

Application ref: 2022/1143/P
Contact: Sam Fitzpatrick
Tel: 020 7974 1343
Email: sam.fitzpatrick@camden.gov.uk
Date: 11 September 2024

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/planning

C-IAN Studio
Dufourstrasse 49
Zurich
NW6 7YG
Switzerland

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Refused and Warning of Enforcement Action to be Taken

Address:

20 Busby Place
London
NW5 2SR

Proposal:

Change of use of a 6-bedroom single family dwelling house (Class C3) to a large 11-bedroom HMO (Sui Generis) with minor external alterations including erection of bike store. (Retrospective).

Drawing Nos:

Design and Access Statement (prepared by C-IAN Studio, dated 15/03/2022); 102-PL-001; 102-PL-002; 102-EX-098-099; 102-EX-100-101; 102-EX-102-104; 102-PL-098-099-D; 102-PL-100-101-B; 102-PL-102-104-A; 102-PL-300-B; 102-PL-301-0; Schedule of Accommodation - Rev A (prepared by C-IAN Studio, dated 24/10/2022); Management Plan (prepared by AMS Housing, dated 14/09/2023); Varied HMO Licence Documents; Fire Risk Assessment (prepared by Five Safety Pro, dated 29/07/2023).

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 1 The proposed development, in failing to be secured as a long-term addition to the supply of low cost housing or otherwise providing an appropriate amount of affordable housing, would fail to meet the needs of small households with limited

incomes, contrary to Policy H10 of the London Borough of Camden Local Plan 2017.

- 2 The proposed development, by reason of its layout, positioning and scale of window openings, and siting of proposed rooms, would fail to provide an acceptable standard of accommodation for occupying residents, contrary to Policy A1 of the London Borough of Camden Local Plan 2017.
- 3 The proposed bike store to the front of the property, by virtue of its location, design, and scale, would add visual clutter and fail to respect the residential character of the building and wider streetscene, contrary to Policy D1 of the London Borough of Camden Local Plan 2017.
- 4 The proposed development, in the absence of a legal agreement to secure the residential dwellings making up the house of multiple occupancy as car-free, would be likely to contribute to parking stress and congestion in the surrounding area, contrary to Policy T2 of the London Borough of Camden Local Plan 2017.

Informative(s):

1 ENFORCEMENT ACTION TO BE TAKEN

The Director of Culture and Environment will instruct the Borough Solicitor to issue an Enforcement Notice alleging a breach of planning control.

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 about 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



Daniel Pope
Chief Planning Officer

Delegated Report		Analysis sheet		Expiry Date:	16/05/2022
		N/A / attached		Consultation Expiry Date:	04/06/2022
Officer			Application Number(s)		
Sam FitzPatrick			2022/1143/P		
Application Address			Drawing Numbers		
20 Busby Place London NW5 2SR			Please refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use of a 6-bedroom single family dwelling house (Class C3) to a large 11-bedroom HMO (Sui Generis) with minor external alterations including erection of bike store. (Retrospective).					
Recommendation(s):		Refuse planning permission and warn of enforcement action			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Adjoining Occupiers:	No. of responses	07	No. of objections	07
Summary of consultation responses:	<p>Site notices were displayed from 11/05/2022 to 04/06/2022.</p> <p>Seven objections were received from neighbouring occupiers, whose concerns can be summarised as follows:</p> <ol style="list-style-type: none"> 1. The use of the property as an HMO will place unfair pressure on shared amenity services in the area; 2. The property has been the source of a number of noise and disturbance complaints, including loud music, build-up of refuse, and anti-social behaviour. The use as an HMO will increase this; 3. The occupants of the property have created an uncomfortable situation due to anti-social behaviour including substance use and threatening actions. They are short-term residents and do not have any respect for the local community; 4. The creation of an HMO will disrupt the existing mix of social and private housing and upset the harmony of the area; 5. The development will result in the loss of privacy and light to neighbours; 6. The property is not suitable for occupation by the numbers proposed and will cause impacts on traffic, parking, and road safety; 7. The property is being used as an HMO without all relevant and appropriate permissions; 8. The submitted plans are not clear in how many rooms and/or occupants will be permitted within the building; 9. The sub-basement does not appear to be lawful and should not be used as accommodation. This could potentially have Modern Slavery implications; 10. Fire regulations are not adhered to, and fire safety has not been adequately considered given the increased number of occupants proposed at the property. <p><u>Officer Response:</u></p> <ol style="list-style-type: none"> 1. <i>Given that the estate to which the objection relates to is a privately managed estate, the operation of the estate with shared amenity services such as water is not a material planning consideration and as such cannot be considered in the assessment of this application;</i> 2. <i>Please see section 7 of this report for concerns relating to amenity, including noise and disturbance;</i> 3. <i>Although impacts on amenity is assessed as part of this application, the character of occupants is not a material planning consideration. However, the proposed use of the property is not as short-term lets, so an informative is added to the decision notice to reiterate this point;</i> 4. <i>Please see section 4 of this report for concerns relating to land use;</i> 5. <i>As before, the impact of the proposal on amenity is covered in section 7. However, it should be noted that the external alterations are limited to the creation of a bike storage area in the forecourt, so it is not expected that the development would result in impacts on</i> 			

	<p><i>daylight/sunlight or privacy.</i></p> <p>6. <i>Please see section 8 of this report for concerns relating to transport;</i></p> <p>7. <i>The applicant has provided evidence of the HMO licence relating to the property, which is detailed in section 4 of this report.</i></p> <p>8. <i>The submitted plans and HMO licence relating to this property show that the property would consist of 11 habitable bedrooms, to be occupied by a maximum of 15 persons.</i></p> <p>9. <i>The sub-basement and habitable rooms at this level are discussed in section 6 of this report, including the standard of accommodation.</i></p> <p>10. <i>The applicant has provided a fire risk assessment that has been reviewed when coming to this decision. This is detailed in section 4 of this report that concerns land use, though notably is a matter for Environmental Health Officers to consider when evaluating the HMO licence, which they have done for this property.</i></p>
<p>Kentish Town Neighbourhood Forum</p>	<p>The Kentish Town Neighbourhood Forum responded with no comment.</p>

Site Description

The site is a four storey end of terrace property located on the south side of Busby Place, west of the junction with Torriano Avenue and just east of the junction with Pandian Way. It is not located within a conservation area and is not listed. The property was constructed as part of the redevelopment of the former Jewish Free School site, which was granted planning permission in January 2003. The property has previously been in use as a single family dwellinghouse but has been used unlawfully as a large house in multiple occupation since approximately 2019.

Relevant History

Enforcement Context

The application site has been the subject of enforcement action dating back to 2008, originally as a result of the unlawful erection of a four-storey dwelling with basement immediately adjacent to the existing building – which had previously been refused planning permission under ref.2007/5002/P. The development that was unlawfully completed also included a sub-basement underneath the existing basement. Following enforcement action, an application for retrospective permission was submitted, which was refused by the Council and dismissed at appeal, ref.2008/4769/P. Another application was then submitted the same year under ref.2008/4868/P, also for retrospective permission but now proposing that the new building would form part of the existing dwelling, rather than constitute a new dwelling. This was also refused with warning of enforcement action. This was complied with, and the unlawful construction was removed and replaced with a previously approved side extension. Figure 1 below shows the site with the unlawful development still intact and then after the removal of this, following enforcement action. It was considered that the sub-basement would not be expedient to enforce against for a number of reasons, but primarily because the remedial action required to fill in the basement would involve substantial activity at the site. As such, the sub-basement still remains part of the building, however most of it is non-habitable space.

The use of the property as a large HMO also commenced prior to permission being granted for this development, and this retrospective application seeks to resolve this breach of planning.



Figure 1. Front elevation of 20 Busby Place before (left) and (after) enforcement action concerning the unlawful four-storey, basement, and sub-basement construction.

Planning History

2018/0500/P – Demolition of boundary treatment to front of dwelling and use of front garden for two onsite car parking spaces. **Planning permission refused 09/07/2018.**

Reasons for refusal:

- 1) The proposed development, by reason of the creation of two vehicular parking spaces, would promote the use of private motor vehicles and fail to encourage the use of sustainable modes of transport and so would contribute unacceptably to traffic conditions in the surrounding area.
- 2) The proposed on-site parking spaces, by reason of their inadequate area for parking and manoeuvring, would have a detrimental impact upon pedestrian and highway safety and ease of movement.
- 3) The proposed alterations to front boundary treatment and use of front hard standings for parking, by reason of their siting and design, would be visually prominent, disrupt the uniformity of the terrace and result in harm to the character and appearance of the host building, terrace and streetscene.

2012/2488/P – Erection of a single storey side conservatory extension to dwelling house (Class C3). **Planning permission refused 05/07/2012 and appeal dismissed 29/10/2012.**

Reason for refusal:

- 1) The proposed extension, by reason of its siting, scale and design, would be detrimental to the character and appearance of the host building and wider streetscene and would result in the inappropriate accumulation of side extensions. The proposed extension would effectively infill one of the visual breaks in the built environment which alleviates the visual impact of the dense urban environment and would harm the character of the streetscene of Busby Place and Busby Mews.

2011/4755/P – Erection of a single storey side extension to dwelling house (Class C3). **Planning permission refused 30/11/2011.**

Reasons for refusal:

- 1) The proposed single storey side extension, by reason of its siting, scale and design would be detrimental to the character and appearance of the host building and wider street scene and would result in the inappropriate accumulation of side extensions. The proposed extension would effectively infill one of the visual breaks in the built environment which alleviates the visual impact of the dense urban environment and would further create a terracing effect that would have a negative impact upon the street-scene of Busby Place and Busby Mews.
- 2) The proposed single storey side extension, by reason of its height, depth and siting on the neighbouring boundary, would give rise to an unacceptable sense of enclosure which would result in an unacceptably oppressive impact upon the amenity of 26 Busby Place.

2010/4094/P – Erection of boundary wall with railings and electric gate to existing residential dwelling (Class C3), in association with retained forecourt parking. **Planning permission refused 11/10/2010 and appeal dismissed 25/05/2011.**

Reason for refusal:

- 1) The retained forecourt parking, associated with the vehicular entrance created by the proposed sliding gate, by reason of its size and shape, is substandard and detrimental to highway safety, as well as encouraging more parking at this property than the maximum parking standards allow. The proposal would therefore be likely to contribute unacceptably to traffic and parking congestion in the surrounding area and be detrimental to highway and pedestrian safety.

2008/4868/P – Retention of a 4 storey plus basement and sub-basement building to provide additional accommodation to an existing dwellinghouse and retention of dormer windows to 20 Busby Place (Class C3). **Planning permission refused and warning of enforcement action to be taken 11/06/2009.**

Reasons for refusal:

- 1) The retention of the erected building, by reason of its height, bulk, scale, proportions and detailed design (in terms of front facade and front and rear dormers), is an unduly dominant and incongruous building which detracts from the appearance of the host building and the terrace of which it forms a group; it also has a harmful impact on the established streetscape pattern and grain by a further reduction in size of the visual gap between buildings.
- 2) The retention of the erected building, by reason of its size and location, has resulted in loss of outlook to the neighbouring property at number 26 Busby Place to the detriment of the neighbours' residential amenities.
- 3) The forecourt parking, by reason of its size and shape, is substandard and detrimental to highway and pedestrian safety, as well as encouraging more parking at this property than the maximum parking standards allow. The proposal would therefore be likely to contribute unacceptably to traffic and parking congestion in the surrounding area and be detrimental to highway and pedestrian safety.
- 4) The rear planter at ground floor level, by reason of its design and its position, is an incongruous addition to the facade which disrupts the uniformity of the terrace and if used as a platform would result in an increased level of overlooking and loss of privacy to neighbouring gardens.

2008/4769/P – Retention of new building to provide a 4 storey plus basement and sub-basement dwellinghouse (Class C3) with front and rear dormers on land adjoining 20 Busby Place. **Planning**

permission refused 30/01/2009 and appeal dismissed 09/07/2009.

Reasons for refusal:

- 1) The new house as erected, by reason of its height, bulk, scale, proportions and detailed design (in terms of front facade and front and rear dormers), is an unduly dominant and incongruous building which detracts from the appearance of the host building and the terrace of which it forms a group; it also has a harmful impact on the established streetscape pattern and grain by a further reduction in size of the visual gap between buildings.
- 2) The new house as erected, by reason of its size and location, has resulted in loss of sunlight, daylight and outlook to habitable rooms to the detriment of the neighbours' residential amenities.
- 3) The proposed forecourt parking, by reason of its size and shape, is substandard and detrimental to highway safety, as well as encouraging more parking at this property than the maximum parking standards allow. The proposal would therefore be likely to contribute unacceptably to traffic and parking congestion in the surrounding area and be detrimental to highway and pedestrian safety.

2007/5002/P – Erection of a new 4-storey plus basement single family dwelling house on site adjoining no.20 with dormer windows at front and rear main roof. **Planning permission refused 12/02/2008 and appeal withdrawn 14/07/2008.**

Reasons for refusal:

- 1) The proposed new dwelling, by reason of its height, bulk, scale, and proportions would be an unduly dominant and incongruous feature which would detract from the appearance of the host building and the terrace of which it forms a group and would have a harmful impact on the established streetscape pattern and grain by a further reduction in size of the visual gap between buildings.
- 2) The proposed development, by reasons of its size and location, would result in loss of sunlight, daylight, and outlook to habitable rooms to the detriment of the neighbours' residential amenities.
- 3) The proposed forecourt parking for 2 cars exceeds the Council's standard for one off-street car space per dwelling and would result in the loss of an on-street residents parking bay. The proposal would therefore be likely to contribute unacceptably to traffic and parking congestion in the surrounding area and be detrimental to highway and pedestrian safety.

2006/4782/P – Installation of front and rear dormers to single family dwelling house (Class C3). **Planning permission granted 22/12/2006.**

2005/3708/P – Erection of extension at the basement floor level, alterations to side and rear elevations, installation of a dormers at the front and rear roof slope of the dwellinghouse (Class C3). **Planning permission granted 21/10/2005.**

2005/1901/P – Erection of a 2-storey side extension. **Planning permission granted 08/07/2005.**

PEX0200214 – Demolition of the existing school buildings and redevelopment of the site by the erection of 146 residential units including siting, design, external appearance, means of access, hard and soft landscaping pursuant to the reserved matters and detailed layout, breakdown of housing mix, details of car parking provision, means of enclosure, bulk and massing of the development pursuant to additional conditions of the outline planning permission dated 23/01/01. **Approval of reserved matters granted 15/01/2003.**

Relevant policies

National Planning Policy Framework (2023)

The London Plan (2021)

Camden Local Plan (2017)

- **H1** Maximising housing supply

- **H3** Protecting existing homes
- **H6** Housing choice and mix
- **H10** Housing with shared facilities
- **A1** Managing the impact of development
- **D1** Design
- **T1** Prioritising walking, cycling, and public transport
- **T2** Parking and car-free development

Camden Planning Guidance

- CPG Amenity (Jan 2021)
- CPG Housing (Jan 2021)
- CPG Transport (Jan 2021)

Kentish Town Neighbourhood Plan (2016)

Assessment

1. The Proposal

- 1.1. This application seeks retrospective consent to convert the property from its existing lawful use as a 6-bedroom single family dwellinghouse into a large 11-bedroom house in multiple occupancy (HMO). The house was first reported to be in use as multiple flats in 2019, and this application for the change of use was received in March 2022.
- 1.2. No external changes are proposed besides the erection of external cycle storage, which would be located in the front forecourt of the property. Otherwise, the application solely relates to the change of use from Class C3 to Sui Generis.

2. Revisions

- 2.1. When the application was first received, the applicant was proposing to convert the property into a 12-bed HMO, with two bedrooms at the rear of the basement level. However, following officer comments, this was revised to reduce the number of bedrooms. Revised plans then included a skylight to the front of the property located at ground floor level, which would serve the lounge room at basement level. Due to the fact that this change was not advertised during consultation, the applicant removed this element from the proposal to avoid the necessity to reconsult and delay a decision further.

3. Assessment

- 3.1. The principal considerations material to the determination of this application are as follows:
 - Land use
 - Affordable housing
 - Design
 - Housing quality
 - Amenity
 - Transport

4. Land use

- 4.1. Policy H10 (Housing with shared facilities) of the Camden Local Plan states that the Council will support the development of housing with shared facilities which meet the needs of small households with limited incomes and modest space requirements. This is provided that the development:

- a) will not involve the loss of two or more self-contained homes;
- b) will not involve a site identified for self-contained housing through a current planning permission or a development plan document, unless it is shown that the site is no longer developable for self-contained housing;
- c) complies with any relevant standards for houses in multiple occupation;
- d) contributes to creating a mixed, inclusive, and sustainable community;
- e) does not create a harmful concentration of such a use in the local area or cause harm to nearby residential amenity; and
- f) is secured as a long-term addition to the supply of low cost housing, or otherwise provides an appropriate amount of affordable housing, having regard to Policy H4.

4.2. The proposed development would comply with all of the relevant standards for houses in multiple occupation, and although Policy H3 seeks to protect existing homes, the Council will only resist development that would involve the net loss of two or more homes, as also stated in a) of Policy H10.

4.3. Prior to the building being occupied as an HMO, the property was a single-family dwelling. Although planning permission was sought and refused on a number of occasions for an additional dwelling occupying an unlawful extension, this part of the property has never lawfully been a separate self-contained dwelling. As such, the proposed HMO would not result in the loss of two or more self-contained homes.

4.4. There are a small number of registered HMO properties with mandatory licenses in the surrounding area, including two within 5 minutes' walk away at 4 Lock Mews and 28 Oseney Crescent. The types of buildings people live in within this area (Camden Road South) are 84.9% flats, maisonettes, or apartments and 15% whole houses or bungalows ([Office of National Statistics Census 2021](#)). Within the smallest, lowest-level output area that this property is part of, there are still 79.1% of people living in flats, maisonettes, or apartments. Given the area includes a wide spread of properties subdivided into flats and few HMO properties nearby, it is considered that 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.

4.5. Based on the information provided, the proposed layout would comply with relevant standards for HMOs, which is also detailed in section 6 of this report. The property has shared facilities such as a kitchen and living spaces, adequate bathing and WC facilities, and suitable room sizes of at least 9 sqm for a single room and 11 sqm for a double room. Evidence of the decision of the Council's HMO Licensing Team to approve the application to operate a house in multiple occupation on 24/05/2021 and subsequently vary this licence on 20/10/2023 (to change the property management company), alongside the varied licence and conditions, have been provided as part of this application; the information provided shows the property has been deemed acceptable to be occupied by 15 persons forming a maximum of 11 households. As part of this licensing, further requirements such as fire safety are assessed by Environmental Health Officers, however these are beyond the planning remit and are covered in the varying of the HMO licence. This being said, the planning assessment of use as an HMO takes place under a separate regime to the issuing of an HMO license, and as such, amenity is assessed as part of the determination process. For further information regarding the quality of accommodation of the units in this proposed HMO, please see section 6 of this report.

Affordable Housing

4.6. In line with Policy H10, the proposal would need to secure long-term additions to the supply of low-cost housing. In order to meet this requirement, the applicant would have to either agree to a payment in lieu of affordable housing or the securing of units in the property as 20% less than the cost of a studio flat, either of which would be secured by Section 106 legal agreement.

4.7. Taking the government's definition and the London Rents Map data into account, the Council considers that rooms in HMO accommodation in Camden can reasonably be considered to be low cost housing if they cost no more than 80% of median rent for a studio flat in the borough. As such, a legal agreement would secure all rooms in the property as no greater than 80% of the median rent for a studio flat in the borough, based on data for the most recent financial year available from the Office for National Statistics on the date of a room being let or a new rent being set. Currently, data from the Office of National Statistics and The London Rents Map suggests that the median rent for a studio flat in the Borough of Camden for October 2022 to September 2023 (the most recent period for which data is available) was £1,050 per calendar month. As such, rents in the property would be secured as no greater than £840.00 per calendar month, which would be secured by Section 106 legal agreement. However, the applicant has confirmed that they would not be willing to secure the HMO units as rent-capped.

4.8. The applicant could instead make a payment in lieu of affordable housing in order to comply with f) of Policy H10, having regard to Policy H4 (Maximising the supply of affordable housing) of the Local Plan. Policy H10 triggers this requirement for affordable housing (or low cost accommodation covered above) but regard is had to Policy H4 when calculating the amount to be contributed to affordable housing. This is so that the residential units provided by a new HMO are secured as long-term additions to the supply of low cost housing (through the aforementioned mechanism) or failing this, an **appropriate amount** of affordable housing is provided. The **appropriate amount** of affordable housing that will be sought is calculated with regard to Policy H4 – that is, using the formula set out in H4 to determine affordable housing contributions. Whilst the trigger for each Policy is different, H10 is clear that H4 is to be referred to.

4.9. As such, Policy H10 triggers the requirement for affordable (or low cost) housing. The appropriate amount of affordable housing is then calculated with regard to H4. As such, the total gross internal area (GIA) of the proposed HMO would be considered as the total addition to shared residential floorspace. This is 462 sqm, which would be used to calculate the affordable housing formula. Policy H4 states that for schemes of less than 25 additional homes, a sliding scale will be applied to calculate the expected provision as a percentage of the overall residential uplift, with a 2% contribution per additional home added to capacity. Capacity for 1 home is 100sqm. The proposal would therefore be required to make an affordable housing contribution in line with the following formula:

Additional residential floorspace (GIA)	Capacity (rounded floorspace addition / 100sqm)	Additional housing % target	Affordable housing floorspace target	Payment in lieu required
462 sqm	5 additional homes	10%	10% x 462 = 46.2	46.2 x £5,000 = £231,000.00

4.10. Therefore, if the applicant were to secure long-term additions to the supply of low-cost housing by way of a payment in lieu towards the provision of affordable housing, an affordable housing contribution of £231,000.00 would be required for the development, which would be secured by Section 106 legal agreement. The applicant has also confirmed that they would not be willing to provide an affordable housing contribution, as required by f) of Policy H10.

4.11. Given that the applicant would not be willing to secure the housing with shared facilities as a long-term addition to the supply of low cost housing, or an appropriate contribution to affordable housing, the proposal would not comply with Policy H10 of the Local Plan. As such, the proposal would fail to create a mixed, inclusive, and sustainable community, so the proposed change of use would not be acceptable in land use terms, conflicting with the development plan as a whole. The failure to secure the units at an affordable rate would mean that it does not satisfy all criteria set out in Policy H10 of the

Local Plan. As such, this would constitute a reason for refusal.

5. Design

5.1. Local Plan Policy D1 (Design) is aimed at achieving the highest standard of design in all developments and requires development to be of the highest architectural and urban design quality, which improves the function, appearance, and character of the area. Camden's Local Plan policies are supported by guidance set out in CPG 'Design'.

5.2. The proposal does not involve any external alterations beyond the addition of a cycle storage area, located to the forecourt of the site. Whilst the principle of a bike storage facility would not materially impact the appearance of the building, the proposed storage detailed in the application would be an uncharacteristic and inappropriate addition to the building, particularly in such a prominent location to the forecourt of the site. Although the provision of bike storage to accommodate 12 cycles would be supported, the proposed design would be unacceptable and would fail to respect the character and appearance of the host property and wider streetscape, contrary to Policy D1 of the Local Plan.

6. Amenity and housing quality

6.1. Policy H10 (Housing with shared facilities) states that development for HMOs complies with the relevant standards, including those within the Housing Act 2004. This means that all bedrooms, kitchens, and bathrooms should meet the required space standards for room sizes, and the property must be fit for human habitation, which is considered as part of the HMO licencing process.

6.2. The proposed HMO rooms all have floor areas ranging from 9 sqm to 18.2 sqm, which exceeds the minimum floor area standard introduced by the amended Housing Act. Only one of the rooms would be considered a single bedroom (labelled as 'bedroom 8' in the approved plans), whilst all others would be considered to be a double bedroom. Originally, 'bedroom 4' was split into two bedrooms, but one of these would not be considered large enough to fulfil the space standards (as confirmed by the varied HMO licence), so these rooms were merged into one bedroom, which would be large enough to be considered a double bedroom.

6.3. A large kitchen/dining area is provided at basement level which has a total floorspace of 61.76 sqm, so is well in excess of the minimum required floorspace. The kitchen consists of three sets of facilities and is considered to provide adequate kitchen space for occupiers. There are also communal spaces at basement and sub-basement level, though these are non-habitable rooms and should not be used as sleeping rooms, in part due to the absence of windows (though in the case of the basement storage room, this is also because it serves as part of the means of escape from the accommodation at this level).

6.4. The property provides adequate bathing and WC facilities, with ensembles to a number of rooms and four separate facilities located at the basement and first floor levels.

6.5. The property has been assessed as part of the HMO licensing process, and Environmental Health Officers have considered other aspects contributing to the quality of the accommodation for habitation.

6.6. The site benefits from outdoor amenity space at the side and rear of the property, which all units have access to via the kitchen space. The rear and side garden/patio areas together provide over 90sqm, resulting in at least 6 sqm per person, which is considered acceptable. This does not include the front patio area, which would likely be mostly taken up by cycle storage and refuse facilities.

6.7. Regardless of the HMO licence granted by the Council, this planning permission is

assessed separately, and the amenity and housing quality must be assessed in planning terms independent of the assessment made by Environmental Health Officers as part of the HMO licensing process.

6.8. Policy A1 (Managing the impact of development) seeks to protect the quality of life of occupiers and neighbours by only granting permission for development that would not harm their amenity. This includes factors such as privacy, overlooking, outlook, implications on daylight and sunlight, noise, and disturbance. The Council's guidance contained within CPG 'Amenity' provides specific guidance with regards to these aspects.

6.9. As a result of the proposal not containing any external changes beyond the erection of bike storage, it is not expected that there would be any significant impact to the amenity of neighbouring properties in terms of privacy, overlooking, outlook, or daylight and sunlight. No new opportunities for overlooking or views are created as a result of the works and no new massing would be created that would impact on light or outlook. As such, it is not considered that there would be any significant impact on amenity in these areas.

6.10. In terms of noise and nuisance, it is noted that a number of objections were received that detailed the disturbance created by the property prior to and during the assessment of this application. These objections and concerns are noted and duly considered. As confirmed in the submitted Management Plan, the existing use in recent years (that was not lawful or permitted) has resulted in significant impacts on the neighbouring amenity, as the building was occupied often by short-term tenants. The objections raise reported antisocial behaviour at the site, particularly during the period of the coronavirus lockdown, when there were often issues with the playing of loud music and unneighbourly behaviour.

6.11. The area itself is generally in residential use, and HMOs can have a greater impact on neighbouring amenity than a single family dwelling. However, the proposed use would reduce the occupancy of the building than what has been recently let out (due to the reduction in rooms) and would introduce permanent or long-stay occupiers. As noted in previous sections, there is no issue in principle with an HMO in such a location, and the resulting increase in activity on site would not be expected to result in harmful noise and nuisance to neighbouring amenity. The applicant has also provided a Management Plan that lays out steps to ensure impacts on amenity are reduced, such as a referencing process for prospective tenants and dedicated support team to address issues raised by occupants, visitors, or neighbours with regards to the property.

6.12. The amenity concerns raised in the consultation responses are noted and the Management Plan submitted, indicates that the proposed use would be able to be carried out such that impacts on neighbouring amenity would be reduced to an acceptable level. The Management Plan demonstrates that antisocial behaviour will not be tolerated at the site and the controls established through the HMO licence would require that noise levels and disturbance are kept to a minimum. There would also be a contact for the property available to neighbours and occupiers so that any issues – including those raised by objectors to the application – can be handled quickly and effectively. Additionally, it is worth noting that there have been no complaints relating to antisocial behaviour and noise disturbance in recent months, since the works began to convert the property into a formalised large HMO.

6.13. Furthermore, it should be noted that the HMO in Sui Generis use would be governed by HMO licensing. Further controls are established as part of this process, and as part of the licence that has already been granted for this property. These include practicable steps to be taken to reduce and prevent antisocial behaviour at the site.

6.14. Although the impact on neighbouring amenity would be considered acceptable, the development would fail to provide an adequate level of amenity for the occupants of the

proposed HMO. This is specifically the case for the two rooms located at sub-basement level of the house. Each of these bedrooms are served by one high-level window, that opens directly onto sunken steps in the rear garden (see figure 2 below). As noted in the earlier 'enforcement context' section of this report, the sub-basement was unlawfully constructed, and as such was not ever deemed acceptable in planning terms. The Council took the decision not to take enforcement action against this unconsented development, as it would not be considered expedient to enforce remedial action to remove the sub-basement. Although the sub-basement development would now be considered lawful given the passage of time, this does not mean it is appropriate for habitable rooms and accommodation as proposed.



Figure 2: Picture taken from the rear patio area to show the windows serving the two bedrooms at sub-basement level.

6.15. Policy 3.5 of the London Plan makes clear that the quality of residential development applies to residential conversions. This is confirmed by the London Plan Guidance document 'Housing', which states that "housing standards apply to all new housing in London. This includes new-build dwellings, conversions and change of use schemes". As such, the standard and quality of the proposed residential accommodation is relevant to the determination of this application.

6.16. The two proposed bedrooms at sub-basement level are long and thin rooms that would only be served by these windows, which would face onto external steps leading to the rear patio. To the immediate south-east of these windows, there is a large six-storey building in close proximity. No assessment was submitted with the application to demonstrate that the internal light levels of daylight and sunlight within the two bedrooms would meet BRE minimum standards. Given the position and scale of the openings, landscaping of the rear garden around them, and context of nearby buildings, it is unlikely that adequate levels of daylight and sunlight would reach these rooms.

6.17. In addition to the availability of daylight and sunlight, the outlook for both units at sub-basement level would not be acceptable. As shown in figure 2, the windows look out onto steps leading to the rear patio. Internally, the windows are also located at high level, so there is limited outlook from inside the bedrooms. The result is a poor outlook that only provides views of the stairs (see figure 3 below).

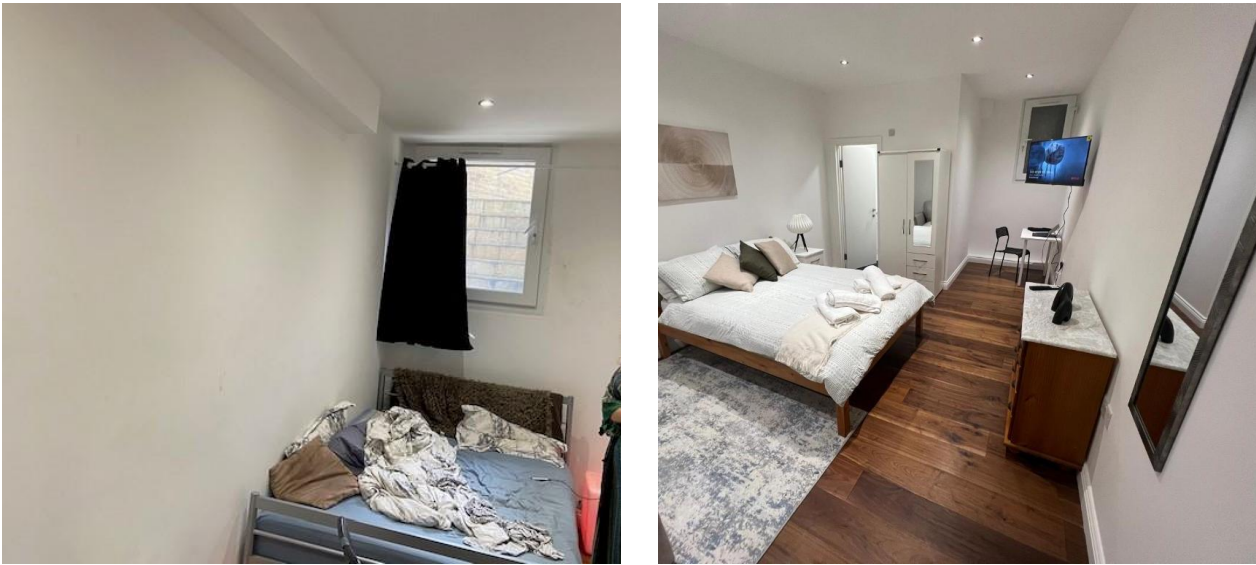


Figure 3: Photographs of the two sub-basement rooms and their windows facing onto the rear patio.

6.18. As such, although the proposed development is considered to adequately protect the residential amenity of neighbours, it would fail to protect the amenity of occupying residents, specifically those in the sub-basement rooms. Therefore, the proposal would fail to comply with Policy A1 of the Local Plan.

7. Transport

7.1. In line with Policy T2 (Parking and car-free development), the proposed HMO Sui Generis use would need to be secured as car-free development, under a Section 106 legal agreement. This would limit the availability of both off-street and on-street parking and would reduce the traffic pressure in the area and impact of traffic surrounding the site. The absence of such an agreement to secure the development as car-free would constitute a reason for refusal.

7.2. As the proposal would result in an increase in the number of residential units, additional cycle storage would be required to be provided on-site, in line with Policy T1 (Prioritising walking, cycling, and public transport) of the Local Plan, as well as the London Plan. It is proposed to introduce 12 long-stay cycle spaces and two visitor spaces in the forecourt patio/garden area. Although this is slightly lower than would be otherwise required, it is considered acceptable given the site constraints.

7.3. Given the limited external works to be undertaken, there is no requirement for a Construction Management Plan.

8. Conclusion

8.1. The proposed development fails to comply with the development plan as whole. The proposed use as an HMO under the Sui Generis use class would be an acceptable land use in the area, however the failure to secure the HMO as a long-term addition to the supply of low cost housing within the borough (or otherwise provide an appropriate amount of affordable housing) would mean the development would not be in conflict with the policy and the development plan. Although most of the dwellings would provide an acceptable standard of accommodation, the two bedrooms at sub-basement level would result in an unacceptable impact on the amenity of occupying residents. The failure to secure the development as car-free would increase pressures on the borough's transport network, and as such is not acceptable. The proposal is therefore not compliant with the policies of the Local Plan, and the application should be refused.

9. Recommendation

9.1. Refuse planning permission for the following reasons:

- 1) The proposed development, in failing to be secured as a long-term addition to the supply of low cost housing or otherwise providing an appropriate amount of affordable housing, would fail to meet the needs of small households with limited incomes, contrary to Policy H10 of the London Borough of Camden Local Plan 2017.
- 2) The proposed development, by reason of its layout, positioning and scale of window openings, and siting of proposed rooms, would fail to provide an acceptable standard of accommodation for occupying residents, contrary to Policy A1 of the London Borough of Camden Local Plan 2017.
- 3) The proposed bike store to the front of the property, by virtue of its location, design, and scale, would add visual clutter and fail to respect the residential character of the building and wider streetscene, contrary to Policy D1 of the London Borough of Camden Local Plan 2017.
- 4) The proposed development, in the absence of a legal agreement to secure the residential dwellings making up the house of multiple occupancy as car-free, would be likely to contribute to parking stress and congestion in the surrounding area, contrary to Policy T2 of the London Borough of Camden Local Plan 2017.

9.2. Issue enforcement action

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended), and that officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

The notice shall allege that, without planning permission, a material change of use was carried out to convert the existing single dwellinghouse into an 11-bedroom large house of multiple occupancy.

What you are required to do:

1. Immediately cease the operation of the house of multiple occupancy and return the house to its lawful use as a single dwellinghouse.

Period of compliance: 3 months

Reasons why the Council consider it expedient to issue the notice:

- a) The proposed development, in failing to be secured as a long-term addition to the supply of low cost housing or otherwise providing an appropriate amount of affordable housing, would not ensure that the housing would meet the needs of small households with limited incomes, contrary to Policy H10 of the London Borough of Camden Local Plan 2017.
- b) The proposed development, by reason of its layout, positioning and scale of window openings, and siting of proposed rooms, would fail to provide an acceptable standard of accommodation for occupying residents, contrary to Policy A1 of the London Borough of Camden Local Plan 2017.
- c) The proposed bike store to the front of the property, by virtue of its location, design, and scale, would add visual clutter and fail to respect the residential character of the building and wider streetscene, contrary to Policy D1 of the London Borough of Camden Local Plan 2017.

- d) The proposed development, in the absence of a legal agreement to secure the residential dwellings making up the house of multiple occupancy as car-free, would be likely to contribute to parking stress and congestion in the surrounding area, contrary to Policy T2 of the London Borough of Camden Local Plan 2017.