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Saturday, 28 March 2026

Appeal Statement (REV_A)

The appeal is made against a grant of householder planning permission subject to conditions.

In yellow – revision A corrections dated 28.03.2026

LPA ref: 25/00942/FULHH
Approved subject to conditions 27th November 2025.
Luton Borough Council

3 Lewsey Road, Luton. LU4 0EN.

Description of development

'Erection of part-one part-two storey extension to side and rear of semi-detached dwellinghouse, and associated alterations.'

Condition in dispute (no. 6)

'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.

'Reason: To ensure a satisfactory standard of development, to safeguard the amenities of the surrounding area and to ensure the resultant dwellinghouse contributes towards the need for larger family dwellings within the borough.'

Appendices

A *Summary of appeals in Luton decided since 01.01.2025*
B *Report on the examination of the Luton Local Plan (01.08.2017) PINS/B0230/429/1*
C1 *Luton & Central Bedfordshire Strategic Housing Market Assessment Update (Summer 2015)*
C2 *Central Bedfordshire & Luton Strategic Housing Market Assessment (January 2018)*
D *Luton Strategic Housing Land Availability Assessment (November 2019)*
E *'The rural housing market after the Covid-19 pandemic' (Hammidudin I. & Gallent N., 2022)*
F *Housing delivery in Central Bedfordshire*
G *Objector's letter re housing development in East of Luton sites.*

Introduction

1. This appeal seeks to remove condition 6 attached to application 25/00942/FULHH. The effect of the condition is to remove permitted development rights which would otherwise apply to the site. In our view, there is no clear justification for this action and this statement provides evidence to support this position.

Main issue

2. We consider the main issue to be whether the condition is in accordance with NPPF paragraph 55, satisfies the '6 tests' of planning conditions (NPPF paragraph 57 and the 'Use of planning conditions' PPG), and satisfies paragraph 017 of the 'Use of planning conditions' PPG.

Preliminary matters

3. The question of whether condition 6 satisfies these tests is somewhat more complex than first appears. Condition 6 is a 'standard condition' used by the LPA in the interests of protecting the existing stock of 'family-sized homes' in the borough. As a 'standard condition' it has also been challenged explicitly and implicitly several times at appeal, while the LPA's general position regarding the supply of 'family-sized homes' has also been challenged several times at appeal, most often successfully (p.8-10). Given the various precedents and the complex background to the use of this condition, it is necessary to consider all these matters holistically to reach any robust conclusion about its use in this instance.

4. As such, we first explore the policy and evidence background to the use of condition 6, as this goes to the heart of the reasoning behind its use (paras 6-36). We subsequently provide a summary and analysis of appeals concerning the condition and the policies which inform it (paras 37-56), before turning to the question of whether in light of these considerations, the condition passes the tests set out in paragraph 2 of this statement (paras 57-82). We attempt to keep the statement as succinct as possible without neglecting important details or evidence.

5. The LPA's stated reasoning for the use of condition 6 on the decision notice does not make explicit reference to the matters discussed in this statement. The general reasoning behind its use has been inferred from appeal decisions and the LPA's submissions in these cases. Of particular relevance is 80 Talbot Road[1] which discusses these matters in detail. Given that condition 6 is broadly the same as that attached to 80 Talbot Road, it is expected the LPA will argue along the same lines, but they are of course welcome to challenge any of the assertions made in this statement should they be an inaccurate representation of their position.

Policy and evidential background to condition 6

6. Condition 6 (the 'C3 condition') is a 'standard condition' currently applied by the LPA to all alterations to C3 dwellinghouses comprising or proposing 3 or more bedrooms. There is nothing peculiar to the development or site requiring this condition, rather, simply the fact that the house already comprises 3 bedrooms has led to this condition being imposed.[2]

7. The reasoning behind its use is the LPA's perceived shortfall in the delivery of 'family-sized homes' serving the borough, loosely defined by the LPA as C3 dwellinghouses with 3 or more bedrooms housing a single 'family' household.[3] The evidence informing this perceived shortfall is the Central Bedfordshire and Luton Strategic Housing Market Assessment 2015/2018 (the 'SHMA') and the Luton Strategic Housing Land Availability Assessment 2019 (the 'SHLAA'). The SHMAs estimate 3+ bedroom single dwellinghouses as comprising 75% of Luton's overall housing need for the period 2011-31 (fig.68 p.97 of the SHMA 2015), while the SHLAA (and subsequent authority monitoring reports) show a proportional under-delivery of such homes in the borough

[1] APP/B0230/W/25/3369141, dated 10/11/2025.
[2] The statutory reasons for imposing the condition also include 'safeguarding amenity' and 'ensuring a satisfactory standard of development'. See 80 Talbot Road where these are largely set aside by the inspector in favour of the LPA's stated reasoning regarding the need for 'family-sized homes'.
[3] The LPA occasionally refers to 2+ bedroom properties as being family-sized, or 4+ bedroom properties as family-sized. As the current site is a 3+ bedroom dwellinghouse, we stick to this position.

when compared against this percentage (table 2.5, p.7 of the SHLAA). These documents are given weight through LP Policy LLP15 which states:

'Provision will be made for 8,500 dwellings in the borough to help meet the housing needs of Luton and the Luton Housing Market Area ensuring the size, type and tenure (including provision for starter homes, custom build and households with specific needs) provided reflects the identified housing need requirements of the area in the Strategic Housing Market Assessment (SHMA).' [emphases added]

8. Informed by the evidence of the SHMA/SHLAA, the LPA finds it necessary to stymie the potential loss of family-sized homes to other uses, through the GPDO or otherwise. The need is perceived as so great as to justify the use of a restrictive condition typically considered contrary to national planning policy and guidance.

Difference between SHMA 2015 and 2018.

9. It is important to note that the LPA refers to the SHMA 2018 as the evidence for its decision-making. The document tested at examination, and that referred to in LLP15, is the earlier SHMA 2015. There is an important distinction to be made. The SHMA 2015 was prepared for the submission of the Luton LP and considers the period 2011-31, the Luton LP period. The SHMA 2018 was prepared for the Central Bedfordshire LP and considers the period 2015-35, the Central Bedfordshire LP period. They consider the same area but over different time periods.

10. The SHMA 2015 and 2018 do not differ significantly in regard to Luton's housing need and 'housing mix need', but referring to the later document necessitates some consideration of how it was tested during the Central Beds. examination and the policies/modifications arising therefrom. On balance, it seems more appropriate to simply refer to the earlier SHMA 2015 as this is the document tested during the examination of the Luton LP and covers the appropriate period.

Luton's housing needs, requirements, and the wider HMA

11. There are several reasons to doubt the contention that there is an under-supply of family-sized homes serving Luton borough. The following are examined in turn:

    1. the age of the LP and SHMA,
    2. the confusion between housing need and requirement,
    3. the delivery of family-sized homes in the Luton functional HMA, and,
    4. inconsistencies between the SHLAA/AMRs and latest census data on housing mix.

These are all points frequently raised at appeal where LLP15 is tested (see p.7 onwards), but for clarity they are summarised and expanded upon here before reviewing these decisions.

Policy LLP40 and the age of the LP/SHMA

12. The inability for Luton borough to meet its own housing need within its administrative boundaries has been known for some time, and the resulting necessity to 'export' housing need to neighbouring boroughs within the Luton HMA is a longstanding issue. The latest tested figures are a need of 17,800 against a requirement of 8,500 from 2011-31. These matters were considered extensively by the examining inspector during the submission of the LP.[4]

13. The inspector expressed particular concern regarding the accuracy of Luton's stated housing need and requirements over the LP period, citing disagreements and apparent inaccuracies in the 2001 census[5], mid-year estimates, and population projections. The effectiveness of co-operation between Luton and neighbouring

[4] See Appendix B
[5] It was agreed that the inaccuracy of the 2001 census but accuracy of the 2011 census gave inaccurate projections on population and households.

authorities in making provision for meeting Luton's unmet housing needs is also called into question, citing historic disagreements and indeed legal challenges between the different LPAs in the HMA.

14. Such were the extent of these concerns that the LP was modified to require an early review of the plan beginning within 2 years of adoption (Nov. 2017) and submitted for examination by mid-2021 (Policy LLP40). Both the inspector's report on the LP and the wording of the policy place emphasis on establishing updated figures for housing need, housing requirement, and strategies to accommodate this need within Luton and the Luton HMA, including by responding to updated neighbouring Local Plan policies/allocations and the results of the *Luton HMA Growth Options Study* (2016).

15. In the event, no review was undertaken, and the LP is only now under review, with a preliminary submission date of January 2028. This is clearly problematic. At the time of examination, the inspector considered Luton's housing policies and need/requirement figures to be valid for approximately three years before requiring re-examination. Eight years have passed, and in applying LLP15 the LPA continues to rely on the same housing need/requirement figures and policies as adopted in 2017, with minor but inconsequential updates in 2018/19 in the form of the SHMA/SHLAA. There has been no consideration of the Growth Options Study, neighbouring Local Plan policies/allocations, or any monitoring of delivery in the wider HMA over the LP period.

16. As such, the LP's housing figures, policies, and the findings of the SHMA/SHLAA should be treated with caution; they are not up-to-date. Simply by the age of the SHMA/SHLAA in particular, it would be appropriate to attach little weight to these documents, and this is the position most usually adopted at appeal (p.7 onwards).

17. The age of the SHMA is a particularly pertinent issue in Luton borough. The document predates the COVID-19 pandemic and subsequent 'cost-of-living crisis', both of which are acknowledged to have had significant short- and long-term effects on the housing market, employment trends, and migration. In particular, academic research indicates an enduring shift away from urban living in favour of more rural living, enabled by an increase in flexible working arrangements and perpetuated by high interest rates and inflation.[6]

18. As a result, it is reasonable to assume that many of the conclusions of the SHMA no longer hold, particularly in their detail. In estimating housing need, and particularly housing mix, the SHMA makes various assumptions and projections based on travel-to-work data, migration trends, market signals, and population trends. Any projections of need and mix calculated in 2015 cannot be considered reliable given subsequent and ongoing events.

19. It is not the intention of this statement to provide any alternative position on housing need or housing mix requirements in the HMA. Rather, we simply highlight the poor evidential value of the document. Given its age and the variety of ways in which the housing environment has changed since its publication, it would be unreasonable to assume that its conclusions continue to hold in any meaningful way. The evidential value of the SHMA 2015 was already considered relatively poor at the time of the LP adoption. As such, while a need for family-sized housing likely exists in the HMA, we can draw no reasonable conclusion on the extent of this need.

The confusion between housing need and requirement

20. Not all inspectors have found the age of the SHMA/SHLAA to be an overriding issue when tested at appeal (p. 8-10)[7]. However, even if we are to discount the age of these documents for a moment, there remains significant reason to doubt any shortfall in the delivery of family-sized homes – namely, the lack of any consideration of housing delivery in the wider HMA.

21. The SHMA is a 'policy-off' assessment of housing need and is not intended to be a proxy for housing requirement.[8] The only conclusion the SHMA draws is that 75% of new dwellings in the Luton functional HMA serving Luton borough should be 'family-sized homes'. It does not state nor suggest that 75% of new dwellings

[6] See Appendix E.
[7] Although, the difference in age/scope between the 2015 and 2018 documents is a point somewhat glossed over by the LPA and not brought to the attention of inspectors.
[8] See para 6.2, p.113 of the SHMA 2015 quoting a letter from the Housing Minister to the Planning Inspectorate in December 2014.

exclusively within the Luton borough boundaries should be 'family-sized homes'. Indeed, in referring to the HMA as a whole, para 5.20 (p.97) of the SHMA 2015 states:

'Of course, the spatial distribution of housing provision will be determined through the planning process; which will also consider the most appropriate location for market and affordable housing, and the type and size of properties to be provided in different areas.'

22. However, the LPA appears to have neglected this point, treating 75% as a housing mix 'requirement' within the borough boundaries. This may be a reasonable approach to take if Luton could meet all of, or most of its housing need within its boundaries, but given that over half of its need is allocated to the wider HMA, this is neither justifiable nor logical.

23. Luton is a built-up borough with a short supply of buildable land, surrounded by more rural boroughs with a much larger supply of buildable land (figures 1, 2, 3, below). One would expect the need for 'family-sized homes' to be met in the wider HMA, both from a policy perspective (in 'exporting' this particular need to neighbouring boroughs), and an economic perspective. If such a need for these homes exists, and it is difficult to deliver them within Luton, market forces would surely respond to deliver these homes in reasonable proximity to Luton. This is a position supported at appeal (10 Swallow Close, 10 Derby Road, p. 9), and is, indeed, somewhat 'the point' of an HMA.



Fig. 1
Luton and neighbouring boroughs
Luton in purple.

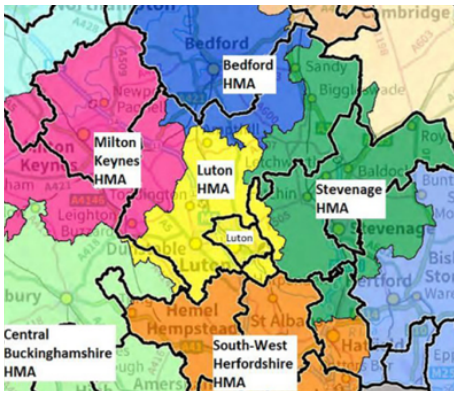


Fig. 2
Luton and neighbouring HMAs
Luton HMA in yellow.

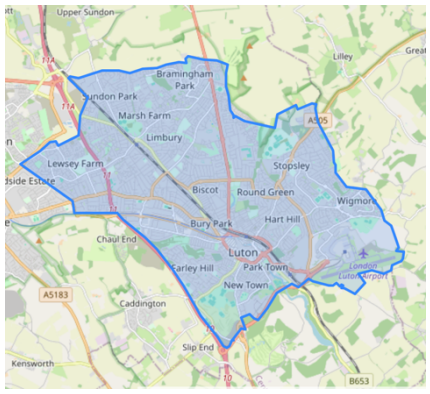


Fig. 3
The 'built up' nature of Luton borough

24. However, the LPA has not undertaken any monitoring or review of housing delivery in the wider HMA over the LP period, in conflict with Strategic Objective 03 of the LP as modified by the examining inspector.[9] The latest investigation of any kind dates from 2016[10] and examines only the availability of sites in the HMA, and even this was not submitted/considered during the LP examination. The SHLAA and AMRs only review housing delivered exclusively within the borough boundaries.

25. In coming to its conclusions regarding under-delivery of family-sized homes, the LPA has completely neglected to consider the contribution the HMA might have made, or might make, towards meeting this need over the LP period or to date. Without taking this into account, any assertions as to over- or under-delivery of 'family-sized homes' serving Luton borough are essentially speculative.

26. In short, even if we are to entertain the SHMA as being relatively 'up-to-date' in representing Luton's housing need, particularly with regard to 'family-sized homes', the LPA has no evidence that this need is not met in the wider HMA. As such, there is insufficient evidence of a genuine conflict with the recommendations of the SHMA under LLP15. Delivery in the HMA must be taken into account in coming to any conclusions on this matter.

[9] Main modification 06.
[10] The Luton HMA Growth Options Study (2016)

Family-sized homes in the HMA

27. Indeed, even a cursory glance at the performance of authorities within the HMA suggests that Luton's stated need for family-sized homes is, in fact, being met within the HMA.

28. Central Bedfordshire's monitoring reports consistently show 'family-sized homes' to be the predominant dwelling type being built in the borough at around 63% of delivery. The aggregate figures over the Bedfordshire LP period from 2015-2025 show delivery of 14,602 family-sized homes or approximately 1,460 each year.[11] This is significant, considering 45% of Central Bedfordshire's population reside within the Luton HMA.[12]

29. Up to 7,000 new homes have been approved and are currently under construction at the 'Houghton Regis North' sites (SC1), a northern extension to the Luton urban area, and specifically allocated to serve Luton's unmet housing needs. 70% of new homes are expected to be 'family-sized'[13] with 1,090 homes delivered and a further 1,877 expected before the end of the Luton LP period. This development alone accounts for around 2,000 family-sized homes.

30. North Hertfordshire Council also reports family-sized homes as being the predominant dwelling type being built, comprising 56% of delivery in 2024/25. In addition, an eastwards extension to Luton (the 'East of Luton' sites EL1, EL2, EL3) is projected to accommodate 1,950 new homes. Outline permissions on these sites from the Crown Estate (16/02014/1) and Bloor Homes (17/00830/1) are currently under consideration by North Hertfordshire Council, with an overall masterplan adopted and draft timeline for construction submitted.[14]

31. Obviously, a thorough assessment of delivered and deliverable sites in the HMA over the plan period or to date is far beyond the scope of this statement - nevertheless, even this brief overview shows optimism. Notwithstanding the apparently low delivery of such homes in Luton itself, family-sized homes appear to be the predominant dwelling type being built across the HMA as a whole. On the balance of probabilities, and in the absence of any detailed monitoring from the LPA, it is reasonable to dismiss the idea that there is a significant shortfall in the delivery of family-sized homes serving Luton borough. Any shortfall which may exist is likely far less severe than that envisaged by the LPA due to plentiful provision in the wider HMA.

Inconsistencies between the SHLAA/AMRs and census data

32. There is one further reason to doubt an under-supply of family-sized homes serving Luton, that being the questionable reliability of the SHLAA and AMRs in measuring delivery of these homes. In short, these documents make no allowance for the uplift in the size of existing housing stock through extensions and internal alterations, measuring only net additional dwellings rather than alterations (through planning or otherwise) to existing dwellings. Given the built-up nature of the borough, one would reasonably expect this contribution to be significant.

33. Indeed, a simple comparison of housing statistics captured in the 2011 and 2021 censuses[15] shows quite a significant discrepancy between census records and the SHLAA/AMRs, both in the aggregate and by dwelling mix. This is shown in the Table 1, following page. The SHLAA combined with the 2020 and 2021 AMRs[16] show a delivery of 994 net additional family-sized dwellings from 2011-21, whereas the actual 'delivery' (accounting for apparent inaccuracy and uplift/reduction in size) was closer to 2,000. The SHLAA/AMRs also appear to significantly overestimate the delivery of 1 and 2 bed properties, for which the LPA contends there is a corresponding oversupply.

34. Of course, the SHLAA/AMRs measure only new dwellings, not alterations to existing dwellings, so a degree of inconsistency in these figures is to be expected, while the intention of the LP and the supporting SHMA is to provide a strategy regarding new dwellings. However, it is quite reasonable to assume that LLP15 also extends to the alteration of existing homes, especially as this appears to be the rationale behind the LPA applying the 'C3 condition' to existing homes in the first place. However, the (apparently) positive contribution that alterations to existing homes have made to an uplift in the supply of family-sized homes has not been taken into account

[11] See Appendix F.
[12] Paragraph 2.86 (p.35) of the SHMA 2018.
[13] See Appendix G (para. 8 p.3). This appears to be the only evidence available on housing mix, but a figure of 70% is largely consistent with the higher average percentage of 67.5% on sites allocated to meet Luton's needs (Appendix F).
[14] Admittedly, much of the delivery of these sites will extend beyond the LP period.
[15] The LPA / SHMA do not contest the accuracy of the 2011 census, only the 2001 census.
[16] Tables 16 and 17 from the Luton Local Authority Monitoring Report 2018/19 – 2021/22

by the LPA.[17] In short, the SHLAA/AMRs are not a reliable indicator of housing mix over- or under-supply within the borough. Up-to-date assessment by the census must be taken into account.

Table 01

Comparison of Household Figures: Census and SHLAA/AMRs

	Census 2011	Census 2021	Census uptick	SHLAA / AMRs 2011/21	SHLAA/AMR discrepancy
1 bed	10,299	12,063	+1,764	+2,906	+1,142
2 bed	18,614	19,521	+907	+1,742	+835
3 bed	35,579	34,737	-842	+519	+1,361
4 bed	7,521	8,827	+1,306	+475	-2,345
5 bed +	2,280	3,794	+1,514		
Unknown	0	0	0	-52	-52
Total 'family-sized'	45,380	47,358	+1,978	+994	-984
Total	74,293	78,942	+4,649	+5,590	+941

Conclusions

35. In conclusion, principally through a lack of proper monitoring, there are several reasons to doubt any meaningful under-supply or under-delivery of family-sized homes serving Luton borough. This applies to the borough itself and the Luton HMA. While there may indeed be an under-supply of such homes, all the evidence points to any shortfall being far less severe than that envisaged by the LPA. As such, there is no clear justification for the exceptional action of applying restrictive conditions to planning consents, and no clear link between the findings of the SHMA, SHLAA, and AMRs with the current-day application of LLP15.

36. Indeed, these detailed considerations are largely in line with the issues foreseen by the examining inspector in adding Policy LLP40 to the Local Plan. Most of the data considered in this analysis would have been available during an examination of the LP from 2021-22. Rather than continuing to rely on piecemeal monitoring through the AMRs, without any consideration of the HMA, revised housing need figures and housing mix requirements would likely have been based on the 2021 census and policies/figures in the LPs of neighbouring authorities in the HMA. It is principally through a lack of properly tested evidence and the continued reliance on piecemeal, untested, and/or dated reports that the LPA's misapplication of LLP15 has arisen.

Appeal Decisions

37. As noted earlier in this statement, the LPA's position regarding LLP15 and the SHMA's 'presumption in favour of family-sized homes' has been challenged several times at appeal, most usually successfully (p.8-10, below) The age of the SHMA is a particular issue which leads to little weight being attached to its conclusions, especially where there are other, more 'up-to-date' policies or considerations at hand. As a result, the inspectorate typically finds against the LPA, considering that the loss of a family-sized home does not generally conflict with LLP15 or the LP as a whole.

LLP15, the SHMA, and loss of 'family-sized homes'

38. 11 change-of-use applications have been appealed since Jan 2025 where loss of a family-sized home is a main issue, and of these, 8 were allowed (or the principle accepted) due to a lack of conflict with LLP15/the SHMA. One further appeal found a conflict with LLP15/the SHMA but this was 'overridden' via the tilted balance due to the age of the SHMA and LP (30A King Street).

39. This leaves two dismissed change-of-use applications, one where the age of the SHMA is not explicitly considered (220 Biscot Road), and one where it is assumed that the findings of the SHMA are reliable, due to a lack of evidence to the contrary (6A Biscot Road). It is interesting to note that the same inspector in 6A Biscot Road subsequently allows a change-of-use in 41 Manton Drive when presented with relevant appeal decisions, where he then finds no conflict with LLP15. See paragraphs 43-47 for discussion of these cases.

[17] There may be other reasons why such a large discrepancy exists between the SHLAA/AMRs and the census records, however, it is reasonable to assume the majority of the difference arises from extensions / alterations / conversions of the existing housing stock.

Table 02

Appeals in Luton since Jan 2025, where loss of a family-sized home a main issue.

Allowed/principle accepted in green, dismissed/principle rejected in yellow.

Appeal	Decision	Notes
30A King Street 25/00530/COU APP/B0230/W/25/3372716	31.12.25	**COU: E to mixed E/C3 (flats) (allowed).** Conflict with LLP15 found due to loss of family home. Limited weight afforded to this due to lack of data since 2018/19. Presumption in favour of sustainable development applies.
41 Manton Drive 24/01452/COU APP/B0230/W/25/3372871	23.12.25	**COU: C3 (6-bed) to C2 (4-bed children's care home) (allowed).** Age of SHMA/SHLAA an issue, however likely still a need for family homes. Loss of one family home has a moderate harm on supply. C2 use is similar to that of C3, resulting in limited harm to supply of family homes. Evidenced, unmet need for children's care homes. No conflict with LLP15 from loss of family home. Referenced cases: 15 Millfield Road (APP/B0230/W/25/3366487 dated 20.08.2025) 81 Turnpike Drive (APP/B0230/W/24/3336478 dated 02.09.2024) 9 Marlborough Road (APP/B0230/W/24/3338531 dated 22.08.2024) N.B. this is an interesting case as the inspector allows C3 to C2 when presented with earlier appeal decisions, whereas he dismissed C3 to C4 in 6A Biscot Road (APP/B0230/W/25/3371077, dated 17.11.2025).
84 Wingate Road 24/01149/FUL APP/B0230/W/25/3364499	17.12.25	**NEW: 4 no. C3 dwellinghouses (dismissed).** No evidence before inspector to suggest identified need in SHMA has changed. Conflict with LLP15 due to lack of 3-bed units, as approved under previous application.
6A Biscot Road 24/01296/FUL APP/B0230/W/25/3371077	17.11.25	**COU: C3 flat (4-bed) to C4 (5-person HMO) (dismissed).** No evidence before inspector to suggest identified need in SHMA has changed. Conflict with LLP15 due to loss of family home.
80 Talbot Road 25/00271/FULHH APP/B0230/W/25/3369141	10.11.25	**Removal of C3 condition (dismissed).** Age of SHMA/SHLAA not considered, and therefore afforded weight.
220 Biscot Road 25/00274/COU APP/B0230/W/25/3369991	23.10.25	**COU: C3 (4-bed) to sui generis (7-person HMO) (dismissed).** Age of SHMA/SHLAA not considered, and therefore afforded weight. Conflict with LLP15 due to loss of family home. Referenced cases: 106 Dunstable Road (APP/B0230/W/24/3339848 dated 30.09.2024) 107 Tennyson Road (APP/B0230/W/22/3305813 dated 18.01.2023) N.B. no reference to the more recent allowed C3 to sui generis HMO cases, likely due to the LPA/appellant not identifying them: 23 Downs Road (APP/B0230/W/25/3361994 dated 24.07.2025) 5 Cromwell Road (APP/B0230/W/25/3359826 dated 08.05.2025)
4 Bideford Gardens 25/00409/FUL APP/B0230/W/25/3368278	09.09.25	**COU: C3 (3-bed) to C2 (1-bed children's care home) (allowed).** Evidenced, unmet need for children's care homes. Loss of single home has a limited effect on housing supply. Age of SHMA/SHLAA not considered. Provision of C2 outweighs harm by loss of C3. No conflict with LLP15.
21 Swan Mead 25/00134/COU APP/B0230/W/25/3367033	05.09.25	**COU: C3 (6-bed) to C2 (3-bed children's care home) (allowed).** Age of SHMA/SHLAA is significant. Unclear whether they represent current needs. C2 use is similar to that of C3, resulting in limited harm to supply of family homes. Evidenced, unmet need for children's care homes. No conflict with LLP15.
15 Millfield Road	20.08.25	**COU: C3 (6-bed) to C2 (4-bed children's care home) (allowed).**

25/00275/FUL APP/B0230/W/25/3366487		C2 use is similar to that of C3, resulting in limited harm to supply of family homes. Evidenced, unmet need for children's care homes. No conflict with LLP15. Referenced by 41 Manton Drive (APP/B0230/W/25/3372871 dated 23.12.2025)
23 Downs Road 24/00794/FUL APP/B0230/W/25/3361994	24.07.25	**COU: C3 (6-bed) to sui generis (8-person HMO) (allowed).** Age of SHMA/SHLAA is significant. Unclear whether they represent current needs. HMO uses supported by LLP17. No conflict with LLP15. Referenced cases: 186 Dunstable Road (APP/B0230/W/24/3339848 dated 30.09.202) 30 Hillborough Road (APP/B0230/W/23/3327344 dated 09.04.2024)
10 Swallow Close 24/01081/COU APP/B0230/W/24/3357725 24/01085/COU APP/B0230/W/24/3357758	06.06.25	**COU: C4 (6-bed) to C2 (4-bed children's care home) (allowed).** Housing delivery in wider HMA should be considered. Age of SHMA/SHLAA is significant. Unclear whether they represent current needs. Evidenced, unmet need for children's care homes. No conflict with LLP15.
10 Derby Road 24/01172/FUL APP/B0230/W/25/3361160	05.06.25	**COU: C3 (4-bed) to C2 (3-bed children's care home) (dismissed, but COU principle accepted).** Housing delivery in wider HMA should be considered. Age of SHMA/SHLAA is significant. Unclear whether they represent current needs. Evidenced, unmet need for children's care homes. No conflict with LLP15.
5 Cromwell Road 23/00832/FUL APP/B0230/W/25/3359826	08.05.25	**COU: C4 (6-person) to sui generis (8-person HMO) (dismissed, but COU principle accepted).** Age of SHMA/SHLAA is significant. Unclear whether they represent current needs. HMO uses supported by LLP17. SHMA also supports HMOs. No loss of family home due to current C4 use. No conflict with LLP15.
Referenced by above Pre-2025, post-LP		
186 Dunstable Road 23/01054/COU APP/B0230/W/24/3339848	30.09.24	**COU: E/C3 (3-bed flat) to E/C4 (dismissed).** Age of SHMA/SHLAA not considered. No evidence that need for HMOs outweighs need for family home. No weight attached to similarity of C3 and C4 uses. Conflict with LLP15 due to loss of family home. Referenced by: 220 Biscot Road (APP/B0230/W/25/3369991 dated 23.10.2025) 23 Downs Road (APP/B0230/W/25/3361994 dated 24.07.2025).
81 Turnpike Drive 23/00661/COU APP/B0230/W/24/3336478	02.09.24	**COU: C3(a) (4-bed) to C2 (3-bed children's home) (allowed).** No identified need for family homes (unclear if due to SHMA/SHLAA not being submitted or not afforded weight). Evidenced, unmet need for children's care homes. No conflict with LLP15. Referenced by 41 Manton Drive (APP/B0230/W/25/3372871 dated 23.12.25).
9 Marlborough Road 23/01136/COU APP/B0230/W/24/3338531	22.08.24	**COU: C3 (5-bed) to C2 (4-bed children's home) (allowed).** Evidenced, unmet need for children's care homes. Age of SHMA/SHLAA not considered. No conflict with LLP15. Referenced by 41 Manton Drive (APP/B0230/W/25/3372871 dated 23.12.25).
30 Hillborough Road 23/00434/FUL APP/B0230/W/23/3327344	09.04.24	**COU: C4 (6-bed) to 2 no. C3 flats (1-bed, 2-bed) (dismissed).** C4 use is similar to that of C3. C4 contributes towards need for family-sized homes. Age of SHMA/SHLAA not considered. Loss of C4 use conflicts with LLP15/SHMA/SHLAA.

		N.B This appeal supports the position that C4 / sui-generis HMO is congruent with use as a 'family-sized dwellinghouse'. Referenced by 23 Downs Road (APP/B0230/W/25/3361994 dated 24.07.2025).
107 Tennyson Road 22/00442/COU APP/B0230/W/22/3305813	18.01.23	COU: C3 to sui-generis (8-person HMO) (allowed). A need for HMOs does not need to be demonstrated due to LLP17. Loss of single family home to HMO use has no meaningful effect on housing mix as a whole. No conflict with LLP15. Referenced by 220 Biscot Road (APP/B0230/W/25/3369991 dated 23.10.2025)

Useful principles regarding a change of use

40. There are some further useful principles to be gleaned from decisions regarding a change-of-use, examined below.

Similarity of use between C3, C2, C4, and sui generis (HMO)

41. It is a well-established principle at appeal that the differences between C3, C2, C4, and sui generis (HMO) are so slight that a change of use between these classes causes minimal or no harm to the supply of family-sized homes. This is due to the similarity in character/use and the ease in which these uses can revert back to C3 (41 Manton Drive, 21 Swan Mead, 15 Millfield Road). Indeed, the LPA also contends that loss of a C4 use amounts to harm to the supply of family-sized homes (30 Hillborough Road, 5 Cromwell Road, 10 Swallow Close).

Change of use to C2 (children's home)

42. In all cases where a change of use to C2 (children's home) is proposed, this has been allowed. This is due to there being a clear, up-to-date, evidenced need for children's homes nationally and locally. This outweighs the poor and outdated evidence presented by the SHMA/SHLAA that an overriding need for family-sized homes exists in the borough.

Change of use to C4 / sui generis (HMO)

43. There is more variance regarding a change of use from C3 to C4 or sui generis (HMO), with the two most recent appeals being dismissed. It is worth discussing these further, especially as the intention of the C3 condition is in part to restrict this change of use.

44. In 6A Biscot Road (17.11.25) the appellant does not submit any recent appeal decisions, and the inspector finds a meaningful conflict with LLP15 and the SHMA/SHLAA, despite noting the age of the data. However, the same inspector subsequently allows 41 Manton Drive (23.12.25) for a change of use from C3 to C2 when presented with recently allowed appeal decisions for this change of use, overriding his concerns regarding the loss of a family-sized home.[18]

45. In 220 Biscot Road (23.10.25), the appellant submits one favourable decision dated from 2023 (107 Tennyson Road), neglecting to submit the more recently allowed 23 Downs Road (24.07.25). The inspector dismisses the case, referring to the earlier dismissed 186 Dunstable Road (30.09.24) submitted by the LPA, rather than 23 Downs Road. He also does not consider the age of the SHMA/SHLAA explicitly, likely as this is not mentioned by the appellant.

[18] Admittedly the precedent for C3 to C2 is much more consistent.

46. 23 Downs Road (24.07.2025) is significant, in allowing a change of use from C3 to C4 while also choosing to override the most recently decided (and dismissed) appeal regarding the same change of use (186 Dunstable Road). In this case the inspector finds the age of the SHMA/SHLAA to be a significant issue, while also highlighting LLP17 to be in favour of C3 to HMO changes of use. He also considers HMOs to be important in meeting local housing needs, and references 30 Hillborough Road (09.04.24) which found C4 uses to contribute towards the supply of family-sized homes. No conflict with LLP15 is found by the loss of a C3 dwellinghouse to HMO use.

47. We consider 23 Downs Road to be a somewhat more robust decision given the extent of evidence submitted by the appellant, along with its consideration of the most recent decisions (at the time) and explicit consideration of the age of the SHMA/SHLAA. It is unfortunate that this decision is not referenced by 220 Biscot Road or 6A Biscot Road, and we contend that if it had been submitted in evidence, the decisions would likely have been more favourable.

Change of use from C4 to C3, sui generis (HMO) and C2

48. The three cases where loss of a C4 use is proposed are also of interest, as in these cases the LPA submits that C4 uses contribute towards the supply of family-sized homes, despite arguing the contrary where conversion of C3 to C4 (or sui generis HMO) is proposed. 30 Hillborough Road (09.04.24) dismisses a change of use to flats, concurring with the LPA on this matter. In 5 Cromwell Road (08.05.25) the principle of a change to sui-generis HMO is accepted, finding that no loss of a family-sized home arises through this change. The principle of a C4 site comprising a 'family-sized home' is reaffirmed in 10 Swallow Close (06.06.25). In this case a change of use to C2 is allowed for other reasons.

49. As such, we can reasonably conclude that C4 uses contribute towards the supply of family-sized homes. This is the general position adopted by inspectors. It is the position also adopted by the LPA where loss of a C4 use is proposed.

Further appeals

50. There are two further cases not concerning a change-of-use but which are relevant to the appeal. One pertains to an amendment to an existing permission for new homes, which is dismissed in part due to the amendment removing a family-sized home from the approved scheme (84 Wingate Road). This is somewhat of a special case which we do not examine further. The remaining case (80 Talbot Road) deals directly with an appeal to remove the 'C3 condition,' and is therefore of particular relevance. We examine this further in paragraphs 51-52 (below) and, in relation to the '6 tests', see paragraphs 71-72 (p.15).

80 Talbot Road

51. 80 Talbot Road discusses the tests set out in paragraph 2 of this statement and refers to the SHMA/SHLAA as its only justification for dismissal. However, it does not take into account the age of the SHMA/SHLAA nor any previous appeal decisions regarding LLP15, and does not discuss nor apply any of the principles discussed above. This is, perhaps, to be expected, as this evidence was not submitted by the appellant, nor does the appellant make any reference to LLP15 or the SHMA/SHLAA in their submissions, leaving the LPA solely to argue their case with no rebuttal or defence.

52. 80 Talbot Road is procedurally speaking the most relevant decision to the current appeal. However, we would contend that the current appeal does not need to be consistent with its findings, as the evidence we submit is considerably more extensive and detailed than that submitted at 80 Talbot Road. Along with the age of the SHMA, which is consistently considered a significant, overriding issue at appeal, this case does not consider housing delivery in the wider HMA or the age of the LP itself (including LLP40 and the examining inspector's concerns about housing data accuracy). In weighing the potential impact of a change-of-use to C4 or otherwise, he also does not take into account the inspectorate's general position that changes of use from C3

to C2, C4, or sui-generis HMO cause little to no harm to the supply of family-sized homes. These are all issues which need to be considered afresh in the interests of consistency with other appeals on this matter.

General conclusions on appeal decisions and 'precedent'

53. Given that the evidence explored in this appeal is somewhat more comprehensive than that submitted in any of the above appeals, there is arguably no direct 'precedent' arising from any individual appeal decided of late on LLP15. However, the inspectorate's general position on these matters is still a very useful and material consideration to the current appeal, and provides further support to the conclusions drawn at the start of this statement.

54. In particular, the LPA's position that LLP15 is equivalent to the application of the SHMA is frequently dismissed at appeal, and has been for some time. In simple terms, the loss of a family-sized home does not usually conflict with LLP15 or the LP as a whole. In the minority of cases where a conflict is found, this is simply due to an assumption that the findings of the SHMA/SHLAA remain valid despite their age. The opening section of this statement critiques this in detail. Even if we are to entertain a continuing need for family-sized homes, the extent of this need is entirely unclear, while there is evidence of ample supply of such homes in the wider HMA. There are also doubts as to whether the LPA's initial position on housing need was ever accurate, while the findings of the SHMA predate events having a significant impact on housing need. The housing mix position assessed by the SHLAA and AMRs also do not tally with those found in the 2021 census.

55. Appeal decisions also establish a further principle that changes of use from C3 to similar residential uses (C2, C4, or sui-generis HMO) cause little to no harm to the supply of family-sized homes, and the LPA itself considers C4 to contribute towards the supply of family-sized homes, resisting its loss to other uses under LLP15/the SHMA.

General conclusions

56. Before turning to the specific tests to be considered in the case of a planning condition, we outline some general conclusions to be drawn from the discussion in this statement thus far.

    1. The age of the SHMA (2015/2018) is a key issue. On its age alone inspectors generally afford it little weight. In particular, it is unclear if its conclusions on the need family-sized homes continue to hold.

    2. The age of the SHLAA (2019), the piecemeal nature of AMRs, and the lack of wider HMA monitoring is a key issue. Without up-to-date, accurate monitoring, it is unclear if the originally established need for family-sized homes has been met, even if the conclusions of the SHMA still hold. This is particularly pertinent given the conflict with the 2021 census on family-sized home provision in Luton borough, and the fact that family-sized homes are the predominant type of dwelling built in the wider HMA.

    3. The SHMA draws conclusions on housing need in the HMA as a whole. It is not a proxy for housing requirement or policy (in the aggregate, or by mix). Given the size of the wider HMA, and the tight bounds of the borough, it is reasonable to assume that any need for family-sized homes is met or can be met in the wider HMA.

    4. Little to no harm is caused to the supply of family-sized homes through a change-of-use from C3 to C4, C2, or sui generis (HMO). The LPA itself contends that C4 use contributes towards the supply of family-sized homes.

Testing the use of condition 6

57. The current appeal deals solely with a planning condition, and as such, we now turn to the specific tests to be considered – namely, those in the NPPF and PPG set out in paragraph 02 of this statement.

Paragraph 55 of the Framework

58. The aim and intended effect of the condition is to prevent the site from being used for any other purpose than as a *'single-family dwelling house'*. The wording is not entirely clear, but it seems the intention of the LPA is to restrict the site to C3(a) use, revoking national permitted development rights to change to C4 use, and requiring permission from the LPA to change from C3(a) to C3(b) or C3(c), which would not normally be classed as development. The condition also has the effect of removing any future permitted development rights which might apply to C3 use, and to potentially complicate the planning position should C3 be amended to include or combine other uses. The condition therefore invokes paragraph 55 of the Framework, and also potentially goes somewhat further in restricting the right to change between different sub-classes of C3.

59. The first question is whether there is *'clear justification'* to restrict national permitted development rights on this site. The reasons given by the LPA are *'to ensure a satisfactory standard of development, to safeguard the amenities of the surrounding area and to ensure the resultant dwellinghouse contributes towards the need for larger family dwellings within the borough.'*

60. In relation to the former two reasons, 80 Talbot Road establishes these are not entirely material to the LPA's reasoning, but we discuss them for completeness.

61. Changes within C3 and between C3 and C4 do not result in any external alterations or change in the residential character of the site, so it is unclear how restricting these alterations ensures a *'satisfactory standard of development'* or *'safeguards the amenities of the surrounding area'.* There is some argument that a change between C3 and C4 can affect amenity through incidental use changes such as increased intensity of use or coming-and-goings; however, the grant of a national permission for this development indicates that such changes generally have an acceptable impact on amenity, while there is little difference in the intensity of use between a 'family-sized home' and a HMO consisting of up to 6 persons. LP Policy LLP17 also supports such changes of use from C3 to C4. There are no further site-specific considerations which indicate these changes of use could have an unacceptable effect on amenity or the 'standard of development'.

62. In relation to the latter and principal reason: *'to ensure the resultant dwellinghouse contributes towards the need for larger family dwellings within the borough'*, the LPA's justification for this has been extensively discussed. There is poor evidence of an outstanding, overriding need for larger family dwellings exclusively within the borough boundaries, while there is evidence that the need for family-sized homes is catered for in the Luton functional HMA. Furthermore, the SHMA, while outdated, does not expressly indicate a need for *'larger family dwellings <u>within</u> the borough.'* It is silent on requirement/need within the borough boundaries, finding only a need for family-sized homes in the HMA as a whole.

63. As such, when considering the evidence as a whole, while there is perhaps 'some' justification to remove permitted development rights, the underlying evidential basis for this justification is weak and is consistently dismissed at appeal. We therefore contend there is no *'clear justification'* to remove national permitted development rights on the site. The position on housing delivery/mix in the HMA is entirely unclear, due to the age of the SHMA, a lack of monitoring of delivery in the HMA, and inconsistency with the 2021 census household figures.

64. Inspectors are also generally supportive of the view that changes of use from a family-sized home to similar residential uses (C2, C4, or sui-generis HMO) have little or no conflict with LLP15. The LPA itself considers C4 use to contribute towards the supply of family-sized homes. In this regard, there is also little justification to remove permitted development rights to change between C3 and C4, or potentially within sub-classes of C3. Exercise of these PDs would cause little to no harm to the supply of family-sized homes in the borough. There is therefore no *'clear justification'* to remove these rights, even if some weight is attached to the SHMA/SHLAA.

65. We therefore consider condition 6 to conflict with paragraph 55 of the Framework. It is not clear that there is an overriding need to protect family-sized homes within the borough. Furthermore, it is not clear that restricting changes of use to C4 or sub-classes of C3 meaningfully contributes to protecting this use.

The '6 tests'

66. Paragraph 57 of the Framework and the PPG 'Use of planning conditions' establishes the '6 tests' which planning conditions must pass.[19] Conditions must be:

    1. necessary,
    2. relevant to planning,
    3. relevant to the development to be permitted,
    4. enforceable,
    5. precise, and
    6. reasonable in all other respects.

67. Paragraph 017 of the PPG also states:

    'Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. […]'

68. It is first useful to note that the LPA has requested the 'C3 condition' be attached to appeal decisions concerning similar development[20] at least five times since January 2025, and in every case, this request has been refused due to it failing one of more of the '6 tests'. There are no decisions where the C3 condition has been imposed at appeal. Appendix A contains further details of these cases.[21]

Appeal	Decision	Notes
27 Icknield Way 24/01212/FULHH APP/B0230/D/25/3358797	11.04.25	**C3 alterations (allowed), 'C3 condition' rejected.** Extension and loft conversion. 2 to 4 bedrooms. C3 condition unnecessary and insufficiently related to the development proposed. Permission does not alter use of the building.
15 Rotherfield 24/01078/FULHH APP/B0230/D/24/3357875	04.04.25	**C3 alterations (allowed), 'C3 condition' rejected.** Extensions and garage conversion. 3 to 4 bedrooms. C3 condition insufficiently related to the development proposed. Permission does not alter use of the building.
4 Brunel Court 24/00550/FULHH APP/B0230/D/25/3358383	03.04.25	**C3 alterations (allowed), 'C3 condition' rejected.** Extension. 2 to 4 bedrooms. C3 condition unnecessary and insufficiently related to the development proposed. Permission does not alter use of the building.
30 Chapter House Road 24/00443/FULHH APP/B0230/D/24/3353965	26.03.25	**C3 alterations (allowed), 'C3 condition' rejected.** Extension and loft conversion (retrospective). 2 to 4 bedrooms. C3 condition unnecessary. Planning permission required for changes of use etc.
6 St Monica's Avenue 24/01013/HHFT APP/B0230/D/24/3357032	19.03.25	**C3 alterations (allowed), 'C3 condition' rejected.** Extensions. 2 to 3 bedrooms. C3 condition unnecessary and unreasonable. Justification for condition unclear.

69. Generally, inspectors find the condition to be unnecessary and insufficiently relevant to the development to be permitted, and in one case unreasonable. This is due to proposals only comprising alterations to a C3 dwellinghouse, with no change of use or subdivision proposed, while any change of use beyond that which would normally be permitted would anyway require permission.

70. The current appeal deals with an identical case to those referenced above. The proposal does not propose any change of use or subdivision of the property – indeed, in this case it does not even propose an alteration in the

[19] In the interests of brevity, supporting case law is not referenced.
[20] Appeals regarding alterations/extensions to C3 dwellinghouses where no changes of use or subdivision are proposed.
[21] This is perhaps speculation, but given the close dates of these decisions, the LPA may have 'given up' requesting its use at appeal following its consistent rejection by inspectors.

number of bedrooms. It is reasonable to conclude that condition 6 is therefore unnecessary and insufficiently relevant to the development to be permitted.

71. It is necessary to further consider the reasoning set out in 80 Talbot Road. In this case the inspector found the condition passed the 6 tests as follows:

    1. necessary: to safeguard the supply of [family-sized] homes,
    2. relevant to planning: due to SHLAA evidence,
    3. relevant to the development to be permitted: due to extra bedroom proposed,
    4. enforceable,
    5. precise: precise in what it prevents,
    6. reasonable in all other respects.

72. We comment on these matters as follows:

    1. Necessary: evidence of an overriding need for family-sized homes is doubtful due to the poor evidential value of the SHMA and SHLAA, which are consistently afforded little weight at appeal. Even if these documents are afforded some weight, they do not require the safeguarding of family-sized homes exclusively within the borough boundaries, due to wider provision within the HMA. Evidence suggests ample supply of family-sized homes in the HMA. It is also unnecessary to restrict the GPDO as change of use to C4 or subclasses of C3 (or indeed C2) are considered to cause little or no harm to the supply of family-sized homes, both by inspectors and (in the case of C3/C4) the LPA.
    2. Relevant to planning: no comment.
    3. Relevant to the development to be permitted: no extra bedroom is proposed in this instance, nor any change of use or subdivision of the site.
    4. Enforceable: no comment.
    5. Precise: see paragraphs 73-74 (below).
    6. Reasonable: no comment.

73. The question of precision is not considered by inspectors. However, we would contend that the condition as worded in this instance is indeed imprecise and unclear. The overall wording and policy basis of the condition indicates a desire to retain the site in C3(a) rather than C3(b) or C3(c) use, while the condition only explicitly states C3 rather than C3(a). It is not at all clear what the planning position would be should the applicant wish to change the use from C3(a) to C3(b) or C3(c). The condition is therefore imprecise and not clear as to *'exactly which rights have been limited or withdrawn',* failing the tests of precision and paragraph 017 of the PPG.

74. If the effect of the condition is instead to retain the use of the site in C3 as a whole, allowing changes to C3(b) and C3(c), then the condition does not, in fact, have the effect of retaining the site as a single-family dwellinghouse, as the LPA contends it needs. The use of the site could change to certain kinds of care homes or shared accommodation without permission, resulting in the loss of a 'family-sized home'. In this case, the condition would not serve a clear planning purpose, and therefore be unnecessary and unreasonable.

Conclusions

75. The site is currently a C3 dwellinghouse comprising 3 bedrooms. Alterations and additions have been sought, but no change in the number of bedrooms is proposed. No changes in use or subdivisions of the site have been sought.

76. A condition restricting the use of the house exclusively to C3 (or C3(a)) has been imposed to address the LPA's perceived overriding need to protect and provide 'family sized homes' within the borough boundaries. There are no site-specific considerations which necessitate this condition, rather, it is simply a standard condition applied to all applications concerning such uses.

77. The evidence supporting the LPA's position has been assessed, and where tested at appeal this has also been discussed. There is significant doubt that there remains an overriding, unmet need for 'family sized homes' serving Luton borough. The age of the LP and SHMA are a key issue, but the lack of any monitoring or consideration as to housing delivery in the wider HMA fundamentally undermines the LPA's position. Any contention as to over- or under-delivery of housing types serving Luton borough should take into account delivery in the Luton functional HMA. A lack of HMA monitoring makes the housing delivery position entirely unclear.

78. Given the available evidence outlined at the start of this report, it is reasonable to conclude that any under-delivery of family sized homes is significantly overestimated by the LPA. Family-sized homes are likely the predominant dwelling type being built across the HMA as a whole.

79. Without clear evidence of a shortage of family-sized homes serving the borough, there is no planning reason to impose condition 6. There is certainly no 'clear justification' to remove permitted development rights as required by the Framework.

80. Inspectors are also generally supportive of the view that changes of use from a 'single family dwellinghouse' to similar residential uses (C2, C4, or sui-generis HMO) have little or no conflict with LLP15/the SHMA/SHLAA. In this regard, there is also little justification to remove permitted development rights to change between C3 and C4, or potentially within sub-classes of C3. Exercise of these PDs would cause little to no harm to the supply of family-sized homes in the borough. There is therefore no clear justification to remove these rights, even if some weight is attached to the SHMA/SHLAA.

81. The condition has also been assessed against the '6 tests,' where we contend it fails the tests of necessity and relevance to the development to be permitted. It is also imprecise, in not being clear whether use is restricted to C3 or C3(a). Consequently, it also conflicts with paragraph 017 of the planning conditions PPG.

82. In conclusion, condition 6 conflicts with paragraphs 55 and 57 of the Framework and paragraphs 003 and 017 of the *Use of Planning Conditions* PPG. It should therefore be removed.

Summarised 'statement of case' on following page.

STATEMENT OF CASE

1. Condition 6 conflicts with paragraph 055 of the Framework for the following reasons:

    a. there is insufficient evidence of an up-to-date, overriding need for family-sized homes serving the borough;
    b. there is no clear planning reason to safeguard the supply of family-sized homes exclusively within the borough boundaries, given the wider HMA;
    c. there is evidence of ample supply of family-sized homes in the HMA, which the LPA has not taken into account;
    d. a change of use to C4 or within C3 does not meaningfully harm the supply of family-sized homes;
    e. changes of use to C4 or sui-generis 'HMO' are supported by LLP17 and do not conflict with LLP15 or the LP as a whole.

    Hence there is no '*clear justification'* under the LP or otherwise to restrict national permitted development rights, namely changes of use from C3/C3(a) to C3(b), C3(c) or C4.

2. Condition 6 fails one or more of the '6 tests' in paragraph 057 of the Framework and the *Use of Planning Conditions* PPG.

    a. The condition is unnecessary. There is insufficient evidence of a shortage of family-sized homes serving the borough. It is not necessary to secure family-sized homes exclusively within the borough boundaries, due to provision in the Luton HMA. It is not necessary to prevent changes of use to C3(b), C3(c) or C4 as a change to these uses does not cause harm to the supply of family-sized homes, nor conflict with the development plan.
    b. The condition is insufficiently relevant to the development to be permitted. No changes of use or subdivisions of the site are sought. No change in the number of bedrooms is proposed.
    c. The condition is imprecise. It is not clear whether the condition is intended to restrict the site to C3 use or C3(a) use.

3. Condition 6 conflicts with paragraph 017 of the *Use of Planning Conditions* PPG. There is ambiguity as to whether the condition restricts use to C3 or C3(a). It is therefore not clear *'exactly which rights have been limited or withdrawn.'*

4. Condition 6 conflicts with the Framework and PPGs on several issues and should therefore be removed from the decision notice.