



Appeal Decision

Site visit made on 8 August 2022

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 May 2023

Appeal Ref: APP/E5900/C/22/3291671

Land at Queens Head Public House, 8 Flamborough Street, London E14 7LS

- 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 1990 Act as amended).
- The appeal is made by Mr Thomas Jeffries against an enforcement notice issued by London Borough of Tower Hamlets.
- The notice was issued on 30 November 2021.
- The breach of planning control as alleged in the notice is, without planning permission, the unauthorised change of use of first and second floors of the Grade II Listed Public House from Use Class Sui Generis (previously Class A4) to create a seven-bedroom HMO, Class C4.
- The requirements of the notice are to: 1. Cease the use of the upper floors of the Public House as a House in Multiple Occupation (HMO) at the enforcement site outlined in red on the Ordnance Map - Plan 1A as well as in the layout plans - Plans 1B and 1C in Appendix 1; 2. Reinstate the upper floors of the Public House as a residential dwelling as shown in the layout plan - Plan 1D in Appendix 1; and 3. Make good any damage to the property and remove all debris occurring from compliance with steps 1 and 2 above.
- The period for compliance with the requirements is: (i) Four (4) months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

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

Procedural Matters

1. At the time of my site visit I was unable to access the interiors of all of the rooms described as 'bedsits'. However, I am satisfied that I was able to view all I needed to in order to make my decision.
2. It was confirmed on site and agreed by the main parties that Plans 1B and 1C included in the Enforcement Notice (the notice), are incorrect in that the room referred to as bedsit 1 (first floor) is a living room, and the room referred to as a living room (second floor) is a bedsit. Additionally, that the shower room shown as being ensuite to bedsit 3 (first floor) is positioned outside of the room, not inside. Given these inaccuracies, along with the omission of 'bedsit 4' outlined below, I will correct the notice by removing plans 1B and 1C and reference to them in the notice.
3. It is the convention in enforcement notices to identify the address to which the notice relates with the prefix 'Land at'. The enforcement notice in this case

does not follow that convention and, in line with the normal convention, I will correct the notice to refer to 'Land at'.

4. At paragraph 3 of the notice the alleged breach of planning control (alleged breach) is stated as 'the unauthorised change of use of first and second floors of the Grade II Listed Public House from Use Class Sui Generis (previously Class A4) to create a seven-bedroom HMO, Class C4'. The appellant does not contest that a change of use has occurred, and highlights that a House in Multiple Occupation (HMO) licence was granted for the property in December 2019¹. The Public House has not been operational since July 2021 due to the appellant's premises licence being revoked.
5. Notwithstanding that access to the upper floors is gained via a separate entrance, there is no dispute between the main parties that, prior to the breach, the primary use of the whole building was a Public House with the residential accommodation on the first and second floors being ancillary to that primary use. There is nothing before me which indicates that, prior to the breach, the two uses were not related and thus cause me to conclude otherwise in relation to the previous primary and ancillary uses of the building.
6. Having regard to the above, the reference in the second requirement of paragraph 5 of the notice, namely to 'Reinstate the upper floors of the public house as a residential dwelling...', does not accurately reflect the previous primary use, since it suggests a separate primary residential use in addition to the Public House. In the interests of clarity, I will therefore correct the notice to reference the upper floors as 'ancillary residential accommodation'.
7. In relation to paragraph 3 of the notice and what the change of use is to, although the plans accompanying the appeal refer to 7 bedsits on the upper floors, as highlighted by the appellant, there are only 6 bedsits, as 'bedsit 4' is omitted. This premise is reinforced by the HMO licence referred to above, which permits a maximum of only 6 households/individuals to occupy the house. Additionally, the presence of 6 bedsits within the upper floors, not 7, was confirmed and agreed by the main parties at my site visit. I will therefore correct the notice to reference six bedrooms.
8. At paragraph 4 of the notice, the period within which the alleged breach is stated to have occurred is 'the last four (4) years'. The statutory time limits for taking enforcement action are set out within section 171B of the 1990 Act as amended. Under section 171B(2), the only material change of use to which a time limit of four years applies is the change of use of any building to use as a single dwellinghouse. In this instance, the change of use is from a public house to an HMO. I note that the definition of an HMO within Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) is: Use of a dwellinghouse by not more than six residents as a "house in multiple occupation". In this case, the alleged breach does not relate to a change of use to a 'single dwellinghouse'. Therefore, section 171B(2) cannot apply.
9. The alleged breach therefore falls within the description of any other breach of planning control set out in section 171B(3) of the 1990 Act as amended, in relation to which no enforcement action may be taken after the end of the

¹ HMO Licence Number 120091: Maximum number of households permitted to occupy the house: 6; and Maximum number of individuals permitted to occupy the house: 6. Valid from 18 December 2019 – 17 December 2022. Date of issue 18 December 2019.

period of 10 years beginning with the date of the breach. I will correct the notice to refer to 10 years.

10. Also at paragraph 4 of the notice, the first reason for issuing the notice is that 'The unauthorised development fails to demonstrate that the existing C4 use would not be undermined by the loss of ancillary accommodation'. As concluded above, prior to the breach, the primary use of the building is correctly described as a Public House, and the change of use of the upper floors is to an HMO (C4). I have taken this to be merely an error on the Council's part and note that it has not been raised by the appellant. I will correct the notice to refer to Public House use, not C4 use.
11. The power under section 176(1)(a) of the 1990 Act as amended provides that a notice may be corrected provided that no injustice would be caused by doing so. The main parties acknowledged and agreed on site the inaccuracies of the plans in relation to the use and layout of some of the rooms, and that the number of bedsits in the HMO is 6, not 7. Additionally, the appellant has not challenged the ancillary nature of the previous use of the upper floors. Also, the appellant has confirmed that the use of the upper floors as an independent HMO commenced in December 2019, and an appeal on ground (d), that at the date when the notice was issued no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters, has not been pleaded. In all of these respects, I am satisfied that no injustice would be caused by correcting the notice as set out above.
12. With regard to the appeals on grounds (f) and (g), at my request, the views of the main parties were sought on whether listed building consent would be required for the requirements as set out in paragraph 5 of the notice. I have taken the responses received into consideration in my determination of the appeals. I am content that no injustice is caused by me taking this approach.

Background

13. The appeal property is a part two storey, part single storey Grade II listed building constructed of stock brick, with a slate mansard roof. It occupies a prominent position on the corner of Flamborough Street and Chaseley Street within the York Square Conservation Area (the YSCA). The submitted evidence states that the London Borough of Tower Hamlets own the freehold of the property and that it was acquired by the appellant's family in July 2019, with the appellant being the premises' landlord.
14. An HMO Licence for the occupation of the property by a maximum of 6 households/individuals was issued on 18 December 2019. Planning permission was refused for the 'Change of use for first and second floors from A4 to C4 residential HMO (Retrospective)' on 23 November 2020². Following this planning permission and listed building consent were granted for the 'Erection of a first floor extension to create a self-contained flat' at the rear of the property on 15 March 2021³.

The appeal on ground (a)

15. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning

² Application Ref: PA/20/01507.

³ Application Refs: PA/20/02390 and 02391.

permission ought to be granted. Therefore, having regard to the correction above, it is that planning permission ought to be granted for the change of use of the first and second floors of the Grade II Listed Public House from Use Class Sui Generis to create a six-bedroom HMO.

Main issues

16. In the context of the above and having regard to the Council's reasons for issuing the notice, the main issues are:

- Whether it has been demonstrated that the operation and viability of the Public House use is not undermined by the building's subdivision to provide an HMO on the upper floors;
- Whether it has been demonstrated that the development meets the area's strategic housing need, and could be secured as a long-term addition to the supply of low-cost housing;
- Whether the development provides satisfactory living conditions for occupiers, with regard to external amenity space; and
- Whether the development provides suitable arrangements for cycle parking and refuse storage.

Reasons

Operation and viability of the Public House

17. Policy D.CF4(3) of the Tower Hamlets Local Plan 2031 adopted 2020 (the THLP) advises that 'Proposals within the curtilage of a public house must demonstrate that the continued operation and viability of the public house would not be compromised'. The change of use of the upper floors of the property to an independent HMO has resulted in the loss of the residential accommodation which is functionally associated with the Public House.
18. The upper floors of the property operated as an independent HMO while the ground floor functioned as a Public House between December 2019 and July 2021. During which time, the appellant asserts that the Public House operated without any viability issues. They contend that this demonstrates that the Public House does not need ancillary residential accommodation in order to function and be a viable business. Indeed, they assert that the operational flexibility that the HMO provides has helped the viability of the business.
19. However, no substantive and/or compelling evidence has been provided to endorse these claims. Additionally, I am conscious that the period in question covers the height of the Covid Pandemic, when lock down restrictions were in place, and when the Public House would have been closed or operating at a reduced capacity. As such, even if relevant data from this time had been submitted, I cannot be certain that it would have accurately reflected whether the operation and viability of the Public House was undermined by the HMO, prior to the Public House's enforced closure in July 2021.
20. The site is within a highly accessible area in terms of public transport⁴, and it is feasible that any owner/manager/staff of the Public House could live in a different part of the city and commute to the site. However, given the nature of

⁴ PTAL Rating of 6a.

running a Public House, it would be reasonable to conclude that it would be operationally preferable for the owner/manager/staff to be present on site to provide both active and passive management, surveillance and security. This is particularly pertinent in this instance, given that the licence was revoked as a result of perceived public nuisance issues caused by the operation of the Public House. Moreover, it would be a more attractive proposition to any owner/manager/staff, to have the benefits of associated accommodation on site. This is especially important given both the long working days, which would be likely to extend outside of the trading hours; and the scarcity of affordable accommodation in the area cited by the main parties.

21. I acknowledge that if the owner/manager/staff want to live on site, they could have a room(s) within the HMO. Indeed, the submitted evidence alludes to the appellant living on site with some staff of the Public House, although no supporting information has been provided to confirm this. Nevertheless, there is no mechanism before me as part of this appeal which would ensure that such a situation would be maintained in perpetuity to secure and retain a functional link between the uses of the ground and upper floors.
22. Although not included in the Council's reasons for issuing the notice, I am also aware of the representations made by interested parties which highlight issues of noise and disturbance, parking and refuse disposal, which are alleged to be as a result of the tenants of the HMO. Whilst these claims are largely unsubstantiated, if valid, the issues raised may also compromise the operation and viability of the Public House.
23. I acknowledge the difficulties of operating a business within the hospitality sector during and after the pandemic. However, whilst the HMO may provide an additional income stream, which the appellant claims has been crucial to survival but has not substantiated with any supporting evidence, in all of the above respects, it has not been demonstrated that the development does not compromise the operation and viability of the Public House.
24. Accordingly, I conclude that it has not been demonstrated that the operation and viability of the Public House use is not undermined by the building's subdivision to provide an HMO on the upper floors. The development therefore conflicts with Policy D.CF4 of the THLP as referred to above.
25. Although not cited in the notice but included within its statement, the Council also reference Policy HC7 of the London Plan 2021, which states that 'Development proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of the public house use should be resisted'. For all of the above reasons, the development also conflicts with Policy HC7 of the London Plan.

Strategic housing need

26. Policy S.H1 of the THLP states that development will be expected to contribute to the creation of mixed and balanced communities that respond to a local strategic need. Furthermore, Policy D.H7 of the THLP advises that, new houses in multiple occupation will only be supported where they meet certain criteria including (a) meet an identified need and (c) can be secured as a long-term addition to the supply of low cost housing.

27. The Communities and Housing Evidence Pack confirms that 'Demand for housing in Tower Hamlets hugely exceeds supply. This is reflected in the high value of land, the high property prices and private rental values, and the sheer number of people on the borough's housing waiting list'⁵. Moreover, the supplementary text to Policy D.H7 of the THLP states that 'The Greater London Authority household projections suggest there is an increasing demand for HMO-style accommodation in the borough, particularly among young people'. Additionally, it is evident that HMOs represent only a small sector of the housing stock in the borough. HMOs have the potential to offer low cost housing to young people which, from the submitted evidence, the borough requires. Consequently, the submitted evidence indicates that there is a need for HMOs within the area, which the development meets.
28. However, whilst HMOs are traditionally low cost or affordable housing and the form and location of this HMO potentially limits the amount of rent that could be charged, no evidence has been provided as to whether this is the case in this instance. Moreover, even if I were to accept that this HMO constitutes low cost housing, there is no mechanism before me as part of this appeal which would secure this in the long-term.
29. Accordingly, I conclude that it has been demonstrated that the development meets the area's strategic housing need and, to that extent, complies with Policies S.H1 and D.H7 1(a) of the THLP referred to above. However, it has not been demonstrated that the development could be secured as a long-term addition to the supply of low-cost housing. As such, it conflicts with Policy D.H7 1(c) of the THLP referred to above.

External amenity space

30. On my site visit I noted that the flat roof area to the rear of the upper floors is used informally as an external amenity space. However, I am cognisant of the extant planning permission and listed building consent for a flat in this location, and the provision of external amenity space in the rear yard as part of the scheme, as well as space for cycle parking and waste storage⁶. This effectively eradicates the possibility of providing any onsite external amenity space for tenants of the HMO.
31. I am aware that no external amenity space was provided as part of the use of the upper floors as ancillary residential accommodation to the Public House. However, the deficiency of external amenity space as part of the previous use was a historic situation. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise⁷. Consequently, the development requires to be assessed against the relevant policies of the THLP.
32. I acknowledge that there are a number of public open spaces near to the Public House available for any tenants of the HMO to use, the closest being the adjacent York Square. However, I am not persuaded that, as claimed by the appellant, the proximity of the open spaces cited 'negate' the lack of onsite external amenity space. Private external amenity space for the exclusive use of building occupiers is a highly valued asset. Its provision is important to enable

⁵ Tower Hamlets – Time to Act. Who lives in Tower Hamlets? Where do they live. Communities and Housing Evidence Pack. Section 1 p 7 Demand for Housing.

⁶ Fig 8, Appellant's Statement of Appeal for Ground A.

⁷ Section 38(6) of the Planning and Compulsory Purchase Act 2004.

onsite passive and active recreational activity, and for other outdoor requirements such as drying clothes. On the whole, these would not be achieved through the use of the public spaces referenced.

33. Accordingly, I conclude that the development does not provide satisfactory living conditions for future occupiers, with regard to external amenity space. This is contrary to Policies D.H3 (5)(a) and D.H7 (1)(f) of the THLP which require developments to demonstrate how they will meet the minimum amenity space standards on site; and for HMOs to comply with relevant standards and satisfy the housing space standards.

Arrangements for cycle parking and refuse storage

34. With reference to the THLP's parking standards, the Council considers that the development should provide 3 cycle parking spaces, while the appellant submits that it should be 2. Notwithstanding the number required, the appellant acknowledges that, for various reasons, the site does not provide any onsite or offsite cycle parking for tenants of the HMO.
35. The appellant highlights that the use of the upper floors as ancillary residential accommodation had no cycle parking. However, similar to above, any deficiency in cycle parking as part of the previous use was a historic situation, and the development requires to be assessed against the relevant policies of the THLP.
36. Bearing in mind the extant permission and consent⁸, although cycle parking is provided as part of the scheme, along with external amenity space and space for waste storage, it severely limits the ability to provide any additional onsite cycle parking for any tenants of the HMO.
37. Whilst I recognise the constraints of the site and surrounding area in relation to the provision of cycle parking, in my opinion, they do not justify the lack of provision as part of the development. Additionally, that the site is highly accessible in terms of public transport, does not lessen the need to provide for alternative sustainable methods of travel.
38. With regard to refuse storage, the appellant highlights that the use of the upper floors as ancillary residential accommodation had no formal waste and refuse arrangements. However, as above, any absence of refuse storage as part of the previous use was a historic situation, and the development requires to be assessed against the relevant policies of the THLP.
39. I recognise that the use of the upper floors as ancillary residential accommodation would have been able to house the same number of people as the HMO. However, the use would have comprised one household, not six separate households. On this basis, I am not persuaded that the previous use would have generated the same amount of waste.
40. It may be possible to, as suggested by the appellant, construct a built-in storage cupboard on the first floor of the building where tenants of the HMO could store their refuse prior to collection day. However, I am mindful that the property is a Grade II listed building and there is no guarantee that, if required, listed building consent would be granted for these works. In any event, an internal 'storage cupboard' is not before me as part of this appeal.

⁸ Application Refs: PA/20/02390 and 02391.

41. I recognise that the existing access to the ground floor yard would be maintained as part of the extant permission and consent, where refuse storage could be provided. However, given the allocation of the space to the refuse storage, cycle parking and amenity space requirements of the permitted flat, as well as the refuse storage needs of the Public House, I cannot be certain that there would be sufficient refuse storage space for the HMO. Moreover, whilst the appellant states that refuse storage for both the flat and the HMO will be shown on the plan submitted in relation to the discharge of conditions for the flat, it has not been submitted as part of this appeal and, therefore, cannot be assessed.
42. In conclusion, the development does not provide suitable arrangements for cycle parking and refuse storage. This conflicts with Policies D.TR3 and D.MW3 of the THLP which require development to prioritise sustainable approaches to any parking through, amongst other things, giving priority to space for cycle parking; and include sufficient accessible space to separate and store dry recyclables organics and residual waste for collection, both with individual units and for the building as a whole.

Other Matters

43. The appeal property is a Grade II listed building which is located within the YSCA. As required by sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), in determining the appeal, I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
44. From the information before me, the special interest and significance of the listed building are largely derived from its historic and architectural interests, as a traditional public house dating from circa 1800s, along with the place it holds and meaning it has in the collective memory of the local community.
45. In relation to the YSCA, its special interest and significance mostly stem from the preservation of its historic street pattern, along with the architectural richness and coherence of its historic buildings, comprising domestic terraced properties and imposing landmark structures, which are interspersed with pockets of formal and informal green space. The heritage value of the Queens Head Public House positively contributes to the character and appearance of the YSCA as a whole and thereby to its significance as a designated heritage asset.
46. Having regard to the alleged breach and the requirements of the notice, along with my conclusions on the appeals on ground (a) and (f), I consider that the development would have a neutral effect on, and would therefore preserve, the special interest of the listed building as well as the character and appearance of the YSCA, and thus sustain the significance of these designated heritage assets. As such, it would meet the requirements of sections 66(1) and 72(1) of the Act, and accord with the provisions within the Framework which seek to conserve and enhance the historic environment. Nevertheless, an avoidance of harm in this regard weighs neutrally and does not amount to a consideration in support of the appeal.

Conclusion on appeal on ground (a)

47. The development complies with the development plan to the extent that it meets the area's strategic housing need. However, it conflicts with the development plan in respect of all of the other main issues cited.
48. I am mindful that upholding the notice will interfere with the tenants' rights conveyed under Article 8, and Article 1 of the First Protocol, of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998. Article 8 is the right to respect for private and family life, home and correspondence and Article 1 of the First Protocol is the right to the peaceful enjoyment of possessions including property. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Subject to the variation to the notice set out in the appeal on ground (g), I conclude that, having regard to the harm that I have found, the requirements of the notice and the time available to tenants to seek alternative accommodation are reasonable and would not result in a disproportionate burden.
49. I have found the proposal to be contrary to the policies of the development plan and no material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan. I conclude that planning permission ought not to be granted for the matters stated in the notice. Accordingly, the appeal on ground (a) fails.

The appeal on ground (f)

50. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
51. When an appeal is made on ground (f), the starting point is to identify the purposes of the notice. Section 173(4) of the 1990 Act as amended sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place, or (b) remedying any injury to amenity which has been caused by the breach.
52. In this case and bearing in mind the corrections set out above, the requirements of the notice are to: 1. Cease the use of the upper floors of the Public House as a House in Multiple Occupation (HMO) at the enforcement site outlined in red on the Ordnance Map - Plan 1A in Appendix 1; 2. Reinstate the upper floors of the Public House as ancillary residential accommodation as shown in the layout plan - Plan 1D in Appendix 1; and 3. Make good any damage to the property and remove all debris occurring from compliance with steps 1 and 2 above.
53. The purpose of the notice must therefore be to remedy the breach that has occurred by discontinuing the use of the land for the purposes stated in the notice, as well as restoring it to its condition before the breach took place.

54. I have considered the appellant's comments on this ground of appeal and concur that, generally, where the development relates to a material change of use and if the purpose of the notice is to remedy the alleged breach, it is sufficient for the notice to require the unauthorised use to cease.
55. However, I am mindful that the property is a Grade II listed building. There is nothing before me which confirms that listed building consent was obtained for any works carried out as part of the change of use of the upper floors to an HMO. Moreover, in responding to my request as set out under procedural matters, it is the Council's opinion that any internal works required to be undertaken to comply with the notice would need listed building consent, and I have no reason to disagree.
56. Given the above, I consider it reasonable of the Council to require that the physical 'layout' of the property is reinstated to that shown on Plan 1D. I therefore conclude that the steps required by the notice to be taken do not exceed what is necessary to remedy the breach of planning control, but are proportionate given the purposes of the notice. Accordingly, the appeal on ground (f) fails.

The appeal on ground (g)

57. The appeal on ground (g) is that any period specified in the notice in accordance with section 173(9) of the 1990 Act as amended falls short of what should reasonably be allowed. In this instance, the period for compliance is four (4) months.
58. The appellant submits that a period of four months is 'woefully insufficient and unfair to the existing tenants'. It is suggested that seven months would be a more reasonable period to allow the tenants to find alternative accommodation.
59. The Council rejects the suggested seven months. It highlights the importance of effective enforcement and asserts that, given the refusal of the application for planning permission for the upper floors' use as an HMO, 'the appellant was always on borrowed time as far as the unauthorised usage of the property is concerned'. It also draws attention to the lack of any information from the appellant which would support an extension to the period for compliance. I am also conscious of the representations by interested parties referenced above and the issues they cite.
60. In considering this ground of appeal, there is a need to balance the public interest in securing the expeditious compliance with the notice against the private interest bound up in the development subject to the notice.
61. The appellant is entitled to assume success on any ground and therefore, should not be expected to, as advanced by the Council, notify the tenants to 'prepare them of the eventuality of eviction'. In addition, as set out in the appeal on ground (a), upholding the notice will interfere with the tenants' rights conveyed under Article 8, and Article 1 of the First Protocol, of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
62. I note the matters raised by interested parties, and acknowledge the deficiency of information regarding the details of any tenancy agreements. However, given the consequences to the tenants of upholding the notice, as well as the

time required to obtain listed building consent and reinstate the 'layout' of the upper floors, I am inclined to agree with the appellant on this matter.

63. Consequently, I consider that a period of four months for compliance with the requirements of the notice is not reasonable and results in a disproportionate burden. Taking the submissions of all parties into account, I am satisfied that the suggested time of seven months is a reasonable and proportionate response to the breach of planning control that has occurred.
64. Consequently, I conclude that the time for compliance specified in the notice falls short of what should reasonably be allowed. The appeal on ground (g) succeeds to that extent and I will vary the notice accordingly. Having regard to section 176(1)(b) of the 1990 Act as amended, I am satisfied that no injustice would be caused by varying the notice in this respect.

Conclusion

65. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation 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

66. It is directed that the enforcement notice is corrected by:
- In paragraph 2, the insertion of the words 'Land at' before the words 'Queens Head Public House, 8 Flamborough Street, London E14 7LS'.
 - In paragraph 3, the deletion of the word 'seven-bedroom' and the substitution of the word 'six-bedroom'.
 - In paragraph 4, the deletion of the words and number 'four (4) years' and the substitution of the words and number 'ten (10) years'.
 - In reason 1 of paragraph 4, the deletion of the words 'existing C4' and the substitution of the words 'Public House'.
 - In requirement 1 of paragraph 5, the deletion of the words 'as well as in the layout plans - Plans 1B and 1C'.
 - In requirement 2 of paragraph 5, the deletion of the words 'a residential dwelling' and the substitution of the words 'ancillary residential accommodation'.
 - In Appendix 1, the deletion of plans 1B and 1C.
67. It is directed that the enforcement notice is varied by:
- In sub-paragraph 6(i) the deletion of the word and number 'FOUR (4)' and substitution of the word and number 'SEVEN (7)'.
68. Subject to the corrections and variation, the appeal is dismissed and 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.

F Cullen INSPECTOR