

## MEMORANDUM

**To:** Managing Director                      **Attn:** Allison Letts

South London Legal Partnership

**From:** Planning & Highways Team

**Date:** 30-03-22

**Subject:** 12A Deer Park Road, South Wimbledon, London  
SW19 3TL

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**Enforcement Notice ref: 20/E0072**

### OFFICERS REPORT

#### 1. Alleged Breach

The unauthorised conversion of an industrial/office block to a 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis) without planning permission.

#### 2. RECOMMENDATION SUMMARY: Issue enforcement notice

#### 3. SITE DESCRIPTION

3.1            The Subject site, 12A Deer Park Road, South Wimbledon, London SW19 3TL is located on the second floor of a former mixed use factory and office building located on the Lombard Business Park, in South Wimbledon, a designated strategic Industrial location. There is an interior design company on the lower floor and dry cleaning company to the rear of the site. It is not in a conservation area.

#### 4. PLANNING HISTORY

##### 4.1            **20/P2018**

Application for continued use of the property as a House of Multiple Occupation (16 room HMO) . REFUSED 17-05-21

Reasons for refusal

1. The proposals, by reason of the nature of the residential use and its location within a Strategic Industrial Location would result in the unacceptable loss of the site for industrial purposes for which there is an identified need, and introduce a noise sensitive use in an area where legitimate expectations of generating noise are concomitant with the successful and long term operation of industrial uses and associated

activity. The proposals would therefore be contrary to policies D14, E4 & E5 of the London Plan 2021, policies DM.EP2 and DM.E1 of the adopted Merton Sites and Policies Plan 2014 and policy CS12 of the adopted Merton Core Strategy 2011.

2. The proposals by reason of their location, design and layout provide an unattractive, unsecure and poor quality living environment whereby occupiers are susceptible to noise and fumes from nearby industrial premises with poor quality living and amenity facilities that are not fully integrated into any residential surroundings such as to be detrimental to the amenity of occupiers. The proposals therefore fail to accord with policies D3, D13 & D14 of the London Plan 2021, policies DM D2, DM EP2, DM EP4, DM H2 & DM H5 of the adopted Merton Sites and Policies Plan 2014 and policies CS9 & CS14 of the adopted Merton Core Strategy 2011.
3. The proposals, by reason of failing to provide any safe and secure facilities for the storage of bicycles, would fail to promote a healthy environment and more sustainable modes of transport contrary to the following Development Plan policies for Merton: Policy T5 of the London Plan 2021 and policy CS18 of Merton's Core Planning Strategy 2011.

#### **19/P4085**

Application for a certificate of lawfulness in respect of the existing use of the second floor of the property as a large 16 room House in Multiple Occupation. The applicant failed to demonstrate the sui generis use had been in operation continuously for 10 years. REFUSED 6-02-20.

*Reason for refusal;*

*The use of the premises is as a 16 bedroom HMO, and is therefore a sui generis use. The applicant has failed to demonstrate that this sui generis use has operated continually and in uninterrupted manner for a minimum period of 10 years and therefore the use has not become lawful and planning permission would be required.*

#### **17/P0379**

Pre application advice in relation to a proposed Extension into the loft in order to form an additional storey to create 14 x bedsits. Applicant was advised this was not a matter that would receive officer support.

#### **13/P2132**

Prior approval not required in relation to the change of use of second floor from office (use class b1(a)) to residential (class c3) creating 4 x 1 and 2 x 2 bed flats. Not implemented.

## 5 **ENFORCEMENT HISTORY**

### 5.1 **20<sup>th</sup> February 2020 ref: 20/E0072**

Complaint received internally, alerting the planning enforcement team that the building in the Lombard industrial Park has been converted into a 16 x bedroom HMO without planning permission.

### 5.2 **18<sup>th</sup> January 2016 ref: 16/E0025**

Conversion from office to HMO

### 5.3 **4<sup>th</sup> June 2015, ref: 15/E0235**

Unauthorised conversion to residential use

### 5.4 **28<sup>th</sup> October 2015 ref: 15/E0503**

Property in use as an HMO

## 6. **ENFORCEMENT ACTION**

### 6.1 **12<sup>th</sup> November 2021**

Appeal lodged by proprietor against the Council's decision to refuse permission on planning application 20/P2018 for continued use of property as a house of multiple occupation (16 room HMO) for 10 years.

### 6.2 **22<sup>nd</sup> July 2020**

The Met police sent in comments regarding the location and advised that there is insufficient CCTV security within the isolated block

### 6.3 **17<sup>th</sup> June 2020**

A retrospective planning application ref: 20/2018 was submitted for the use of the property as a 16 room HMO Refused 17<sup>th</sup> May 2021

### 6.4 **20<sup>th</sup> May 2020**

The Council received an email from Quantum securities, confirming receipt of warning letter. They informed the council that due to covid restrictions, they had not been to the office and only just received the correspondence and were attending to submit an application.

### 6.6 **24<sup>th</sup> April 2020**

Sent warning letter giving 2 months (19th June) to submit an application.

The letter was sent to freeholder

Mr Ruslan Aliyev  
RNF International LTD,  
176 Devonshire Road,  
London W4 2AW

To the leaseholder  
M Muquim Ud-din Ahmed  
Quantum Securities LTD,  
16 Galleons View  
1 Stewart Street,  
London, E14 3EX

- 6.7**            **13<sup>th</sup> March 2020**  
The Council tax records show that the property had been classed as an HMO since 2015
- 6.8**            **4<sup>th</sup> March 2020**  
Site visit conducted by the Council's Planning enforcement officer there were doors numbered 1-16; 2 x communal kitchens and 2 toilet and shower rooms. To access the building there is a long pathway through the industrial site and there is no security and is sited in an isolated industrial estate. Reception is unattended.  
*Evidenced in:*  
*Figure 1 path leading to 12a Deer Park Road*  
*Figure 2 – entrance to 12a Deer Park Road –*  
*Figure 3 leading to rear of reception area*  
*Figure 4 reception area and post not secured*  
*Figure 5 – reception unattended*
- 6.9**            **20<sup>th</sup> February 2020**  
Internal complaint received, alerting the planning enforcement team that the property had been converted into a 16 x bedroom HMO without planning permission.
- 6.10**          **29<sup>th</sup> November 2017**  
HMO license issued for 16 rooms rooms and 22 residents. *Evidenced, in Figure 6 plans of the internal layout.*

## **7.                Planning Policy Context**

### **7.1**

#### **London Plan (2021):**

D3 Optimising site capacity through the design-led approach  
D6 Housing quality and standards  
D13 Agent of Change  
D14 Noise

E4 Land for industry, logistics and services to support London's economic function  
E5 Strategic Industrial Locations  
H1 Increasing housing supply  
H9 Ensuring the best use of stock  
T5 Cycling  
T6.1 Residential parking  
T4 Assessing and mitigating transport impacts  
SI 7 Reducing waste and supporting the circular economy

**Merton adopted Core Strategy (July 2011):**

CS8 Housing Choice  
CS9 Housing Provision  
CS12 Economic Development  
CS14 Design  
CS15 Climate change  
CS17 Refuse  
CS18 Active transport  
CS20 Parking, servicing and delivery

**Merton adopted Sites and Policies Plan (July 2014):**

DM D2 Design considerations in all developments  
DM D3 Alterations and extensions to existing buildings  
DM E1 Employment areas in Merton  
DM EP2 Reducing and mitigating noise  
DM EP4 Pollutants  
DM H2 Housing mix  
DM H5 Student housing, other housing with shared facilities and bedsits  
DM T1 Support for sustainable transport and active travel  
DM T2 Transport impacts of development  
DM T3 Car parking and servicing standards

**8. Planning Considerations**

The main planning considerations:

- Are the principal of the development, with the impact it would have on the character and operation of the Lombard Business Park, which is in a strategic Industrial Location.
- The sub-standard quality of accommodation and facilities for current and future occupiers.
- Not a safe environment
- Noise and fume issues from surrounding businesses
- Lack of provisions for household waste

- Lack of provision for cycle or parking.
- Lack of amenity space

## **Summary**

This planning enforcement formal action comes after the refusal of Planning permission is refused under ref no: 20/P2018 for the continued use of the property as a House of Multiple Occupation (16 room HMO). The breach concerns the change of use of an industrial/office block within the dedicated Lombard industrial state, to a 16 bed HMO. Consideration regarding safety for current or future occupiers has not been taken into account. The ground floor reception is left unattended and there is no safe place to leave private parcels/post. The industrial estate is isolated and there is a distinct lack of light and/or CCTV cameras leading to the property.

Facilities provided are unisex shared facilities of shower and toilet rooms; 2 shared kitchens and a small lounge area, there is no amenity space outside the industrial block.

Provision has not been allocated for house hold waste, parking or for cycle storage, for current or future occupier.

As mentioned, The planning assessment has been made under refused application ref no. 20/P2018 as mentioned above, the report below covers what has been already stated within the delegated report in the refused permission.

## **Change of use**

- 8.1 The main planning considerations of the existing unauthorised 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis) are the principle of the development, the impact that the proposed development would have on the character and operation of the Lombard Business Park which is a Strategic Industrial Location, the quality of accommodation and facilities for occupiers and the impact that it would have on the amenity of neighbouring residents. Principle Policy H9 of the London Plan notes that HMO accommodation is a strategically important of London's housing offer although it does acknowledge that it's quality can give rise to concern. In terms of the standard of accommodation for the HMO, this is largely addressed under Licencing requirements as opposed to through the planning system. The level of occupancy would be controlled through the HMO licensing system and subject to periodic inspection and control. However whilst HMO accommodation is important it does need to be provided in the appropriate context and to be a good quality.
- 8.2 This unauthorised HMO is not considered to be either appropriate or good quality. Impact on the character and operation of the Strategic Industrial Location. Despite the demand for more housing in its various forms and the increasing use of prior approval and permitted development rights which has

seen a decline in many forms of commercial premises, (indeed this site was subject to such an application for a change of the offices to a residential use), current policy seeks to protect development on SILs such as this site and resist the loss of Industrial capacity. London Plan 2021 Policy E4 states that 'A sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions should be provided and maintained and that Boroughs should ensure that the need to retain sufficient industrial and logistics capacity is not undermined by permitted development rights by introducing Article 4 Directions where appropriate'. The site is now covered by an Article 4 direction that came into force in 2015. Merton's Sites and Policies Plan policy DM E1 and Core Strategy Policy CS 12 also seek to protect SILs and ensure an adequate supply of suitable sites and premises for this purpose.

- 8.3 London Plan 2021 Policy E5 states that Strategic Industrial Locations should be managed proactively through a plan-led process to sustain them as London's largest concentrations of industrial, logistics and related capacity for uses that support the functioning of London's economy. It also states that Development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial-type activities and their ability to operate on a 24-hour basis. Residential development adjacent to SILs should be designed to ensure that existing or potential industrial activities in SIL are not compromised or curtailed. The loss of premises within the SIL for residential purposes would be contrary to these policy goals and the HMO was refused permission accordingly.
- 8.4 In addition to the issue regarding the loss of industrial capacity London Plan policy D13 Agent of Change relates to the impacts of locating noise sensitive activity, such as a residential use, into an existing noise generating activity such as a Strategic Industrial Location. The policy states 'Development proposals should manage noise and other potential nuisances by ensuring good design mitigates and minimises existing and potential nuisances generated by existing uses and activities located in the area and separating new noise-sensitive development where possible from existing noise-generating businesses and uses through distance, screening, internal layout, sound-proofing, insulation and other acoustic design measures'. This HMO is simply the conversion of the former commercial premises into a residential use and has only involved the conversion of the floorspace, there has been nothing done to mitigate the impact of being located in the middle of a SIL on the amenity of occupiers of the premises. The windows are single glazed and appear to have limited opening capacity as they were designed for a factory and not a residential use whilst fumes from the dry cleaners would not make this a comfortable option anyway. Noise from industrial processes was clearly evident at 7am. An additional consideration is the impact of having a noise sensitive use in an SIL where there is a legitimate expectation for industrial operators to engage in related noise generating activities as part of their business activities. Given the existence of Environmental health legislation to protect residents from noise this could have significant consequences for the successful long term operation of the industrial processes and their

associated activities and in turn the vitality and viability of the SIL and the change of use are therefore recommended for refusal on these grounds.

- 8.5 The policy states that Boroughs should not normally permit development proposals that have not clearly demonstrated how noise and other nuisances will be mitigated and managed whilst London Plan 2021 policy D3 and SPP policy DM EP4 seeks to minimise the impact of pollutants and poor air quality on people whilst London Plan policy D14 and SPP policy DM EP2 require proposals to protect amenity from noise. The Laundry and Linen Hire company is a suitable use for a SIL but its operation has a negative impact on the residential occupation of site, (especially being located to the west of the site so that dry cleaning fumes predominantly move towards the site) and is considered further evidence of the unsuitability of this residential use in the middle of a Strategic Industrial Location. The unauthorised HMO therefore do not accord with policies D13 & D14 and DM EP2 & DM EP4 and was refused permission accordingly.
- 8.6 SPP policy DM H5 states that proposals for housing with shared facilities will be supported where it 'is fully integrated into the residential surroundings'. In this instance the site is a single building located within a SIL and quite some distance from any other residential development. It could not therefore be considered integrated and this is another example of the unsuitability of the development for its location.

#### **Standard of accommodation**

- 8.7 As noted above, certain standards of accommodation are addressed through the requirement to Licence an HMO. The requirements relate to the number and size of shared facilities, internal bedroom size etc. This would not override the requirement for the accommodation to be of a good and well-designed standard. The level of occupancy is controlled through the HMO licensing system and subject to periodic inspection and control. London Plan 2021 policy D3, Merton SPP policies DM D2, DM D3 & DM H2 and Core Strategy policies CS9 and CS 14 all require the provision of well-designed and good quality residential accommodation regardless of tenure and to achieve indoor and outdoor environments that are comfortable and inviting for people to use. Whilst it has a licence the quality of the whole development is poor.
- 8.8 The site is located within a SIL on which the only 24hr operation is the nearby Police Traffic garage otherwise of an evening the area is largely deserted although by 7am the sounds of industrial processes can be clearly heard. Access to the building is via a long access path which having been designed for commercial purposes is not inviting or welcoming. The building was a factory with offices on the top floor and as such retains an asbestos roof and single pane glazing with no apparent improvements to insulation or ventilation. In winter this would lead to a need for either excessive heating to compensate the lack of proper insulation or a cold living environment whilst in summer the orientation makes it susceptible to overheating. The location being surrounded by industrial operations such as the dry cleaning operation



further degrade the living environment which is considered to be exacerbated by unattractive views of the SIL and on the east side the presence of two very large metal storage silos adjacent to the building. Of the sixteen rooms only one is shown to have a private toilet, the remaining 15 rooms have to share four toilets in unisex facilities which include the two showers which service the 10 rooms which do not have their own shower facilities. The 22 residents share two small kitchens and one very small (6.2sqm) lounge. There is no other amenity space provided and the site is located on a SIL so there is no nearby greenery or suitable space to sit outside. The front of the building being given to a concrete area for parking and the storage of overflowing Eurobins. The events of the pandemic have demonstrated the need for appropriate weight to be given to providing people with adequate levels of living and amenity space. These factors combine to provide what would be considered a very poor and unacceptable standard of accommodation to the detriment of the amenity and living standards of those needing to reside here.

- 8.9 SPP policy DM D2 requires the provision of a safe and secure layout and the Police have identified a number of shortcomings. The Police noted that there should be facilities for mail or deliveries to be kept separate and secure for residents. However there is only a set of small mail boxes outside the front entrance and thereby readily accessible and a number have been prised open and are therefore even more insecure. Within the stage of the refused application; The Police also recommended that improvements to the design and safety standards of the communal entrance door. It is however important that the CCTV system be appropriate and does no more than make the premises safer for residents, The Council's HMO officer was so concerned at what she considered to be oppressive levels of CCTV coverage that she sought legal advice on the matter. There is also no method for securing the shared areas which makes the securing of food stuffs etc problematic and can potentially lead to arguments and disputes, exacerbated by the impact of so many residents in one building, thereby further degrading the quality of life of occupiers. In view of these considerations the HMO are not considered to provide a good standard of safe and secure accommodation to the detriment of the amenities of future occupiers and are recommended for refusal accordingly.

### **Amenity for occupiers**

- 8.10 The HMO use is a noise sensitive use in an area where legitimate expectations of generating noise and fumes are concomitant with the successful and long term operation of industrial uses and associated activity leading to poor quality living and amenity facilities that are not fully integrated into any residential surroundings such as to be detrimental to the amenity of occupiers. The HMO therefore fail to accord with policies D3, D13 & D14 of the London Plan 2021, policies DM D2, DM EP2, DM EP4, DM H2 & DM H5 of the adopted Merton Sites and Policies Plan 2014 and policies CS9 & CS14 of the adopted Merton Core Strategy 2011.

### **Parking and highway considerations**

- 8.11 Policy T4 of the London Plan (2021) and at a local level Policy CS20 state that development proposals should ensure that impacts on transport capacity and the transport network, at both corridor and local level, are fully assessed so that they will not adversely affect safety on the transport network or on-street parking or traffic management. Policies DMT1-T3 seek to ensure that developments do not result in congestion, have a minimal impact on existing transport infrastructure and provide suitable levels of parking. The site is within an industrial estate and offers only limited parking facilities but given the nature of the use, the proximity of the tram stop and local buses the arrangements are not considered to have a detrimental impact on local parking capacity.
- 8.12 The applicant within the refused application claim that 4 car parking spaces for the HMO would equate to the previous capacity for the office use. In terms of cycle parking and storage London Plan 2021 policy T5 and Core Strategy policy CS 18 require that the site should provide secure cycle storage for residents and the closest relevant standard would appear to be student accommodation which requires a bike space per two beds on which basis the site should provide 11 secure cycle spaces. The drawings submitted within the refused permission indicates the provision of 22 spaces on Sheffield hoops. However that storage has not been provided either in the form of the hoops or any form of secure cycle storage. The position suggested, it is unclear from the drawing title whether this is existing or proposed, is on the same lower level as the entrance to the building and as such is largely screened from view, either from residents or other visitors to the SIL, especially at night. The space, which appears to have been used for the storage/dumping of waste items for some time, would not offer a suitable safe location for the storage of valuable bikes. Without safe and secure cycle storage provision outside the building and no facilities inside the building residents are highly unlikely to use bicycles for travelling. This thereby reduces the ability for the development to promote active and more sustainable forms of transport and a more healthy environment. It is therefore considered that the unauthorised use fail to meet the requirements for secure cycle storage and the arrangements are recommended for refusal accordingly.
- 8.13 Refuse collection is in the form of euro bins in the front of the site to which waste services raised no objections. Neighbour Amenity SPP Policies DM D2 and DM D3 require proposals to ensure that development does not adversely impact on the amenity of nearby residential properties. Given the lack of residential neighbours there are none to have an impact on but the issues relating to Agent of Change are considered relevant here.

## **CONCLUSION**

- 8.14 This planning enforcement formal action comes after the refusal of Planning permission is refused under ref no: 20/P2018 for the continued use of the property as a House of Multiple Occupation (16 room HMO). The site is the upper floor of a former commercial premises located quite centrally in the Lombard Industrial Park, a Strategic Industrial Location. Both London and

Merton planning policies seek to protect SILs for suitable industrial uses and with the drive towards more housing the retention of such land for industrial use has become important. Consequently the loss of the industrial use of the site for residential purposes and the impact of that in terms of the agent of change mean that the use of the premises as an HMO is not acceptable. As the site is situated quite centrally within a large SIL it is therefore surrounded by industrial uses and there is a commercial business directly underneath on the ground floor and a dry cleaner to the rear (west) of the site. This leaves residents subject to levels of noise and pollution they would not have in a normal residential location. Access to the site is functional, remote and unattractive and the site has undergone the minimum in terms of renovation works to make it suitable for residential occupation. Facilities for residents are again minimal and poor quality with no external amenity space or secure cycle storage and the whole facility has a poor-quality unwelcoming character and whilst it is acknowledged that HMO accommodation fills an important need within the housing market there is no reason why such accommodation should not meet the appropriate standards of design, comfort and facilities.

**9. Alleged Breach of planning Control and expediency of enforcement action.**

- The change of use from an industrial unit in the Lombard industrial estate to a 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis) is less than ten years.
- Planning application ref: 20/P2018 for the retention of the property as a 16 x bed HMO was refused.
- The layout and design is of poor quality does not provide adequate shower/toilet facilities, kitchens, amenity or shared living lounge.
- There is no safe place for parcel deliveries for occupiers.
- The access road through the industrial site to the accommodation is poorly lit and the reception area is unmanned.
- The occupiers, current and future are subject to commercial fumes and noise.
- There is no access to domestic waste deposal, car parking facilities or cycle parking stations

**REASONS FOR ISSUING A NOTICE**

1. The change of use has been carried within the last 10 years.
2. The 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis), by reason of the nature of the residential use and its location within a Strategic Industrial Location would result in the unacceptable loss of the site for industrial purposes for which there is an identified need. The HMO use would therefore be contrary to policies D14, E4 & E5 of the London Plan

2021, policies DM.EP2 and DM.E1 of the adopted Merton Sites and Policies Plan 2014 and policy CS12 of the adopted Merton Core Strategy 2011.

3. The 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis) by reason of its location, design and layout provide an unattractive, unsecure and poor quality living environment whereby occupiers are susceptible to noise and fumes from nearby industrial premises with poor quality living and amenity facilities that are not fully integrated into any residential surroundings such as to be detrimental to the amenity of occupiers. The HMO therefore fail to accord with policies D3, D13 & D14 of the London Plan 2021, policies DM D2, DM EP2, DM EP4, DM H2 & DM H5 of the adopted Merton Sites and Policies Plan 2014 and policies CS9 & CS14 of the adopted Merton Core Strategy 2011.
  
4. The 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis), by reason of failing to provide any safe and secure facilities for the storage of bicycles, would fail to promote a healthy environment and more sustainable modes of transport contrary to the following Development Plan policies for Merton: Policy T5 of the London Plan 2021 and policy CS18 of Merton's Core Planning Strategy 2011.

### **Requirements of the Notice**

1. Permanently cease the use of the property as a 16 unit large House in Multiple Occupation (HMO) (Use Class sui-generis) and; Permanently remove both communal kitchens (including cookers and units) and all shared toilets and shower facilities associated with the unauthorised HMO.
  
2. Remove all materials, fixtures, fittings and debris associated in compliance with the works (1) above and permanently take off site.

### **Compliance Periods**

Within six (6) months after the notice takes effect.

### **Who should the notice be served upon?**

The current owner and leaseholder

Mr Ruslan Aliyev  
RNF International LTD,  
176 Devonshire Road,  
London W4 2AW

To the leaseholder  
M Muquim Ud-din Ahmed  
Quantum Securities LTD,  
16 Galleons View  
1 Stewart Street,

London, E14 3EX

Any other person with an interest in the property

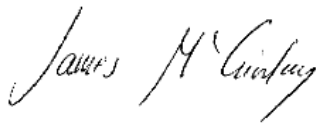
**Fee Applicable**

£412

I have attached a site plan, *figure 5*, with the property outlined in red and the location of the unauthorised development hatched in red. I hope this is sufficient information to progress this matter but if you require any further information please let me know.

A handwritten signature in cursive script that reads "Raymond Yeung".

Raymond Yeung:  
Planning enforcement team leader  
Date 28.03.2022

A handwritten signature in cursive script that reads "James McGinlay".

James McGinlay:  
Assistant Director for Sustainable communities

Date: 30 March 2022



*Figure 1 external path leading to residential unit*



Figure 2 1entrance to 12a Deer Park road



*Figure 3 rear of reception area*





*Figure 4 reception area with unsecured post.*



Figure 5 reception unattended

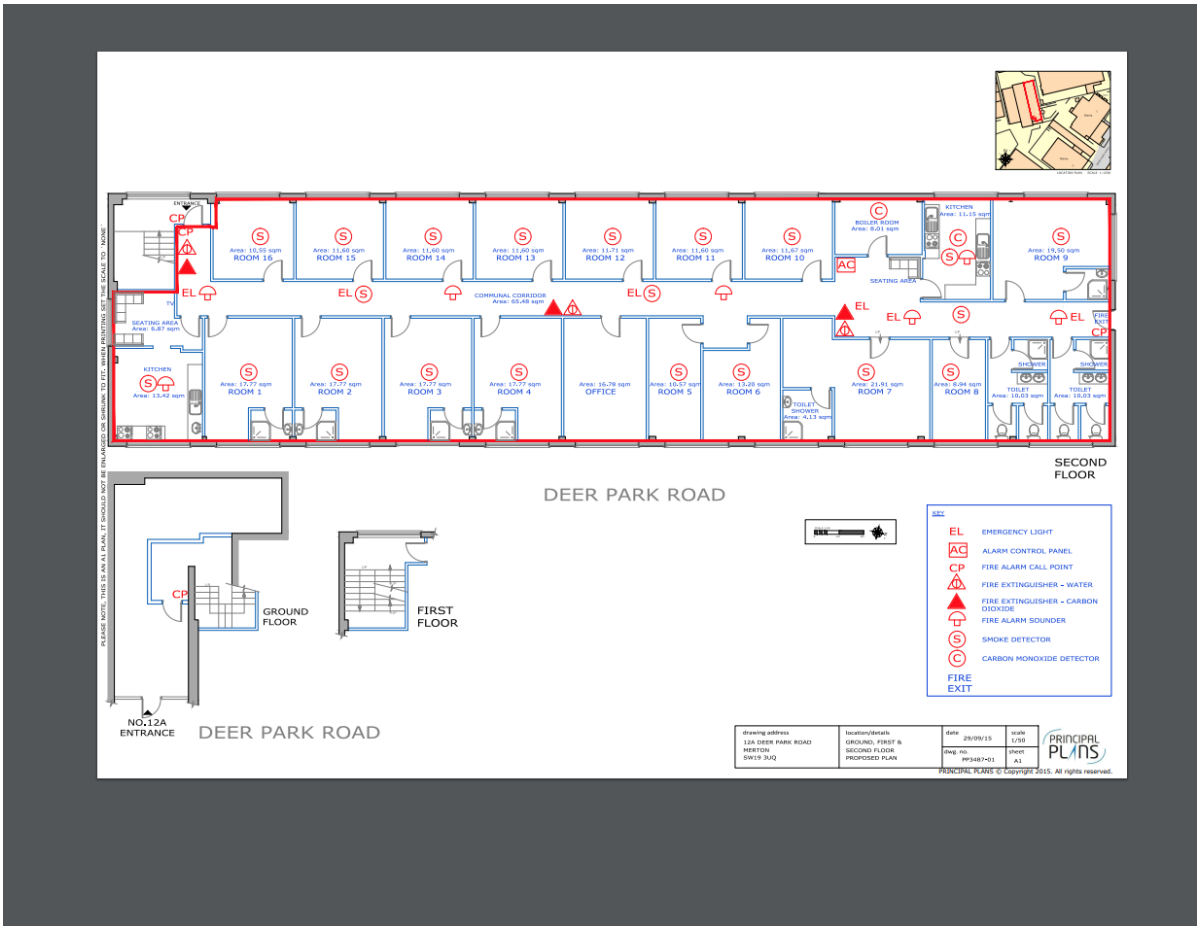


Figure 6 Plans for the 16 room HMO submitted to the HMO team

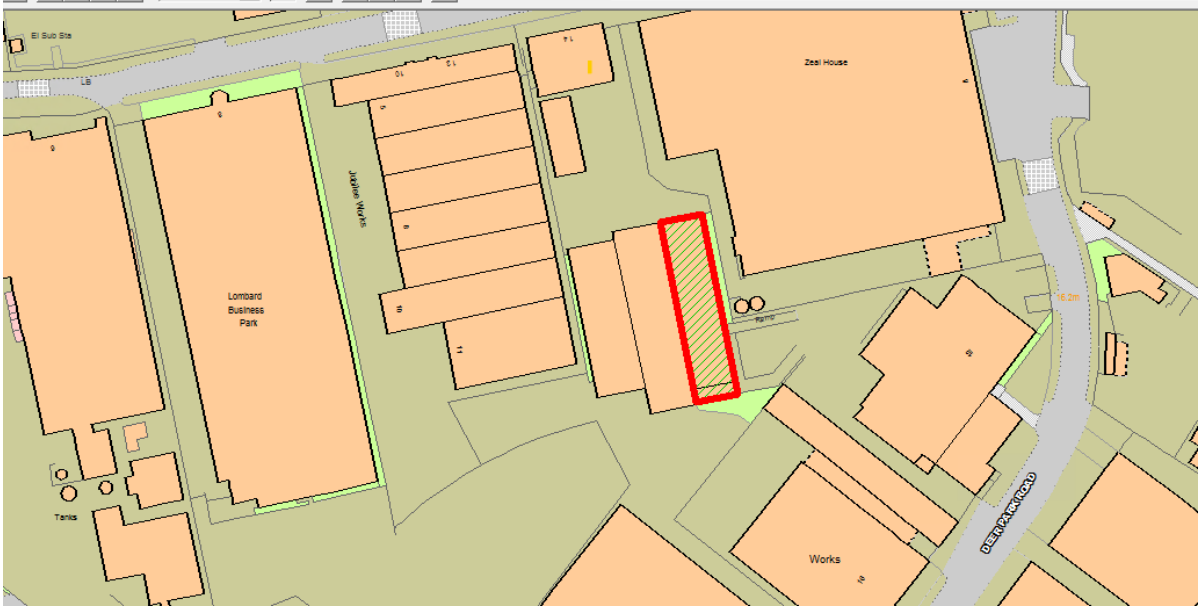


Figure 7 site map