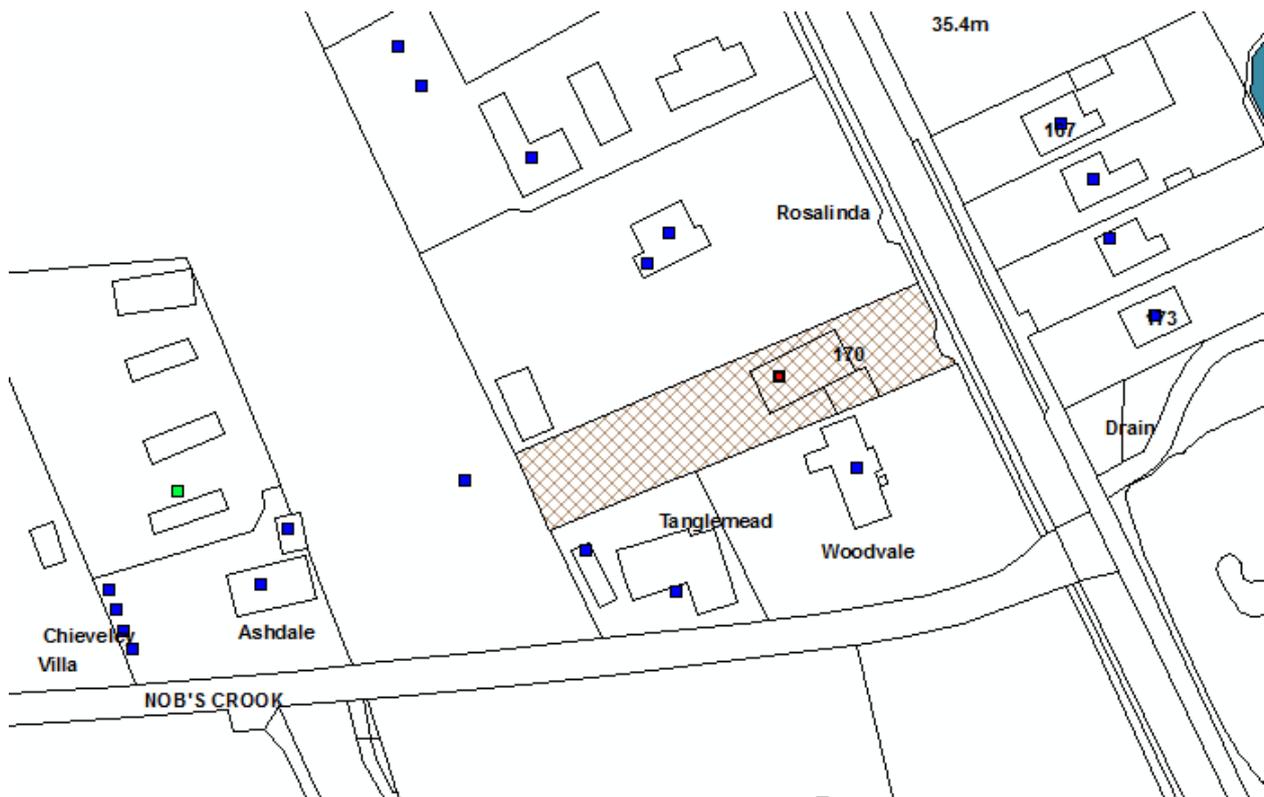


WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 19/01049/HOU
Proposal Description: Retention of existing outbuilding in incidental use to the main dwellinghouse following internal and external alterations
Address: Brown Eaves 170 Main Road Colden Common SO21 1TJ
Parish, or Ward if within Winchester City: Colden Common
Applicants Name: Ms Jane Ratcliffe
Case Officer: Liz Marsden
Date Valid: 13 May 2019
Recommendation: Approve



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General Comments

Parish Council's request for application to be determined by Planning Committee, see Appendix 1

Site Description

The site is an area of around 0.13ha, located in the countryside (as defined in the Local Plan) to the south of Colden Common and to the west of Main Road. It is a level area with a, recently extended, house set towards the eastern end of the site, with a double garage in the front garden and a wooden shed close to the rear of the house. The single-storey building, the subject of this application, is located towards the rear (western) boundary.

The area in the immediate vicinity of the site is characterised by detached dwellings of a variety of designs, with those to the east of the road being predominantly single storey. The nearest properties are Woodvale and Tanglemead to the south of the site, both 'chalet' type dwellings with rooms in the roof, and Rosalinda to the north. A single-storey outbuilding of a similar size to this application is located in the grounds of Rosalinda immediate to the north of the site. There is a small industrial estate along Nob's Crook to the south west of the site and a scrap yard located to the west. Despite these features and the busy main road, the area as a whole is rural in character due to the mature trees along the road frontage and to the rear of the site.

Proposal

The proposal is for the retention of the existing building and its use for purposes incidental to the use of the dwelling house. The building is of permanent construction with brick wall and a tiled roof and was originally divided into two halves, each with their own external door, and no connecting doors between them, with further internal sub-divisions in each half.

In recent months, most of the internal walls have been removed, creating a large open area with two smaller rooms and a lavatory. One of the external doors has been bricked up, together with the patio doors in the rear elevation. The main room contains gym and games equipment, yoga area, a sewing area, a large fridge freezer and some storage. One of the smaller rooms is used as a den/memorabilia room and the other contains what appears to be the rear part of a car.

The building has a footprint of 108sq.m and its height has been reduced to 4m at its highest point by the removal of the ridge tiles. The resultant gap in the roof has been sealed by a watertight material. It is set 2m from the boundaries to either side (north and south) and 6m from the rear (west) boundary. The nearest neighbouring property is 'Tanglemead' to the south of the site, which has recently been rebuilt, the rear elevation of which is 10.5m from the side of the building. The outbuilding in the grounds of Rosalinda is set about 3.5m away.

The only access to the building is through the garden of Brown Eaves and with the extension of that property, this access is limited to a narrow passage along the northern boundary, which it would not be possible to get a vehicle down.

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Relevant Planning History

17/00598/HOU – Retention of annexe in rear garden – Refused at Committee 28.06.17 for the following reason:

‘The annex in the rear garden is tantamount to a new dwelling in the countryside and does not comply with policy MTRA4 of the Winchester District Local Plan Part 1.’

17/02063/FUL – Retention of existing outbuilding and its temporary use for accommodation during building works to main dwelling. – Refused at committee 16.11.17 for the following reason:

‘The outbuilding that has been constructed in the rear garden is tantamount to a new dwelling in the countryside, for which there is no justification, and does not comply with policy MTRA4 of the Winchester District Local Plan Part 1’.

A subsequent appeal against this decision was dismissed, with the Inspector concluding that the provision of kitchen and bathroom facilities, together with a private curtilage served by sets of French doors, indicated that the building is capable of being used as a separate dwelling and was therefore contrary to Policy MTRA4 of LPP1.

18/00048/LDC – Outbuilding ancillary to main house falling under permitted development size requirements. – Refused 05.04.18 on the grounds that *‘the local planning authority is not satisfied on the basis of the submitted evidence that:*

- 1) The application can be determined under section 191 as the outbuilding has been deemed by the local planning authority to require planning consent and as a result, it cannot benefit from permitted development rights as at the date of the application; and/or:*
- 2) The application can be fully determined as at the date of application the uses of the dwellinghouse and outbuilding were not taking place, therefore the functional relationship between the two cannot be assessed for the purposes of Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (required for a purpose incidental to the enjoyment of the dwellinghouse) and section 191 T&CP;*
- 3) The outbuilding has been designed as primary residential accommodation, appears to have its own curtilage and to read as a separate planning unit and is not within the curtilage or required for a purpose incidental to the dwellinghouse;*
- 4) It appears the height of the outbuilding exceeds the restrictions of Class E, paragraph E of the GPDO and therefore is not permitted development under Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.*

19/00301/LDC - Outbuilding ancillary to main house falling under permitted development size requirements. – refused 18.04.19 on similar grounds to the above case, with the exception of the second reason which stated:

- 2) It appears the height of the outbuilding exceeds the restrictions of Class E, paragraph E of the Town and Country Planning (General Permitted Development) (England) Order 2015.*

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Consultations

WCC Enforcement:

An Enforcement Notice was served on 11.01.19, relating to the use of the building as a dwelling and is currently extant. This Notice will stand in perpetuity, regardless of whether permission is granted for the current application, so that if the building is used as a dwelling at any point in the future, the council can take direct action to remove the building and/or prosecute. The current condition of the building has been inspected and its size and usage accords with the criteria of Class E of the GPDO.

WCC Engineers: Drainage: (from previous application). Site is in area of clay where relatively high levels of runoff are to be expected, but not in area of designated flood risk and providing adequate soakaways installed, no objection.

Representations:

Colden Common Parish Council

- Object, inappropriate development in the countryside.

1 letter received objecting to the application for the following material planning reason:

- Proposal makes a mockery of the planning and enforcement processes as the building should not be there following the service of an enforcement notice.

10 letters of support received for the following material planning reasons:

- The building works undertaken to the site are a great improvement over what was there previously and have a positive effect on the surrounding area.
- Proposal improves local area and approval will bring closure to this long-standing planning issue which has had a negative impact on quality of life for applicant.
- Development has been constructed within lawful permitted development guidelines.
- No problem with the retention of the outbuilding in incidental use to main dwellinghouse following internal and external alterations.
- Building was not designed for residential use and will provide leisure facilities for the enjoyment of the family.
- Hardly visible from the road
- Similar in size to other buildings nearby

Relevant Planning Policy:

Winchester Local Plan Part 1 – Joint Core Strategy

DS1: Development Strategy and Principles;
CP13: High Quality Design;
CP14: The Effective Use of Land;
CP20: Heritage and Landscape Character;
MTRA 4: Development in the Countryside;

The Winchester District Local Plan Part 2 - Development Management and Site Allocations Development Plan Document (LPP2);

DM1: Location of New Development;
DM14: Local Distinctiveness;

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DM15: Site Design Criteria;
DM16: Site Development Principles;
DM22: Rural character;

National Planning Policy Guidance/Statements:
National Planning Policy Framework

Supplementary Planning Documents:
Winchester District High Quality Places SPD, 2015;
Colden Common Village Design Statement;

Planning Considerations

Principle of development

The application is retrospective to the extent that the building has already been constructed and therefore, whilst it is necessary to consider whether a structure of this size would have been acceptable in this location, the primary consideration is whether the use of the building is appropriate to this area.

The provision of buildings within the curtilage of and incidental to the use of dwellings is generally acceptable, whether within a settlement boundary or in the countryside, and there are a wide range of permitted development rights that are applicable to most properties, including Brown Eaves.

In this case, the situation has been complicated by the initial construction of the building which was judged to contain primary living accommodation and this, together with the height of the building above permitted development tolerances (by 0.1m), ensured that planning permission was required for the building. As set out in the planning history of the site, this was not granted and subsequent applications for a lawful development certificate also failed on the grounds that it was not considered that the proposal amounted to permitted development under Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.

The structure that was originally constructed was therefore unlawful in terms of both its size and potential usage and an Enforcement Notice was therefore served in January this year. There was no appeal against this Notice, which came into force on 15th May and remains extant.

Subsequent to the service of that notice there have been material alterations to the building, notably the reduction in the overall height to within permitted development tolerances, the removal of all but one of the external doors, the removal of the majority of internal wall and the removal of the kitchen/bathroom features that existing formerly. On inspection, the building is not, as was the case at the time of the previous appeal, capable of being used as a separate dwelling and the current usage is for incidental purposes. There is therefore no conflict with the Enforcement Notice.

It should perhaps be noted that, if the building had been constructed in its current form and used for purposes incidental to the dwelling house it would have been permitted development.

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Design/layout

Although a sizeable structure, with a footprint of 108sq.m, the building is set in a large garden and is not considered to result in excessive site coverage or amount to the 50% of the total area of the site that is permitted by the GPDO. In fact, excluding the area of the dwelling house as proposed to be extended, the total built footprint, including the double garage, the outbuilding and a recently constructed wooden shed, amounts to around 15% of the curtilage.

The building is set towards the rear of the garden and has been set 2m away from the side boundaries and 6m from the rear boundary. It is a well-constructed building of brick, with a pitched tiled roof and the doors and windows are double-glazed. It is domestic in appearance but there is no guidance or policy that requires outbuildings to be of a particular design and, providing that the use of the building does not conflict with adopted policies and it is not considered that a reason for refusal could be sustained on this basis.

Impact on character of area

The location and height of the building is such that it is not unduly apparent from public vantage points. There are limited views of the upper part of the gable end from Nobs Crook to the south, where it is seen above the boundary fences of Tanglemead, but the site backs on to a wooded area, which restricts any longer views from the west. The distance from Main Road to the frontage of the site and the position of the house, ensure that it is not visible from this direction. It is not therefore considered that the building has an adverse impact on the character and appearance of the area.

Impact on neighbour amenity

The nearest residential property is the recently constructed dwelling to the south of the site 'Tanglemead', the rear elevation of which is around 10.5m away from the side of the building. There is a close board fence with a trellis above, along the northern boundary of Tanglemead which screens the majority of the building from ground level. Therefore, whilst it is recognised that the building is visible, it is not considered that it is unduly intrusive in or detrimental to the outlook from that property. It should also be noted that, with the removal of the ridge tiles reducing the overall height of the building, it now falls within permitted development tolerances.

The building is used for purposes incidental to the use of the dwelling house and whilst there may be occasions when these cause disturbance, as with any outbuilding in any other domestic curtilage, this is not a planning reason for refusal. There are other forms of regulation that protect residents from anti-social behaviour.

Highways/Parking

The building is used for purposes incidental to the use of the main dwelling house and will not generate a requirement for additional parking spaces. There is no vehicular access to the rear of the garden where the building is located.

Recommendation

Approval subject to the following condition(s):

Conditions

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1. The building shall be used solely for purposes incidental to the occupation and enjoyment of the existing property as a dwelling (known as: Brown Eaves, 170 Main Road, Colden Common, SO21 1TJ) and shall not be occupied as an independent unit of residential accommodation or for any business uses other than by the occupants of Brown Eaves.

Reason: The use of this accommodation as an independent unit would be contrary to Policy MTRA4.

2. The development shall be maintained in accordance with the following approved plans:

070519 1A3 – plans and elevations

Informatives:

1. In accordance with paragraphs 186 and 187 of the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,

- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

In this instance the application is the culmination of a series of applications.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Local Plan Part 1 - Joint Core Strategy: DS1, MTRA4, CP13, CP14, CP17, CP20,
Local Plan Part 2 – Development Management and Site Allocations: DM1, DM3,
DM14, DM15, DM16, DM17, DM22

3. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out above, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

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Appendix 1

Comments for Planning Application 19/01049/HOU

Application Summary

Application Number: 19/01049/HOU

Address: Brown Eaves 170 Main Road Colden Common SO21 1TJ

Proposal: Retention of existing outbuilding in incidental use to the main dwelling house following internal and external alterations

Case Officer: Liz Marsden

Customer Details

Name: Ms Clerk to the Parish Council

Address: Parish Office , Colden Common Community Centre, St Vigor Way, Colden Common, Colden Common Winchester, Hampshire SO21 1UU

Comment Details Commenter Type: Parish Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The Parish Council objects to this application as it is inappropriate development in the countryside against policy MRTA4. Given the long planning history of the site the Parish Council requests that this application is determined by the Winchester City Council Planning, Development and Control Committee and that a site visit takes place prior to the Committee meeting