



Appeal Decision

Site visit made on 8 August 2022

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/G3110/C/21/3288879

The land at 1 Alesworth Grove, Headington, OXFORD, OX3 9RD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Sukhdev Singh against an enforcement notice issued by Oxford City Council.
 - The notice was issued on 6 December 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the subdivision of a dwelling-house to create two self-contained dwelling-houses on the land.
 - The requirement of the notice is to cease the use of the land as two separate self-contained dwelling-houses.
 - The period for compliance with the requirement is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

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

Reasons

2. For lawful development certificates [LDCs] the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If there is no evidence to contradict it or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence is precise and unambiguous to justify the grant of a certificate on the balance of probability. The same applies in relation to ground (d) appeals which are similar.
3. It is identified that the appellant purchased the property in 2008 with the current division, and tenants are identified with telephone numbers to confirm this, along with the name of a Councillor. However, the Council has evidence that indicates that the property may have been used in a different manner to that understood by the appellant. The extension has all the facilities to enable independent living, including kitchen and bathroom, bedrooms and living area.
4. An officer from the Council visited the site in December 2017 and found that while the extension had all facilities necessary for independent living, there was free movement between the two parts of the property via an internal door. About 2020 this door was seen to be blocked by a mattress, sub-dividing the property in a limited way, and at the site visit it was seen to have been plastered or plasterboarded over on one side, the door still visible on the other.

5. However, more importantly, a planning contravention notice [PCN] was issued in relation to the property and completed in February 2018. This is a legal document that has to be completed accurately. It is an offence under Section 171D of the Town and Country Planning Act 1990 to make any statement purporting to comply with a requirement of a planning contravention notice, which is known to be false or misleading or to recklessly make such a statement which is false or misleading. The name and full address of the occupants at the time was a required question. Replies indicated that occupants were the appellant and his family and friends. The property was identified by the appellant as 1 Alesworth Grove, Oxford, Oxfordshire OX3 9RD. There is no reference or suggestion that there were two dwellings.
6. The PCN filled in by the appellant indicates that the property was being used by the owner, his family and friends as of around February 2018. The completion of the PCN indicates that the property was operating as a single family dwelling at that time, with no weekly tenancy, agreement or lease and term. The side extension in the PCN is referred to as a side extension and not as a separate dwelling. The Council say it informed the appellant in 2017 that there was no sub-division found, so no enforcement action would ensue. This they say was not disputed by the appellant.
7. The PCN return together with the free movement between the dwelling and extension, as seen by the Council in 2017 does not show two independent dwellings at this time. On the balance of probability 4 years' continuous occupation/use as independent units has not been shown.
8. I conclude on the balance of probability that the Council's evidence contradicts the appellant's evidence and makes the appellant's version of events less than probable, so there is good reason to refuse the application.

Conclusion

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

Graham Dudley

INSPECTOR

