



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
18 NOVEMBER 2020**

Application Number	20/00910/FUL
Location	Land Adjacent To Little Totham Hall Church Lane, Little Totham
Proposal	Demolition and rebuild outbuilding for use as an annexe for dependant relatives
Applicant	Mr & Mrs Ashcroft
Agent	Mr Peter Le Grys - Stanfords
Target Decision Date	02.11.2020
Case Officer	Hannah Bowles
Parish	LITTLE TOTHAM
Reason for Referral to the Committee / Council	Member Call In from Councillor R H Siddall: D1 design quality and enhancement, S8 outside the settlement boundary and D3 Conservation

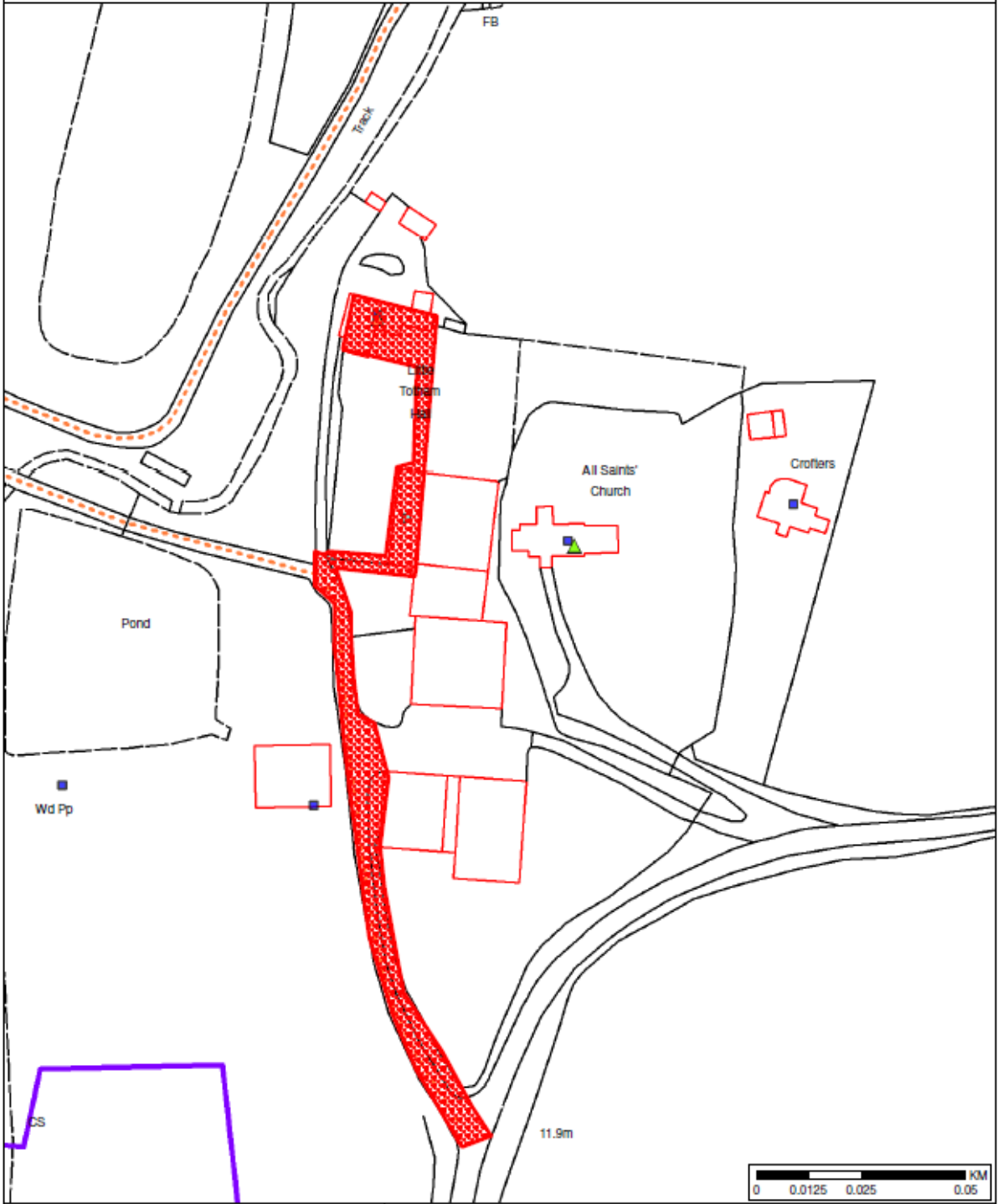
1. RECOMMENDATION

REFUSE for the reasons as detailed in Section 8 of this report.

2. SITE MAP

Please see overleaf.

Land Adjacent To Little Totham Hall - Church Lane
Little Totham 20/00910/FUL



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

Site Description

- 3.1.1 The application site is located to the north of Church Lane, in a rural location outside of a defined settlement boundary. The application site, as outlined in red, includes an access track from Church Road, the two storey listed building ‘Little Totham Hall’ and an outbuilding which is currently used for agricultural purposes.
- 3.1.2 The larger site within the applicant’s ownership, includes undeveloped farm land, including the land immediately adjacent to the long access track which is occupied by several large agricultural buildings and agricultural equipment, the outbuilding subject of this application is attached to one of these large agricultural buildings.
- 3.1.3 The listed Church ‘All Saints’ and a residential dwelling ‘Crofters’ are located to the east of the site, ‘Crofters’ also falls within the ownership of the applicant. A public footpath is located to the west of the site.

Proposed Development

- 3.1.4 Planning permission is sought for the demolition of an existing outbuilding and the construction of a building which is proposed to be used as annexe accommodation for family members of the applicant.
- 3.1.5 The proposed building would measure 22m wide, 5.6m deep and 5m to the top of the ridge. The building would accommodate an open plan kitchen/living room, hall and WC, two bedrooms with en-suites, and a utility/scooter room.
- 3.1.6 The proposed building would replace an existing agricultural barn of the same scale and appearance to that proposed. The existing barn is attached to a larger barn but there would be a 0.4m gap between the proposed building and the barn.

Background Information

- 3.1.7 It should be noted that this application is a resubmission of a previously refused application (reference 20/00186/FUL). No amendments to the previously refused scheme are proposed. The application was refused for the following reason:

‘The proposed detached annexe is not considered to form ancillary accommodation. The scale of the building, distance from the main dwelling and level of accommodation is considered to result in a self-contained unit of accommodation without a degree of dependency on the main dwelling. The inherent domestication and intrusion and intensification of an unjustified residential unit at the site, is considered to harm the character and appearance of the site and result in the erosion of the rural character of the countryside. Therefore, the proposal is considered to be detrimental to the character and appearance of the rural area, contrary to policies S1, S8, D1 and H4 of the Local Development Plan, the Council’ Specialist Needs Housing SPD and Government guidance contained within the National Planning Policy Framework.’

- 3.1.8 The following paragraph (1.3) has been added to the submitted Planning Statement since the determination of the previously refused application:

'This application is a resubmission of an identical proposal refused on 1st May 2020. It is considered that the Council failed to have proper regard to the legal precedent mentioned within the previous application, while the decision was inconsistent with the views of the Council's conservation officer and had no regard to other appeal cases, one of which was cited in the previous application. These points are addressed within an appeal against the Council's unreasonable decision which has now been lodged. The Council has been provided with the opportunity to correct its misunderstanding in this matter through this repeat application.'

- 3.1.9 In response to the above, the Local Planning Authority (LPA) fully stand by the assessment of application 20/00186/FUL, which was undertaken in line with the relevant policies of the Local Development Plan (LDP) and Specialist Needs Housing (SNH) SPD.
- 3.1.10 Two allowed appeal decisions, which relate to the development of annexe accommodation, have been appended to the Planning Statement which the applicant believes sets a 'legal precedent'. However, such an approach is flawed as every application is determined on its own merits and neither of the cases are directly comparable the development subject of this application.
- 3.1.11 The first appeal decision appended to the submitted Planning Statement relates to an annexe development that was allowed by the Planning Inspectorate in 2011. The subject site; Muniment House, Brook Street, Dedham, Colchester, does not fall within the Maldon District. The previously refused application 20/00186/FUL was assessed in line with the policies contained within the LDP, which was approved in 2017 and the SNH SPD which was adopted in 2018. It is considered that the contents of these documents are more relevant to the proposed development than an application determined 9 years ago outside of the Maldon District. Therefore, this appeal decision is not considered to weigh in favour of the proposed development. Furthermore, decision makers at Maldon District Council (MDC) are not fully aware of the background of the application and policy interpretation either.
- 3.1.12 The second appeal decision appended to the submitted Planning Statement relates to an appeal that was allowed for annexe accommodation which was attached to the main dwelling. Therefore, given that the proposed annexe accommodation is sited 28m from the principle elevation of the host dwelling, it is not considered that the cases are comparable, and this appeal decision is not considered to weigh in favour of the proposed development.
- 3.1.13 In response to the view that '*the decision was inconsistent with the views of the Council's conservation officer*' it should be noted that the Conservation Officer purely assess the impact of the development on heritage assets. The previously refused application was not refused based on a detrimental impact to the listed building. Therefore, it is not considered that the decision was inconsistent with the views of the Council's Conservation Officer.

3.2 Conclusion

- 3.2.1 The proposed development is contrary to the criterion 1, 2 and 5 as set out within the SNH SPD and is not considered to form ancillary accommodation. The scale of the building, distance from the main dwelling and level of accommodation is considered to result in a self-contained unit of accommodation without a degree of dependency on the main dwelling, it is not considered that there would be a functional link between the proposed residential unit and the main dwelling. The inherent domestication, intrusion and intensification of an unjustified residential unit at the site, is considered to harm the character and appearance of the site and result in the erosion of the rural character of the countryside. It is not considered that the slight amendment to the Applicant's supporting statement has overcome the conflict with the Development Plan highlighted by the Council when refusing the previous, identical, planning application. Therefore, the proposal is considered to be detrimental to the character and appearance of the rural area, contrary to policies S1, S8, D1 and H4 of the LDP, the Council' SNH SPD and Government guidance contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2019 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 54-57 Planning conditions and obligations
- 184-202 Conserving and enhancing the historic environment
- 117-123 Making effective use of land
- 80-84 Building a strong, competitive economy

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

4.3 Relevant Planning Guidance / Documents:

- Maldon District Vehicle Parking Standards SPD (VPS)
- Maldon District Design Guide SPD (MDDG)

- Planning Practice Guidance (PPG)
- Specialist Needs Housing (SNH) SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The Council is required to determine planning applications in accordance with its LDP unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990)).
- 5.1.2 The proposal relates to the erection of a building to be used as annexe accommodation in association with Little Totham Hall.
- 5.1.3 The proposed development would be sited on the same footprint as an existing building. The existing building is to the front of the dwelling and is currently used for agricultural purposes and not in association with the residential use. Notwithstanding the use it is considered that the building falls within the residential curtilage of the dwelling.
- 5.1.4 A Supplementary Planning Document (SPD) in relation to SNH was adopted in September 2018 and states that proposals for annexe accommodation will not only be required to meet the criteria in policy H4 but also the criteria within the SPD which is as follows:
- a) Be subservient / subordinate to the main dwelling;
 - b) Have a functional link with the main dwelling (i.e. the occupants dependant relative(s) or be employed at the main dwelling);
 - c) Be in the same ownership as the main dwelling;
 - d) Be within the curtilage of the main dwelling and share its vehicular access;
 - e) Be designed in such a manner to enable the annex to be used at a later date as an integral part of the main dwelling;
 - f) Have no separate boundary or sub division of garden areas between the annex and main dwelling; and
 - g) Have adequate parking and amenity facilities to meet the needs of those living in the annex and main dwelling.
- 5.1.5 It is a conventional expectation that annexe accommodation will be ancillary to the host dwelling and it is good practice for the accommodation to have a functional link, shared services, amenities and facilities and for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe.
- 5.1.6 The proposed annexe accommodation would provide an open plan kitchen/living room, hall and WC, two bedrooms with en-suites and a utility and scooter room. It would be located around 28m from Little Totham Hall, to the front of the dwelling.
- 5.1.7 The proposed annexe building would be of a much lesser scale than the host dwelling on site and would reflect the scale to the agricultural building that it would replace.

Notwithstanding this, the building is a generous size for annex accommodation at 22m wide, 5.6m deep and 5m to the top of the ridge and it would be located around 28m from the host dwelling. In addition to this, the proposed accommodation would facilitate a full suite of activities for day to day living and the level of facilities would allow for a totally independent unit from the main dwelling, allowing completely separate living. The level of accommodation proposed is considered to go a long way beyond satisfying the functional needs of the occupier and would easily remove the need for the building to be used ancillary to the main dwelling. In effect, given the scale, distance from the main dwelling and level of accommodation, it is considered that the proposal represents a self-contained unit of accommodation detached from the main dwelling without any degree of dependency or a requirement to interact with the principal property. It is stated within the application that the proposed annexe accommodation would be for the applicant's parents whose health is deteriorating. However, they currently reside in the neighbouring property 'Crofters', which is easily accessible from the main dwelling by foot. No information regarding the functional link between the annexe and main dwelling has been supplied or how the relationship currently between the Applicant and the parents would alter if planning permission was granted. Therefore, it is not considered that the proposal would form ancillary accommodation or be subservient / subordinate to the main dwelling, contrary to criterion 1 and it is considered that there would be a very limited relationship between the proposed annexe and the host dwelling in a functional way, contrary to criterion 2.

- 5.1.8 The proposed building would be within the same ownership as the main dwelling Little Totham Hall, in compliance with criterion 3.
- 5.1.9 As stated above the proposed building would be located within the curtilage of the main dwelling in compliance with criterion 4.
- 5.1.10 The existing building which the annexe would replace is located within the curtilage of the dwelling, but it is currently used in association with the agricultural use of the larger site within the applicant's ownership and not the residential use of the site. The annexe building is located around 28m from the main dwelling, at the edge of the residential curtilage of the property. Therefore, given the extensive distance, it is not considered that it could be used as an integral part of the dwellinghouse, once the use as an annexe ceases and therefore, it is not considered to be in compliance with criterion 5.
- 5.1.11 No separate boundaries between the annexe accommodation and the main dwelling are proposed, in compliance with criterion 6.
- 5.1.12 Adequate parking and amenity facilities are available at the site, in compliance with criterion 7.
- 5.1.13 Given the above assessment, in this instance it is not considered that the proposed annexe accommodation is acceptable in principle. The scale of the building, distance from the main dwelling and level of accommodation is considered to result in a self-contained unit of accommodation without a degree of dependency on the main dwelling which is not considered to represent accommodation that is ancillary in nature.

5.2 Design and Impact on the Character of the Area

5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high-quality built environment for all types of development.

5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;
- e) Historic environment particularly in relation to designated and non-designated heritage assets;
- f) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- g) Energy and resource efficiency.

5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.2.5 The application site lies outside of any defined development boundary. According to policies S1 and S8 of the LDP, the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. The policies stipulate that outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.

5.2.6 The proposed building would be located on the footprint of an existing agricultural building. It would be almost identical to the existing building in terms of scale and would be similar in terms of appearance, although the fenestration detailing is more

reflective of a residential use. Notwithstanding the similarities to the existing agricultural building, as set out above, it is a requirement of the SNH SPD that annexe accommodation should be subservient / subordinate to the main dwelling. The proposed use, due to the scale of the building, proposed accommodation and distance from the dwelling, is considered to go above and beyond what is considered to be ancillary accommodation. The location to the front of the dwelling and introduction of residential fenestration and a pathway leading to the front door are considered to contribute to the residential appearance of the proposed building and it is considered that it would appear as a separate residential unit, particularly to those travelling along the access track to access the farm buildings and the main dwelling.

5.2.7 The intrinsic character of the countryside is that it should be open and free from unnecessary development and it is considered that the introduction of a building that would appear as an independent residential unit would have an unjustified visual impact on this section of the site.

5.2.8 Therefore, due to the inherent domestication and the intrusion and intensification of an unjustified residential development at the site, it is considered that the proposed development would harm the character and appearance of the site and result in the erosion of the rural character of the countryside.

5.2.9 Impact on the Listed Building

5.2.9.1 The main dwelling on site 'Little Totham Hall' is a grade II listed building. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to desirability of preserving or enhancing the character or appearance of Listed Buildings. Similarly, policy D3 of the approved Maldon District Local Development Plan (MDLDP) states that development proposals that affect a heritage asset must preserve or enhance its special character, appearance, setting and any features and fabric of architectural or historic interest.

5.2.9.2 The Victorian agricultural outbuilding proposed to be demolished, falls outside of the curtilage of the listed building (for clarity the curtilage of the listed building as set out in Historic England Advice Note 10: Listed Buildings and Curtilage, differs from what is considered to be the residential curtilage of the dwelling) and it is not considered that it would qualify as a non-designated heritage asset. Whilst it is an attractive feature in the setting of 'Little Totham Hall' it is a commonplace example of a Victorian Farm building and given the poor condition of the building and the construction of the modern barn to its east, its architectural interest is limited.

5.2.9.3 The proposed replacement building would reflect the form, materials and detailing of the existing building. The harm, which would arise from the loss of a historic farm building which complements the setting of the farmhouse, could be mitigated through the imposition of conditions in relation to the finishing materials and details of the proposed replacement building. Therefore, no concerns in respect of the impact on the listed building are raised.

5.3 **Impact on Residential Amenity**

5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking,

outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

- 5.3.2 The application site is located within a secluded area and the proposed building would replace a building of a similar scale.
- 5.3.3 All Saints Church is the closest building to the site; located around 21m to the east of the proposed annexe building, beyond the Church is the residential property Crofters which is around 80m from the proposed annexe. The annexe is shielded from the neighbouring buildings by an existing large agricultural building and thick vegetation. Therefore, it is not considered that the proposed annexe is would detrimentally impact the neighbouring properties.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted VPS SPD contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces.
- 5.4.3 The proposed development would result in two additional bedrooms being provided. Although the number of bedrooms within the main dwelling is not known, it is considered reasonable to assume, given the scale of the main dwelling, that the four or more bedrooms would be provided at the site. Therefore, a requirement of three off street car parking spaces would be required. There is a large area of hardstanding to the rear of the property, that could accommodate in excess of three cars. Therefore, no concerns in this respect are raised.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide (MDG) SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 The proposed annexe building would not result in loss of the private amenity space that serves Little Totham Hall.

5.6 Ecology

5.6.1 The NPPF (the Framework) states that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

5.6.2 Policy N2 of the LDP which states that:

“All development should seek to deliver net biodiversity and geodiversity gain where possible. Any development which could have an adverse effect on sites with designated features, priority habitats and / or protected or priority species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.”

5.6.3 A Bat Survey Report prepared by Liz Lord Ecology and dated 15th October 2019, has been submitted with the application. It concludes that it is unlikely that there are roosting bats, barn owls or any other protected species within the building, that would be affected by the proposed development and no mitigation measures are recommended.

6. ANY RELEVANT SITE HISTORY

- **20/00186/FUL** - Demolition and rebuild outbuilding for use as an annexe – Refused 5th May 2020

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Little Totham	No objection.	Noted.

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions.	Noted.
Conservation Officer	No objection subject to conditions.	Noted.

8. REASONS FOR REFUSAL

1 The proposed detached annexe is not considered to form ancillary accommodation. The scale of the building, distance from the main dwelling and level of accommodation is considered to result in a self-contained unit of accommodation without a degree of dependency on the main dwelling. The inherent domestication, intrusion and intensification of an unjustified residential unit at the site, is considered to harm the character and appearance of the site and result in the erosion of the rural character of the countryside. Therefore, the proposal is considered to be detrimental

to the character and appearance of the rural area, contrary to policies S1, S8, D1 and H4 of the Local Development Plan, the Specialist Housing Needs SPD and the government guidance contained within the National Planning Policy Framework.