Planning Inspectorate

Appeal Decision

Inquiry held on 03 & 04 February 2026

Site visit made on 04 February 2026

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2026

Appeal Ref: APP/A5270/C/25/3367259
17 Wedmore Road, GREENFORD, UB6 8SB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by WEDMORE REALITY LTD against an enforcement notice issued by the Council of the London Borough of Ealing.
- The notice was issued on 20 May 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from a single dwellinghouse to two houses in multiple occupation, facilitated by the erection of a single storey rear extension, first floor rear extension, rear roof extension and alterations to the front elevation of the dwelling ("the Unauthorised Use").
- The requirements of the notice are to:
  Option 1:
  1. Cease the use of the premises as two houses in multiple occupation.
  2. Demolish the single storey rear extension.
  3. Demolish the first floor rear extension.
  4. Demolish the rear roof extension.
  5. Remove the ground floor habitable room window located in the front elevation of the former garage.
  6. Restore the roof and rear elevation of the dwelling (following demolition of the roof extension, first floor rear extension and single storey rear extension) to its condition before the breach of planning control occurred.
  7. Restore the front elevations (following removal of the ground floor window) to its condition before the breach of planning control occurred.
  8. Remove all internal partitions, doors, windows, ensuite bathrooms and toilets, kitchens and signs that facilitate the material change of use.
  9. Restore the internal layout of the dwelling to its condition before the breach of planning control occurred.
  10. Remove all resultant debris as a result of compliance with the above steps.

  Or Option 2:
  1. Cease the use of the premises as two houses in multiple occupation.
  2. Alter the internal layout and external elevations of the host building to accord with the development granted planning permission under reference 231786FUL subject to its terms and conditions for “Conversion of a single dwellinghouse into two self-contained residential units; single storey rear extension; first floor rear extension; conversion of garage into a habitable space; rear roof extension; installation of two rooflights to front roofslope; associated internal and external alterations; and provision of cycle and refuse storage”; and in accordance with the accompanying plans or drawings approved under the reference(s): - , E00 (Location and Block Plan), E01 (Existing Floor and Roof Plans, dated 03/07/2023), E02 (Existing Elevations, dated 03/07/2023), E03 (Existing Section AA), P01 Rev C, (Proposed Floor Plans, dated 03/07/2023), P02 Rev C (Proposed Loft and Roof Plans, dated 03/07/2023), P03 Rev C (Proposed Elevations, dated 03/07/2023), P04 Rev C, (Proposed Section AA and BB, dated 03/07/2023), P05 (Proposed Bin and Cycle, Storage, dated 03/07/2023), Sound Insulation Report by NMS Acoustics Rev 1 dated, 01/06/2023.
  3. Remove all resultant debris as a result of compliance with the above steps.

  Or Option 3:

1. Cease the use of the premises as two houses in multiple occupation.
2. Alter the internal layout and external elevations of the host building to accord with the development granted planning permission under reference 230425FULsubject to its terms and conditions for "Conversion of a single dwellinghouse into two self-contained residential units; single storey rear extension; conversion of garage into a habitable space; rear roof extension; and installation of two rooflights into front roofslope"; and in accordance with the accompanying plans or drawings approved under the reference(s):- , E00, E01, E02, E03, P01, P02, P03, P04, P05, received 28.02.2023.
3. Remove all resultant debris as a result of compliance with the above steps.

- The period for compliance with the requirements is six months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) & (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. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The Inquiry was held in relation to two appeals, one in respect of No.17 Wedmore Road, and the other relating to the neighbouring property at No.19. The nature of the alleged breach, the grounds of appeal and the issues involved are very similar in respect of both appeals. However, each enforcement notice relates to a different property and the timescale and sequence of events leading to the respective conversion of each property into two HMOs was different in each case.

3. Consequently, whilst there is substantial cross-over, I have issued a separate decision letter in respect of each appeal. Inevitably that results in some repetition, particularly in respect of the appeals on Ground (a) where the issues are virtually identical. However, it enables a cleaner format to address the individual nuances for each appeal. This decision relates to the appeal in respect of No.17.

4. When the appeal was initially made, the appeal form indicated that it was on Grounds (a), (b), (c) and (g) of s174 of the Town and Country Planning Act 1990 (the Act). Later in proceedings the appellant raised points under Ground (f) and I accepted that late introduction, given the absence of any injustice to the Council. As it turned out, the appellant's position on Ground (f) altered during the course of the Inquiry to the extent that the appeal on that ground largely fell away by the close of the event. Nonetheless, given that the matters were raised I have addressed them in the relevant section below.

The Appeal on Grounds (b) and (c)

5. As is often the case, there is some overlap between Grounds (b) and (c) and I shall address the points together. An appeal on Ground (b) is made on the basis that the matters alleged in the notice have not occurred, whereas an appeal on Ground (c) is made on the basis that the matters, if they did occur, did not amount to a breach of planning control.

6. There is no argument that the property was in use as two HMOs at the time the notice was served. However, the notice describes the alleged breach as "the material change of use from a single dwellinghouse to two houses in multiple occupation". The appellant's position is that the property was first converted into

two flats, in line with planning permission granted by the Council, with each flat then being converted into a HMO.

7. Thus, the appellant contends that the matters alleged in the notice have not occurred, in the sense that the preceding use was not a single dwellinghouse. The Council's position is that there is no doubt that the property had previously been in use as a single dwellinghouse. In its view, whether there was an intermediate step to convert to two flats first is a Ground (c) point, not a Ground (b) point.

8. However, the sequence of events is an important part of the consideration of the appeal. If the property had lawfully been converted into two flats then that would have been the starting point to consider whether any subsequent change to HMOs represented a breach of planning control. One wouldn't expect an enforcement notice to allege a change "from" a use that has existed at any point in time but to consider whether there had been a breach from the immediately preceding lawful use.

9. If the Council has set out the preceding use incorrectly then that does seem to me to be a point to be considered under Ground (b) because, as a matter of fact, the breach of planning control would not have been a material change of use from a single dwellinghouse to two HMOs but from 2 flats to 2 HMOs.

10. Success on Ground (b) would not necessarily be determinative in the appeal overall because it would be open to me to correct the notice to remove reference to the single dwellinghouse as the former use. No injustice would arise if I were to do so because both parties have set out their views on whether a material change of use from two flats to two HMOs would represent a breach of control under Ground (c).

11. Consequently, in the first instance, I shall consider whether there was a change from a single dwellinghouse to two HMOs under Ground (b). If that was the case, the Ground (c) appeal essentially falls away because there is no argument that a change from a single dwellinghouse to two HMOs would have been lawful. If I were to find with the appellant on ground (b), I would correct the notice and go on to consider the arguments in respect of Ground (c) on the question of whether a change of use from two flats to two HMOs represented a breach of planning control.

12. As with all legal grounds of appeal, the onus rests with an appellant to demonstrate their case, on the balance of probability. If the Council, or others, have no evidence of their own to contradict the appellant's version of events, or make it less than likely, then the appellant's case should be accepted, provided that it is sufficiently precise and unambiguous.

13. Within their initial Statement of Case the appellant stated that works to extend and convert the property into two flats were completed by mid-November 2023, with Assured Shorthold Tenancies (AST's) signed on 21 and 22 November, with tenancies starting on 27 November. The statement then notes that "news was spreading" that LB of Ealing may be considering issuing an Article 4 direction which would remove permitted development rights for the material change of use from a flat to a HMO.

14. Accordingly, the statement suggests that the appellant considered it would be advisable to convert the flats as soon as possible, such that he negotiated with

tenants who managed to find alternative accommodation before moving out on 12 January 2024, with work on the conversion commencing shortly afterwards. In other words, the position set out in the statement indicates that the decision to convert from flats to HMOs was taken at short notice in response to the impending Article 4 direction.

15. However, that position is contradicted by evidence submitted by Mr Wind in his proof of evidence to the Inquiry. It is abundantly clear from that evidence, including correspondence with planning consultants, correspondence relating to the financing of the project and from his own proof that the intention from the outset was to convert the property into two HMOs. It was not a last minute change of plan.

16. For example, details of the loan agreement from Fortys Capital[1] shows that the purpose of the loan was for the purchase of the property and a 12 unit HMO conversion. The "GDV" was calculated on that basis. The loan was on a short-term basis with monthly interest of 0.91% which indicates that there would have been a strong financial incentive to convert the property to the intended end use as a HMO as quickly as possible.

17. None of the above is direct evidence that the property was converted straight from a dwellinghouse to two HMOs. However, it is of relevance in understanding the true intention of the appellant which was always to convert to HMOs, without undue delay given the financial arrangements. The "development facility" within the loan to cover the cost of works in converting the property was a single amount of £300,000. Any cost involved in first converting the property into flats prior to the eventual conversion to HMOs would need to be come from that figure. Thus, there was a built-in incentive to avoid spending money on matters that would need to be altered at a later date.

18. The appellant had been advised by planning consultants prior to purchasing the property that it would be necessary to gain planning permission to extend the dwelling, then convert it into two flats before subsequently converting each flat into a HMO, taking advantage of permitted development rights under Class L, of Part 2, Schedule 2 of the GPDO[2].

19. As it turns out, the appellant now agrees with the Council that the conversion of two flats into two HMOs would not have constituted permitted development[3]. However, at the time, Mr Wind was of the understanding that he needed to convert the dwellinghouse into two flats, in line with planning permission granted by the Council, and subsequently convert each flat into a HMO. Or at least he knew that he needed to be able to demonstrate that is what had occurred. I have significant reservations over whether it did on the basis of the evidence presented.

20. Correspondence between Mr Wind and his planning consultant, Redwoods, is instructive that the appellant knew what he needed to demonstrate. In an email dated 24 May 2023, Mr Wind asked his agent "*In order to avoid having problems in future with planning, that they can claim that the above wasn't flats and was down straight to HMO, what can we do for it*?" On the face of it, that seems like an unusual question to ask if the genuine intention was to convert to flats.

[1] Appendix 3 of the appellant's proof of evidence.
[2] The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
[3] Paragraph 7 of the Appellant's Opening Statement.

21. The response from Redwoods, dated 25 May 2023 was "*for the conversion if there will be no condition to restrict you to further convert we will make the plans as close as possible to the HMO so you will implement the flats and get BR sign off and then open a new case to convert to HMO*". That appears to indicate that plans for a Building Regulations (BR) submission for flats would be prepared which were as close to a proposed HMO layout as possible in order to avoid having to make many substantial changes once BR approval had been obtained.

22. Planning permission was granted for the conversion of the property to two flats on 4th July 2023, with the latest version of the plans dated 03 July 2023. Those plans show large open plan kitchen/ living spaces for each flat, with the ground floor flat having three French doors opening onto the garden. Those approved plans are significantly different to the eventual HMO layout.

23. However, when the application for a HMO licence was subsequently submitted in February 2024 it was accompanied by HMO plans dated 03 July 2023. Thus, it was clear that the HMO plans were produced at broadly the same time as the planning drawings. Precisely which plans, if any, were submitted with the BR application is unclear. It is the case that a BR application relating to the same description of development as the July 2023 planning permission was made but whether the layout was the same is unclear.

24. The two statutory schemes serve different functions and the fact that a BR application was made does not demonstrate that the approved development in planning terms was implemented. Under cross examination Mr Wind acknowledged that the three French doors at ground floor level which would have served the open plan kitchen/ dining area were never installed. Single doors, which now serve ground floor bedrooms, were installed instead.

25. Similarly, Mr Wind acknowledged that the front window in the location of the former garage was not installed as shown on the approved plans. Those changes may not seem substantial but the French Doors were an important component of the kitchen and living space of the proposed ground floor flat, providing light and access to the garden. The fact that single doors were installed instead is suggestive that the building was constructed on the basis of the HMO layout as opposed to the approved layout as flats.

26. Moreover, the Energy Performance Certificates (EPCs) referred to by the Council cast doubt on the appellant's timeline of events. According to the appellant, the two flats were completed by mid-November 2023 and immediately let to tenants, with a single tenant in each flat. The tenants were then said to have vacated by 12 January 2024, after which work to convert each flat into a HMO commenced. The appellant suggested in the Statement of Case that conversion work was largely complete by 23 February 2024 some 5 or 6 weeks later.

27. However, the Council have produced evidence from the EPC register to show that the property was assessed on 29 January 2024 and that 6 EPCs were issued for the ground floor flat (Nos 1a to 1f) and five on the upper flat (Nos 2a to 2e). That strongly indicates that the building was laid out as 2 HMOs only 2 weeks after the appellant contends that work started.

28. That directly contradicts the appellant's timeline of events and calls into question the veracity of that evidence. Taking into account the differences between the approved layout as 2 flats and the layout, as constructed for the 2 HMOs, I find it

highly unlikely that the work could have been completed in 2 weeks. Partitions would have needed to be taken down and reconstructed, the kitchen removed, new toilets and showers installed, with associated plumbing, electrics, fire doors etc.

29. Under cross-examination Mr Wind was unconvincing when trying to explain how the work could have been completed in 2 weeks, other than saying they work quickly. No real explanation was given as to why he initially said the work had taken 5 to 6 weeks whereas the EPC evidence indicated that the property was in the form of 2 HMOs less than 2 weeks after the tenants were said to have moved out.

30. The Fire Risk Assessments, undertaken in October 2023, do refer to 2 flats. However, no plans are provided such that the layout of the property is not shown. Whether the assessor understood the nuances in planning terms between a flat within Use Class C3 and a HMO within Use Class C4 is unclear. The only photographs depict various “no smoking” and “fire exit” signs and fire alarm panels one would not usually expect to find in a private dwellinghouse, such signs being required in a communal residence such as a HMO.

31. The Electrical Installation Condition Report, also from October 2023, refers to 19 smoke detectors in the property which would appear to be more than would be needed had the property been laid out as flats, in line with the approved permission. In fact, the approved layout plans only showed 2 communal kitchen/ dining areas, 2 hallways and 5 bedrooms across the property as a whole. Even accounting for en-suite bathrooms, the number of detectors seems far more than would have been needed had the property been laid out in accordance with the approved permission.

32. Overall, the BR applications and various other certificates and assessments referred to do not clearly demonstrate that the planning permission for the use of the property as two flats was implemented prior to a subsequent conversion to two HMOs. Rather, there are a number of inconsistencies which cast doubt on the appellant’s version of events.

33. Similarly, whilst the email from a representative of Forty’s Capital to Mr Wind, dated 18 December 2025, suggests that the lender confirmed that the property was first converted to flats, it sheds no light on what the internal layout was or whether it complied with the approved plans.

34. Those doubts were not allayed by the evidence of Mr Abeles who represented JK Builders Ltd, the firm which carried out conversion works. The invoices provided were based on various stages set out in the contract of work. It is not clear, and Mr Abeles, could not confirm if there was a single contract to carry out the conversion to HMOs or if there were two contracts, one for the flats and a subsequent one for the conversion to HMOs.

35. Mr Abeles said that he didn’t produce the invoices himself and he acknowledged that he didn’t have detailed knowledge of the inside of the property and its layout. Visiting the property whilst work was being undertaken was not a key part of his role. Consequently, he was not in a position to confirm precisely what work was being carried out at various stages on the ground. Moreover, whilst the invoices appear to show a sequence of work, there is nothing before me to show when payment of the various elements was actually made. As such, the evidence

presented by Mr Abeles does not overcome my doubts in respect of whether the planning permission for flats was implemented.

36. Two tenants are said by the appellant to have occupied the flats, with Nuchim Hochhauser in Flat 1 and Asher Schecter in Flat 2. In response to the Council's Planning Contravention Notice (PCN) the appellant provided copies of ASTs, one entered into by Nuchim Hochhauser, dated 21 November 2023, with a monthly rent of £2400pcm and one by Asher Schecter, dated 22 November 2023, with a monthly rent of £2500. However, with their appeal statement the appellant provided copies of ASTs, with the same dates, signed by the same people, showing different monthly rental amounts; £2400 for Asher Schecter and £2500 for Nuchim Hochhauser.

37. Clearly, both versions of the ASTs cannot be correct. Mr Wind's attempts to explain the anomalies were unconvincing. In essence he suggested that the initial ASTs were signed in mistake and that the appellant company realising that mistake immediately corrected it by asking the two tenants to sign new ASTs. I find it unlikely that would have been done on the same day. In addition, it is not clear why a tenant who had just signed an AST, with an agreed rent, would immediately agree to sign another, at a higher rent, on account of a mistake from the appellant. That would seem unduly charitable to rectify a mistake not of their making.

38. Moreover, the explanation doesn't explain why two versions of the ASTs were submitted in evidence at different stages in the process. If the appellant's version of events was correct then one would have expected both versions to be submitted in response to the PCN with an explanation as to why there were two versions. In fact, the two versions were submitted at different times and the discrepancy was only noted due to the diligence of the Council. For those reasons significant doubt is cast on the authenticity of the ASTs.

39. It also casts doubt on the statutory declaration provided by Mr Hochhauser. He was not at the Inquiry to be tested on that declaration. There is no Council Tax record of either tenant having occupied the two flats. There is a record of Hodan Abdulle being liable to pay Council Tax in Flat 2, 17 Wedmore Road from November 2023. However, the AST provided for Mr Abdulle from March 2024 is for Flat 2, Unit 1, 17 Wedmore Road. That address suggests that the overall property had been split into more than one "Unit", with flats in each unit which would be more indicative of the HMO layout presently found.

40. The fact that Council Tax records show him living their from November 2023 is perhaps an indication that the layout was subdivided into HMOs at that time. It is certainly a further discrepancy, not fully explained, with the appellant's version of events whereby Asher Schecter was said to be living in Flat 2 at that time.

41. The heavily redacted extract of a bank statement provided by the appellant does not provide any reassurance. The rent was said to be paid through an agency who would then pay Wedmore Reality Ltd. in turn. Two payments are shown paid to Wedmore Reality Ltd. from Featured Locations on 22 November 2023 with amounts of £2400 and £2500 respectively, said to be the rental payment for the two flats.

42. It is common for property letting agents to take a percentage of commission from rent as payment for their services in managing the property. That is how they

make money. It seems unusual, therefore, that the payment to Wedmore Reality Ltd. is exactly the amount said to be the rental income on the two ASTs. In response to my question in that regard Mr Wind suggested that Featured Locations do a lot of work with the appellants and decided not to charge commission because it was only a small job. Again, that seems to be an implausible reply and the heavily redacted information appears almost too neatly prepared to be convincing. No commission appears to have been charged in relation to the development at No.19 which indicates that the job at No.17 wasn't a one off arrangement.

43. Overall, there are significant inconsistencies in the evidence put forward by the appellant. It seems to me that the appellants knew they needed to try and show that the property had first been converted into two flats but that the evidence was carefully prepared to make it appear that was the case, as opposed to having a genuine intention to implement the approved permission. Mr Wind's email to his planning consultant gives that game away; "*In order to avoid having problems in future with planning, that they can claim that the above wasn't flats and was down straight to HMO, what can we do for it*?"

44. The simple answer would have been to actually convert the property into two flats, in line with the planning permission, and provide clear evidence that he had done so. Photographs showing the property laid out in accordance with the approved plans and the like. As it is there is an absence of any real evidence to show that the permission was constructed as per the approved scheme. The evidence relied upon various documentation which has proved to be a smoke screen which did not stand up to close scrutiny when tested at the Inquiry.

45. Whilst not necessarily indicative of the course of events at No.17, the evidence relating to No.19 is even clearer in suggesting that the property was not converted into flats prior to being turned into HMOs, with photographic evidence of the layout which is not present in this appeal. Given that the appellant was the developer in both cases and that the two projects were clearly planned together, that does add to my concerns that the appellant's evidence is less than reliable in the present appeal.

46. Therefore, on the balance of probability the property was not converted into two flats prior to subsequent conversion into two HMOs. The intention all along was to convert to HMOs and I consider it highly likely that the appellant jumped straight to that end use whilst attempting to make it appear as though there had been an intermediate step. However, in reality, the property was not converted in line with the approved permission, nor was it occupied as two flats at any point.

47. It follows that the appeal on Ground (b) must fail.

48. As noted above, if the property was never converted into two flats it also follows that the appellant's case on Ground (c) must fail. Given my conclusion in respect of Ground (b) it is not strictly necessary to comment further but it is worth setting out that the appellant's final position was such that the appeal on Ground (c) would have been doomed to fail in any event.

49. Initially the appellant's case on Ground (c) was made on the basis that it would have amounted to permitted development to change the use of each flat from a use within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO) to a use as a HMO falling within Use Class C4.

That argument related to the provisions of Class L, of Part 2, Schedule 2 of the GPDO[4] which allows for such a change, subject to a number of limitations.

50. One of those is paragraph L.1(b) which states that development is not permitted by Class L where it would result in the use as two or more dwellinghouses falling within Class C4 of any building previously used as a single dwellinghouse falling within Class C3.

51. Initially, the appellant's position was that the term "previously used" should be taken to refer to the immediately preceding use, as opposed to any previous use. For example, if the property had first been converted into 2 flats it would not have been "previously used" as a single dwellinghouse prior to conversion to two HMOs but would have been used as two dwellinghouses.

52. The Council's position is that if the building had been "previously used" at any point as a single dwellinghouse within Class C3 then a change of use to two HMOs within Class C4 would be precluded by the terms of paragraph L.1(b).

53. In his opening comments and closing submissions Mr Atkinson, on behalf of the appellant accepted that the Council's position was likely to be correct and the appellant did not pursue that point further. I understand that no caselaw on the interpretation of paragraph L.1(b) was available and I see no reason to reach a different view than the now agreed position. As a matter of fact, the property has been "previously used" as a single dwellinghouse. The GPDO does not specify that the restriction only applies if that was the immediately preceding use.

54. Accordingly, even if the property had first been converted from a single dwellinghouse to two flats, the subsequent change of use to two HMOs within Class C4 would not have benefitted from permitted development rights. It may be the case that a change of use of one flat to a HMO would have been permitted in that scenario but that is not what occurred. The two HMOs were created simultaneously and completed and let at the same time. The result is that neither would have benefitted from permitted development rights because there were two HMOs in a property that had previously been used as a single dwellinghouse.

55. Thus, any Ground (c) appeal would have been bound to fail in any event.

The Appeal on Ground (a)

56. The main issues in the determination of the appeal on ground (a) are:

   i) The effect of the development on the character and appearance of the area;

   ii) Whether the development provides suitable living conditions for existing and future residents;

   iii) The effect of the development on the living conditions of neighbouring residents;

   iv) The effect of the development on the demand for on-street parking and congestion and whether it contributes to sustainable transport modes;

   v) If any harm arises in the above, the extent to which any fall-back position is a material consideration; and

[4] The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

vi) Consideration of the personal circumstances of those residing within the property, having regard to the implications for their home and private life and whether any interference with Article 8 Convention Rights[5] would be proportionate.

i) Character and Appearance of the Area

57. Wedmore Road is a suburban residential street made up of pairs of semi-detached dwellings, set back from the road behind modest front gardens. The original form of the properties would have displayed a high degree of consistency, with front bay windows at ground floor level, matching render and symmetry in the roof line between each pair of dwellings which would have had hipped roofs. That consistency has been eroded along the street to some degree on account of numerous side extensions but the original form is still readily obvious.

58. By and large, two storey side extensions are set back behind the façade with matching hipped roofs, thereby displaying a degree of subservience to the original design. The two storey side extension, rear extension and roof extension are not substantially different in terms of their external appearance from extensions approved by the Council.

59. That said, I do have some reservations over whether the collective impact of the extensions and alterations could be said to be good design, given the scale of development which overwhelms the modest scale of the original semi-detached dwelling. However, that is quite often the case when the potential fall-back of what could be constructed under permitted development rights is taken into account when planning applications are considered. In other words, whilst such rights contain specific size limitations, the result is not always something which has a positive impact in design terms.

60. It is also the case that the extensions were not constructed for the permitted purpose, as set out above and they have facilitated the unauthorised use. Nonetheless, given the planning history, the Council does not seek to argue that the visual impact alone is a matter that causes harm but that the intensive use of the property has a harmful effect on the character of the area on account of visual clutter from domestic paraphernalia.

61. There is no doubt that the number of occupants living within the property is intensive, with 11 bedrooms, potentially with double occupancy in some, compared to what was originally a 2 bedroom semi-detached dwelling. That clearly has led to impacts externally as photographs of overflowing bins and other waste and debris in the front garden testify. I also consider that the sheer number of people living in the property will have had an effect on the character of the area on account of additional activity and comings and goings. The effect on the living conditions of neighbouring residents will be considered below but purely in terms of the character of the area, the intensity of the use is at odds with what appears to be a quiet residential suburban street.

62. Some of the issues raised could be mitigated through conditions to secure bin storage and cycle storage within the front garden. That would help to ensure greater tidiness but would add further clutter in visual clutter in itself.

[5] European Convention on Human Rights, as incorporated into UK Law by the Human Rights Act 1998.

63. Overall, I find that the intensive use has had a negative effect on the character of the area and that conditions would not fully mitigate that impact. There is also a clear cumulative impact in regard to the issues identified given the neighbouring development at No.19. For those reasons, I find that the development has caused harm to the character of the area, contrary to the aims of Policy D3 of the London Plan (2021) and Policies 7.4 and 7B of the Council's Development Management Development Plan Document (2013)(the DMDPD).

ii) Living Conditions of Occupants

64. Policy D6 of the London Plan requires housing development to be of a high standard, providing adequately sized rooms and functional layouts which are fit for purpose. Whilst the policy provides specification for room sizes, through Table 3.1, it also requires development to address qualitative measures relating to matters including daylight and sunlight, privacy, noise impacts and to ensure appropriate design of communal spaces, both internal and external, as set out in the terms of the Policy and associated Table 3.2.

65. Paragraph 3.6.2 states that the space standards apply to all new self-contained dwellings of any tenure. The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Use Class C4 as the "use of a dwellinghouse by not more than six residents as a "house in multiple occupation"". Thus, the property is in use as 2 dwellinghouses falling within Use Class C4 and I see no reason why the space standards in Policy D6 should not be applied.

66. If the rooms were considered as double occupancy, a significant number would fall below the minimum required standard of 11.5sqm. The appellants contend that all are single occupancy and that they meet the required standard of 7.5sqm with a minimum width of 2.15m. They would be prepared to accept a planning condition to ensure that the rooms were single occupancy only. I recognise that such a condition may be difficult for the Council to monitor. However, the same could be said for any property and it does beg the question of what would be the point in the London Plan including a policy based on single occupancy if that was to be ruled out on account of difficulty in monitoring.

67. In any event, whether the rooms are taken as single or double occupancy, the space standards need to be viewed in the overall qualitative context. There is no communal space in either of the HMOs, save for an internal kitchen in each. Both kitchens are extremely small given the number of occupants and neither has any external windows. There is no other storage area. Consequently, the residents are likely to spend all of their time and will be required to store all of their belongings in the single room. It also seems that most store their food and cooking utensils in their rooms, given what I witnessed on my accompanied site visit.

68. In that context, all of the rooms were cramped, with residents making the best use of every inch of space. There is no built-in storage and nowhere to dry washing for most residents, with access to the garden being from the three rear ground floor rooms only. In some circumstances that necessitated wardrobes and other furniture being placed directly next to windows, reducing light. The living space with televisions was located directly next to the bedspace. There is no room to accommodate separate sofas or comfortable seating. Thus, in the absence of any communal space where residents can congregate, the available space in individual rooms results in a cramped living environment.

69. The appellant put forward a suggested solution at the round table discussion whereby one of the bedrooms could be set aside and allocated as a communal room. However, the rooms are small in size and designed to be used as bedroom space with many being somewhat narrow and confined. I am not satisfied that the space would be conducive to a comfortable communal area given those limitations, particularly not one that would overcome the limitations in the space within each room.

70. In addition, the internal corridors are narrow and gloomy, relying on artificial light which adds to the general sense of containment and enclosure. The layout also results in inadequate light and outlook for the occupant(s) of the ground floor room facing onto the small courtyard/ lightwell which has been created by insetting part of the rear extension, mirrored with a similar inset at No.19. The small window facing onto that courtyard has virtually no outlook and is significantly overshadowed. When lights were turned off in the room it was extremely gloomy, even on a reasonably bright day.

71. Moreover, the window faces a secondary window in the room opposite, at a distance of under three metres. It is possible to see directly into the private space and if any windows were open the gap is so small that any conversations would not be private. The lack of light, outlook and privacy in that particular room is, frankly, appalling.

72. In addition, there are clear issues of a lack of natural ventilation. The internal kitchens have no windows and although the cookers are fitted with extraction hoods it is apparent that those do not vent outside the building. Consequently, cooking fumes must simply disappear into the void between floors. Similarly, the en-suite bathrooms lack any obvious natural ventilation and it is not clear how any mechanical ventilation operates.

73. In refusing the application for a HMO licence the Council's housing team noted that the above ventilation issues, in addition to the density of occupation, is likely to lead to excessive moisture load, high humidity, surface and 'interstitial' condensation and associated health risks to occupants.

74. The lack of access to external space for the majority of residents in the two HMOs is another factor which adds to the substandard living conditions for those residing at the property. I find nothing within the wording of Policy D6 of the London Plan to indicate that HMOs should be excluded from the need for external space. In fact, section (iv) of Table 3.2 explicitly refers to communal outdoor amenity spaces, in contrast to section (v) which refers to private gardens, which implies that the policy should be applied to all types of residential development.

75. Paragraph F9 of Policy D6 sets out the quantum of garden space required for housing developments, which is 5sqm per 1-2 person dwelling, plus 1sqm for each additional occupant. Table 7D.2 of Policy 7D of the DMDPD refers to the same quantum. It is difficult to work out precisely how that should be applied to a HMO. However, Table 3.2 of Policy D6 requires communal amenity areas should offer sufficient space to meet the needs of the number of residents. In this case, the majority of residents do not appear to have access at all, nor is it clear how that could be provided given that one needs to access the garden through the ground floor bedrooms. Consequently, the lack of outdoor amenity space is clearly contrary to the terms of the relevant policies.

76. For all of those reasons the standard of accommodation is extremely poor and provides unsuitable living conditions for residents on many different levels. The appellant has provided evidence of correspondence between Mr Wind and a planning consultant which took place prior to the development occurring. The clear thrust of that correspondence focussed on how to avoid applying for planning permission for the use as two separate HMOs.

77. There is no evidence of any discussion as to whether the result would provide suitable living conditions. Rather, the onus was on maximising the rental value and occupancy levels of the property. The end result is a testament to that process with substandard living conditions significantly below those required by Policies D3 and D6 of the London Plan and Policies 7A and 7B of the DMDPD.

iii) Effect on the Living Conditions of Neighbouring Residents

78. The enforcement notice refers to harm to the living conditions of neighbouring residents on account of additional comings and goings and visual clutter. In terms of living conditions, the starting point appears to be a quiet residential street.

79. Having 11 rooms let to individuals, with some evidence of dual occupancy, has undoubtedly led to more comings and goings when compared to the dwellinghouse that previously existed. I understand that there have been several complaints relating to anti-social behaviour from the property and letters submitted from neighbouring residents refer to the untidy state of the front garden and associated issues with waste and bin storage. I have no reason to doubt that those incidents occurred and photographic evidence of the state of the garden has been submitted.

80. To some extent those issues have been addressed above in relation to the harm to the character of the area. However, it seems to me that they are also issues that impact upon the living conditions and environment enjoyed by neighbouring residents. Given the density of occupation, particularly when combined with the similar development at No.19 there will be more disturbance from comings and goings and significantly more potential for anti-social behaviour and general disturbance.

iv) On-Street Parking Demand and Sustainable Transport

81. Policy T1 of the London Plan requires that development proposals should facilitate the delivery of the Mayor's strategic target of 80% of all trips to be made by foot, cycle or public transport by 2041. The site has a PTAL value of 3(moderate) which indicates that it is not well-served by public transport.

82. In the absence of any mitigation, the increase in occupancy of the property is therefore unlikely to facilitate a move towards the strategic target relating to non-car modes of travel. The appellant contends that the demographic of the occupants is such that they are unlikely to own a car. However, evidence to support that is limited and I did note a resident who spoke at the Inquiry driving away from the site at the end of my accompanied site visit.

83. Consequently, there is some conflict with Policy T1 in that regard. However, the Council has provided no real evidence that increased demand for on-street parking has caused congestion in the area and it is not an issue that features strongly in the concerns of neighbouring residents. Consequently, even if some residents do

own cars, I find no particular conflict with Policy T6 of the London Plan in terms of parking provision.

v) Fall-Back Position

84. The Council has previously granted planning permission for the conversion of the property into two self-contained flats. Whilst I am not satisfied that permission was implemented, for reasons set out above, the permission remains extant and the enforcement notice provides for the option of bringing the use into line with that permission. Consequently, the use as two flats represents a legitimate fall-back position.

85. In some respects the impacts may be similar. Occupation of two flats would still represent an intensive residential use with potential for a significant number of occupants, some of whom would be likely to own cars, resulting in more comings and goings than the previous use as a single dwelling. However, I am not convinced that the intensity of occupation would be comparable to the current situation.

86. The nature of a flat is that the occupants would reside as a single group who would be living together as a family. The approved plans depicted a three-bedroom unit on the ground floor and a two-bedroom flat at first and second floor level. The ground floor unit was described as a “3 bedroom, 4 person” flat and the upper unit a “2 bedroom, 4 person” flat. Whilst the level of occupancy of such accommodation may fluctuate, those figures seem to be a reasonable estimate of the likely numbers, taking account of the layout. Both had large kitchen/ living spaces in contrast to the current layout which is devoid of such space in order to squeeze in additional bedrooms.

87. The overall intensity is therefore notably less than the current 11 bedrooms, each occupied by a separate individual (or perhaps two people in some circumstances). Moreover, it is not simply the number of occupants. Each one of those people is likely to have friends who may visit, postal and other deliveries, such that the intensity of use is much greater than would be the case if a single group living together as a family was in occupation of each of the two flats.

88. Furthermore, there is no comparison between the two when it comes to the living conditions of the occupants. The conditions in the current HMOs are extremely poor for the reasons set out. In contrast, the approved flats each had good communal space/ storage, each room had a decent outlook, the corridors were not narrow and lacking in natural light and the kitchens were well-ventilated, having windows that could be opened. Suggested conditions to limit the number of occupants and/ or to use one of the bedrooms as a communal space would not overcome the inherent deficiencies in the layout, for reasons set out above.

89. When looked at in the round, the likely fall-back is not comparable and offers no support for the substandard arrangement that has been constructed.

vi) Article 8 Convention Rights

90. Whilst not a matter raised by the appellant or any of the occupants the requirements of the enforcement notice would clearly impact on the home life of the occupants of the seven flats. In effect, those residing at the property would need to seek alternative accommodation. Consequently, it is a case where Article

8 Convention Rights[6] are engaged. Rights under Article 8 are qualified rights and, in appropriate circumstances, interference may be justified in the public interest.

91. Regulation of land use through development control measures is recognised as an important function of Government and is necessary to ensure the economic well-being of the country. In that sense, the regulation of development for legitimate planning aims can be said to be in the public interest. The aim is to strike the right balance between the general interests and rights of the wider community and the requirement to protect an individual's private rights. Central to the principle of a fair balance is the doctrine of proportionality.

92. In this case, it does not appear that the units are occupied by any children and no protected characteristics have been put forward. Moreover, there is nothing to indicate that any of the occupants would be unable to secure alternative rental accommodation elsewhere. I understand from those residents who spoke at the Inquiry that finding accommodation was not easy, with one saying it took a number of months for him to find somewhere.

93. That is a matter that can be taken into account in the appeal on ground (g) but is not a strong factor in my conclusion on whether to grant planning permission. I must also take account of my findings that the standard of accommodation is significantly below what is acceptable in planning terms. Whilst some residents may be happy to continue to reside in such conditions the potential long term health implications weighs against the grant of permission. Consequently, whilst the interference with their home life is a matter that I must weigh in the balance, the degree of harm is tempered by those factors.

94. Whether any interference with the home life of those concerned is proportionate is a matter I shall address below.

Planning Balance and Conclusion on Ground (a)

95. The development has had a harmful effect on the character of the area, offers an incredibly poor standard of living conditions for its occupants, has impacted on the living conditions of neighbouring occupants and fails to contribute towards targets relating to sustainable modes of travel. Those impacts cannot be adequately mitigated through the imposition of conditions and the development is clearly contrary to the policies of the development plan, taken as whole.

96. The combined weight of harm is substantial. There is also cumulative harm having regard to the very similar development at No.19. In contrast there are few matters weighing in favour of a grant of permission. The suggested fall-back is not directly comparable. Whilst the refusal to grant permission would impact upon the home lives of the occupants there is nothing to suggest that they would be unable to find alternative accommodation and, in any event, I am not satisfied it is in anyone’s best interests to continue to reside in a property which provides such a poor quality of accommodation.

97. Accordingly, there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. In addition, having considered the public interest in regulating development and the harmful impacts identified, I am satisfied that the interference with the home and private

[6] European Convention on Human Rights, as incorporated into UK Law by the Human Rights Act 1998

lives that would result from a refusal to grant permission is a proportionate response.

98. For those reasons the appeal on Ground (a) must fail and I shall refuse to grant planning permission for the development.

The Appeal on Ground (f)

99. An appeal on this ground 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.

100. As is clear from the terms of the enforcement notice and the subsequent evidence the Council is seeking to remedy the breach in its entirety and not simply to remedy any injury to amenity.

101. The appellant's case on Ground (f) has fluctuated throughout the course of the appeal. Within his initial statement of case it was argued that the requirement to remove the extensions to the property under Option 1 was excessive, given that the extensions were permitted by planning permissions granted by the Council. However, Options 2 and 3 of the requirements provide an alternative to demolition, by bringing the development into line with either of those permissions. Having regard to those options Mr Atkinson, rightly, accepted in his opening statement that the requirements in that respect go no further than is necessary to remedy the breach of control[7].

102. A new Ground (f) point was then raised in his opening statement relating to the provisions of Class L, of Part 2, Schedule 2 of the GPDO. Whilst the appellant accepted the Council's position that the limitations of paragraph L.1(b) would have prevented the property being split into 2 HMOs, an argument was made that it would have allowed for the lawful conversion into one HMO, such that the requirement to cease the use of both was excessive.

103. However, that was predicated on the assumption that the property was first converted into two flats, prior to conversion to HMOs. That was not what occurred on the balance of probability and the evidence indicates that the property was converted straight from a dwelling into 2 HMOs.

104. Even if the property was first developed into flats and then converted into 2 HMOs the parties accept that the development as a whole would not have been lawful having regard to paragraph L.1(b). That means that both HMOs were unlawfully created because both were implemented as part of the same development, at the same time. I am not satisfied that an argument could be made that one was lawful whilst the other wasn't. Accordingly, even in that scenario I am not satisfied that the requirements go beyond what is necessary to remedy the breach of control.

105. As accepted by the appellant in closing submissions, the effect of the Article 4 direction now in place is that it would not be lawful even to retain a single HMO in the property. In that respect, the Ground (f) appeal fell away during the course of proceedings. Consequently, the requirements go no further than is necessary to remedy the breach of control and the appeal on Ground (f) must fail.

[7] Paragraph 18 of the Appellant's Opening Statement

The Appeal on Ground (g)

106. The enforcement notice provides for a period of six months to complete the requirements. The appellant considers that to be unreasonably short and requests that the time period be extended to 12 months. As with all cases on ground (g) the aim is to strike a proportionate balance between the need to ensure compliance; to remedy the harm in the public interest; to maintain confidence in the effective enforcement of the planning system and taking account of practical timescales and the private interests of those concerned.

107. In practical terms it would be necessary for residents to vacate the property before the physical work of either demolishing extensions or bringing the interior into line with the approved permissions could be carried out. I appreciate that finding alternative accommodation may not be easy for those concerned and one resident indicated it took him three months to find somewhere to live on his previous search. That kind of period is not unreasonable to expect and strikes a proportionate balance between the disruption of the home lives of those concerned and matters of public interest in remedying the breach.

108. Thus, allowing broadly three months for residents to vacate the premises would leave three months to carry out the physical work. Contractors could be organised in the initial months when residents are preparing to move out of the premises so that work could start shortly afterwards. Options 2 and 3 would require primarily internal work, with minor external alterations and a three-month period would be sufficient. In fact, the evidence presented by the appellant and Mr Abeles, who represented the building contractors indicated that they are used to operating at speed and experienced in conversion projects.

109. The works required by Option 1 are more complex given that demolition would be involved. It does seem unlikely that the appellant would choose to carry out that option but it does form one of the requirements and it is necessary to consider whether the period given is reasonable to carry out the necessary works. On balance I am satisfied that it is. An experienced demolition contractor or builder would be able to remove the structures in short time, after which the external frame would need to be rebuilt. Three months would be tight but achievable in my view.

110. Overall, the six month period strikes the right balance between the need to expediate enforcement of what is a flagrant breach of planning control which has resulted in a very poor standard of accommodation, the needs and rights of the residents and the practical implications of the work.

111. Consequently, the appeal on Ground (g) fails.

Chris Preston

INSPECTOR

FOR THE APPELLANT:

Mr Giles Atkinson He called:	Counsel
Mr Shimon Yehuda Wind	Appellant
Mr Y Abeles	JK Builders Services Ltd.
Mr Alvin Ormonde (Round table discussion only)	Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

Mr Roderick Morton He called:	Solicitor, Ivy Legal
Ms Ingrid Smith	Planning Enforcement Officer

INTERESTED PARTIES:

Mr Gedi – Resident of the property

Mr Sharmanke Derie – Resident of the property

DOCUMENTS SUBMITTED AT THE EVENT:

Updated Core Document List

Written transcripts of opening statements and closing submissions from both parties