

Erection of ancillary annexe for purposes incidental to the use and enjoyment of an existing dwelling

At Millbrook Horn Lane Henfield West Sussex BN5 9SA

Householder Planning Application – Retrospective



Planning Statement

**Town and Country Planning Solutions Ref No: TCPS 1047A
January 2024**

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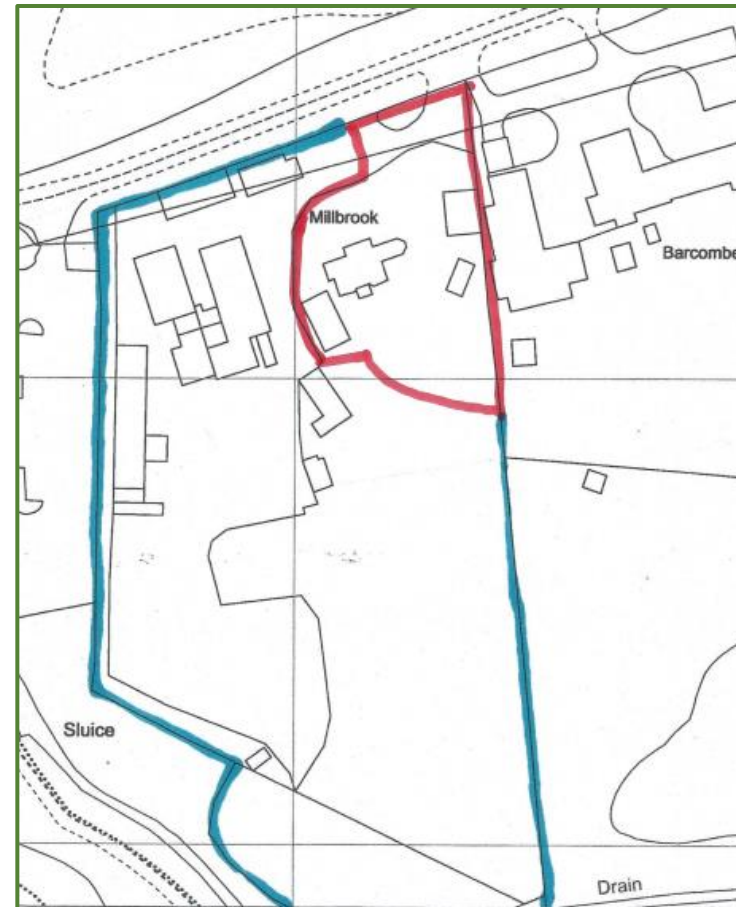
Appendices

1. Appeal Decision No. APP/W0340/W/22/3291473

1. INTRODUCTION

- 1.1 This Planning Statement accompanies a retrospective householder planning application submitted to the South Downs National Park Authority on behalf of Mr P McNie. The application site comprises the side garden of an existing dwelling known as Millbrook, which is a chalet bungalow situated on the southern side of Horn Lane near Small Dole. The Applicant has recently constructed an ancillary outbuilding to the east of the dwelling. Unknown to the Applicant, this required planning permission and thus, is the subject of this application. The annexe is used for purposes incidental to the use and enjoyment of the main dwelling.
- 1.2 This Statement describes the background to the proposal, before outlining the relevant planning policies and other material planning considerations, including an assessment of the planning balance.

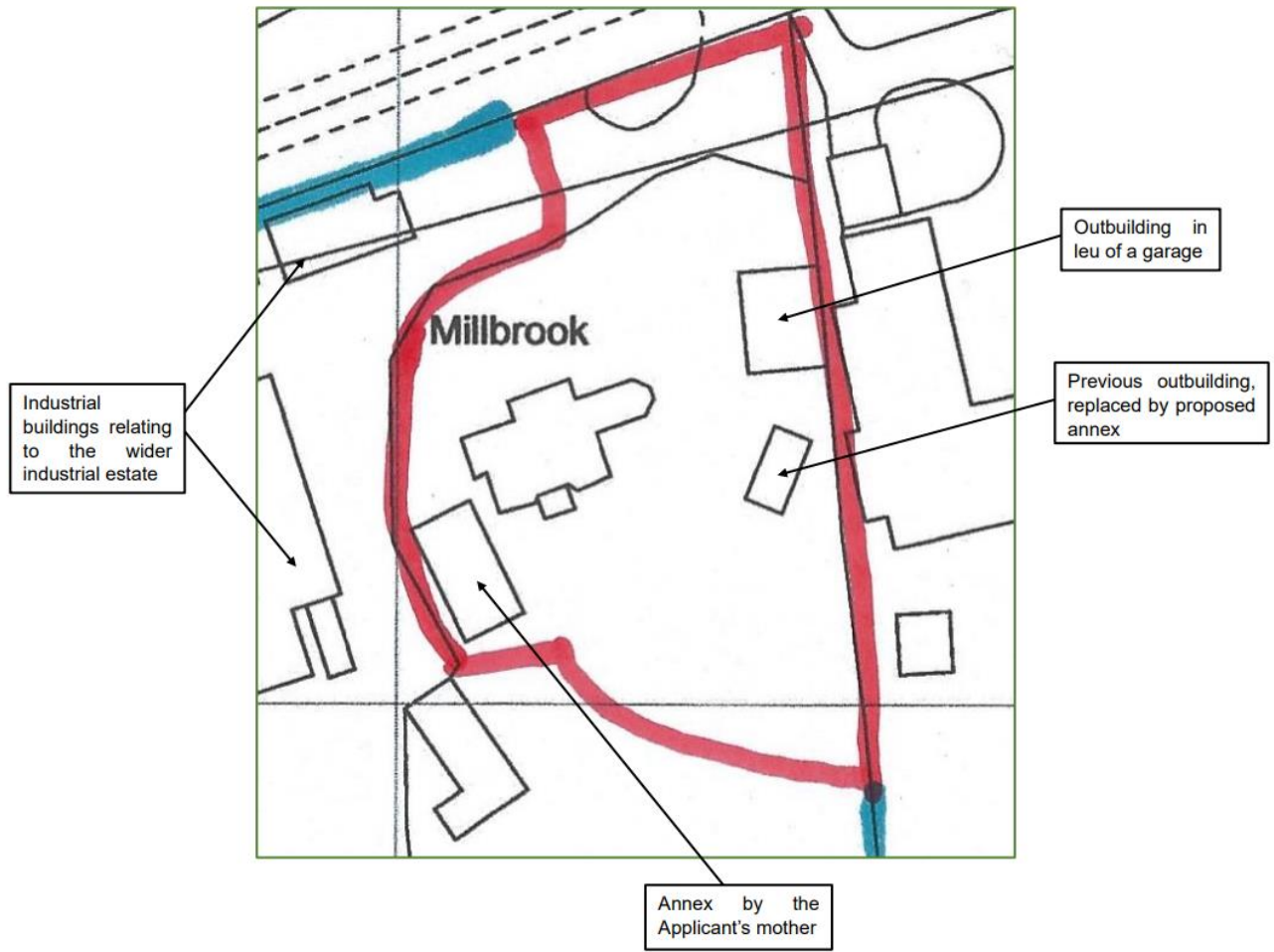
Site location plan



2. BACKGROUND TO THE PROPOSAL

- 2.1 The application site comprises the side garden of an existing dwelling known as Millbrook, which is situated on the southern side of Horn Lane near Henfield. The property comprises a chalet bungalow, with a garden area to the side and rear, including a large pond.
- 2.2 Millbrook has a single storey annexe to the south west of the property, which is occupied by the Applicant's mother. There is a smaller outbuilding to the north east of the property. The site adjoins an established industrial estate, also known as Millbrook, which is under the ownership of the Applicant.
- 2.3 To the east of Millbrook there was formerly an additional outbuilding, which was replaced in 2023 by a new outbuilding for purposes incidental to the use and enjoyment of the dwellinghouse (the subject of this application). The annexe is to be occupied by the Applicant's adult daughter, to enable her to care for the Applicant's elderly mother, while providing a degree of privacy.
- 2.4 The single storey building has a length of 10.85m and a width of 6.2m, with an eaves height of 2.7m and a ridge height of 3.7m. The elevations are faced with natural timber weatherboard cladding and the pitched roof is covered with coloured metal sheeting. There are windows on the western and northern elevations, with a front door on the western elevation which also has sliding doors out onto a patio area to the west of the building, adjacent to Millbrook. Internally, there is a bedroom and a study, with a bathroom at the centre and a living area at the southern end.
- 2.5 The annexe shares a water, electricity and drainage connection with Millbrook and shares the same driveway and garden. It does not have a gas connection, using gas bottles for cooking.

Illustrative site plan showing building uses



2. BACKGROUND TO THE PROPOSAL

Photograph 1 – Western elevation of the annexe



Photograph 2 – Garden area between Millbrook and the annexe



Photograph 3 – Bedroom

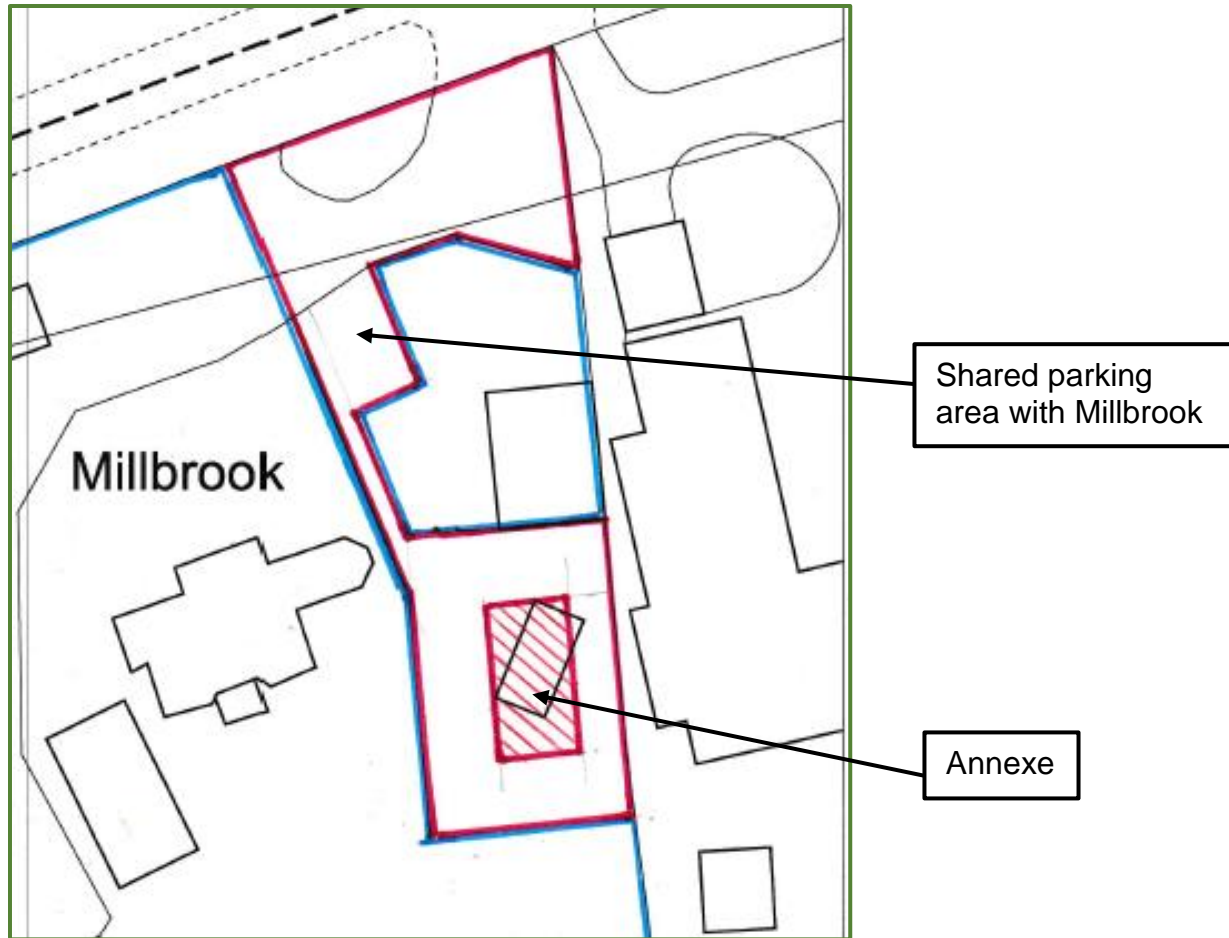


Photograph 4 – Shared driveway



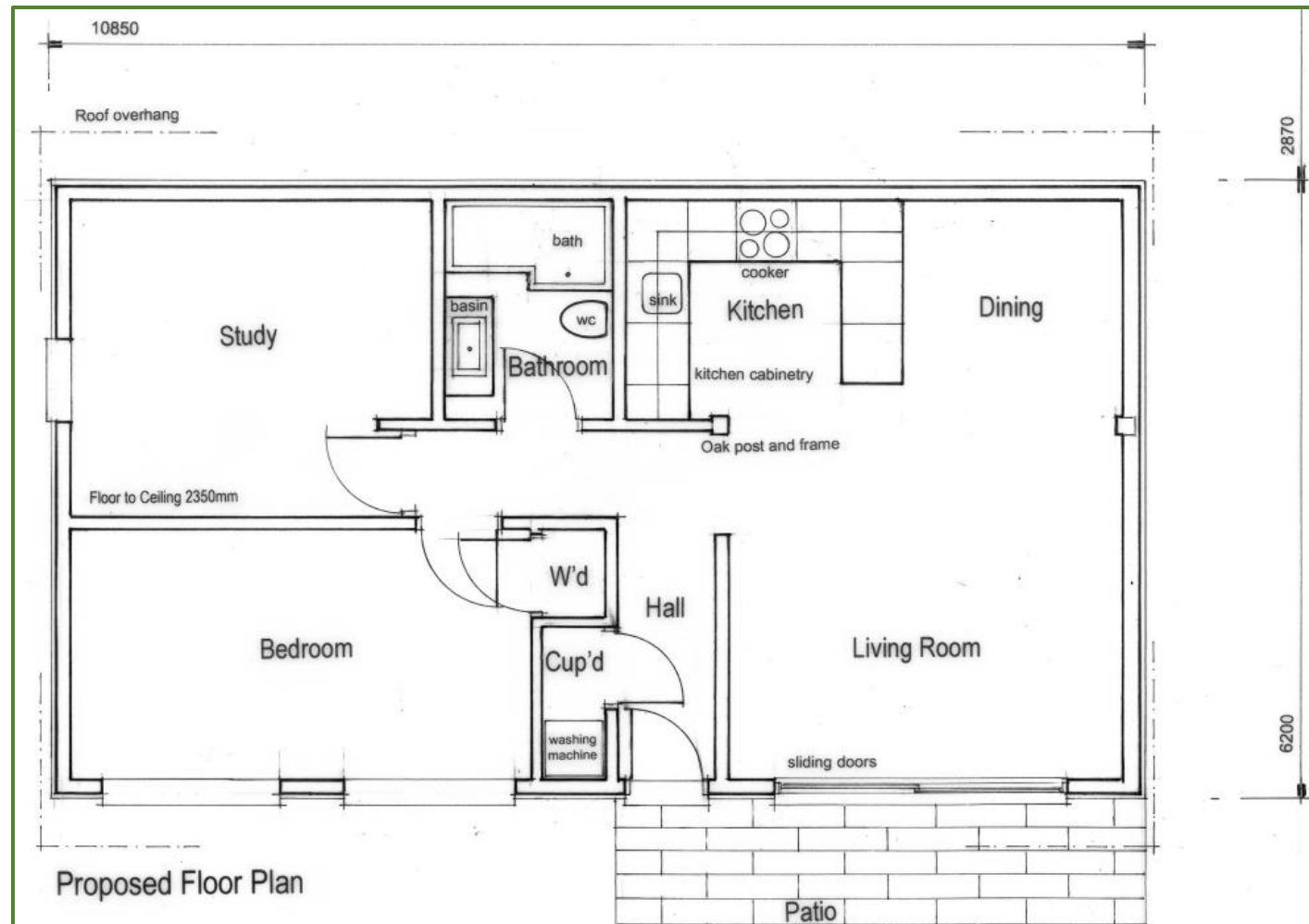
2. BACKGROUND TO THE PROPOSAL

Proposed block plan



2. BACKGROUND TO THE PROPOSAL

Proposed floor plan – Drawing no. 1449-1



2. BACKGROUND TO THE PROPOSAL

Proposed elevations – Drawing no. 1449-2



2. BACKGROUND TO THE PROPOSAL

2.6 A retrospective householder planning application (no. SDNP/23/02843/HOUS) was submitted in July 2023, to formalise the creation of the annexe to the east of Millbrook. During the application, information was requested via Natural England in relation to water neutrality, with a Water Neutrality Statement being submitted during the application. Following further correspondence, additional information was requested, although this would not be accepted during the course of the application. It was therefore requested that the application be withdrawn and resubmitted. As such, it was requested that the application be withdrawn in December 2023, with the application being withdrawn in January 2024.

2.7 During the application, objections were received from the Local Councillor and Parish Council (twice). All of these objections objected to the creation of a new 'dwelling' in the countryside. This reference is incorrect,

as the proposal was (and is) for an ancillary annexe and not a separate dwelling.

2.8 This use of the annexe can be controlled via standard planning conditions, which would restrict the use to purposes incidental to the use and enjoyment of the Millbrook. Another condition can state that the annexe cannot be sold separately. These are standard planning conditions regularly applied to proposals for domestic and ancillary annexes.

2.9 Following the withdrawal of the previous application, this resubmission includes the updated Water Neutrality Statement. The key planning policy and other considerations are assessed in the following section.

3. PLANNING POLICY AND OTHER CONSIDERATIONS

i) Statutory Provisions and Planning Policies

3.1 Section 70 (2) of the Town and Country Planning Act 1990 requires planning applications and decisions to have regard to the provisions of the development plan so far as they are material to the proposal. Other relevant material considerations must also be taken into account. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that *“if regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”*.

3.2 The relevant part of the Development Plan for the area comprises the South Downs Local Plan 2014 – 2033 (adopted in July 2019) and the Henfield Neighbourhood Plan 2017 – 2031 (made in June 2021).

3.3 Relevant Local Plan Policies are;

- Core Policy SD1: Sustainable Development;
- Strategic Policy SD4: Landscape Character;
- Strategic Policy SD5: Design;
- Strategic Policy SD7: Relative Tranquillity;
- Strategic Policy SD8: Dark Night Skies;
- Strategic Policy SD25: Development Strategy;
- Development Management Policy SD31: Extensions to Existing Dwellings and Provision of Annexes and Outbuildings.

3.4 Relevant Neighbourhood Plan Policies are;

- Policy 1: A Spatial Plan for the Parish;
- Policy 12: Design Standards for Development.

3. PLANNING POLICY AND OTHER CONSIDERATIONS

3.5 Other material planning considerations including relevant parts of the National Planning Policy Framework (2023), the Design Guide SPD (2022) and the Dark Night Skies Technical Advice Note (2018 / 2021).

ii) **The principle of redeveloping the application site**

3.6 Policy SD31 is the most relevant planning policy, relating to 'Extensions to Existing Dwellings and Provision of Annexes and Outbuildings'.

3.7 Therefore, the Policy is outlined below and assessed against the proposed development.

1. Development proposals for extensions to existing dwellings, and the provision of annexes and outbuildings will be permitted where:

a) The proposal does not increase the floorspace of the existing dwelling by more than approximately 30% unless there are exceptional circumstances;

The proposed annexe would have a gross internal area of 60 sq m. Millbrook has a gross internal area of extends to a total of 210 sq m, reflecting a 29% increase.

b) The proposal respects the established character of the local area; and

The annexe is small scale, making it clearly subordinate and ancillary to the main dwelling. The structure is tucked away to the side of Millbrook, with little to no public views towards it. The annexe would be faced with traditional timber

3. PLANNING POLICY AND OTHER CONSIDERATIONS

weatherboarding which would be suitable within the National Park setting.

- c) *The proposal is not overbearing or of a form which would be detrimental to the amenity of nearby residents by virtue of loss of light and/or privacy.*

The annexe is a small, single storey building, subordinate to the host dwelling which would not be overbearing to any neighbouring property. The closest property to the east and separated by an established boundary hedgerow.

2. *Proposals for annexes should demonstrate the functional and physical dependency on the host dwelling.*

The following factors demonstrate that the annexe is entirely dependent on Millbrook;

- Shared electricity connection;
- Shared water connection;
- Shared use of septic tank;
- Shared use of refuse and recycling bins;
- Shared garden;
- Shared driveway;
- Shared postal address.

Therefore, while the annexe provides some privacy to the Applicant's daughter, there are a number of factors which incrementally link the annexe with Millbrook, with there being a degree of reliance on the main dwelling.

3. PLANNING POLICY AND OTHER CONSIDERATIONS

The annexe cannot and will not be sold separately and this can be controlled via a standard planning condition.

Proposals for outbuildings should demonstrate that they are required for purposes incidental to the use of the host dwelling.

As stated, the primary purpose for erecting the annexe is for the Applicant's adult daughter to reside in, to be within a close proximity to the Applicant's elderly mother for care purposes, while retaining a degree of privacy.

It is commonplace for small, subordinate outbuildings to be created for close family members. This proposed use can be controlled via a standard planning conditions.

3.8 Therefore, the proposal would be fully in line with the directly relevant Local Plan Policy SD31.

3.9 The Applicant wishes to draw the Council's attention to a relevant, appeal decision at a site known as Mudhall Cottage, Winterbourne Road, Newbury in the local authority area of West Berkshire (appeal reference no. APP/W0340/W/22/3291473). While this is a different local authority area, the facts of the case are relevant as this appeal scheme was also for the creation of a residential annexe. The main planning issue was whether 'the proposal would provide accommodation that is tantamount to the creation of a separate self-contained and independent dwelling.'

3.10 Regarding the facts of the case, the annexe building was subservient to the main dwelling in terms of scale and was within a 'general close proximity' [of 28 metres]. The

3. PLANNING POLICY AND OTHER CONSIDERATIONS

annexe was to be occupied by a family member of the owners of the main dwelling.

3.11 The Inspector considered that while there would be 'some facilities for independent day to day living', there were a number of other factors making the annexe 'functionally linked and incidental to the main dwelling'.

The decision stated that;

11. *Occupants of the proposal would share the same access, grounds, garden area, postal address, utilities, and services as the occupants of the main dwelling. Indeed, there would also be opportunities for occupants of the proposal and the main dwelling to interact within internal and external spaces. For example, whilst eating in the dining areas or recreating in the garden area.*

12. *As such, there are a number of factors demonstrating that the proposal would be functionally linked and incidental to the main dwelling.*

3.12 The Decision went on to conclude that;

15. *Altogether, notwithstanding the facilities for independent day to day living, there are a number of factors persuading me that the proposal, when all of the matters of fact and degree are comprehensively considered, should legitimately be considered an annexe.*

3.13 The facts of this appeal are therefore highly relevant to this proposal, with the Inspector considering that factors such as the annexe being occupied by a family member and sharing the same access, grounds, postal address, utilities and services, would mean that the annexe would be ancillary to the use and enjoyment of the main dwelling.

3.14 This appeal decision is reproduced in **Appendix 1**.

3. PLANNING POLICY AND OTHER CONSIDERATIONS

iii) Water neutrality

3.15 A Water Neutrality Statement has been submitted with the application. This confirms that following the creation of the ancillary annexe and associated mitigation measures, the total water consumption at Millbrook would decrease and therefore, will not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction.

iv) Archaeology

3.16 The site lies within an Archaeological Notification Area. This retrospective proposal is for a single storey outbuilding. This has a pad foundation at a depth of 300mm. It would also replace a previous building.

Therefore, there would be no harmful impact upon the Archaeological Notification Area, due to the shallow depth of the foundation.

v) Statement by the Applicant

3.17 The Applicant wishes to make the following statement for the Council's consideration;

Millbrook has been a family home for over 40 years now, we have no intentions of ever selling our home, it will be passed on to the next generation of Mcnie's. A few years ago I had heart surgery to have a mechanical heart valve fitted I also have a pacemaker. In recent years I have also suffered with my mental health. I'm not in the best of health and would like to keep as much family around me as possible.

3. PLANNING POLICY AND OTHER CONSIDERATIONS

The annex I have built is exclusively for the use of my youngest daughter so she can have some sort of independence and also be near to my elderly mother who she cares for at Millbrook in her park home.

The annexe in question cannot be seen from any of our neighbouring properties and is totally unobtrusive.

I hope you will take some of my comments on board when making your decision.

vi) Summary and planning balance

- 3.18 The ancillary domestic annexe has a strong degree of reliance on Millbrook, by way of shared utilities, drainage, postal address, garden and driveway. It has been constructed to be occupied by the Applicant's adult daughter for care purposes (for the Applicant's mother), while still retaining some privacy. As such, the annexe is clearly for purposes incidental to the use and enjoyment of Millbrook.
- 3.19 Standard planning conditions can be imposed to control the use of the building and also prohibit the annexe from being sold separately.
- 3.20 The scheme would result in a net reduction in water usage and there would be no harm upon ecology.

3. PLANNING POLICY AND OTHER CONSIDERATIONS

3.21 As such, the scheme would not result in any demonstrable harm that would justify refusing the application and as such, the application should be approved.



Appeal Decision

Site visit made on 17 August 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Appeal Ref: APP/W0340/W/22/3291473

Mudhall Cottage, Winterbourne Road, Boxford, Newbury RG20 8AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Mauree against the decision of West Berkshire Council.
 - The application Ref 21/02348/FULD, dated 13 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is conversion of part of existing detached garage to create annexed accommodation.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of part of existing detached garage to create annexed accommodation at Mudhall Cottage, Winterbourne Road, Boxford, Newbury RG20 8AY in accordance with the terms of the application, Ref 21/02348/FULD, dated 13 September 2021, and the plans submitted with it, subject to conditions in the attached schedule.

Procedural Matters

2. The site is located within the catchment of the River Lambourn Special Area of Conservation (SAC). Consequently, the proposal has been considered in the context of statutory duties set out within the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and is dealt with later in my decision.
3. The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Consequently, the proposal has been considered in the context of statutory duties set out within Section 85 of the Countryside and Rights of Way Act 2000 and is dealt with later in my decision.

Application for costs

4. An application for costs was made by Mr and Mrs Mauree against West Berkshire Council. This application is the subject of a separate decision.

Main Issue

5. The main issue is whether the proposal would provide accommodation that is tantamount to the creation of a separate self-contained and independent dwelling.

Reasons

6. The site relates to a garage within the grounds of Mudhall Cottage. It is incidental to the use of the main dwelling, smaller in scale and subservient. The buildings within the grounds of Mudhall Cottage are within general close proximity to one another, with the garage around 28 metres away from the main dwelling. This is a distance that does not appear to undermine its incidental use or the functional link between the buildings in forming a single planning unit.
7. I am mindful the judge in *Uttlesford DC v SSE & White* [1992] considered that even if the accommodation provided facilities for independent day to day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree.
8. In that case the accommodation gave the occupant the facilities of a self-contained unit although it was intended to function as an annexe with the occupant sharing her living activity in company with the family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
9. In this context, whilst I note there are elements of the proposal that would provide the facilities for independent day to day living, there are a number of other factors that persuade me that it should be regarded as an annexe that is functionally linked and incidental to the main dwelling.
10. The proposal would come forward within the existing garage, and therefore would remain subservient in scale and an element of parking and toilet facilities would be retained as functional links incidental to the main dwelling.
11. Occupants of the proposal would share the same access, grounds, garden area, postal address, utilities, and services as the occupants of the main dwelling. Indeed, there would also be opportunities for occupants of the proposal and the main dwelling to interact within internal and external spaces¹. For example, whilst eating in the dining areas or recreating in the garden area.
12. As such, there are a number of factors demonstrating that the proposal would be functionally linked and incidental to the main dwelling.
13. The Council considers the distance between the proposal and the main dwelling to be a significant factor. However, I am not persuaded that this is the case, because the garage is already sufficiently close and well related to be regarded as incidental to the main dwelling.
14. There is no objective evidence demonstrating that it would be an inappropriate distance preventing an elderly occupant from engaging incidentally with the main dwelling under the proposal.
15. Altogether, notwithstanding the facilities for independent day to day living, there are a number of factors persuading me that the proposal, when all of the matters of fact and degree are comprehensively considered, should legitimately be considered an annexe.

¹ uninterrupted by boundary treatments, which only serve to delineate the stables.

16. Overall, the proposal would not provide accommodation that is tantamount to the creation of a separate self-contained and independent dwelling and would be an annexe. Therefore, it would not conflict with Policies ADPP1, ADPP5, CS1 and CS14 of the West Berkshire Core Strategy 2012 or Policy C1 of the Housing Site Allocations Development Plan Document 2017. Among other things, these policies seek to manage the development of new dwellings in the countryside.

Other Matters

17. I note reference to West Berkshire Council Supplementary Planning Guidance House Extensions 2004 and Part 8 Granny Annexes or Accommodation for Elderly or Disabled Relatives. However, this guidance appears to deal directly with new extensions physically related to existing dwellings. Consequently, the guidance does not relate to the proposal in this case, which is a conversion of a separate outbuilding.
18. Whilst the site is located within the catchment of the River Lambourn SAC, the proposal would not result in additional residential units or a significant increase in population where the associated wastewater has implications for the local wastewater treatment system. Other proposals of a similar nature within the catchment would not result in additional residential units either. As such, the proposal would not result in a significant discharge of treated effluent into the SAC, whether directly or through hydrological connectivity, alone or in combination. Whilst being mindful of the precautionary principle, I am satisfied that the proposal's effects on the SAC would be insignificant. Consequently, an appropriate assessment pursuant to the Habitats Regulations is not required.
19. Section 85 of the Countryside and Rights of Way Act 2000 requires me to have regard to the conservation and enhancement of the natural beauty of the area. The proposal is a conversion without any significant exterior works to the existing building. Furthermore, the proposal would be incidental to the main dwelling, and as such the level of domestic activity would remain consistent with what already exists. In this context, the character and appearance of the area, and by extension the natural beauty of the AONB, would be preserved.

Conditions

20. I am mindful of the general principles established in *Winchester CC v SSCLG & Others* [2013] EWHC 101 (Admin) upheld in [2015] EWCA Civ 563, where it was set out that a permission granted for a 'travelling show peoples site' could not be interpreted as a general permission for a residential caravan site, although no occupancy condition had been imposed, because a 'travelling show people's site' is a sui generis use.
21. In this context, if an outbuilding is proposed for incidental use, or for use as part of the main dwelling, a condition to restrict the use will rarely be needed. Even if the development could be used as a separate dwelling, such a use could not become established without further planning controls.
22. Indeed, if following a grant of permission, the building in this case is not used as proposed, or if there is a future material change of use to create a separate dwelling, then another grant of permission would be required, and the building or use would be at risk of enforcement action if permission had not been granted.

23. As such, a condition restricting the use in this context is not strictly necessary and would fail the tests based on the evidence I have at my disposal in this case.
24. The Council did not take the opportunity to suggest any planning conditions in their appeal submissions. As such, I have attached standard planning conditions in relation to time limits for commencement and accordance with the approved plans, which are necessary in the interests of certainty.

Conclusion

25. For the reason given, the appeal is allowed and planning permission is granted subject to conditions in the attached schedule.

Liam Page

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i) GTB – 814 – 16 A ((Existing (unchanged) Elevations));
 - ii) GTB – 814 – 16 A (Existing and Proposed Layout); and
 - iii) GTB – 814 – 17 A.

End of Schedule