
Appeal Decision

Site visit made on 24 August 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/Y1945/C/20/3248444

8 Maude Crescent, Watford WD24 6DF

- 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 Mr L Ali against an enforcement notice issued by Watford Borough Council.
- The enforcement notice was issued on 27 January 2020.
- The breach of planning control as alleged in the notice is the change of use of the property from a single family dwelling house into two self-contained flats.
- The requirements of the notice are:
 1. To cease the use of the self-contained flat as a separate living accommodation within 1 calendar month.
 2. To remove the external door at the front of the side extension and brick it up.
 3. To remove the fitted kitchen in the side extension including cooker, microwave, oven, extractor, washing machine, sink, kitchen cupboards, work tops, plumbing and all associated fittings and fixtures.
 4. Remove from the land and dispose of all rubble, waste materials and debris in relation to compliance with Steps (1) (2) and (3) above.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Procedural Matter

1. The appellant ticked ground (c) on the appeal form. However, his statement of case argues that the matters alleged in the notice have not occurred as a matter of fact, which is a ground (b) appeal. Consequently, I have determined the appeal on the basis of grounds (b) and (c). Given that the appellant's case intertwines the two grounds, I have considered them together in my reasoning.

Grounds (b) and (c)

2. The appeal on ground (b) is that the matters alleged in the notice have not occurred as a matter of fact. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. The onus of proof is on the appellant.
3. At the time of my site visit, the ground floor of the two-storey side extension comprised a single room containing a single bed, a cot, a two-seater couch, kitchen units and sink, a washing machine, a wardrobe and a TV. There was a vacant space where a cooker and extractor fan were previously located. There was also a shower room with toilet and basin. In addition, there was an open

- porch area served by an external door. An internal door allowed access between the extension and the main dwelling, the adjacent room being used as a bedroom.
4. My consideration of the appeal is on the basis of whether the alleged breach took place at the time the notice was issued, not whether it currently exists.
 5. Photographs dated 29 October 2019 submitted by the Council clearly show that the internal door with the main dwelling was blocked up by a piece of wood firmly attached to the door frame. The appellant contends that this was only a temporary arrangement until a door could be installed. However, it seems to me that if the extension was indeed used as part of the main dwelling then boarding up the doorway was a somewhat excessive temporary measure as the only way of moving between the extension and the main dwelling would have meant exiting/entering through the external door. As the extension had all the facilities necessary for a self-contained residential unit, including its own external door, and there was no internal access with the main dwelling, I find that a material change of use occurred through the creation of the self-contained flat.
 6. The appellant argues that the occupants of the overall building are related and therefore comprise a single family and consequently occupy the building as a single-family dwelling. However, regardless of the relationship of the occupants with each other, the separation of the ground floor of the extension to create a separate flat amounts to a material change of use requiring planning permission.
 7. I note that the appellant has since installed an internal door and removed the cooker and extractor fan. However, there is no indication as to whether this took place before or after the notice was served. The onus of proof is on the appellant.
 8. I therefore find that, based on the evidence before me, on the balance of probabilities, a material change of use of the building to create two self-contained flats took place at the time the notice was issued. As such, the ground (b) appeal fails.
 9. Furthermore, the material change of use of the building into two self-contained flats requires planning permission. As there is no evidence before me that planning permission has been granted for two self-contained flats, the matters alleged in the notice constitute a breach of planning control and therefore the ground (c) appeal fails.

Other Matters

10. I have had regard to the appellant's contention that attempts were made to negotiate with the Council before the notice was issued. However, this has no bearing on whether or not the breach took place.

Formal Decision

11. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Alexander Walker

INSPECTOR