



Appeal Decision

Site visit made on 18 November 2025

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 March 2026

Appeal Ref: APP/T5150/C/24/3341441

32 Mora Road, London, NW2 6TG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Mohamed Mughal against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 21 February 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a dormer extension to rear outrigger and two front roof-lights, the erection of two single storey rear extensions and the erection of a raised platform/terrace to the rear of the premises with a timber balustrade ("the unauthorised development")
AND
Without planning permission, the material change of use of the dwellinghouse to a eleven bedroom House in Multiple Occupation (HMO) ("the unauthorised change of use").
- The requirements of the notice are to:
 - Step1: Cease the use of the premises as a House in Multiple Occupation (HMO).
 - Step2: Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, so that the internal layout of the premises is returned back to that which existed before the unauthorised change of use took place as shown in the floor plan labelled 'Existing Ground Floor Plan' and 'Existing First Floor Plan' attached in Appendix I to this notice.
 - Step3: Demolish the unauthorised dormer extension to the rear outrigger and restore the roofline back to its original condition before the breach took place as labelled 'Existing Roof Plan' and 'Existing Rear Elevation' in Appendix II attached to this notice.
 - Step4: Demolish the single storey rear extensions, so that the internal layout of the premises is returned back to that which existed before the unauthorised change of use took place as shown in the floor plan labelled 'Existing Ground Floor Plan' attached in Appendix I to this notice.
 - Step5: Remove the unauthorised raised platform/terrace to the rear of the premises, lower the land levels back to that which existed prior to the unauthorised works taking place, ensuring that the land levels are consistent with those of the neighbouring property boundaries.
 - Step6: Remove all associated waste, debris, items and materials, resulting from compliance with STEPS 1,2,3,4 and 5, from the premises.
- The period for compliance with the requirements is: 6 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.

Decision

1. It is directed that the enforcement notice is varied by:
 - At Schedule 5, delete '6' and insert '9', so that the period for compliance is 9 months.
2. Subject to the variation above, the appeal is allowed insofar as it relates to the two front roof-lights and two single storey rear extensions and planning permission is granted on the application deemed to have been made under section 177(5) of the

1990 Act (as amended), for the two front roof-light and the two single storey rear extensions at 32 Mora Road, London NW2 6TG.

3. The appeal is dismissed and the enforcement notice is upheld as varied insofar as it relates to the erection of a dormer extension to rear outrigger, raised platform/terrace to the rear of the premises with a timber balustrade and the material change of use of the dwellinghouse to a eleven bedroom House in Multiple Occupation (HMO) and planning permission is refused in respect of the erection of a dormer extension to rear outrigger, raised platform/terrace to the rear of the premises with a timber balustrade and the material change of use of the dwellinghouse to a eleven bedroom House in Multiple Occupation (HMO) at 32 Mora Road, London NW2 6TG on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Preliminary Matters

4. Within their grounds of appeal document, the appellant states that the statement supports the appeal on grounds (a), (c), (f) and (g). However, the appellant has only ticked grounds (a), (f) and (g) on their appeal form and the arguments put forward by the appellant do not appear to amount, in substance, to an appeal under ground (c). The Planning Inspectorate confirmed with the appellant that the appeal shall proceed on grounds (a), (f) and (g) only and I shall consider the appeal on that basis.

Ground (a)

5. An appeal under ground (a) is made on the basis 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 or, as the case may be, the condition or limitation concerned ought to be discharged. The appellant states that permission is being sought under ground (a) for use of the property as a Class C4 HMO for up to 6 persons, as they recognise that 11 bedrooms is overly intensive.
6. My power to grant planning permission under ground (a) is limited by the provisions of section 177(1) of the Act, which provides that on determination of an appeal under section 174, the Secretary of State may grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates.
7. However, what is alleged is an eleven bedroom HMO, which is a *sui generis* HMO, not a Class C4 HMO¹. My consideration under ground (a) is whether planning permission should be granted for the matters stated in the notice as constituting the breach of planning control, i.e., an eleven bedroom House in Multiple Occupation. Should I find that planning permission should not be granted for those matters, then I may consider whether planning permission should be granted for part of those matters.
8. Sections 174(2)(a) and 177(1)(a) require a comparison between the matters stated in the enforcement notice as constituting a breach of planning control and the alternative scheme under consideration. It is a matter of planning judgement whether planning permission for the proposed alternative development would be in

¹ Use of a dwellinghouse by not more than six residents as a "house in multiple occupation".

relation to the whole or part of the matters and if so, whether permission should be granted for the proposed alternative development.

9. My attention has been drawn to the case of *Bhandal v Secretary of State for Housing Communities and Local Government* [2020] EWHC 2724 (admin) 2019, which concerned operational development. In that case, it was held that whether or not new work could form part of the development was a matter of planning judgement.
10. In this case, the appellant has put forward two different layouts, each with 6 bedrooms. The first layout, drawing number MR-103 dated 14 March 2024, shows the ground floor laid out with a bedroom at the front of the property, a living/dining/amenity room, a bathroom, utility and a kitchen, the first floor laid out with three bedrooms, a bathroom and WC and a study/storage room, and the second floor laid out with two bedrooms and a study/storage room. The single storey extensions are not shown on the proposed layout.
11. The second layout, drawing number MR-3-3 Revision B, dated 1 May 2024, shows the ground floor would have two en-suite bedrooms, a kitchen, a separate diner, a shower room, WC and a modest sitting room. On the first floor would be a living room, two en-suite bedrooms and a bathroom and on the second floor would be an ensuite bedroom and another bedroom without en-suite facilities. To lay the property out as proposed, would likely require the dormer to be approved as constructed.
12. To achieve the proposed layouts, it is likely that internal walls would need to be repositioned and/or removed. Bathroom facilities would need to be removed and/or relocated and kitchen facilities would need to be removed from a number of the bedrooms. The enforcement notice is specific when it alleges 'a eleven bedroom House in Multiple Occupation (HMO)'. While a 6 bedroom HMO and an 11 bedroom HMO are both a residential use of a property, the off-site impacts of the two uses are potentially very different, as is the way in which the property would be laid out and used.
13. In my judgement, as a matter of fact and degree, I find the use of the property as a 6 bedroom HMO is substantially different to the use of the property as an 11 bedroom HMO and does not comprise part of the matters alleged in the notice as constituting the breach of planning control. Furthermore, I have concerns about the stage at which some of the proposed floor plans have been provided. There is clearly objection from interested parties regarding the use of the property as an HMO. An individual inspecting the plans submitted alongside the initial appeal documents would have been unable to comment on the plans submitted at the statement stage, which are markedly different.
14. If I were to uphold the enforcement notice, I consider it highly unlikely the local planning authority would be able to decline to determine an application for a 6 bedroom HMO on the basis that it would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.
15. With respect to the operational development alleged, namely the erection of a dormer extension to rear outrigger; two front roof lights; two single storey rear extensions; raised platform/terrace with timber balustrade, these elements are

severable and so I shall consider whether planning permission should be granted for this part of the matters.

Main Issues

16. The main issues of the appeal are:

- Whether the appeal scheme provides satisfactory living conditions for existing and future occupants, having regard to internal space and outdoor amenity space;
- The effect of the appeal scheme on the living conditions of occupants and neighbouring occupants, having regard to parking, waste management and noise and disturbance;
- The effect of the HMO use on the character of the area;
- The effect of the dormer extension to rear outrigger two front roof lights on the character and appearance of the area;
- The effect of the raised platform/terrace on the living conditions of neighbouring occupants, having regard to privacy and overlooking;
- The effect of the single storey extensions on the living conditions of neighbouring occupants, having regard to outlook and noise and disturbance; and
- The effect of the HMO use on the provision of family dwellings in the area.

Reasons

Living conditions: Occupants of the appeal building: Internal and external space

17. Accommodation is laid out over three floors, with four bedrooms and a modest kitchen on the ground floor, five bedrooms and a communal bathroom on the first floor and two bedrooms on the second floor. Policy BH7 of the Brent Local Plan 2019-2041 (adopted February 2022)(the BLP) sets out that non-self contained accommodation with shared facilities will be supported where the development meets certain criteria, including that it is of an acceptable quality, meeting appropriate standards for the needs of its occupants, including external amenity space and appropriate communal facilities.
18. During my visit I saw that internal communal space within the building is limited, with a modest kitchen on the ground floor and communal bathroom facilities. Occupants of the building are unlikely to be able to congregate and spend time together within the building due to the limited communal space. While some of the bedrooms are generous in size, the property includes a number of single rooms and a modest double. Occupants of those rooms in particular are likely to wish to have a space that they can relax in away from their sleeping area.
19. The Brent Houses in Multiple Occupation (HMO) SPD (2022)(the HMOSPD) highlights the importance of providing sufficient communal amenity space, and advises that it is expected that a minimum 5m² of internal community amenity space will be provided per resident (including minimum kitchen space). The guidance goes on to advise that for 6-10 people, a minimum of 16.5m² is required for one amenity space.

20. However, neither the current layout, nor the proposed layouts (for a 6 person HMO) would meet the requirements of the HMOSPD in respect of a single amenity space. The fact that the overall provision may exceed the total requirement for a 6 person HMO does not overcome this, since a space of 16.5m² is more likely to provide space for occupants to congregate and spend time together, which will improve social integration and reduce the need for occupants to congregate outside in the public realm.
21. Moreover, as set out above, I have found that a 6 person HMO does not form part of the matters alleged. The communal space provided within the property falls well below the standards set out within the HMOSPD and, in my judgment, fails to provide satisfactory living conditions for its occupants, contrary to policy BH7 of the BLP.
22. Policy BH13 of the BLP sets out that all new dwellings will be required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. For all housing (except family housing) this is expected to be 20sqm. The HMOSPD advises that there is an expectation that residents of HMOs will have access to a suitably sized and laid out outdoor amenity space. A minimum of 20m² will normally be sought and, if for more than 10 occupants, will be expected to provide an additional 2m² for each occupant.
23. To the rear of the building is a reasonably sized garden, which is accessed via a bedroom at the rear of the property. While the quantum of outside space is likely to be sufficient, the HMOSPD advises that to enable unimpeded access to the outdoor amenity areas, they should be made adjacent to, and directly accessible from, the communal living areas, unless specifically dedicated to single households. Although occupants of the property may still be able to access the space via a side gate, they are less likely to do so given the layout. Furthermore, occupants of the rear bedroom are likely to find use of the rear garden by other occupants of the building intrusive.
24. While there may be open green spaces within walking distance of the appeal site, occupants of the appeal site are likely to wish to have outside space for activities such as drying clothes and sitting out and relaxing in a semi-private space. As a result of the current layout of the building, which provides limited accessibility to the rear garden, I consider that the outdoor amenity space provided is unlikely to meet the needs of all occupants, contrary to the requirements of policy BH13 of the BLP.
25. Although submitted in support of a 6 person HMO, the appellant has provided me with a revised layout which shows that communal accommodation could be located to the rear of the property on the ground floor, allowing direct access for all occupants to the rear garden. This could potentially address concerns regarding the provision of outdoor amenity space. However, as set out above, a 6 bedroom HMO does not, in my view, form part of the matters stated in the notice, nor does it constitute a fallback, since the Council has issued an Article 4 Direction removing permitted development rights for the conversion of C3 dwellinghouses to C4 HMOs.
26. The appellant states that they are willing to accept a condition that requires a HMO management plan to be submitted for approval by the local planning authority, setting out how the building will be managed, including maintenance, cleaning, insurance, licensing, health and safety and fittings, inspections, maintenance of

greening on site. The inclusion of such a condition could address the Council's concerns regarding garden maintenance.

27. While the property may have been granted a HMO license for up to 10 persons/households, this does not remove the need to comply with the planning policies and guidance set out above, nor does it outweigh the harms I have identified above. As set out in the HMOSPD, licensing has limitations, and from a planning perspective, are considered by the Council to be insufficient.
28. Thus, for the reasons given above, I find that the appeal site is not of an acceptable quality and fails to provide appropriate external amenity space and communal facilities, contrary to policies BH7 and BH13 of the BLP, the requirements of which are set out above, and the advice contained in the HMOSPD.

Living conditions: Occupants and neighbouring occupants: Noise and disturbance, parking & bin storage

29. Policy DMP1 of the BLP seeks development that provides high levels of internal and external amenity, amongst other things. The Council raise concerns regarding the increased comings and goings, as well as construction methods, which it suggests are sub-standard. During my visit, I saw that there is a bedroom on the ground floor, which is adjacent to the front door. As a result of the layout of the property, occupants of the ground floor front bedroom are likely to be disturbed by other occupants entering and leaving the property. Given that occupants are likely to lead very different lives and come and go at different times, this is likely to be harmful to their living conditions, contrary to policy DMP1 of the BLP.
30. Given the location of the front door and hallway, which is adjacent to the front door (and most likely the hallway) of Number 30, I consider the occupants of neighbouring properties are less likely to be disturbed by occupants of the property coming and going. However, concern has been raised by an interested party, regarding noise generated by users of the kitchen on the ground floor. Given the limited communal space within the property, users of the building are likely to congregate in the kitchen. Given the number of occupants and the proximity of the kitchen to the adjacent building, I consider the noise generation by users of the communal space is likely to cause noise and disturbance to neighbouring occupants.
31. It is also likely to cause noise and disturbance to other occupants of the adjoining ground floor bedrooms. While the proposed 6 bedroom layouts may address concerns regarding the neighbouring occupants, as set out above, I have found that a 6 person HMO does not form part of the matters. Furthermore, a bedroom is still proposed by the front door on the ground floor, and so even if I were to consider one of the 6 bedroom schemes, my concerns regarding the effect of noise and disturbance on the occupant of that room would remain, albeit the overall movements by other users of the premises are likely to be less by virtue of the reduction in the number of individuals inhabiting the property.
32. Bin storage is provided to the front of the property, which is similar to other properties along Mora Road. I have been provided with a photograph which shows overflowing bins and, during my visit, I saw that the bins appeared insufficient to accommodate the waste requirements of occupants, with waste stored outside of the bins. The appellant suggests that storage for refuse containers is provided in the front yard of the property, as the existing situation.

33. The HMOSPD advises that, due to the increased number of inhabitants, HMOs often result in the production of larger amounts of waste than a typical dwelling. To ensure this is mitigated, it goes on to advise that all bins must be contained within an attractively designed shelter for storage and collection. However, no substantive details have been provided, either for the 11 bed scheme or the 6 person schemes, and it is not clear, given the limited space to the front of the property, whether such provision can be made. A lack of suitable provision for waste storage is likely to be harmful to the living conditions of occupants and neighbouring occupants, contrary to policy DMP1 of the BLP, which seeks high levels of internal and external amenity, amongst other things.
34. Parking along Mora Road is generally on-street, with parking bays providing parking which is restricted to residents at certain times, and double yellow lines to prevent parking on corners and near junctions. Parking appeared well used during my visit. While this represents a snapshot in time, occupation of the property by 11 people is, in my view, likely to increase demand for parking.
35. Policy BT2 of the BLP sets out that car free development should be the starting point for all development proposals in places that are well-connected by public transport. Policy T6 of the London Plan 2021 (the LP) also sets out that car-free development should be the starting point for all development proposals in places that are well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking. Policy T6.1 states that new residential development should not exceed the maximum parking standards set out in Table 10.3, which for Outer London PTAL 4, is up to 0.5-0.75 spaces per dwelling.
36. Although there would be no loss of an off-street car parking space, occupants of the property may wish to own a car and are likely to wish to park it within the vicinity of the appeal site. Given the limited availability of on-street parking along Mora Road, this may result in individuals parking in a way which causes inconvenience for the wider neighbourhood, or having to park a considerable distance from the appeal property, which is likely to cause occupants of the property inconvenience.
37. To address these concerns, given the location of the property within an area subject to parking restrictions, and with good access to facilities, including public transport, it is likely to be able to impose a condition to secure the development as a car free development. Subject to such a condition, there would be no harm arising from the use of property with respect to parking and no conflict with policy BT2 of the BLP and policies T6 and T6.1 of the LP.
38. To encourage cycling by occupants and their visitors, the HMOSPD advises that HMOs will need to meet cycle parking standards as outlined in London Plan policy T5, which is for one long stay space per occupant and for visitors, two spaces for HMOs with five or more residents. The appellant suggests that the requirement for cycle storage will be provided in a cycle shed in the rear garden, accessible via the side path.
39. The appellant has provided a suggested layout as part of the proposed 6 person HMO scheme. While I have found the 6 person HMO scheme does not form part of the matters, given the space to the rear, I consider it would be possible to secure a scheme via condition for the 11 person scheme and so, subject to such a condition, there would be no conflict with policy DMP1 of the BLP in this regard.

40. While I consider that conditions can address concerns regarding parking, I find that noise and disturbance generated by users of the property and inadequate provision for bin storage is harmful to the living conditions of occupants and neighbouring occupants, contrary to policy DMP1 of the BLP and the advice contained in the HMOSPD.

Character: The material change of use

41. The appeal site is located along a section of Mora Road which is generally characterised by traditional bay fronted brick built dwellings, with fine architectural detailing and modest front gardens bound by low level brick walls. Properties appear typically in residential use, with limited evidence of sub-division evident. As set out above, the appeal building has limited internal communal space, which means that its occupants are more likely to use outside space to congregate, including the area to the front of the premises, which is not typical of the area and is harmful to the character of the area, contrary to policy DMP1 of the BLP, which seeks development of a use and concentration that complements the locality, amongst other things.

Character and appearance: The dormer extension to rear outrigger and front roof lights

42. The enforcement notice alleges 'the erection of a dormer extension to rear outrigger'. A rear dormer has been constructed on the main roof slope and the outrigger, creating an 'L-shaped' dormer. The Residential Extensions & Alterations SPD2 (2018)(the SPD2) advises that rear dormers should be set down from the ridge by at least 0.3m and must be set up from the eaves line by at least 0.5m. The SPD2 advises that dormers that project onto or over a rear projection (whether it is original or an extension to the house) will not normally be permitted. While the SPD2 does not specify that dormers must be subordinate, it advises that the roof form of a house is a significant part of the area's character and that alterations should be designed to complement your home and the original street character.
43. The outrigger dormer has been constructed so that it is flush with the side of the outrigger and extends to just below the top of the dormer on the main roof. The dormer which has been erected appears a substantial, bulky feature, which, dominates the outrigger by virtue of its substantial height. Although the dormer to the outrigger is located to the rear of the property, and so is not readily visible from the public domain, due to its height and bulk, it is visible from various properties in the area.
44. While I recognise there is a varied roofscape, with examples given of other L-shaped dormers provided along Mora Road, I do not consider the appeal scheme is comparable to the examples cited by the appellant. Although No 30, the adjoining property, has been extended, the dormer sits within the main roof slope. The Council has confirmed that the rear dormer extension at No 30 was assessed under a Certificate of Lawfulness application, reference 14/0434 and was held to be permitted development. Although it is unlikely to accord with the guidance contained in SPD2, such guidance would not be relevant to a determination of an LDC. Consequently, I do not consider it to be comparable to the appeal scheme before me.

45. I do not have full details of other examples cited², however, the Council suggests that most of the examples presented were carried out under permitted development and others are historical, and so would not have been assessed against current policy and guidance, if planning permission was obtained at all. The local plan policies and associated guidance have been produced to try and ensure that development which is carried out is of high quality design and does not harm the character and appearance of an area.
46. Furthermore, the variation in design along Mora Road means that, while alterations and additions to outriggers have been carried out in the area, there is no one dominant form of design. The dormer which has been erected at the appeal site, in my view, does not complement the character of the area and, by virtue of its height and bulk, it is harmful to the character and appearance of the area.
47. Planning permission has been granted at the appeal site, on appeal, reference APP/T5150/D/24/3338162, for an L-shaped dormer, which is set down from the roof slope. The Inspector described the differences between the proposed development and the dormer as built, and found that *'As constructed, the width of the rear roof dormer is larger and closer to the side gable parapet, while it is constructed flush with the rear elevation, rather than set away from the eaves. Furthermore, the height of the outrigger extension appears to be much taller and includes a shallow side to side pitch. It also has a different depth and alignment with the side windows below. Finally, the design of the openings within the dormer and outrigger extension are different.'*
48. That planning permission was granted on 10 July 2024, and so the appellant can rely on the provisions of section 180 of the Act, which provides that where, after the service of a copy of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
49. Even if I uphold the notice, therefore, the appellant can implement that permission, which I consider the appellant is likely to do, to avoid total removal of the works. While the approved scheme constitutes a fallback for which there is a greater than theoretical possibility that the development might take place, the approved scheme would be less dominant and would not overwhelm the property or appear as unduly bulky or discordant additions. I therefore afford it very limited weight.
50. The appellant has put forward a roof design ('the PD scheme') which, they suggest, would be permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO), and has drawn my attention to examples of dormers which have found to be permitted by the GPDO³. I note that a lawful development certificate has previously been granted in respect of the site, reference 20/1643. However, there is no dispute that the dormer which has been erected exceeds the size limitations in the GPDO, resulting in a larger extension than could be constructed under permitted development rights.
51. The PD scheme that the appellant has put forward has a different layout compared with the existing layout, with a bathroom and two bedrooms shown on the top floor, rather than two bedrooms, one with an ensuite and kitchen. The height of the dormer would be significantly less than the dormer as constructed, as would its

² 1, 4, 5 & 6, 18, 22, 24, 30 & 36, 51, 53, 57a, 60, 62 92 and 94.

³ Appeal decision APP/T5150/X/18/3213401 and Case No. 20/2241

width. The scheme put forward is significantly different to the dormer which has been erected and so I do not consider it forms part of the matters alleged in the notice. While the permission granted by the GPDO represents an obvious fallback, it would be more limited in size, with less bulk and so would be less harmful to the character and appearance of the area. I therefore afford this matter very limited weight.

52. Thus, for the reasons given above, I find that the dormer extension to rear outrigger harms the character and appearance of the area, contrary to policy DMP1 of the BLP, which seeks development of a scale and design that complements the locality and the advice contained in SPD2.
53. The roof lights which have been installed do not protrude excessively beyond the plane of the slope of the original roof and so do not appear a dominant or incongruous feature when viewed from the street and so there is no conflict with policy DMP1 of the BLP in this regard.

Living conditions of neighbouring occupants: The raised platform/terrace

54. The appellant has constructed a raised platform to the rear of the property, which enables access to the rear garden from the rear ground floor bedroom. The platform is substantial in size and would enable users of the property to congregate on it. Indeed, during my visit I saw that seating has been placed on the platform, close to the boundary with number 30.
55. Despite the presence of boundary fencing and vegetation, as a result of its substantial height, users of the platform are likely to be able to peer into the adjacent gardens, which users of the adjoining gardens are likely to find intrusive. While there is inevitably a degree of overlooking within an urban area, the platform increases the likelihood of harmful overlooking.
56. While the appellant recognises that the raised platform exceeds the limitations in height set out in the GPDO, they advise that they are willing to reduce its height to 300mm. However, even if the appellant complied with the requirements of the enforcement notice, such that the property once again benefits from permitted development rights, I consider it unlikely that the platform would comprise permitted development given its projection from the rear of the original dwelling, which is likely to be further than 6m from the rear wall of the original dwellinghouse.
57. Reducing the height of the platform to 300mm is unlikely to sufficiently address my concerns regarding overlooking, since it would still provide users with an elevated position relative to the adjoining gardens. I consider the raised platform harms the living conditions of neighbouring occupants, contrary to policy DMP1 of the BLP, which seeks high levels of external amenity, amongst other things.

The single storey extensions

58. The building has been extended at the rear, with a substantial single storey extension which projects further towards the rear of the garden. The extension is a similar height and depth to an extension at Number 30 and is set well back from the boundary with Number 34. Although the Council has set out what its planning objections are to the raised platform/terrace, it is not clear, either from the enforcement notice or the Council's evidence, what its objection is to the rear extension, save that it does not benefit from planning permission.

59. The enforcement notice alleges two single storey rear extensions. The rear extensions are identified separately in the allegation and so their acceptability must be considered separately to that of the material change of use. Furthermore, since they are, in my view, severable from the dormer and platform, they should be considered separately, given my power to grant planning permission for part of the matters stated in the notice.
60. The appellant suggests that the extensions would be permitted development. Once the appellant has complied with the requirements of the notice, the property would benefit from permitted development rights again. The first extension that I shall consider is the extension that projects from the rear of the outrigger towards the end of the rear garden. I shall refer to this as 'the rear extension'. The second that I shall consider, is the extension that projects from side of the outrigger towards Number 34⁴ and I shall refer to this as 'the side rear extension'.
61. The rear extension projects around 6m from the outrigger, which itself is suggested to be an original part of the dwelling. Although the outrigger appears to have been modified, this is to create a flat roof and so the extensions are unlikely to be joined to any enlargement.
62. Extensions up to 6m are permitted by the GPDO subject to the developer providing certain information to the local planning authority and development not beginning before the receipt of a written notice that their prior approval is not required, receipt of prior approval or the expiry of 42 days following the date on which the information was received without the local planning authority notifying the developer as to whether prior approval is given or refused.
63. Both the appellant and the Council have provided details of the planning history. The appellant states that prior approval for a single storey rear extension extending beyond the rear wall of the original dwellinghouse with a maximum height of 2.9m was approved, whereas the Council describes it as 'not lawful'. It is therefore not clear what the outcome of any application required by the GPDO would be.
64. The Residential Extensions & Alterations SPD2 advises that an extension up to 6 metres in depth may be acceptable providing that for every additional metre beyond 3 metres in depth, the extension should be set in from the boundary by an additional metre to protect neighbouring residential amenity.
65. While the rear extension may not be set in from No 30, there is an existing extension to the rear of that property of a similar (though not identical) depth. The extension is set well back from the boundary with No 34 and so, while it may not be set in by the full 3m required by the SPD, it does not appear overbearing and so not harm living conditions of neighbouring occupants as a result.
66. The appellant has drawn my attention to the Norval Road appeal decision, reference APP/T5150/D/20/3253397, where the Inspector found that the proposal would not comply with all the detailed guidance in the Council's SPD but set out why, in that case, it would respect the character and appearance of the property and street scene, which is what the SPD is seeking to achieve. I agree that guidance within an SPD should not be applied rigidly, but with regards to the overall aims of the document.

⁴ From the evidence, it appears that No 34 has been subdivided. However, for ease of reference, I shall refer to the entire property as 'No 34'.

67. A neighbouring occupant suggests that the development (as a whole) is overbearing. However, although occupants of the adjoining properties are able to see the extension, given that it is single storey, the presence of a similar rear extension at No 30, and the setback from the boundary with No 34, it is not, in my view, overbearing and does not harm the living conditions of neighbouring occupants. Consequently, there is no conflict with policy DMP1, which seeks high levels of internal and external amenity, amongst other things.
68. The side rear extension contains the communal kitchen, with two windows facing towards No 34. An interested party has raised concern regarding the windows outside their bedroom. However, from the evidence provided it seems there were previously windows and a door in this side elevation and so there was already a degree of mutual overlooking between the two properties. The concerns regarding noise are likely to be addressed by requiring the HMO use to cease, as occupants are less likely to congregate in the kitchen.
69. While the extension is clearly visible from the adjoining property at No 34, it is modest in size and does not appear an overbearing feature. The appellant has provided a letter from a company they state carried out an assessment of the external impacts of the development on neighbouring daylight and sunlight. While I note that the letter does not provide technical detail of the assessment, given the proximity and height of the outrigger to the windows of the No 34, which is likely to already limit daylight to No 34, I consider the side extension is unlikely to have a significantly greater effect on the living conditions of occupants of rooms facing the appeal site by virtue of any loss of daylight or sunlight. Consequently, there is no conflict with policy DMP1 of the BLP which seeks high levels of internal and external amenity, amongst other things.

Family dwellings

70. Policy BH11 of the Brent Local Plan 2022 (the BLP) sets out that, to maintain family size housing conversion of a family sized home (3 bedrooms or more) to two or more other dwellings will only be allowed where certain criteria are met. The appeal under ground (a) is made on the basis that planning permission should be granted for the development alleged in the notice, which is a House in Multiple Occupation (HMO), not flats. Since the development would not comprise the material change of use of a family sized house to two or more other dwellings, policy BH11 is not determinative in this case.
71. Policy BH7 supports HMOs where they will not lead to an over-concentration of the type of accommodation in the area. For HMOs an over-concentration is defined as where three or more of the ten nearest properties are Houses in Multiple Occupation. The Council states that, according to its records, Nos 18,19, 23, 25, 29, 38 and 48 Mora Road are used as an HMO.
72. The appellant suggests that the Council's online landlord license register shows that numbers 23, 25 and 38 do not have an HMO license and that some of the properties are not within the nearest 10, for example Number 19, which, it is suggested is some distance away. The appellant suggests that a search of the planning register does not show any planning history of HMO applications for Numbers 1, 3, 5, 7, 26, 28, 30, 34, 36 and 38 Mora Road. Even if numbers 23, 25 and 38 do not have an HMO license, the appellant does not appear to dispute that Nos 18, 19, 29 and 48 do.

73. The guidance provided in the HMOSPD advises that the limit is measured taking the nearest front entrances when walking from the front door of the application property. While it is debatable as to exactly which ten properties should be considered, I consider it is reasonable to assume that the properties either side and to the front of the property should be included, including 24, 26, 28, 30, 34, 36, 38, 40, 7 and 5. Since only No 38 is identified by the Council as an HMO, I consider that there is unlikely to be an over concentration.
74. I saw that the appeal site is within walking distance of a range of facilities, including (but not limited to) public transport and shops. The appellant suggests that, given the property is already in use as an HMO with 11 occupants, it is clear that there is substantial demand for such accommodation in the area. A letter provided by Milestone Estates has been provided which suggests there is a need for shared accommodation in the area.
75. The SPD recognises that HMOs perform an important part in housing people within the borough and advises that HMO accommodation that meets non-specialised needs will not be expected to evidence a particular specific Brent need in association with any planning application. The SPD goes on to advise that HMO accommodation is likely to compete for the same properties with families who also need 3 bedroom dwellings or larger and that this unmet need for family homes within the borough will be balanced against the quality of the HMO being provided.
76. Where the Council considers that this quality is not sufficiently high, through not complying with the requirements of this SPD, it is more likely to tilt the balance in favour of retaining the premises as a family dwelling. As set out above, I have found that the appeal site does not provide satisfactory living conditions for its occupants and so it does not benefit from the support of policy BH7 in this regard.

Planning balance and conclusion

77. It will often be the case that policies and material considerations pull in different directions. As held in both *Zurich Assurance Ltd. v North Lincolnshire Council* [2012] EWHC 3708 and *Bramshill v SoS Hart District Council and others* [2021] EWCA Civ 320, what is required is an exercise of planning judgement, giving appropriate weight to the harms and benefits of a proposal. I recognise that even strongly worded policies do not mean that a local planning authority is obliged to make a decision according to that specific policy, but rather the application should be considered in terms of its overall conformity with the direction of the development plan, as held in *In Asda Stores v Leeds City Council* [2021] EWCA Civ 32.
78. Although the property meets a need for shared accommodation in the area, for the reasons set out above, I find that the accommodation provided does not meet the needs of current or future occupants and harms the living conditions of neighbouring occupants, as well as the character of the area. The dormer to the outrigger harms the character and appearance of the area and the raised platform harms the living conditions of neighbouring occupants.
79. With respect to the material change of use of the dwellinghouse to a eleven bedroom House in Multiple Occupation (HMO), significantly, the appellant accepts that 11 bedrooms is overly intensive and advances their case under ground (a) on the basis that permission should be granted for use of the property as a Class C4 HMO for up to 6 persons. However, as set out above, I have found that a 6 person

HMO does not form part of the matters stated in the notice as constituting the breach of planning control. Even if I were to consider the 6 person schemes proposed by the appellant, for the reasons set out above, I consider the proposals before me would not provide satisfactory living conditions and would cause harm to the character of the area.

80. I note that the Council has declared a climate emergency. However, while compliance with the notice will have cost implications for the owner and will generate waste, including energy that has gone into the development so far and may cause disturbance to neighbours, this does not outweigh the harms I have identified above.
81. With respect to the two front roof lights and two single storey rear extensions, I find that there is no unacceptable harm arising from these elements of the appeal scheme and that the appeal should succeed, and planning permission should be granted for the development carried out in respect of these matters.
82. With respect to the material change of use of the dwellinghouse to a eleven bedroom House in Multiple Occupation, the dormer extension to outrigger and the raised platform/terrace, for the reasons set out above, I find that the developments conflict with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan.
83. I shall grant planning permission for the two single storey rear extensions and front roof lights, but otherwise I will uphold the enforcement notice. By virtue of section 180(1) of the Act, the enforcement notice will cease to have effect insofar as it is inconsistent with the planning permission granted.

Ground (f)

84. An appeal under ground (f) is made on the basis 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.
85. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., 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. Since the requirements are to cease the use of the premises as a House in Multiple Occupation, remove internal partitions etc and demolish the dormer, single storey rear extensions and raised platform/terrace, it is clear that the purpose of the notice is to remedy the breach.
86. As held in *Tapeacrown Ltd v FSS & the Vale of White Horse DC* [2006] EWCA Civ 1744, the enforcement procedure is intended to be remedial rather than punitive. Where it appears that there is an obvious alternative which would overcome the planning difficulties with less cost and disruption, I should feel free to consider it. This point was also made in *Moore v Secretary of State for Communities and Local Government* [2012] EWCA Civ 1202 and *Ahmed v Secretary of State for Communities and Local Government* [2014] EWCA Civ 566.

87. With respect to the use of the property, the appellant advances their arguments under ground (a), rather than ground (f). Although the GPDO permits development consisting of a change of use of a building from a use falling within Class C3 to a use falling within Class C4 (houses in multiple occupation), the Council has issued an Article 4 Direction. With respect to the material change of use, there is no obvious alternative and, as set out above, I have found that the 6 person HMO schemes do not form part of the matters.
88. With respect to the operational development, the appellant suggests that most aspects of the development would normally be allowed under the GPDO and so it is excessive and unreasonable to require the entire extension to be demolished and restored to the pre-existing status.
89. As set out above under ground (a), notwithstanding that the single storey rear extensions and roof lights would not be permitted development at the time they were carried out, I have found that they should be granted planning permission. While the requirements of the enforcement notice to demolish the single storey rear extensions and return the roof slope to its original condition remain, the appellant can rely on the enforcement notice ceasing to have effect insofar as it is inconsistent with the planning permission granted, by virtue of section 180(1) of the Act.
90. With respect to the dormer, the appellant suggests that the enforcement notice should require the alteration of the extension to meet the limitations of the GPDO. Part 1 of Schedule 2 of the GPDO concerns development within the curtilage of a dwellinghouse and, Class B permits the enlargement of a dwellinghouse consisting of an addition or alternation to its roof. Although the premises does not currently benefit from permitted development rights, by virtue of Article 3(5) of the GPDO, once the notice has been complied with, it would benefit from permitted development rights.
91. I have raised with the parties whether the notice could be varied, given that, once the notice is complied with, the property would benefit from permitted development rights (notwithstanding the Council's position that for permitted development rights to apply the premises is required to be **in use** as a single-family dwelling house) and so it seems likely that, once the notice is complied with, the appellant could erect a dormer as shown in the PD scheme. I am grateful to both parties for considering my suggestions on this matter, however, for the reasons set out below, I do not consider it would be appropriate to vary the notice in this case.
92. Section 173(11) provides that where an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and all the requirements of the notice have been complied with, then so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works, or as the case may be, the carrying out of the activities.
93. However, the GPDO does not grant retrospective planning permission and so the dormer would only have planning permission after the enforcement notice is complied with by virtue of section 173(11), not as permitted development. As I explained under ground (a), I do not consider the PD scheme to be 'part of the matters' and so I cannot grant planning permission under section 177(1)(a).

94. The only buildings, works or activities which can benefit from section 173(11) are those in existence when the enforcement notice was issued. However, the PD scheme includes substantial elements, such as walls and roofs, which were not in existence when the enforcement notice was issued and which the notice could not have required to be removed.
95. While there may be sections of walls which were in existence, I do not know how the notice could be varied to allow such sections to be retained. Furthermore, in practice, some sections may need to be removed in their entirety and be reconstructed, to ensure that the dormer is structurally sound. It is therefore not possible for me to frame the steps with sufficient precision so that the appellant knows what they have to do to comply with the notice.
96. While the enforcement notice requires demolition of the rear dormer extension to the rear outrigger and for the roofline to be restored back to its original condition, the appellant has the option of amending the development to accord with the planning permission APP/T5150/D/24/3338162. That planning permission was granted on 10 July 2024, and so the appellant can rely on the provisions of section 180 of the Act. It is therefore not necessary for me to vary the notice to allow the appellant to alter the scheme to accord with the plans approved on appeal.
97. The appellant raises concerns about disruption for neighbours, cost implications for the owner and waste in terms of materials, emissions and energy that have gone into the construction so far. However, these relate to the planning merits of the scheme, which I have already considered under ground (a). There are no lesser steps and no obvious alternative that would achieve the purposes of the enforcement notice with less cost and disruption and so, for the reasons set out above, I find that the appeal under ground (f) must fail.

Ground (g)

98. An appeal under ground (g) is made on the basis that any period specified in the notice falls short of what should reasonably be allowed. The appellant suggests that to arrange the necessary finances, find a builder with availability and for that builder to complete the work would be near impossible within 6-months and that a period of at least 18 months, if not 24 months would be appropriate, given the requested remedial action.
99. While I recognise that it is likely to take time to find a suitably qualified individual to carry out the works required by the enforcement notice, since I am granting planning permission for the rear extensions and the front roof lights, the extent of the works required are more limited. Furthermore, I consider the appellant is likely to choose to alter the dormer windows to accord with the planning permission previously granted on appeal, rather than demolish it in its entirety. The extent of the works required are therefore far more limited than was envisaged by the appellant when lodging their appeal.
100. While carrying out the works will inevitably cost money, the appellant has provided no substantive evidence to show that it would not be possible to secure funding within a reasonable timeframe. The appellant has pointed to issues facing the construction industry in terms of availability of key trades and cost of materials. However, while there may be some challenges facing the industry in terms of supply, the appellant's suggestion that 18 months would be a significant challenge is unsupported by evidence such as quotes from builders. I consider it unlikely that

it would take such a significant period of time to secure the services of a suitably qualified builder and for those works to be carried out.

101. I am mindful that, at the date of my visit the property was occupied. While I agree that 18 to 24 months for compliance would be excessive, particularly given the harm arising from the development, I consider that a period of 9 months would be reasonable and proportionate. This would give occupants the opportunity to find alternative accommodation, for a suitably qualified builder to be appointed and for any works to be carried out. Should further time be required, as pointed out, the Council could use its discretion to extend the compliance period under section 173A(1)(b) of the Act.

102. For the reasons set out above, I shall vary the notice to give the appellant a period of 9 months to comply with the notice. The appeal under ground (g) succeeds to that extent.

Conclusion

103. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for two front roof-lights and the two single storey rear extensions at 32 Mora Road, London NW2 6TG, but otherwise I will uphold the notice with a variation and refuse to grant planning permission in respect of the erection of a dormer extension to rear outrigger, raised platform/terrace to the rear of the premises with a timber balustrade and the material change of use of the dwellinghouse to a eleven bedroom House in Multiple Occupation (HMO).

104. By virtue of section 180(1) of the 1990 Act as amended, the requirements of the notice will cease to have effect so far as they are inconsistent with the planning permission hereby granted.

M Savage

INSPECTOR