting where this would not normally be expected. Even if most visitors were to arrive on foot, given the potential number of visitors for a significant part of the day, the use will likely result in additional noise and disturbance for nearby occupiers compared to residential use.
18. Notwithstanding its location within the basement level, the entrance leading to the premises from the front garden of the property is close to the ground floor windows and doors of Nos 63 and 65, as well as the ground floor windows at No 61. This proximity would exacerbate the potential for harm arising from the use and would be notable in the context of the lower level of existing activity in the area in comparison to other more commercial areas. The cumulative level of activity at the proposed times of day emanating from comings and goings at the premises would therefore be at odds with what might reasonably be expected in a residential area, to the detriment of the quieter, residential character of this area.
19. Representations in support from some neighbouring residents indicate they do not experience adverse effects from the development through noise and disturbance. No objections have been submitted to the application or appeal, although the Council refers to an enforcement complaint regarding issues of noise and disturbance from movements to and from the site. Given my findings above, from the information before me, I cannot be sure that the development is acceptable in this location or that any adverse effects can be adequately mitigated.
20. Consequently, I am not satisfied that the development avoids a materially harmful effect on the living conditions of neighbouring residents, with particular reference to noise and disturbance. The development therefore conflicts with policies LP1 and LP2 of the HLP. Amongst other things, these policies aim for development to respond to local character and context, and to be appropriate to its location and designed to ensure there are not significant adverse impacts on the amenity of neighbouring occupants. The reason for refusal also references Policy D4 of the LP, although as this is relevant to delivering good design, I do not find it to be determinative to this main issue.

Other Matters

21. The use provides facilities for a wide range of members of the local community and also aims to address needs pertaining to religious beliefs. In reaching my decision I have had due regard to Article 9 of the Human Rights Act 1998 and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age and religion or belief are protected characteristics to which the PSED applies, and these rights are engaged in reaching my decision. However, they are qualified rights, and

interference may be justified where in the public interest. The concept of proportionality is key.

22. There is limited evidence before me to suggest that people with protected characteristics would lose all access to the services offered in the area were the appeal to be dismissed. Notwithstanding the significant level of support received from interested parties, the evidence does not sufficiently establish that the appeal site is the only option available to provide the facilities to the community. Also, it has not been demonstrated that there is no alternative site which would have a less harmful impact to meet this need.
23. In this case, the harms which I have identified, to which I attach significant weight, outweigh the benefits in terms of eliminating discrimination against persons with the protected characteristics of age and/or religion or belief, advancing equality of opportunity for those persons and fostering good relations between them and others. I therefore conclude that it is proportionate and necessary to dismiss the appeal.
24. In addition, economic and social benefits of the use are acknowledged, which include supporting business and employment, creating an inclusive and accessible place, community cohesion, and health and wellbeing. However, for the same reasons as above, these benefits do not outweigh the identified harm in this instance.
25. Whilst I note the lack of objection to the application and appeal, this does not equate to a lack of harm. The level of support does not persuade me that the use would be acceptable in this location given my conclusions set out above.

Conclusion

26. The development conflicts with the development plan as a whole and material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

N Armstrong

INSPECTOR