

Delegated Report

Householder Planning Application

Planning Application No: 20230286

Location: 47 Beltana Drive Gravesend Kent DA12 4BT

Description: Conversion of the garage into a granny annexe to provide accommodation ancillary to the existing dwelling.

Applicant: Mr Joe Grix

Site Visit Date: Desktop Assessment

Submitted Documents/Plans

Application Form
Block Plan and Location Plan
Existing Floor Plans and Elevations
Proposed Floor Plans and Elevations

Relevant Planning History

Reference	Description	Decision	Decision Date
20010283	Erection of a single storey rear and side extension to form dining room/study, enlarged bedroom, enlarged kitchen and utility room incorporating the construction of dormer windows in proposed roof slopes and conversion of existing and proposed roof space into 3 bedrooms, en-suite bathroom/wc and a bathroom.	Permitted	12.06.2002
20000675	Erection of single storey rear extension to form kitchen and breakfast area incorporating the construction of dormer extensions in the existing and proposed side roof slopes; conversion of the roof space into four bedrooms, one with an ensuite, and a separate bathroom and erection of a detached double garage/workshop at the rear.	Refused	27.11.2000

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 – Achieving Sustainable Development
- Section 12 – Achieving sustainable development and well-designed places

Supplementary Planning Guidance

- SPG 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020;
- Technical Housing Standards – nationally described space standard (2015);
- SPG 4 - KCC Parking Standards (2006);
- Householder Extensions/Alterations Design Guide (2021)

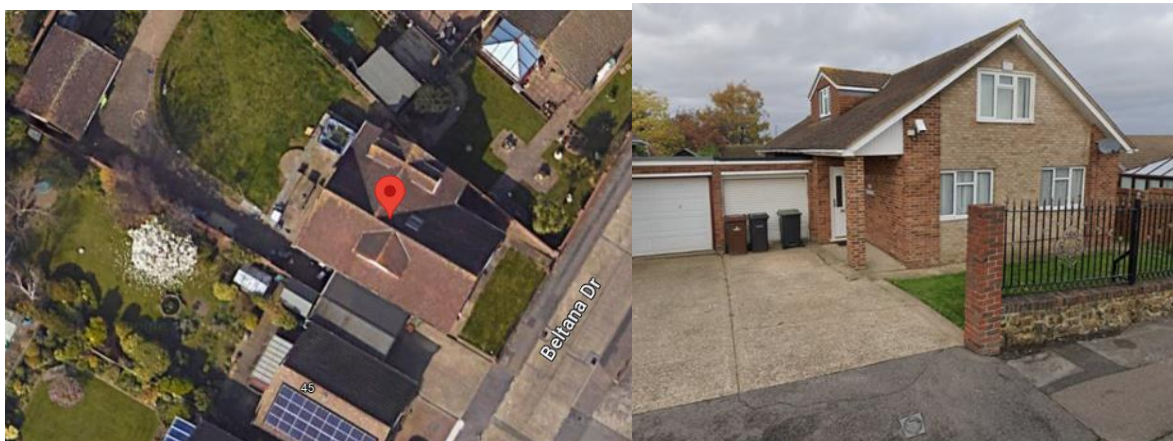
Consultations, Publicity and Representations

Consultees

Ward Councillors: No response received.

Southern Gas: No response received.

GBC Highways Officer:



Google Satellite and street view (November 2022) images.

The application form makes no references to any car parking provision or proposed changes.

Clarification of the existing and proposed situation is requested.

In terms of car parking two spaces should be provided and a cycle parking space to comply with the requirements of SPG4 issued by Kent County Council and adopted by Gravesham.

Officer Note: The planning agent has confirmed that as suspected, the access to the garage to the rear is through the existing attached garage.

Neighbouring properties

The final date to submit comments was 17th May 2023.

8 surrounding properties were consulted, and no comments were received from members of the public.

Officer's Analysis

Site Description

The building to which this application relates appears on historical aerial views some time between 1990 and 2003. Whilst there is planning history for this site it does not appear that planning consent was obtained for the building. The details supplied show that the existing building described as a garage, is on the lower ground with an additional room at ground floor. The access to the 'garage' is unclear although it is noted that this may be through the existing garage and given the location of the hard surfacing this is the most likely point of access.

Proposal

The proposal seeks to convert the building to ancillary residential use comprising, a bedroom, bathroom, kitchen and living space. Externally the proposal would result in additional 6 windows to the southeast elevation and 3 windows to the northeast elevation. The garage door would remain. The planning agent has confirmed that the building would be used as ancillary occupation for a family member.

Class E, Part 1, Schedule 2 of the General Permitted Development Order 2015 applied permitted development rights for building incidental to the enjoyment of the dwellinghouse. Given that the original use of the building is unknown, it may be that the building would have complied with the 1995 legislation (Which had similar legislation) when originally built in 2003 where its use was incidental.

A building incidental to the use of the main dwellinghouse would not be entirely independent of the original dwellinghouse. Given that all living facilities would be provided within the building it would no longer considered to be an incidental building would be used as an independent ancillary building for which planning permission is required.

Principle of Development

The planning position relating to the provision of buildings or structures for annexes or the conversion of buildings for use as annexes (sometimes termed 'granny annexes') or other ancillary accommodation is quite complex and sometimes contradictory and there is case law, in relation to such development, which can itself be open to interpretation.

There is no specific local or national planning policy that directly relates to the provision of new, or use of existing buildings, as annexes. However, there are emerging policies in the Regulation 18 (Stage 2) Development Management Policies Document (2020), including RES 3: Residential Annexes, that show the direction of travel the Council is going and such emerging policies may be accorded some limited weight.

By way of general guidance, a proposed annex should (where possible):

- Be subordinate to, and used in connection with, the main dwelling and must not be able to function without the main dwelling (for example, not having separate kitchen facilities).
- Be interconnecting with the main dwelling as a whole (for instance via doorways); if accessed by a separate external entrance this should not separate from the main dwelling and therefore should rely on a common shared access with the main dwelling.
- Be within the curtilage of the main dwelling.
- Have a functional connection with the main dwelling (e.g. the occupant should be a dependant

relative of the residents of the main dwelling or employed at the main dwelling).

- Be in the same ownership as the main dwelling.
- Be designed in such a way as to easily allow the annex to be used at a later date as an integral part of the main dwelling.
- Have no boundary demarcation or subdivision of the garden areas between the curtilage of the main dwelling and the annex.
- Have adequate parking and amenity facilities for the needs of the annex occupants and the residents of the main dwelling.
- Comply with the Council's normal standards for extensions to a dwelling including those relating to design and the amenities of neighbouring occupiers.

****Note:** The above is largely reflected in emerging policy RES3: Residential Annexes Regulation 18 (Stage 2) Development Management Policies Document (2020).

A key consideration in this application is whether the site will continue to operate as a single planning unit or whether there will be two households living independently of each other on the site.

The annex as existing could function as a separate single dwellinghouse, in that it contains all the necessary living facilities to be independent to the main dwellinghouse, including bathroom and kitchen facilities. It is noted that there is a large drive fronting the building which could be accessed via the side garage to the existing dwellinghouses. The drive would be capable of providing shared parking provision for both the existing dwellinghouse and the ancillary outbuilding accommodating a single bedroom. The concern is that the drive could potentially represent a division of parking, with the rear drive used for the outbuilding and the front drive for the main dwellinghouse, allowing a separation and removal of any dependence on the main dwellinghouse. Therefore, this application for change of use of the outbuilding into an annex will change the operation of the dwelling from a single planning unit into two independent households on one site.

However, identifying a separate planning unit requires consideration of a range of factors and not simply if a unit of accommodation is self-contained but is a matter of fact and degree. 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; it is a matter of fact and degree whether a change of use has occurred.

Case Law

The use of an existing outbuilding for ancillary residential accommodation in association with a main dwellinghouse does not require planning permission provided it complies with Sec. 55(2)(d) of the 1990 Act that provides that the use of buildings within the curtilage of a dwellinghouse for any purpose "incidental to the enjoyment" of that dwellinghouse is not development. The position with regard to residential use of a new outbuilding is different.

A number of cases, detailed below, have shown that for the purposes of Sec. 55(2)(d) "incidental to the enjoyment" may be interpreted generously. The creation of an annexe from an existing outbuilding would therefore be unlikely to require permission provided the building was occupied by a family member. However, the situation is not as clear where the occupant is someone who is not a member of the family but has a strong functional connection with the main dwelling, for example, a housekeeper or handyman.

If the accommodation created constitutes a separate planning unit, this then is not an incidental use, as Sec. 55(3)(a) makes clear. Any separate residential occupation of a building or buildings formerly within an existing single residential planning unit is development by virtue of Sec. 55(3)(a) of the 1990 Act, as confirmed by *Wakelin v SoS* 1978, a case in which a large house with a lodge that had been converted into two flats used as guest suites was proposed to be converted into a separate dwelling and sold off. The court held that the house, lodge and grounds were one planning unit and that to sever the lodge would constitute a material change of use.

In essence, an annexe will become a separate single dwellinghouse where it is self-contained with all the

necessary day-to-day living facilities and has resulted in the creation of a separate planning unit. *Uttlesford DC v SoS and White 1992*, in which a garage attached to a dwelling had been converted to a 'granny annexe', provides leading case law on the matter. In *Uttlesford* an Inspector had determined that where a domestic garage within a residential curtilage was used for living accommodation in connection with the dwelling, no material change of use occurred. The court agreed, ruling that the fact that the elderly occupier of the annexe had all the living facilities that enabled her to live independently from the rest of the family did not amount to the creation of a separate planning unit that required permission. The significance of this case is that the even though the accommodation in the garage was capable of independent use, the court judgment suggested that a quality of separateness was occupation by someone who was not connected with the family occupation of the whole planning unit.

Identifying a separate planning unit requires consideration of a range of factors and not simply the self-containment of the accommodation and is a matter of fact and degree. In her decision to grant permission for the conversion and extension of an outbuilding at a house in the Essex green belt to a residential annexe, notwithstanding the Council's concern that it would result in the creation of an independent residential unit, the Inspector in *Castle Point APP/M1520/D/20/3251477* relied on the *Uttlesford* judgment. The Council had reached its own view that the proposal was tantamount to a new dwelling with reference to *Gravesham BC v SSE 1984* because the accommodation provided all the facilities for independent day-to-day living. The Inspector, however, followed the more recent and relevant case law in *Uttlesford*, stating 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 and it was a matter of fact and degree whether a change of use had occurred.

In the case before her, the Inspector recorded that whilst the extension and conversion of the outbuilding would provide all the facilities for day-to-day living, it would function as an annexe, with the primary occupants also sharing living space, eating and socialising with the rest of their family in the main dwelling. There was a paved footpath between the annexe and the main house allowing easy access between the two. As such, she held that the garage conversion would remain part of the same planning unit as the main dwelling. Based upon the evidence before her the inspector was satisfied that the proposal related to an annexe. She allowed the appeal subject to a condition that it should not be severed from the main house by reason of being sold or let as a separate unit of accommodation.

In reaching her decision, the Inspector noted that reference had also been made to *Carter v South Bucks (APP/N0410/C/10/2136339)* but considered that case was different in that a garage had been converted into a three- bedroomed property with a substantial conservatory extension. It had its own garden, separated from the main dwelling by fencing, trees and shrubs, with no footpath linking the two buildings. Whilst family meals were taken together that was in the substantial garage conversion rather than in the host dwelling. As a matter of fact, and degree in that case it was found that a new planning unit had been created.

In this case, it is clear that the proposed annexe would be capable of being occupied independently based on the facilities it would provide. The building is 19.8m from the rear elevation of the existing dwellinghouse. Given the distance and the potential for separate parking provision, divisive landscaping there are some concerns that the proposed conversion would result in an independent, divided dwellinghouse in future. However, the building would also be to the rear and although the parking would potentially be separated there would be a reliance on the attached garage to the main dwellinghouse to access the rear garden space. The size of the accommodation would also be very modest. However as in the aforementioned Case Law, a quality of separateness would be occupation by someone not connected with the family occupation of the whole planning unit. In this case, a family member would occupy the building and so on balance, a new planning unit would not be created in this case. Nevertheless, given the concern relating to the potential for plot severance, it will be essential to impose a condition restricting the use of the annexe as ancillary and related to the main dwelling, and when it is no longer required for such a use, to return to its former use.

It is on this basis and in considering the above case law, as a matter of fact and degree, a new planning unit would not be created at the application site, and the proposal would therefore comply with saved Policy

C13 of the Local Plan First Review (LPFR) (1994), Policy CS02 of Gravesham's Local Plan Core Strategy (LPCS) (2014) and paragraphs 149 and 150 of the NPPF 2021.

Design, Character and Appearance

No changes are proposed to the scale, design, location or other outward appearance of the dwellinghouse than exists, other than the addition of minor inward facing windows, which would be considered appropriate in terms of scale, number and resultant appearance.

The proposed development would comply with the requirements of Policy CS19 of the Core Strategy 2014 and paragraph 130 of the NPPF (2021) in terms of design, character and appearance.

Amenity of Future Occupiers

The Nationally Described Space Standards (2015) requires an internal floor area of 37m² for a single bedroom, single storey dwellinghouse (with a shower room instead of a bathroom). The internal floor area on this dwellinghouse is 32.43m² and falls below the requirement. Therefore, the annexe is a cramped form of development which fails to provide good quality amenity for future occupiers.

Further to the minimum floor area requirements set out in the Nationally Described Space Standards (2015), the Residential Layout Guidelines (RLG) breaks down the measurements further, recommending minimum floor areas for specific rooms as shown in the table below. These recommended minimum floor areas have been compared to the proposed room sizes within the property for comparison.

Room Type	RLG Minimum Floor Area (m ²)	Proposed Space in Annexe (m ²)
Living Room	13.2	26.7 (including kitchen/diner)
Kitchen/diner	12	26.7 (including Living room)
Double Bedroom	11.2	21.3
Bathroom and WC	3.6	4.9

The table above demonstrates that the rooms within the annexe accord with the recommendations set out within the RLG. In terms of amenity space, the annexe would have access to the rear garden of the main dwelling, which provides a sufficient level of external space.

Where approved, conditions would be attached to ensure that access and routes are maintained between the annexe and amenity space of the main dwelling. As such, the annexe is considered to safeguard the amenity of future occupiers and is in accordance with Policy CS19 (LPCS) and Section 12 (NPPF).

Neighbouring Amenity

As outlined above, it is important that any development safeguards the amenity of neighbouring properties and land. Following a period of consultation with neighbouring properties, no objection to the proposal was received.

The building is located to the rear boundary adjoining neighbours to the rear and south. The proposed external changes would not result in increased footprint or bulk and so no concerns regarding overbearing bulk or overshadowing. The proposed windows would face inward to the garden of the plot and ground level and so would not likely result in any significant harm to the amenity of the adjoining neighbours. The occupiers of the existing main dwellinghouse would likely not be impact in terms of direct overlook, given the distance.

The proposal is therefore considered to safeguard the amenity of neighbouring properties in compliance with policy CS19 of the Core Strategy 2014.

Parking Provision

As per the comments received from the GBC Highway Officer, 2 spaces in total would be required with a cycle space. Given the existence of the front drive, rear drive, and attached garage, it is considered that there is sufficient parking availability on the site to cover the main dwellinghouse and the annex and no further details would be required.

Adequate vehicle and cycle parking provision is available, in compliance with paragraphs 110 to 113 of the National Planning Policy Framework (2021), Saved Policies T1 and P3 of the Local Plan First Review (1994) and Policies CS11 and CS19 of the Core Strategy 2014.

Conclusion & Recommendation

The proposed development complies with all relevant national and local planning policies subject to conditions. The recommendation is therefore to approve.

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Ms Lisa Williams	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	9th June 2023	Dated:	13th June 2023