
Appeal Decision

Site visit made on 16 May 2022

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 18th JULY 2022

Appeal Ref: APP/N5090/C/20/3265645

Land at 8 Orchard Crescent, Edgware HA8 9PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Anna Etingen against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 10 November 2020.
- The breach of planning control as alleged in the notice is: Without planning permission the subdivision of the property into three dwellings comprising one self-contained flat to ground floor rear (edged red in the attached plan); one self contained flat in the side extension (Edged Yellow); and a House in Multiple Occupation (use class C4) formed of the remainder of the property.
- The requirements of the notice are: 1) Cease the use of the side extension as a self-contained flat; 2) Cease the use of the ground floor rear area as a self-contained flat; 3) Cease the use of the remainder of the property as a house in multiple occupation; 4) Permanently remove the toilet, handwash basin, shower and shower tray from the self-contained flat located in side extension; 5) Remove the kitchen (including all cookers, hobs/hotplates, sinks, draining boards, worktops and food preparation surfaces and kitchen units) from the side extension; 6) Permanently remove all constituent materials resulting from the works required above from the property
- The period for compliance with the requirements is 7 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal is brought on ground (a), an application for planning permission is deemed to have been made under s177(5) of the Town and Country Planning Act 1990.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Procedural Matters

1. The National Planning Policy Framework was revised in July 2021 (Revised Framework), and the parties were given an opportunity to comment on this. However, no submissions were received.

The Notice

2. The notice alleges the subdivision of the property, which is not an act of development. I can though correct the allegation to refer to a material change of use (MCU), that being the act of development defined by statute. No injustice would arise to either party by my doing so.
3. The notice requirements specify which aspect of the MCU is to cease in which area of the property. In order to avoid a risk of this then effectively permitting a different configuration of those uses to continue, I shall correct the notice to

simply stipulate that use as self-contained flats and as a HMO ceases. This would not result in injustice to either party since it simply gives effect to the accepted purpose of the notice. For clarity and without injustice, I shall also change the wording 'Edged Yellow' in reference to the side extension area to 'edged in yellow in the attached plan'.

The appeal on ground (b)

4. The appeal on this ground is that the matters alleged have not occurred. The onus is on the appellant to make their case on the balance of probability.
5. No argument is made that the MCU alleged would not represent a breach of planning control¹. Instead, the appellant argues that the property has not been subdivided as alleged, but has been used overall as a single house in multiple occupation (HMO). The Council's position is that the parts of the property outlined in red and yellow on the notice plan have been used as separate self-contained flats, with the remaining parts of the property used as a HMO.
6. As regards the red outlined area then, this was identified in a previous appeal decision² as being in use as a self-contained flat at that time. I saw at my site visit that this area had kitchen and bathroom facilities, along with a living room and bedroom, all behind a lockable door.
7. The appellant contends that this area has no separation in terms of access, services or address. However, it contains all facilities required for day to day private domestic existence, and given that full kitchen and bathroom facilities are provided, there is nothing to suggest that it would be used other than as a separate dwellinghouse; there would be no reason to share communal facilities.
8. As regards the yellow outlined area, at the time of my visit, this space did not contain a bed, but had full kitchen and bathroom facilities behind a lockable door. The Council has though adduced photographic evidence from September 2020 showing a bed in situ, and a person who was apparently then the tenant of the yellow outlined area locating a copy tenancy agreement.
9. The appellant claims that the bed was a 'temporary measure'. However, the indications that a tenancy agreement was in place in respect of the yellow outlined area in September 2020 renders it unlikely that this was a transient arrangement.
10. I therefore find that, at the date on which the notice was served, the yellow outlined area contained all facilities necessary for day to day private domestic existence; again, given the full kitchen and bathroom facilities provided in this space, it would be improbable that communal facilities would have been used by the occupant of the yellow outlined area. Thus it was likely used as a separate dwelling.
11. I have considered the planning history and that a retrospective application was submitted for a HMO of the whole property³, and that it was not the appellant's intention for these areas to be separate. However, this is not enough to evidence the use of the property when the notice was issued. On the evidence before me then, and as a matter of fact and degree, I find it probable that the

¹¹ Indeed, s55(3)(a) of the Town and Country Planning Act 1990 (1990 Act) specifically confirms use of a building previously used as a single dwellinghouse as two or more separate dwellinghouses represents a MCU

² Ref: APP/N5090/C/19/3241376

³ Ref: 19/3393/RCU

use of the building overall was, as at the date of the notice, as three separate dwellings. As such, the matters alleged had occurred as at the date of the notice, and the appeal on ground (b) therefore fails.

The appeal on ground (a) and the deemed planning application (DPA)

12. The appellant does not wish to apply for planning permission for the development alleged as it appears to be accepted that the yellow outlined area does not provide adequate internal space as a self-contained flat.
13. The appellant requests the DPA to be for a large HMO for eleven occupants, with alternative options for nine occupants as licensed, or failing this for no more than six residents. I return to these alternative HMO proposals below, but since the appeal on ground (a) is in respect of the matters as alleged, I deal with the ground (a) appeal on this basis first.

Alleged MCU scheme

Main Issues

14. The main issues then are:
 - the effect on the character of the area, and supply and mix of housing in the area;
 - whether the red outlined area flat (Rear Flat) and yellow outlined area flat (Side Extension Flat) afford adequate living conditions to their occupants with regard to internal space;
 - the effect on the living conditions of neighbouring residents with regard to noise and disturbance; and
 - whether the appeal site is in a suitably accessible location for the use alleged, taking into account any effect on on-street parking.

Housing supply and mix

15. Policy DM01 of the Council's Development Management Policies (2012) (DMP) states that the conversion of dwellings into flats and the loss of houses in roads characterised by houses will not normally be appropriate. The Council's Residential Design Guidance (2016) (RDG) indicates that whether or not a conversion is acceptable in principle will depend on the character of the house and the street, noting conversions can cumulatively adversely impact on environmental quality including by increasing activity involving more people movements, car movements, parking stress, rubbish to be collected and deliveries. Policy DM09 states that proposals for new HMOs will be encouraged provided, amongst other things, that they meet an identified need and do not have a harmful impact on the character of the surrounding area.
16. As to need, the appellant produces data from the Streetcheck website for the HA8 9PW postcode area. Figures of housing types are given, along with a breakdown of housing tenures, and housing occupancy rates. The appellant submits that housing types do not provide a good range of housing choice and emphasises the high proportion of private landlord renting, and comparatively low social and Council housing. The appellant highlights also that one and two person occupancy accounts for almost half of this area's housing.

17. I note the statistical evidence provided and the LP's⁴ aim to provide a range of housing choices. Looking though at occupancy rates given, taken together, rates for three person to six person occupancy are higher than for one and two person occupancy rates. Thus, using the appellant's analysis, it could equally be contended that there is a greater need for family sized housing than for HMOs. Further, the statistical evidence put forward relates to only a relatively small area, and so is not a good indicator of need for the wider area. In any event, whilst I acknowledge the importance of this type of accommodation to those on lower incomes, data submitted shows primarily only current housing provision, as opposed to need.
18. The appeal property has apparently been fully tenanted, but this is an indicator of market demand rather than need. Although the property, as extended, is relatively large in size, the appellant has not produced substantive evidence to demonstrate that there would not be demand for such a property if marketed as a single dwelling. Development plan policy emphasises the need for housing generally and for housing choice but this does not mean that the clear policy direction in Policies DM01 and DM09 can be set aside.

Character

19. Orchard Crescent is a residential street which is generally characterised by family sized semi-detached dwellings. The Council submits that neither planning records nor public Valuation Office Agency records indicate that any properties on the road have been converted into flats or HMOs. The appellant refers though to the property at 27 Orchard Crescent being registered as a HMO. This does not though, in my view, alter the character of the street as predominantly family housing. The presence of HMOs in the wider surrounding area also does not affect my assessment as regards this street.
20. Whilst the appeal property has only fairly modest sized garden areas, it is a substantially sized extended dwelling and taken together, the garden areas would render it suitable as a family home. I acknowledge that prior to the change of use, the property had an additional kitchen and en-suite bathrooms. However, it is not uncommon for all bedrooms in a house to have en-suite bathrooms and equally, a single family dwelling with a 'granny annexe' arrangement would have an additional kitchen. These aspects do not render the property unsuitable as a family home.
21. No external alterations have taken place at the property to date which identify a MCU to flats and a HMO, and there is storage space potentially available in the side garden for bins. However, the use of the property by unrelated adults in the HMO and self-contained flats would most likely increase comings and goings and would result in a different pattern of activity than in the case of a family of varying ages living together as one household.
22. There would likely be an increased number of visitors and deliveries as compared to a single household property, and increased noise levels from more comings and goings. I would anticipate that noise levels would also be higher later in the evening – for example from multiple TVs being used concurrently. In a family home, by contrast, noise levels would generally be significantly lower later in the evening if any younger children are asleep.

⁴ London Plan (March 2021)

23. I note that the Revised Framework⁵ indicates that planning policies and decisions should promote social interaction, including opportunities for meetings between people who might not otherwise be in contact. The LP also supports community diversity and housing choice. However, it is also a legitimate development plan policy aim to seek to preserve the established character of the area.
24. Drawing these matters together, the development has a harmful effect on the character of the area, and on the supply and mix of housing in the area. Whilst I note the Government's objective to significantly boost the supply of homes, nonetheless I find conflict with Policies DM01 and DM09, and with the RDG as outlined. There is a failure to accord also with Policy CSNPPF of the Core Strategy 2012 (CS), which requires that development accords with local plan policy in the absence of material considerations to the contrary, and with Policy CS5 of the CS and Policy D3 of the LP which stipulate that development respects local context and responds to existing character. Conflict alleged with the Sustainable Design and Construction SPD 2016 (SDC) is not explained by the Council, and I find no apparent issue in this regard.

Living conditions – Rear Flat and Side Extension Flat

25. DMP Policy DM02 states that development will be expected to meet minimum floor space standards (referred to in Policy D6 of the LP). The Council has advised that these standards are not met in respect of either the Rear Flat or Side Extension Flat.
26. The appellant maintains that the Rear Flat provides a gross internal floor area of some 37 square metres and provides an acceptable standard of accommodation. As noted by the Council though, as a two bed space unit, the minimum standard stated is 50 square metres. I saw also from my site visit that both flats provided a fairly cramped living environment, with only limited storage space.
27. Thus I find that the Rear Flat and Side Extension Flat do not afford adequate living conditions to their occupants with regard to internal space. There is conflict in this regard with Policy DM02 of the DMP as outlined and with the SDC and RDG in relation to internal space standards. LP space standards requirements referenced in Policy D6 also would not be met. The development does not in this way represent a quality environment or good design as required by Policies CS1 and CS5 of the CS and Policy DM01 of the DMP.

Living conditions – neighbouring residents

28. The appeal property was previously used by a three generation family and the appellant claims that the intensity of occupation was higher before the alleged MCU. The property has apparently been subject to some sound proofing works, though I have no detailed information in relation to these.
29. However, as referenced above, I consider that a MCU involving occupation by unrelated adults is likely to increase both the frequency of comings and goings, and also to result in a different pattern of activity as compared to a home in single family occupation, including by three generations. This is because there would be less likelihood of any sharing of activities. Increased use of the main

⁵ at paragraph 92

entrance would impact most on occupants of the adjoining semi-detached house, even taking into consideration the distance between the entrances. However, noise from, for example, multiple TVs when windows are ajar would cause noise and disturbance to both neighbouring properties.

30. The appeal property shares a boundary with two dwellings and, whilst the garden space is small, the pattern of use of this space by unrelated adults would likely result in a greater level of noise during the evening, than might usually be expected of a family home. Use of the side garden area would be less intrusive in terms of noise travelling to rear gardens of adjacent properties but in my view, the separation distance from the nearest properties would not be enough to prevent noise from use of the side garden causing disturbance. While a family might be more likely to use a garden simultaneously, the pattern of use of the garden in the used alleged would result in greater disturbance.
31. I therefore find a harmful effect on the living conditions of neighbouring occupants with regard to noise and disturbance. The development does not in this way appropriately optimise the use of the site. Conflict arises with Policy DM04 of the DMP which seeks to ensure that new development likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted. Conflict arises with Policies DM01 and DM09 of the DMP and with Policy D3 of the LP also insofar as these seek to protect residential amenity. There would be potential for a consequential adverse effect on social cohesion against the aims of Policy CS5 of the CS. The RDG and SDC's stipulations related to avoiding disturbance from noise are not complied with.

Accessibility

32. Policy DM09 of the DMP states that HMO proposals will be encouraged only where they are 'easily accessible by public transport, cycling and walking'. The Council and the appellant differ in their views as to the Public Transport Accessibility Level (PTAL) of the appeal site, with the Council stating a PTAL of 2 as against the appellant's view that this is at level 4.
33. Neither party has provided a detailed breakdown for their assessment. However, I saw at my visit that the site was around a 15 minute walk to the nearest underground station, with Mill Hill Broadway a slightly longer walk to the east. Bus stops were closer but I do not have full information as to bus frequency. A local shopping area with a limited range of service and facilities is some 250m away, with Edgware town centre around 700m distant.
34. In my view, the location of the appeal site is not 'easily accessible' in view of the distance that would need to be walked to the nearest tube and rail stations and given the limited information in relation to the bus service available. Given that the HMO aspect of the use significantly increases the number of households in a property and so the intensity of the residential use, it is appropriate that these should be sited in locations which are *easily* accessible. As such, although there is a local supermarket and limited number of other services and facilities within less than a five minute walk of the appeal site, I do not consider the site overall to be a suitably accessible location where the provision of a HMO should be supported.

35. The Council refers to a potential consequential impact in terms of on-street parking availability. However, I have no detailed information as to parking pressure in the immediately surrounding area. Bearing in mind the space available on the appeal property frontage for parking, I do not find therefore that there would be harm related to on-street parking pressure.
36. I conclude then that the appeal site is not in a suitably accessible location for the use alleged. There is thus conflict as outlined with Policy DM09 of the DMP. The appeal development does not though, on the available evidence, result in harmful effects as regards on-street parking.

Alternative schemes

37. As outlined above, the appellant has put forward alternative schemes in respect of which planning permission is sought. Essentially, these are to permit use of the entire appeal property as a HMO. The appellant's preferred option is for an eleven person HMO, but has expressed a willingness to accept a nine person HMO, or if needs be, a HMO for up to a maximum of six residents⁶.
38. Pursuant to s177(1)(a) of the 1990 Act, I can grant planning permission in respect of the matters stated as constituting a breach of planning control, whether in relation to the *whole or any part* of those *matters* or in relation to the *whole or any part* of the *land* to which the notice relates.
39. In my view, I could in principle grant planning permission in respect of use of the parts of the property alleged as a HMO i.e. excluding the Side Extension Flat and Rear Flat; this would represent 'part of the matters' in respect of 'part of the land' since the allegation is of a HMO use of the remainder of the property.
40. However, this is not what the appellant seeks, rather the appellant wishes to secure permission for a HMO use of the whole appeal property, including the Side Extension Flat and Rear Flat. My view is that such a proposal forms part of the matters (being the HMO element of the MCU) in respect of the whole of the land (i.e. including the red and yellow outlined areas) to which the notice relates. Only few internal works would be necessary also. It is therefore permissible in principle for me to grant permission for an alternative HMO scheme as proposed by the appellant. I shall therefore consider the planning merits of doing so, distinguishing between schemes for alternative numbers of residents as appropriate.

Main issues – alternative schemes

41. The Council appears to indicate that the living conditions concerns related to the Side Extension Flat and Rear Flat would not be at issue if these areas were not used as self-contained flats, but rather as rooms of a HMO of the whole building. As such, the main issues are:
- the effect on the character of the area, and on the supply and mix of housing in the area;
 - the effect on the living conditions of neighbouring residents with regard to noise and disturbance; and

⁶ (An Article 4 Direction was introduced by the Council in 2016 to remove permitted development rights enabling change the use of a dwelling house to a HMO for up to 6 residents)

- whether the appeal site is in a suitably accessible location for a HMO use, bearing in mind any effect on on-street parking.

Character of the area

42. As outlined above, Orchard Crescent is characterised by predominantly family housing. There is no reason why use of the entire appeal property as a HMO would result in external changes to the property. However, even as a 6 person HMO, I would expect the frequency of comings and goings of unrelated adults to be higher than for family housing, and of a different pattern than for a family of varying ages living together bearing in mind the lower likelihood of shared activity. Once again, noise levels would also likely be higher later in the evening as compared to a family home. There would thus be a harmful effect on the established character of the surrounding area.
43. As to the supply and mix of housing, Policy DM01 states that the loss of houses in roads characterised by these will not normally be appropriate due to, amongst other things, increased activity. Policy DM09 supports new HMOs where they meet an identified need and do not have a harmful impact on the area's character. I have identified above factors resulting in harm to the character of the immediate locality and explained above the deficiencies in the appellant's evidence in terms of demonstrating a need for HMOs in the area.
44. I acknowledge that HMOs offer a source of low cost private sector housing for people on lower incomes, along with the imperatives in the Revised Framework, LP and DMP to significantly boost the supply of housing and to provide a choice of homes. However, these are not reasons to override the clear development plan policy in Policies DM01 and DM09 regarding the loss of houses and controlling new HMOs.
45. Thus, I find that the alternative HMO schemes would have a harmful effect on the character of the area and on the supply and mix of housing in the area. Conflict arises with Policies DM01 and DM09 of the DMP, with Policies CSNPPF and CS5 of the CS, and also with the RDG on the same basis outlined under the same main issue above. Again, no conflict arises in this regard with the SDC.

Living conditions – neighbouring residents

46. I have outlined under the same main issue above my concerns related to the alleged MCU in terms of noise and disturbance for neighbouring residents. I consider that a use of the whole property as a nine or eleven person HMO would have a comparable impact to the alleged MCU to a HMO and two flats.
47. As to the use of the property as a HMO for a maximum of six residents, my points in relation to the pattern of comings and goings remain since again activity would be unlikely to be shared and more evening activity would be likely. However, the frequency/intensity of such activity would plainly be reduced with fewer occupants. In my view, bearing in mind the likely relatively quiet ambient noise levels in the evening given that the street primarily contains family housing, I still consider that there would be material harm resulting from even this lower level of additional noise and disturbance from comings and goings, multiple TVs in use, and use of garden spaces later in the evenings.
48. I therefore find that there would be material harm to the living conditions of neighbouring residents resulting from noise and disturbance. Again, conflict

would arise with Policies DM01, DM04, and DM09 of the DMP, with Policy CS5 of the CS, and with the RDG and SDC's for the same reasons outlined under the same main issue above.

Accessibility

49. My comments above in relation to the Council's policy regarding HMOs being located in accessible locations applies equally in respect of the appellant's alternative HMO proposals as outlined. In my view, even a six person HMO represents a more intensive residential use than a family home use of the property given that multiple households would be more likely to operate separately. Equally, the Council's concerns relating to on street parking pressure are not borne out by the evidence before me in respect of the alternative HMO proposals either.
50. Thus I find that the appeal site is not in a suitably accessible location for a HMO use - there is conflict as outlined with Policy DM09. The alternative HMO uses would not however result in harm regarding on-street parking.

Other Matters – alleged MCU and alternative HMO schemes

51. The Council's first reason for issuing the notice refers to the layout, design and access arrangements of the Rear Flat resulting in a loss of privacy to the occupants of the HMO. This concern is not expanded upon in the Council's statement. In view of the limited evidence that I have in relation to the precise arrangements as between the HMO and self-contained flats as at the date of the notice, I do not examine this issue any further. Any finding on this matter would not, in view of my conclusions on the main issues above, alter my overall conclusion as regards the alleged MCU/alternative HMO proposals.
52. The Council refers in its statement to Policies D1, H1 and H10 of the LP, without identifying why it considers the appeal development to be in conflict with these. Again, in view of the development plan conflict and harm already identified, any finding of compliance or conflict with these policies would not impact upon my overall conclusions in any event.

Human rights and best interests of the child

53. The appeal property is home to its residents and the requirement to cease the use as a HMO and self-contained flats amounts to interference with the residents' rights under Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act 1998. The requirements in the notice to cease the MCU alleged will interfere with those Article 8 rights.
54. I am mindful also that there appear to currently be young children living at the appeal property. The 'best interests of the child' is therefore a primary consideration⁷ in this case. In view of the substandard living conditions identified, I do not consider that the best interests of the children would be served by permitting the alleged MCU scheme. As regards the alternative HMO schemes, only limited evidence is put forward as to housing availability in the area. This is not enough to persuade me that equivalent accommodation would not be available for these occupants in a more suitable location for a HMO.

⁷ Article 3(1) of the United Nations Convention on the Human Rights of the Child

55. Given the harm identified under the ground (a) appeal above, I consider that the requirements are legitimate in the public interest and cannot be achieved by any less interfering means. The best interests of the child do not indicate that I should permit either the alleged MCU scheme or the alternative HMO schemes.

Conclusion on ground (a) and the DPA - alleged MCU scheme and alternative HMO schemes

56. Both the alleged MCU and alternative HMO schemes result in planning harm in relation to the character of the area, supply and mix of housing, living conditions and in terms of accessibility. There is development plan conflict for the reasons identified and no material considerations put forward, even cumulatively, outweigh the development plan conflict and harm found. Neither the alleged MCU nor the alternative schemes represent the sustainable development in respect of which the Revised Framework creates a presumption in favour, and both fail to accord with the development plan, read as a whole. For these reasons, and taking into account all other matters raised, the appeal on ground (a) fails and planning permission is refused in respect of the DPA.

The appeal on ground (f)

57. This ground of appeal is that the requirements of the notice exceed what is necessary.
58. Section 173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred; the second is to remedy an injury to amenity which has been caused by the breach. The fact that the notice in this case requires the use alleged to cease and for facilitating works to be removed suggests that its purpose is to remedy the breach.
59. The appellant's arguments on this ground primarily centre around the entire appeal property being permitted to be used as a HMO in some form, which I have found under ground (a) would not be acceptable on the planning merits. However, I deal with these briefly below for completeness.
60. With respect to steps 1 to 3 in the notice, these are plainly to remedy the breach of planning control resulting from the MCU⁸. No lesser steps are put forward in the alternative which would remedy the breach; use of the property as a HMO in any form as sought would not remedy the breach as alleged and would not be acceptable in planning terms.
61. With respect to steps 4-6, on the evidence before me, the works to install a kitchen and bathroom in the Side Extension Flat facilitated the MCU to a self-contained flat. The Council referenced in this regard an appeal decision⁹ of a colleague Inspector in support of their position on this point. The Inspector in that decision stated that *'The question is not therefore are the requirements necessary to remedy the breach [...], but what was the last lawful use of the property and are the requirements excessive when considering how to return the property to that state.'* I accept the appellant's point that each case should be decided on its merits and as to the different circumstances in the other

⁸ And as to be corrected in my formal decision will have the same effect

⁹ APP/N5090/C/17/3190564

appeal, nonetheless I concur with my colleague Inspector's position on this point as a general principle.

62. As such, on the evidence before me, kitchen and bathroom facilities in the Side Extension Flat facilitated the breach and so it is proper that these, along with any resulting materials, are removed so that the land is restored to its former condition. The requirements of the notice thus do not therefore exceed what is necessary and for the above reasons, the appeal on ground (f) fails.

The appeal on ground (g)

63. The appeal on ground (g) is that the period for compliance with the notice (7 months) falls short of what is reasonable.
64. The appellant requests a period of 12 months to raise funds to carry out the works and to give tenants time to seek alternative affordable accommodation. Reference is also made to whether effects of the COVID-19 pandemic might result in delays due to issues connected to safety of residents, and availability of tradespeople to carry out the works.
65. No quotes for the remedial works have been provided, nor evidence tradespeople backlogs/continued restrictions from the pandemic, and no evidence has been put forward as to financial difficulties for the appellant in raising funds. The remedial works are relatively minor and not likely to be especially costly. Thus, on the evidence before me, costs and likely timescales do not justify a longer compliance period.
66. I acknowledge that the compliance period must incorporate time for both remedial works to be funded, arranged and carried out, and also adequate time for tenants to search for alternative comparatively affordable accommodation. However, in my view, even taking into account human rights concerns, and with the best interests of the child as a primary consideration, I consider that the 7 month compliance period is reasonable in this regard also.
67. The appeal on ground (g) therefore fails.

Conclusion

68. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

69. It is directed that the enforcement notice is corrected by:
- In paragraph 3 deletion of the word 'subdivision' and substitution of: 'material change of use';
 - In paragraph 3, deletion of the wording 'Edged Yellow' and substitution of: 'edged in yellow in the attached plan';
 - In paragraph 5 deletion of steps 1 to 3 and substitution of '1 Cease the use of the property as self-contained flats and a House in Multiple Occupation'; and
 - In paragraph 5 renumbering of steps 4, 5 and 6 as 2, 3 and 4.

70. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

V Bond

INSPECTOR