

---

## Appeal Decision

Site visit made on 12 November 2019

**by P N Jarratt BA DipTP MRTPI**

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

**Decision date: 20 November 2019**

---

**Appeal Ref: APP/P5870/C/19/3222883**

**210 High Street Sutton, SM1 1NU**

- 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 Mr Abdul Batatawala against an enforcement notice issued by the Council of the London Borough of Sutton.
  - The enforcement notice, numbered EC18/0166, was issued on 17 January 2019.
  - The breach of planning control as alleged in the notice is the conversion of the first floor into one self-contained studio unit and one 1-bedroomed self-contained flat, the second floor into one 1-bedroomed self-contained flat and the third floor into one 1-bedroomed self-contained flat.
  - The requirements of the notice are:
    - a) Cease the use of the main property as four independent self-contained units of accommodation (this does not include the two storey 2-bedroomed maisonette constructed at the rear of the main property fronting Elm Grove).
    - b) Amend the layout of the first, second and third floors above the ground floor unit to be in accordance with the approved conditional planning permission ref 13/66907/FUL, or
    - c) Return the premises to the original layout as a three bedroomed maisonette above the ground floor unit which will involve the removal of the additional storey.
  - The period for compliance with the requirements is 12 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (f) and (g).
- 

### Procedural Matter

1. The appellant did not attend the site inspection but on the basis of the submissions I have been able to determine the appeal without the need for internal access.

### Decision

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

### The site and relevant planning history

3. The appeal site is a three storey property on the east side of the High Street with a vacant commercial unit on the ground floor and originally a three bedroom maisonette above.
4. Planning permission was granted in March 2013 (13/66907/FUL) for the erection of an additional storey, and conversion of the existing maisonette, to provide a 1-bedroomed self-contained flat at first floor level and a 2-bedroomed self-contained maisonette at second and third floor level, along

with the erection of a two storey structure at the rear to provide a 1-bedroomed maisonette fronting Elm Grove.

### **The appeal on ground (f)**

5. An appeal on this ground is that the requirements are excessive.
6. The appellant states that the reasons for the notice only apply to one of the four flats created within the building and it is proposed to cease the use of this flat. It is further added that the appellant would enter into a s106 agreement to prevent occupiers obtaining parking permits.
7. The appellant addresses issues that are relevant to an appeal on ground (a) which is the ground for considering the planning merits of the development. No such appeal has been made.
8. The requirements provide the appellant the choice between amending the layout to accord with the 2013 planning permission or to return the premises to the original layout as a three bedroomed maisonette. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach.
9. The appeal on this ground fails.

### **The appeal on ground (g)**

10. An appeal on this ground is that the compliance period is too short.
11. The appellant states that a lease has been entered into with the letting agent for a period of 3 years with 2 years remaining unexpired, although the appellant does not indicate the date when this agreement was entered into. It is requested that the flats, "apart from flat xx be allowed on a temporary basis until xxxx".
12. The appeal on this ground is clearly deficient through the omission of critical information and therefore fails.

### **Conclusion**

13. For the reasons given above I consider that the appeal should not succeed.

*P N Jarratt*

**Inspector**