
Appeal Decisions

Site visit made on 5 February 2019

by Jean Russell MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 July 2019

Appeal A: APP/E5900/W/18/3200015

Flats 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 17, 18, 32 & 34, Morrison Flats North, 35A Commercial Road, London, E1 1LB

- Appeal A is made by Mr Abdul-Talib Sheikh under section 78 of the Town and Country Planning Act 1990 against the decision of the Council of the London Borough of Tower Hamlets to refuse an application to grant planning permission for development.
- The application ref: PA/17/02889, dated 10 November 2017, was refused by notice dated 9 January 2018.
- The development proposed is described as 'continued use as 17 serviced apartments for a temporary period of 3 years'.

Summary of Decision: Appeal A is dismissed.

Appeals B-R: references listed in Appendix 1 to this Decision

Land at Flats 1, 2-12, 16-18, 32 and 34, Morrison Flats North, 35A Commercial Road, London, E1 1LB

- Appeals B-R are made by Mr Abdul-Talib Sheikh under section 174 of the Town and Country Planning Act 1990 as amended against enforcement notices that were issued by the Council of the London Borough of Tower Hamlets.
- The enforcement notices, described in Appendix 1, were issued on 13 March 2018.
- The breach of planning control that is alleged in each notice is: without planning permission and within the last 10 years, the change of use of flat No 1 [2, 3 etc] from residential (C3) use to sui generis short-stay accommodation.
- The requirements of each notice are to:
 1. Cease the use of the Property for the unauthorised sui generis use as short-stay accommodation
 2. Remove all items associated with the unauthorised use and return the Property to lawful (C3) residential use as a single dwelling; and
 3. Make good any damage to the building caused by compliance with steps 1 and 2 above, and remove any resulting debris from the land.
- The period for compliance with the requirements of each notice is one (1) month.
- Appeals B-R are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: Appeals B-R succeed in part and the enforcement notices are upheld with variations.

PRELIMINARY MATTERS

1. The appeals are made by Mr Sheikh on behalf of SHQ Apartments Ltd.
2. The enforcement notices refer to the term 'C3', which means 'use class C3' or 'use as a dwellinghouse' as set out in the Schedule to the Town and Country Planning (Use Classes) Order 1987. The term 'sui generis' denotes use outside of any class.
3. Under s25 and 25A of the Greater London (General Powers) Act 1973, as amended by the Deregulation Act 2015, the use of any residential premises in Greater

London as temporary sleeping accommodation involves a material change of use unless the sum of (a) the number of nights of use and (b) the number of nights (if any) of each previous use as temporary sleeping accommodation in the same calendar year does not exceed ninety.

4. There is no dispute that Flats 1-12, 16-18, 32 and 34 (the appeal flats) have a lawful use as C3 dwellings and been subject to a material change of use to use as temporary sleeping or short-stay or serviced accommodation. As suggested above, the appellant seeks permission to carry out the use for a temporary period of three years. Other flats in Morrisons Flats North remain in C3 use.
5. The Council refused the application subject to Appeal A and issued the notices subject to Appeals B-R with reference to the *National Planning Policy Framework* (the Framework) as published in 2012. The Framework was revised in July 2018, and the parties had opportunity to take account of the revisions through their written representations for the appeals. The Framework was further revised in February 2019 but not in any respect that is directly relevant to the appeals.

APPEAL A: THE PLANNING APPEAL

The Site and its Surroundings

6. The appeal concerns a late Victorian building on the corner of Commercial Road and Adler Street. The building has six storeys including a basement, and it contains 35 flats and an office¹; there is also a service yard to the rear.
7. Unsurprisingly, given its name, Commercial Road is a busy street which is fronted by substantial properties that are largely in various business uses. Side and back streets lead to buildings in residential and other uses.

Main Issues

8. I consider that the main planning issues are:
 - The effect of the change of use on the supply and choice of housing locally;
 - The effect of the use on the living conditions of permanent occupiers of the appeal building and on the character of the wider area;
 - Whether adequate provision is made for the storage and management of waste and recycling on-site;
 - Whether adequate provision is made for car and/or cycle parking; and
 - The effect of the use on the setting of nearby listed buildings.

Reasons

The Supply and Choice of Housing

Policy Context

9. The Framework seeks to significantly boost the supply of housing. It requires local planning authorities to assess and reflect the size, type and tenure of housing needed for different groups in the community in their planning policies.
10. Policy 3.3 of the *London Plan 2016* (LP) recognises that there is a pressing need for more homes in London. It seeks to ensure the provision of at least an annual average of 42,000 **net** additional homes across London, and the achievement or exceedance by London Boroughs of specified minimum housing targets. LP Policy

¹ A lawful development certificate (ref: PA/17/02979) was granted by the Council on 16 January 2018 to certify that the existing use of Unit 35 as an office was lawful.

- 3.3 does not specifically seek to retain existing dwellings – but LP Policy 3.14 does resist the loss of existing housing, including to short-term lettings, unless it is replaced at existing or higher densities with at least equivalent floorspace.
11. Similarly Policy SP02 of the *Tower Hamlets Core Strategy 2010* (CS) seeks to deliver new homes in line with LP housing targets – and Policy DM3 of the *Tower Hamlets Managing Development Document 2013* (MDD) resists development that would involve the net loss of residential floorspace or units, unless through 'estate regeneration development' that meets criteria that do not apply in this case.
 12. MDD Paragraph 3.9, in support of Policy DM3, states that '*to manage the current shortage of family homes, the Council will resist proposals to convert family homes into smaller self-contained flats...delivery of new family homes is a priority of the Core Strategy*'. It does not follow that the Council is unconcerned about the loss of small flats. DM3 resists the net loss of any residential floorspace or units – and it requires new housing development to provide a balance of housing types, with 50% of market housing needing to be 1-bedroom accommodation.
 13. The appeal flats have been let on a sub-lease to SHQ Apartments Ltd and used as serviced apartments since October 2016. The flats are serviced, and the use is run from the office in Unit 35. The appellant's evidence is that between November 2016 and April 2018, the flats accommodated nearly 12,000 guests who stayed for no longer than 3 weeks, and on average for less than 3 nights. Thus, the short-stay use leads to the flats being occupied by tourists and not as permanent homes.
 14. Permitting the change of use would reduce the supply of homes and the choice of 1-bedroom flats in Tower Hamlets. The loss, to the tune of 17 dwellings, would be material and harmful, and make it harder for the Council to meet its targets for a net increase in the housing stock. Granting temporary permission would lessen but not overcome the harm; the supply would be reduced for the prescribed period².
 15. The change of use conflicts with LP Policies 3.3 and 3.14, CS Policy SP02 and MDD Policy DM3 – and that conflict, allied with the actual harm of the loss of housing supply and choice could be sufficient reason to dismiss Appeal A. However, the appellant has raised considerations said to justify a grant of permission.

The '2011 Permission'

16. Planning permission (ref: PA/10/00676/A1) was granted on appeal (ref: APP/E5900/A/10/2137062) on 10 January 2011 for '*change of use of part of ground floor to Class A1 use; addition of 4 additional floors and rear extensions; alteration to Commercial Road and Adler Street façades; alterations to the existing 36 flats and creation of an additional 8 self-contained flats; provision of cycle parking, refuse, storage and rear servicing*' at Morrison Flats North.
17. In April 2013, Shore Engineering Ltd served an Initial Notice under Building Regulations for the construction of an 'extension to form 4 additional storeys including rear extension (shell & core) for residential purposes, and alterations to the building façades'. The same firm confirmed in January 2014 that 'excavation' as 'part of the works described' in the Initial Notice had taken place.
18. It appears undisputed that the excavation works were comprised in the development subject to the 2011 permission. The appellant has also shown that

² S57(2) of the Town and Country Planning Act 1990 provides that where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

- pre-commencement conditions imposed on the permission were discharged (ref: PA/13/02756) by the Council on 3 January 2014 – and so I shall assume that the permission has been lawfully commenced and remains extant.
19. The appellant notes that the 2011 permission authorises not only the extension but also internal reconfiguration of the appeal building. Such significant operational development cannot take place while some flats remain in C3 use. It is said that temporary permission ought to be granted for the short-stay use until vacant possession is obtained of all flats and the 2011 permission can be implemented.
 20. I do not dispute that the building would need to be vacated before more works could take place – and it follows that implementation of the 2011 permission would lead to a temporary reduction in the housing supply whether this appeal is allowed or not. There would also be public benefits to facilitating the implementation of the permission, because that would lead to a net increase in and improvements to the housing stock. I also consider it reasonable for the landowner to allow a temporary use that will maximise income before tenants leave and the works start.
 21. Indeed, the Government's Planning Practice Guidance (PPG) advises that *'circumstances where a temporary permission may be appropriate include...where it is expected that the planning circumstances will change in a particular way at the end of that period...[and] on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward...'*³ I find that the 2011 permission should be taken as a 'longer term regeneration plan' – but the next question must be whether the approved scheme is 'coming forward'.
 22. The remaining C3 flats are or were let on Assured Shorthold Tenancies (ASTs) which, as the appellant claims, give tenants a minimum six month rental period. Under s21 of the Housing Act 1988 as amended, however, notice can be served which give tenants on an AST at least two months' advance written notice to vacate the property at the end of the tenancy. If tenants fail to move out in line with the notice, legal proceedings must be initiated within six months of the date that the notice was served to get a court order to regain possession.
 23. On 15 October 2016, the landowner wrote to the appellant to affirm that vacant possession of the remaining 18 flats was being sought – but unfortunately the letter gave no details of the process. No update was given in letter from the landowner dated 19 March 2018, where the appellant was informed that their sub-lease would be extended until 19 March 2019, if not a further 12 months.
 24. The appellant has submitted other letters (all dated February 2018) in support of the appeal from occupiers of seven C3 flats. The writers state that 'Morrison Buildings *and* the serviced apartments operation is managed by a team based in the office located in the basement' [my emphasis] – yet none of them mention plans to redevelop the building. One of the tenants annotated their letter to confirm that they had moved out of their apartment, but they did not say why.
 25. The appellant has provided no evidence of his own that any s21 notices have been served. He has said that legal proceedings can be lengthy, but not whether any have been instigated or, if so, where they might be up to. I have not been told of any concrete steps, taken or scheduled, to gain vacant possession of the C3 flats. The appellant has not described any wider business plan for Morrisons Flats North or timescale for implementing the 2011 permission.

³ PPG paragraph ref ID: 21a-014-20140306

26. Since the short-stay use conflicts with the development plan, a grant of temporary permission would have to be justified. The appellant has not shown that allowing the use would be likely to lead to implementation of the 2011 permission, or any other change in planning circumstances by the end of a three year period. It is not enough that the 2011 permission was commenced when there is no information as to whether the scheme will come any further forward. The PPG would not support a grant of temporary permission – and dismissing the appeal would not necessarily lead to the flats being vacant (or squatted) rather than re-let for C3 use and put back into the housing supply.

The Standard of the Existing Accommodation

27. The appeal flats do not meet minimum floorspace requirements for C3 dwellings as set out in the PPG (Housing: Optional Technical Standards), LP Policy 3.5 and Table 3.3, and MDD Policy DM4. They are not accessible to disabled people, since even those on the 'ground' floor can only be reached by steps. Implementation of the 2011 permission would remedy this situation since the approved scheme include internal alterations to the existing flats plus the installation of a lift in the building.
28. However, it does not follow that the existing flats are unfit for use as permanent dwellings. The Council has rightly pointed out that the above policies apply housing standards only to proposals to create or build new permanent homes. LP Policies 3.3, 3.8 and 3.14 seek to deliver better quality accommodation – but do not suggest that existing dwellings which fail current standards must automatically be described as 'unfit' or 'unsatisfactory'. LP Policy 3.14 and MDD Policy DM3 in fact resist the loss of existing housing without reference to its size, design or layout.
29. I have found that the Council has a continued need for one-bedroom dwellings. I saw that the appeal flats are large enough and so laid out as to include kitchen, bathroom and habitable areas; they contain all of the facilities required for day-to-day living. Indeed, they are fitted out with a variety of appliances and furnishings, and the appellant has received 'outstanding' customer service ratings.
30. I find that the appeal flats are not so small or unsuitable for single (and able-bodied) person C3 use as to justify allowing this appeal. By contrast, the evidence on this matter adds weight to my view that the change of use would harmfully reduce the choice as well as supply of homes within the Borough.

Need for Economic Development and Tourist Facilities

31. The appellant suggests that the appeal use complies with various Framework and LP, CS and MDD Policies⁴ which seek to promote sustainable economic growth and, thus, the development of tourism facilities in accessible parts of the Central Activities Zone area of London – where Morrison Flats North is located. However, mere compliance with some policies does not justify conflict with others.
32. Looking at the actual economic effects, I accept that there is a high demand for short-stay accommodation in this part of London; this is shown, not least, by the average 97% occupancy of the appeal flats between the change of use occurring in November 2016 and the appeal statement being written in April 2018.
33. However, MDD Policy DM7 permits the development of visitor accommodation only where it does not compromise the supply of land for new homes and the Council's ability to meet its housing targets. LP Policy 3.14 specifically resists the loss of housing to lettings of less than 90 days. The appellant has not shown that the need

⁴ He referred to LP Policies 2.9, 2.10, 2.12 and 4.5, CS Policies S01, SP01 and SP06, MDD Policies DM1 and DM7.

for serviced apartments is so high that those policies are out-of-date or somehow not applicable in this case. There is no evidence which could lead me to find that the need for serviced flats outstrips or outweighs that for permanent housing.

Conclusion

34. I conclude that the appeal change of use reduces the supply and choice of homes in Tower Hamlets, in conflict with LP Policies 3.3 and 3.14, CS Policy SP02 and MDD Policy DM3. The benefits of the use – facilitating implementation of the 2011 permission, taking ‘substandard’ flats out of C3 use, and meeting a need for short-stay flats – are not so tangible or compelling as to even collectively outweigh or justify the harm caused by the development through temporary loss of housing.

Living Conditions/Character of the Area

35. The appeal change of use is a ‘new development’ which falls to be considered against current planning policies. However, it is necessary to compare the short stay with C3 use, since that would be the lawful use if the appeal is dismissed.
36. The appeal use is fundamentally residential in its character. Short-stay and C3 occupiers alike will use their accommodation for relaxing, cooking, eating, washing and sleeping – and will make several daily trips out on average. Yet the Council is concerned that occupiers of the short-stay flats would generate noise within and around the building which would unacceptably disturb adjacent C3 occupiers.
37. The Council explained in its Enforcement Report that the short-stay use would encourage ‘*more frequent noisier, “holiday”-type activities such as parties*’ with the occupiers being ‘*not liable to show the same degree of concern to be reasonable neighbours*’. It was also suggested that short-stay occupiers would generate a ‘*far higher amount of foot and vehicular traffic to and from the location...often...at antisocial hours, including late at night and early in the morning*’.
38. Even if there is some truth in those assertions, it could not be reasonably supposed that all short-stay occupiers hold parties or C3 occupiers never do. The Council should have been able to record, between the start of the use and writing of appeal statements, any material changes to the character, intensity or impact of activities in the building, or in the number or timing of daily trips, or in the means by which occupiers travel to and from the building. There is no such evidence before me.
39. As noted above, some C3 occupiers have written in support of the appeal – to state they suffer no unacceptable disturbance. There are no objections to the use from other neighbours. Thus, there is nothing to sustain the Council’s objection on noise grounds, or to suggest that the appellant ought to have submitted a noise impact assessment. I find that the use does not cause unacceptable harm to the living conditions of adjacent C3 occupiers, or indeed to the character of the local area.
40. In this respect, the use does not conflict with LP Policies 3.2, 5.3, 7.6 and 7.15, CS Policies SP03 and SP10, MDD Policies DM7, DM24 and DM25, which – through various expressions – expect new developments to minimise noise pollution; not cause unacceptable harm to the amenity of occupants through unacceptable noise; and avoid significant adverse impacts on health and quality of life.
41. The use does not conflict with paragraphs 7, 8, 127 and 170 of the Framework, which seek to ensure the achievement of sustainable development by supporting communities’ health and social well-being, creating places with a high standard of amenity for existing and future users, and preventing adverse effects from unacceptable noise pollution.

Waste and Recycling

42. There is no suggestion that the existing bin store at Morrison Flats North is not large enough to house the number and/or variety of waste and recycling storage bins that would be required to service the whole building if all flats were in C3 use. As noted above, the short-stay flats are used essentially for living purposes.
43. I do not dispute that the short stay guests, like those in hotels, are provided with disposal items such as toiletries – but that does not tell me whether, let alone to what extent the short-stay use of 17 flats has materially increased or altered the demand for waste and recycling facilities on the site. Again, the Council has given no evidence of actual problems arising since the use commenced in 2016.
44. The Council has suggested, however, that permission for the short-stay use could be granted subject to conditions which require the submission and approval of a Waste Management Plan, and of details of refuse and recycling facilities. I conclude that the use does not appear to have led to inadequate provision of waste or recycling facilities on the site, and it could be controlled to ensure that there is no unacceptably harmful future impact on waste or recycling management.
45. Thus, the use does not conflict with LP Policies 5.16 and 5.17, CS Policy SP05 or MDD Policy DM14, which set out strategic waste management aims; require developments to provide suitable waste and recycling storage facilities; and seek to ensure that residents reduce and manage their waste effectively. There is no conflict with paragraph 8 of the Framework, which seek to ensure the achievement of sustainable development by minimising waste.

Car and Cycle Parking

46. In considering this issue, I have applied 'residential' not 'hotel' parking standards. The 'proposed' use is 'serviced apartments' and the appellant has not contested the enforcement appeals on the basis that the 'sui generis' allegation is incorrect. On-site management is not enough to make the use a hotel for policy purposes.

General Car Parking

47. Morrison Flats North is located in an area of 'parking stress' and there are no general parking spaces on the site. Permanent occupiers of the C3 flats can apply for local parking permits, but the same does not apply to occupiers of the short-stay flats and the appellants do not propose to meet their parking needs by providing any on-site parking spaces.
48. I have found no evidence as to whether short-stay occupiers travel more often, at different times or by different means compared to permanent occupiers of the building. The appellant suggests that the use might reduce competition for parking permits – but if it can be taken that C3 occupiers use cars, and the same is true of short-stay visitors, they would increase competition for other on-street spaces.
49. However, that last point is speculation, and the Council has not shown that there has actually been any serious increase in parking pressure since 2016 which should or could be attributed to the short-stay use. I find that unsurprising because the appeal building has the highest possible (6A) Transport for London Public Transport Accessibility Level (PTAL) rating, being in a central location and within walking distance of bus stops and train and underground stations. The site is so easy to reach by public transport, and nearby parking is so difficult that short-stay visitors would have every reason to not drive at all.

50. I also note that the redevelopment scheme subject to the 2011 permission would include no on-site parking spaces, and occupiers of the 8 new flats permitted would be unable to apply for any parking permit⁵. There is no clear need for any on-site parking spaces to meet the general needs of short stay occupiers. I conclude that the use does not conflict with LP Policy 6.13 or MDD Policy DM22 which only require the provision of car parking for residential developments in accordance with the *maximum* parking standards.

Disabled Car Parking

51. LP Policy 6.13 requires developments in all parts of London to provide parking for disabled people in line with Table 6.2, which states that 'adequate parking spaces for disabled people must be provided preferably on site' for residential schemes in line with the Housing SPG. Standard 18 in the Housing SPG states that each designated wheelchair accessible dwelling should have a car parking space that complies with [Building Regulations] Part M4(3).
52. MDD Policy DM22 similarly requires, via MDD Appendix 2, the provision of one parking space on site even where the development is otherwise without off-street parking. Where site constraints mean provision is not feasible or safe, it must be demonstrated how a disabled person could park to use the development with ease.
53. I have found that there are steps to each flat in the building, and so there are no 'designated wheelchair accessible dwellings'. This layout may be regrettable, but it is also a matter of fact. The Council has not shown that lack of on-site disabled parking spaces for short stay users has either added to general parking pressures in the local area or unsustainable competition for the disabled parking spaces on Commercial Street.
54. For these reasons, and since permission is sought on a temporary basis, I find that there are 'adequate parking spaces for disabled people' on the site, even though the number is zero, such the use does not conflict with LP Policy 6.13. I find no conflict with MDD Policy DM22, because it would be impossible to provide any parking that allows a disabled person 'to use the development with ease'.
55. If that argument is not accepted and the proper conclusion is that there is a policy conflict, the circumstances would amount to material considerations that would justify a grant of permission – at least if there was no other objection to the use.

Cycle Parking

56. LP Policy 6.13 and MDD Policy DM22 require that development meets minimum cycle parking standards. Condition no. 4 imposed on the 2011 permission would ensure that cycle parking facilities are provided if the building is enlarged as approved – and so I have no reason to believe that such could not be laid out within the site as it is. However, there are no cycle parking facilities at present, and there is no proposal to provide any for short-stay users in this appeal.
57. The appellant has pointed out that the site is within easy walking distance of two cycle hire docking stations, but that will be the case for many sites in London and could not be sufficient reason to disapply LP Policy 6.13 or MDD Policy DM22. Moreover, I saw a bicycle chained to a balcony at the building – and while I do not know if it belonged to a permanent or short-stay occupier, it nevertheless suggests that the docking stations do not meet the needs of all cyclists.

⁵ Given the planning obligation described in paragraph 20 of the 2011 appeal decision

58. I also find that balcony parking is not a suitable alternative to dedicated spaces, because some flats do not lead onto any balcony and some occupiers would find it difficult to carry bicycles upstairs. Not many bikes could be chained to the ground level railings at the building, and the flats inside are too small for cycle storage.
59. Although permission is only sought on a temporary basis, the appellant has not justified the lack of proposed on-site cycle provision or conflict on that point with LP Policy 6.13 and MDD Policy DM22. However, it is possible that the objection could be overcome, since the Council has suggested that a condition could be imposed to require the provision of on-site cycle parking spaces.

Conclusion

60. I conclude that the appeal use causes no unacceptable harm through the lack of on-site provision of general or disabled car parking spaces. The use does not conflict in that respect with LP Policy 6.13 or MDD Policy DM22. Indeed, it complies with CS Policy SP09 and MDD Policy DM20, which promote car-free developments and schemes which minimise on-site car parking provision, particularly in areas with good access to public transport – and require developments generating higher numbers of trips to be located in such areas.
61. The development as proposed does conflict with LP Policy 6.13 and MDD Policy DM22 through failure to provide on-site cycle parking spaces. That conflict is not justified by material considerations – but could be remedied by condition.

Listed Buildings

62. The Council advises that the site is within the setting of three Grade II listed buildings: St George's Brewery; 32-34 Commercial Road; and Gunmaker's Company Hall and Proof House. The site also lies opposite a Grade II listed telephone kiosk, and some 100m from the boundary of the Whitechapel High Street Conservation Area.
63. The Council has not suggested that the appeal change of use fails to preserve or enhance the setting of any or all of the nearby listed buildings. There is no objection or evidence that the use causes harm, substantial or otherwise, to the significance of these heritage assets. I conclude that there is no such harm to be weighed in the balance on this appeal.

Other Matters

64. The appellant and the Council have referred to various development plan and Framework policies other than those cited above; I have focussed on those most relevant and critical to my decision.
65. The Council has referred to appeal decisions concerning similar changes of use, but two involved no application for planning permission⁶ and the others did not relate to sites with approval for redevelopment or proposals for temporary permission⁷. I have considered this appeal on its merits and with regard to current policies.

Conclusion

66. I have found that the appeal use harmfully reduces the supply and choice of homes in Tower Hamlets, in conflict with LP Policies 3.3 and 3.14, CS Policy SP02 and

⁶ APP/X5990/C/17/3171977 and APP/R5510/X/13/2205126 linked to APP/R5510/C/13/2200738 and 2200739

⁷ APP/E5900/W/17/3171527 and APP/E5900/W/17/3192225

MDD Policy DM3. The benefits of the development, taken individually and together, would not justify a grant of temporary planning permission.

67. The development causes no unacceptable harm in relation to living conditions/local character, waste and recycling management, general parking, disabled parking or the setting of listed buildings – but those are neutral findings. The same would be true if the development could be required to provide for cycle parking through the imposition of a planning condition. The development would create no benefits in respect of any of those matters to outweigh or justify the harm to housing supply.
68. I have had regard to all other matters raised, and still find the objection to the temporary change of use on housing supply grounds to be serious and compelling. I conclude that Appeal A should be dismissed.

APPEALS B-R: THE ENFORCEMENT APPEALS

Appeals B-R on Ground (f)

69. Ground (f) is that the requirements of the notices are excessive to remedy the breach of planning control or, as the case may be, the injury to amenity caused by the breach. In this case, the notices allege that there has been a change of use and require the unauthorised use to cease. It follows that the notices were issued for the purpose of remedying the breach – and lesser steps would need to achieve the same for Appeals B-R to succeed on ground (f).
70. The appellant argues that the only necessary requirement is to cease the use (step 1 or paragraph 5.1 of the notice); it is excessive to require the removal of all items associated with the unauthorised use (5.2) and that the property is made good (5.3). The appellant points out that the flats could be fitted out and furnished with the same items if they were let as permanent C3 units.
71. The Council rightly notes that ground (f) cannot be used to rehearse the planning merits of development⁸ – but the appellant is not seeking to do that. His case is not that retaining the 'items' in the flat would remedy the planning harm described under Appeal A – but that the items are associated with the lawful as much as the unauthorised use. That argument is entirely pertinent to ground (f), as the Inspector found in the appeal decision ref: APP/R5510/C/13/2200738.
72. I saw that the flats looked sufficiently modern and similar to each other that they may have been refurbished for the short-stay market. However, privately rented C3 accommodation is also upgraded from time to time. It would be excessive to require the removal of the kitchen and bathroom facilities, plus basic domestic furniture such as beds and chairs, since the same or similar were probably in the flats before the change of use, and they would enable reversion to C3.
73. However, I also saw that the short-stay units are furnished with items that are not normally included in C3 rentals: appliances such as televisions and kettles, and accessories such as cushions. The appellant admits that occupiers are provided with hairdryers, linen and towels. There is no evidence that those items were included in the flats when last in C3 occupation, or that they would be required to revert to the lawful use.
74. Thus, it is not excessive for the notice to require the removal of 'items associated with the unauthorised use' – or that any damage caused to the building is made good, and any debris is removed. These steps are necessary to ensure that the site

⁸ With regard to *Miaris v SSCLG* [2016] EWCA Civ 75

is restored to its condition before the breach took place. If removing 'items' does not in fact result in any 'damage' or 'debris', the appellant simply not need to take any action to comply with step 3.

75. However, I will vary the steps in one respect; it is excessive to require that each flat is returned 'to lawful (C3) residential use as a single dwelling'. The powers set out under s173 of the Town and Country Planning Act 1990 do not extend to requiring that a former lawful use must be resumed because, in order to remedy a breach, it is sufficient to require an unauthorised use to cease.
76. Appeals B-R succeed on ground (f) to that limited extent and I shall vary the notices simply to amend step 2.

Appeals B-R on Ground (g)

77. This ground of appeal is that the period for compliance with the requirements of the notice falls short of what is reasonable. In addressing that question, I shall discount the time taken in this appeal process, although longer than anticipated, because the appellant was entitled to assume success in Appeal A.
78. The appellant's initial case on ground (g) was that the period for compliance should be extended to allow the use to continue until the planning appeal is determined. The argument ceased to hold water when Appeal A was linked to Appeals B-R.
79. The appellant later argued that the period for compliance should be extended to six months so that he could honour summer bookings for the short-stay flats. I consider that request to be reasonable in essence, from the perspective of those who have made such bookings as much as the appellant. However, this decision is issued later than the appellant anticipated, and so it would suffice to extend the period for compliance to two months.
80. I conclude that a limited extension to the periods for compliance with the notices would be reasonable, and Appeals B-R succeed on ground (g).

FORMAL DECISIONS

Appeal A: APP/E5900/W/18/3200015

81. Appeal A is dismissed.

Appeals B-R: APP/E5900/C/18/3200577, 3200579, 3200582, 3200585, 3200594, 3200599, 3200604, 3200606, 3200607, 3200609, 3200623, 3200629, 3200631, 3200637, 3200638, 3200640 and 3200641

82. The enforcement notices (refs: ENF/17/00144, 00053, 00056, 00057, 00058, 00059, 00060, 00061, 00062, 00063, 00064, 00065, 00066, 00067, 00068, 00069 and 00070) are varied by deleting the text "*and return the Property to lawful (C3) residential use as a single dwelling*" from sub-paragraph 5.2; and extending the period for compliance with the notices from one month to two months. Subject to the variations, Appeals B-R are dismissed and the enforcement notices are upheld.

Jean Russell

INSPECTOR

APPENDIX 1: APPEALS B-R

All appeals made by Mr Abdul-Talib Sheikh

All notices issued on 13 March 2018 and consistent in allegation, requirements and period for compliance.

Appeal	Appeal ref	Flat	Enforcement Notice ref
B	APP/E5900/C/18/3200577	1	ENF/17/00144
C	APP/E5900/C/18/3200579	2	ENF/18/00053
D	APP/E5900/C/18/3200582	3	ENF/18/00056
E	APP/E5900/C/18/3200585	4	ENF/18/00057
F	APP/E5900/C/18/3200594	5	ENF/18/00058
G	APP/E5900/C/18/3200599	6	ENF/18/00059
H	APP/E5900/C/18/3200604	7	ENF/18/00060
I	APP/E5900/C/18/3200606	8	ENF/18/00061
J	APP/E5900/C/18/3200607	9	ENF/18/00062
K	APP/E5900/C/18/3200609	10	ENF/18/00063
L	APP/E5900/C/18/3200623	11	ENF/18/00064
M	APP/E5900/C/18/3200629	12	ENF/18/00065
N	APP/E5900/C/18/3200631	16	ENF/18/00066
O	APP/E5900/C/18/3200637	17	ENF/18/00067
P	APP/E5900/C/18/3200638	18	ENF/18/00068
Q	APP/E5900/C/18/3200640	32	ENF/18/00069
R	APP/E5900/C/18/3200641	34	ENF/18/00070