

SECTION '2' – Applications meriting special consideration

Application No : 14/02185/PLUD

Ward:
Copers Cope

Address : Hamara Shortlands Grove Shortlands
Bromley BR2 0LS

OS Grid Ref: E: 538786 N: 168952

Applicant : Mr & Mrs Court

Objections : NO

Description of Development:

Use of land for siting of mobile home (Granny Annexe) for accommodation ancillary to the main dwelling
CERTIFICATE OF LAWFULNESS FOR A PROPOSED DEVELOPMENT

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
London City Airport Safeguarding Birds
Open Space Deficiency

Proposal

The proposed mobile home will be sited in the rear garden of the property and will contain living accommodation for elderly relatives of the occupants of the main house. The documents submitted state that the mobile home will not be permanently affixed to the ground and can be removed from site when no longer needed. It will include a kitchen/lounge, two bedrooms, a lobby and a shower room. The applicant has stated that close functional links will be retained with the family occupying the main house and will share utility services with the main house. The key points of the proposal outlined by the applicant are:

- It would be a movable structure delivered to the site on a lorry and capable of removal
- It would not be permanently affixed to the ground, only services would be connected
- The use of the land would be ancillary to the dwelling at Hamara, Shortlands Grove
- The mobile home would be occupied by the dependant relatives, specifically the elderly parents, of one of the owners and occupiers of Hamara.

- Close functional links would be retained with the family who occupy the main house and who the elderly parents will rely on for support for their day to day living needs
- The mobile home would not be provided with a private curtilage
- The mobile home would not have a separate postal address
- The mobile home would share the existing dwelling's utility services and would be jointly billed
- There would be no change to the planning unit
- The mobile home can be removed from the site when no longer needed

Location

The application site is a two storey detached dwellinghouse on the south-western side of Shortlands Grove, Shortlands, close to the junction with Scotts Lane.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and no representations were received.

Any further comments received will be reported verbally at the meeting.

Comments from Consultees

Legal advice has been sought which concludes that if the structure will remain moveable then it would be classed as a caravan and therefore would not require planning permission. There will not be a change of use of the land as long as the structure is incidental or ancillary to the main dwellinghouse. In this case the structure will be used as a granny annex, there does not appear to be any other form of access to the structure other than through the main house. It is also understood that it will be a temporary structure.

There were no other external or internal consultations made on this application.

Planning Considerations

The application requires the Council to consider whether the proposed mobile home would constitute operational development and whether the use of the land for such purposes would be incidental to the main residential use of the land.

Planning History

The most recent planning history at the property is summarised as follows;

Under ref. 12/02233, planning permission was recently refused and dismissed at appeal for the demolition of existing dwelling and construction of four storey block of two 1 bedroom flats and four 2 bedroom flats with associated vehicular access and car parking to front and rear.

Conclusions

The applicant has submitted a supporting statement with the application which outlines the legal position of such a proposal, which states:

'The proposed timber unit falls within the definitions stated in the 1960 and 1968 Act and by any reasonable interpretation is a mobile home. The stationing of such a structure within the curtilage of a dwelling is not operational development because it is not fixed to the ground and is capable of removal when no longer needed by the family occupying the main dwelling. The mobile is therefore a chattel to be used for purposes incidental to the enjoyment of the dwelling house as such. Incidental use is not the same as ancillary use so far as Planning legislation and case law is concerned. In particular, case law (*Whitehead v Secretary of State/Mole Valley District Council*) has ruled that semi-independent accommodation is incidental to a principal dwelling and this has been reaffirmed in other cases (eg *Uttlesford v Secretary of State/White*).'

The statement is considered to be legally accurate. Having considered this, the Council takes the view that the proposal would not constitute operational development (a building operation) under Section 55 of the Act, given that the mobile home would remain a mobile and removable structure (i.e. a caravan by definition). The siting of the mobile home would rather be considered as a use of the land. It is considered that the main use of the site would be retained as residential without creating a new planning unit. Furthermore, it would provide incidental accommodation to the main house without providing a new, separate dwelling that is severed from the main house. The elderly occupiers of the proposed building will remain partially dependent upon the facilities of the main house.

The document submitted by the applicant states that 'it is likely the unit at Hamara will be in situ for as long as is necessary to meet the needs of the family occupying the main dwelling,' and 'this does not mean that the unit will remain there permanently.' As such, it is understood that it will be a temporary structure and when it is no longer needed it can be disconnected from utilities and removed from the site.

It is stated that there would be a strong functional relationship between the main dwelling and mobile home/granny annexe which would form a part of and be used interchangeably with the accommodation provided by the main dwelling and the outside amenity space. In this case, the whole of that planning unit would remain in single family occupation and the proposed additional accommodation for the elderly parents of the occupiers of the main house. Accordingly, it is considered that the proposed use is tied to the main functions of the property as a whole and is therefore likely to be found to be incidental or integral. This conclusion is reached under the specific circumstances of this application.

It is therefore considered that a Certificate of Lawfulness for the proposal should be granted.

Background papers referred to during production of this report comprise all correspondence on the file, excluding exempt information.

RECOMMENDATION: CERTIFICATE BE GRANTED

- 1 The proposed use of the land to site a mobile home as accommodation incidental to the enjoyment of the main dwelling is considered lawful.

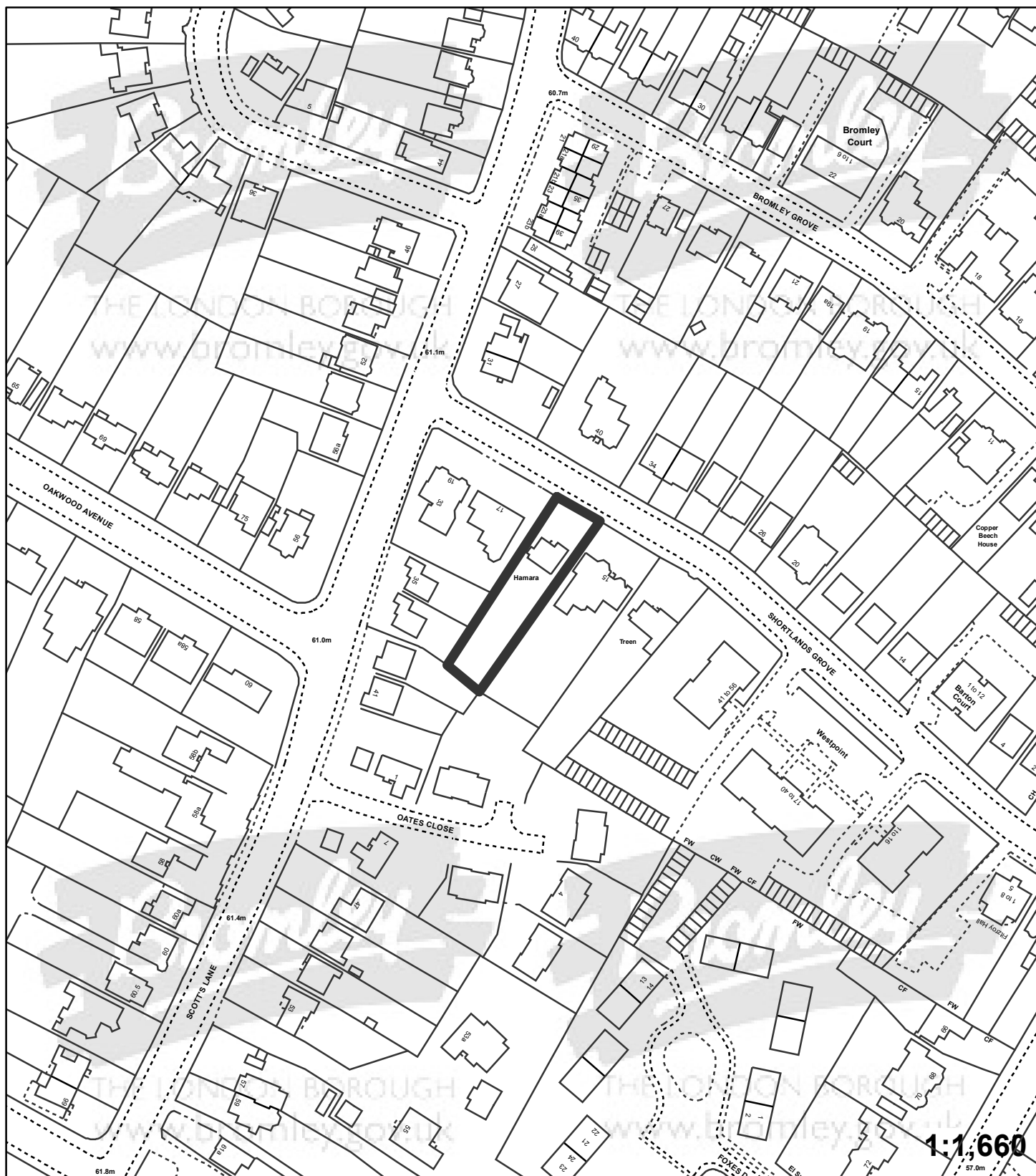
INFORMATIVE(S)

- 1 The applicant is advised that the use that the accommodation hereby certified relates to a mobile annexe for a family member incidental to the use of the main dwelling at the site, is a temporary structure, and when no longer needed would be removed from the site. Should the accommodation be provided or used in a manner other than as set out in this application it may not be lawful.

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"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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