



Appeal Decisions

Site visit made on 20 November 2023

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2024

Appeal A Ref: APP/Z5060/C/22/3305036

Land and premises at 97 St Awdrys Road, Barking IG11 7QB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr P Amendra of Amco Properties Ltd against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
- The notice was issued on 12 July 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a rear extension.
- The requirements of the notice are to:
 - Remove the unauthorised rear extension in its entirety.
 - Remove all subsequent waste material from the premises.
- The period for compliance with the requirements is 6 months after the notice take effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, planning permission is refused and the enforcement notice is upheld with a variation in the terms set out in the Formal Decision.

Appeal B Ref: APP/Z5060/C/22/3305037

Land and premises at 97 St Awdrys Road, Barking IG11 7QB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr P Amendra of Amco Properties Ltd against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
- The notice was issued on 12 July 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised subdivision of the property, to self-contained units of accommodation within the property.
- The requirements of the notice are to:
 - Cease the use of the property as self-contained units of accommodation.
 - Remove all alterations and fixtures enabling the creation of the self-contained units.
 - Remove all consequent waste material from the premises.
- The period for compliance with the requirements is 6 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, planning permission is refused and the enforcement notice is upheld with variations in the terms set out in the Formal Decision.

Procedural Matter

1. Since the appeal was made, the National Planning Policy Framework has been published in December 2023 (the Framework). This replaces the former version, which has been referred to by the parties. Whilst paragraph numbering might have changed, there have been no changes to the guidance that is relevant to these appeals. Accordingly, it was not necessary to seek the parties' views on the replacement guidance document.
2. Whilst the Council has provided an appeal statement relating to both Appeal A and B, this appears to only respond to the appellant's case made in respect of Appeal A. There is a separate appeal¹ made under section 78 of The Town and Country Planning Act 1990 as amended (the 1990 Act) relating to 97 St Awdrys Road for 'two 2x bedroom flats and one studio flat'. Whilst this has also been determined by me, this appeal has not been formally linked to these appeals and is the subject of a separate decision. I have not, therefore, had regard to the representations made on that appeal in determining these appeals. To do so would cause injustice to the parties.

Appeal A

Ground (a) and the deemed application for planning permission

3. An appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Main Issue

4. I note the substantive reasons for issuing the enforcement notice and from these I have identified the main issue as the effect of the development on the living conditions of neighbouring occupiers.

Reasons

5. The appeal site is occupied by a two storey terrace property sat within a traditional terrace row, where the properties occupy narrow linear plots. The extension subject of the appeal occupies the width of the appeal site and extends some distance into the rear of the property, such that it occupies a large portion of the land to the rear of the original building.
6. Whilst the extension has a flat roof, the appellant's photographs show that its height far exceeds the timber boundary fence between the appeal site and the adjoining properties at 95 and 97 St Awdrys Road. Indeed, compared to a boundary treatment ordinarily found in such domestic properties, the height of the extension as viewed from these adjoining properties is excessive.
7. There is no agreement on the measurement of the depth of the extension. Nevertheless, the appellant's photographs show that it extends for some distance along the shared boundaries with the two adjoining properties. Having the benefit of a site visit, I was able to appreciate the extent of the adjoining gardens that were affected by the extension. I could see that the side elevations of the extension are adjacent to the majority of the small rear gardens that serve the two neighbouring properties.

¹ Appeal reference APP/Z5060/W/22/3297494

8. I could not see any extension of a similar depth either side of the appeal site and none have been drawn to my attention.
9. Having regard to the depth and height of the extension, and its location on the boundary with the two adjoining properties, I find it to be an unneighbourly form of development that dominates the small areas of private garden space used by the adjoining occupiers. For this reason, the development has an unacceptable effect on the living conditions of the neighbouring occupiers. As the development fails to protect or enhance the character and amenity of the area, it is in conflict with Policies BP8 (Protecting Residential Amenity) and BP11 (Urban Design) of the Local Development Framework Borough Wide Development Policies Development Plan Document adopted March 2011 (DPD). As the development also fails to provide a high standard of amenity for existing users (i.e. the neighbouring occupiers), I also find it to be in conflict with the paragraphs of the Framework referred to by the appellant on achieving well-designed and beautiful places.

Other Matters

10. There may well be a lack of objection to the development from any of the adjoining neighbours. This does not, however, alter my conclusions above or add weight in favour of the development.
11. I note the appellant's comments under his ground (f) appeal, that he could 'apply for a similar development under prior approval for a larger home extension'. He has not, however, demonstrated that an extension of similar dimensions to the existing would be permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015. Accordingly, I give little weight to this as a realistic fallback option.
12. I acknowledge that section 177(1)(a) of the 1990 Act allows me to grant planning permission in respect of the whole **or any part** of the matters stated in the enforcement notice. It might well be the case that a smaller extension would be acceptable. However, without the details of an alternative scheme, I am unable to conclude that a smaller extension is part of the development stated in the notice and also that it would be acceptable.

Planning Balance and Ground (a) Conclusion

13. The determination of this ground (a) appeal and the deemed planning application must be in accordance with the development plan unless material considerations indicate otherwise. All things considered, I have no reason to conclude that my determination of the appeal should be made otherwise than in accordance with the development plan when read as a whole. I have considered whether conditions would overcome the harm caused in this case, but conclude that they would not. Accordingly, I conclude that planning permission ought not to be granted and that the ground (a) appeal should fail.

Ground (f)

14. The purpose of the enforcement notice is to remedy the breach of planning control alleged. For the appellant to succeed on ground (f), I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach of planning control.

15. I note the suggested fall back option, as well as the proposal to alter the development. Notwithstanding that I have already considered these under the ground (a) appeal, neither would achieve the purpose of remedying the breach of planning control in this case.
16. No alternative or lesser steps have been suggested to achieve the purpose of remedying the breach in this case and, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve this purpose are obvious to me. On this basis I conclude that the steps required in the notice are necessary and proportionate. For these reasons, the appeal under ground (f) should fail.

Ground (g)

17. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of 6 months from the date it takes effect.
18. The appellant has requested a period of 12 months, suggesting that more time is needed to raise the funds to carry out the work, employ a contractor and to re-house the tenants living in the property.
19. The appellant has not provided any indication of the cost of undoing the works carried out and how he intends to gather the necessary finances to undertake the work. The 6 months given is a substantial period and there is little before me to persuade me that more than this would be required.
20. In addition to the above, the appellant does not suggest that there is a shortage of suitable contractors in the area. Indeed, I have been given no reason to conclude that it would be difficult to engage the services of a contractor, such that a period of longer than 6 months would be needed to comply with the notice.
21. Notwithstanding the above, I have sympathy with the appellant's final point on ground (g), regarding the time needed to re-house the tenants in the property. I am mindful of my conclusions on ground (g) of Appeal B below, that the period for compliance with the Appeal B notice should be 9 months and not 6. It would be necessary for the tenants to vacate the property before the works to remove the extension commence. Accordingly, it would be reasonable to allow more time for the appellant to remove the extension and all waste material after the 9 month period given to comply with the notice subject of Appeal B.
22. An additional 3 months after the 9 month period would allow the works to be undertaken, with more than sufficient time during the preceding 9 months to arrange the necessary finances and to secure the services of a contractor. Accordingly, a 12 month period would be reasonable for the tenants to vacate the site and to allow sufficient time for a contractor to undertake the works to remove the extension.
23. For the reasons given above, I conclude that the period specified in the notice falls short of what should reasonably be allowed. The ground (g) appeal should succeed. I will vary the notice to give a 12 month period for compliance.

Overall Conclusion

24. For the reasons given above, I conclude that the appeal on grounds (a) and (f) should not succeed. However, I conclude that the period for compliance with the notice falls short of what is reasonable. Accordingly, the appeal on ground (g) should succeed.
25. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

26. It is directed that the enforcement notice is varied by the deletion from part 6 of '6 months' and its substitution with '12 months' as the period for compliance.
27. Subject to the variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Appeal B

The Notice

28. Before considering the grounds of appeal, I have a duty to put the notice in order, if necessary. The powers transferred to Inspectors under section 176(1)(a) of the 1990 Act include to correct any defect, error or misdescription in the enforcement notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the only test is whether the correction or variation would not cause any injustice to the appellant or the local planning authority.
29. Part 1 of the enforcement notice states that there has been a breach of planning control falling within section 171A(1)(a) of the 1990 Act, which is the carrying out of development without the required planning permission. Development is defined in section 55(1) of the 1990 Act as including 'the making of any material change in the use of any building or other land'. As the notice does not allege a material change of use, it follows that the allegation would not constitute development for the purposes of section 55(1) of the 1990 Act.
30. Section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land. Because the breach of planning control as alleged in the notice does not constitute the development of land, it follows that planning permission would not be required for it. The notice is defective in that respect.
31. Notwithstanding this, having regard to the notice as a whole, it is clearly directed at a material change of use. Furthermore, the appellant's evidence demonstrates that he has understood this. I am, therefore, satisfied that a correction to the notice to include reference to a material change of use would not cause injustice in this case.
32. In addition to this, there is clearly no dispute that the former use of the appeal site was as a single dwellinghouse and that more than one self contained unit of accommodation has been created by the sub division, resulting in the

material change of use. The notice would, therefore, be more precise if it were to refer to the material change of use as a use of the site as more than one self contained unit of residential accommodation. This does not change the effect of the notice and would not, therefore, cause injustice in this case.

33. In the interests of precision, I also intend to remove the word 'unauthorised' from the allegation. It is unnecessary as the allegation is of development without planning permission. For the same reason I will change the reference to 'property' in the allegation and in the first bullet point of part 5 to 'land and premises'. This is so that they are consistent with how the appeal site is described in part 2 of the notice. I will also use the term 'residential accommodation' in the requirements. These are minor corrections that would not, in my judgment, cause injustice to any party.

Ground (a) and the deemed application for planning permission

Main Issues

34. Having had regard to the substantive reasons for the issue of the enforcement notice, the main issues are as follows:
- Whether or not the development is acceptable, having regard to the local policy that resists the loss of family housing;
 - The effect of the development on the living conditions of its occupiers;
 - The effect of the development on the living conditions of neighbouring occupiers; and
 - Whether or not the development results in inconveniences for road users and is prejudicial to highway safety as a result of any additional demand for on-street parking.

Reasons

- Family Housing

35. The property occupying the appeal site has been sub-divided and accommodates three self-contained units of residential accommodation. The notice refers to Policy BC4 (Residential Conversions and Houses in Multiple Occupation) of the DPD, which informs: 'The Council is seeking to preserve and increase the stock of family housing in the Borough. Consequently, when planning permission is required, the Council will resist proposals which involve the loss of housing with three bedrooms or more'. The Policy provides the following list of criteria that must be satisfied for any proposals for flat conversions to be considered acceptable:
- The number of houses that have been converted to flats and / or HMOs in any road (including unimplemented but still valid planning permissions) does not exceed 10% of the total number of houses in the road. No two adjacent properties apart from dwellings that are separated by a road should be converted.
 - No significant loss of character or amenity occurs to the area as a result of increased traffic, noise and/or general disturbance.

- Regard is had to the appropriate design, transportation, and internal and external amenity space standards policies.
 - The internal space standards required by Policy BP6 can be met for all of the proposed new dwelling units.
 - Adequate space is provided to store refuse and recycling ready for collection.
36. With regard to the first of these criteria, the appellant suggests that most properties in St Awdrys Road are single family dwellings, with only 6 properties having been converted to flats. This is not disputed by the Council and I have no reason to conclude that this amounts to more than 10% of the total number of houses in the road. In addition to this, there is no suggestion that inadequate space for refuse and recycling has been provided. I am, therefore, unable to conclude that the development does not accord with these criteria of the Policy.
37. As for the remaining criteria, these are wholly relevant to the other main issues I have identified. I will, therefore, consider these criteria below.
- Living Conditions of the Occupiers*
38. The notice refers to Policy 3.5 of the London Plan (March 2016). The appellant has, however, referred to the London Plan adopted March 2021 (LP), which was the most up to date version at the time the notice was issued. He refers to LP Policy D6 (Housing quality and standards), which requires housing development to be of high quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Table 3.1 of the LP sets out the minimum gross internal floor areas and storage per dwelling type. The table is also set out in the Technical housing standards - nationally described space standards published 27 March 2015, which are referred to in the notice.
39. Whilst I have not been provided with calculations of the floor area of each of the self-contained units of accommodation, I note the appellant's acknowledgement that none of the accommodation meets the requirements set out in the LP table. Notwithstanding this, he suggests that the accommodation 'meets the reasonable requirements of the occupants which serves their reasonable needs'. To support his case, he points to the tenants having occupied the property continuously since its conversion.
40. I can see that each unit of accommodation provides all internal facilities to be expected in a dwellinghouse. However, in each case this is provided within a confined space that does not render any unit a comfortable place of retreat. The rooms within the ground floor units are particularly restricted and do not easily accommodate the furniture and circulation space necessary for the accommodation to function as a dwelling, whilst also providing sufficient and comfortable space for relaxation.
41. Whilst the first floor flat has an outlook to the front and rear, there are rooms within the ground floor accommodation that have no means of outlook, save for a roof light providing a limited degree of natural light. Even in the case of a single aspect dwelling, paragraph 3.6.5 of the LP advises that these 'are more difficult to ventilate naturally and are more likely to overheat'. Criterion C of LP

Policy D6 informs that they should be avoided and only provided in certain circumstances. The appellant has not demonstrated that the circumstances of this case comply with these exceptions.

42. In addition to the above, only the ground floor unit at the rear has access to the outdoor space within the site. This arrangement is also in conflict with criterion F 9) of Policy D6, which requires a minimum of 5 square meters of private outdoor space for each 1-2 person dwelling.
43. The existing occupiers of the units may well find their accommodation acceptable. However, the housing standards are intended to indicate a minimum for new accommodation to achieve a high quality design that is fit for purpose and meets the needs of its occupiers. The development fails to achieve these standards and has resulted in accommodation that I find to be wholly inadequate for the health and wellbeing of its occupiers.
44. All things considered, I conclude that the development has a harmful effect on the living conditions of its occupiers. The development fails to accord with LP Policy D6 and the Technical housing standards.
45. In addition, the development also fails to accord with the above-mentioned paragraphs of the Framework on achieving well-designed and beautiful places, which requires development to, amongst other matters, promote health and well-being and be of a high standard of amenity for existing and future users.
46. For the above reasons, the development is also in conflict with the third and fourth bullet point of DPD Policy BC4. Accordingly, I can now conclude on the first main issue and find the development to be unacceptable, having regard to local policy that resists the loss of family housing.

- Living Conditions of Neighbouring Occupiers

47. The notice refers to noise and disturbance caused by the development, to the detriment of neighbouring occupiers. As only the occupiers of the rear ground floor flat have access to the garden space to the rear, I am unable to conclude that the development would result in an increase in activity in the use of this garden space.
48. The development does, however, result in the comings and goings of three households to and from the property. I can agree that these movements are likely to be greater when compared to the former single dwellinghouse.
49. However, I note that the appeal site is within a densely populated area where there is likely to be a certain level of activity from residents of the street arriving at or leaving their homes. Within this context, and without any substantiation of the Council's objections to the development in this regard, I am unable to conclude that the development causes an unacceptable degree of harm to the living conditions of the neighbouring occupiers. For this reason, I find no conflict with either Policy BP8 of the DPD or the Framework. Furthermore, I cannot find the development out of accord with the second bullet point of DPD Policy BC4.

- Parking

50. The development makes no provision for off street parking, and all on-street parking in the area is controlled by way of residents' permits. At the time of

my visit I observed a high demand for on-street parking, with very little on-street parking spaces available. There is nothing before me to suggest that what I observed is unusual.

51. The appellant points to LP Policy T6.1 (Residential parking), which informs that new residential development should not exceed the maximum parking standards set out in Table 10.3 of the LP. The appeal site is in a location that has a PTAL rating of 6. Table 10.3 informs that new residential development in such locations should be car free.
52. The development has resulted in an increase in the number of households in the area by an additional 2. I acknowledge that the PTAL rating for the property is such that its occupiers have easy access to more sustainable transport modes. Whilst this is likely to affect levels of car ownership, I have not been provided with any evidence to demonstrate that there are or would be no or low car ownership by the additional occupiers, or that the additional demand for on-street car parking is minimal at present and would be so in the future. In view of the existing situation, any additional pressure for on-street parking would lead to further inconvenience for road users and could lead to harm to highway safety in the area.
53. The appellant has suggested that a condition could be imposed to effectively prevent two of the households within the property from being granted a parking permit. This would necessitate the amendment of the traffic regulation order (TRO) that applies to the streets in the area so as to remove eligibility of the occupiers of the two units to a parking permit. However, the mechanism for how this can be achieved has not been demonstrated.
54. I note the relevant advice of the Framework with regard to highways matters. On balance, without the means to secure the necessary control of on-street parking by the occupiers of the development, I am unable to conclude that the development has not resulted in inconveniences for road users and that it is not prejudicial to highway safety as a result of any additional demand for on-street parking. For this reason, the development does not accord with Policy BR9 (Parking) of the DPD as it has not been demonstrated that the potential impact on on-street car parking can be managed.

- Other matters

55. Under his ground (f) appeal, the appellant has suggested a decrease in the number of units of accommodation within the property, suggesting a change to the layout so that the ground floor would comprise only a single unit. An alternative scheme might well be acceptable in overcoming the shortfalls of the existing accommodation. However, without the details of an alternative layout to the property, and being mindful of my decision on Appeal A with regard to the rear extension, I am unable to conclude that a reduction in the number of units of accommodation within the property is not only part of the development stated in the notice, but also acceptable.
56. The appellant advises that an occupier of one of the units is registered disabled. A person regarded as having a disability² and sharing a protected characteristic³ is, therefore, likely to be affected by my decision. Accordingly, under the Public Sector Equality Duty contained in section 149 of the Equality

² As defined in section 6(1) of the Equality Act 2010.

³ As defined in section 149(7) of the Equality Act 2010.

Act 2010, I must have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

57. In the event that permission is refused, it appears likely that my decision will remove the person sharing a protected characteristic from their home. I have not, however, been advised that this person is unable to find appropriate alternative accommodation, such that living at the appeal site is their only option. The accommodation is wholly inadequate in providing a home that is comfortable, has a functional layout that is fit for purpose, and meets the needs of all occupiers. For these reasons I find the development to be harmful to the health and wellbeing of the occupiers, including the person sharing a protected characteristic. I can only conclude that this harm outweighs the effect my decision will have on this person.
58. On a separate matter, the appellant suggests that the Council are unable to demonstrate that there is a 5 year supply of housing land. As this is not disputed by the Council, the provisions of paragraph 11d of the Framework are engaged. I must, therefore, weigh the benefits of the development proposed against its adverse impacts, assessing these against the policies in the Framework.
59. I acknowledge that, were I to grant planning permission, the development would make a contribution to meeting the housing needs of London's population, which is set to grow substantially. The development is also a small site, that are supported by LP Policy H2 (Small sites). However, the contribution made by the development would be small.
60. There may well be a demand for units of the size accommodated at the appeal site and I have already acknowledged the easy access occupiers have to public transport.
61. However, I must balance the above against the harm I have identified in this case. The effect of the development with regard to inconveniences for road users and highway safety is limited and, therefore, so is the weight I attribute to the lack of compliance with DPD Policy BR9. However, the accommodation comprised in the three units is wholly inadequate and I find it to be substantially harmful to the health, well-being and amenity of its occupiers. Accordingly, I attribute significant weight to the conflict with the relevant policies of the LP and DPD. For these reasons, I must conclude that the harm caused by the development significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole.

- Planning Balance and Conclusion on Ground (a)

62. For the reasons given above, I conclude that my determination of the appeal should not be made otherwise than in accordance with the development plan when read as a whole. I cannot be satisfied that conditions would overcome the harm identified. Accordingly, I conclude that planning permission ought not to be granted and that the ground (a) appeal should fail.

Ground (f)

63. The purpose of the enforcement notice is to remedy the breach of planning control alleged. As with Appeal A, I note the suggested proposal to alter the development and reduce the number of units of accommodation. Whilst I have already considered this alternative under the ground (a) appeal, I would add that this proposal would not achieve the purpose of remedying the breach of planning control in this case.
64. Notwithstanding the above, there is no dispute that the former use of the property was as a single dwellinghouse. The requirements to cease the use of the property as self-contained units of accommodation and remove all alterations and fixtures enabling this use would prevent the property returning to a use as a single dwellinghouse. The requirements of the notice would, therefore, interfere with a use of the site that would otherwise not require planning permission by reason of section 57 (4) of the 1990 Act. For this reason the requirements of the notice exceed what is necessary to remedy the breach in this case.
65. I can, however, vary the notice to require the cessation of the use of the site as no more than one self-contained unit of accommodation, and to remove all fixtures and fittings that enable the use of the site as more than one self-contained unit. This would allow the site to be used as a single dwellinghouse. It would also allow the retention of one of the kitchen facilities within the building, as well as one or two of the bathrooms I observed on my site visit. These variations would make the notice less onerous and would not, therefore, cause any injustice.
66. Having regard to the above, I conclude that the ground (f) appeal should succeed.

Ground (g)

67. The appellant has requested a period of 12 months, suggesting that more time is needed to raise the funds to carry out the work, employ a contractor and to re-house the tenants living in the property.
68. As with the ground (g) appeal on Appeal A, the appellant has not provided any indication of the cost of complying with the notice and how he intends to gather the necessary funds to undertake the work. Having regard to the works needed, I find the 6 month period to be substantial and there is little before me to persuade me that more than this would be required.
69. The appellant has also pointed to the need to 'serve notice on his tenants and give them sufficient time to find suitable, alternative accommodation without causing them unnecessary distress'. I have not, however, been advised that the appellant is required to give an extended period of notice.
70. Notwithstanding this, I have noted above that an occupier of one of the units is registered disabled. Whilst I have not been advised of their particular disability or that there is a shortfall of accommodation in the area to suit them, it is reasonable to assume that they may have more difficulty than the other tenants in finding an alternative place to live. The Council may not have been aware of the personal circumstances of this tenant when setting the 6 month period for compliance with the notice.

71. I do not have sufficient evidence to conclude that double the time period is needed in this case. However, an additional three months is justified, having regard to the personal circumstances of one of the tenants at the site. Should the tenant encounter any difficulties, I am mindful of the powers under section 173A of the 1990 Act that can be exercised to vary an enforcement notice, including the period for compliance. That would, however, be a matter for the exercise of the Council's discretion in all the circumstances.
72. For the reasons given above, I conclude that the period specified in the notice falls short of what should reasonably be allowed. The ground (g) appeal should succeed in part. I will vary the notice to give a 9 month period for compliance.

Overall Conclusion

73. For the reasons given above, I conclude that the appeal on ground (a) should not succeed. However, I conclude that the requirements of the notice are excessive to remedy the breach of planning control and that the period for compliance with the notice falls short of what is reasonable. Accordingly, the appeal on grounds (f) and (g) should succeed.
74. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

75. It is directed that the enforcement notice is corrected and varied by:
- The deletion of the words 'the unauthorised subdivision of the property, to self-contained units of accommodation within the property' in part 3 and their substitution with the words 'the material change of use and subdivision of the land and premises to more than one self-contained unit of residential accommodation';
 - The deletion of the words 'property as self-contained units of accommodation' from the first bullet point of part 5 and their substitution with the words 'land and premises as more than one self-contained unit of residential accommodation';
 - The deletion of the words 'the creation of the self-contained units' from the second bullet point of part 5 and their substitution with the words 'the use of the land and premises as more than one self-contained unit of residential accommodation'; and
 - The deletion from part 6 of '6 months' and its substitution with '9 months' as the period for compliance.
76. Subject to the variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

J Moss

INSPECTOR