

**C A Rees LLB,  
Specialist Planning Lawyer**

**To: London Borough Of Camden**

**13.01.2023**

Dear Sirs,

**89 Messina Avenue Camden NW6 4LG**

**Formal objection on behalf of local residents to proposed development reference [2022/2995/P](#)  
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)**

**Objections to both**

**(1) existing unlawful use and**

**(2) proposed change to House in Multiple Occupation reference [2022/2995/P](#)**

**Together with**

**(3) Request for immediate and effective Enforcement Action under the town and Country Planning  
Act 1990 and**

**(4) Request prosecution under section 25 of the Greater London General Powers Act 1973 for use  
of property as temporary sleeping accommodation for more than 90 nights in each of three  
successive calendar years**

**Introduction**

We act on behalf of Mr. Peter Louwes and Ms Chantal Stanley.

This is their combined objection to the above planning application. It is also a formal complaint against the Council's failure to enforce or take legal proceedings against the owners of 89 Messina Avenue for their unlawful and unauthorised conversion, use and occupation of those premises.

The conversion and proposed change of use from its existing lawful use to a six-unit HMO would lead to the loss of a single-family dwelling (its existing lawful use) for which there is an acknowledged and identifiable need in the area.

It would also lead to an unacceptably intensive pattern of use and occupation housing overcrowding.

In the absence of any rear pedestrian or vehicular access and only a single means of escape to a place of safety-namely the front door (the Grenfell factor) serious difficulties can be anticipated in the event of a domestic fire.

The intensification of the use of a single-family dwelling through creation of six separate households would inevitably increase the risks of fire. The operation of six separate overcrowded apartments with six individual kitchens and six interconnecting gas supplies and electrical circuits and six sets of gas and domestic electrical appliances would inevitably increase the risk of fire. In a conflagration

the evacuation of six separate unrelated households all simultaneously seeking to escape from a single dwelling through a single point of access could turn a single house into a fire trap.

It would also lead to the creation of six self-contained micro flats which fail to meet any known National Local or London Wide space standards. The absence of any shared facilities means that the reference to the proposal as an HMO does not fit the definition of an HMO and is in reality an attempt to create six seriously undersized flats for letting to overseas tourists and a smoke screen for a continuation of the existing uses. There are no bin stores or adequate storage areas for six separate unrelated households.

The conversion and proposed change of use of the property from its existing lawful use to a six-unit HMO would have a seriously damaging effect on the living conditions and amenities of the neighbouring occupiers. Likewise, the six separate new households living in abnormally close confinement and close proximity in six undersized micro flats which are neither designed nor fit for purpose and which fail to achieve any known space standards is a recipe for conflict and inadequate amenity standards. As events and the last three years unlawful usage have already proven, such a development would also be damaging the otherwise peaceful residential character of the area with particular regard to noise and disturbance parking deliveries and a pattern of residential use.

The conversion and proposed change of use of the property from its existing lawful use to a six-unit HMO the material change of use of the property to an HMO would result in unacceptable living conditions and inadequate internal and external space standards for present and future occupiers. Particular problems can be expected through any intensification of residential uses with particular regard to internal space noise disturbance intensification of activity parking deliveries and unneighbourly activity.

Its lack of off-street parking and garaging and the absence of rear vehicular or pedestrian access or means of escape of any kind would be prejudicial to the safety of future residents. The introduction of five unrelated additional households would exacerbate the on-street parking and access difficulties currently experienced by existing residents. Likewise, such intensification of use would increase the risk of serious damage or injury in the event of fire or other emergency.

The absence of any secondary means of escape to a place of safety is reason in itself to refuse applications for any intensification of residential activity in this particular property.

Whilst local residents' multiple complaints over the last three years relate to the activities of current occupiers of the property as an unlawful nine-unit development (as opposed to the proposed six unit HMO), they are evidence of tangible planning consequences that have arisen from a similar existing use of the self-same building.

Those complaints highlight the materially different characteristics of multiple occupancy of a relatively small family house from those associated with the lawful use of the property as a single family dwelling. Those characteristics have proven to be seriously damaging to residential amenity and the character of an otherwise traditional tranquil residential area.

A complete A to Z of reasons for refusal of the latest application is set out later in this objection. We would invite the Council's Officers and Members to read this carefully. Having read the A to Z we would invite officers and Members to have regard to this catalogue of very real and adverse consequences which have already arisen and can be expected to continue should the multiple occupation of the property be allowed to continue. Whether individually or in combination they constitute sound and clear-cut reasons for refusing this application.

### **Evidence of Occupation in Excess of 90 days in the last three calendar years**

The Review pages of the Booking.com hotel booking site (a total of 747 reviews in the last three years) provide ample, publicly accessible evidence of the year-round short-term lettings of the property for in-excess of 90 days in each of the last three calendar years.

The various web sites on which the property is advertised describe “Messina Studios as a “hotel” and an “aparthotel” respectively.

Linen towels and cleaning services are provided as would be the case with a hotel. Customers are transient and stay for short periods (an apartment can be booked for as little as a single night). Customers are not responsible for rates/community charges and utility bills as would be the case with a true HMO. Customers do not live together or share any facilities. The population is transient rather than permanent.

Evidence of 90+ days use can be rapidly, effectively and conclusively obtained by a careful assessment of the booking sites’ reviews. Should further corroboration be needed the service of planning contravention notices on the numerous letting agents, the company which owns the property and its directors could be readily organised by Council Officers . The company’s accountants will doubtless also provide detailed records of annual occupancy levels and failure to respond to a PCN is a criminal offence.

### **Reluctance to act; reluctance to enforce**

The Council Officers’ previous suggestions to local residents that they were powerless to intervene or that the use of the property was some sort of hybrid against which they were unable to enforce are a nonsense. Likewise, their suggestions that residents should carry out their own surveillance exercise and report their findings to the Council are quite frankly a “cop out”. Such planning paralysis is unacceptable and in breach of the Council’s duty to investigate complaints and act in the interests of its charge payers. The position is clear from examination of the hotel booking site reviews.

### **Fundamental Objection and Factual Background**

Mr. Louwes and Ms. Stanley are long term residents of the local community. Between them they have lived for the last 40 years on Messina Avenue NW6 for the last years. They now own and occupy nos. 74 and 76 respectively.

They and their near neighbours strongly object to both the existing 9 (nine)-unit short term lettings (aparthotel) and proposed (six unit) HMO use of the single dwelling known as 89 Messina Avenue as a six-unit HMO (or equivalent).

### **Damaging Effects**

The existing and proposed uses exemplify the worst effects (social, environmental and community) of modern-day town-cramming and overcrowding exercises in traditional residential areas.

The single residential properties of Mr Louwes and Ms Stanley (both traditional Victorian family dwelling houses) are almost directly opposite number 89.

Their residential amenities and quality of life have been, and continue to be, seriously, continuously and adversely eroded, damaged, impacted and affected by the ongoing use of the property for multi letting purposes to numerous unrelated households.

Whilst not always fully let there are typically estimated to be between six (as would be the case with the proposed HMO) and nine households living in the property at the same time.

The properties are advertised as two and three person apartments but have been known to accommodate whole families of both adults and children. To be clear the existing accommodation is in use as temporary sleeping accommodation typically ranging from one night and up to fortnight and the longest recorded long-term letting being 30 days (as opposed to long term residential occupation). It is clear from the Booking.com site that short term lettings of the property have exceeded 90 days in each of the last three calendar years. There is no indication of any of the units exceeding 90 days or normal long term residential use resuming for the remainder of the year after 90 days of short-term lettings.

### **Continuing Social and community problems.**

**Social and community problems** have arisen and continue to arise as a direct result of the existing multiple use of the property. Such problems will continue for as long as the existing use or any similar multi-let/aparthotel or HMO arrangements are allowed to continue.

### **The last lawful use**

**The last lawful use** of the property (as confirmed and documented by the former owner in planning application reference [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***) was as a single family dwelling.

**A reminder of the Planning History:** It is worth Officers and Members reminding themselves that:

- current use of the property as hotel or aparthotel is unlawful;
- the planning application was for conversion from single family dwelling to two flats was refused; and
- the single-family dwelling is a use to which the property should now be promptly returned.

### **Enforcement action by the Council as a necessity, not an option.**

**Future residential amenity** can be expected to be similarly afflicted should the current nine-unit multi let continue or the six-unit HMO planning application (which in any event appears to be a smoke screen for an ongoing hotel/aparthotel use) be granted and implemented.

### **Squeezing a quart into a Pint Pot**

Put bluntly, the developer has been squeezing and continues to try to squeeze the proverbial “quart” into the proverbial “pint pot”. Housing overcrowding should be outlawed not encouraged in any decent modern day planning system and is reason in itself to refuse this application.

### **Camden’s Housing Crisis and the advent of the hotel booking “dot.com” Sites**

The Council has investigated and appears to recognise the problem and yet continues to do little or nothing about it.

The rash of short-term rentals serving overseas tourists is depriving hard working Londoners of a decent home and exacerbating the Council’s housing crisis. Existing and former Council tenants are illegally sub-letting their Council houses (in breach of their tenancies) and living elsewhere. The inconvenient truth according to “Wired” and the Council’s own investigations reads as follows:

<https://www.wired.co.uk/article/airbnb-london-short-term-rentals>

*The number of Airbnb listings in London has quadrupled in the last four years as more and more of the city's housing stock has been gobbled up by short-term rental companies. As of May 2019, 80,770 properties in London were listed on Airbnb, with a staggering 23 per cent, or 18,577, of these thought to be in breach of a legal 90-day limit in the capital.*

*The new data, compiled by City Hall, shows that across all Airbnb listings in London, just one per cent of the capital's hosts were behind 15 per cent of the listings active on Airbnb at the time.*

*Airbnb doesn't make its data available to officials and regulators, meaning local authorities have to use third-party tools to try and regulate the abuse of the platform. City Hall's figures, compiled using analytics tool Inside Airbnb, also show that 30 per cent of Airbnb hosts in London have three or more listings advertised on the platform. The rate of growth outside the centre of the capital has been even more extreme, with Airbnb listings in outer London increasing fifteen-fold between 2015 and 2019. Across London, 56 per cent of properties on Airbnb – or 45,070 listings – are entire homes.*

*In Camden and Westminster, two of the London boroughs worst affected by the rise of short-term rentals, up to seven per cent of the total housing stock is advertised on Airbnb. Data compiled by Camden council reveals that of the 7,100 whole properties listed on platforms such as Airbnb and Booking.com in 2019, a staggering 48 per cent exceeded the 90-day legal limit. Camden council currently has 6,000 families on its housing waiting list.*

**The current owner appears to have avoided using Airbnb but the review platforms of Booking.com and the other sites used tell their own story.**

#### **Evidence of Occupation**

**To demonstrate the facts in this case and the minimum lettings in a given year we have analysed the customer reviews on Booking.com over the last three calendar years and simply taken the longest single booking for each month (thereby avoiding the risk of overlapping bookings and double counting)**

**Bearing in mind that these are only the people that chose to send in a review and are the results of not by any means all the persons who have stayed at number 89 and that they are the results of only one of the many booking sites used by the current owner the results are extremely conservative but impossible to contradict.**

**The results are summarised in the following table. The results shown beyond doubt that the 90 day rule has been exceeded in each of the last three successive years.**

<b>Month</b>	<b>Calendar Year 2022 Longest single letting</b>	<b>Calendar Year 2021</b>	<b>Calendar Year 2020</b>
<b>January</b>	<b>7 nights</b>	<b>7</b>	<b>7</b>
<b>February</b>	<b>15</b>	<b>6</b>	<b>21</b>
<b>March</b>	<b>16</b>	<b>7</b>	<b>28</b>
<b>April</b>	<b>5</b>	<b>30</b>	<b>30</b>
<b>May</b>	<b>28</b>	<b>28</b>	<b>-none stated</b>

June	7	7	4
July	4	7	4
August	8	17	4
September	14	17	14
October	19	9	9
November	9	7	5
December	5	13	14
Annual Total	137 at least	142 at minimum	140 at minimum

**Nb the number of days occupation takes the highest individual stay in each given month. It takes no account of the other 300 + reviews in order to avoid suggestions of overlapping bookings. It takes no account of the lettings where the customers did not trouble themselves to send a review. There were no reviews for 2019 but on each of the three subsequent years the 90 day maximum has been exceeded by a wide margin.**

**It is not a question of the local residents watching the activities coming and going through their net curtains and counting people cars and coming and going. The Booking.com site provides all the evidence necessary to prove more than 90 days use in each of the last three years.**

### Levels of Overcrowding

The Council's Joint Strategic Needs Assessment confirms that levels of overcrowding in Camden are among the highest in the country. As such, the Council would be doing neither itself nor the local community any credit by encouraging the conversion and change of use of a single dwelling with a 172 sq metre gross internal area (and a net internal area of far less than that) and single-family dwelling with no off-street parking garaging or rear servicing and with its "pocket handkerchief" of a backyard and a few square metres of garden into six Lilliputian micro-flats with no shared or communal facilities.

The resultant unsatisfactory living conditions of both the residents of such developments and their neighbours from such overdevelopment are self-evident and already well-documented in the hotel booking sites' review pages themselves and the multiple complaints which the Council will find on its enforcement files received from nearby local residents.

The various reviews identify and highlight the lack of living space and some of the resulting problems – a back yard littered with cigarette ends. A tiny back garden littered with about 40 bin bags.

☹️ · I would have liked a little more space, but that is not to be expected at this price. We also slept with our front door at the garden (room 4). So we had to go through the garden to our room. Here were all kinds of wires on the wall (kind of stoppers) and if we walked a little further than our room into the garden, it looked like a garbage dump. I think there were about 40 garbage bags stacked there. This was a little unfortunate.

Noise, disturbance, drug taking, house parties and un-neighbourly activity going on until the early hours and problems with damp.

The medical, social, community and health consequences (both physical and mental) of living in inadequate and undersized close-quartered and unsatisfactory housing are also well documented and are to be avoided, not encouraged or overlooked.

Overcrowding and the inevitable health social and community problems inadequate indoor and outdoor space standards are well documented.

There was a change of ownership and a subsequent change of use in 2019.

Whilst it appears that there is apparently some confusion in the mind of the Council officers who deal with complaints and enforcement as to the precise use of the property this is no excuse for inaction and doing nothing. The Council has a duty to investigate complaints and to take direct immediate and meaningful action in cases such as this.

Where, as here, the occupancy of hotel rooms or in this case suites is transient then case law indicates that the existing use is a C1 Hotel use.

The Officers for their part and despite their powers of entry to investigate breaches of planning law have shown a distinct reluctance to get involved or investigate matters fully. They seem unfortunately to be suffering from some rare form of planning paralysis. Officers seem unclear as to the actual use of the property and unwilling to ask the most basic of questions of the existing owners or to issue planning contravention notices. They describe it in correspondence as “a hybrid” when the booking sites describe it as “a hotel” or “an aparthotel”.

It claims to be unable to prosecute because of lack of evidence of the 90-day use being exceeded. In refusing to prosecute or enforce the Council Officers are in effect turning a blind eye to an obvious and continuing planning abuse.

In doing so they are ignoring and compounding serious social, housing, community and environmental problems and adding to the Borough’s burgeoning housing crisis. If the use is considered a hybrid then it is a sui generis use which requires planning permission which can be enforced against. If it is a hotel hostel or boarding house or C4 use it requires planning permission and should be enforced against.

### **Our Objections our Request for Intervention and Enforcement and our formal Complaint**

We accordingly invite the Council to:

- refuse planning permission for the proposed use and
- to take immediate enforcement against the existing unlawful use of the property.
- To instigate proceedings in the Courts for exceeding the 90 nights use as temporary sleeping accommodation in each of the last three under section 25 of the Greater London Council (General Powers) Act 1973

### **The Council’s Experience and Investigation of the Issues**

Given the Council’s stated public concerns about temporary sleeping accommodation and unlawful planning activities the Council’s reluctance to intervene is surprising. Data compiled by Camden Council itself revealed that of the 7,100 whole properties listed on platforms such as Airbnb and Booking.com in 2019, a staggering 48 per cent exceeded the 90-day legal limit. Camden council currently has 6,000 families on its housing waiting list.

Until 2020 Messina Avenue was a well-preserved, relatively quiet residential street on the fringes of the South Hampstead Conservation Area with which it shares many positive characteristics

The introduction of an unlawful aparthotel in number 89 has wholly and fundamentally changed the character of the area and caused untold damage, disturbance, concern and uncertainty to the residential amenities of its community charge-payers.

The reviews from the various hotel booking sites tell their own story and it is time that the Council took positive action and intervened.

Indeed, the the letting agents' own reviews tend to mirror and corroborate the shared and wholly negative experiences and real concerns of local residents. The only difference being that the disappointed tourists visiting 89 Messina Avenue only have to put up with things for the duration of the short-term stays whereas the experiences of long term residents are permanent.

For the long term established, long-term law-abiding householders and their families and hard - working Londoners the threats to their safety security amenities and housing needs is on a round the clock, year-round basis. Messina Avenue is first and foremost a residential area, not a tourist area and homes for Londoners should take precedence.

The Council Officers' failure to act in relation to this unlawful and unauthorised use despite multiple complaints from local residents is both, surprising, disappointing and unacceptable.

### **The Unacceptable Consequences of Consent**

Should planning permission be granted for the latest application the unfortunate consequences of the existing nuisance-generating use will become irreversible and a rash of such uses can be expected to follow in its wake.

### **Uses and Abuses of the 90 Day Rule**

The 90-day rule which began life as the brain-child and "good idea" born of the Liberal/conservative coalition Government. Their idea was to allow people to let out a room or two in their properties without the need for planning permission whilst on holiday or for short lets during Wimbledon or events such as the London Olympics. The idea which at the time enjoyed cross party support has been hi-jacked by corporate interests and mushroomed into an industry. The rule is routinely ignored, sidestepped or circumvented by hotel booking sites and corporate owners of residential properties who recognise the difficulties and resource implications for local authorities in monitoring such activities.

In the meantime, properties which should be rightly reserved and retained occupied by permanent London residents are being "hoovered up" and rented out by corporate purchasers as temporary sleeping accommodation for tourists. This does nothing for Camden's housing crisis and the accumulated losses of much needed family housing can only result in housing hardship.

### **Time to Eradicate Such Unlawful Uses**

For the last three years, the property in question (no 89 Messina Avenue NW6 has been in unlawful use and the residents of . It has been unlawfully used, operated and occupied as a hotel, boarding house or apart hotel (or in use class terms C4 Use).

### **Evidence of Occupation**



The Booking.com Reviews demonstrate beyond any shadow of a doubt that the property is marketed used and occupied as temporary sleeping accommodation on a year-round basis.

They provide an clear indelible and indisputable record of the use and occupation of the property month by month over a three year period.

If over this three-year period one takes just the longest single letting for each month (ie one letting per month) as reported on the Booking.com website then the 90 day limit is exceeded in each of the last three calendar years.

The property has been subdivided internally without any kind of planning permission, without any indication of building regulation approvals or HMO licensing.

There are no communal facilities with each of the 9 existing units within the property being self-contained with its own internal front door, and its own external doorbell and key box.

Despite multiple complaints from local residents and the fact that that use of the property operates around the clock and on a year-round basis with lettings well in excess of the ninety night temporary sleeping accommodation limit the Council has neglected to instigate enforcement action or proceedings under the criminal law.

The property "Messina Studios" is advertised on a number of hotel letting web sites including Expedia, Booking.com, Hotels.com and is referred to as "the hotel" or "the aparthotel"

This is verbatim review from Expedia Hotel Booking Web Site which typifies the experiences of local residents in relation to the current and proposed use of the property:

#### **Ghastly Experience in West Hampstead**

***At first it appeared nice, clean and comfortable with a good location for my wife and I. Staff (a cleaning lady) had limited English and there was no management per se. No lobby, no coffee room. The room key failed on two or three occasions leaving us unable to access our room. There was no live person we could talk to, merely leave a message and wait for someone to come and re-enable access for our accomodation. Questions about management were met with a shrug and the convenient, "no understand". Finally, on Monday 11 July we arrived back after midnight to find something of a street party outside. A lot of young people making a noise and partying. When I got to the studio door a woman was already there and demanded that I used my code to let her in. She barged passed me to room 6 and others followed her in. They all seem to have rooms and continued their party until beyond dawn. Other guests were screaming at them to shut up and be quiet but they were ignored. One young man became quite aggressive when I asked for some quiet. They all appeared to be on something. I have left various messages and phone calls for management to no avail. No response.***

*Read less*

***Date of stay: July 2022 Trip type: Travelled with family***

Our clients strongly object to the above application. As a result of bitter experience over a three year period would urge the Council to:

- refuse permission and
- launch immediate enforcement

- launch criminal proceedings under section 23 of the London Government Act for the following A to Z of refusal grounds and reasons for intervention under planning and housing law:

### **The A to Z of Reasons for Refusal**

- A) Housing overcrowding
- B) Increased risk of anti-social and criminal behaviour

*In 2019, 1186 crimes were reported near Messina Avenue . Only 2% of streets in the UK are more dangerous. This street can be considered dangerous. The most common type of crime was anti social behaviour. Crime rate was measured within a 0.5 mile radius of NW6 4LG.*

<https://streetscan.co.uk/postcode/nw6-4lg>

*In November 2022 alone there were 441 crimes within the same area*

<https://www.streetcheck.co.uk/postcode/nw64lg>

- C) Noise Nuisance and Disturbance
- D) Un-neighbourly and anti-social behaviour
- E) Overdevelopment
- F) A pattern of irregular comings and goings which is seriously out of step with ordinary residential family usage with resulting damage to safety security fear of crime and residential amenity
- G) Irreversible damage to and interference with the character and tranquility of a traditional residential area
- H) Adverse impact on the sense of community, security and family life which has long been enjoyed by local householders and their families but is now under threat
- I) inadequate means of escape in the event of fire with no rear vehicular or pedestrian access or means of escape to a place of safety.
- J) Inadequate arrangements for the less-able and those suffering from age, disability or infirmity
- K) Inadequate parking and servicing for the numbers of apartments proposed
- L) Contravention of the National, GLA and Camden Housing Design and Space Standards
- M) Multiple contraventions of parts B L and M of the Building Regulations
- N) Excessive single aspect dwellings
- O) Apartments and an inadequate north facing garden lacking or absent natural sunlight for most of the year
- P) Inadequate outdoor amenity space for the numbers of units proposed

- Q) Inadequate space for the number of residents likely to occupy the six apartments (as evidenced by the 40 dustbin bags occupying the greater part of the tiny rear garden.
- R) Unacceptable pressures on parking, servicing, deliveries and refuse disposal
- S) Intensification of use and comings and goings at irregular hours.
- T) Evidence of drug abuse partying and anti-social behaviour
- U) The setting of an undesirable precedent for further intensification **and introduction of unlawful anti-social and incompatible uses into an otherwise respectable residential area.**
- V) Generation of excessive volumes of domestic waste
- W) Pattern of use which is seriously damaging to residential amenity and the character of the area and its ordinary residents
- X) consequential pressure on local services including the overloading of the sewerage and drainage capacity in the locality.
- Y) fears for personal safety caused by an **unsupervised, poorly-managed, badly-behaved** and disrespectful influx **of the worst kind of transient, ill-behaved hotel guests whose behaviour (at its worst) could well be described as “tribal” into a hitherto tranquil residential neighbourhood.**
- Z) Contravention of the National and Local housing space standards

Until 2020 Messina Avenue was a relatively quiet, pleasant, tree-lined residential street and a good place to bring up a family. The area is characterised by Victorian two and three/three and a half-storey terraced and semi-detached Victorian family houses.

Number 89 lies at its heart. Messina Avenue is part of an established traditional Victorian residential area in Camden.

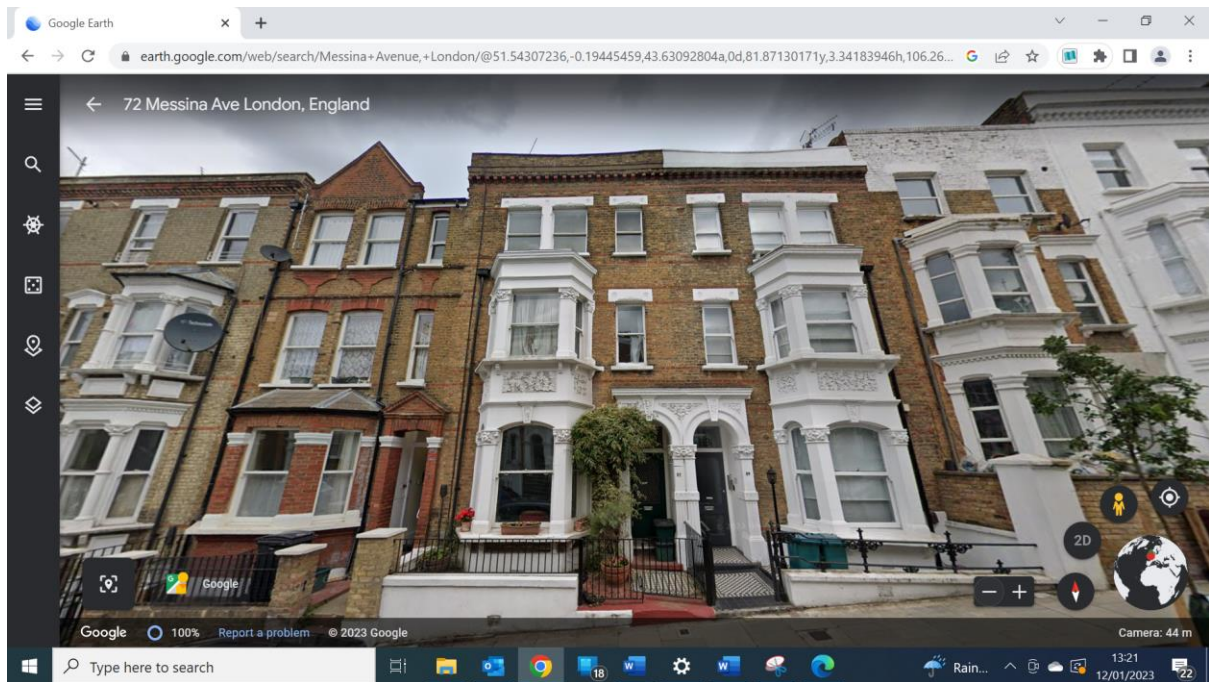
Messina Avenue is situated on the edge of but just outside the South Hampstead Conservation Area with which it shares many positive attributes.

Whilst a number of the properties have been converted into two or three flats there are, so far as we are aware, no licensed Houses in Multiple Occupation within Messina Avenue. Its houses have pocket-sized rear gardens and no off-street parking, rear access or garaging.

As such, they are ill suited to multiple occupation and/or usage as hotels, hostels, aparthotels HMO's or multi-lets.

The last lawful use of the property in question (number 89) was as a single-family dwelling. It is stated to have a gross floorspace of only 172 sq metres. This fact is confirmed by withdrawn planning application [2018/5812/P](#) .

According to the latest applicant's drawings the property originally had five bedrooms but has at some stage since been unlawfully converted into 9 apartments each with their own bathing cooking and sanitary facilities.



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89

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Since 2020 at least the property has been marketed and used on a year-round basis as a hotel or aparthotel and appears on a variety of hotel booking sites such as “Booking.com” and “Hotel”

Based on publicly accessible reviews on the Booking.com hotel booking site the property has been let as temporary sleeping accommodation on a year-round basis for well in excess of in each of the last three years. The majority of lettings have according to the Booking.com flag system been from overseas residents with the average length of stay being between just a few days and a week or two. In order to avoid double counting we have taken the longest individual letting in each month with the following results:

The property therefore has a transient and ever-changing population a large proportion of whom appear to be British and overseas tourists.

It is clear from the transient nature of the lettings that the use is a hotel use which requires planning permission and not an unlicensed and unauthorised section 157 HMO use (which would in any event require an HMO licence)

Continuous bitter experience over a prolonged period of at least three years has demonstrated that such uses in a residential area such as Messina Avenue to be wholly inappropriate, out of tune and incompatible with their residential surroundings.

The influx of refugees and asylum seekers and their housing in “permanent” temporary inadequate accommodation is a further cause for concern and care when considering applications for HMOs hotels and hostels and the impacts on residential character and amenity of traditional and established residential areas.

We consider the following planning appeal decisions to highly relevant and based on similar facts and would invite the Council to follow the reasoning of the inspectors in those appeal decisions.

<https://modgov.lbbd.gov.uk/Internet/documents/s108869/10%20Wilthorne%20Gardens.pdf>

34. Whilst these complaints seem to relate to the activities of previous, rather than current occupiers of the HMO, they are evidence of tangible planning consequences that have arisen from this use. They reveal materially different characteristics from the lawful use of the property.

35. I find that the HMO use has led to increased activity at the site which has, at times, eroded the living conditions of occupiers of nearby houses, in terms of noise and disturbance. The HMO use has also led to an increased demand for on-street parking space and has the potential for these adverse effects to continue or recur. High levels of indiscriminate parking have occurred in the past, as witnessed by local residents, and this poses a risk to the convenience and safety of road users and pedestrians.

36. I conclude that the unauthorised HMO use of the appeal property is contrary to the development plan because it conflicts with policy BC4. It has resulted in the loss of a house with 3 bedrooms or more and has thus diminished the stock of family housing in the Borough. I find no material considerations in this case that would indicate that the planning and deemed planning applications should be determined other than in accordance with the development plan. No conditions have been suggested that would overcome the harm the HMO use has caused in the past and has the potential to cause. For these reasons, Appeal 1 on ground (a) and Appeal 2 both fail.

[https://www.havering.gov.uk/download/downloads/id/4412/479\\_rush\\_green\\_road\\_romford\\_rm7\\_0nh\\_-\\_appeal\\_of\\_enforcement\\_notice\\_dismissed\\_-\\_9\\_december\\_2020.pdf](https://www.havering.gov.uk/download/downloads/id/4412/479_rush_green_road_romford_rm7_0nh_-_appeal_of_enforcement_notice_dismissed_-_9_december_2020.pdf)

#### Main Issues

6. The Council's reasons for issuing the enforcement notice are the same as those for which it refused planning permission. The main issues in respect of both appeals are therefore:

- the effect of the material change of use of the property to an HMO on the living conditions of the occupiers of 481 Rush Green Road with particular regard to noise and disturbance; and,
- whether the material change of use of the property to an HMO will provide acceptable living conditions for present and future occupiers with particular regard to internal space.

#### Living Conditions - Neighbours

7. The appeal site comprises a two-storey, semi-detached property. It adjoins the property of 481 Rush Green Road and is located within a predominately residential area. 8. I note that use of the property as a family home could result in it being occupied by a similar number of persons to its use as an HMO. However, a family home would be occupied by a single household, who are more likely to carry out activities on a communal basis. In contrast, its use as an HMO results in it being occupied by people who are unrelated and therefore by a greater number of households. It is therefore more likely to be higher levels of noise and disturbance arising as individuals come and go separately from one another for work, shopping and other day-to-day activities.

9. Moreover, with several persons occupying the property as individual households, there is a much greater potential for separate visitors to come to the property at any one time and increased potential for use of the outdoor areas, including the rear garden which is accessible to all residents via the communal kitchen. This results in the potential for greater noise and disturbance through the sound of voices, opening and closing of doors and vehicles, including from more visits by delivery and other vehicles than may be the case for a single household.

10. Furthermore, given the lower level of communal activity which typically occurs between individuals in separate households when compared to individuals in the same household, there is likely to be an increase in noise arising from multiple sources of audio or visual media operating at any one time. This is a particular concern since the property adjoins No 481. It would also lead to an increase in the level of noise released through open windows or doors during warmer months. Such noise levels are more likely to occur at times when neighbours would have greater expectations for peace and quiet than would be the case if the property was occupied by a single household. As a result, the level of noise and disturbance experienced by the occupiers of No 481 is likely to increase to the detriment of their living conditions. The appellant's suggestion that a condition could be imposed which limits the rooms to single occupancy only would not overcome the planning harm.

11. I conclude, therefore, that the material change of use of the property to an HMO will have a harmful effect on the living conditions of the occupiers of 481 Rush Green Road with particular regard to noise and disturbance. As a consequence, the development will conflict with Policies DC4 and DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (CS) which state that: conversions to HMOs will only be allowed where they will be unlikely to give rise to significantly greater levels of noise and disturbance to occupiers of nearby residential properties than would an ordinary single family dwelling; and, planning permission will be refused where the proposal results in unreasonable adverse effects by reason of noise impact. Living Conditions – Present and Future Occupiers

12. The HMO has been arranged with three bedrooms on the ground floor, two bedrooms on the first floor and one bedroom in the loft space. A communal kitchen is also located on the ground floor.

13. The Council's concerns in respect of the internal space lie principally with the size of the communal space and the size of rooms 3 and 5. Both room 3 and room 5 are said by the appellant to measure 12.2sqm. I saw from my site visit that both rooms were smaller in terms of floor space than the other rooms within the HMO. Both were only capable of accommodating a single bed unlike the other rooms which could accommodate double beds. Nevertheless, each room had access to reasonably sized en-suites, had sufficient space for a kitchenette with washing facilities. In addition, both rooms had windows which provided a good level of natural light. In themselves, the rooms were not particularly oppressive.

14. However, rooms 3 and 5 were of inadequate size to provide space in which occupiers could eat meals, watch TV, work from home or otherwise relax and undertake everyday household tasks. Occupiers of those rooms would therefore need access to adequately sized communal living space in order to avoid doing such tasks from their beds.

15. To that end, the only communal space provided within the property is a kitchen. It is said to measure 8.9sqm in size. I saw from my site visit that it provided all the necessary facilities for cooking. It also contained a small table which would seat around 3-4 people. As such residents would have somewhere to eat a meal. 16. However, not all residents would be able to do so at one time. Moreover, whilst the appellant indicates there is a strict rule of no food preparation and/or cooking in the bedrooms, given that occupiers of the HMO live as separate households, they may be more likely to chose to eat alone rather than with other households living within the building with whom they may not be familiar. As such, this limited amount of dining space makes the potential for residents to eat meals on their beds in rooms 3 and 5 much more likely.

17. Moreover, the kitchen does not provide any space for the residents to relax, watch TV, read or carry out any other everyday activities. As such, residents, in particular those of rooms 3 and 5, will

*be confined to their beds for any such activities. As a consequence, I find the lack of adequately spaced, usable communal areas will result in unduly oppressive and restrictive living space for existing and future occupiers of the HMO.*

*18. I conclude, therefore, that the development will not provide acceptable living conditions for present and future occupiers with particular regard to internal space. As a result, the development will conflict with CS Policy DC61.*

## **Conclusions**

We trust then that the above analysis and assessment is helpful to those involved in reporting and determining the application.

We would also ask that both the application and the separate but related question of enforcement and prosecution are fully considered assessed and debated by Members in public session, by the relevant planning and development committees if not the Full Council.

Given the importance of the matter to the housing needs of the Council we would suggest that this matter deserves to be given the utmost priority and we trust that the A to Z of sound and clear cut planning objections to these proposals will be fully examined and given appropriate weight by both Officers and Members in the decision making process.

The Council can no longer simply stand by and do nothing. The proper planning of the area demands the application should be refused and enforcement action must be taken in respect of the current unauthorised, unconsented, unlawful, illegal and nuisance generating use and occupation of 89 Messina Avenue.

We would be grateful meanwhile if you could kindly acknowledge safe receipt

Yours Faithfully

C A REES LLB

**Specialist Planning Advisor and Solicitor**