



1. Photo within the hallway of the property showing locked keys for all 9 shot-term let units.



2. Side view of the rear extension to be retained and occupied by a kitchen.



3. Rear view of the property and single storey rear extension.



4. View from the rear garden, of the rear extension towards no. 91.



5. View from the rear garden towards no. 87



6. View of the side garden and boundary with no. 91.

Delegated Report (Members Briefing)		Analysis sheet	Expiry Date:	09/05/2022
		N/A	Consultation Expiry Date:	29/05/2022
Officer			Application Number(s)	
Nora-Andreea Constantinescu			2022/2995/P	
Application Address			Drawing Numbers	
89 Messina Avenue, Camden, NW6 4LG			See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use from 9 rooms in short-term letting to a house in multiple occupation HMO for 6 bedsits, and retention of existing single storey rear extension. (Amended description)				
Recommendation (s):	Grant conditional planning permission subject to s106 legal agreement and warning of enforcement action			
Application Type:	Full Planning Application			

Conditions or Reasons for Refusal:	See Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	6	No. of objections	6
Summary of consultation responses:	<p>Site notices have been posted on 09/11/2022 and expired on 03/12/2022. Site notices have been reposted with amended description, on 21/12/2022 and expired on 14/01/2023.</p> <p>The neighbouring occupiers at nos. 74, 76, 87, 93, 99 Messina Avenue, 20 Whitwell Close, have objected to the proposed scheme on the following grounds:</p> <p>Objections on the existing use:</p> <ol style="list-style-type: none"> 1. Planning permission previously refused (2018/5812/P) – this should not be allowed either 2. Illegal use of the building has HMO/Hotel for 9 bedsits since 10/07/2019 3. Building is not a single-family house, nor residential use 4. Inadequate means of escape 5. Impact on sewage system – sewer burst and flooded basement at no. 87 6. Extensive amount of rubbish left unchecked 7. Smells from sewage and rubbish 8. Loud music and parties 9. Smoking out of windows 10. Intense number of food and other deliveries 11. Anti-social and loutish behaviour 12. Littering 13. Overcrowding 14. Impact on parking <p>Objections to the proposed HMO use</p> <ol style="list-style-type: none"> 15. Single means of escape 16. The proposed six flats fail to meet space standards 17. Absence of shared facilities 18. Additional pressure on parking from the proposed 6 units 19. Increased risk of anti-social behaviour 20. Noise Nuisance and disturbance 21. Overdevelopment 22. Irregular comings and goings – damage to safety security fear of crime and residential amenity 23. Adverse impact on the sense of community 24. Inadequate arrangements for accessibility 25. Not compliance with parts B, L and M of the Building Regulations 26. Inadequate levels of light in rooms = north facing 27. Inadequate outdoor amenity space for the number of units proposed 28. Setting of an undesirable precedent 29. Generation of excessive volumes of domestic waste 30. Pressure to local services – overloading of the sewage and drainage capacity in the locality 31. Reference to two appeal decisions where HMO use was refused at 					

10 Wilthorne Gardens, Dagenham, Essex
(APP/Z5060/C/16/3146657, APP/Z5060/W/16/3146936); 479 Rush
Green Road, Romford (APP/B5480/C/20/3245901)

Officer response:

- 1. The previous permission was refused mainly due to the harmful impact of the extensions. No such extension is proposed here. See planning history below.*
- 2. The existing unlawful use is acknowledged and the current application is to rectify the situation.*
- 3. Same as 2.*
- 4. Compliance with fire standards would be required by HMO licensing process. See para 4.4*
- 5. If building works take place which include drainage, then drainage capacity would be included in part of the building regulations application process.*
- 6. This issue is noted and details for refuse and recycling facilities would be secured prior to commencement of works. See para 8.1*
- 7. Same as 6*
- 8. A condition would be attached to limit music hear outside the premises after 11pm on any day.*
- 9. Same as 4.*
- 10. As the proposed use would reduce the number of people living in the building, the deliveries would also be reduced.*
- 11. Issues to be dealt by Environmental Health.*
- 12. Same as 6.*
- 13. The amount of people living at the premises is unlawful and being rectified by the proposed HMO use.*
- 14. The proposal would car-free development secured through a section 106 legal agreement. See para 10.1 and 11.1.*
- 15. Compliance with fire standards would be required by HMO licensing process. See para 4.4*
- 16. The proposed bedsits meet and exceed the HMO space standards. See para 6.1-6.2.*
- 17. The proposal includes provision of two kitchens, dining space and living space. See para 6.2*
- 18. The proposal would car-free development secured through a section 106 legal agreement. See para 10.1 and 11.1.*
- 19. Tlf there would be any anti-social behaviour arising at the premises this should be reported to the Environmental Health Department and the Police.*
- 20. A condition would be attached to limit music hear outside the premises after 11pm on any day.*
- 21. The proposed change of use and retention of the single storey rear extension is not considered an overdevelopment.*
- 22. The use as an HMO would reduce the comings and goings compared to the current situation.*
- 23. Given the existing types of buildings and occupation in the area, the proposed HMO use would contribute to creating a mixed, inclusive and sustainable community. See para 4.3*
- 24. Due to site constraints, there are limited considerations to accessibility to be applied here.*
- 25. Building Regulations Part B – fire safety, will be subject to the HMO licencing and separate building control approval; Part L – conservation of fuel and power would be subject to separate building control approval; Part M – access and use of buildings, given this is*

	<p><i>an existing building some limitations would apply and subject to building control approval.</i></p> <p><i>26. The limited light to the north facing rooms is noted, however this is not considered harmful, given the expanse of glazing and overall outlook. See para 6.1, 6.2.</i></p> <p><i>27. The site benefits from a side and rear garden, to be share by occupiers. See para 6.3</i></p> <p><i>28. The proposal is assessed on its own merits. See paras 4.1-4.5</i></p> <p><i>29. This issue is noted and details for refuse and recycling facilities would be secured prior to commencement of works.</i></p> <p><i>30. If building works take place which include drainage, then drainage capacity would be included in part of the building regulations application process.</i></p> <p><i>31. Discussed in detail at para 4.6, 4.7.</i></p>
<p>CAAC/Local groups* comments:</p>	<p>No responses received.</p>

Site Description

The application site comprises a mid-terrace, three storey building, on the norther side of Messina Avenue. The area is residential, with rows of terraced and semi-detached houses. The building originally has been used as a single-family dwelling but has been converted unlawfully in 2019 into 9 short-term lets units.

The site is not in a Conservation Area, but it lies within Kilburn Neighbourhood Plan Area.

Relevant History

2018/5812/P - Conversion of single-family dwelling house to form 1x 3 bedroom and 2 x 1 bedroom self-contained flats; and the erection of single storey side and rear extension. – **Refused 13/09/2019**

RfR:

- 1. The proposed extensions, by reason of their combined bulk and scale would visually overwhelm the host building, appearing as dominant and incongruous additions accompanied by a corresponding reduction in garden space.*
- 2. In the absence of a legal agreement to secure the development as car-free, the development would unacceptability contribute to issues of parking, traffic congestion and air quality in the surrounding area and would fail to promote the use of sustainable modes of transport.*

Relevant policies

National Planning Policy Framework (2022)
The London Plan (2021)

Camden Local Plan (2017)

Policy G1 – Delivery and location of growth
Policy H1 – Maximising housing supply
Policy H6 – Housing choice and mix
Policy H7 – Large and small homes
Policy A1 – Managing the impact of development
Policy A2 – Open Space
Policy A3 - Biodiversity
Policy D1 – Design
Policy D2 - Heritage
Policy DM1 – Delivery and monitoring
Policy CC1- Climate change mitigation
Policy CC2 – Adapting to climate change
Policy CC3 – Water and flooding
Policy T1 – Prioritising walking, cycling and public transport
Policy T2 – Parking and car-free development

Camden Supplementary Planning Guidance (2021)

CPG – Home Improvements
CPG - Amenity
CPG – Housing
CPG – Transport
CPG – Energy efficiency and adaptation

Assessment

1. Proposal

- 1.1 Consent is sought for the change of use of the property from 9 rooms operating in short-term letting to a house in multiple occupation HMO for 6 bedsits, and retention of existing single-storey rear extension.
- 1.2 The existing rear extension has a height of 3.3m with a flat roof, width of 4m, length of 3.3m. This has replaced an extension in-situ of 3.3m in height with a pitched roof to 2.4m eaves height, width of 3.3m and length of 2.74m.

2. Amended description

- 2.1 The application has initially been submitted stating the existing use is a single-family, however after officers' site visit and discussions with the enforcement team, this has been amended to include the current use of 9 rooms in short-term letting. Several neighbours raised this issue, and an enforcement investigation has been opened in association with the planning application.

3. Considerations

- 3.1 The main issues for consideration are:

- Land use
- Design and heritage
- Standard of accommodation
- Amenity
- Refuse and recycling
- Trees and landscaping
- Transport and Planning obligations

- 3.2 The National Planning Policy Framework (NPPF) maintains the statutory status of the development plan as the starting point for decision-making. It states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

4. Land use

- 4.1 The property has been altered internally to accommodate 9 bedsits, on a short-term let basis. The existing use is not supported by planning policy and guidance, given the high number of occupiers and method of occupation. The building is located within a residential neighbourhood, where such use has significant harmful impacts to the neighbouring amenity due to the intensity of use.
- 4.2 Under Policy H10 the Council would support development of housing with shared facilities which meet the need of small households with limited incomes and modest space requirements.
- 4.3 Prior to the building being converted into 9 bedsits, this was a single-family dwelling. As such, the proposed HMO use would not result in the loss of two or more self-contained homes. There is one registered HMO in proximity to the site on 121 West End Lane and two others within 5min walk at 107 Kingsgate Road, 9 Woodchurch Road. The types of buildings people live in the area are 91% flats, maisonettes or apartments and 9% whole houses or bungalows ([Office of National Statistics Census 2021](#)). Given the area includes a wide spread of properties subdivided into flats, and few HMO properties nearby, it is considered the proposed scheme would contribute to creating a mixed, inclusive and sustainable community and would not result in a harmful concentration of such a use in the local area.
- 4.4 Based on the information submission, the proposed layout would comply with relevant standards for houses in multiple occupation (HMO), as they would have shared facilities, such as kitchens and living space, all rooms over 9sqm with en-suites. Environmental Health Officers have confirmed the proposed HMO (Sui-generis use) would have to be registered for licencing. As part of the licencing, further requirements such as fire safety would be outlined by Environmental Health Officers, however these are beyond the planning remit.

- 4.5 As the use would retain the original residential use through the building, and the low-cost housing with shared facilities, affordable housing contribution would not be required in this instance.
- 4.6 Two appeal decisions dismissed for proposed HMO use are mentioned by objectors. 10 Wilthorne Gardens, Dagenham, Essex (APP/Z5060/C/16/3146657, APP/Z5060/W/16/3146936) – London Borough of Barking and Dagenham have specific policies within their Local Plan (BC4 – Residential conversions and house in multiple occupation) which protect single family dwellings and limit conversions and HMOs. As such, the proposed HMO use was contrary to the development plan policies as it conflicts with policy BC4. This is particularly different to Camden as under policy H10, housing with shared facilities is supported as explained above.
- 4.7 479 Rush Green Road, Romford (APP/B5480/C/20/3245901) – London Borough of Havering Local Plan – have specific policies (DC4 and DC61) which limits conversions to HMOs where they will impact the amenity of neighbouring occupiers by reason of noise. Based on Census data the area surrounding the application site is occupied 94.8% by single family dwellings. There is significant emphasis in the appeal decision in relation to the impact from the proposed HMO use to single family occupation in the area. Whilst issues of noise and disturbance are relevant to the current scheme in Camden, and discussed in the amenity section below, the existing occupation type here is of over 91% flats, which bring significantly larger number of occupants within a dwelling, and therefore the proposed HMO use would create a mixed, inclusive and sustainable community and would not result in a harmful concentration of such a use in the local area.

5. Design and Heritage

- 5.1 The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the application: development should consider the character, setting, context and the form and scale of host building and neighbouring ones, and the quality of materials to be used.
- 5.2 The only elements requiring consent are the retention of the single storey rear extension. The extension matches the depth and maximum height of the previous one on site and has a longer width as seen from rear garden. This also matches the depth of the extension at no. 87 and therefore appears as a continuous line. The design is like that of the previous structure with a side door and window facing the side garden area, with no openings to the rear. Given the extension replaces an existing historic structure on site, the additional height and width are considered to result in a modest structure, subordinate to the host building and wider terrace row.
- 5.3 Overall, the proposed retention of the rear extension is considered appropriate given its modest scale and detailed design.

6. Standard of accommodation

- 6.1 The proposed HMO bedsits would have a floor area ranging from 9.8sqm to 18.6sqm, without the en-suites, which exceeds the minimum floor area standard introduced by the amended Housing Act in 2018. Two kitchen/dining areas are proposed at ground level, within the outrigger and retained rear extension, of a cumulative floor area of 28.7sqm. The occupiers would also have over 11sqm of living space adjacent to the kitchen areas. The space standards proposed are considered to provide adequate space for future occupiers.
- 6.2 All bedsits would have at least one large window, with adequate outlook, with those fronting the street benefiting from the bay window with several viewing angles. Given the sun orientation and position of the property on the plot, it is noted that the rear facing rooms would benefit from less light than the ones at the front, however this would be sufficient for the adequate habitation of the space. As such, whilst not double aspect, the windows are large and openable for natural ventilation purposes.
- 6.3 The site benefits from outdoor amenity space, side, and rear gardens of approximately 52sqm, which results in over 8.6sqm per person, which is considered appropriate. Kilburn Grange Park is also 3min away from the site, which can provide additional recreational space for the occupiers.
- 6.4 Considering the above, the proposed building would provide a good standard of residential accommodation for future occupiers.

7. Amenity

- 7.1 Policy A1 seeks to protect the quality of life of occupiers and neighbouring ones by only granting permission for development that would not harm their amenity. The main factors which are considered in this instance are noise and nuisance from the proposed use, overlooking, sense of enclosure, implications on daylight, sunlight, light pollution in relation to the retention of the rear extension.
- 7.2 In relation to the impact from the rear extension, given this replaces an existing structure on site, the proposed increase in height and width is not considered significant to result in harm to the neighbouring amenity in terms of loss of light. The extension has a door and a window facing the side garden and boundary with no. 91, however given the existing boundary of brick wall and timber fence, it is not considered that harmful overlooking to neighbouring occupiers would occur.
- 7.3 In terms of noise and nuisance, the neighbours concerns are noted and dully considered. The existing use results in significant impacts on the neighbouring amenity given the occupancy of the building with different occupants staying for short periods. The area is generally in residential use, and HMO's can have a greater impact on neighbouring amenity then a single family dwelling. It is noted that based on 2021 census data, 92.5% of the properties only on Messina Avenue are subdivided into flats. The proposed use would reduce the occupancy of the building and introduce permanent or long stay occupants rather than short stay/transitory occupants associated with the hostel use. As such, the resulting increase of activity on site, compared to a single family dwelling, is not expected to result in harmful noise and nuisance to neighbouring amenity.
- 7.4 A condition would be attached to this decision to ensure no harmful noise and nuisance would be caused to the neighbouring amenity, by restricting music being herd from the property beyond 11pm on any day.
- 7.5 Furthermore, the HMO in Sui-generis use would be governed by HMO licensing and further controls would be established as part of this process.

8. Refuse and recycling

- 8.1 As raised by the neighbours, currently the amount of refuse and recycling resulting from the unlawful use has a significant impact on their amenity, as it blocks the pavement, results in littering, smells and pollution of the public domain in close proximity to peoples' doors, windows and habitable spaces. This is due to the number of units at the premises and amount of people occupying then, in transitory way. Given the proposed reduction in the number of occupants to reside on a permanent/long term basis, the waste would be also reduced and adequately stored. For the building to operate adequately as part of the proposed HMO use, details of the details of the location, design and method of waste storage and removal including recycled materials would be required to be provided prior to the commencement of any works.

9. Trees and landscaping

- 9.1 Policy A3 of the Local Plan states that the Council will resist the loss of trees and vegetation of significant amenity, historic, cultural, or ecological value, including proposals which may threaten the continued well-being of such trees and vegetation. There are no trees on site and no adjacent trees would be affected by the proposed development.

10. Transport and planning obligations

- 10.1 In line with policy T2, the proposed HMO Sui-generis use would be secured as car-free development, under the section 106 legal agreement. This would limit the availability of both off-street and on-street parking and reduce the traffic pressure in the area. impact on traffic surrounding the site.
- 10.2 As the proposal would result in an increase in the number of residential units, the London Plan requirements would require 1 space for 1 bedroom unit. As the proposal is to provide 6 new occupants, a requirement of 6 cycle spaces applies. Given the site constrains of limited space in the front garden and no direct access to the rear garden, a financial contribution has been secured for 1 Bike Hangar, of £4,320 which provides 6 long-stay cycle parking spaces, to be secured through a s106 legal agreement.
- 10.3 Given the limited works to be undertaken there is no requirement for a Construction

Management Plan.

11.Planning obligations

11.1 The following planning obligations would be secured through a s106 legal agreement:

- Car-free development
- Financial contribution of £4,320 for 1 bike hangar of 6 cycle parking spaces.

12.Recommendation

12.1 Grant conditional planning permission subject to section 106 legal agreement and warning of enforcement action.

12.2 Works to accommodate the proposed HMO use are required to be undertaken within 6months of this decision.

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 20th March 2023, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.

Application ref: 2022/2995/P
Contact: Nora-Andreea Constantinescu
Tel: 020 7974 5758
Email: Nora-Andreea.Constantinescu@camden.gov.uk
Date: 15 March 2023

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk

Mr Jon Bishop
1 Broad Hinton
Twyford
RG100LQ
United Kingdom

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted subject to a Section 106 Legal Agreement and Warning of Enforcement Action

Address:
89 Messina Avenue
London
Camden
NW6 4LG

DECISION

Proposal:

Change of use from 9 rooms in short term letting to a house in multiple occupation HMO (Class use Sui-Generis) for 6 bedsits, and retention of existing single storey rear extension. (Amended description)

Drawing Nos: 01 Revision A; 02 Revision: A; 03 Revision: B; 04 Revision A; 05 Revision: A.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Conditions and Reasons:

- 1 The development hereby permitted must be begun not later than the end of six months from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site location plan; 01 Revision A; 02 Revision: A; 03 Revision: B; 04 Revision A; 05 Revision: A.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 4 Before the development commences, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CC5, A1, A4 of the London Borough of Camden Local Plan 2017.

- 5 No sound emanating from the use shall be audible within any adjoining premises between 2300 hrs and 0700 hrs.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1, A4 of the London Borough of Camden Local Plan 2017.

- 6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) [and Part 2 (Classes A-C)] of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies G1, D1, D2(if in CA) and A1 of London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building

Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS
(tel: 020-7974 6941).

2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.

3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

5 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.

6 You are reminded that this decision only grants permission for permanent residential accommodation. Any alternative use of the residential units for temporary accommodation, i.e. for periods of less than 90 days for tourist or short term lets etc, would constitute a material change of use and would require a further grant of planning permission.

7 If building works take place which include drainage, then a drainage capacity would be included within the Building Regulations Application Process.

8 ENFORCEMENT ACTION TO BE TAKEN

In the event that the development hereby approved is not completed within 6 months from the date of this permission, the Enforcement Team is liable to instigate prosecution proceedings to ensure that the current unauthorised use at the site is ceased.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

ENFORCEMENT ACTION TO BE TAKEN

The Council has authorised the Planning Department to instruct the Borough Solicitor to issue an Enforcement Notice alleging breach of planning control.

You can find advice in regard to your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new *submission form* (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully

Chief Planning Officer

DECISION