

APPLICATION: MA/11/1116 Date: 12 September 2011 Received: 20 September 2011

APPLICANT: Mrs T Duffy

LOCATION: CHURCH HOUSE, MARLEY ROAD, HARRIETSHAM, MAIDSTONE, KENT, ME17 1AX

PARISH: Harrietsham

PROPOSAL: Erection of detached annexe building as shown on Drawings 00911-225 and supporting statement received 20 September 2011.

AGENDA DATE: 15th December 2011

CASE OFFICER: Laura Gregory

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by the Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV33, ENV34 H33,
- South East Plan 2009: CC1, CC6, C3, C4
- Village Design Statement: N/A
- Government Policy: PPS1, PPS7

2. HISTORY

- 2.1 MA/02/0301 - Demolition of existing single storey detached building and erection of single storey detached building for use as an annexe – REFUSED - APPEAL ALLOWED
- 2.2 MA/01/0869 - Conversion of existing outbuilding to residential annexe – APPROVED WITH CONDITIONS
- 2.3 In addition to the above, the site has been the subject of recent enforcement investigations which are related to the implementation of the most recent approval of planning permission. The detail of these cases is summarised below.

ENF/11806 – “Work re-started on site for annexe granted permission some years ago” – CASE CLOSED PLANNING APPLICATION INVITED

2.4 SITE HISTORY CONSIDERATIONS

2.4.1 In 2002, under MA/02/0301, planning permission for the construction of new detached annexe was refused for the following reason:

"The proposed detached annexe building would, if permitted, result in a development which could be used as a separate dwelling in the open countryside"

2.4.2 The application was subsequently allowed at appeal. In his considerations the Inspector concluded that the building, by virtue of its siting and design, would not cause significant visual harm to the Kent Downs Area of Outstanding Natural Beauty and North Downs Special Landscape Area. He also accepted that a unilateral undertaking submitted by the applicant which bound the use of annexe to the occupants of Church House, was a sufficient means of ensuring that the building was not used for any other purpose. The annexe was to be used by the applicant's mother.

2.4.3 Works on the new building started in terms of the foundations but did not recommence until this year. These works which involved of constructing the walls and roof of the building, have been subject to an Enforcement Investigation, ENF/11806, because the works commenced before a pre commencement condition was complied with. No enforcement action has been taken because a planning judgement was made on its acceptability being of the same size and siting as the appeal proposal. Works to complete the building have ceased pending the determination of this application.

3. CONSULTATIONS

3.1 Harrietsham Parish Council – Wish to see the application **REFUSED** and reported to Planning Committee for the reasons set out below:

- This application is a departure from the approved plan with significantly larger floor plan, higher roof line and greater building mass.
- It is an independent new building with its own access not an annexe.
- The new building is clearly visible from the neighbouring property.
- New plan affects the quality of the AONB and Landscape.
- The new building is visibly incongruous.
- There is conflicting evidence and no justification for dependent relatives usage made in the application.

- The application significantly differs from the original application and should be treated as a new application and should be taken through the planning process.
- The new structure is not part of the garden area of Church House; the land is originally part of the farm at Kingboro Farm.
- There are no details of the access road from Church House.
- Building is already underway with access from the lane, the Parish Council is surprised that the Enforcement Officer only 'advised' them to stop building.
- There are no details of services or refuse collection for the new building.
- Maidstone Borough Council objected to the original application and so must object to this as well.

4. REPRESENTATIONS

4.1 Four letters of representation received raising the following objections (summarised):

- Works to the building have already started and would set a precedent for retrospective planning approvals.
- Annexe has a height of 5.5 as opposed to 5m which was shown on the original drawings. This allows for the conversion of roofspace.
- Annexe has been moved several metres to the east from the original proposal.
- A porch has been added to the building which is a contravention of the original permission.
- Annexe is 90m from Church House and therefore bears no relation to Church House.
- Building is not of a modest size. Its size height and bulk means that it cannot be an annexe but, an entirely a separate dwelling which will be visually incongruous in the AONB.
- Annexe is visible from public highway and other public vantage points
- Annexe is directly accessed by its own driveway between Kingboro farm and Jalna, not via the drive to Church House.
- Annexe is not for applicant's mother but her daughter who is not a dependent relative.

- Development would set a precedent for other families whose relatives, without a specific need, want to live close to them.
- Development would cause loss of privacy and cause noise disturbance to neighbours.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located on the north side of Marley Lane in the parish of Harrietsham and lies within the extensive grounds of a large dwelling - 'Church House'. Sited some 70m to the north east of the main house, the application site is opposite a tennis court and a swimming pool which are within the grounds and lies some 40m behind neighbouring dwellings 'Kingboro Farm' and 'Jalna'. These dwellings are located to the south of the site and are on either side of the access into it. The site is well screened from the road by these houses, trees and fencing.

5.1.2 Located in open countryside, the site is within the Kent Downs Area of Outstanding Natural Beauty (AONB) and North Downs Special Landscape Area (SLA). The land which surrounds it is laid mainly to lawn. There is a paddock immediately to the north of the site which is used to graze the applicant's horses and beyond this, is a large pond. This is some 85m from the application site. Boundary treatments on site comprise mainly of mature hedgerow and fencing, close boarded to be precise. There are close boarded gates at the entrance to the site and the access had close boarded fencing on either side which bounds the gardens of 'Kingboro Farm' and 'Jalna'.

5.2 Proposal

5.2.1 The proposal is very similar to the proposal that was submitted in 2002 under MA/02/0301. The only difference with the application is that a porch has been added to the south elevation. The dimensions and proposed materials remain as originally approved.

5.2.2 Sited some 70m to the north east of the main dwelling, the annexe is to be self contained. Comprising two bedrooms, bathroom kitchen and living room, it is proposed that the building would provide accommodation for the applicant's mother as was the case previously.

5.2.3 Measuring 10m wide and 7m deep, the building would have an eaves height of 2.6m and a ridge height of 5.5m measured above ground level. To the south elevation a porch is proposed and this would measure 2.1m wide and 1m deep. With a gabled roof, the porch would have an eaves height of 2.2m and a ridge

height of 3.3m. A verandah is proposed on the west elevation and this would measure 2.3m wide and 7m deep. The building would be clad in dark oak stained weatherboarding and would have a clay tiled roof, samples of which have been submitted with the application.

5.3 Principle of Development

5.3.1 In 2001, permission to convert an existing outbuilding to an annexe was granted under ref MA/01/0869 for the reason that the proposed conversion would improve the appearance of the building and surrounding area and its conversion was preferable to the building of a new structure. The proposed use of the building by applicant's mother was considered acceptable because a unilateral undertaking had been submitted by the applicant which bound the use of the building as an annexe to Church House. No unilateral undertaking has been submitted with this application; however, this is not necessary as the use of the building as an annexe can be controlled by condition (see paragraph 5.6).

5.3.2 In 2002, an application to demolish the outbuilding and rebuild as an annexe was accepted at appeal. The Inspector considered that an annexe in this location was acceptable because it would not cause significant visual harm. The proposed buildings under the 2001 and 2002 schemes were of similar scale and design. The building now proposed is also of similar scale design and location to these previous approvals.

5.3.3 There is no fall back position on this application because there is no extant permission in place which could be implemented. However, considering that two applications of the same character have been accepted on this site and this was accepted under the same Local Development Plan Policy, Policy H33, it is my view that in principle the proposal is acceptable.

5.3.4 Nevertheless whilst the principle of development may be acceptable, it still needs to be assessed whether there have been any significant changes in the circumstances of the proposal which would now render it unacceptable. The main issues to consider are visual and residential amenity. My report shall be based on the same structure the Inspector used and the criterion of Policy H33.

5.4 Visual Amenity

5.4.1 Set behind the houses and garden of 'Kingboro Farm' and 'Jalna', the annexe is not visible from Marley Road or any other public vantage point. With the visual impact confined to within the grounds of Church House, the development does not impede on or interrupt any medium to long distance views of the countryside or the North Downs Area of Outstanding Natural Beauty and Special Landscape Area. As such the open and undeveloped character of the surrounding countryside would be preserved.

5.4.2 The design of the building is such that the annexe resembles that of a 'lodge' style outbuilding. The Inspector considered that this was not inappropriate given the building's setting within the extensive grounds of Church House. Indeed, placed opposite a tennis court within the applicant's garden, the building would appear as an ancillary outbuilding. Clad with dark stained weatherboarding, it would assimilate well with its surroundings and would not be unsympathetic to the existing house given that it bears little visual relationship to it. On the whole the proposed annexe is well designed and appropriate in scale and appearance to its surroundings and I concur with the Inspector's view that the building proposed annexe would cause significant visual harm to the countryside.

5.5 Residential Amenity

5.5.1 Whilst this was not an issue at appeal, letters of objection have been received raising concern over the impact the development would have on residential amenity. Criterion 5 of Policy H33 states that there should not be an unacceptable loss of amenity to neighbouring property.

5.5.2 The proposed annexe would not result in a significant or unacceptable loss of privacy given that the annexe is located some 40m from 'Kingboro Farm' and 'Jalna'. The proposed veranda, living room and bedrooms would not directly view into these neighbouring houses or their gardens. I note the neighbours concerns about the conversion of the roof space, but any new windows in the roof would require permission and the impact on the neighbouring dwellings would be addressed under that application.

5.5.3 As the proposed annexe is required to provide ancillary residential accommodation I consider that it is unlikely that any significant noise disturbance to the neighbouring property would be caused. The access is already in place and is used by the applicant to access their property. Considering the proposed use of the annexe, traffic movements on this access would be unlikely to increase significantly and I therefore consider that noise and disturbance from the access would be minimal.

5.5.4 There would be no loss of light and the outlook from neighbouring dwellings would be unharmed by this proposal. Overall the impact upon residential amenity would be minimal and I consider that the development is acceptable on this matter.

5.6 Unilateral Undertaking

5.6.1 In both of the previous applications, permission was granted on the basis that the applicant had submitted a unilateral undertaking which bound the use of the building as an annexe to Church House. No such document has been submitted with this application.

5.6.2 It is not necessary to request that a unilateral undertaking is submitted within this application given that a planning condition which restricts the occupancy of the annexe would be just as effective. An occupancy condition would allow the Council control over the development and could be easily enforced. Moreover, it is consistent with previous decisions pertaining to the construction of detached annexe buildings in the countryside. It is relevant to the Development Plan and to the development itself and complies with the relevant tests of Circular 11/95 which relates to the use of conditions in planning permissions.

5.6.3 It is for these reasons therefore that I consider that it is no longer necessary to submit a unilateral undertaking with this application. An occupancy condition would have the same effect as the S106 agreement, preventing the use of the annexe building for any other accommodation other than that which is ancillary to Church House.

5.7 **Other Matters**

5.7.1 With regard the comments received that the application would set a precedent for similar developments in the area, each application is judged on its own merits and would be determined in accordance with the Development Plan.

5.7.2 Whether the building is occupied by the applicant's mother or her daughter is irrelevant as the purpose of an annexe is to provide ancillary accommodation for family members. The use of an occupancy condition would control who occupies the building and prevent the building from being used for any other purpose than as an annexe to Church House.

5.7.3 I do not consider that the distance between the building and the main house is determining a factor given that the Inspector did not give this any significant weight when making his decision and, the distance in this application remains the same.

6. **CONCLUSION**

6.1 In conclusion there has been no change in the circumstances of the site which would now render the proposal to be unacceptable. The annexe would result in no significant visual harm and would have no significant or detrimental impact upon the residential amenity of neighbouring occupiers. I note that the accommodation proposed is capable of being used as a separate dwelling but the use of this accommodation can be strictly controlled by condition. As there are no overriding material considerations to indicate a refusal, it is my view that this proposal should be approved. I therefore recommend that planning permission is granted subject to the following conditions.

7. RECOMMENDATION

GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS:

1. The materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall match the materials specified within Section 11 of the application form received on 20 September 2011

Reason: To ensure a satisfactory appearance to the development in accordance with Policies ENV28, ENV33, ENV34 and H33 of the Maidstone Borough Wide Local Plan 2000, Policies CC1, CC6, C3 and C4 of the South East Plan 2009 and advice contained within PPS1 Delivering Sustainable Development and PPS7 Sustainable Development in Rural Areas.

2. The additional accommodation to the principal dwelling hereby permitted shall not be sub-divided, separated or altered in any way so as to create a separate self-contained unit;

Reason: Its use as a separate unit would be contrary to the provisions of the development plan for the area within which the site is located and Policies ENV28, ENV33, ENV34 and H33 of the Maidstone Borough Wide Local Plan 2000, Policies CC1, CC6, C3 and C4 of the South East Plan 2009 and advice contained within PPS1 Delivering Sustainable Development and PPS7 Sustainable Development in Rural Areas.

3. The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawings 00911-225

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policies ENV28, ENV33, ENV34 and H33 of the Maidstone Borough Wide Local Plan 2000, Policies CC1, CC6, C3 and C4 of the South East Plan 2009 and advice contained within PPS1 Delivering Sustainable Development and PPS7 Sustainable Development in Rural Areas.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.