



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
7 SEPTEMBER 2022**

Application Number	22/00686/FUL
Location	Hall Farm, Maldon Road, Woodham Mortimer, CM9 6SN
Proposal	Detached oak framed ancillary residential annexe.
Applicant	Mr & Mrs Pemberton
Agent	Miss Kate Jennings – Whirledge & Nott
Target Decision Date	25.07.2022
Case Officer	Hannah Dungate
Parish	WOODHAM MORTIMER
Reason for Referral to the Committee / Council	Member Call-in by Councillor M F L Durham citing Policies H4, S1 and S8

1. RECOMMENDATION

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

2. SITE MAP

Please see below.

Hall Farm, Maldon Road, Woodham Mortimer
22/00686/FUL



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Maldon District Council 100018588 2014

www.maldon.gov.uk

Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: Not Set

Date: 23/08/2022

MSA Number: 100018588

3. **SUMMARY**

3.1 **Proposal / brief overview, including any relevant background information**

- 3.1.1 The application site is located on the northern side of Maldon Road, outside of the settlement boundary of Woodham Mortimer within the rural area. The application site is occupied by a two-storey detached dwelling which has an L-shaped residential garden that wraps around to the north west of the site. However, it is not clear if the part of the site where the proposed annexe would be situated forms part of the curtilage of the dwellinghouse; this will be discussed within the following sections within the report.
- 3.1.2 The surrounding area is predominantly rural in character, with open agricultural fields to the north and east of the site, some houses to the west and a working business yard to the south west of the site. Although the site can be accessed directly from Maldon Road, there is also a secondary access to the rear of the site, from the existing working farmyard.
- 3.1.3 Planning permission is sought for a detached annexe within the L-shaped garden of the property. Within the Design and Access Statement submitted it states that the annexe is proposed to accommodate a home gym and office for use by younger family members, as well as “occasional overnight accommodation for visiting friends and family”. The Statement goes on to state that the space could be “repurposed [in the future] to provide a granny annexe if required and at that stage it would still be occupied by family members”.
- 3.1.4 The floor plan of the building shows that a home gym, home office, guest bedroom, en-suite and separate shower room / wc would be included at ground floor level. The proposed annexe would measure 14.1 metres in width, 5.6 metres in depth and would measure 4 metres in height overall. It would have a hipped roof structure, as well as a flat roof element to the rear, and a pitched roof porch structure to the front. The materials proposed in the construction would be weatherboarded and oak frame walls and reclaimed plain roof tiles with oak windows and doors.
- 3.1.5 The application follows a previously refused application for a similar development (22/00074/FUL) which was refused for the following reason:
- “The applicant has failed to demonstrate that the proposal would fall within the annexe criterion as detailed within the Specialist Housing Needs SPD. The proposal would not amount to residential annex accommodation ancillary to the main dwelling house by reason of its siting and separation from the main house, its lack of a functional link and the potential for the site to be sub-divided in the future without a degree of dependency on the main dwelling. As a result of this de facto change of use of the land, the application would increase the amount of domestic paraphernalia on the site, encroaching into a currently undeveloped area and result in a spread and an intensification of the domestic use at the site, to the detriment of the character and appearance of the area which is characterised by the intrinsic beauty of the open countryside. Therefore, the development is contrary to policies D1, S8 and H4 of Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.”*
- 3.1.6 As part of the current application, no changes have been made to the layout or design of the proposed annexe building. However, additional information has been submitted for consideration as part of the Design and Access Statement, in an attempt to overcome the previous reason for refusal. The content of this information

will be discussed within the body of the report below, however, it is not considered to overcome the previous reason for refusal.

3.2 Conclusion

- 3.2.1 It is officers' position that the application fails to demonstrate that the proposed detached annexe would form ancillary accommodation. Concerns are raised with respect to the distance of the building away from the main dwelling; the potential for the site to be sub-divided in the future without a degree of dependency on the main dwelling; and the lack of identification of dependent relatives at the stage of the application. With respect to its location the proposal would result in the intensification of residential development that would substantially alter the character of the area and would have an unacceptable visual impact on the countryside through the urbanisation and domestication of the site. The basis of residential annexe accommodation is a specialist housing need with a functional link to the main dwelling house and none has been submitted with the new information. Having regard to these considerations, the development would be contrary to policies D1, S8 and H4 of the Local Development Plan (LDP), the Specialist Housing Needs Supplementary Planning Document (SPD) and the government guidance contained within the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

4.1 National Planning Policy Framework (NPPF) 2021, 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
- 54-58 Planning Conditions and Obligations
- 104-113 Promoting sustainable transport
- 119-123 Making effective use of land
- 126-136 Achieving well-designed places
- 174-188 Conserving and enhancing the natural environment

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and Built Environment
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- Maldon District Design Guide SPD (MDDG) (2017)
- Maldon District Vehicle Parking Standards SPD

5. MAIN CONSIDERATIONS

5.1 Principle of Development – Residential Curtilage

- 5.1.1 The proposal relates to the construction of a detached annexe within the garden area of the application site. Although this piece of land is mown lawn, it is not clear whether it is the lawful residential curtilage associated with the main dwellinghouse. Policy H4 of the LDP states that extensions to domestic gardens within the countryside will not normally be permitted, however, small, unobtrusive extensions of residential curtilages into the countryside which will not adversely affect the character of the site and the wider countryside may be approved ensuring that provision is made for suitable landscaping to ensure boundary treatments are of an appropriate rural character and appearance.
- 5.1.2 Having looked at the planning history of the site, there does not appear to be any planning applications that relate to the change of use of this piece of land to residential curtilage. However, aerial images show that in the year 2000, this piece of land was not associated with the residential use of the site. It was delineated by what appears to be a close-boarded fence and was accessed from the main farmyard. Over the passing of time, it would appear from the year 2005 onwards, this area of land was divided from the main farmyard by a hedgerow to its western boundary. Rugby goal posts were also installed from 2006 – 2009. From 2011 onwards, the land appeared to be mown grass which could still be accessed from the open agricultural fields to the north but was delineated from the main residential garden to the east by a row of hedges and trees. This hedgerow appears to have been maintained until 2020 when a small gap was created to facilitate access between the garden and this piece of land. From a recent site visit, it can be seen that this area of land is still divided from the main garden by a wall, which has a small gap in for access. The site can also be accessed from the adjacent farmyard along the rear of the site.
- 5.1.3 As part of the current submission, the applicant has included details of an application for a two-storey extension submitted in 2011, in which this piece of land was included within the red line of application (11/00188/HOUSE). Although this area of land was included within the red line of this application and annotated as garden, this does not confirm the land is residential curtilage, which is usually immediately beside and in close proximity to the main house. The applicant has not provided any further details to convince the Council otherwise in this respect.
- 5.1.4 Although the application does not specifically relate to the extension of residential curtilage within the countryside, given the location of this piece of land, which the proposed annexe would be sited on, it is a material consideration for the application, as if approved this application would in effect authorise the enlargement of the garden. Although the area of land is adjacent to the main garden area of the dwellinghouse to the east, it is still separated from the main residential garden area by hedgerows and trees. However, the presence of two lakes to the north of the site which are bounded by hedgerows, serve to delineate the site with agricultural fields to the north. The harmful impact of the extension of residential garden land in this area would be minimised due to this context. Furthermore, the enlargement of the garden would be screened by the buildings to the south, including farm buildings and the subject dwellinghouse. However, further consideration to the impact of the proposed development on the character of the area will be given below.

Principle of Development – Annexe Accommodation

- 5.1.5 The internal layout of the annexe would have a large central area, labelled as a home gym, with a guest bedroom, home office, and shower room which could all be accessed from this main central area. The en-suite would be accessed from the guest bedroom. There would be one set of bi-fold doors either side of the door accessing the area labelled as home gym, as well as a separate front door.
- 5.1.6 It is a conventional expectation that annexe accommodation would be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and facilities. It is also an expectation for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe.
- 5.1.7 In addition to the above, the Specialist Needs Housing SPD, which was adopted in September 2018, states that proposals for annexe accommodation will not only be required to meet the criterion in policy H4 but also the criterion within the SPD which is as follows:
- 1) *Be subservient/subordinate to the main dwelling;*
 - 2) *Have a functional link with the main dwelling (i.e. the occupants' dependant relative(s) or be employed at the main dwelling);*
 - 3) *Be in the same ownership as the main dwelling;*
 - 4) *Be within the curtilage of the main dwelling and share its vehicular access;*
 - 5) *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;*
 - 6) *Have no separate boundary or sub-division of garden areas between the annex and the main dwelling; and*
 - 7) *Have adequate parking and amenity facilities to meet the needs of those living in the annex and the main dwelling.*
- 5.1.8 Criterion 1 will be assessed in the design section below but, in terms of its form and scale, the single storey building appears to be subservient to the main two-storey dwelling.
- 5.1.9 In regard to criterion 2, the Design and Access Statement submitted with the application states that the outbuilding would be used as a home gym and office by younger family members, but there is “*no proposal for specialist housing accommodation at this stage which is why there are no details of occupiers*”. As the proposed building is not intended to be used as a form of accommodation with a functional link, the outbuilding would not be considered to be an annexe. The correct approach for the applicants to take would be for an outbuilding, and to apply for a change of use of the outbuilding at a later stage, if it was required in the future. Furthermore, as there is no evidence of a functional link between the main dwelling and the proposed development it would not be possible to impose a condition that the building must be retained as an annexe.
- 5.1.10 This approach is supported by a recent appeal decision for an annexe outbuilding at a property in Wickham Bishops, in which the Inspector advised that “*it has not been made clear, either in the application or in the appeal, exactly who the intended occupiers would be or their relationship to the residents of the main house... There is no firm indication that it would involve occupation by a close member who is likely to share various living activities with the family in the main dwelling. The functional link with the main dwelling is therefore weak on the basis of the material provided.*” (APP/X1545/D21/3289927).

- 5.1.11 Although the applicants have advised that at some time in the future the outbuilding could be used by a family member as an annexe, there is no clear indication as to who this would be, when it would be or if there would be a functional and ancillary relationship between the occupiers of the outbuilding and the main dwelling. As such, a functional link between the main dwelling has not been clearly demonstrated and criterion 2 has not therefore been satisfied.
- 5.1.12 It is noted that Certificate A has now been signed to demonstrate that the area of land where the annexe would be located is within the same ownership as the main dwelling. As such, Criterion 3 has been satisfied.
- 5.1.13 In relation to criterion 4, although the outbuilding would appear to share the same vehicular access to the south, from a recent site visit to the property, it is clear that the development could be accessed from an existing access drive to the northwest of the site, leading from the existing business yard. The location of the proposed annexe is also located within an area which does not appear to be within the curtilage of the dwellinghouse and that could be divided into a separate plot with access from the business yard to the west being added in the future. These site circumstances and the proposal's location mean that it would be very difficult to control this development effectively so as to prevent it from becoming a separate residential unit. The outbuilding would also be separated from the main dwellinghouse via a brick wall boundary, trees and hedgerows located along the western boundary of the main garden serving the site. Due to the presence of this boundary between the main house and where the outbuilding would be placed, there is great potential to sub-divide the garden areas, which would also be contrary to criterion 6.
- 5.1.14 Given the substantial distance of the outbuilding away from the main house, and its location on a piece of land that could be sub-divided from the main dwellinghouse, as described above, it is considered that the proposed development could not enable the development to be integrated to the main dwelling at a later date due to the building already being detached and quite distant from the dwellinghouse. This approach is substantiated by the recent appeal decision detailed above, where the Inspector stated that "*Given the size of the proposed building and its physical separation from the main house, the development would not be designed in such a manner so as to enable it to be used at a later date as an integral part of the main dwelling*". Therefore, criterion 5 would not be satisfied.
- 5.1.15 Due to the substantial garden and parking areas serving the property, it is considered that adequate parking and amenity space provisions are in place serving the property, in compliance with criterion 7. It is noted that a separate consideration process would be undertaken if the outbuilding were to be used as separate accommodation in the future.
- 5.1.16 The general direction in the decision-making process at Maldon District Council for annexe accommodation, whilst assessed on their own merits, has been to refuse the development whereby the level of accommodation has gone beyond what would reasonably satisfy the functional needs of the occupant. This approach is consistent with and supported by previous appeal decisions, which should be given more weight, such as reference APP/B1930/W/18/3217177. With this appeal, the Inspector was clear that a condition limiting the use of the annexe to ancillary purposes would be difficult to monitor or enforce and observed that due to the siting of the annexe, there would be a strong temptation to let the annexe accommodation for separate occupation following its initial occupation by a relative. The appellant offered a unilateral undertaking covenanting not to occupy the site other than as a single residential unit. However, in the Inspector's opinion, this would not ensure that

the occupants shared the services of the main dwelling and would be difficult to enforce. The Inspector referred to the high court judgement in *Uttlesford DC v SSE & White 1992* that, even if accommodation provided the facilities for independent day-to-day living, whether it is a separate planning unit from the main dwelling is a matter of fact and degree. In the absence of a clear connection with the main dwelling the Inspector concluded the annexe would be or become a separate planning unit.

- 5.1.17 This approach was also taken in the appeal decision referred to above, where the Inspector stated, “I am not satisfied that the proposed building could be classed as providing ancillary accommodation to the main dwelling. This leaves open the prospect that the effect of a planning permission could be to create a separate dwelling. Consequently, restricting the building’s use by condition so that it would remain ancillary to the residential use of the main property...would not be reasonable”.
- 5.1.18 This is relative to the current application, whereby the location of the proposed annexe is not considered to have a functional link with the main dwelling and is not therefore considered to provide ancillary accommodation to the main dwelling. Due to the fact that the site can be accessed from the adjacent farmyard, and due to the location of the proposed annexe on a separate piece of land from the main dwellinghouse, there is potential for the land to be sub-divided in the future.
- 5.1.19 Based on the above, it is considered that the development, whilst described as an annexe, would result in the creation of accommodation that would not be ancillary to the dwellinghouse. For the reasons given above, and due to the impacts referred to above, it is considered that the principle of the development is unacceptable in this instance. Further consideration and discussion of the harm that would result from this is provided below.

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. Similar support for high quality design and the appropriate layout, scale and detailing of development is required by Policy D1 and H4 of the LDP and is found within the MDDG (2017).
- 5.2.3 A successful development needs to integrate well with the existing streetscene. Visual cues such as rhythm, proportions and alignments taken from adjacent buildings should be used to inform the design of the development.
- 5.2.4 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 that the development is for proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.

- 5.2.5 The proposed annexe would be a single storey hipped roof building with a width of 14m. Although this is relatively large, the form of the building has meant that it would not be overly intrusive within the countryside as it would have a low height and depth. It would relate to the character of the other outbuildings located within close proximity to the site and would be of a size and scale that would be a subservient addition to the dwellinghouse.
- 5.2.6 However, the location of the proposed development would be a substantial distance away from the main house, in an area that is not considered to be residential curtilage. The introduction of a residential use of the site is likely to result in the addition of domestic paraphernalia which would result in the development encroaching into the countryside through the urbanisation, intensification and domestication of the site. As the proposal is not considered to be an annexe, it is considered that the proposed development would result in a material harm to the character and appearance of this relatively rural area. This harm would be intensified also given that the land appears to not lawfully be part of the garden curtilage of the dwellinghouse, and therefore the proposal would introduce a domestic use to this part of the countryside. Although it is understood that this area of land may have been used as residential garden for a number of years, there is no planning history to suggest that a planning application or a certificate of lawfulness application has been submitted to confirm this.
- 5.2.7 Based on the above, it is considered that the development, by reason of its location and design, would detrimentally alter the open character of the area and would have an unacceptable visual impact on the countryside through the urbanisation and intensification of domestication of the site, detrimentally harming the character and appearance of the locality and the intrinsic beauty of the open countryside, contrary to policies D1, H4 and S8 of the LDP.

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 proposed annexe would sit a considerable distance from any neighbouring residential properties and would be single storey in scale. Given this, it is not considered that the proposal would have any significant impact on any nearby residential occupiers. Furthermore, the Council's Environmental Health service has been consulted and has not raised an objection to the proposal in regard to noise and disturbance.
- 5.3.3 Therefore, it is not considered that the development would represent an unneighbourly form of development or give rise to overlooking or overshadowing, in accordance with the stipulations of Policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

- 5.4.1 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.
- 5.4.2 The proposed outbuilding would not have a detrimental impact upon car parking requirements on site as the site provides hard standing to the front of the property that has the potential to accommodate more than three reasonable sized cars. Furthermore, the highway authority has been consulted and has not raised an

objection to the proposal. Given these factors, no objection is raised in relation to traffic and transport issues.

5.5 Private Amenity Space

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 MDDG SPD advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms.

5.5.2 Due to the siting of the outbuilding, outside of the residential curtilage of the main dwellinghouse, it is not considered that the location of the outbuilding would result in the level of private amenity space affecting the minimum standard recommended in the SPD. Therefore, the proposal is in compliance with Policy D1 of the LDP.

6. ANY RELEVANT SITE HISTORY

- **22/00074/FUL** – Detached ancillary oak framed annexe. Refused 7 April 2022.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Woodham Mortimer Parish Council	Cllrs do not perceive any detrimental effect to the street scene or surrounding environment.	Noted

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex Highways	No objections	Noted

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions relating to surface water and foul drainage.	Noted

7.4 Representations received from Interested Parties

7.4.1 No representations received for this application.

8. REASON FOR REFUSAL

- 1 The applicant has failed to demonstrate that the proposal would fall within the annexe criterion as detailed within the Specialist Housing Needs SPD. The proposal would not amount to residential annexe accommodation ancillary to the main dwelling house by reason of its siting and separation from the main house, its lack of a functional link and the potential for the site to be subdivided in the future without a degree of dependency on the main dwelling. As a result of this de facto change of use of the land, the application would increase the amount of domestic paraphernalia on the site, encroaching into a currently undeveloped area and result in a spread and an intensification of the domestic use at the site, to the detriment of the character and appearance of the area which is characterised by the intrinsic beauty of the open countryside. Therefore, the development is contrary to policies D1, S8 and H4 of Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.