

Appeal Decisions

Site visit made on 10 September 2024

by John Whalley

an Inspector appointed by the Secretary of State

Decision date 3rd October 2024

Appeal A: APP/K3415/X/24/3341064

29 Alrewas Road, Kings Bromley, Burton-on-Trent DE13 7HW

- The appeal was made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against the decision of Lichfield District Council to refuse to grant a certificate of lawful use or development.
- The appeal was made by Mrs Kate Kipps.
- The application, reference 23/00940/CLP, registered on 11 August 2023, was refused on 19 December 2023.
- The application was made under section 192(1)(b) of the Act of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of development is sought is for the Use of the land for siting of a mobile home for use ancillary to the main dwelling.

Summary of Decision: A certificate of lawfulness is not issued.

Appeal B: APP/K3415/W/24/3341056

29 Alrewas Road, Kings Bromley, Burton-on-Trent DE13 7HW

- The appeal was made under section 78 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against the decision of Lichfield District Council to refuse to grant planning permission on an application.
- The appeal was made by Mrs Kate Kipps.
- The application, reference 23/00516/FUH, registered on 11 August 2023, was refused on 25 January 2024.
- The development for which planning permission is sought is for the erection of a single storey granny annexe for ancillary use to the main dwelling.

Summary of Decision: Planning permission is not granted for the erection of a single storey granny annexe for ancillary use to the main dwelling.

Costs applications

1. The Appellant in respect of the 2 appeals, Mrs Kate Kipps, made an application for an award of costs against Lichfield District Council in connection with the appeal against the Council's refusal of her application for a certificate of lawfulness. Mrs Kipps also made an application for an award of costs against Lichfield District Council in connection with her planning application for the erection of a single storey granny annexe for ancillary use to the main dwelling.
2. The 2 applications are the subjects of a separate decision notification.

Appeal A: APP/K3415/X/24/3341064 – s.192(1)(a)

3. The application is made under s.192(1)(a) for a Certificate of Lawfulness for 'Use of the land for siting a mobile home for use ancillary to the main dwelling' at the northern end of the rear garden to the semi-detached dwelling at No. 29 Alrewas Road, Kings Bromley. The mobile home would have a flat roof to a maximum height of 3.3m, be 10m long and 6m wide.

Selected legal background

4. The Caravan Sites and Control of Development Act 1960 at s.29(1) defines the term 'caravan' as meaning '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)'.
 - 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), shall not be treated as not being (or as not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.
5. The Caravan Sites Act 1968, s.13(1) - Twin-unit caravan - 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), shall not be treated as not being (or as not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.
6. The Caravan Sites Act 1968 at s.13(2) limits the length of a twin-unit caravan to 20m and to a width of 6.8m.

Considerations

7. The Council refused to issue a certificate of lawfulness for the proposed mobile home at No. 29 Alrewas Road. They said the structure would not meet the test of mobility for a caravan. It would constitute development as defined in s.55 of the Town and Country Planning Act 1990; that is, the carrying out of building, engineering, mining or other operations in, on, over or under land. Mrs Kipps' project had not been shown to be mobile nor was it shown it would not constitute development.
8. Mrs Kipps said application Drawing Ref: 2122.03.23 V. 2 Rev. 4 showed how the mobile home would be composed of 2 distinguishable parts, separately constructed on the application site then joined together on the application site as the final act of assembly. The fact the 2 parts would be constructed side by side did not nullify the fact they were to be 2 separate parts, to be bolted together. There was no requirement that the process of creating the 2 parts must take place away from the application site, or from each other. That had been the conclusion of the Inspector in appeal decision APP/N1025/C/01/1074589 where it was decided that it was necessary only that the act of joining the 2 sections together should be the final act of assembly.

9. I note that typically, a twin-unit caravan, (s.13(1) Caravan Sites Act 1968), is constructed in the commercial premises of its manufacturer, built of 2 handed sections, each to dimensions suitable for transportation on a flatbed truck and be within, when bolted together, the Caravan Sites Act 1968 s.13(2) 20m length and 6.8m width limits.
10. In my view, the first part of the Caravan Sites Act 1968 s.13(1)(a) requirement that a twin-unit caravan 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 would not be persuasively met. The proposal is that an iHus mobile home/caravan be delivered to site in flat pack form and the 2 sections be simultaneously erected on site in their final positions, but not bolted together until each unit was almost complete. It would be tantamount to an artifice to claim that this method was not one act of construction.
11. Nor do I consider that, when assembled, it would be physically capable of being moved by road from one place to another, (Caravan Sites Act 1968 s.13(1)(b)). That is because, according to iHus information, it would require the installation of a complex lifting beam and hangers system under the floor to support the structure during a crane lifting operation. Clearly, as assembled, the structure itself would not be physically capable of being moved by road from one place to another without fitting additional and substantial strengthening steel sections to the floor.
12. I also consider that the completed structure may reasonably be seen as a building. I am aware that in *Cardiff Rating Authority v Guest Keens [1949] 1 KB 385* one of the main characteristics of a building found was that it be physical attached to the ground. The system to be used in Mrs Kipps' project would be intended to show no attachment with the structure standing on a screw pile foundation system under its own weight. The likely extent of foundation works was not clear. It appears that the screw piles could be 1m long, or up to 2.5m long, their number undefined, or if ground conditions so determine, the foundations might be concrete pads. All of which, together with any necessary ground clearance works could amount to building operations. The resulting 2 bedroom structure would be of a size more appropriate to one built on site, as opposed to being brought ready-made onto the site. There would be no intention to move it. It would cause a physical change of some permanence.
13. I conclude that, on the evidence before me, the siting of a mobile home as proposed would be a building as defined in s.336(1) of the Town and Country Planning Act 1990 as amended and that a certificate of lawfulness should not be issued.

FORMAL DECISION.

Appeal A: APP/K3415/X/24/3341064 – s.192(1)(a)

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawfulness for the erection of a single storey granny annexe for ancillary use to the main dwelling was well-founded and that the appeal should not succeed. I will exercise the powers transferred to me under s.195(2) of the 1990 Act as amended.

Appeal B: APP/K3415/W/24/3341056 – s.78

15. The Appellant, Mrs Kipps, said this was an application to erect a single storey granny annexe within the planning unit of the established C3 residential dwelling at No. 29 Alrewas Road. Its use would be ancillary to the main dwelling. The occupants were to be Mrs Kipps' parents, her mother able to assist with childcare and take some strain off Mrs Kipps, who suffers from health issues and needs assistance and support around the house with various day-to-day tasks.
16. The Council refused planning permission for the annexe saying it would introduce a large, overly dominant and visually incongruous addition to the rear garden. It would conflict with requirements of Policy BE1 (High Quality Development), the Historic Environment Supplementary Planning Document and Government Guidance within the National Planning Policy Framework.
17. The appeal site, part of the rear garden and amenity area to the dwelling at No. 29, is closely surrounded by dwellings, their outbuildings and amenity areas. To the west is the large property, The Old Friary, its fine brick-built outbuildings standing alongside the boundary with No. 29; to the north are the garages to the dwelling at No. 32 Leofric Close; to the east, the rear grounds to the Kings Bromley Village Hall. The vehicular access to the rear garden to No. 29 is shared with those to Nos. 31 and 31A, Wisteria Cottage.
18. Mrs Kipps acknowledged that the character assessment on the Conservation Area recognises that the surrounding area is characterised by a mix of buildings of varying architectural design and materials. That gave the village its harmonious appearance and sense of character. Mrs Kipps said the proposed annexe location in the rear garden of No. 29 Alrewas Road would not have any impact on the important views within the Conservation Area. The historic fabric of No. 29 Alrewas Road would not be affected, the detached annexe set away from the house.
19. Whilst it was contended that the rear garden of the dwelling was of little historic importance within the Conservation Area and that the design of the annexe has been carefully considered to assimilate into its surroundings, I do not agree. The flat roofed utilitarian annexe building would not fit harmoniously into its immediate surroundings. It would be tightly and incongruously located, ill-fitting and intrusive to albeit limited views from surrounding property.
20. The appeal site is almost entirely hidden from public viewpoints. The Council accepted that the annexe building would produce less than substantial harm to the character and appearance of this part of the Kings Bromley Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 says that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. I consider that the proposed annexe building would certainly not enhance this part of the Conservation Area, but its incongruity of design and form would also fail to preserve its appearance.

21. The new uncompromisingly designed annexe building would not comply with the exhortations in Lichfield District Council Local Plan Strategy 2008 – 2029 policy BE1 that says all development proposals should ensure that a high quality sustainable built environment can be achieved. Development will be permitted where it can be clearly and convincingly demonstrated that it will have a positive impact on – including conservation areas. New development should carefully respect the character of the surrounding area and development in terms of layout, size, scale, architectural design and public views. In my view, the appeal project fails those tests.
22. I note that the main purpose and use of the residential annexe would be to provide accommodation for the Appellant's parents and that Mrs Kipps' mother could thereby better offer support to the family. But the proposed residential annexe would remain long after the present claimed justification for its construction and use prevails.
23. The Council were concerned there would be overlooking and loss of privacy to neighbouring properties caused by the siting of the annexe. That objection is not determinate, but does add to reasons for not allowing this appeal.

FORMAL DECISION

24. For the reasons given above, I conclude that the appeal should fail.

John Whalley

INSPECTOR