
Appeal Decision

Inquiry Held on 13, 14, 15 and 19 February 2024

Site visit made on 15 February 2024

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 12 March 2024

Appeal Ref: APP/U5360/C/23/3316187

Land at 10 Wilderton Road, Hackney, London N16 5QZ

- 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 Yakov Khubini against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 20 January 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from dwellinghouse (C3) to a mixed use comprising synagogue F1(f) and a residential maisonette (C3).
 - The requirements of the notice are:
 1. Cease the use of the Property as a mixed use comprising synagogue F1(f) and a residential maisonette (C3);
 2. Remove all fixtures, fittings and equipment facilitating the use of the Property; a mixed use comprising synagogue F1(f) and residential maisonette (C3);
 3. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above;
 4. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) (c) (d) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by the deletion of the words "F1(f) and a residential maisonette (C3)" in paragraphs 3, 5.1. and 5.2 and substitution with the words "and a dwellinghouse". Subject to these corrections the appeal is allowed and the enforcement notice is quashed.

Application for costs

2. At the Inquiry an application for costs was made by the Council of the London Borough of Hackney against Yakov Khubini. This application is the subject of a separate Decision.

Procedural Matters

3. The Inquiry opened on 13 February 2024, and I sat for two consecutive days. Evidence was heard face to face under solemn affirmation. Closing submissions were made through a 'virtual' session on 19 February 2024, with

interested parties able to observe. I conducted an accompanied site inspection on 15 February 2024 where I was able to inspect 10 Wilderton Road internally, walk the surrounding streets and visit a local synagogue at 22 Dunsmure Road.

The Enforcement Notice

4. The alleged breach of planning control is a material change of use from a dwellinghouse to a mixed use comprising a synagogue (F1(f)) and a residential maisonette (C3). The ordinary definition of a maisonette is a self-contained small dwelling, not necessarily all on one floor. However, the allegation is one of a mixed use, and the Council confirmed at the Inquiry that the residential accommodation in this case was not self-contained. Consequently, the alleged breach would be more accurately described as a material change of use to a mixed use comprising a synagogue and a dwellinghouse. It was agreed by the main parties at the Inquiry that the correction would not alter the purpose of the notice nor result in any injustice to them. In addition, a mixed use is a sui generis use¹, thus references in the allegation to Class F1 (f) and Class C3 are not applicable and should be deleted. I shall correct the notice accordingly.

Background and Planning History

5. The Appellant originates from Yemen. He came to the United Kingdom with his brothers as a teenager, and his parents followed shortly after. The family came to the United Kingdom as refugees and were supported by Rabbi Goldman as part of Ezras Yisroel, a community organisation for refugees fleeing from Yemen because of their religion and Jewish status.
6. Rabbi Goldman told the Inquiry that the minority Yemenite Jewish Community have a desire to pursue their traditional customs and practices within a modern environment. He advised that an integral part of their traditional customs is to pray many times during the day and there is a requirement for a special prayer books and a different type of "torah scroll" that is not available at a typical synagogue in the UK. Thus, Yemenite Jews will usually use a synagogue side room where they can hold their prayers separately in accordance with their customs.
7. The Inquiry heard that on the Shabbat, when it is not possible to use transport to travel to a local synagogue, prayers are held at home to accommodate the elderly. Moreover, the prayers on a Shabbat are conducted informally and in smaller family groups followed by kiddish and snack. The prayers are sung in a significantly different way and as such, the Yemenite community are not able to pursue their tradition and benefit from the usual typical synagogues. A "minyan" is necessary for those prayers, and there must be at least ten males (13 years or above) participating.
8. The Appellant told the Inquiry that in 2011 he was introduced by Rabbi Goldman, to a community elder and leader Chacam Mamari who lived at 10 Wilderton Road and had a prayer room ("shtiebel") in his house. In 2017 Mr Mamari relocated to Israel for the final years of his life and approached the Appellant with a proposal for him to purchase the property at an attractive price and on competitive terms, as it was his desire for Shabbat prayers for the family from the Yemenite community to continue at this property. The Appellant completed the purchase around 2020.

¹ Meaning 'of its kind' when no use class order category fits

9. The Appellant, his brother and Rabbi Goldman all told the Inquiry that, since purchase the appeal property has continued to be used as a dwellinghouse with Shabbat prayers involving the Appellant's large extended family and utilising the established prayer room on the ground floor of the dwelling.
10. During 2020 planning permissions were granted for larger home extensions at the property, including a loft conversion, and building works commenced. The Council's Enforcement Report states that during 2020/2021 the Council had opened two separate enforcement cases relating to building works at the property and alleged use as a synagogue. Both cases were subsequently closed following site inspections which concluded that there was no evidence of a breach of planning control.²
11. The Appellant told the Inquiry that it was his desire for the property to be able to be converted and used as a synagogue for the Yemenite Community. However, planning applications for such a use were refused by the Council in July 2021 and subsequent appeals dismissed in July 2022.³ Consequently, he told the Inquiry he accepts that this aspiration cannot be realised. He has subsequently gained planning permission for the dwelling to be extended with a single storey rear extension and excavation/extension of a basement including rear lightwell.⁴ Building works to implement this permission are ongoing and were evident during my site visit. When complete the Appellant stated that he intends to move permanently into the property with his family, including supported family.

Appeal on ground (b) and ground (c)

12. The main issue in a ground (b) appeal is whether as a matter of fact the Land was in use as a mixed use comprising a synagogue and a dwellinghouse. If those matters did occur, the ground (c) is that those matters do not constitute a breach of planning control.
13. There is no dispute between the parties that the lawful use of the property is a dwellinghouse. The Council and Rule 6 Party contend that the lower floors of the property are also in use as a synagogue, such that there are two primary uses existing within the same planning unit, comprising a mixed use as a dwellinghouse and a synagogue.
14. 10 Wilderton Road is a substantial end of terrace property located on the corner of Wilderton Road and Colberg Place. The property has accommodation over four floors and a modest rear garden. Authorised building works are currently being undertaken to extend the ground floor accommodation and develop basement accommodation. The property is situated in a predominantly residential area, albeit close to the A10 and Stamford Hill where there are many local amenities, including several established synagogues serving the large Jewish Community which has settled in this area. There is a primary school and a synagogue on neighbouring Dunsmore Road.
15. From the evidence before me, including that given at the Inquiry when the Appellant confirmed that the appeal property was not his sole residence, the use of the property as a dwellinghouse as part of the alleged mixed use is not in dispute between the parties. Photographs included in the Council's evidence

² LPA Proof of Evidence: Appendix D

³ APP/U5360/W/21/3283073 & APP/U5360/W/21/3283074

⁴ Local Planning Authority Ref: 2022/2647

show bedroom, kitchen and bathroom facilities, all of which are required for day-to-day private domestic existence.⁵ It is however the Appellant's case that the property has not been in use as a synagogue. The Appellant accepts that on the Shabbat and festivals his extended family come to the property for prayers and family gatherings. However, he considers the appeal property to have a single primary use as a dwellinghouse, and that the prayer room and its use as such, are incidental to the use of the dwellinghouse. Furthermore, should I find the property to be in a mixed use, he asserts that having regard to the plans which were approved by the Council in 2022 for extensions/alterations, which show a prayer room within the dwellinghouse, then that use must have the benefit of planning permission.⁶

16. The Council's witness was not employed by the local planning authority (LPA) when the enforcement notice was issued. Consequently, he was not able to provide any direct evidence of the alleged use. However, he told the Inquiry that having regard to the photographs taken by a previous officer on a site visit in October 2022⁷, including pictures of a large sink in the hallway on the ground floor, a paper towel dispenser, fire exit sign and electric water boiling urn in the kitchen, it was his opinion that the property was being used in a communal way, as these items would not normally be found in a private domestic dwellinghouse.
17. Furthermore, he considers that significant weight should be given to the Planning Inspector's decisions dated July 2022.³ Her decisions stated that a change of use of the building to a religious venue has occurred. Having regard to her findings and third party correspondence/observations of people visiting the property, it is the Council's case that the alleged mixed use has taken place as a matter of fact.
18. The Council's enforcement report advises that when the Council inspected the premises on 7 October 2022, *"the basement and ground floor were in use as a 'Shteibal' (described as a small, informal house of prayer)."* That description would concur with the evidence given by the Appellant, his brother and Mr Goldman. The Appellant told the Inquiry that on the Shabbat his extended family come together at the appeal property for prayers followed by kiddish. Although, it is only the men that pray together, on occasions the women and girls will also join them at No 10 Wilderton Road as it provides space for such large family gatherings. The appellant told the Inquiry that, as is the case with most Jewish families, he is part of a large family group/community. He is one of nine brothers and a sister. His brother also has nine children. Thus, when the extended family come together to pray each week on the Shabbat there is generally between 10-25 men gathering at the property. In addition, on a day of a festival such as Passover, there may be a maximum of 35 family members gathering, including the women. Although the Appellant accepted in cross-examination that on occasion a family friend or neighbour may join them for prayers and would be welcomed, he told the Inquiry that was not usual. Prayers at the property on the Shabbat are intended for his extended family only.
19. The photograph's taken of the prayer room by the Council on their visit in 2022 concur with what I saw on my site visit. On the ground floor there is a large

⁵ LPA Proof of Evidence: Appendix E

⁶ LPA Proof of Evidence: Appendix I.

⁷ LPA Proof of Evidence: Appendix E & F

room laid out with dining table and chairs for up to 25 people and a couple of bookcases lined with religious books. I also observed on my visit a cabinet containing a large Yemenite Torah scroll used for prayers on the Shabbat. I understand that this room is where the prayers take place. Although a neighbour considered that it would be unusual for a private dwelling to have a large Torah scroll within it, the Appellant's advocate said that is not the case, and he is aware of other families, including himself, who have a Torah scroll in their home. I see no reason why the Appellant should not have a Torah scroll in his own home to facilitate prayers in accordance with his faith if he is able to afford one.

20. In response to my questioning, the Appellant explained the differences between the prayer room he has in his house and a synagogue. He stated that a synagogue is a public place of prayer where services and prayers are held daily, and anybody is welcome at any time. Each person would have their own cupboard, prayer shawl (*tallith*), and there would be separate toilets for men and women as well as large communal sinks with cold water taps only. I was also told that a synagogue would have a large notice board, a "Bimah" (central platform) and a "Amud" (pulpit) amongst other traditional artefacts, e.g. "Aron-Hakodesh" (holy ark). I visited a synagogue on Dunsmure Road on my site visit and observed those features. On the other hand, the Appellant stated that the prayer room in his house provides a table and chairs where prayers are held with his extended family and facilitated only by the Torah scroll and other holy books. His house is not however a public place of worship. Prayers with his extended family generally take place only on the Shabbat in his home. At other times of the week his family may pray at the synagogue.
21. From all the evidence before me, including the Council's photographs and observations on my site visit, the property is not laid out, nor does it display the cultural artifacts and other physical features that would be attributed to use as a synagogue. I have had regard to the large sink in the hallway outside of the kitchen on the ground floor of the property. However, this sink had hot and cold taps which I understand would not be usual in a synagogue. I am also aware that a Jewish family would have a sink outside many rooms in their household, for washing of hands and certain prayers. I was able to see examples of such sinks within the upper floors of the dwellinghouse on my visit. It is also usual for Jewish homes to have more than one kitchen. I accept that a paper towel dispenser would not necessarily be found in a residential property. However, in a large Jewish household where it is customary for extended families to pray together on the Shabbat, and considering the recent COVID-19 pandemic, it would not be extraordinary to have a paper towel dispenser installed to assist with hand hygiene. Similarly, a large boiling water urn within a kitchen would not be extraordinary in a house where it is common for an extended family to gather. The presence of an electric water boiler and paper towel dispenser do not to my mind indicate that the property is in use as a synagogue.
22. I have had regard to a fire exit sign which could be seen in one of the Council's photographs displayed above the ground floor kitchen doorway within the appeal property and recognise that such a sign would be unusual in a private dwellinghouse. However, there is no dispute that this property is regularly used for extended family prayers and in connection with the Appellant's wife's work with the Yad Voezer Charity who support and care for people with disabilities. Taking into consideration those uses and the size of the dwelling,

which extends over four floors, I do not consider that the displaying of a fire exit sign is exceptional nor implies a synagogue use. There is reference in the Council's enforcement report to a sign at the entrance to the basement stating it to be an entrance to a seminary. No photograph of this sign has been provided, nor photographs of the basement area in use as a seminary. The Appellant said he was unaware of such signage. In the absence of any direct evidence that the basement was in use as a seminary, I give this matter little weight.

23. The applications considered by the Planning Inspector in July 2022 related to (1) Appeal A, change of use of part of existing building from residential to synagogue and conversion of upper floors to a three bedroom flat, and (2) Appeal B, change of use of part of existing building from residential to synagogue accompanied with a single storey basement extension and single storey rear extensions and conversion of upper floors to a three bedroom flat. The appeals were dealt with by written representations, and it is understood that the visit undertaken was an "access only" visit, with no representation on the site visit from the LPA.
24. The applications before the Inspector were for a proposed use of the appeal property as a synagogue and self-contained flat. There is no indication from the application forms, including the description of the proposed development, that the applications were retrospective. The forms state that the development has not started. Nevertheless, the Inspector's decision states that from her observations the existing ground floor and basement has been converted for use as a religious venue, with the Shul to the ground floor and a study room within the basement. Other than that description, there is no other indication as to how she came to her conclusion that this use has occurred, and that was not a matter for her consideration in that appeal. Indeed, throughout her reasoning she refers to a **proposed** Operational Management Plan indicating that there **could be** as many as five or six daily services, plus study facilities for 25-40 young men which **would lead to** an intense use of the site throughout the day and evening.⁸ Moreover, her reasoning is based on a description of what the likely effects of the proposed development would be. She does not at any point describe or identify any existing impacts or characteristics of the Shul/study area she has identified. From my reading of her decision, her reasoning is based on her professional judgement on the likely effects of the proposal before her, rather than the existing use of the property. Whilst it is important that appeals are dealt with in a consistent manner, the previous Inspector's decision was in relation to a proposed use and is not therefore directly comparable to this appeal case, which relates to an alleged breach of planning control.
25. In response to the enforcement appeal, three letters of concern were received from neighbouring residents. Each of those expressed support for the previous Inspector's decisions and concern that if the use as a synagogue is accepted, the operational management plan submitted with the original planning application indicates that the development would lead to such use seven days a week, with 50-75 regular attendees, late night gatherings and possible loud amplified music. This would lead to an increase in vehicular movements, parking stress, footfall and pollution. Again, much of the concerns relate to the impact of a proposed use of the premises as a synagogue and how this would

⁸ Bold highlight, my emphasis.

exacerbate existing parking stress in the street, increase comings and goings from the appeal property and building work taking place there.

26. At the Inquiry we heard from four residents who live on Wilderton Road, neighbouring Colberg Place and Dunsmure Road. Each of those residents expressed concern about parking stress in the area which has been increasing in recent years and referred to their campaign for a controlled parking zone in the street. This is now in place between 10am and 12pm Monday to Friday. Ms Milmo said she first noticed activity at the appeal premises during the COVID-19 pandemic when people were gathering outside. She then became aware of the planning application for the proposed synagogue. She refers to an increase in poorly parked vehicles on the street, including on double yellow lines and the pavement. She has seen people entering and leaving the appeal premises particularly at the weekend. She stated that there are many school minibuses in the area picking up children to go to school, although she did not suggest that these were related to the appeal premises.
27. Ms Allen works from home and overlooks No 10. She advised the Inquiry that she has seen people entering the property, including builders and mostly on a Friday with men arriving in cars before sunset. She stated that activity in the area had increased in recent years, including men and builders coming and going through the door in the fence off Colberg Road. She advised that building work has been ongoing since 2016/18. She stated that the Jewish community has grown during this time, and she is aware of a synagogue further up Colberg Road and of the nearby community centre. Although both of these witnesses said they had seen people enter the appeal property, including builders, they did not confirm daily services or schooling at the property, nor provide evidence of regular attendees of 50-75 people, nor singing or late-night activity, all of which would be associated with a synagogue use. They were both clearly aware of increased traffic on a Friday, which would concur with the Appellant's evidence of family coming for prayers on the Shabbat. However, any vehicular activity in the area on the Shabbat cannot be related to the use of the property, as use of public transport and driving vehicles is prohibited by members of the Jewish community on the Shabbat.
28. Mr Richardson lives on Wilderton Road and told the Inquiry that he works from home and walks his dog in the area. He has noticed an increase in traffic and people in the area. He is aware that there are other synagogues in the area but said there has been an increase in traffic and parking congestion in recent years which he believes can be attributed to the use of No 10 Wilderton Road. He has observed Jewish men entering the premises in the morning and also leaving in the late afternoon although he was unable to give any precise details. He also said that he couldn't say when he had last heard any singing at the property and was aware that there is continual building work at the property.
29. Kathryn Akin lives on the corner of Dunsmure Road and Wilderton Road. She stated that she regularly sees groups of men walking down Wilderton Road and has seen men entering and leaving the appeal property some carrying religious books. She said on one occasion about two years ago she saw approximately 15 men gathering at the property. She did not believe that the men were related as "they don't look related". She advised of minibuses in the area causing congestion and single male drivers late at night with polluting vehicles coming up and down the street. Men talking on the street corners late at

night, more activity around the Shabbat, and a light in the prayer room in the evening. She said she is also aware of two synagogues operating on Dunsmure Road close to her property.

30. Dr Lichman lives opposite the appeal property and has a view down Colberg Place where there is a side entrance to the appeal property. He told the Inquiry that he has a personal knowledge of the Jewish faith and customs. He advised the Inquiry that he supports the previous Inspector's decisions and first became concerned about the use of the property when he noticed men gathering in the rear garden of the property during the COVID-19 pandemic. He advised that Hackney had a very high COVID infection rate, and he was concerned that social distancing was not being observed. He stated that he sent lots of photographs to the Council.
31. Dr Lichman told the Inquiry that on Friday evenings he can see large numbers of drivers on Colberg Place and men entering the appeal property through the side gate. He says on a Friday there can be 20-35 people on occasion entering the property but he has never seen any women. Dr Lichman stated that the previous occupier of the appeal property had asked him if it would be acceptable for him to have a "minyan" at the appeal property. However, during the previous occupier's residence he had not ever noticed large numbers of people gathering. He stated that a "minyan" is not a Shteibal or Schul. Dr Lichman said that he is aware that a minibus attends the appeal property in association with Yad Voezer Charity, and that the road is used by many minibuses taking children to and from school in the area. He also stated that he didn't believe anybody at the property was registered to vote.
32. Considering the evidence before me and as set out above, I conclude that on the balance of probability, the appeal property is not in a mixed use comprising a synagogue and a dwellinghouse. Instead, the evidence points to the use of the property as a dwellinghouse, which is also used as a place of worship for the Appellant's extended family on the Shabbat and during Jewish Festivals. Such use is customary within a Yemenite Jewish home. Observations from the neighbours support my conclusion that it is predominantly on a Friday and Shabbat that large numbers of men converge at the property. Although there is clearly some activity at the property at other times of the week, and there has been a lot of building work taking place during the last few years, there is no substantive evidence that the property is being used as a synagogue. The evidence does not suggest that there are regular or daily public services and/or public religious instruction taking place. Nor is there direct evidence that parking stress and increased footfall in the area has been significantly contributed to by the use the appeal property and is not attributable to other places of worship in the area, the local school or other residential activity taking place within the neighbourhood.
33. I have had regard to the Council's enforcement report, which references evidence submitted to the Council which indicates substantial volumes of people coming and going from the property frequently through the day. However, that evidence has not been presented to me nor made available for testing at the Inquiry. Apart from the communal dining area within the ground floor of the property, which is utilised as a prayer room, the property is not laid out, nor does it contain any other cultural artefacts which would suggest that it is in use as a synagogue.

34. Having regard to my conclusion that the appeal property is in use as a dwellinghouse and as a place of worship, it is necessary to consider whether that change of use is material and thus an act of development⁹. Having regard to established case law, whether there has been a material change of use will always depend upon the particular characteristics of the use in question. It is a matter of fact and degree and is a planning judgement. Consideration must be given to whether there has been a definable change in the character of the use and including whether off-site or on-site impacts indicate that there is a change in the definable character of the site's planning land use.
35. The lawful use of the appeal property is as a dwellinghouse, and that use provides a benchmark for comparison with the mixed use as a dwellinghouse and place of worship. Prior to the appellant taking ownership, like many properties in Stamford Hill, the appeal premises was occupied by a Jewish family. We heard at the Inquiry from Rabbi Goldman that it is customary for the Yemenite Jewish Community to pray many times during the day and the prayers on a Shabbat are conducted informally and in smaller family groups followed by kiddish and snack.
36. 10 Wilderton Road is a substantial property with accommodation over four floors. It is generally recognised that the larger the unit of ownership or occupation the less likely is a change in the use of part of it liable to constitute a material change in the whole. Although the basement was still undergoing construction works, from the evidence before me and observations on my site visit, the property is laid out and has all the characteristics and the appearance of a dwellinghouse. As is customary in Jewish properties, there are two kitchens, there is a large dining room (also used for extended family prayers), a living room, small study, bathroom and separate toilet, sinks on landing areas and 4/5 bedrooms. I have not been provided with any evidence that would suggest that there has been a loss of housing space as suggested in the reasons for issuing the enforcement notice and the use of the dining room as a communal prayer room does not fundamentally change the character of the use of the Land. Indeed, the prayer room is clearly subsidiary to the primary use of the property as a dwellinghouse.
37. As set out above, the Appellant prays in his home with his immediate family daily. This act of prayer does not alter the character of the dwelling or have any planning consequences. On the Shabbat and on days of Jewish festival, he is joined at his home by his extended family to pray, which is customary for a Yemenite Jew. We heard at the Inquiry that this will usually mean that he is joined by between 10-25 family members. Although concerns were expressed by neighbours about possible noise and disturbance from singing within the property and amplified music being played if the property was utilised as a synagogue. I have not been provided with any substantive evidence that the existing use by his extended family on a Shabbat has resulted in noise/nuisance from the singing of prayers. The Council's enforcement report refers to the proposed timetable for services and formal activities of the synagogue. It concludes that the proposed use with up to 300 visits and thus comings and goings from the site would result in a level of activity that is uncharacteristic and would detract from the residential amenity through an increased level of noise and disturbance. However, the language is "would".

⁹ Section 55(1) Town and Country Planning Act, 1990, as amended

There is no evidence that those daily services nor that level of attendance has taken place.

38. The main area of dispute concerns off-site impacts. It is common ground that on the Shabbat, Jews do not drive or ride in cars or other vehicles. Thus, there will not be any additional vehicular traffic movements associated with the property on the Shabbat. However, residents suggest that visitors arrive by car on a Friday before sundown and will then return to pick them up after night fall on the Saturday or on Sunday. The Appellant did not dispute that this practice occurs in some instances. Thus, it is not unreasonable to assume that there is some additional vehicular activity, some additional on-street parking and footfall associated with 10-25 family members visiting the property for prayers and gathering on the Shabbat.
39. There is no factual evidence on traffic movements or late-night disturbance directly attributable to activity related to the family gatherings on the Shabbat. The outside gathering during COVID-19 was in relation to the circumstances around the pandemic, and there is no evidence that outside gathering is a regular occurrence on the Shabbat. Wilderton Road and Colberg Place comprise large terraced residential dwellings, many of which are occupied by large Jewish families. The area is characterised by on-street parking and the regular comings and goings of families going about their daily routine, including walking to and from the local synagogues. As a matter of fact, the use of the appeal property as a place of worship for the Appellant's extended family has resulted in more people visiting the premises on the Shabbat and some additional parking has occurred. However, having regard to the lawful use of this substantial dwelling, its use for the extended family coming together for weekly prayers, even taking account of an average of 20 family members, has resulted in limited off-site impacts.
40. Weighing all the considerations I conclude that as a matter of fact and degree, the use of the prayer room is incidental to the use of the dwellinghouse as such. There was not a sufficiently significant change in character to have resulted in a material change in the use of the Land and development did not occur. Based on the particular circumstances and available evidence there has not been a material change of use to a mixed use as a synagogue and dwellinghouse as a matter of fact and there was not a breach of planning control. The appeals on ground (b) and (c) succeed.

Overall Conclusion

41. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should succeed on ground (b) and ground (c). Accordingly, the enforcement notice, once corrected, will be quashed.
42. In these circumstances the appeals under grounds (d) and (f) set out in section 174(2) to the 1990 Act as amended do not need to be considered.

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Isaac Leibowitz Advocate

He called

Mr Abraham Goldman Rabbi, Ezras Yisroal Community Organisation

Mr Isaac Leibowitz Acquaintance of the Appellant

Mr Yakov Khubini Appellant

Mrs Khubini Appellant's wife

Mr Isaac Khubini Appellant's brother

FOR THE LOCAL PLANNING AUTHORITY

Mr Mark O'Brien O'Reilly Counsel instructed by the Solicitor of the Council

He called

Angus Cunningham BA(Hons), MSc Planning Enforcement Officer

FOR THE RULE 6

Dr Lichman Local Resident

He called

Kira Milmo Local Resident

Catherine Allen Local Resident

Will Richardson Local Resident

John Yeudall Local Resident

INTERESTED PARTIES

Kathryn Akin Local Resident

DOCUMENTS submitted at the Inquiry.

1. Signed Statement of Common Ground
2. Floor Plans in relation the LPA Ref: 2022/2647