

Authorised Designs Ltd

Planners, Surveyors & Development Consultants

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

APPELLANT: Jessie Kane

SITE: 82 Windsor Avenue, Hillingdon, UB10 9AY

PROPOSAL: Lawful Development Certificate for the proposed conversion of an existing outbuilding into a residential annex for an elderly relative

LPA REFERENCE: 62190/APP/2021/865

DATE: June 2021

1.0 INTRODUCTION

1.1 This statement has been prepared by Authorised Designs Ltd and is submitted in support of the appeal lodged against the refusal of lawful development certificate application 62190/APP/2021/865. This statement refers to the proposed conversion of an existing detached outbuilding into a residential annexe, as indicated on Drawing No. WA PA 01 A.

1.2 The appeal application was validated on 5th March 2021 was refused under delegated authority on 28th April 2021 for the following reason:

1) The proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 as the proposal would be tantamount to the creation of a self contained separate dwelling which could not be considered to result in the provision of a building required for a purpose incidental to the enjoyment of the dwellinghouse as such.

1.3 For clarification, the Council have incorrectly assessed the application proposal against Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015. This grounds of appeal will demonstrate that this is incorrect and that the proposal should not have been assessed against this criterion.

2.0 THE APPELLANT'S CASE

2.1 For the avoidance of any doubt, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 refers to the provision of buildings which are incidental to the enjoyment of a dwellinghouse. It was quite clear from the plan submitted with the application and from the application form, that the proposal was not for the provision of a new outbuilding or for any extensions to an existing incidental outbuilding. As such, Schedule 2, Part 1, Class E is not relevant to the appeal proposal and should not have been the starting position for the Council's assessment.

2.2 To recap, as indicated on the submitted plan, the only works proposed to the building are the replacement of the existing door and windows and the internal insulation of the existing walls,

floor and roof. No other external works are proposed. The Appellant maintains that the proposed works do not constitute “development”, having regard to Section 55 of The Town and Country Planning Act 1990 and hence planning permission is not required for the proposed conversion to an annexe. The works in no way fall to be considered against Schedule 2, Part 1, Class E. To further support this position, the Appellant refers to the examples of an integral garage conversion and a loft conversion. In the case of the conversion of a garage which is either integral or attached to a house, planning permission is not required, but not because the works comply with any class within the permitted development order, but because the works, including the blocking up of a garage door and the insertion of a window, do not constitute development. This principle is no different whether the garage is attached, integral or detached, such as the case of the outbuilding the subject of this appeal. Moreover, in the case of a loft conversion, planning permission is not required for the conversion of a roof space as the internal work does not constitute development. The works that require development would be the associated works such as a dormer window or rooflight, both of which would fall to be assessed against the relevant permitted development criterion. In the instance that the application proposal also included an extension to the building or a higher or replacement roof, then it is accepted that these works could fall to be assessed against Class E. However the Appellant maintains that the proposed works to convert the outbuilding into ancillary residential accommodation do not constitute development having regard to Section 55 of The Town and Country Planning Act 1990 and therefore the works do not require planning permission and the certificate should be granted.

- 2.3 The other aspect to the Council’s incorrect assessment of the application is the inaccurate suggestion that the converted outbuilding would be tantamount to the creation of a separate dwelling. It is for this reason that the Council consider that the conversion would not comply with Class E, because the outbuilding would no longer be incidental to the enjoyment of the dwellinghouse. Notwithstanding that it has already been established that the works to facilitate the conversion would not constitute development, it is quite clear from the size of the outbuilding and from the site context that the converted outbuilding would be used as an annexe and not as a separate dwelling. The converted building would comprise an open plan annexe with a shower room and would be located at the end of the garden of the main house. The annexe would be served by water and electricity from the main house, would not have any of its own services, its own garden or its own address. More importantly, the annexe would be used by an elderly relative and would not be rented out or be used by any non-

family members. Despite the submitted plan clearly indicating that the converted outbuilding would be used as an annexe, the Council have based their assessment of the application on the incorrect assumption that the converted outbuilding could be used as a self-contained dwelling in its own right. It appears that no weight has been afforded to what the appellant has actually proposed. Based on the Council's approach, it would actually be irrelevant as to what was ever proposed on the plans as the Council could assert that any outbuilding could comprise a separate dwelling. The Appellant wishes to reiterate that they are not seeking to create a separate self-contained dwelling. They require the creation of an annexe for an elderly relative and the existing outbuilding is capable of being converted. The works to facilitate the conversion do not constitute development, hence an application for a lawful development certificate was submitted to obtain legal confirmation that planning permission was not required. If the Appellant had of wanted to create a separate dwelling, they would have submitted a planning application for the subdivision of the site and the creation of a separate dwelling. The Council's assessment should not have been to second guess that the Appellant's might be seeking to provide a separate dwelling by stealth but to assess the application put before them and it was clearly stated on the application and indicated on the submitted plan that the Appellant was proposing the conversion of the outbuilding into an annexe for an elderly relative and that they were not seeking the creation of a separate dwelling. The Council's assessment should have been quite simple – firstly, would any of the proposed works required to covert the building constitute development? In the case of the appeal proposal the answer was no. Should the Council have any concerns regarding any potential future use of the outbuilding for any other purposes, an informative could have been attached to the Certificate advising that planning permission would be required to use the outbuilding as a self-contained dwelling. Planning controls already prevent an outbuilding from being converted into a separate dwelling and the Council have enforcement powers to address any future breaches of planning control.

3.0 CONCLUSION

- 3.1 This statement has demonstrated that the proposed conversion of the outbuilding into a residential annexe for an elderly relative would not require planning permission because the works required to facilitate the conversion would not constitute development and because there would be no material change of use because no separate dwelling would be created.

The Council were therefore incorrect in refusing the application. For the above reasons it is politely requested that this appeal is allowed.