
Appeal Decision

Site visit made on 30 October 2017

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 November 2017

Appeal Ref: APP/B5480/C/17/3174314

Land at 28 Lodge Lane, Romford RM5 2EJ

- The appeal is made by Mrs Vicky Rose under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/49/17) issued by the Council of the London Borough of Havering on 14 March 2017.
- The breach of planning control alleged in the notice is “the erection of an outbuilding” on the Land.
- The requirements of the notice are as follows: -

“EITHER:

- i) Remove the outbuilding in its entirety; and
- ii) Remove from the Land, all materials and debris resulting from compliance with steps [sic] (i).

OR:

- iii) Cease the use of the outbuilding as a self-contained residential unit; and
- iv) Reduce the height of the outbuilding to no more than 2.5m from natural ground level; and
- v) Remove from the Land, all materials and debris resulting from compliance with steps (iii) and (iv).”

- The period for compliance with these requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f).
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons for the decision

The enforcement notice

2. The appellant maintains that the notice is a nullity due to “two fundamental errors”. The first contention is that Requirement iii) is uncertain because it is not clear whether use as a granny annexe could continue; the second is that there is a mismatch between Requirement iii) and the allegation that an outbuilding has been erected. The Council’s response is that the notice clearly identifies the alleged breach as the erection of an outbuilding, but that Requirement iii) should have been worded so as to require the use of the alleged outbuilding to be restricted to purposes incidental to a dwellinghouse, the intention of Requirements iii) and iv) being to bring the alleged outbuilding into line with what householders can carry out as permitted development.
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3. The notice contains all the elements that it is required by law to contain and in my opinion it has been drafted so as to tell the appellant fairly what is alleged to have been done in breach of planning control and what must be done to remedy the alleged breach if the notice is upheld. Requirement iii) uses a well-understood planning term, as does the alternative wording put forward by the Council. In my view, the issues raised here by the appellant and the Council fall to be dealt with under the submitted grounds of appeal and by consideration of the exercise of the power to correct or vary the notice if this can be done without causing injustice.

Ground (b)

4. Under ground (b) the appellant maintains that the alleged breach of planning control has not occurred as a matter of fact, because what has taken place is not the erection of an outbuilding, but is the siting of the mobile home for which a lawful development certificate has been granted. The Council contend that an outbuilding has been erected in breach of planning control, and that what has taken place could not be the siting of a mobile home because of the method of construction and because the structure could not be moved from one place to another.
5. The lawful development certificate was granted on 4 August 2016 and it declares to be lawful the siting on the land of a mobile home to be used for purposes ancillary to the appellant's house on the land. (I have treated the reference to 29 Lodge Lane in the First Schedule to the certificate as an error, since the main dwelling concerned is clearly No 28.) The certificate states that it is based on the details shown on five drawings. From what I have seen and read about the alleged outbuilding, it appears to be in the location specified on these drawings and to have the same dimensions, external appearance and internal layout as those specified on the drawings (with the addition of some adjoining decking and steps which are not at issue in the appeal).
6. The term "caravan" is defined by statute and the statutory definition applies to the mobile home authorised by the certificate, rather than the ordinary meaning of the word. In the context of the appeal it means a 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).
7. A "twin-unit caravan" is not treated as being outside this definition by reason only that it cannot lawfully be moved on a highway when assembled. A twin-unit caravan is defined as one that "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 "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)". These prerequisites are usually referred to as 'the construction test' and 'the mobility test'. There is also a 'size test', but there is no dispute in this appeal that this test has been complied with.
8. As to the construction test, the mobile home for which the certificate was granted should consist of no more than two sections that have been separately constructed and that have been designed to be assembled on the land, and the

joining together of the two sections by the means described should be the final act of assembly. There is no requirement that the process of creating the two separate sections must take place away from the land.

9. The appellant has explained that the components were manufactured in kit form in a factory. The kit included finished panels and boards and timber floor cassettes that were chemically treated, boarded and insulated. These were all stacked into packs and wrapped with tarpaulins ready for transportation. They were then taken to 28 Lodge Lane on a 25ft flatbed wagon, off-loaded at the front using the vehicle's crane and moved manually into the back garden.
10. The appellant indicates that the components were then assembled into two sections, in accordance with the construction plans and the installation method, details of which she has provided. The plans show a front section and a back section. The installation method shows that the two sections, having been completed alongside each other, were then connected securely by using a series of bolts along the lines of the walls and floor.
11. The Council's case in relation to the method of construction relies on their inspections of the works during the assembly period and the photographs that were taken then. They state that the components were not delivered to the site in two sections lifted or craned off a transporter and that the structure was constructed on site by builders, joiners and other tradespeople. They indicate that the materials delivered to site included raw materials, such as timber and felt for the roof, that materials were stored on site and that a skip was placed in the front garden.
12. The Council's evidence is not in conflict with the appellant's explanation of what took place. However, the Council appear not to have appreciated that assembly can take place on site and they have not shown that the construction test, as explained in paragraph 8 above, was not satisfied. In particular, the Council's evidence does not cast doubt on the appellant's explanation of how the two sections were assembled on the land and then joined together in the final act of assembly.
13. As to the mobility test, the mobile home for which the certificate was granted should once fully assembled be physically capable of being moved as a whole by road, by being towed or transported. A lack of intention to move is not relevant, nor is the absence of a suitable means of access or an adequate road network, but the mobile home should possess the necessary structural qualities to permit its movement in one piece without structural damage.
14. The Council concluded from their investigations that it was reasonable to assume that the structure would have to be dismantled in order for it to be moved off the site, because lifting in an intact form would be unlikely to be feasible given the method of construction. They therefore determined that it was not physically capable of being moved as required by the mobility test.
15. The appellant disagrees and has produced a 'Structural integrity and craning method statement', which is supported by drawings and detailed calculations drawn up by experts. The structure rests on plinths and is not fixed to the ground. The statement supports the view that temporary lifting beams could be installed under the structure to enable it to be lifted safely for transportation.

The Council have not disputed these findings and I have no reason to disagree with them.

16. For the above reasons, I am satisfied on the balance of probabilities that both the construction test and the mobility test have been complied with. I have come to the conclusion, as a matter of fact and degree, that the structure is the mobile home for which the lawful development certificate was granted and not an outbuilding. The alleged breach of planning control has therefore not occurred as a matter of fact and the appeal has succeeded on ground (b).

Grounds (a) and (f)

17. The notice has been quashed as a result of the appeal's success on ground (b). Grounds (a) and (f) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR