



Appeal Decisions

Hearing held on 14 January 2025

Site visit made on 14 January 2025

Hearing closed on 10 February 2025

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

Appeal A Ref: APP/X5990/C/24/3350633

Appeal B Ref: APP/X5990/C/24/3350634

The buildings and associated land at 10 and 12 Park Street, London W1K 2HX

- The appeals are 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).
 - Appeal A is made by Chale Limited and Appeal B is made by Jagonia Overseas Limited, against an enforcement notice issued by Westminster City Council.
 - The notice was issued on 25 July 2024.
 - The breach of planning control as alleged in the notice is 'Without the benefit of planning permission and within the last four years, the amalgamation of two dwellinghouses, namely 10 and 12 Park Street London, W1K 2HX ('the Properties'), into a single dwellinghouse ('the Unauthorised Use'), and the installation of internal interconnecting doors at lower ground floor level and at first floor level, to facilitate the Unauthorised Use.'
 - The requirements of the notice are to: 1 Cease use of 10 and 12 Park Street London W1K 2HX ('the Properties') as a single dwellinghouse, and undertake the following to remove the works that have facilitated the Unauthorised Use:
 - a) Remove the internal door and door casement at lower ground floor level between the Properties, as shown outlined in green in Photograph A, the location of which is shaded in red in Extract 1;
 - b) On completion of Step a), reinstate the removed section of wall, with materials to match the surrounding existing walls, and then plaster over and paint, to match the surrounding wall decorations at lower ground floor levels at the Properties;
 - c) Remove the internal door at first floor level between the Properties, shown and outlined in blue in Photograph B, the location of which is shaded yellow on Extract 2;
 - d) On completion of Step c), reinstate the removed section of wall with materials to match the surrounding existing walls, and then plaster over and paint, to match the surrounding wall decorations at first floor levels at the Properties; and
 - e) Remove all waste, materials, equipment, and debris from the Properties resulting from compliance with Steps 1 a) to d) of this Notice.
 - The period for compliance with the requirements is: Three months.
 - Appeals A and B are both proceeding on the grounds set out in section 174(2) (a), (b), (e) and (f) of the Town and Country Planning Act 1990 (as amended). Since appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.
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Summary Decisions. Appeal A: The appeal is allowed, the enforcement notice is quashed, and temporary planning permission is granted in the terms set out below in the Formal Decision. Appeal B: The appeal is allowed, the enforcement notice is quashed, and temporary planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. Appeals A and B have been submitted by different appellants. However, they concern the same enforcement notice (the notice), the same land/properties and

the same grounds of appeal. Therefore, to avoid duplication, I have dealt with them together in one decision letter.

2. Appeals A and B were submitted as proceeding on grounds (a), (b), (e) and (f). The appellants subsequently withdrew the appeals on ground (e)¹ and confirmed that they instead rely on the appeals on grounds (a), (b) and (f).

Notifications

3. Prior to the hearing, it was confirmed that notifications relating to the appeals and the event had not been carried out fully in accordance with Rule 4(2)(b) of The Town and Country Planning (Enforcement) (Hearings Procedure) Rules 2002 (the Rules), namely (i) on any person on whom a copy of the enforcement notice has been served.
4. Notification letters were subsequently issued by the Council on 9 January 2025 to those persons on whom a copy of the enforcement notice had been served, but were not originally notified. The notification gave the statutory period of 28 days within which any representations should be made.
5. To allow the event to proceed on the agreed date of 14 January 2025 and to ensure that the interests of those persons who had not been notified were not prejudiced, the hearing was not closed on the day of the event, but instead kept open until the expiry of the 28-day notification period, namely, 6 February 2025. No representations were received by the Planning Inspectorate during this time and the hearing was formally closed in writing on 10 February 2025.
6. I am satisfied that the notifications have been carried out in accordance with the Rules. For the avoidance of doubt, I have determined the appeals on the evidence before me, the discussion at the hearing and my observations on the site visit.

The Enforcement Notice and Right to Appeal

7. At the hearing the wording of the alleged breach of planning control (BoPC) as stated in the notice was discussed. In the interests of clarity and precision, the following revised wording was considered:- 'Without the benefit of planning permission and within the last four years the amalgamation of two dwellinghouses, namely 10 and 12 Park Street, London W1K 2HX ('the Properties'), into a single dwellinghouse ('the material change of use'), and the installation of internal interconnecting doors at lower ground floor level and at first floor level, to facilitate the material change of use.' No objections were raised by the parties to this suggested correction.
8. There is a discrepancy in the notice relating to the location of the internal door openings. The alleged BoPC cites the 'lower ground floor and first floor', and the reasons for issuing the notice states 'lower ground floor and ground floor'. The parties confirmed at the hearing that the floors set out in the alleged BoPC are correct. I will correct the notice on this basis.
9. Mindful of section 176(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act as amended), I am satisfied that no injustice would be caused by correcting the notice in the above respects.

¹ Appellants' 'Statement of Facts' dated 6 September 2024.

10. In the Land Registry documents provided by the Council, Appellant A (Chale Limited) is only referenced in the land registry details of 12 Park Street, whereas Appellant B (Jagonia Overseas Limited) is referenced in the land registry details of 10 and 12 Park Street. On this basis and for the avoidance of doubt, I find that Appeal A made by Chale Limited can only relate to No 12 Park Street.

Background

11. The adjoining properties of Nos 10 and 12 Park Street (Nos 10 and 12) are sited on the east side of Park Street. They form part of a Grade II listed building² and are located within the Mayfair Conservation Area (the MCA).
12. No 12 is arranged over five storeys within a six storey building (lower ground to third floor). No 10 is arranged over four storeys within a seven storey building (lower ground to second floor). No 12 has a lift which accesses all floors within its demise. There is no lift within No 10³. Both properties are stated to be approximately 650 square metres in size.
13. Flats 12A and 12B oversail Nos 10 and 12. Access to these properties is gained via an entrance containing a stair and lift, located between Nos 10 and 12 on Park Street. These properties fall outside the area identified in the notice.

The appeals on ground (b)

14. The appeals on ground (b) are that those matters stated in the notice have not occurred. On this ground of appeal the onus is on the appellants to make out their case to the standard of the balance of probabilities.
15. Having regard to the correction above, the notice alleges the material change of use (MCU) of the amalgamation of two dwellinghouses into a single dwellinghouse and the installation of internal interconnecting doors at lower ground floor level and at first floor level, to facilitate the MCU.
16. It is common ground between the parties that listed building consent for the formation of two internal doorways between the properties was granted by the Council in July 2019⁴; and that, by virtue of section 55(2)(a)(i) of the 1990 Act as amended, this alteration does not constitute development requiring planning permission. Additionally, there is no dispute that an MCU arising from an amalgamation of dwelling houses would require planning permission.
17. Prior to the alleged BoPC the buildings and associated land comprised two planning units in residential use. The appellants maintain that following the alleged BoPC this is still the case and that no amalgamation and MCU have occurred. Conversely, the Council submit that following the alleged BoPC the buildings and associated land comprise one planning unit in residential use.
18. The concept of an MCU is not defined in statute or statutory instrument. The basic approach is that, for an MCU to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a

² National Heritage List for England, List entry Number 1226154, Numbers 1,3 and 5 (Mews to Numbers 8, 10 and 12 Park Street) and service block along Aldford Street.

³ It was removed as part of the Listed Building Consent granted in July 2019 Application Ref: 19/01944/LBC.

⁴ Application Ref: 19/01944/LBC for Removal of the lift and shaft at number 10 and form 2 doorways between 10 and 12 Park Street at lower ground and first floor levels, with associated internal alterations.

matter of fact and degree. I note the caselaw referenced by the appellants in this respect⁵.

19. In assessing this ground of appeal I am also mindful of the Gabbittas principle in that evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict a version of events, or make it less than probable, and the evidence is sufficiently precise and unambiguous, it should be accepted⁶.
20. The physical and functional characteristics of the properties, before and after the alleged BoPC, were discussed in detail at the hearing. In terms of physical characteristics, the appellants submit that this has not altered following the alleged BoPC. Whilst two openings have been created between Nos 10 and 12, each property still possess separate external entrances, discrete amenity spaces, individual utilities, and separate facilities required for day-to-day private domestic existence.
21. In terms of the functional characteristics of the properties, or the nature of their use, the appellants cite the continued separate ownership of the buildings⁷ and independent nature of their occupation and servicing following the alleged BoPC. This is supported by the appellants' signed Statutory Declarations⁸ which include reference to the separate payments of bills including Council Tax, utilities, building insurance, ground rents and service charges.
22. Additionally, they highlight the separate and intermittent occupation of Nos 10 and 12 by members of the same family⁹ over the last four years¹⁰, and the associated independent staff servicing each property. The submitted evidence sets out that there are only limited periods when both family members are in attendance, and 'extremely limited' instances of the connecting doors being used during those times. Indeed, the doors are stated to be maintained in a locked position at all times apart from when the occupant of No 12 is in residence, and any internal movement between the properties is one way from 12 through to 10.
23. I concur with the parties that the question of whether an amalgamation and MCU of the buildings and associated land has occurred is a matter of planning judgment to be assessed objectively.
24. From the evidence before me and my observations on site, apart from the consented physical alteration of the formation of the openings and the associated removal of the lift and lift shaft in No 10, it is reasonable to conclude that, as a matter of fact and degree, the 'physical characteristics' of the properties are not significantly different to that prior to the alleged BoPC. However, this is not the case for all aspects of the 'functional characteristics' of the properties in terms of the nature of their use as a consequence of the formation of the openings.
25. The nature of No 10 and 12's use by the occupants may be largely as separate households with individual schedules. Nonetheless, it remains that the two doors permit internal movement between the properties at two different levels, significantly altering how they are accessed by any occupants.

⁵ *East Barnet UDC v British Transport Commission* 1962 and *Palsar v Grinling* 1948.

⁶ *Gabbittas v SSE & Newham LBC* [1985] JPL 630.

⁷ No 10 owned by Appellant 1 since 2019 and No 12 owned by Appellant 2 since 1999. The freehold of both properties is owned by Grosvenor (Mayfair) Estates Limited.

⁸ Statutory Declarations by Ken Casey and Khadija Bennis.

⁹ No 10 by Son and No 12 by Mother.

¹⁰ Schedule of Accommodation, Annexe 1 Statutory Declaration by Khadija Bennis.

26. From the information presented, prior to the alleged BoPC, if an individual had wanted to access the adjoining property, they would have had to exit onto Park Street or Aldford Street, walk approximately 15-20 metres along the pavement and then enter into the other property. Whereas following the alleged BoPC, they are able to pass freely between the properties internally at two different levels.
27. I have no reason to dispute the figures contained within the Schedule of Accommodation which are stated to be taken from security logs for the two properties. However, I am mindful that under this ground of appeal, the onus is on the appellants to make out their case to the standard of the balance of probabilities.
28. No precise corroborative information is before me which demonstrates the frequency of access between the properties via the internal doors. Indeed, statements concerning the use of the openings including 'limited to no crossover', 'instances of use are extremely limited' and 'limited to occasional and pre-arranged visits or meals', are ambiguous and slightly contradictory.
29. Mindful that the doors are stated to be open all of the time the occupant of No 12 is in residence and that this property is used more frequently, there appears to be opportunity for regular cross movement between the properties, pre-arranged or otherwise. As such, the evidence does not demonstrate that the intensity of use of the connections between the two properties is de minimis.
30. Additionally, the removal of the lift in No 10, and easy access to the lift in No 12 from nearby communal spaces in No 10 via the interconnecting doors, provides the opportunity for the use of the remaining lift to be shared, notwithstanding the limitations of the lift in No 12 in accessing some of the floors in No 10.
31. Taking all of the above into account, as a matter of fact and degree, I find that there has been a significant change in the functional characteristics or nature of use of the buildings and associated land, which is material for planning purposes. The ability to access the adjoining property at two different levels without exiting the buildings does more than link them, it merges them to the extent of amalgamation which is material.
32. In coming to my conclusions on this ground of appeal, I have also had regard to relevant caselaw on this matter¹¹, which sets out that the extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether there has been an MCU. This was discussed at the hearing.
33. The policies agreed to be relevant to the appeals are Policies H2 and H8 of The London Plan, 2021 (the LP); Policy 8 of the City of Westminster City Plan 2019-2040, adopted 2021 (the WCP); and Policy MRU2 of the Mayfair Neighbourhood Plan 2018-2038, made 2019 (the MNP).
34. Amongst other things, these policies seek to maintain and resist the loss of the existing housing stock in order to meet the growing and diversifying housing need within Mayfair, the City of Westminster and London as a whole. The continued use of the properties as single dwellings therefore fulfils a legitimate and recognised planning purpose in maintaining the housing stock in the area.

¹¹ *Richmond upon Thames LBC v SSETR* [2001] JPL 84 and *R (oao) Kensington and Chelsea RBC v SSCLG & Reis & Tong* [2016] EWHC 1785 (Admin).

35. The amalgamation of the properties results in the net loss of one ‘family-sized dwelling’¹². Whilst a single unit and arguably not a standard family-sized dwelling, this loss needs to be considered against the context of the obvious housing need within the area and city. In these respects, there is an important planning consequence arising from the amalgamation and change of use which is material.
36. I note the cultural reasons cited for the segregated habitation of Nos 10 and 12 by the occupants, and the specific security reasons advanced regarding the need for the internal doorways in this instance. I am also aware of the ‘Licence to Alter’ which includes the removal of the doors and making good of the openings by the end of October 2026 or if one or both of the properties change ownership.
37. However, an appeal on ground (b) is concerned with, whether or not, as a matter of fact and law, the matters have occurred. This legal ground of appeal does not allow for consideration of the effect of the decision on individuals and their rights. In addition, whether an MCU has occurred is an objective question, unaffected by the circumstances of the user.
38. The appellants have drawn my attention to Certificates of Lawfulness (CLOPUDS)¹³ which they advance that the Council or other Local Planning Authorities have issued in identical circumstances, thus confirming that the installation of interconnecting doors between separate dwellings does not, of itself, lead to an amalgamation and an MCU.
39. The principle of consistency in decision making is an important one. There are clearly some factual similarities between these applications and the appeals before me. Additionally, there is no information presented which states that they were challenged in the courts and, as such, they stand as written. Consequently, they are relevant to my considerations.
40. However, each decision turns on the facts and circumstances of that particular case at the time of the application. There are small, but important, differences in the physical characteristics of the properties and internal openings/links cited, and very little information is before me regarding the functional characteristics, or nature of their use, to allow meaningful comparisons. I am also mindful that the decisions cited are of some age and, of the WCC applications, are prior to the adoption of the WCP and the making of the MNP and the relevant policies contained within them referred to above.
41. The appellants also refer to other appeal decisions¹⁴. However, from the limited information provided, the physical and functional characteristics of these cases are not directly comparable to the appeals before me. Moreover, they all relate to different local authorities and are of some age.
42. Consequently, the CLOPUDS and appeal decisions cited do not alter my conclusions on this ground of appeal.
43. I therefore conclude that, on the balance of probabilities, the matters stated in the notice have occurred. Accordingly, the appeals on ground (b) fail.

¹² Both properties are considered to be ‘family-sized dwellings’ – Statement of Common Ground.

¹³ Westminster City Council Application Refs: 18/03954/CLOPUD & 19/01206/CLOPUD; and 18/08734/CLOPUD and Royal Borough of Kensington and Chelsea Application Ref: CL/15/03236.

¹⁴ Appeal Ref: APP/X1545/X/11/2147310 Stitches Farm, Lower Chase, Althorne, Chelmsford, CM3 6BY; Appeal Ref: APP/P1805/C/07/1079568 & 569 Broadway Meadow Cottage, Whitford Bridge Road, Stoke Prior; and Appeal Ref: APP/N5092/X/00/1039354 296 Mays Lane, Barnet, Hertfordshire EN5 2AP.

The appeals on ground (a) and the deemed planning applications

44. The appeals on ground (a) are that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Main issue

45. Bearing in mind the Council's reasons for issuing the notice, the main issue is whether the amalgamation of two dwellings into a single dwelling is acceptable at this location, having regard to local housing need and planning policy.

Reasons

46. The amalgamation of the two properties has resulted in the creation of one dwelling with a floor space in excess of 1200 square metres and the net loss of one 'family-sized dwelling'.
47. It is common ground that Policies H2 and H8 of the LP; Policy 8 of the WCP; and Policy MRU2 of the MNP are relevant. The appellants also submit Policy 10 of the WCP as relevant, but this is disputed by the Council.
48. Policy H2 of the LP highlights the need for new housing within London and that increasing the rate of housing delivery from small sites (below 0.25 hectares in size) is a strategic priority. Relevant to the appeals, Para 4.2.8 states that 'Where the amalgamation of separate flats into larger homes is leading to the sustained loss of homes and is not meeting the identified requirements of large families, boroughs are encouraged to resist this process.' Policy H8 of the LP concerns the loss of existing housing and estate redevelopment and that the loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace.
49. Policy 8 of the WCP also highlights the housing need within its local planning authority area, and requires that no new homes in Westminster will exceed 200 square metres Gross Internal Area, except where it is necessary to protect a heritage asset. Para 8.8 clearly states that, 'The high cost of land in Westminster and its limited availability mean that all existing housing uses must be protected. The acute shortage of affordable housing and the continued need to provide for family-sized homes mean that the only exceptions where the loss of residential uses or floorspace may be acceptable is where they are being reconfigured to better meet these needs.'
50. Policy MRU2 of the MNP states that 'the net loss of residential units in Mayfair should be resisted.'
51. The development is clearly in conflict with the aims and requirements of these policies. This is recognised by the appellants. However, they submit that the actual effect of this on Westminster's housing stock is de minimis. Nonetheless, as set out above, even though the loss to the housing stock is a single, non-standard sized, family dwelling, when considered against the obvious housing need of the area and city as a whole, its effects are harmful.
52. I note the appellants comments on the relevance of Policy 10 of the WCP concerning 'Housing for Specific Groups' in relation to the religious/cultural practices of the occupants of Nos 10 and 12. In this regard they highlight the

development's general compliance with Part A of that policy in it contributing to the provision of a mix of units in terms of size, type, and tenure to secure mixed and inclusive communities, and towards meeting Westminster's housing needs for different groups.

53. However, whilst the occupants may have specific requirements as a result of their religious/cultural practices, which in accordance with the Public Sector Equality Duty set out under s149 of the Equality Act 2010 (PSED) I have had regard to, they are not a 'specific group' as identified in the policy. In any event, even if I accepted that Policy 10 of the WCP was relevant and there was compliance in this respect, it remains that there is clear and direct conflict with other development plan policies at a London, Westminster and Mayfair level.
54. Drawing all of the above together, the amalgamation of two dwellings into a single dwelling is not acceptable at this location, having regard to local housing need and planning policy. This is not in accordance with Policies H2 and H8 of the LP; Policy 8 of the WCP; and Policy MRU2 of the MNP referred to above.

Other considerations

55. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise.
56. I have found that the development fails to accord with up-to-date policies in the development plan in the above respects. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that the determination should be made otherwise than in accordance with the development plan.
57. The appellants point to the strict religious/cultural practices of the occupants of Nos 10 and 12. This consideration was discussed at the hearing in relation to the European Convention on Human Rights as incorporated into the Human Rights Act 1998 and the PSED.
58. The appellants confirmed that their case in this respect is primarily in relation to the PSED and the protected characteristic of 'religion or belief'. This concerns the strict cultural norms of the occupants regarding gender separation, whereby adult male and female family members cannot share the same household.
59. The PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it, to which I have had due regard.
60. The maintenance within each property of all of the facilities required for day-to-day private domestic existence permit their ongoing separate occupation by male and female family members, and the internal openings allow easy access between the properties on days/times of the occupants' choosing. Upholding the notice and requiring the removal of the doorways and blocking up of the openings would eliminate the ability of the occupants to easily access the adjoining property. However, of itself, it would not directly interfere with the religious/cultural practice of

the segregated occupation of the properties. In this respect, there would be no conflict with the aims of the PSED.

61. That said, I am conscious of the additional and associated consideration raised by the appellants concerning the specific personal security requirements of the occupants. This matter was discussed in detail at the hearing and I accept the need for confidentiality in this instance. The appellants declare the need for the links to minimise any security risk to the occupants when they are in attendance. This was supported by my site visit, where I observed the high level of security provision, both internal and external to the properties.
62. I am also mindful of the 'Licence to Alter', the terms of which gave approval to form the openings, requires their closure within six years of 30 October 2020, and also requires their closure if one or both of No 10 or No 12 change ownership. I acknowledge the copy of the Licence provided is heavily redacted and that it is a private agreement between the appellants/occupants and landlord which could change in the future. However, it is an additional consideration which demonstrates the very specific circumstances of this situation and the requirements of the existing occupants; as well as the intent of the appellants/occupants and landlord that the openings are temporary and reversible. I also note the confirmation by the Council that the closure of the openings would not require listed building consent¹⁵.
63. In response, the Council contends that the circumstances presented are not exceptional within the Westminster area. However, no substantive evidence has been submitted to demonstrate this. I am persuaded that the combined religious/cultural practices and security needs advanced as justification for the amalgamation of the properties facilitated by the internal openings are highly specific to the current occupants.
64. The harm which arises as a consequence of the development is considerable. Against this, upholding the notice would maintain the segregated occupation of the properties in line with the aims of the PSED, but in doing so would give rise to a heightened security risk to the occupants for the times when they are in attendance. There is also a realistic prospect that the circumstances at the appeals site will change by 30 October 2026, moderating the extent of the harm resulting from the development. These considerations weigh in favour of the appeals.
65. Balancing all these factors and giving due regard to the PSED, I find that the other considerations advanced by the appellants are not of sufficient weight to outweigh the considerable harm that would result from the grant of permanent permissions. However, they are of sufficient weight to outweigh the lesser harm that would arise from the grant of permissions on a time-limited basis, to align with the Licence to Alter.

Other Matters

66. Nos 10 and 12 form part of a Grade II listed building which is located within the MCA. Consequently, under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses; and pay special

¹⁵ The Council confirmed that, in its opinion, listed building consent would not be required for the works to remove the internal doors, door surrounds and make good the openings.

attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

67. Nos 10 and 12 are part of a wider terrace of grand townhouses designed in a Tudor gothic style by A.H. Kersey in around 1897. The listing also includes mews houses to the rear and a service block. The special interest and significance of the listed building are largely derived from its historic and architectural interests. The MCA's character and appearance, and thus special interest and significance, mainly stem from the variety and richness of its historic buildings which cover many periods and styles. The listed building positively contributes to the MCA's special interest and significance as a designated heritage asset.
68. The parties agree that the amalgamation of two dwellings into a single dwelling, facilitated by the internal openings, preserves the special interest of the listed building and the character and appearance of the conservation area, and there is no harm to the significance of these designated heritage assets¹⁶. From the evidence before me and my observations on site, I have no reason to disagree. However, a lack of harm in these respects is a neutral consideration and weighs neither for nor against the appeals.

Conditions

69. The parties have submitted suggested conditions were the appeals on ground (a) to be allowed. These were discussed at the hearing and I have considered them having regard to the advice set out in both the Framework and the Planning Practice Guidance (the PPG).
70. As part of their case the appellants have submitted a suggested condition which would provide for personal permissions to Appellant A and Appellant B. In relation to this, I am inclined to agree with the Council in that, as set out in the PPG¹⁷, planning permission usually runs with the land and it is rarely appropriate to provide otherwise. Additionally, a condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.
71. The appellants cite guidance in the PPG regarding the 'special provisions for Crown Development and Urgent Crown Development for dealing with security-sensitive information in planning applications'. However, the appeals before me do not relate to Crown land or development.
72. The option of imposing a condition which would provide for temporary permissions to Appellant A and Appellant B was discussed at the hearing. The 1990 Act as amended allows for the grant of planning permission for a specified temporary period only. The PPG sets out that circumstances where a temporary permission may be appropriate include where it is expected that the planning circumstances will change in a particular way at the end of that period.
73. The cited religious/cultural practices and security requirements are specific to the current occupants of the properties. There is a realistic prospect that the circumstances and therefore needs of these occupants will change by 30 October 2026. In this instance, I therefore find that, conditions providing for temporary

¹⁶ Statement of Common Ground.

¹⁷ Paragraph: 015 Reference ID: 21a-015-20140306.

permissions which would align with the date included in the Licence to Alter, to be reasonable.

Planning balance and conclusions on the appeals on ground (a) and the deemed planning applications

74. In terms of the main issue, I have found that the amalgamation of two dwellings into a single dwelling is not acceptable at this location, having regard to local housing need and planning policy. This is in conflict with the relevant policies in the development plan referred to above. However, there are factors before me which are very specific to the occupants, and I find that their combined religious/cultural practices and personal security requirements, along with the Licence to Alter, are material considerations which indicate that the decisions should be made other than in accordance with the development plan, on a time-limited basis.
75. Appeal A: For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant a temporary planning permission for the use as described in the notice. The appeal on ground (f) does not fall to be considered.
76. Appeal B: For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant a temporary planning permission for the use as described in the notice. The appeal on ground (f) does not fall to be considered.

Formal Decisions

77. Appeal A: It is directed that the enforcement notice is corrected by:
- In paragraph 3, the deletion of the words 'the unauthorised use' and the insertion of the words 'the material change of use'; and
 - In paragraph 4, the deletion of the words 'ground floor level' and insertion of the words 'first floor level'.
78. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and a temporary planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely, the amalgamation of two dwellinghouses, namely 10 and 12 Park Street London, W1K 2HX, into a single dwellinghouse, and the installation of internal interconnecting doors at lower ground floor level and at first floor level, to facilitate the use, at the buildings and associated land at 10 and 12 Park Street, London W1K 2HX, and subject to the following condition:
- 1) The use hereby permitted shall be for a limited period until 30 October 2026. The use hereby permitted shall be discontinued, the facilitating doorways removed and openings blocked up, and the land restored to its former condition on or before 30 October 2026 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
79. Appeal B: It is directed that the enforcement notice is corrected by:
- In paragraph 3, the deletion of the words 'the unauthorised use' and the insertion of the words 'the material change of use'; and

- In paragraph 4, the deletion of the words 'ground floor level' and insertion of the words 'first floor level'.

80. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and a temporary planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely, the amalgamation of two dwellinghouses, namely 10 and 12 Park Street London, W1K 2HX, into a single dwellinghouse, and the installation of internal interconnecting doors at lower ground floor level and at first floor level, to facilitate the use, at the buildings and associated land at 10 and 12 Park Street, London W1K 2HX, and subject to the following condition:

- 1) The use hereby permitted shall be for a limited period until 30 October 2026. The use hereby permitted shall be discontinued, the facilitating doorways removed and openings blocked up, and the land restored to its former condition on or before 30 October 2026 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

F Cullen

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Rupert Warren KC Landmark Chambers

Tim Miles Montagu Evans LLP

Ken Casey GMP Capital

FOR THE LOCAL PLANNING AUTHORITY:

Michael Feeney Francis Taylor Building

Martha Clark Senior Planning Officer, Westminster City Council

ADDITIONAL DOCUMENTS Submitted prior to, at, or after, the hearing

1. National Heritage List for England entry for the listed building.
2. Approved plans relating to the granted listed building consent Ref: 19/01944/LBC.
3. Policies 10, 38 and 39 of the Westminster City Plan 2019-2040, adopted 2021.
4. License to Alter from the freeholder.
5. Witnessed Statutory Declarations (Ken Casey and Khadija Bennis)
6. Agreed and signed Statement of Common Ground.