

Case Name: *Holborn Studios Ltd v Secretary of State for Housing, Communities and Local Government & Ors* [2025] EWHC 1852 (Admin) (18 July 2025)

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Commentary:

This successful claim for statutory review under s.288 of the Town and Country Planning Act 1990 relates to the grant of planning permission by an inspector appointed by the Secretary of State on 29 July 2024 for development at 49-50 Holborn Studios, Eagle Wharf Road, Hackney, London N1 7ED ("**the Site**").

The proposed development was for a mixed-use scheme including 5,591 sq.m of commercial floorspace and 50 residential units.

This was the third planning permission for the Site that has been quashed since 2017. The successful ground concerned the Inspectors approach to a policy requiring the reprovision of cultural facilities. The court held that the Inspector's reasoning was "wholly unclear". The lack of restrictions in planning conditions or obligations ensuring occupation by creative industries or obligations ensuring occupation by creative industries further undermined the Inspector's approach and conclusion. The case reiterates the requirement for clear, consistent and carefully reasoned assessments when interpreting policies.

Facts

The Site has been described as an assemblage of nineteenth and twentieth century buildings on the southside of the Regents Canal. For several years, the Site was run down and distressed, however since 1987 it has been transformed by the current leaseholder ("**Holborn Studios**") into Europe's largest photographic studio. Holborn Studios operates seven studios on the ground floor and a further studio on the second floor. There are other creative and non-creative industries operating from the site under licence granted by Holborn Studios, as well as a cafe.

The planning history of the Site is complex, including prior quashing of permissions in 2017 and 2020. The planning application that was the subject of this claim was refused by the local planning authority in 2022 for reasons including loss of photographic studio use and failure to meet employment targets. The freeholder/developer appealed and the Inspector allowed the appeal subject to conditions and planning obligations, including the use of the basement as cultural workspace and provision of affordable workspace.

Grounds

Holborn Studios advanced the following grounds:

- Ground 1: The conclusion that the scheme complied with policies on cultural facilities was unlawful because:

- (a) The Inspector erred in law in relying upon the possibility of alternative layouts for the basement when the layout was fixed by the planning permission; a justiciable error of fact was made about loadbearing walls; and there was no evidence that an alternative layout would deliver the expected improvements to the scheme.
 - (b) Given the Inspector's findings and the incontrovertible circumstances, it was not rational to find that the scheme amounted to the "reprovision" of the cultural facility, as required by policy, in particular given the permitted use, design and the lack of control of the use of the building.
- Ground 2: Several errors arise in respect of the shortfalls of the application scheme and the benefits of the existing use:
 - (a) The Inspector unlawfully concluded without any evidence that the priority office area 60% requirement could be met by mezzanines.
 - (b) The Inspector unlawfully refused to allow the up-to-date viability assessment which the freeholder/developer had submitted to the inquiry to be referred to once they had asked for it to be withdrawn.
 - (c) The Inspector failed to take into account a material consideration, the merits of the existing use of the land as compared to a proposed development which fails to achieve policy expectations on viability grounds (alternatively, failed to give statutory reasons).

Permission to apply for statutory review was granted on Grounds 1(a) and 2(b) and (c) on the papers, but refused on the other grounds. Holborn Studios applied to renew on the other two grounds and they were heard on a "rolled up" basis in the hearing.

Judgment

Mr Justice Jay rejected Ground 1(a). Firstly, the planning permission included a condition requiring the development to be carried out strictly in accordance with the approved plans (including the internal layout). As such, the Inspector did not envisage pre-completion changes and thus did not err in accepting that post-completion fit-out could accommodate varied cultural facilities. The Inspector also did not make an error of fact concerning loadbearing walls.

In relation to Ground 1(b), Mr Justice Jay identified three logical interpretations of the relevant policies:

- Approach 1 was that "reprovision" means that the proposal should be suitable for Holborn Studios' specific requirements.
- Approach 2 was that "reprovision" means any photographic studio that could properly be described as a cultural facility.

- Approach 3 was that “reprovision” means *any* cultural facility not limited to photographic studios.

Mr Justice Jay found that the Inspector was initially applying Approach 2 but later began to depart from Approach 2 into the scope of Approach 3 by referencing “other” cultural or creative uses. The Inspector’s approach was internally inconsistent, irrational and the reasoning “wholly unclear”. The lack of restrictions in planning conditions or obligations ensuring occupation by creative industries or obligations ensuring occupation by creative industries further undermined the Inspector’s approach and conclusion. As such, Ground 1(b) was upheld.

In relation to the matters covered by Ground 2, Mr Justice Jay upheld the Inspector’s conclusions:

- (a) That the priority office area 60% requirement could be met by mezzanines, and the relevant policy would be complied with even without the mezzanines;
- (b) To admit updated viability evidence withdrawn by the freeholder/developer because of the need for procedural order and fairness; and
- (c) That no “balancing exercise” beyond that required in policy, still less one that takes into account non-planning considerations (i.e. commercial decisions made by the freeholder/developer), is required.

Grounds 2(a)-(c) were, therefore, dismissed.

Conclusion

Permission to apply for statutory review was granted on Ground 1(b) but refused on Ground 2(a). The claim for statutory review was upheld on Ground 1(b) only.

Case summary prepared by Nikita Sellers & Sudi Turay