



Delegated Report

Householder Planning Application

Application No: 20230932

Location: 414 Wrotham Road, Gravesend, Kent, DA11 7PF

Description: Change of use from Summer House to Annex.

Applicant: Mr Tony West

Site Visit: 9 November 2023

Submitted Documents/Plans

- Application Form – dated 6 September 2023;
- Drawing no. TW/01 – Site Location and Block Plans (Existing and Proposed);
- Drawing no. TW/06 – Existing Floor Plan;
- Drawing no. TW/07 – Existing North & East Elevations (unaffected);
- Drawing no. TW/08 – South & West Elevations;
- Drawing no. TW/09 – Proposed Floor Plan.

Relevant Planning History

Reference	Description	Decision	Decision Date
20201285	Retention of outbuilding.	PERMITTED	05.02.2021
20130405	Application for non-material amendment to planning permission reference number 20120946 for a reduction in the length of extension from 6 metres to 4.8 metres.	PERMITTED	06.06.2013
20120946	Erection of single storey rear extension to form a bedroom.	PERMITTED	07.01.2013
20030826	Erection of single storey rear extension to form dining room, erection of a front porch and alterations to the garage roof.	PERMITTED	13.11.2003
19950700	Amended Application Erection of single storey rear extension to form bedroom, covered area and w.c., erection of single storey side extension to form garage and erection of front porch.	PERMITTED	05.02.1996

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 - Impact of Development on Highway Network

Gravesham Local Plan Review

Paragraph 33 of the NPPF (2023) 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 (2023), the Council will also seek to replace these.

Gravesham Local Plan Regulation 18 Stage 2 Consultation Part 2: Draft Development Management Policies Document (2020)

The Council published in 2020 a Regulation 18 (stage 2) consultation on its proposed Development Management Policies Document, replacing the 2018 Stage 1 version, which will in due course form part of and update the Gravesham Local Plan. Under paragraph 48 of the NPPF, policies in this document may be accorded weight in the decision making process with this varying according to its stage of preparation; the extent to which there are unresolved objections; and the degree of consistency of policy with those in the Framework. As the Development Management Policies Document is at an early stage and the fact that the consultation has only recently concluded, the policies therein should at this stage be given very limited weight. It should be noted, in any event, that many of the relevant policies reflect those set out in the Framework and for the purposes of this application these should be relied on instead.

The following draft policy, '*Proposed Policy RES 3: Residential Annexes*', from the Regulation 18 (Stage 2) Development Management Policies Document (2020) show the direction of travel the Council is going albeit the weight that these emerging policies may be accorded at this stage is very limited.

9.3.8. Planning permission will only be granted for residential annexes within the curtilage of an existing residential property where there is a proven need that cannot be met either within the existing property through adaptation or acceptable extension and:

- *there is a functional link with the principal dwelling (i.e. the occupants should be a dependant relative/s);*
- *both the annex and principal dwelling are in the same ownership and remain so in perpetuity;*
- *the accommodation forms a linked extension to the main dwelling and is capable of being used as an integral part of the dwelling, or forms a separate outbuilding which is in close proximity to and within the curtilage of the principal dwelling, and shares some essential facilities with the main dwelling; and*
- *the scale of the annex is subordinate to the existing dwelling and is the minimum level of accommodation required to support the needs of the intended occupant/s; and*

- *there is adequate parking and amenity facilities (areas for bin storage, drying clothes, garden space etc.) for the needs of the annex occupants and existing residents; and*
- *there is no boundary demarcation or subdivision of garden areas between the curtilage annex and principal dwelling;*

9.3.9. Where planning permission is granted for a residential annex, a planning obligation will be imposed to ensure that the annex retains a functional link with the main dwelling (i.e. the occupants should be a dependant relative(s) and that the annex is retained in the same ownership as the main dwelling and that this remains the case in perpetuity.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision Making
- Section 9 – Promoting Sustainable Transport
- Section 12 – Achieving 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

Internal Consultees

Local Ward Councillors - No comment received.

Neighbouring properties

A notice was displayed on site.

In addition, three surrounding properties were consulted and no representations were received.

The consultation period expired 13th October 2023.

Officer's Analysis

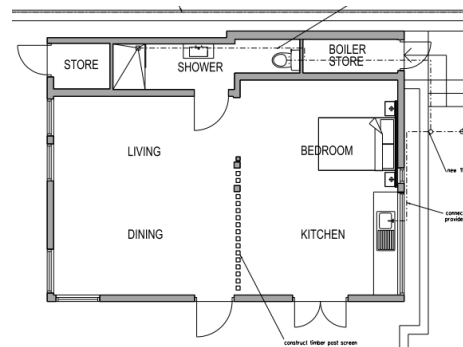
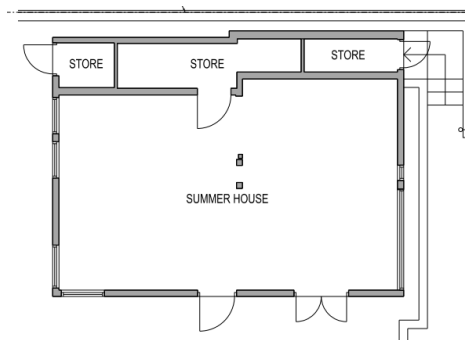
414 Wrotham Road is a detached bungalow located on the eastern side of the highway. The property benefits from a large curtilage with two outbuildings and a shed. There is a driveway to the front with adequate space for vehicular parking.

Proposed Development

This application proposes the conversion of an existing outbuilding into a residential granny annexe. The development would not involve any external alterations to the building.



The existing outbuilding is used as a summerhouse/bar and is incidental to the main dwelling with no toilet facilities. This development would create a living space, including a living/dining room, a kitchen, bedroom and a shower room.



Lawfulness of the Outbuilding

The outbuilding to which this application relates does not benefit from planning consent, but following an investigation it is clear that the building is lawful through the passage of time. As demonstrated in the google satellite images below, the structure was in place as early as 2007 and extended at some point before 2011 to its current size.



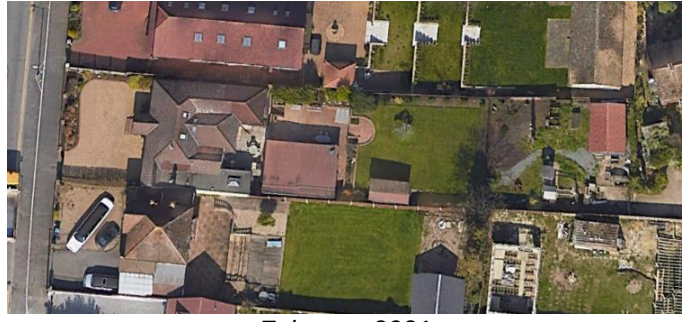
May 2007



March 2011



April 2015



February 2021

Therefore, the building has been complete for a period well exceeding 4 years for operational development.

Principle of the 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.

Existing residential properties enjoy permitted development rights which allow certain building works, such as extensions or outbuildings to be carried out without having to make a planning application. Permitted development rights are set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As aforementioned, this outbuilding does not benefit from any planning consent, but is lawful through the passage of time. Nevertheless, it is used as a summerhouse/bar and is incidental to the main dwellinghouse.

It is recognised that 'residential annexes' in whatever form that might take are an increasingly common form of development that are generally proposed in order to allow relatives to live with their family with some degree of independence. However, to remain ancillary accommodation and not a separate unit of accommodation, the use of annex must normally retain some form of reliance on the main dwelling.

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 sub division 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.

In essence, according to the floor plan, the annex hereby proposed could function as a separate single dwellinghouse. It will contain primary living accommodation in the form of a bedroom, living space, kitchen and bathroom. However, the annexe is within 1.5m of the main dwelling and fronts onto the patio area of the property and would be accessed through the gated driveway to the front. Moreover, it is understood from site that the annexe would be occupied by an elderly relative to provide support while retaining some independence. 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 27/11/2020 DCS No 400-028-727 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 DC 2011* 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, whilst the proposed annexe would be capable of being occupied independently, the annexe is 1.5m from the main house and fronts onto the main patio area, which clearly connects it to the main dwelling. The size of the accommodation would also be modest. Therefore, by virtue of its proximity to the main dwelling, it would not adequately serve as a separate self-contained unit of accommodation. Furthermore, it has been made clear that the annexe is for the sole use of a family member when on site.

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 (2023).

Nevertheless, it will be essential to impose a condition restricting the use of the annexe as ancillary and related to the main dwelling.

Design, Character and Appearance

Policy CS19 of the Gravesham Local Plan Core Strategy (2014) states that new development will be visually attractive, fit for purpose and locally distinctive. It also seeks to conserve and enhance the character of the local built, historic and natural environment and integrate well with the surrounding local area, whilst ensuring that the design, layout and form of new development will be derived from a robust analysis of local context and character and make a positive contribution to the street scene, the quality of the public realm and the character of the area.

The development would not involve any external alterations or extensions to the outbuilding. Moreover, the outbuilding is located at the rear of the dwelling and is not visible from any public vantage point. Therefore, the proposal is considered to be in accordance with Policy CS19 (LPCS).

Amenity of Future Occupiers

Policy CS19 (LPCS) requires that all development should be 'fit for purpose' and be 'adaptable to allow changes to meet the need of users' and that 'the design and layout of new residential development,

including conversion, will accord with the adopted Residential Layout Guidelines' (RLG) (2020). Moreover, on 25 March 2015 the Government issued a written ministerial statement, which introduced new technical housing standards in England and set out how these would be applied through planning policy. These standards came into effect on 1 October 2015.

The Nationally Described Space Standards (2015) require a single storey dwelling for one person to have a floor area of 37m², with built in storage space of 1.5m². The floor area of the proposed annexe is approximately 49.6m and falls below the minimum floor area. Therefore, the annexe is a cramped form of development that 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 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.

	RLG (minimum floor area)	Proposed Room Size
Living / Dining Room	18m ²	22.3m ²
Kitchen	7.2m ²	10.1m ²
Double Bedroom	11.5m ²	11m ²
Bathroom & WC	3.6m ²	4.8m ²

The table above demonstrates that the rooms within the annexe accord with the recommendations set out within the RLG, with the exception of the bedroom. However, as this is an open plan layout and adjacent to the kitchen area, this is not considered detrimental to amenity.

The layout of the annexe is convoluted with the bedroom and kitchen being an open plan area, however it was understood from discussions with the applicant on site that the annexe is for an elderly relative and the 'kitchen' as annotated on the plan would be more of a kitchenette and not a fully operational kitchen.

Overall, the proposed annexe is for a single occupier and a relatively of the owners, who would rely on the main dwelling for meals and washing facilities. Nevertheless, the annexe hereby proposed would provide a suitable living environment in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Neighbouring Amenity

Policy CS19 (LPCS) seeks to protect amenity and ensure acceptable future living conditions. Section 12 of the NPPF (2023) also assists and seeks to ensure developments will function well, do not undermine quality of life and create attractive and comfortable places to live, work and visit and seeks to "secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings".

The development hereby proposed will have no impact on the amenity of surrounding properties in terms of privacy, loss of light, sense of enclosure or outlook. The single bedroom annexe will be within an established residential area and would not impact amenity in terms of increase in noise.

Therefore, the proposal is considered to safeguard amenity of surrounding residents in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Traffic Generation, Highway Safety and Parking

Any proposals would need to be considered against saved policy T1 (LPFR) (1994) and Policy CS11 (LPCS). These policies ensure that development provides an acceptable amount of parking in accordance with the adopted KCC Parking Standards and the access and parking arrangements do not have a detrimental impact on highway safety.

The existing driveway has adequate space for the vehicular parking and there are no highway issues

related to the proposal.

Any Other Material Planning Considerations

Ecology and Biodiversity (Bird Mitigation) - The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) are internationally important for nature conservation as the area is a wetland and supports important numbers of wintering water birds and migrating birds. There has been a decline in the number of birds using these sites in recent years. Studies show that this could be due to people using the estuary and marshes for recreation purposes. The North Kent Bird Disturbance Report concludes that all new housing development within 6km of the North Kent Ramsar Sites or Special Protection Areas (including the Thames Estuary and Marshes) and larger housing development beyond 6km from the sites could have an adverse impact on them. This is because new housing development is likely to lead to further increases in recreational use of the sites, which means that further declines in the bird population cannot be ruled out. Possible mitigation measures are set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. Having considered a number of options, the Council have decided to impose a tariff on new housing development. Developers will need to pay £314.05 for every new dwelling provided within 6km of the Ramsar site and SPA and for larger housing developments beyond 6km from them. The money raised will be used to pay for schemes to avoid the adverse impacts of new housing development on the birds.

In this instance, the proposed development would result in the creation of an additional residential property and as such, additional recreational activity would result. Therefore, it is considered that there would be an adverse impact to the Thames Estuary and Marshes Ramsar Buffer Zone, which should be mitigated in line with Policy CS12 (LPCS). In such cases the Borough Council has adopted a tariff that is payable for each new dwelling unit within 6km of the SPA/Ramsar site of £314.05 per new dwelling unit.

The applicant has completed the SAMMS Mitigation Contribution Agreement and therefore complies with the requirements of the Habitat Regulations, as well as Section 15 (specifically paragraphs 180 and 181) of the NPPF (2023) and Policy CS12 (LPCS).

Conclusion and Planning Balance

The application has been fully considered and is in accordance with local and national planning policy.

The annexe is not considered to create a new planning unit on the site, the design will not impact on the character or appearance of the street scene, will safeguard the amenity of future occupiers and neighbouring properties, and will not impact on the highway network or safety of road users. The SAMMS mitigation payment has been made and the development will result in a net gain of biodiversity.

As such it is recommended that planning permission is granted, subject to conditions.

Recommendation

Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	10 th November 2023	Dated:	14 November 2023