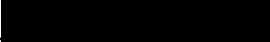


Future Merton  
London Borough of Merton  
Civic Centre  
London Road  
MORDEN  
SM4 5DX



20th January 2023

Dear Future Merton, Siobhain McDonagh MP & Secretary of State (by email),

Ref:  onsultation Response Document

This response is provided following thorough review of the documents made available upon Merton's own Consultation Website<sup>(1)</sup> and following attendance at all consultation meetings; both online and in person.

As the council are likely aware, our team have proactively engaged, questioned and challenged the basis behind this consultation and most notably the introduction of Article 4 across seven wards/35% of Merton.

This document is to be read alongside the legal correspondence issued to yourselves; and the Secretary of State, by our legal representatives Lester Aldridge - *a testament to the severity of this matter* - and is provided to support this damning document, as well as the many other factually strong representation we understand your likely to have received.

By way of a further introduction, we are active HMO landlords, management agents, investors and overall advocates of the Borough of Merton, who, across 12 years in operation, have placed over 3600 tenants and actively manage over 300 tenants at any one time.

During this we have experienced no complaints requiring the involvement of LB Merton, to the contrary, we hold an exemplary relationship with LB Merton Environmental Health team who we hold in the utmost esteem.

A business which, through the immediacy of the Article 4 implementation have already suffered losses, a suspension of all pipeline work - *putting derelict homes back on the market & stalling much needed housing stock* - and more worryingly, placing current conversion works at the risk of planning conjecture and timelines.

(1) <https://www.merton.gov.uk/council-tax-benefits-and-housing/private-housing/prsconsultation#toc-supporting-documents>

We will not delve into the councils position of liability again here as this is covered within our statement of 11th January 2023<sup>(1)</sup>, our legal councils letter dated 20th January 2023<sup>(2)</sup> and no doubt many other representations to the council.

Needless to say, LB of Merton itself has admitted liability within Committee minutes of October 2022, goes on to state *'It is not possible to quantify the claims that the Council might receive'*<sup>(3)</sup> without taking advice from a RICS surveyor; and even were the figure known, *'no provision exists in the capital programme for these'*<sup>(4)</sup>. Settlement that would only compound the **£4m** deficit the council already grapples with, alongside the inflationary erosion we are all working against.

We would record that through our attendance at all consultation events it has been tabled that at least seven claims, each with conversion costs upwards of **£150,000**<sup>(5)</sup>; excluding costs, would be made to the council and should planning not be successful (*an area we cover later within this response*) such claims would rise to encompass the value difference between a residential sale and the intended commercially valued HMO; a figure stated as *'not possible to identify the difference in value between a small 6 person HMO as opposed to a family home'*<sup>(6)</sup> - again without seeking advice from a suitably qualified RICS surveyor.

It is likely other conversions are underway within the borough but remain unaware of the immediate Article 4 and consultation process now underway (*an area we cover later within this response*)

Such careless acts, when entrusted with the public purse, are negligent at best.

We've chosen to break this response into the following sub-headings in order to aid the reader and subsequent reporting;

- *Timeline;*
- *Legitimacy;*
- *Data Review;*
- *Planning;*
- *Reasons for Implementation*

(1) See appendix 1 (2) RE.GILKSM.URB3012.000001 (3) 10th October 2022 Committee Cabinet meeting minute 4.13 (4) 10th October 2022 Committee Cabinet meeting minute 6.5 (5) See Appendix 1 for detailed cost example (6) 10th October 2022 Committee Cabinet meeting minute 4.15 & 4.16

## **Timeline:**

September 2022 - Meta Street: Private Rented Sector: Housing Stock Report issued

10th October 2022 - Committee table a consultation time table, including the heading 'Confirmation of Article 4 Direction approved by Council - April 2023'<sup>(1)</sup>  
- an unlawful act in itself with no consultation in place, yet at this meeting Council **approve the implementation of Article 4**<sup>(2)</sup> - *Meta Streets report has been in hand for a matter of weeks!*

10th October 2022 - Committee noted "Work has now commenced on procuring a specialist agency to undertake the consultation"<sup>(3)</sup>

20th October 2022 - Planning Committee noted the Borough was working towards an Article 4 Direction but at that juncture had no date set or mention of its Immediate implementation.

14th November 2022 - Consultation 'starts' - *provider and costs have been approved and preparation for consultation has occurred within 4 weeks??*

16th November 2022 - Immediate Article 4 given common seal

17th November 2022 - Article 4 active

(1) 10th October 2022 Committee Cabinet meeting minute 5.1 table titled 'Activity' (2) 10th October 2022 Committee Cabinet meeting Recommendation 3 (3) 10th October 2022 Committee Cabinet meeting minute 2 - point 6

## **Legitimacy:**

As the council are aware, for an Immediate Article 4 to be implemented a consultation process must be underway prior, this raises a series of questions:

- the consultation is dated 14th November 2022 but where and how was this consultation made public?
- Ourselves and our businesses are recorded on the licence register in excess of 30 times, yet only received notice on 5th December 2022, a notice dated 24th November 2022;
- Upon checking Mertons own Article 4 website on 6th December 2022 it was evident no record of the implementation of said Article 4 was present; or mention of the consultation process supposedly underway<sup>(1)</sup>;
- Contacting LB Mertons own Environmental Housing team at the same juncture, it was evident they too were unaware of the immediate Article 4!
- And most damningly, the approval for immediate Article 4 implementation was recorded under Recommendations: Point 3 of 10th October 2022 Cabinet Committee, some 1 month before the consultation was 'publicly' launched and before a consultation body was even appointed;
- Yet, during 20th October 2022 Planning Committee meeting<sup>(2)</sup> it was iterated on several occasions the potential for an upcoming Article 4 consultation but no indication or knowledge this action already having been agreed!

As recorded before, a series of wholly unlawful acts and ones that would appear to be predetermined; opposed to the legal requirement of determined following consultation feedback.

A fact that ties with our solicitors' questions around lack of '*robust evidence*'<sup>(3)</sup> or '*legal tests*' being met, as brought to Council's clear attention during 10th October Cabinet Committee meeting on a series of occasions.

To a third party observer reviewing the timeline provided above, it could be easily construed that this action was a given and as such the current consultation is all but an attempt to pass legal requirements in a budgetarily constrained manner.

Finally on this point, whilst we do not oppose additional licensing we'd question the lengths gone to bring this matter to the attention of those affected.

From our attendance at consultations little or no single let PRS providers have been present and we'd suggest this isn't simply through lack of interest but lack of clear and adequate notice being provided. Which would collaborate with the '*speeding up*'<sup>(4)</sup> noted throughout Octobers Committee meeting minutes.

(1) See Appendix 2 for website screenshot as of 6th December 2022 (2) 20th October Planning Committee meeting can be viewed here <https://www.youtube.com/watch?v=myYVpqpVpn8> (3) 20th October Planning Committee meeting minute 3.23 as an example (4) 20th October Planning Committee meeting section 4 'SPEEDING UP THE TIMESCALE'

## **Data Review:**

As referenced throughout the brief consultation document, Meta Street: *Private Rented Sector: Housing Stock Condition and Stressors Report - September 2022* is the sole basis of the 'robust' argument LB Merton puts forward as reason for the immediate and on-going need for Article 4 implementation.

Firstly, this data was reviewed and made decisions upon within a matter of weeks, ultimately triggering the authorisation of an immediate Article 4 on 10th October 2022 across 35% of LB Merton's wards - *this does seem like a very short space of time to consider, dissect and approve said data* - even within a private business of Merton Council's scale this would take time, let alone passing through the rigorous protocol of a council!

Secondly, this report draws out a series of interesting statements:

- *"The private rented sector (PRS) in Merton has grown steadily since 2011"* (1)
- *"Tenure percentage change over the last two decades in Merton has been consistent with the London trend.... However, a sizeable proportion of the growth appears to come from new supply"* (2)
- *"Rapid PRS growth has been seen across London over the past 20 years. The policy response has generally been for greater regulation of the market through property licensing ....., including HMO's"* (3)

And concludes:

- *"Merton receives moderate numbers of complaints from tenants in the private rented sector"* (4)
- *"There are moderate levels of recorded ASB linked to private rented properties across the borough"* (5)

LB Merton commissioned said report but purports to ignore the resulting conclusions that Merton is no different to other London Boroughs, receiving *moderate* levels of tenant complaints and *moderate* levels of ASB complaints.

This does not bring the need for "*protecting local amenity and well being*" greater than any other London Borough and therefore does not pass the necessary 'test' levels to warrant the adoption of Article 4, let alone immediate Article 4.

(1) 2.2.1 - Page 22 PRS report (2) 2.2.1 - Page 22 PRS report (3) 3.1 PRS Strategy - London - Page 22 PRS report (4) Conclusions - page 49 PRS Report (5) Conclusions - page 49 PRS Report

As confirmed by Meta Street in their reporting; “*policy response has been ... for greater regulation of the market through property licensing*”. Something, as evidenced by both LB Ealing and LB Wandsworth, naturally creates a reduction in stock, with these boroughs experiencing 59% & 58% declines respectively<sup>(1)</sup>.

We then move on to review the ‘*robust*’ data provided, as reason behind this consultation, comparing this alongside London as a whole - *which LB Merton forms part of and is tasked to work in the joint interest of* - an exercise we understand not undertaken by LB Merton to date.

These comparisons have been made using the Meta Street report relied upon by LB Merton in their decision making to date with the following key takeaways<sup>(2)</sup>:

- LB Merton is the seventh least populated borough in London, housing a population density of **37.9** - *only surpassed by Boroughs in zones 5 & 6 (excluding Richmond & Hounslow)*;
- All neighbouring boroughs house greater population densities - with Wandsworth housing **99.2** people per hectare and Lambeth housing **95.55**;
- LB Merton PRS equates to 34% of its housing stock, falling below the London average of 35% - *ranging from 47% in LB Newham to 27% in LB Islington* <sup>(3)</sup>
- LB Merton HMO's as a percentage of stock sits at 2.07% compared to the London average of **5.6%**, with wards falling into this consultation as follows:
  - Colliers Wood = 2%
  - Cricket Green = 2.3%
  - Figges Marsh = 3.3%
  - Graveney = 5.5%
  - Lavender Fields = 1.7%
  - Longthornton = 3.4%
  - Pollards Hill = 3.5%

Upon review of these facts, it can be seen LB Merton sits below London averages in density, PRS and HMO provision, and that this process is driven by political pressures not planning needs.

It can also be concluded that the level of data held, along with level of review undertaken and the time given to do so; between its issue in September 2022 and Committee recommendation on 10th October 2022, in no way constitutes **robust** evidence - more so a rushed effort, presenting the information aligning with LB Merton's cause and not ‘*taking into account the strategic as well as local importance of HMOs*’ as noted within the London Plan, 2021<sup>(4)</sup>

It is clear the only action to be taken at this juncture is the **reversal** of the immediate Article 4 action and the re-planning of a robust, impartial and compliant consultation process, providing minimum 12 months notice.

(1) Octane Capital data  
<https://www.landlordzone.co.uk/news/shock-drop-in-number-of-hmos-blamed-on-growth-of-council-licensing-schemes/> (2) see Appendix 3 for full data sets (3) Meta Street Report table 3 pg 47 (4) London Plan 2021 para 4.9.4

## **Planning:**

In regards planning policy generally, LB Merton's obligations to it, and the lack of consideration given prior to this consultation being put in motion, we'd draw your attention to our solicitors correspondence<sup>(1)</sup> and other objections provided to you; including that of Platinum Property Partners. However, we would again record that Planning is the control of land use, **NOT** control of quality of rental stock or management of the same.

LB Merton acknowledge the need for HMO's as an essential part of its housing stock, yet the approach recorded within Planning Committee meeting of 20th October 2022 - *publicly available*<sup>(2)</sup> - raises significant questions in this regard, and whilst it is understood HMO specific planning policy is being worked towards with the relevant party soon to be appointed, it is suggested that until such policy is in place LB Merton will be positioned to block all future HMO applications to the detriment of its own emerging housing plans and London as a whole.

We draw your attention to the following extracts from "CODE OF PRACTICE AND PROCEDURES - FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS IN THE LONDON BOROUGH OF MERTON - APRIL 2003"<sup>(3)</sup> and discuss these around the recording of 20th October 2022 Committee meeting when considering 153 Links Road; a case which met all defined needs, space standards, was statutorily compliant and as such had been recommended for approval before being brought before Committee at the direct request of Councillors;

- 5.1 - *'Members of the Planning Applications and Licensing Committee, must take care about expressing an opinion on a planning application or proposed planning applications which may indicate that they have already made up their minds before being exposed to the full information, planning assessment and debate at Committee. In such situations they should restrict themselves to giving procedural advice and remain impartial, ..... If a Member did express an opinion it may be difficult for that Member to argue convincingly when the Committee considers the application that they are weighing the arguments at the meeting..... proper course of action for the Member is to make an open declaration and not vote.'*

It is clearly evident from introduction Cllr Kirby (MBE) holds adverse feeling for such developments and had *'made her mind up'* in regards space standards (*even following receipt of the Officer report confirming the scheme complies with both national and Merton policy*), that the area is *"plagued"* (following Officer confirmation of a local 'saturation' of only 2.5%), raising likely revenue raised as a planning consideration and presumed the use class of said HMO to be for social housing - *neither of which had been supplied to Council or sought by them*.

(1) RE.GILKSM.URB3012.000001 (2) <https://www.youtube.com/watch?v=myYVpqpVpn8>

(3) <https://democracy.merton.gov.uk/Data/Licensing%20Committee/20050201/Agenda/3152.pdf>

- 5.2 - *'If Members of the Committee are pressed to express an opinion they shall make it clear to interested parties that they are only able to express a view after hearing all the arguments at Committee.....'*

With such strong opinions 5.2 of the code should have been followed, only expressing views after hearing all arguments at Committee.

- 5.2 - *'.....In no circumstances should any Member/Members give any indication or undertaking that could be construed as committing the Local Planning Authority to one particular outcome.'*

And in breach of 5.2; the opening, emotive statement around 153 Links Rd was closed with a plea for fellow Cllrs to follow suit and refuse permission based on presumptive not planning grounds.

- 5.7 - *'Members of the Committee must make their own decisions on applications, and must not be mandated by party (or other) groups. There must be no use of "whips" at the Committee.'*

Following the above Councillors who had attended open for approval; based on the factual information provided in advance, were subsequently swayed by: inaccurate, emotive and in several cases wholly incorrect statements made during the Committee session.

- 10.3 - *'There shall be consistency in recommendations which must be reached entirely on planning merits'*

Whilst the Planning Chair acted admirably in his attempt to bring emotive opinions back to planning grounds, the application at worst should have been debated impartially and if felt necessary, conditions or further engagement been requested around the areas highlighted:

- Over Development & Density - LB Merton Planning Officer confirmed density of 2.5% (any other figure is speculation and objective) and the property met all space standards - *as can be seen from the submitted development proposals undertaken by a team of industry professionals; not a rogue landlord.*
- Lack of Quality - no clarification was sought of the applicant to ascertain the level of quality or tenant type - *views were however made based on suggestions that the photos provided within the **proposed** application gave an indication of its anticipated quality - it was ascertained earlier in the session that works had yet to start!*
- Design - LB Merton Planning Officer confirmed the scheme **met** HMO standards and that LB Merton Housing Team had reviewed with no comment on space standards or amenity - yet Councillors took the opinion these Nationally approved standards were unacceptable?
- Waste Management - LB Merton Planning Officer confirmed adequate space had been allocated for bin storage; subsequent control then comes down to management through licensing of the property - *not a planning matter.*



Unfortunately, the proposal was refused on grounds; and in ways, that as can be seen above miss planning guidance by quite some degree. As such will no doubt be contested via appeal, creating increased financial implications for both parties - as well as slowing much needed quality housing stock entering the market.

- 12.4 - *'An Officer from the Council's Legal Services Section must attend meetings of the Planning Applications and Licensing Committee to ensure that procedures are properly followed.'*

LB Merton acknowledges it requires; and supports the PRS sector - *including HMO's*, as much needed housing supply, yet purports to make statements such as *"the sooner we get an Article 4 the better"*, *"Landlords we're coming for you"* and continued questioning over an applicants fitness generally - potentially very damaging and personal statements, in no way linked to planning matters.

We'd question whether the Councils Legal Services team were in attendance and have considered the potential ramifications to both the Council and the public purse of such actions?

It can be concluded from this meeting alone, the disdain for such developments and interestingly, its use for social housing provision - something we find hard for a Council to be against as the very body who more often-than-not approves the placement of persons into such accommodation through homeless and housing schemes.

It should also be noted that the implementation of Article 4 for change of use from class C3 to C4 has the greatest ability to only affect the top end of the market - *which LB Merton have confirmed they want more of* - as those operating at the bottom end of the housing sector can continue to operate with multi share houses; especially of vulnerable groups as housing use class does not change:

*'Use Class C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems'*

*'Use Class C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section'*

Once again, the thoroughness of review of; need, implementation and outcome seem ill considered and are set to do little to aid current issues but further constrain housing supply

## **Reasons for Implementation:**

It has been hard to ascertain the exact and 'robust' reasons behind the immediate & ongoing implementation of the Article 4 Direction from the consultation document alone; other than a perceived need for "*protecting local amenity and well being*" with no true threat or quantum outlined.

However, through attendance and interrogation of LB Mertons team during the consultation process we believe the four key drives can be summarised as follows;

1. Anti Social Behaviour
2. Parking Provision
3. Waste Management
4. Space Standards

As no exploration or comment has been shared by LB Merton within the consultation documents made available we take the liberty of discussing these points below:

### **Anti Social Behaviour (ASB)**

It is understood the council; and councillors more directly, find themselves dealing with complaints of ASB from poorly managed HMO's on a far too regular basis. As a quality provider ourselves we sympathise with these parties and agree greater control, along with regularity of enforcement is required.

Currently, it has been admitted that the Housing team do not have the resources to regulate the sector as required, to investigate poor quality properties and to follow up with the likely rogue landlords behind them.

However, following the implementation of the proposed selective & additional licensing schemes it is understood circa £6m<sup>(1)</sup> revenue will be created, allowing significant funding for greater enforcement across the 5 year licensing period - revenue equating to £1.2m per annum or £100,000 per month to employ greater staff numbers and implement greater IT & AI support around them<sup>(2)</sup>.

As can be seen, from its essence, ASB is a management issue and not the place of the planning system which must remain impartial in the review of land use only.

Following on from offers within our previous correspondence to LB Merton we'd welcome the opportunity to support the councils teams through use of our experience gained managing hundreds of properties and thousands of tenants across 12 years in operation. We are in fact surprised that as one; *if not the*, largest specialist letting company within this space in Merton Borough, that such an approach has not been raised to consider how private and public enterprise could aid addressing the problem Merton's Councillors feel deeply about and have been discussing for some time...

(1) Extrapolated from the number of predicted PRS dwellings within Meta Street data and the proposed licensing fee structure (2) Strategy proposed by LB Merton team during consultation events

## Parking Provision

It has been raised that HMO properties create disproportionate car parking requirements over and above those required of a residential property, however no data has been provided to evidence this assumption.

During the consultation of 18th January 2023 it was voiced by those HMO landlords present that tenants of such properties rarely rely on private transport, often due to cost constraints, or more often in our case, the ease of use of public transport for commuting to and from work - *LB Merton is an exceptionally well connected Borough, enjoying National Rail, Thameslink, Crossrail 2, and Northern Line rail connections spread across 14 stations, as well as the Croydon Tramlink, extensive TfL bus services and strong cycle interconnectivity; including Cycle Super Highway CS7.*

Following this meeting we have analysed 36 HMO's, housing 192 tenants, across LB Merton to understand parking arrangements - with key results below:

- Across all addresses no more than two cars exist;
- Out of 192 tenants, only 3 park on the public highway;
- 64% of adults within Merton have access to a car<sup>(1)</sup>;
- However only 15% of HMO tenants have access to a car;
- In LB Merton each property is allowed to apply for three permits;
- Across the 36 HMO's sampled car ownership doesn't surpass two cars

As can be seen, **a net reduction** occurs when changed from C3 and C4 use.

It should also be noted that the needs for regular travel to-and-from work places have reduced significantly following the changed working habits brought about by COVID, again making private transport cost prohibitive. And this is no different in the HMO setting where many tenants work-from-home 3+ days per week.

In summary, HMO accommodation encourages a significantly car-less lifestyle, often due to the careful citing of properties near key transport links and contrary to opinion here, often leads to a net **reduction** in the need for parking provision as evidenced.

Should LB Merton wish to review the numbers further we'd suggest the ability exists to overlay the HMO property addresses; held on its own licensing database, with parking permits issued, held on its parking system database. Providing a quick oversight of car numbers per property - C3 V C4.

(1) TfL Technical Note 12 - How many cars are there in London and who owns them? Table 11

Should control then be required LB Merton can do so in two, **already existing** ways;

Firstly, use its CP zones, covering large swathes of the wards in discussion, to control permit numbers issued per property - capped at three permits per C3 home - or at a reduced level as our analysis shows it is rare to even have two cars at a C4 6 bed property. **A net reduction overall.**

Secondly, supplement licensing standards with the need for parking provision or designation of number of rooms to be let to those with/without cars as a condition.

As such, this again is not a planning issue but implementation and enforcement, made possible by the use of the improved Environmental Housing teams enhanced budget proposed through selective and additional licensing.

### Waste Management

As suggested in the title, waste management is a matter for good management and if necessary, enforcement - **not planning**.

Whilst planning can define space for bins it does not enforce the use of them in a managed way, and appears a very blunt tool to suggest planning be sought just to agree bin sizes when a C3 'residential setting' could house upwards of four family members - the addition of two more persons is hardly cause for planning.

We do however agree, the detail around refuse provision within the HMO standards is limited and could be easily amended to incorporate LB Mertons size requirements, allowing direct enforcement; or refusal of licence, if not adhered to.

### Space Standards

Space standards are set at a national level and adopted by individual Councils to prevent personal opinion creeping into planning decisions. These clearly define the space required for all habitable rooms and are easily enforceable through the licensing system - *those who don't seek a licence, it is suggested, similarly wouldn't seek planning!*

We look forward to LB Merton issuing their HMO specific design guidance for all new planning applications submitted following any A4Dand await its content with anticipation, it has been noted however that the drafting of this document has not yet begun.

Until such time as this is available the National Standards remain those adopted by LB Merton and enforced by their licensing team, therefore it should be these all planning and committee members are guided by whenever reviewing HMO applications.

As HMO's may not be the place many of those making these decisions live, we'd invite any party of the council to join us in experiencing what these sizes really equate to in any of our properties, and to interact with the tenants who call these houses 'home'.

Design quality; as always, is a matter of conjecture, and it's often that differing parties' tastes vary depending upon many things including: age, background, exposure and financial circumstance.

As Merton is an inclusive and welcoming Borough, it is essential housing provision is made across the spectrum of need - *as long as all are adhering to licensing and management standards.*

Once again it can't be said that planning is the tool for addressing this matter, and as can be witnessed from the Planning Committee of 20th October 2022, to put this matter into the hands of planning without clear and concise guidance is a grave risk to immediate housing supply.

### **Conclusion:**

1. As can be seen through each part of this response, the implementation of Article 4 has been predetermined - an act wholly at odds with the intended consultation process;
2. 'Approval' for the implementation of an immediate Article 4 was made during Committee meeting of 10th October, over 1 month before a consultation process commenced, and even before a consultation partner was engaged;
3. Meta Street PRS report of September 2022 is referenced as the only evidence based research decisions have been based upon, yet LB Merton's own team have noted the flaws and limitations of this data - alone this does not equate to '*robust evidence*';
4. Ignoring these possible flaws and taking this report as the only available information, no attempt has been presented to compare this data across LB Merton as a whole or how it performs on a wider; strategic level with London. Meta Street's own conclusions - *as professionals operating across the UK* - report the problems raised to be issues under this consultation as '*moderate*' in all parts and that Merton PRS reflects trends seen across London as a whole;
5. When reviewed at this strategic level it can be seen that LB Merton is one of the least densely populated Boroughs, has **below average** quantities of both PRS and HMO provision, and could be seen as a strategic area for housing growth - in all its forms;
6. Echoing this position, the census of 2021 records that **30%** of LB Merton properties are considered **under-occupied**;
7. The implementation of Article 4 is hoped to remedy matters that simply aren't addressable by the planning system, adding yet further pressure to a stretched system - *'there will be an increase in the number of planning applications received following the introduction of an Article 4 Direction'*<sup>(1)</sup> - and directly slowing the creation of much needed housing stock;

8. With no planning policy in place; as well as what could be perceived as an aversion to HMO's generally, the future supply of legitimate HMO's will cease - *only fueling the demand for those who give no regard to the licencing or planning system*;
9. The intent for Article 4 to curb the stated "*plague*" of HMO's for social purposes is wholly flawed as it remains possible to house up to 6 people for social purpose under use class C3(b) with no change of use required;
10. And most recklessly, no cost appraisal has been sought or suitably qualified RICS surveyor consulted with to understand the quantum of potential claims LB Merton risks should this action continue - *other than to take comparison to Trafford; a Greater Manchester borough with an average house price of half that of Merton!* A totally flawed comparison and inadequate consideration of the public purse.
11. It is implored that LB Merton take stock of the information provided across this consultation and desist from the unlawful actions and implementation it is purporting as legitimate consultation;
12. And, should this not be forthcoming we seek the Secretary of State take up this matter, suspending all consultation actions; including the retraction of the immediate Article 4 until '**robust**' evidence is provided as a minimum, and ideally it is requested LB Merton follow the protocol set out by planning law else dangerous precedent be set for Councils across the UK to undertake illicit implementation of Article 4 Directions.

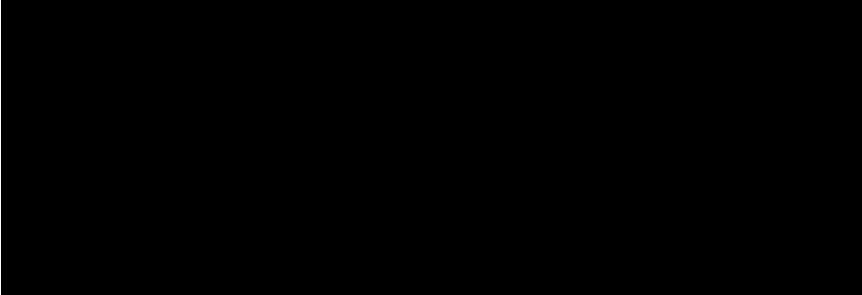
Finally, we wish to confirm this response comes with no pleasure and has incurred considerable cost; financially, time spent and stress. However, it is essential someone takes the necessary stand when due process is not being followed; especially at our governing level.

We understand the underlying intent may be for good, however - *unintentionally or not*, these actions have placed grave financial risks on businesses (and individuals) like ourselves acting lawfully within the borough turning under utilised stock into great homes, has placed greater pressure on tenants seeking rooms who already face 14 people for every 1 room available<sup>(2)</sup>, has stopped the supply of future stock (we've dropped our future pipeline of 18+ rooms for 2023 alone) and has knowingly risked ratepayer money - *money that could be used for so many better purposes at this challenging economic time*.

We hope the good intent can be seen in our response and look forward to the opportunity to work with the LB Merton in support of the problems it looks to address.

(1) 10th October 2022 Committee Cabinet meeting minute 6.4 (2) [www.spareroom.co.uk](http://www.spareroom.co.uk) data taken 20.01.22 - 147 rooms available and 2102 tenants seeking rooms in LB Merton

Yours faithfully,



# APPENDIX 1

(EMAILED STATEMENT)



## IMMEDIATE ARTICLE 4 IMPLEMENTATION - FAO: Tara & Lesley

1 message

11 January 2023 at 14:11

To: future.merton@merton.gov.uk

Tara & Lesley,

Thank you for your time yesterday (10th January 2023) during the online Consultation Workshop Meeting.

Following our conversation we wished to again formally provide the attached statement as shared during that meeting.

We can confirm that since the meeting we have had contact from further parties affected by the unlawful implementation of this immediate action and sadly the likely quantum is growing yet further by substantial amounts; as warned within our statement. This is likely to only grow further.

No party wishes to take such action but are being placed in a position of grave financial risk and at no fault of their own. To simply suggest planning be sought is unfortunately not a straightforward or fast process, it is a lengthy one fraught with risk and will place yet further pressure on a very busy council department. All risks, delays and costs that will be held by these individuals and sadly will be factored into claims made.

As mentioned within our statement, we are open and welcoming of engaging directly with the council to work through this matter, and again is our reason for reaching out directly to yourselves. We do however have significant pressure from our working party and associated financial institutions, for our Barrister to commence legal representations.

We would like to request that direct contact be made and assurance given by 18th January to avert this action being necessary.

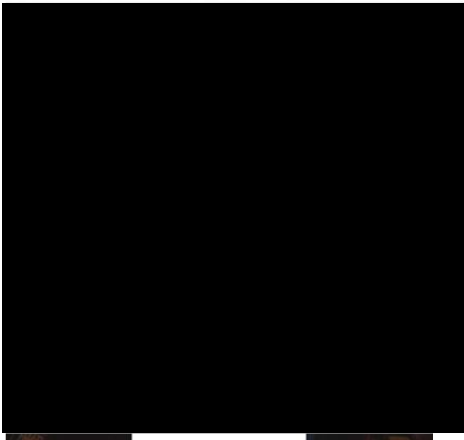
Attached is further detail on a previous project within the borough, completed in 2022 and clearly breaking down the costs associated (*this project had no extension work so is on the lower end of conversion expenditure*), the property value increase is also clearly noted - hopefully this provides clear sight to the council that the quantum of claim we are drawing to your attention is in no way over played and a long way different to that suggested within Octobers Cabinet Report.

This matter has also been brought to the attention of Siobhain McDonagh MP for Mitcham & Morden and we are looking forward to discussing these matters with her shortly.

Finally, we'd ask if the morals behind these decisions really align with how Merton Borough wishes to be perceived? And is flouting Planning Law the right example to set when its purpose is to hold others to operate within the Law?



Registered Office: Unit 1, The Apprentice Shop, Merton Abbey Mills, Watlington Way, London, SE14 2RU



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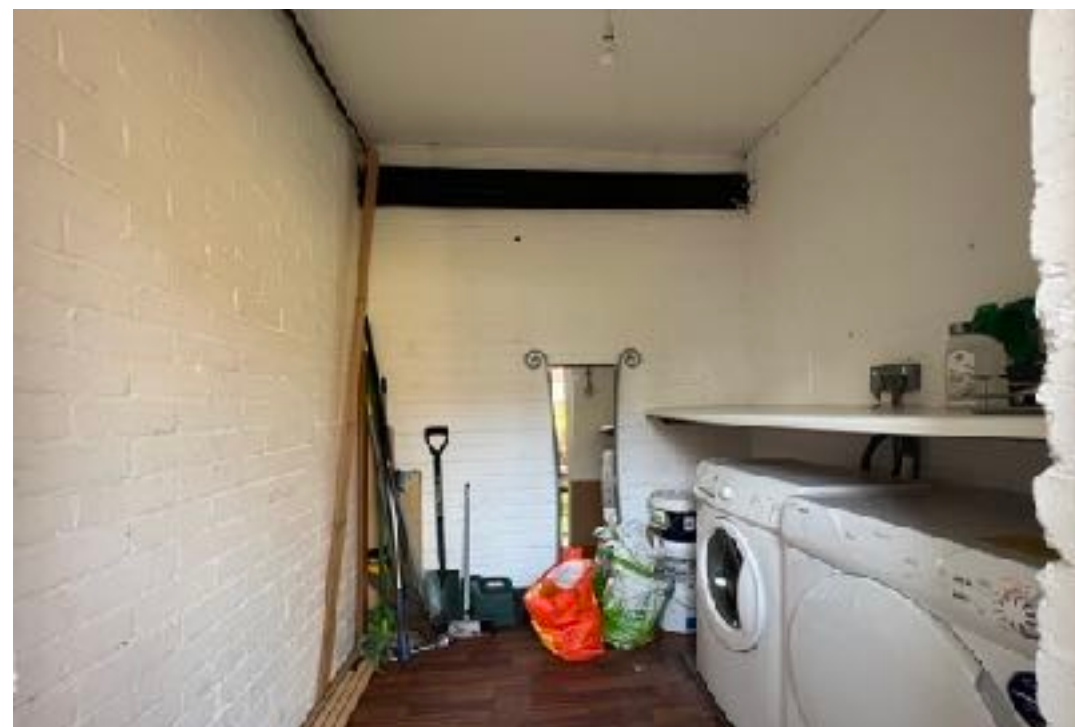
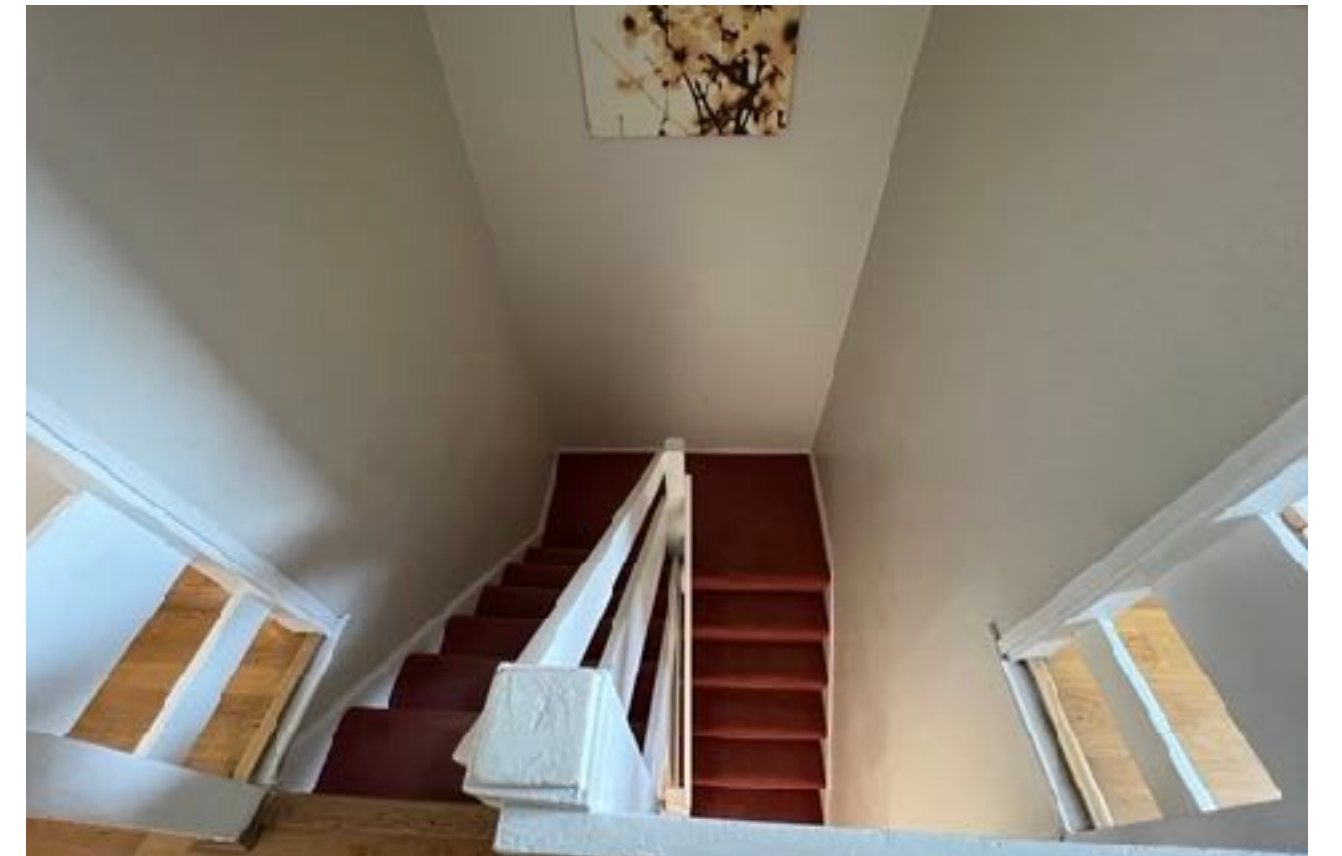
**2 attachments**

 **Article 4 Direction - Statement Pack 10.01.23.pdf**  
3524K

 **Pricing Information for Council - 11.01.23 (1).pdf**  
1215K

the property;





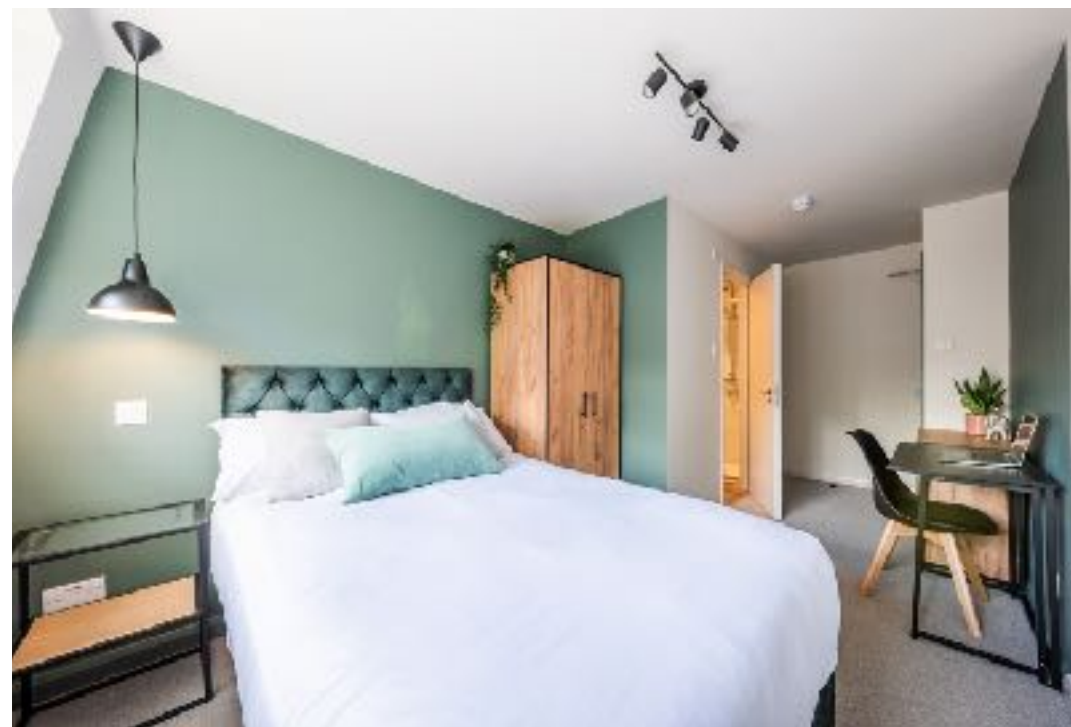
existing;





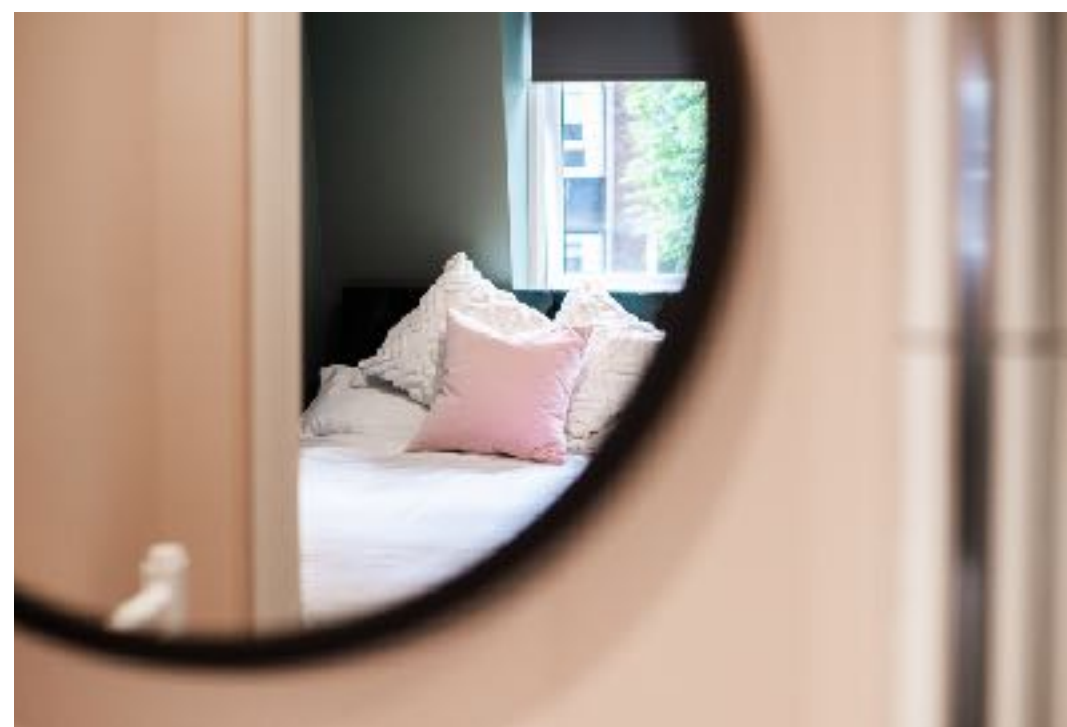
communal;





bedrooms;





ensuites;

*capital costs;*

<i>item</i>	<i>description</i>	<i>£</i>
<i>purchase</i>	'on market' purchase	£468,000
<i>conveyance</i>	SDLT, legals & disbursements	£30,845
<i>finance</i>	fees, valuation & interest	£36,640
<i>design</i>	architectural, planning & building control	£2,700
<i>conversion</i>	conversion & alteration to shell condition	£86,100
<i>fit out</i>	decoration, tiling, flooring & furnishing	£57,510
	<b>TOTAL</b>	<b>£681,795</b>

*post works value;*

<i>item</i>	<i>description</i>	<i>£</i>
<i>revaluation</i>	post works value	£995,000



*specification;*

- full renovation/conversion
- all en-suite rooms
- business Virgin & ubiquity wi-fi points on all floors
- robust finishes throughout;
  - solid core doors (inc. en-suites)
  - quality ironmongery & key suite throughout
  - quality sanitary fixtures & fittings
  - fixed head & handheld showers
  - Karndean flooring to communals & en-suites
- 300ltr unvented HW system & new CH
- electric towel rails with 'on demand' controls
- communal/kitchen;
  - integrated & soft close kitchen units
  - solid stone worktops & splashbacks
  - ample storage - fridge/freezer, freezer (+fridges beds 1, 2, 3 & 4)
  - cooking - induction hobs, extraction, double oven, microwave
  - washing - dishwasher, 1.5 sink & hot water tap (no more kettles!)
  - seating for 6 to eat (in doors & out)
  - defined lounge space
  - 50" smart wifi TV with Virgin connection
  - zoned lighting
- separate utility with 2x washer/dryers & storage
- zoned fire alarm system hard wired - best in class

“a package of works which have driven an *EPC rating of C (77)*,  
improved sustainability and greater comfort.”



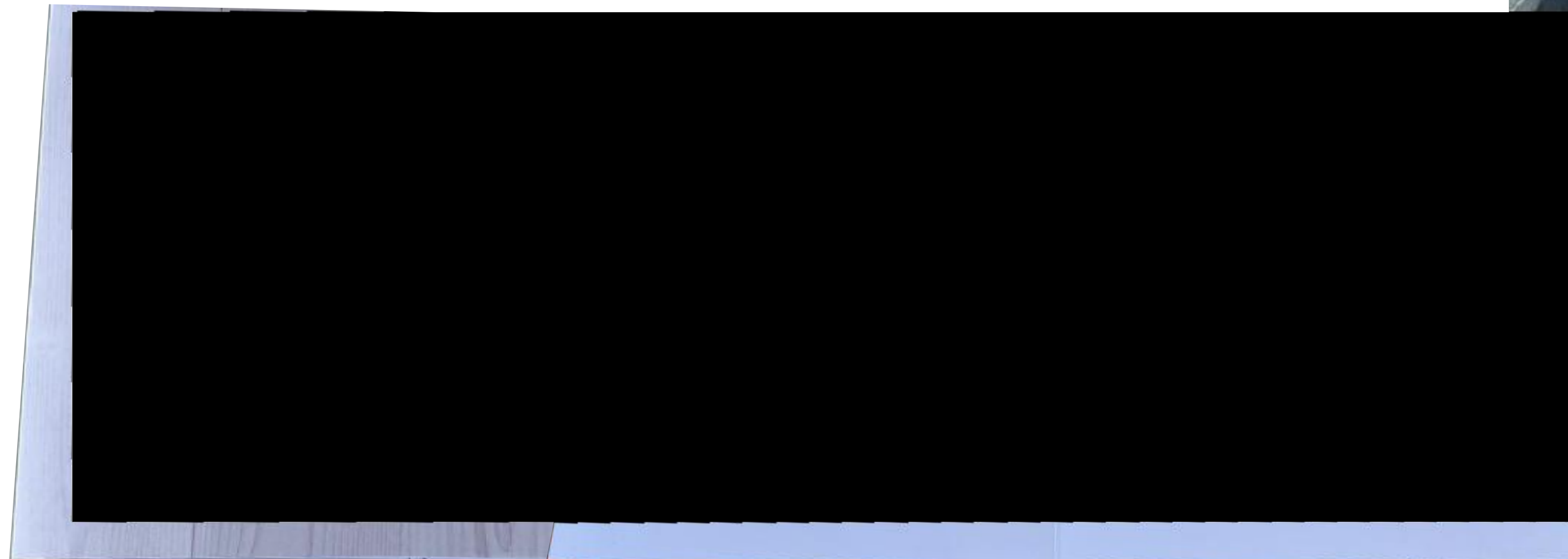
by creating a great product, tenant demand allows us to build a cohesive, coliving house share.

to kick off this new group of friends what better than dinner, drinks & jenga on us?!

the best way to break down those early barriers!

instilling a sense of community early is great for the housemates and also for our management of the house as a whole; win-win

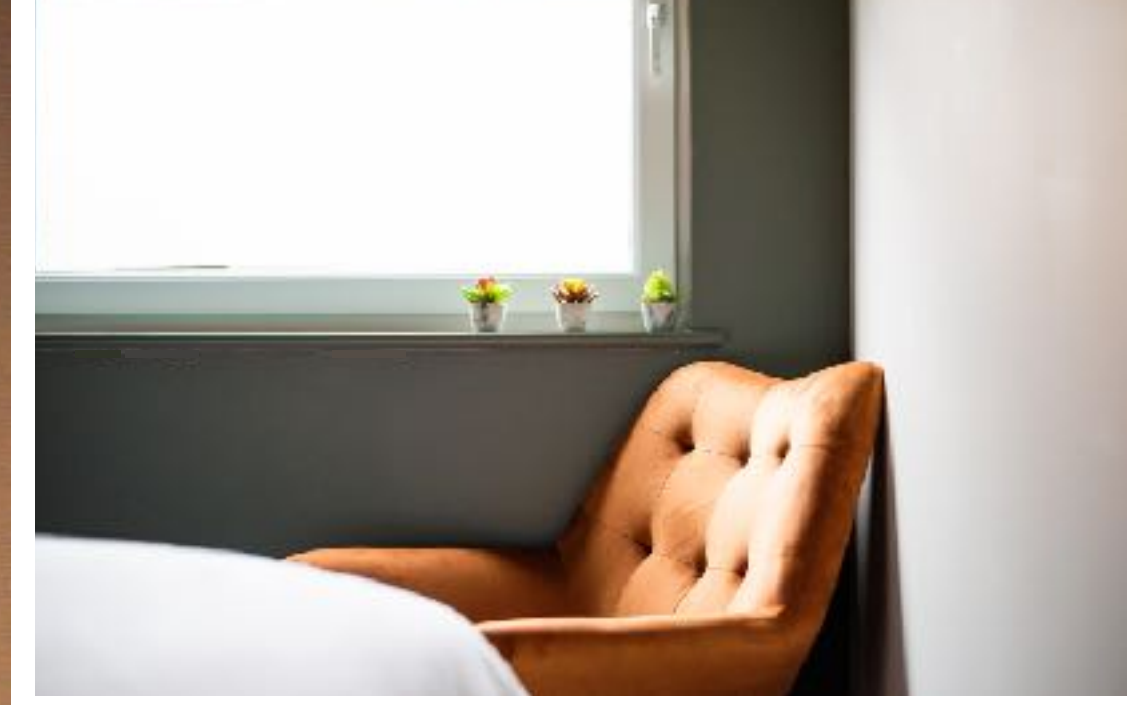
housemates include; nurses, accountant, architect, film editor & managerial posts







*“if we don't control our environment, our environment controls us”*





# APPENDIX 2

(WEBSITE SCREENSHOT)



Services

News and events

Home > Planning, buildings and environment > Planning

# Article 4 directions removing permitted development rights

Article 4 directions remove permitted development rights within a certain area. In these areas you may need to submit a planning application for work which normally would not need one.

## On this page

- > [John Innes Merton Park and Wilton Crescent conservation areas](#)
- > [Conversion of offices to homes](#)
- > [Erecting marquees during Wimbledon tennis championships](#)
- > [Conservation and design office](#)

### Related information

- [Planning applications](#)
- [Planning enforcement](#)

## John Innes Merton Park and Wilton Crescent conservation areas

For information on Article 4 directions in the John Innes Merton Park and Wilton Crescent conservation areas see [Conservation Areas](#).

## Conversion of offices to homes

Usually, you don't need to apply for planning permission to convert offices to homes but it's required in certain areas of Merton where an Article 4 direction applies. The direction was introduced following consultation and is designed to protect businesses, jobs and services in these areas.

The areas are:

# APPENDIX 3

(LONDON BOROUGH DENSITIES & HMO  
STATISTICS)

<i>LB</i>	<i>Area (km2)</i>	<i>Population</i>	<i>Density (per hectare)</i>
Barking & Dagenham	36.11	163,944	45.4
Barnet	60.57	218,307	36
Bexley	60.55	247,258	40.83
Brent	43.2	263,464	60.9
Bromley	150.12	295,532	19.7
Camden	21.81	198,020	90.8
City of London	2.9	7,185	24.8
Croydon	86.5	330,587	38.2
Ealing	55.53	300,948	54.2
Enfield	82.21	338,201	41.14
Greenwich	47.36	214,403	55.3
Hackney	18.98	202,824	106.4
Hammersmith & Fulham	16.39	165,242	100.8
Harrow	50.44	206,814	100.8
Haringey	29.58	216,507	73.2
Havering	112.27	224,248	20
Hillingdon	115.69	243,006	21
Hounslow	56	212,341	37.9
Islington	14.85	175,797	118.3
Kensington & Chelsea	12.15	158,919	131
Kingston	37.24	147,237	39.5
Lambeth	26.84	266,169	99.2
Lewisham	35.16	248,922	39.5
Merton	37.61	212,341	37.9
Newham	36.23	243,891	67.3
Redbridge	56.41	212,341	42.3
Richmond	57.41	172,335	30
Southwark	28.85	244,866	84.9
Sutton	43.86	179,768	41
Tower Hamlets	19.77	196,106	99.2
Waltham Forest	38.78	218,341	41
Wandsworth	34.27	327,451	95.55
Westminster	22.04	181,286	84.4
<b>AVERAGE</b>		<b>226,081</b>	<b>63.08</b>

HMO Statistics LB Merton V London

Ward	No of PRS dwellings	% PRS	No of dwellings	No of HMO's	% of HMO's
1 Colliers Wood	1,969	39.8%	4,947	99	<b>2.0%</b>
2 Cricket Green	1,378	30.8%	4,474	101	<b>2.3%</b>
3 Figge's Marsh	1,165	28.3%	4,117	135	<b>3.3%</b>
4 Graveney	1,742	40.9%	4,259	235	<b>5.5%</b>
5 Lavender Fields	1,511	33.6%	4,497	78	<b>1.7%</b>
6 Longthornton	1,350	31.7%	4,259	143	<b>3.4%</b>
7 Pollards Hill	1,230	30.0%	4,100	143	<b>3.5%</b>
<b>TOTAL</b> Merton borough			85,767	1,774	<b>2.1%</b>
London			3,485,000	195,000	<b>5.6%</b>

Information Sources:

1\* *Metastreet report commissioned by LB Merton dated September 2022 - tables 4 & 5, pages 50 & 51*

2\* Total number of London dwellings from <https://www.statista.com/statistics/585272/number-of-dwellings-london-uk/>

3\* The Mayor of London Supplementary Planning Guidance (2016) on housing advises at paragraph 3.4.1 there are "an estimated 195,000 (HMO's) in total" across London. And that "Collectively, they are a strategically important housing resource, providing flexible and relatively affordable accommodation through the private market".