



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 18 March 2020

Appeal ref: APP/P5870/C/19/3242707

Land at 40-42 High Street, Sutton, Elm Farm, Sutton, SM1 1HF

- 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 brought by Mr D Hanif (Fort Properties Ltd) against an enforcement notice issued by the London Borough of Sutton.
- The notice was issued on 7 November 2019.
- The breach of planning control as alleged in the notice is "Without planning permission the material change of use of the basement level from ancillary retail storage to two self-contained units of residential accommodation ("the flats").
- The requirements of the notice are: "(i) Cease the use of the basement as two self-contained units of residential accommodation (ii) Remove from the Flats all kitchen facilities, including kitchen units, cooking facilities, sinks, and worktops (iii) Return the basement to its condition prior to the breach of planning control, as shown the attached drawing".
- The period for compliance with the requirements of the notice is: "Six (6) months after the date this notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The appellant contends that the time period of 6 months is too short to allow the occupiers of the unauthorised units time to find alternative accommodation. He requests that the period be extended to at least 9 months. However, I note that some 3 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the compliance period will begin again from the date of this decision, the appellant will effectively have had the 9 months he desires in which to comply with the requirements of the notice. I consider this period to be both reasonable and proportionate and provides an appropriate balance between the need of the current tenants to seek out alternative accommodation and the need to bring the stated harm caused by the unauthorised development to an end.
2. In these circumstances, I see no good reason to extend the compliance period further and consider the 6 months given to be adequate. The ground (g) appeal fails accordingly.

Formal decision

3. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee