



Appeal Decision

Site visit made on 20 October 2020

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal A Ref: APP/F5540/X/20/3245429 **80 Hounslow Road, Hanworth TW13 6QQ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Gabriel and Mrs Josephine Menezes against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00632/80/LAW2, dated 22 August 2018, was refused by notice dated 20 December 2018.
 - The application was made under section 192(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 use of the land for siting a mobile home family annexe for use incidental to the main dwelling.
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Appeal B Ref: APP/F5540/W/20/3245426 **80 Hounslow Road, Hanworth TW13 6QQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gabriel and Mrs Josephine Menezes against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00632/80/P1, dated 2 May 2019, was refused by notice dated 24 July 2019.
 - The development proposed is detached ancillary family annexe in the form of a mobile home.
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Decisions

1. **Appeal A** is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.
2. **Appeal B** is allowed and planning permission is granted for detached ancillary family annexe in the form of a mobile home at 80 Hounslow Road, Hanworth TW13 6QQ in accordance with the terms of the application, Ref 00632/80/P1, dated 2 May 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2777.18-HA-OPT1-PLEL; 2777.18-HA-OPT1-PLPL; 2777.18-HA-OPT1-PLBAYS; 2777.18-HA-OPT1-PLBP; 2777.18-HA-OPT1-PLLP; 2777.18-HA-OPT1-PLBP Rev 1; and HSBMH.

- 3) The mobile home hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 80 Hounslow Road, Hanworth TW13 6QQ.

Appeal A

Preliminary Matter

3. The description of what is proposed differs between the application form and the Council's decision notice. As it is an accurate reflection of what is proposed, I have used the former in my decision.

Main Issues

4. From the Council's decision notice, the main issues are: whether what is proposed is a caravan; and whether the proposed use would be for a purpose incidental to the use of the main house.

Reasons

5. 80 Hounslow Road is a detached dwelling that is set back from Hounslow Road, behind a service road that runs parallel to it. It has a fairly generous garden to its rear, which backs on to an academy. The application sought a certificate of lawfulness to show that the siting of a mobile home in the rear garden as an annexe to the main dwelling would be lawful. The onus lies with the appellants to prove their case on the balance of probability.

Whether what is proposed is a caravan?

6. The definition of a caravan is given in s29(1) of the Caravan Sites and Control of Development Act 1960 (CSCDA) as any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted. It excludes (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent.
7. Section 13(1) of the Caravan Sites Act 1968 (as amended) (the 'CSA') defines a 'twin unit' as a caravan as a "structure designed or adapted for human habitation which—(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)".
8. S13(2) of the CSA confirms that, for the purposes of the CSCDA, the expression 'caravan' shall not include a structure designed or adapted for human habitation, where its dimensions, when assembled, exceed any of the following limits: 20 metres in length; 6.8 metres in width; a maximum internal floor to ceiling height in relation to the living accommodation of 3.05 metres.
9. In summary, the aforementioned legislation introduces a 'mobility test' and a 'size test' that would apply to any case where there is a claim for caravan status. The CSA refers to a further 'construction test' which applies to twin-unit caravans.

10. The Council's position on whether what is proposed is a caravan has evolved since its decision to refuse the certificate. Its Officer's delegated report, whilst agreeing that the size test was met, stated that what was proposed would not be a caravan, as it would fail the mobility test. However, in paragraph 5.8 of its statement of case it states that "The LPA accept that as a matter of fact and degree, the mobile home would not be a 'building' within the definition set by the 1990 Act. It does not therefore constitute operational development and Class E of the GPDO cannot apply". This paragraph then goes on to refer to "the stationing of the mobile home". Thereafter, its statement refers to what is proposed as a mobile home.
11. In the light of this, I take it that the Council accepts that a mobile home is proposed, in accordance with the definition in the 1968 Act. Even if this is not the case, from an assessment of the drawings that accompanied the application, and the various submissions made by the appellants - including details from the manufacturers of the Homelodge, decisions that have involved the provision of Homelodges, and a letter from a structural engineer addressing the matter of its portability, I determine that the proposed Homelodge would pass the size, construction and mobility tests. To this end, it would accord with the definitions of a caravan in the CSCDA and CSA.

Material change of use

12. The appellants state that the mobile home would be sited within the curtilage of No 80 and that there is no intention to sub-divide this. They state that the mobile home would be used for a purpose incidental to the enjoyment of the dwellinghouse. It would be occupied by the brother and sister-in-law of Mrs Menezes. They currently live in the house with the family, but the proposal would provide them with private space and give more space for the family within the main house. They would help look after the appellants' children and would live with them as part of an extended family, including taking meals and socialising with them. They would also share the use of the garden and undertake their laundry in the main house. The mobile home would not be separately metered and would not be sold or rented separately to the main house.
13. The Council states that the proposed mobile home would have a scale, form, layout and all of the facilities required of a dwellinghouse. It would be capable of being used as a separate unit and have the capacity to function as a primary residence. Given this, and the side entrance to the garden, its occupants would have no reason to use the facilities at No 80. Therefore, the required degree of interdependence would not be achieved. It could easily be converted in future. Its conclusion is that what is proposed would be an independent dwelling and, thus, there would be a material change of use of the land; therefore, the appellants have failed to prove their case.
14. In support of their respective positions, both sides have referred me to a number of Court judgements, appeal decisions and the decisions of other local planning authorities. Albeit that it was said in relation to the appellants' submissions regarding the physical nature of mobile homes, in paragraph 5.28 of its statement the Council says "those judgments will have been made as a matter of fact and degree, with each case considered on its own specific merits". That position is germane to the submissions of both parties, referred to above, on this main issue.

15. Having said this, I have not been provided with sufficient details of the proposals that formed the subject of the appeals at Court Farm House¹ or Grafton Mill² to be able to draw any firm conclusions with regards to the case that is before me. In any event, those decisions were made on the basis of the particular circumstances of the case before each Inspector. Each proposal of this kind will be based on site- and person-specific information, and it is on the basis of that which is before me that I must assess this main issue.
16. From the evidence, and from what I saw at my site visit, I find that the curtilage of No 80 is as shown edged in red on the location plan that accompanied the application. This defines the relevant planning unit for the purposes of assessing the materiality of any change of use. It is a physically distinct area with a clear functional purpose associated with the dwellinghouse. The primary use of the planning unit is that of a single dwellinghouse. The proposed mobile home would lie within this curtilage of No 80.
17. With maximum dimensions of a little over 7.5m length, 3.8m width and 3.4m height, the proposed mobile home would not be large. Notwithstanding that it would have a small kitchen area shared with the lounge, it has been demonstrated that the occupants of the mobile home would be reliant on the kitchen of the main house. They would use the fridge-freezer and washing machine there and would take their meals there. The small kitchen would provide basic facilities to provide for its occupants and I do not find that the scale, form and layout of the mobile home would negate its use for purposes incidental to the enjoyment of the main dwellinghouse.
18. I saw what appeared to be a rear/side access at the southeast corner of the rear garden. However, this was thoroughly overgrown and appeared to have been blocked off along its length. Notwithstanding this, it is proposed to access the mobile home through the main house, and it is on this basis that I assess the proposal. My finding here is that accessing the rear garden in the manner proposed would equate the use of the mobile home for purposes incidental to the main house.
19. Therefore, overall, I find that the appellants have shown that the manner in which they propose to use the mobile home would provide the required degree of interdependence between its occupants and the main house.
20. I take it that the phrase, in paragraph 5.19 of the Council's statement, that "whatever the Appellant's current intentions, it could easily be so converted in the future", means that were it to be held to be incidental at this time, works could easily be undertaken to change the mobile home to an independent residential use. However, this is a proposal relating to the siting of a mobile home for incidental purposes and I have to assess it on that basis, using the evidence before me. That it might be capable of being used for another purpose is not an issue for me here. It is a question of whether the use that it is proposed to be put to would be lawful. It is important to bear in mind that a section 192 LDC reflects the lawfulness of a proposed use of land subject to compliance with a particular description of intent and at a specific point in time. If circumstances change with time, such that there is a significant departure from the terms of provision or use described or the occupancy of the unit, the

¹ APP/R3325/X/10/2138801

² APP/H1840/X/12/2173850

LDC will be of no benefit to the appellant and the scheme may then become unlawful and subject to planning control.

Other Matters

21. Third party comments regarding: their fears of overlooking; previous extensions to No 80; and how facilities serving the mobile home will work are 'planning matters' that are not relevant to this appeal for a certificate of lawful use.

Conclusion

22. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use of the land for use of the land for siting of mobile home family annexe for use incidental to the main dwelling was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Appeal B

Background

23. The application that forms the basis of this appeal was submitted following the Council's decision to refuse to issue a certificate of lawfulness for the mobile home. The appellants state that this was in order to avoid an appeal and to give the Council the opportunity to control the use of the mobile home through conditions.
24. The Council's decision has been based on its assertion that what is proposed would be a new, independent dwelling. Although each decision stands alone, for the sake of brevity I refer to the reasoning set out in Appeal A as to why I find that this would not be the case. However, the proposed development still has to be assessed using the statutory approach in s38(6) of the Planning and Compensation Act 2004.

Main Issues

25. From the decision notice, the main issues are the effects of the proposed mobile home on: the living conditions of its future occupants, having particular regard to its internal and external space; the living conditions of the occupants of neighbouring properties, having particular regard to privacy, noise and disturbance; and its effect on the character and appearance of the area.

Reasons

Living conditions – Future Occupants

26. The mobile home that is proposed would not be large. Its external dimensions, shown on the submitted drawings, would be a little over 7.5m length by 3.8m width by 3.4m height. Internally, this would provide a small wc/shower room, kitchen-living room and bedroom.
27. The mobile home is proposed to be used as an annexe to the main house and, as I have described in Appeal A, its occupants would be reliant on the main house for many of its facilities. As such, the 'Technical housing standards –

nationally described space standard'³, (the Standards) referred to in Policy SC5 'Ensuring suitable internal and external space' of the London Borough of Hounslow Local Plan 2015-2030 (HLP), are not strictly applicable. Both the Standards and Policy SC5 relate to new dwellings, rather than annexes where facilities will be shared with the main house. I have not been given a copy of London Plan (LP) Policy 3.3 Quality and design of new housing, nor its Table 3.3. However, from the text of the Officer's report, this reflects the requirements set out in the Standards.

28. Having said this, it is still necessary to follow the approach set out in paragraph 5.18 of the supporting text to Policy SC5; that is to say that the aim should be to ensure the highest quality of internal space to meet the demands of everyday life for the occupants. Given the individual circumstances of this case, I find that the occupants of the proposed annexe would be provided with an appropriate amount of internal space to cater for their day-to-day needs. Used in association with the facilities in the main house, the mobile home would meet the needs of its occupants. It would not be cramped, nor would it be sub-standard.
29. In terms of external space, the occupants of the annexe would share the use of the garden with the occupants of the main house. There is a fairly generous garden at No 80 and this would provide adequate space for the occupants of both it and the annexe, to share, when living as a single family unit.
30. Windows to the rear of No 80 would allow its occupants to look directly towards the proposed annexe. However, given that its occupants would be family members that would share facilities in the main house and its garden, this would not lead to harm to their living conditions.
31. The windows in the neighbouring houses would be at an angle to the annexe. This, allied to screening along their boundaries with No 80, would mean that there would not be overlooking from those properties to the degree that would cause significant harm to the privacy of its occupants.
32. In addition to its reference to Policy SC5, the reason for refusal in the decision notice states "and the London Plan". However, I have not been provided with a copy of the relevant part of that Plan. Notwithstanding this, on the basis of the evidence that is before me, I find that the annexe would provide appropriate internal and external space, in accordance with the aims of LP Policy SC5.

Living conditions – Existing Residents

33. Amongst its terms, HLP Policy CC2(t) seeks to ensure that proposals provide adequate levels of privacy and minimise direct overlooking through their layout. Amongst its terms, that Plan's Policy SC7 supports proposals for outbuildings that would not result in harm to the amenity of neighbouring residents. Although I have not been provided with a copy, the Council states that the LP's Housing Supplementary Planning Guidance states that a distance between habitable room windows of 18-21m is a "useful yardstick". As this has not been countered by the appellants, I take it to be the case.
34. Section 3.4 of the Councils, 'Residential Extension Guidelines Supplementary Planning Document – A Guide for Householders', adopted 20 December 2017 (SPD) states that neighbours will be entitled to a reasonable level of privacy,

³ DCLG – March 2015

- inside their homes and outside in their private gardens. It acknowledges, however, that in dense urban areas there is always going to be some degree of mutual overlooking. Its message is that extensions and alterations should not result in any substantial loss of privacy to neighbours' dwellings and gardens.
35. I am told that the windows at the rear of 78 Hounslow Road would be 17m from those in the annexe; again, this is not countered by the appellants. However, the two would not directly face one another. Given this angle and the presence of more vegetation along the common boundary towards the end of the gardens, where No 78 also has an outbuilding, direct overlooking would be minimised to an acceptable level.
36. I have also taken into account that in an urban situation such as this there will always be a degree of over- and inter-looking between properties. This is already the case here. It is possible to look into neighbouring gardens from upper floor windows, and the post and wire fence between Nos 78 and 80 allows those in their respective gardens to easily look into the other. However, as the proposal would not result in the creation of a new dwelling in a separate planning unit, the effects on the occupants of No 78 would be little, if any, different from that which presently exists.
37. The windows in the rear elevation of 82 Hounslow Road would be set an angle to those in the annexe, in much the same way as with No 78. Furthermore, the Council informs me that the separation distance between the two would exceed that in the LP's Housing Supplementary Planning Guidance. As such, there would be no resultant loss of privacy in rooms at the rear of No 82 that might justify refusing permission. The fairly high timber fence between the gardens of Nos 80 and 82, allied to the single storey design of the proposed annexe, would ensure that the garden of the latter property would retain its current level of privacy.
38. As the proposal is for an annexe and, therefore, there would not be the creation of a separate dwelling and planning unit, noise generation and general disturbance would be little different from that which presently exists.
39. I therefore find that the proposal would maintain levels of privacy, minimise direct overlooking and would not result in an increase in noise and disturbance. It would, therefore, accord with the terms of HLP Policies CC2 and SC7 that relate to these issues. It would also be in accordance with the relevant terms of the SPD.

Character and Appearance

40. Although there are commercial enterprises nearby, and the site backs onto a school, the character of the area is overwhelmingly residential. From what I saw when I visited the site, it appeared that properties in the vicinity were in use as single dwellings.
41. I have found that what is proposed would be a mobile home for a use ancillary to the main dwelling. It would not create a separate dwelling at the end of the garden that would be at odds with the prevailing character. Many properties in the area have outbuildings within their rear gardens. Although what is proposed is a mobile home, it would nonetheless be eminently consistent with the area's character and appearance. It would be sited at the upper end of the garden, away from the house and its neighbours, in accordance with guidance

in section 4.8 of the SPD. Although that relates to the siting of outbuildings, the essence of this advice in terms of the protection of an area's character is nonetheless relevant. Further, what is proposed would follow the advice in the SPD in terms of its scale and design, both of which are appropriate to its setting.

42. On this main issue, I find that the proposal would accord with the character of the area and would, therefore, accord with the terms of HLP Policies CC1 and CC2 and the SPD.

Other Matters

43. Third parties have referred to a lack of parking on the site to cater for the occupants of the mobile home. The Council has not objected on this point and states that there is sufficient on-street parking to cater for the development. In the absence of substantive evidence to the contrary, I have no reason to find otherwise. Similarly, I have been given no substantive evidence to show a link between the proposed development and damage to road signs. Although the property has been extended previously, assessed on its individual merits the siting of a mobile home as an annexe is acceptable. Sufficient evidence has not been submitted to show that there would be any ill-effects resulting from inadequate service provision, including sewerage infrastructure.
44. I note the fear of the Heston Residents Association that what is proposed is a 'de facto beds in sheds' scheme. However, that description does not reflect what has been applied for. Should the use of the mobile home not accord with the terms of the permission, the Council has powers to enforce compliance.

Conditions

45. The Council has put forward four conditions, should the appeal be allowed. For the sake of clarity, given that my two decisions are linked, these conditions can only be applied if the mobile home is erected under the terms of this planning permission.
46. The statutory time limiting condition is required, as is a condition requiring adherence with the approved plans for the reason of clarity. However, I have simplified this and referred to the plan numbers in this regard. The condition proposed regarding the occupation of the mobile home is required, as the establishment of an unrestricted dwelling in this location would be contrary to housing policy and would have an adverse effect on the living conditions of the occupants of neighbouring dwellings. I have not been provided with sufficient evidence to justify the condition requiring the removal of the mobile home. Given that I have found that the proposed mobile home would accord with the character and appearance of the area, it would be contradictory to apply this condition without such evidence.

Conclusion

47. For the above reasons, and having taken all other matters into consideration, I allow the appeal.

Roy Curnow

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 22 August 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

What is proposed would be a caravan, in accordance with the definitions in s29(1) of the Caravan Sites and Control of Development Act 1960 and s13(1) of the Caravan Sites Act 1968. The manner of its use, set out in the applicants' submissions, would be for purposes incidental to the use of 80 Hounslow Road, Hanworth TW13 6QQ in the curtilage of which it would stand.

Signed

Roy Curnow

Inspector

Date: 25 November 2020

Reference: APP/F5440/X/20/3245429

First Schedule

Siting a mobile home family annexe for use incidental to the main dwelling

Second Schedule

Land at 80 Hounslow Road, Hanworth TW13 6QQ

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 25 November 2020

by Roy Curnow MA BSc(Hons) MRTPI

Land at: 80 Hounslow Road, Hanworth TW13 6QQ

Reference: APP/F5440/X/20/3245429

Scale: Not to scale

