The Planning Inspectorate

Appeal Decisions

Inquiry Held on 30 November to 2 December 2016, and 24 May and 14 June 2017
Site visit made on 30 November 2016

by V F Ammoun BSc DipTP MRTPI FRGS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 December 2017

Appeal A - APP/T5150/C/15/3031342
Flats 1-5, 108 Gresham Road, London NW10 9BY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Quadrex Limited against an enforcement notice issued by the London Borough of Brent Council.
- The enforcement notice was issued on 30 March 2015.
- The breaches of planning control as alleged in the notice are *Without planning permission, the material change of use of the premises from a single family dwelling-house to five residential flats* and *Without planning permission, the erection of a single storey rear extension to the premises*.
- The requirements of the notice are *Step 1 Demolish the single storey rear extension in the rear garden of the premises, and remove all items, materials and debris arising from that demolition from the premises*. *Step 2 Cease the use of the premises as residential flats. Step 3 Remove all items, materials and debris associated with the unauthorised change of use, including a removal of all kitchens, except ONE, and the removal of all bathrooms, except TWO, from the premises so that the premises are converted back to a single family dwellinghouse. Alter the internal layout of the premises so that a dining room, lounge and kitchen are located on the Ground floor and the bedrooms are located on the Upper Floors of the premises.*
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) [b, c and f] of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: the appeal fails as set out in the Formal Decision.

Appeal B - APP/T5150/C/15/3031361
Flats 1-6, 34 Oldfield Road, London NW10 9UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Pineview Property Limited against an enforcement notice issued by the London Borough of Brent Council.
- The enforcement notice was issued on 30 March 2015.
- The breach of planning control as alleged in the notice is *Without planning permission, the material change of use of the premises from a single dwellinghouse to six flats*.
- The requirements of the notice are *Step 1 Cease the use of the premises as residential flats. Step 2 Remove all kitchens and cooking facilities, except one, and all bathrooms except TWO, from the premises and alter the internal layout of the premises so that a lounge, kitchen and dining room are located on the Ground floor and bedrooms on the Upper Floors, so that the premises is converted back to a single family dwellinghouse*.
- The period for compliance with the requirements is six months.

- The appeal is proceeding on the grounds set out in section 174(2) [b, c and f] of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of decision: The appeal fails as set out in the Formal Decision.

Appeal C - APP/T5150/C/15/3095752
Flats 1-6, 55 Gresham Road, London NW10 9DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Commercial Acceptances Limited against an enforcement notice issued by the London Borough of Brent Council.
- The enforcement notice was issued on 18 May 2015.
- The breach of planning control as alleged in the notice is *Without planning permission, the material change of use of the premises from a single dwelling-house to six residential flats* and *Without planning permission, the erection of a single storey rear extension to the premises* and *Without planning permission, the erection of a rear dormer window to the premises*.
- The requirements of the notice are *Step 1 Demolish the single storey rear extension in the rear garden of the premises, remove all items and debris arising from that demolition and remove all material associated with the unauthorised development from the premises. Step 2 Cease the use of the premises as flats and its occupation by more than ONE household, remove all items, materials and debris associated with the unauthorised use, including all kitchens, except ONE, and all bathrooms, except TWO, from the premises. Step 3 Demolish the rear dormer window from the premises, remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises and restore the roof back to its original condition before the unauthorised development took place*.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) [b, c and f] of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: the appeal fails as set out in the Formal Decision.

Applications for costs

1. At the Inquiry an application for a full award of costs was made by the Council against the Appellants, and an application for a full award of costs was made by the Appellants against the Council. These applications are the subject of separate decisions.

Preliminary matters

2. All evidence at the Inquiry was given on oath or affirmation.

3. At the start of the Inquiry the Council accepted that the period for compliance with the enforcement notice relating to Appeal A (No 108 Gresham Road) should be six months, acknowledging that this would be consistent with the enforcement notices relating to the other two properties. The Inquiry proceeded on that basis.

4. As none of the appeals were made on ground (a) or gave rise to a deemed planning application, the planning merits of the three developments alleged are not before me for decision. Therefore I can neither grant nor withhold planning permission, but will determine the cases on the legal grounds of appeal (b) and (c), followed by ground (f). Accordingly though I have noted the representations made by local residents including those who spoke at the Inquiry, these can only affect my decisions to the extent that they relate to the matters of fact and law raised by the legal grounds of appeal.

Common features of the cases

5. Conclusions on the matters of fact and law at issue must be reached individually on each case, but it is convenient to deal with certain common features of the cases at the outset. It is well established that where legal grounds are raised the onus is upon appellants to show that their cases should prevail. The standard of proof is the balance of probability.

6. It is not in dispute that prior to the alleged breaches of control all three properties were single family dwellings within Use Class C3. In all three cases the Appellants claim under ground (b) that the use when the notices were issued was not flats as alleged, but rather as a house in multiple occupation (HMO) within Use Class C4. On that basis they rely under ground (c) on permitted development rights to authorise the change from C3 to C4 dwellinghouses, and to authorise the extensions[1] under ground (c).

7. In the two appeals involving ground floor extensions the allegations are *the erection of a single storey rear extension to the premises* with the associated requirement to *Demolish the single storey rear extension in the rear garden of the premises…* The Appellant argues that in neither case is there one rear extension, but rather in each case there are two rear extensions, a rear extension and a side extension. Accordingly it is held that the enforcement notices do not strike at both extensions. The distinction is also relied upon to demonstrate compliance with permitted development requirements. The Council disputes this. It was agreed, however, that if there were two extensions the wording of the notice would strike only at the extension to the main outrigger, as being the "rear extension". I concur with this approach. The Council did not request that I alter the Notices to refer to extension or extensions, and taking into account that this would potentially disadvantage the Appellants I shall not consider that possibility further.

8. It was common ground in the three appeals that all the units[2] had sleeping accommodation, a bathroom with WC, and a small kitchen sink all behind a single door. The sinks together with work surfaces and cupboards allowed the preparation and storage of food within the units. A communal kitchen was provided in each building for residents to cook in. The matter at issue in all three appeals on ground (b) was whether as a matter of fact when the notices were issued the units had also contained the means of cooking food, by the presence in the rooms of food heating/cooking hob appliances. If cooking

[1] It was helpfully and properly pointed out for the Appellants that if the extensions were unlawful then The General Permitted Development Order 2015 (the GPDO) permission to change from C3 to C4 use did not apply (GPDO paragraph 3(5) relates), but this does not directly affect the outcome of the present appeals because the notices strike at a flat use rather than the claimed C4 use.
[2] I use the word unit as a neutral alternative to "flat" or "room in an HMO".

facilities had been present, then the units would have had all the facilities required for day to day existence behind their own front doors, and would thus not be HMO units sharing facilities, but rather be flats. Evidence and argument thus focussed upon this question, and the related but not necessarily determinative[3] question of use of the communal kitchens.

9. Another common feature in all three cases was that after a single pre-notice initial site inspection in early 2015, there had been one or more further inspections by the Council in 2016, and that these had found cooking appliances within rooms in all three properties. Photographs showing this were provided. Two in-room cooking arrangements were photographed in No 108; two in No 55; and three in No 34. Mr Wicks had attended all of these visits for the Council, and he stated that in all cases he had been told by all the occupiers he had spoken to that they had been issued from the start of their occupation with portable cooking appliances by "the landlords"[4]. He considered this confirmed by the similarity of the cooking appliances seen.

10. The evidence for the Appellants was that they had from the outset been aware of the planning/enforcement problems that could follow from tenants cooking in rooms. It was stated tenants had been told that they could not cook in their rooms, and property inspections were made regularly in part to ensure that this was prevented. There was also evidence that breaches of the no-cooking rule where persisted with resulted in tenants being made to leave. Affidavits from two tenants, one from each of the two Gresham Road properties, state that they had been told from the start that they could not cook in their rooms. Two persons who carried out property inspections for the Appellants at the three properties both recollected that there had been few and in two cases no breaches of the no cooking rule detected within their periods of service. Where cooking facilities were found warnings were given and action up to and including ending the tenancy was taken.

11. I consider that in all three cases it is difficult to reconcile the suggested effectiveness of the procedures and the remembered rarity with which infractions were detected, with the fact that the Council's 2016 site inspections discovered and photographed two or three sets of private cooking appliances in all three of the properties[5]. Taking into account that a single inspection is a snapshot in time and that tenants would have differing food cooking habits/ timings, the fact that at each of the premises such a significant incidence of private cooking arrangements were found on one visit suggests a level of in-room cooking far above what would be expected from the Appellants' witnesses' evidence. This greatly reduces the weight to be given to the Appellants' evidence in relation to what was actually happening at the three appeal premises, and I conclude that generally the Council's evidence and argument in that regard has the greater weight.

12. The Council's evidence included that in all three properties tenants had said that the cooking facilities they used in their rooms had been provided by "the

[3] If a unit was self sufficient, then the existence of a communal kitchen to which it could have access would not affect the said self-sufficiency.
[4] Whether the tenants had correctly identified the landlords in person, or whether those they referred to were associated with the property in some other capacity is not directly relevant to the appeals.
[5] They also photographed communal kitchens, none of which were in use at the time, or contained any obvious evidence of having been used recently. But while consistent with these kitchens not being used, it might also be the case that tenants choose not to leave their possessions in the kitchens and cleaned up afterwards.

landlords" when they moved in. The evidence for the Appellants as to attempts to prevent in-room cooking, including a checklist suggesting that tenants were told not to cook in their rooms from the outset, has a contrary implication. There was however no direct evidence to counter what the Council had been told from those who had actually implemented the process of introducing tenants into their units. Nor did the two affidavits from tenants (one subsequently withdrawn) which said in part that they had been told not to cook in their rooms go on to state that portable cooking appliances had not been provided. I consider this to be a significant omission as their statements had been sought and obtained by the Appellants to whom it was known that this allegation was a substantial part of the Council's case. Mr Wicks' report of tenants having differing views as to why efforts were made to prevent in-room cooking could be consistent with an early provision of facilities followed by the current attempts to prevent their use. As to when appliances were present, completed housing benefit applications[6] strongly suggest that tenants believed that they had exclusive use of a kitchen, which in the context of the appeal premises implies in-room cooking. There was nothing in the tenancy agreements provided that would have indicated otherwise, such as a ban on cooking in rooms. I conclude that the evidence suggests in-room cooking facilities were available at the start of the tenancies and when the Notices were issued.

13. There was undisputed evidence that housing benefit/rent was paid at the highest level in this area for self contained flat units, and that the appeal premises all attracted such higher level payments. I noted, however, Mr Mann's observation that rent levels for an HMO unit with its own WC and bathroom would be the same as for a flat. I have concluded that while the Council's evidence in this regard is consistent with flat use, it does not in itself establish that it had occurred.

14. I shall now turn to consider each appeal separately below, taking into account the foregoing general conclusions and any particular circumstances which might alter or confirm them. There will of necessity be some repetition of reasoning and where called for, conclusions. For convenience I shall consider the appeals in the order A, C, and B.

Appeal A - 108 Gresham Road

15. The Appellant in closing submissions stated as a matter of fact that the notice had been authorised before the building was even completed and thus before any change of use to flats could have started. However the evidence given at the Inquiry was that enforcement action had been authorised following an officer delegated report (Document 5) of 26 March 2015, and the Notice was issued on 30 March. There was evidence from the Appellant that the building works had been completed by January 2015 when some rooms had been first occupied. It follows that the evidence does not support a claim that the alleged breach of control could not have taken place when the notice was authorised.

16. Turning then to **the appeal on ground (b)** this case is subject to the same conclusions as were reached above in respect of the matters common to the three appeals, including that the extent of in-room cooking facilities

[6] The Council provided copies of housing benefit claim forms and/or tenancy agreements relating to the appeal properties dated in 2014 and 2015, six relating to No 34, two to No 108 and one relating to No 55.

photographed in 2016 rendered less probable the Appellants claim that such use had been effectively prevented, than that of the Council that it had occurred. And also that the evidence suggested the likelihood that tenants had been provided with cooking facilities at the start of their tenancies.

17. In April 2015 Mr Rolt for the Council and Mr Pincus Mann for the Appellants visited the site. Mr Mann stated at the Inquiry that there were no cooking facilities in the rooms on that visit. There was no contrary evidence from Mr Rolt, who did not give evidence at the Inquiry. However as the site inspection was a joint one for which notice must therefore have been given, it cannot be assumed that it gave as true an impression of the use of the premises as would an unannounced visit. Indeed a Council photograph provided with the Council's initial written statement shows a hot plate unobtrusively located on top of a cupboard.

18. In February 2016 a letter from Mr Szymanski at No 110 resisting the appeal stated in part that *….The worst is between midnight and the small hours in the morning when the communal kitchen is the busiest, with multiple trips between the kitchen and the rooms…* He goes on to mention the clattering of pots and pans, fire alarms going off, and points out that his bedroom window is five feet from the communal kitchen window. Though Mr Szymanski sought to somewhat resile from this part of his evidence at the Inquiry, I give greater weight to his written evidence as to what was happening at and up to February 2016. I consider that his letter strongly suggests that the communal kitchen at No 108 had been and was then in active use and that there would accordingly be less use of any in-room cooking facilities. This does not, however, preclude the presence or indeed the use of in-room cooking facilities in any flat.

19. There were two Council site inspections in 2016 on one of which no in-room cooking facilities were photographed, and at the other later inspection hotplates were found in two rooms along with evidence of cooking. The Appellants' drew attention to the absence of cooking facilities at the first inspection, but there was no evidence as to whether full access had been obtained to the premises on either occasion.

20. A statutory declaration from a tenant in part states that he never cooked in his room. The Appellant considered that this was necessarily fatal to the Council's case that five flats had been formed, but the declaration did not address the question of whether there were in-room cooking facilities in the unit.

21. The four foregoing matters add some weight to the Appellant's case on ground (b), though for the reasons stated I do not consider them to be particularly telling. After careful consideration I have concluded that they do not have such weight as to alter my general conclusion in the previous section. The appeal on ground (b) fails.

22. Having reached the foregoing conclusion, it is necessary to consider **the appeal on ground (c)** as it relates to the change of use to flats, and to the construction of the extensions.

23. As to **the change of use**, it was argued that the difference between a C4 use and a flat use was, in this case, so small that it did not constitute a material change of use. My conclusion that tenants were provided with the means of cooking as they took over the flats implies, however, that in this case there

was in fact no C4 use but rather a C3 use followed by a flat use. In closing submissions it was expressly confirmed that no claim was being made that a change from C3 to flats was not a material change of use. I have concluded that the appeal on ground (c) fails as it relates to the change of use.

24. Turning to **the extension/extensions** the Council's primary argument on ground (c) was that no permitted development rights for extensions could apply because such rights did not apply to flats. In this case the extension and conversion works were undertaken as a single project by a single builder, and I conclude that the extension work was part and parcel of the change of use from Class C3 to flats, and so the extensions could not have been permitted development under the General Permitted Development Order (GPDO) 2015. This is the case regardless of whether the extension work is to be considered as producing two extensions or one extension. The appeal on ground (c) fails as it relates to the extension works.

25. Whether one or two extensions were formed is however relevant to the interpretation of the Notice, so I shall consider at this point whether as claimed by the Council there is a single extension. It is not in dispute that all the building works were done at the same time, by the same builder, and under the same contract/estimate albeit with separately priced parts. However I consider the main determinant as to separation must be physical. In this case the works replaced an existing lean-to adjacent to No 110 whose end was evidently flush with the then existing main rear outrigger. The works to extend that outrigger could therefore proceed entirely independently of what happened to the lean to. I conclude that there are two extensions. As referred to earlier, however, the wording of the Notice strikes only at a single extension, and it was agreed and I concur that if there were two extensions then the Notice would apply to the extension to the main outrigger and not to the side extension.

26. For completeness I record but do not purport to determine the evidence and argument put to the Inquiry relating to the lawfulness of the side extension, which had replaced an earlier lean-to having the same footprint. It was not in dispute that it had exceeded the permitted depth but asserted for the Appellant that it had replaced the previous structure and that the changes were plainly "de minimus" and so not development. The Council disputed this. A photograph at Document 7 shows the original relationship of eaves line to a window at No 110, and a photograph of the present flat roofed structure is at Document 8. The neighbour at No 110 Mr Szymanski objected to the effect of the re-formed extension on his light and outlook, and confirms the differing relationship of the new higher eaves to his window. As this matter is not before me for decision by reason of the wording of the Notice and my conclusion that there are two extensions, I state no view on this dispute. It will be for the Council to consider whether it is expedient to issue a further notice in respect of the side extension at No 108, having regard to the Development Plan and all other material considerations.

27. An **appeal on ground (f)** seeks to establish *"That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any*

such breach". The wording of the Notice makes it clear that the purpose of the Notice is to remedy the breach of planning control alleged in the Notice. This breach is described in the notice as a change of use from a dwellinghouse to flats, and the erection of an extension. The notice requires the removal of the extension, and the cessation of flat use. It also sets out specific internal changes to the building so that its facilities and layout are consistent with a single family dwellinghouse.

28. The Appellants argued that as the essential element which would have resulted in a flat use in this case was the addition of in-room cooking appliances, it followed that it was to the removal of these that the requirements of the Notice should be directed. It was pointed out that Mr Wicks had agreed that the units as formed would be equally suitable for C4 and flat units. I concur on this latter point, but it does not follow that the breach and/or its proper remedy is to be defined as claimed. In respect of the change of use, I consider that the internal works, the extensions, and the provision of a functional kitchen in each unit were all part of a single process which resulted in a change from C3 use to a flat use extant when the Notice was served, and that on the balance of probability there was not a lawful shift to a C4 use which then became a flat use when cooking facilities were added later. It follows that the breach of control was not confined to the presence of in-room cooking facilities. As to the extension(s) this is defined in the Notice as separate distinct breach of control, and the process of remedying a breach so defined necessarily requires removal of what was built.

29. The Appellant claimed a "fall back" position wherein once the requirements of the Notice as now drafted were complied with, it would be possible to lawfully re-convert and re-extend the restored C3 property to take the same form as at present, subject only to there being no cooking facilities provided in the rooms. The property could then lawfully be a C4 HMO. It followed that no planning purpose would be served by the present requirements of the Notice. In considering this matter I noted that it is well established that a fall back position is a material consideration that can affect the outcome of a planning application. In the present case, however, there is no planning application before me as the Appellant did not appeal on ground (a). The Planning Acts set out a framework for enforcement appeals that includes grounds (a) and (f) as options, and for an appeal to succeed it must do so within the terms of one or more of such options.

30. For the reasons set out above, I have concluded that the requirements of the Notice do not exceed what is required to remedy the breaches set out in the Notice. The appeal on ground (f) fails.

31. The outcome of the above conclusions is that Notice A will be upheld but with the six month period for compliance agreed on the first day of the Inquiry.

Appeal C - 55 Gresham Road

32. As to **the appeal on ground (b)** this case is subject to the same conclusions as were reached above in respect of the matters common to the three appeals, including that the extent of in-room cooking facilities photographed in 2016 rendered less probable the Appellants claim that such use had been effectively prevented, than that of the Council that it had occurred. And also that the

evidence suggested the likelihood that tenants had been provided with cooking facilities at the start of their tenancies.

33. The date on which the breach is alleged to have been in existence is 18 May 2015 when the notice was issued. A Council site visit in January 2015 took place when builders were still on site and they had said the property "was intended as studio flats"[7]. Whether or not the reported comments of the builders accurately reflected what was happening, at that stage there could have been no physical evidence of whether the units provided individual facilities for cooking. Accordingly I find it unsurprising that the Council offered no further evidence relating to this pre-Notice inspection.

34. The Appellants advise that the first tenants arrived in April 2015. It was at the next and only subsequent Council inspection in February 2016 that two sets of cooking equipment within units were photographed, which tenants told Mr Wicks had been provided at the outset of their tenancies. As was pointed out for the Appellants there were no housing benefit applications provided relating to this property, but even after taking this into account I consider that for the reasons set out earlier on the balance of probability the Council's case should prevail. The appeal on ground (b) fails.

35. Turning to the **appeal on ground (c)** as it relates to the **change of use** to flats, for the same reasons as set out relating to No 108 above I conclude that the appeal on ground (c) in respect of the change of use fails.

36. As to **the extension/extensions**, as at No 108 the Council's primary argument was that no permitted development rights for extensions could apply because such rights did not apply to flats. Also for the same reasons as for No 108 I have concluded that when built the extension(s) could not have been permitted development, and that the appeal on ground (c) fails as it relates to the extension works.

37. Whether one or two extensions were formed is however relevant to the interpretation of the Notice, so I shall consider at this point whether as claimed by the Council there is a single extension. It is not in dispute that all the building works were done at the same time, by the same builder, and under the same contract/estimate albeit each extension was priced separately. However as with No 108 I consider the main determinant as to separation must be physical, and in particular whether they can properly be described as one or two constructions. Two separate extensions of the building footprint were made, but the works included reroofing an original outrigger and the new roof was carried over this area and over the added areas, in such a manner that a small area at the "corner" between side and rear areas was joined at roof level. I have carefully considered whether this makes a single extension, but consider the link too tenuous both in dimension and function to outweigh the features that indicate that there are two separate extensions. I conclude that there are two extensions. As referred to earlier, however, the wording of the Notice strikes only at a single extension, and it was agreed and I concur that if there were two extensions then the Notice would apply to the extension to the main outrigger and not to the side extension.

[7] The sole document relating to an individual unit at this property was a tenancy agreement commencing on 03/06/2015 which described the unit as a "1 bedroom studio flat".

38. Turning to ground (f) for the same reasons as set out above in respect of No 108 **the appeal on ground (f)** will fail.

39. The outcome of the above conclusions is that Notice C will be upheld.

Appeal B - 34 Oldfield Road, London

40. As to **the appeal on ground (b)** this case is subject to the same conclusions as were reached above in respect of the matters common to the three appeals, including that the extent of in-room cooking facilities photographed in 2016 rendered less probable the Appellants claim that such use had been effectively prevented, than that of the Council that it had occurred. And also that the evidence suggested the likelihood that tenants had been provided with cooking facilities at the start of their tenancies.

41. The Appellant provided copy correspondence relating to action taken against the tenants of two flats (Document 10) who in 2015 had been found to have had cooking appliances in their rooms. This gives substantial support to Mr Feld's evidence that action was taken against tenants who had cooking appliances in their rooms at No 34, but it does not establish that such use had been effectively prevented at the time the notice was served.

42. The evidence from Mr Wicks that tenants said in 2016 that they had been provided with cooking facilities at the start of their tenancies is supported in this case by the Council pre-Notice site visit on 10 February[8] 2015 which records *… 6 flats each containing all the facilities required for day to day living. It was confirmed that the cooking facilities were provided by the landlord.* This information was obtained by speaking with a tenant and not confirmed by photographs, but there is no evidence or argument before me to suggest why a tenant would have misinformed a Council officer on such a matter. The notice was served the following month.

43. Two housing benefit application forms were provided relating to No 34. The first dated in November 2014 stated that the tenant had his own kitchen and did not share any room. The second dated states the opposite, that the tenant did not have a private kitchen. Neither party offered a suggestion as to how this situation had arisen, and the matter must remain uncertain. I noted, however, that the May 2015 application related to the period after the Notice had been issued.

44. Taking all these matters into consideration, and for the reasons set out earlier I have concluded that the balance of the evidence favours the Council's case. The appeal on ground (b) fails.

45. As to **the appeal on ground (c)** in respect of the change of use to flats, for the same reasons as set out above in respect of Appeals A and C, the appeal on ground (c) fails.

46. Similarly, my conclusions in respect of **the appeal on ground (f)** are the same as for Appeals A and C, and the appeal on ground (f) fails.

[8] The Officer delegated report says inspection was on the 11th but the photographs are dated 10th so I prefer the later date.

47. The outcome of the above conclusions is that Notice B will be upheld.

48. I have taken into account all the other matters raised in the representations relating to these three cases, including numerous appeal decisions variously helpful but also covering a wide variety of situations and evidential range, but do not find that they alter or are necessary to my conclusions on these appeals.

FORMAL DECISIONS

Appeal A - APP/T5150/C/15/3031342 - 108 Gresham Road

49. The Notice is amended by the substitution of 6 months in place of three months for compliance with its requirements; subject to the foregoing amendment the appeal is dismissed and the enforcement notice is upheld as altered.

Appeal B - APP/T5150/C/15/3031361 - 34 Oldfield Road

50. The appeal is dismissed and the enforcement notice is upheld.

Appeal C - APP/T5150/C/15/3095752 - 55 Gresham Road

51. The appeal is dismissed and the enforcement notice is upheld.

V F Ammoun
INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr Andrew Fraser-Urquhart	Of Queens Counsel, instructed by Mr Peter Ottery, Chartered Town Planner, and by Mr Shulem Posen.
He called	
Mr Pincus Mann	Proprietor, Manlow Property Management Limited
Mr Mendy Feld	Managing Agent for 34 Oldfield Road
Mr Shraga Stern	Director, Decorean Ltd
Mr Mendel Raskin	Employee, Manlow Property Management Limited

FOR THE LOCAL PLANNING AUTHORITY:

Mr Edmund Robb	Of Counsel, instructed by the Director of Planning, London Borough of Brent Council
He called	
Mr Nigel Wicks, BTP, Dip Law, MRTPI	Director Enforcement Services Limited

INTERESTED PERSONS:

Mrs Valerie Bean	Local Resident
Mr Andrew Szymanski	Local Resident
Mr John Larkin	Local Resident

DOCUMENTS provided after the Inquiry opened

1 Bundle of emails between Council and Appellants
2 Mr Mendy Feld's proof of evidence
3 Tenancy check list
4 Plans of 55 Gresham Road
5 Enforcement Officers Delegated Reports – all three properties
6 Plans of 108 Gresham Road
7 Photographs showing part of an original extension at 108 Gresham Road
8 "Note Concerning PD Rights/GPDO" and attachments
9 "Permitted development rights for householders – technical guidance" April 2016
10 Copy correspondence relating to 2 tenancies at 34 Oldfield Road
11 Mr Shraga Stern's proof of evidence
12 Plans of 55 Gresham Road
13 Dunco Ltd estimates relating to 55 and 108 Gresham Road

Documents provided during or after the first adjournment

14 Mr Mendel Raskin's proof of evidence
15 Statutory Declarations of Mr Noel Antonio Augustus-Lee and of Mr Khader Omar Abdullahi
16 Email of 22 May 2017 11:35 withdrawing Mr Augustus-Lee's declaration.
17. Appeal Decision APP/T5150/C/15/3137960 dated 28 February 2017
18 Mr Wick's proof of evidence dated 24 May 2017, and appendices.
19 Closing speech on behalf of the London Borough of Brent.
20 Closing submissions of the Appellants.
21 Costs application on behalf of the London Borough of Brent.
22 Mr Shulem Posen's email of 25 April 2017 22:54.
23 Written response of Appellants to costs application, re paragraphs 17-21 of London Borough of Brent's costs application.
24 Attachment to Document 23, email exchange between Appellant's agent and Inspectorate