The Planning Inspectorate

Appeal Decision

Site visit made on 24 August 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 29 August 2017

Appeal Ref: APP/Q5300/X/16/3161491
8 Wilmer Way, Southgate, N14 7JB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs Rose Abai against the decision of the Council of the London Borough of Enfield.
- The application Ref 16/03677/CEU, dated 10 August 2016, was refused by notice dated 5 October 2016.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is two separate self-contained units.

Summary of Decision: The appeal is dismissed.

Main Issue

1. The main issue in this appeal is whether the use of the premises as two self-contained units was lawful on 10 August 2016.

Reasons

2. In order to succeed in this appeal the Appellant has to show that the premises were in use as two self-contained units on 10 August 2016 and that the premises had been continuously so used for the previous four years which means that the use had been continuous since on or before 10 August 2012.

3. 8 Wilmer Way is a two storey semi-detached dwelling which has been extended and which is currently vertically divided into two self-contained units known as 8 and 8a.

4. Planning permissions were granted for extensions to the property in 2007, 2008 and again in 2010[1]. The permission in October 2010 was retrospective and contained a condition that 'the extension shall not be occupied at any time other than for the purpose of accommodation ancillary to the occupation of the existing dwelling and the integration shown on the approved drawing no 0701 – 10B at ground floor, first floor and in the loft level shall be retained in perpetuity'[2]. I noted on my visit that whilst the integrating doors shown on the drawing were in place articles, furniture and other items had been placed in front to them which would hinder, if not prevent, their opening and use.

[1] TP/07/0643, TP/07/2248 and TP/10/1223
[2] Condition No 3 of TP/10/1223

5. Enforcement investigations took place in September and November 2010 and the case was closed because a site visit confirmed that the floor plan of the premises was as permitted by the planning permission granted in October 2010.

6. In support of her case the Appellant has provided British Gas documents with a supply address of 8a Wilmer Way dated June 2015 and March 2016; a British Gas document with the supply address of 8a Wilmer Way for February 2015 to February 2017; a gas safety record relating to 8 Wilmer Way dated May 2014; gas safety records relating to both 8 and 8a Wilmer Way dated February 2016; and a assured shorthold tenancy agreement dated 25 February 2012 relating to 'the dwellinghouse situated at and being at 8 Wilmer Way'.

7. I noted on my visit that the gas meter at No 8a had the date 20 February 2015 on it and that the electric meter had a label with March 2015 on it. The meters for No 8 were also dated 2015.

8. The Council advises that 8 Wilmer Way has been registered for Council Tax as a single property since August 2006.

9. The evidence presented by the Appellant falls far short of the precise and specific evidence that is required in cases such as this. In particular the utility documents do not go back for a period of four years and the tenancy agreement is for only one of the two properties. In addition, the tenancy agreement does not specify the extent of the premises that it relates to but merely refers to No 8.

10. The Appellant has failed to prove on the balance of probabilities that the premises were in use as two self-contained units on 10 August 2016 and that the premises had been continuously so used for the previous four years.

Conclusions

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of two separate self-contained units was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Decision

12. The appeal is dismissed.

Gloria McFarlane
Inspector