The Planning Inspectorate

Appeal Decision

Site visit made on 26 September 2016

by B M Campbell BA(Hons) MRTPI

Decision date: 2 November 2016

Appeal Ref: APP/A5270/C/16/3149945
188 Park Avenue, Southall, Ealing UB1 3AN

- 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 Miss A Loyal against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice was issued on 20 April 2016.
- The breach of planning control as alleged in the notice is without planning permission, the construction of two self-contained dwellings at the rear of the premises.
- The requirements of the notice are to:
  a) Cease the use of both dwellings;
  b) Demolish the dwellings in their entirety; and
  c) Remove all resultant debris.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.

Decision

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

Reasons

2. The ground of appeal is that the breach of control alleged has not occurred. In a legal ground of appeal such as this the onus is on the Appellant to make out her case on the balance of probability.

3. The buildings to which the notice relates comprise a single storey extension to the rear of 188 Park Avenue and a single storey outbuilding at the end of the rear garden. Both can be accessed from a rear alleyway leading from Park Avenue between Nos.190 and 192 and both had lights outside their external doors.

4. The Appellant says neither building was erected as a dwelling. She has provided a certificate to demonstrate that the buildings were constructed in accordance with the Building Regulations but that is quite a separate matter from planning control.

5. A Lawful Development Certificate has been provided, issued by the Council on 5 March 2014 (Ref:P/2013/5660) for a single storey detached garden outbuilding to be used as a garden store. What has been built does not correspond with the drawing for a "proposed garden store" on which that decision was based.

6. In addition, on 31 January 2014 the Council issued a decision (Ref:PAN/2013/5600) confirming that prior approval was not required for a

single storey rear extension some 6m deep and shown on the accompanying drawings to provide a kitchen for the existing house. Once again, what has been built does not conform to the drawings upon which that decision was based.

7. The outbuilding has a room containing a toilet, wash hand basin and shower; has a kitchenette and a rear living room. It contains all the facilities necessary for day to day living. The rear extension again has a room containing a toilet, basin and shower, has a kitchenette and a living area. Both might be reasonably described as self-contained bedsits. Although the rear extension retains a connection to the main house by way of an internal door which was open at the time of my visit, it seems to me that this could easily be kept shut and blocked with one of the tall pieces of furniture present.

8. Before the rear extension and outbuilding were completed officers from the Council visited and found that the toilet/shower rooms had been installed in both and they were told by the builders working in the outbuilding that a kitchenette was to be installed (3/6/2014). At a further visit on 3/9/2014 the Council took a picture through a window of the outbuilding which showed a washing machine, fridge freezer and sofa although it would appear that work was still in progress as there is builders equipment on the floor and no sign of occupation such as personal items.

9. During a visit on 29/6/2015 the Council's officer was advised by the tenant of the main house that the rear extension and outbuilding were each occupied separately although no access was gained to them. At a visit made on 31/3/2016 the Council's officer was able to inspect both the outbuilding and the rear extension and the photographs taken confirm what he was told at the time which was that each was separately tenanted. Council Tax records indicate that there are two separate dwellings in addition to the main house described as "Flat Ground Floor Rear" and "Garden Annexe" which would correspond to the outbuilding and rear extension and the Council says they have been separately rated since 1/7/2015.

10. From the evidence available it is clear that the outbuilding and rear extension were constructed as two self-contained dwellings and that they have been used as such. Even if they are not currently in such use, it does not mean that the breach has not occurred. The matter alleged, that is the construction of two self-contained dwellings at the rear of the premises, has occurred as a matter of fact and the appeal on ground (b) fails.

11. The Appellant appears to be also arguing that there has been no breach of planning control and that is a matter properly brought under ground (c). However, even had that ground been brought it would have failed. Whilst the Council issued a Lawful Development Certificate for a single storey detached outbuilding to be used as a garden store; that Certificate does not extend to confirming lawfulness for the erection of a dwellinghouse. Similarly, confirmation that prior approval was not required for a single storey rear extension to provide additional accommodation for the existing house does not extend to the erection of an extension for use as a separate dwelling.

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

B M Campbell

Inspector