

Appeal Decision

Site visit made on 15 August 2019

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Appeal Ref: APP/R5510/X/18/3212097
56 Dartmouth Road, Ruislip HA4 0DB

- The appeal is made by Jodi Hanmore under section 195 of the Town and Country Planning Act 1990 against a refusal by the Council of the London Borough of Hillingdon to grant a lawful development certificate.
 - The application Ref: 72398/APP/2018/2767, dated 30 July 2018, was refused by notice dated 21 August 2018.
 - The application was made under section 192(1)(b).
 - The development for which the certificate is sought is described in paragraph 4 below.
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Decision

1. The appeal is allowed and attached to this decision is a lawful development certificate relating to the operations described in the application, which are considered to be lawful if begun at the time of the application.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on whether or not the operations would be lawful if begun at the time of the application for the certificate. The planning merits of the operations are not relevant to the appeal and there is no planning application before me.
 3. There has been some confusion about the description of the development for which the certificate is sought. It is described on the application form as "Erection of an outbuilding in the rear garden to create an home office and summer house for use incidental to the enjoyment of the existing dwelling house". However, the plan submitted with the application shows an outbuilding with two rooms, the larger one marked "office" and the smaller one marked "store". The officer's report then dealt with the application as if the "store" would be the "summer house" and stated, "the excessive scale of the office element is of particular concern". The Council then refused the application, with the decision notice describing the development as "Single storey outbuilding to rear for use as an office and store".
 4. I have reached the following conclusions from my reading of the papers and from what I saw on the site. The outbuilding would be erected across the end of the rear garden. There is an existing store in the same location, which would be demolished. The "store" room shown on the plan would be its replacement.
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The "office" room shown on the plan is intended to be used as the "summer house" as well. I have therefore dealt with the development for which the certificate is sought as being the "Erection of an outbuilding in the rear garden to create a home office/summer house and a store".

5. The outbuilding would occupy an area of about 42.4m², of which 33.7m² would be used as the home office/summer house and 8.7m² would be used as the store. The house is a two-storey end-of-terrace house with an attached garage. The house has an existing floor area of roughly 100m². Planning permission exists for extensions to the house, but since the permission has not been implemented it does not affect the size of the existing house.
6. The Council refused the application because they considered the operations would not be permitted by Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. Class E permits the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to the detailed limitations set out in E.1. The Council reached this conclusion because the "overall size and scale and intended use" of the outbuilding was "not considered to represent a development for a purpose incidental to the enjoyment of the dwellinghouse". The officer's report confirms that the detailed limitations in E.1 would all be complied with.
7. My understanding of the principles that apply to the phrase "required for a purpose incidental to the enjoyment of the dwellinghouse as such" is as follows: -
 - The concept of Class E is broad and a wide range of incidental purposes is permitted.
 - The incidental purposes must be connected with the running of the house or the domestic, recreational or leisure activities of its occupiers and the building must be required for those purposes, but it is primarily for the occupiers to decide what incidental purposes are to be enjoyed in the building.
 - In order to assess whether the purposes are incidental to the enjoyment of the house, their nature and scale are to be considered. The use of the building should be subordinate to the use of the house as a dwellinghouse.
 - The size of the building in comparison to the size of the house is a relevant, but not a decisive, factor in this assessment. The comparison should be with the whole of the house as it existed at the time of the application, since this is the house in respect of which Class E permits development.
 - The issues are to be decided with an element of objective reasonableness, as a matter of fact and degree in each case.
8. The officer's report approaches the term "required" in this phrase as meaning that there is an emphasis on an applicant showing a requirement for the outbuilding as part of their application. This approach could oblige an applicant to prove a need for a building based on their personal lifestyle and household circumstances. It could lead, for example, to applications being refused for a

freestanding garage because the household did not have the use of a car at the time or for a greenhouse because no-one in the household had shown an interest in cultivating plants. The phrase "required for a purpose incidental to the enjoyment of the dwellinghouse as such" should in my view be considered as a whole, applying the principles set out in paragraph 7 above.

9. There is no statutory limitation on the incidental purposes for which an outbuilding may be provided. A wide range is usually taken to be included, as long as the purposes are connected to the running of the house and to the domestic, recreational or leisure activities of its occupiers and do not involve the provision of primary living accommodation, such as a bedroom, bathroom, or kitchen. The purposes proposed in this application - a home office/summer house and a store, for use by the household - are in my opinion capable of being purposes "incidental to the enjoyment of the dwellinghouse as such" for which an outbuilding may be required.
10. I have assessed the application with the necessary element of objective reasonableness. One domestic outbuilding would be replaced by another of a similar size. The new outbuilding would be used for purposes that are typical incidental domestic uses and it would not be too large for those purposes. As a matter of fact and degree, I consider that the outbuilding is required for purposes incidental to the enjoyment of the dwellinghouse within Class E.
11. I have concluded that the operations would be lawful if begun at the time of the application for the certificate. I am satisfied that the Council's refusal of the application is not well-founded. The appeal has therefore been allowed and, as required by section 195(2), the appellant has been granted a lawful development certificate under section 192.

D.A.Hainsworth

INSPECTOR