



Appeal Decision

Site visit made on 25 June 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2025

Appeal Ref: APP/A5840/C/23/3319646

Flat 2, 30 Brabourn Grove, London, Southwark SE15 2BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Dimitri Foti against an enforcement notice issued by the Council of the London Borough of Southwark.
 - The notice was issued on 2 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from one self-contained unit into two self-contained units and the installation of a metal staircase to the rear, shown for indication purposes on a photograph attached to the enforcement notice.
 - The requirements of the notice are to:
 - 5.1 Cease the use of the land as more than one self-contained unit.
 - 5.2 Remove all kitchens except one and remove all facilities and fixtures associated with the unauthorised use from the land.
 - 5.3 Remove the metal staircase and all fixtures and fittings associated with the staircase from the land.
 - The period for compliance with the requirements is nine months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - 1) The insertion of the word *residential* between the words *self-contained* and *unit/s* where they appear in section 3 of the enforcement notice (the matters which appear to constitute the breach of planning control) and in section 5 (what you are required to do to remedy the breach of planning control).
2. Subject to the corrections and 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 as amended.

The Enforcement Notice

3. An enforcement notice must state 'the matters which appear to the local planning authority to constitute the breach of planning control' and it must be stated in such a way that it enables any person on whom a copy of it is served to know what those matters are. In other words, the allegation must be clear. The notice refers to self-contained units, but it does not prescribe what the use of the units is.
4. However, the reasons for issuing the notice refer to 'the dwellings' so the notice is not so ambiguous, and the appellant evidently understood what development the notice is targeted at. Accordingly, there would be no injustice caused by correcting and varying the notice as set out in my decision.

The appeal on ground (a) the deemed planning application

5. Based on the reasons for issuing the notice, I consider the main issue is whether the accommodation provides satisfactory living conditions for current and future occupiers with particular regard to the size of the units.
6. In their appeal statement, the Council raised matters relating to amenity space, daylight and sunlight, fire safety, the availability of car and cycle parking and refuse storage, which did not form part of the reasons for issuing the notice. Consequently, these have not formed part of my assessment.
7. In any event, even if I had found favour with the appellant's arguments in respect of these matters, they would have attracted only neutral weight and could not have outweighed the harm in respect of the size of the accommodation.

Reasons

8. Policy D6 of the London Plan 2021 relates to housing quality and standards and requires that a one-bedroom, one-person, single storey dwelling provide a minimum gross internal floor area of 37sqm. This is a minimum standard which applicants are encouraged to exceed. This standard is replicated in Policy P15 of The Southwark Plan 2019 – 2036 Adopted February 2022 (Southwark Plan).
9. Each of the units has a modest kitchen and shower room, along with a further irregular shaped space for sleeping. There is no separate lounge or amenity space in which occupiers could eat, relax, and watch TV for example and negligible storage space. The units are reasonably well served by windows given their size, albeit the window which serves the living space of the ground floor unit looks directly onto a wall and provides a particularly oppressive outlook.
10. At around 23sqm the units fall significantly short of the minimum standard and combined with my observations, do not provide adequately sized accommodation for occupiers, resulting in inappropriate residential quality.
11. The units do not provide satisfactory living conditions for occupiers contrary to Policy D6 of The London Plan 2021 and policies P15 and P56 of the Southwark Plan. The development also conflicts with the National Planning Policy Framework (the Framework) which seeks to ensure a high standard of amenity for existing and future users of buildings.

Other Matters

12. The Council did not identify any specific harm in respect of the metal staircase. However, it is an established principle that a notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use. Accordingly, since the staircase evidently facilitates the use, it is not excessive to require its removal.
13. The appellant referred to several policies of the Southwark Plan, The London Plan 2021, and the Framework. However, whilst the development may constitute an efficient use of land and make a very modest contribution to the supply of homes – at an affordable price and is in an accessible location, and there is no harm to the living conditions of neighbouring occupiers or to the character of the area are matters which cannot outweigh the harm in respect of the standard of accommodation.

14. The Council referred to Policy H2 of the London Plan 2021 however, the strategic aims of that policy are not relevant to the detailed consideration in this case. Although Policy P3 of the Southwark Plan, which relates to the retention of existing homes, was listed in the reasons for issuing the notice, there was no explanation why the development is considered contrary to that policy. Policy IP4 of the Southwark Plan sets out that the Council will take enforcement action where expedient to do so and identifies some priorities, there is no conflict with this policy.

Overall conclusion on ground (a)

15. The development does not accord with Policy D6 of The London Plan 2021 and policies P15 and P56 of the Southwark Plan and is contrary to the development plan when taken as a whole. In this case, there are no material considerations of sufficient weight to indicate that the appeal should be determined other than in accordance with the development plan.
16. Given the conflict with local policy, the development cannot therefore be considered sustainable development for which the Framework presumes in favour.
17. The appeal on ground (a) fails and planning permission will not be granted.

The appeal on ground (g)

18. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant requested a period of 15 months based on the time needed to appoint a contractor and complete the works, and since at least one of the tenants would need to find alternative accommodation.
19. The purpose of the time period within an enforcement notice is to allow for the use to cease and the physical works associated with the notice to be removed. The appellant's submission largely relates to the time before the works can commence.
20. In the absence of substantive evidence about the availability of contractors, or details of the terms of the tenancies held by any current occupiers, particularly in relation to matters such as the notice periods required by either side, I find the period of nine months is reasonable and proportionate to the breach of planning control. The appeal on ground (g) fails.

Conclusion

21. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR