

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD  
PLANNING COMMITTEE**

**MAIDENHEAD DEVELOPMENT CONTROL PANEL**

17 April 2024

Item: 1

<b>Application No.:</b>	23/01738/FULL
<b>Location:</b>	12 Lees Close Maidenhead SL6 4NU
<b>Proposal:</b>	Outbuilding (retrospective)
<b>Applicant:</b>	Mr Thandi
<b>Agent:</b>	Mr Kashif Bashir
<b>Parish/Ward:</b>	Maidenhead Unparished/Boyn Hill
<b>If you have a question about this report, please contact:</b> Ritu Singh on 01628 796 192 or at <a href="mailto:ritu.singh@rbwm.gov.uk">ritu.singh@rbwm.gov.uk</a>	

**1. SUMMARY**

- 1.1 The application seeks retrospective planning permission for the construction of a detached outbuilding within the rear garden. The application relates only to the structure and not the use, with the applicant confirming during the course of the application that the proposals are for the outbuilding to be used incidental to the main residential dwelling and not as a separate residential or commercial use.
- 1.2 This application was on the agenda at the Maidenhead Development Management Committee on the 20<sup>th</sup> December 2023. The determination of the application was deferred until such time as a reply on the noise impact assessment and a ground water drainage assessment is completed. Subsequent to this, a noise impact assessment has been submitted and further drainage strategy information has been provided and reviewed by National Highways.
- 1.3 National Highways have confirmed that it has been demonstrated that the proposed soakaway on the outbuilding has sufficient capacity and no objections are raised, subject to recommended condition. Furthermore, the submitted noise report demonstrates that there has been no unacceptable harm to amenities of surrounding properties as a result of the works which form this application.
- 1.4 The principle of a detached outbuilding within the rear garden for use incidental to the residential dwelling remains acceptable in principle, subject to recommended condition/informative to ensure that the structure is used solely for incidental purposes and neither as an independent residential or a commercial use. Furthermore, it has been demonstrated that the structure and use incidental to the main dwelling, has an acceptable impact on the appearance of the surrounding area. highway safety.

<b>It is recommended the Committee grants planning permission with the conditions listed in Section 14 of this report.</b>
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## 2. REASON FOR COMMITTEE DETERMINATION

- The Council's Constitution does not give the Assistant Director of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Committee as the planning application has been called in by Cllr Bermange due to concerns that the development has an unacceptable effect on the amenities enjoyed by the occupants of adjoining properties in terms of privacy and disturbance.

## 3. THE SITE AND ITS SURROUNDINGS

- 3.1 The application site comprises a detached dwelling located in south-west Maidenhead. The site is classified in the RBWM Townscape Assessment as 'Late 20th Century Suburbs (10)' which comprise medium density housing in a suburban style, set in regular plots with short front and back gardens.
- 3.2 Immediately to the rear of the application site is the A404 (M).

## 4. KEY CONSTRAINTS

- 4.1 N/A

## 5. THE PROPOSAL

- 5.1 The application seeks retrospective planning permission for the construction of a detached outbuilding within the rear garden of the application site. The outbuilding is flat roofed, with a height of 2.6m. The submitted plans show that the outbuilding has three interlinked rooms and would be used as a gym and office space.
- 5.2 The application relates only to the structure and not the use, with the applicant confirming during the course of the application that the proposals are for the outbuilding to be used incidental to the main residential dwelling and not as a separate residential or commercial use.

## 6. RELEVANT PLANNING HISTORY

Reference	Description	Decision
96/30427/FULL	Demolition of double garage and construction of single storey front rear and side extensions and two storey side extension.	Approved 07.11.1996
97/31467/VAR	Demolition of double garage and construction of single storey front, rear and side extensions and two storey side extensions. (Variation to planning approval 96/30427).	Approved 04.07.1997
12/01890/FULL	Conversion of the garage to habitable accommodation.	Approved 13.08.2012
22/01885/CPD	Certificate of lawfulness to determine whether the proposed detached outbuilding is lawful.	Approved 15.09.2022

**7. DEVELOPMENT PLAN**

7.1 The main relevant policies are:

**Borough Local Plan (BLP)**

Issue	Policy
Character and Design of New Development	QP3
Nature Conservation and Biodiversity	NR2
Trees, Woodlands and Hedgerows	NR3
Sustainable Transport	IF2

**8. MATERIAL PLANNING CONSIDERATIONS**

**National Planning Policy Framework Sections (NPPF)**

Section 2 – Achieving sustainable development.  
 Section 4- Decision-making.  
 Section 9- Promoting Sustainable Transport.  
 Section 12- Achieving well-designed places.

**Supplementary Planning Documents**

- ☐ Borough Wide Design Guide

**Other Local Strategies or Publications**

Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment
- RBWM Landscape Assessment
- RBWM Parking Strategy

**9. CONSULTATIONS CARRIED OUT**

**Comments from interested parties**

Three occupiers were notified directly of the application.

Six letters were received objecting to the application, summarised as:

Comment	Where in the report this is considered
1. Outbuilding built without planning permission and in breach of Lawful Development Certificate and Building Regulations.	Noted. However, this does not preclude the determination of the application in accordance with development plan policies. Building regulations are separate from the planning process.

2.	Concerns regarding dimension of outbuilding.	Scaled plan and elevation drawings have been submitted with the application and are acceptable for the purposes of the assessment of the application.
3.	Built on National Highways land.	The application site is edged red. The application site is within the curtilage of the dwelling house and a certificate A has been completed by the applicant stating that the applicant is sole owner of the land.
4.	The building is out of keeping with the area and its surrounding.	See section 10.
5.	Trees were removed which now causes light, air and noise pollution from A404.	Noted. However, the application relates only to the outbuilding. The trees which have been removed were on National Highways land; however, these were not protected and not in a conservation area and any action would therefore need to come from National Highways.
6.	Purpose of outbuilding is 2 bed/2 bath bungalow.	See section 10.
7.	Parking concerns.	See section 10.
8.	Drainage and rainwater concerns.	Noted. However, this would not preclude the determination of the current application in accordance with relevant development plan policies. Furthermore, further drainage detail has been provided. See section 10.
9.	Property devaluation.	Noted. However, this is not a material planning consideration in the determination of the planning application in accordance with relevant development plan policies.

## Consultees

Consultee	Comment	Where in the report this is considered
National Highways	<p>Recommend that planning permission not be granted until 3<sup>rd</sup> April.</p> <p>Offers no objection in principle to the outbuilding itself as shown within the red line boundary.</p> <p>The applicant has provided further information regarding the drainage strategy for the outbuilding, which included filtration calculations which demonstrated that the proposed soakaway on the outbuilding has sufficient capacity.</p> <p>Based on above, a condition for drainage plans, is recommended.</p>	<p>No decision will be made until after the 3 April 2024.</p> <p>Recommended condition which relates to approved drainage plans is attached.</p>

## 10. EXPLANATION OF RECOMMENDATION

10.1 The key issues for consideration are:

- i Principle of development;
- ii Design and character;
- iii Impact on amenity of neighbouring buildings; and,
- iv Parking and highway safety.

### Principle of Development

10.2 The application seeks retrospective planning permission for the construction of outbuilding located in the rear garden. The application relates only to the structure and not the use, with the applicant confirming that the structure is for use incidental to the main dwelling on the site and not for either a separate residential or a commercial use.

10.3 In this context, the principle of an incidental outbuilding within the rear garden is acceptable. However, given the scale and rooms proposed within the structure, in order to ensure that the development would remain incidental to the host dwelling, it is reasonable to recommend a condition to ensure the building remains incidental to the main house. An informative is also recommended to advise the applicant that use for either an independent residential dwelling or a commercial use would require a separate grant of planning permission.

### Design and Character

10.4 The appearance of a development is a material planning consideration and the National Planning Policy Framework, Section 12 (Achieving Well-Designed Places) and BLP Policy QP3, advises that all development should seek to achieve a high quality of design that improves the character and quality of an area.

- 10.5 The construction of residential outbuildings for a use incidental to the main dwellinghouse have become an increasing feature of rear garden areas such as this, with the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development (GPDO)) (England) Order 2015 (As Amended), allowing for the construction of outbuildings, subject to certain conditions, without the need for planning permission.
- 10.6 A lawful development certificate was granted at the site in 2022 for a detached outbuilding to the rear of the garden (see section 4). Whilst the current proposal differs from the 2022 proposal, in this context, the principle of a detached outbuilding in this location is acceptable and could be implemented at the site.
- 10.7 The overall height of the building as submitted as part of this application is 2.6m. The building, given its form, scale and location, and in this context, does not have a harmful impact on the character and appearance of the existing dwelling and given its location within an enclosed rear garden and has a limited impact on the character and appearance of the area when viewed from the road or neighbouring gardens. The proposal respects the appearance and design of the host dwelling, and the appearance and character of the street scene is not harmed.
- 10.8 During assessing the proposed development, it is noted that the property benefits from permitted development rights, with a similar outbuilding deemed to be lawful in 2022 (see section 4). Whilst the outbuilding as built, is within 2m of the boundary of the site and with a height of 2.6m is above the height limit of 2.5m as set out in the GPDO (as set out above) and therefore requires planning permission, it is a material planning consideration in the determination of the current application that if the overall height of the building were to be reduced to 2.5m, in this case, planning permission would not be required. The difference between this position and the as built is a height of only 0.1m and this additional height does not result in a harmful impact on the overall appearance of the area.

### **Amenities**

- 10.9 BLP Policy QP3 sets out that development should have no unacceptable effect on the amenities enjoyed by the occupants of adjacent properties. The outbuilding is single storey in height and is sited a considerable distance from the closest boundary with the adjacent residential property, with the A404(M) to the rear. The outbuilding structure does not result in unacceptable harm to the amenities of neighbouring properties in terms of light, privacy or increased sense of enclosure.
- 10.10 As set out above, the application relates only to the structure and not the use, with the applicant confirming that the structure would be for use incidental to the main dwelling on the site and not for either a separate residential or a commercial use.
- 10.11 Following the deferral of the application in December 2023, a Noise Impact Assessment was undertaken on 23rd January 2024 and a subsequent report submitted. The scope of the assessment was to inspect the impact of noise levels caused by the removal of the brick wall fence, trees and shrubs for construction of the outbuilding and to assess the noise impacts of the annexe building on the neighbouring residential properties at 11 and 13 Lees Close respectively.
- 10.12 The noise modelling included the pre-existing garden, prior to the annexe building's completion, and also the gardens existing state, including the annexe building. This modelling has been carried out in order to assess whether the annexe building has increased noise levels at the neighbouring properties. The report concludes that the

noise levels demonstrate no increase in noise levels from the pre-existing scenario where the outdoor annexe had not been constructed within the garden of 12 Lees Close. Accordingly, it has been demonstrated that the construction of the annexe building and the removal of trees and shrubbery has not resulted in an increase in traffic noise levels at the neighbouring properties in Lees Close. As such, there is no unacceptable harm to amenities of surrounding properties.

- 10.13 The use of the outbuilding as a home office and gym is not considered to cause any unacceptable noise or disturbance to occupants of neighbouring properties in the context of the existing residential use of the site. However, given the scale and rooms proposed within the structure, in order to ensure that the development would remain incidental to the host dwelling, it is reasonable to recommend a condition to ensure the building remains incidental to the main house. An informative is also recommended to advise the applicant that use for either an independent residential dwelling or a commercial use would require a separate grant of planning permission.

### **Parking and highway safety**

- 10.14 Due to the close proximity of the outbuilding to the boundary with the A404(M), National Highways had raised concerns with regard to a potential adverse impact on the A404(M) and its associated assets. Following the deferral of the application in December 2023, further information regarding the drainage strategy for the outbuilding has been submitted. This information has been reviewed by National Highways and includes filtration calculations which demonstrate that the proposed soakaway on the outbuilding has sufficient capacity. As such, subject to recommended condition to secure the implementation and retention of drainage at the development in accordance with the submitted plans, the development would not result in harm to highway safety in the surrounding area.
- 10.15 The outbuilding is incidental to the existing residential use on the site, with no increased parking demand as such. The proposals do not impact on available parking on the site and sufficient space remains to accommodate the car parking for the existing dwelling.

## **11. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 11.1 The development would not be liable to pay CIL.

## **12. CONCLUSION**

- 12.1 For the reasons set out in this report the proposals are deemed to comply with relevant development plan policies. It is therefore recommended that Planning Permission should be granted subject to the conditions listed below.

## **13. APPENDICES TO THIS REPORT**

- Appendix A - Site location plan
- Appendix B – Block plan
- Appendix C – Plan and elevation drawings

#### **14. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED**

- 1 The materials to be used on the external surfaces of the development shall be in accordance with those specified in the application unless any different materials are first agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area. Relevant Policies - Local Plan QP3.

- 2 The development hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling.

Reason: Occupation as a separate unit of residential accommodation or commercial use would result in an unsatisfactory living environment for occupiers of both the existing house and the new development and the amenities of surrounding occupiers.

- 3 Drainage at the development hereby approved will be constructed and maintained in accordance with drawing number 12/Lee/01 unless otherwise agreed in writing by the Local Planning Authority, in consultation with National Highways.

Reason: To ensure the A404(M) continues to be effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

- 4 The development hereby permitted shall be carried out in accordance with the approved plans listed below.

Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.

#### **Informatives**

- 1 The applicant should be aware that planning permission is granted for the development as set out in the description of development. The structure should remain ancillary to the main dwelling as secured by condition. Further planning permission would be required should the applicant wish to use the structure as an independent residential unit or for a commercial use.