



Appeal Decision

Site visit made on 25 February 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2020

Appeal Ref: APP/G5750/X/19/3231974

Ground floor rear, 142 Katherine Road, East Ham, London E6 1ER

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Muhammad Asif against the decision of the Council of the London Borough of Newham.
- The application Ref 19/00118/CLE, dated 14 January 2019, was refused by notice dated 7 February 2019.
- 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 C3 - dwellinghouse.

Summary Decision: The appeal is dismissed.

Reasons

1. I visited 142 Katherine Road on 25 February 2020 but as no-one was present on behalf of the appellant I was unable to see inside the building. Consequently, I have based my decision on the written evidence provided by the appellant and Council.
2. This LDC application seeks to ascertain whether the use of the extension to the rear of 142 Katherine Road is lawful. Section 191 of the Act states that operations are lawful if they do not constitute a contravention of any of the requirements of any enforcement notice then in force. The burden of proof is on the appellant, with the relevant test of the evidence being on the balance of probability.
3. The application form refers to the address of the site as the ground floor rear at 142 Katherine Road and the appeal forms refer to the use as a self-contained flat. The plans show this as being a single storey rear extension known as Flat 3 and comprising a large room with kitchen and bathroom off it. Access is from the passage to the rear of the property.
4. The Council have drawn my attention to an enforcement notice dated 10 April 2008. The breach alleged in the notice was "without planning permission, the erection of a side and rear extension to form a self contained unit of residential accommodation" on land at 142 Katherine Road. This was identified in blue hatching on the plan attached to the notice as the building to the rear of the notice that forms the flat subject of this LDC application.

5. There is some reference in the evidence to there being two flats in the main dwelling. However, the application is clear that it relates to the extension at the rear of the property, that is subject of the enforcement notice. The requirements of the notice are:
- I. Demolish the unauthorised side and rear extension, as identified in blue hatching on the plan.*
 - II. Upon demolition of the side and rear extension make good the external walls of the main dwelling, finishing them in materials to match the existing external appearance of the main dwelling.*
 - III. On completion of steps I and II above remove all debris from the site and reinstate the land to its previous condition.*
6. Since the existence and use of the extension as a dwellinghouse is clearly in conflict with the notice requirements to demolish the extension, the use cannot be lawful.
7. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of C3 – dwellinghouse use of the flat at the ground floor rear of 142 Katherine Road was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Formal Decision

8. The appeal is dismissed.

AJ Steen

INSPECTOR