

Dike, Darlene

From: Hope, Obote
Sent: 15 September 2014 16:23
To: Planning
Subject: FW: 11 Albert Terrace Mews - Councillor enquiry - Development management - Ref. 9628849 - [AB response - Waiting on OH for original obj LM]

Please log as an objection.

Regards

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From: Bushell, Alex
Sent: 15 September 2014 16:04
To: [REDACTED]
Cc: Callaghan, Patricia (Councillor)
Subject: 11 Albert Terrace Mews - Councillor enquiry - Development management - Ref. 9628849

Dear Mrs McCrick,

I have been passed a complaint you have sent to Cllr Callaghan regarding an application for a lawful development certificate at 11 Albert Terrace Mews.

The owner of 11 Albert Terrace Mews is arguing that the basement excavation proposed falls within what is known as a 'permitted development' right for home owners to extend and alter their property. It applies nationally and is granted by an Order that forms part of government legislation. If the extension is permitted development, the Council has no control and an application for planning permission is not required.

Whilst the homeowner does not have to let the planning department know if they intend to exercise their right to extend their property, they may make an application for a lawful development certificate. Such applications essentially ask 'if I were to build a basement that meets these parameters, would it be permitted development?' The assessment is simply whether it meets the criteria in the Order and any certificate issued will state that it is permitted. If we were to refuse to issue the certificate, it would be on grounds that it is not within the described limits in

size. We cannot apply the same policies that we would apply if we were considering a planning application.

This is why there is no requirement to carry out consultation and the Council does not do so as a matter of course although we do publish all applications online. Other separate legislative requirements such as the Building Regulation and the Party Wall Act may still apply, which is why you heard about the proposal through the party wall notice. Of course you are entitled to write to us and we will try to respond to your concerns as far as we are able. As I state above, we are limited to matters concerning the legal interpretation of the Order and wider concerns about say, structural stability or nuisance, cannot be taken into account.

There have been a number of similar applications for lawful development certificates for basements across the Borough recently that are very controversial to local residents and we have taken the extraordinary step of seeking counsel opinion on whether basements can be permitted development. The independent legal advice is that basement can indeed fall within the Class of permitted development dealing with extensions, alterations or improvements to single family dwelling houses. In addition, the Planning Inspectorate has decided appeals in other Boroughs against refusals to issue certificates citing that basements can fall within the permitted development rights.

I would like to apologise for the difficulties you have experienced with the duty planning officer. The advice was essentially correct; however, use of terms like 'we will not contact you' and 'we will ignore...' are clearly not helpful. I have spoken to the officer concerned and he will explain such matters in a more helpful manner in the future.

I have also spoken to Matthias Gentet and I understand the point that was made. An application for a certificate of lawfulness can be made before or after they have carried out the works. In this case the applicant erroneously submitted the retrospective form. This has now been corrected and the form that deals with proposed development has now been submitted.

I trust this responds to the issues you raise; however, please feel free to give me a call or send an email if you would like to discuss this matter further.

Kind regards,

Alex Bushell
Advice and Consultation Team Manager
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