

Delegated Report

Planning Application

Planning Application No: 20220817

Location: 57 Beechwood Drive, Meopham, Gravesend DA13 0TX

Description: Alterations to existing 2 outbuildings to form family annexe.

Applicant: Mr Robin Neeves

Site Visit Date: Desktop

Submitted Documents/Plans

Application form

Planning Statement

Design and Access Statement

Drawing no. 1337(00)01 rev P1 (site location and block plans)

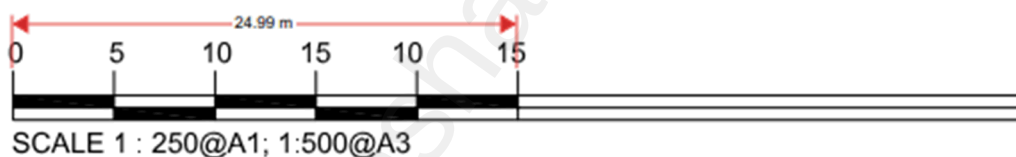
Drawing no. 1337(02)02 rev P1 (proposed first floor and roof plans)

Drawing no. 1337(02)01 rev P1 (proposed plans and elevations)

Drawing no 1337(00)02 rev P1 (existing plans and elevations)

Plan Note

It is noted that the plans have two stated scales on the plans. All scale bars for the plans measure accurately at A1 size apart from the existing and proposed block plan which measures incorrectly according to the stated scales- indicated below.



In addition, when calculating the area on plan 1337 (02) 01 – Plans and Elevations – Proposed, using the scale provided it is noted that the calculations do not match the annotations denoting room area shown on the plans.

Relevant Planning History

Reference	Description	Decision	Decision Date
19980691	Erection of a detached double garage at the rear with storage area in the roofspace.	Permitted	17.02.1999
19970433	Application for the removal of condition (vii) of planning permission ref no. GR/97/214W to allow the loft area to be used for habitable rooms.	Permitted	12.09.1997
19970366	Application for the approval of brick sample as required by condition (ii) of planning permission ref no.	Approval of Details	16.06.1997

19970214	Erection of detached dwelling with detached double garage.	Permitted	28.05.1997
19940481	Erection of replacement dwelling & erection of double garage at the rear.	Permitted	17.10.1994
19880389	Erection of replacement weekend and holiday chalet	Permitted	26.07.1988

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
- C13 - Extensions to Dwellings in the Countryside

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 4 – Decision-making
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance

- 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); and
- Gravesham Landscape Character Assessment (2009)

Consultations, Publicity and Representations

Consultees

Meopham Parish Council

The council raises no objections to this planning application provided that the annexe is never used as a separate hereditament.

Highway Development Management Officer

From a highway point of view the proposal is for a three bedroom dwelling and not an annex. It has all the necessary facilities for independent living, including its own parking, bin store and access so the “annex” is not dependent on the main dwelling. Also an annex with three bedrooms is most unusual and would suggest that when its use is finished it can easily be separated from the main property.

As a three bedroom dwelling the proposed parking is adequate as two spaces would be required, whilst the existing house has the benefit of parking in the front garden.

In terms of cycle parking the matter is more complex. SPG4 requires secure cycle parking at the rate of one cycle per bedroom. The existing dwelling has the benefit of the garage that will be lost for its current cycle parking requirements, so this needs to be replaced elsewhere, whilst an additional three cycle parking spaces should be provided for the new annex/dwelling and this is shown on drawing 1337(02)01 P1.

The gates whilst disliked are existing and so there is no objection to their retention.

Neighbouring properties

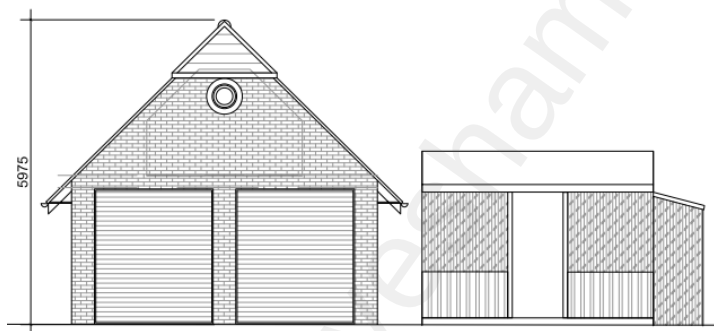
The application has been advertised by site notice and individual letters to five neighbouring properties. No letters of representation have been received.

Officer's Analysis

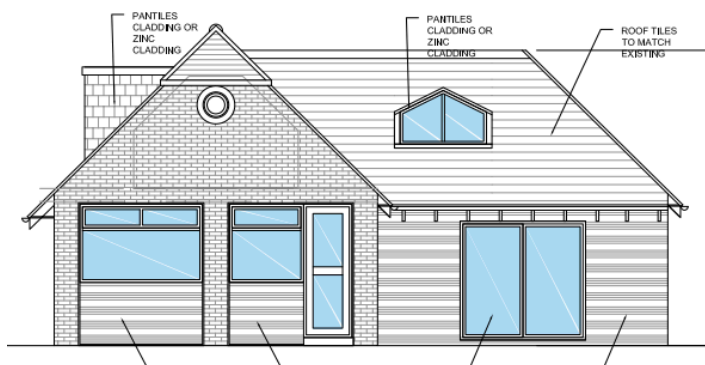
Proposal

This application seeks planning permission for alterations to existing 2 outbuildings to form family annexe.

The existing buildings consist of a garage and a shed as can be seen below:



The proposal will involve alterations to the existing garage including the insertion of a dormer and replacement windows and doors together with a new side extension in place of the shed.



The resultant building will be approx. 11m wide, 6m high and 6.4m deep. Internally there will be a living/dining/lounge, bathroom, bedroom and lobby at ground floor and two further bedrooms and a bathroom at first floor. Externally there will be a parking area with space for two cars, cycles, bin store and lawned area.

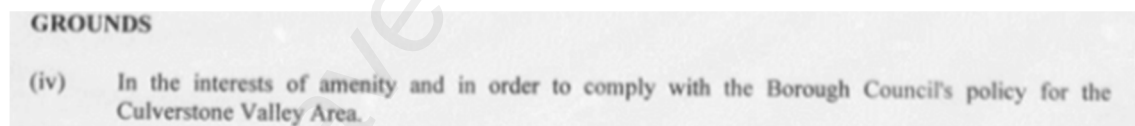
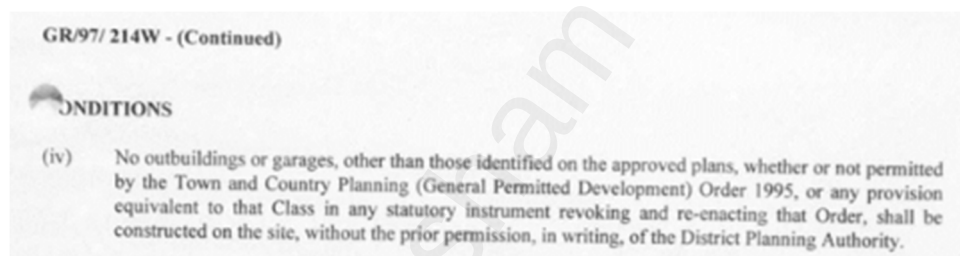
Background

19980691 – Condition 2 of the decision notice restricts the use of the garage:

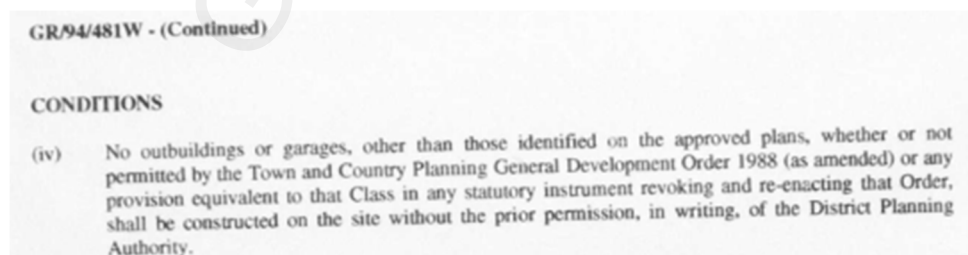
2. The garage hereby permitted shall be used for the accommodation of a private motor car (or cars) for the occupants of 57 Beechwood Drive, Culverstone, Meopham, as a private dwelling house and for no other purpose and no development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, shall be carried out on the site in such a manner or in such a position as to preclude vehicular access into the garage.

2. In order that any other use of the garage may be the subject of a planning application which the District Planning Authority would wish to determine on its merits.

The existing shed may not be lawful as per the below condition of the 19970214 decision notice restricts permitted development for additional outbuildings:



The above condition was also included in the 19940481 decision notice, copied below:



GROUNDS

- (iv) In the interests of amenity and in order to comply with the Borough Council's policy for the Culverstone Valley Area.

Additionally on the 19880389 decision notice, the below condition was included:

- (v) No outbuildings or garages whether or not permitted by the Town and Country Planning General Development Order 1977 (as amended) or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order shall be constructed on the site without the prior permission, in writing, of the District Planning Authority.

- (v) In the interests of amenity and in order to comply with the Borough Council's policy for weekend and holiday chalets and caravans in the Green Belt.

Principle Issues

The main issues to consider in the determination of this application are the principle of the development in the Green Belt, and the impacts on the character and appearance of the surrounding area, on residential amenities and on highways.

Principle of Development in the Green Belt

The application site is located within the Green Belt. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Para. 147 of the National Planning Policy Framework 2021 is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Para. 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

There are no specific NPPF or local plan policies that relate to the creation of annexe accommodation at existing dwellings. As such, it is necessary to consider the general policies that relate to development in the Green Belt. Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt (paragraph 149 of the NPPF 2021). However, there are exceptions to this, which, as in the case of this proposal, include:

- (c) the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building;
- (g) the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to openness and would contribute to meeting an identified affordable housing need.

In terms of point (c) the extension to the garage does result in disproportionate additions over and above the size of the original building. However, it is also replacing an existing shed that would have required planning permission but has become immune from enforcement action through the passage of time. Nevertheless these are two distinct buildings that have a significantly lesser impact on the openness of the Green Belt than the proposed building as can be seen from the elevations above. As discussed below, the proposed annexe is self contained and has all the features of a separate dwelling that will impact on the openness of the Green Belt and is inappropriate development in the Green Belt that does not meet an identified affordable housing need.

Para. 150 lists certain other forms of development that are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Part (d) allows the re-use of buildings provided that the buildings are of permanent and substantial construction.

The proposed annexe would be a re-use of a building however, no details have been provided to demonstrate whether this is of permanent and substantial construction. No structural report or planning statement has been submitted in support of the application. This is particularly relevant to the shed which appears to have never had the benefit of planning permission and is unlikely to be of substantial construction.

Policy CS02 of the Core Strategy 2014 prioritises development in the urban area as a sustainable location for development. In the rural area it states that development will be supported within rural settlements that are inset from the Green Belt and defined on the Policies Map. Development outside those settlements (which is the case here), will only be supported where it is compatible with national policies for protecting the Green Belt and policies in the Core Strategy 2014.

In determining this proposal account will be taken of Saved Policy C13 of the Gravesham Local Plan First Review (LPFR) (1994) which relates to extensions to dwellings in the countryside. It sets out a number of criteria that should be met when considering proposals for domestic extensions. As the policy pre-dates the NPPF, the weight attached to the policy must be considered carefully, with greater weight being given where the approach is consistent with paragraph 149 of the NPPF.

The most relevant section of Policy C13 is part (iv), which requires that the extension shall not be in a form that would facilitate the future formation of a separate residential curtilage. This is always a key planning concern with annexes, even when they are not within the Green Belt.

As noted above, there is a concern that the proposal has the real potential not to be ancillary to the main dwelling on the site. The annexe could very easily have its own independent access as it fronts onto an access road, and it would contain all the necessary accommodation to be able to be occupied as an independent dwelling. In terms of scale it is not subservient to the main dwelling. Not only this but it contains a floor area of over 84sqm which is the size of a three bedroom, two storey dwelling. A subdivision of this plot would be likely to lead to additional parking requirements, hardstanding, boundary treatments, and other domestic paraphernalia that would all have a negative impact on the openness of the Green Belt. Such a proposal would not be acceptable.

However, planning permission is being sort for the **ancillary** use of the annexe. It is helpful to consider case law in terms of the assessment of whether the annexe is ancillary or a separate planning unit.

Case Law

Usually 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 and in this instance the outbuilding to be converted has a condition of its permission that it should be used for the parking of cars only and therefore permission is required.

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.

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.

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. 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.

A recent appeal decision is relevant:

An inspector refused to permit an ancillary annexe in the rear garden of a house in a Hertfordshire city after concluding that it lent itself to independent living in St Albans 21/03/2019 (APP/B1930/W/18/3217177 – appendix 1). The proposed annexe would replace an existing single storey garage at the far end of the rear garden from the main house and would contain all the facilities required for it to be used as an independent dwelling, including a kitchen and living area, a separate bedroom and a shower room. Whilst the plans showed that the existing vehicular access would be blocked up, the inspector observed that the corner plot made independent side access possible. The inspector was clear that a condition limiting the use of the annex to ancillary purposes would be difficult to monitor or enforce, and observed that due to the siting of the annex at a distance from the main house with its own direct access and extensive facilities, there would be a strong temptation to let the annex accommodation for separate occupation following its initial occupation by a relative. The inspector referred to the high court judgment in *Uttlesford DC v SSE & White* 1992 that, even if accommodation provides the facilities for independent day-to-day living, whether it is a separate planning unit from the main dwelling is a matter of fact and degree. In the absence of a clear connection with the main dwelling the inspector concluded the annex would be or become a separate planning unit.

A similar, albeit older case regarding separation, makes the same conclusion:

Application was made to use a first floor storeroom/playroom above a garage as a residential bedsit. An inspector concluded that the way the accommodation was laid out so that it could be accessed completely independently of the main house and this led him to the conclusion that the accommodation was not “incidental to the enjoyment” of the main house, but a separate unit. This held even if the occupants were family or friends, see *Swansea* 08/06/1994 (APP 84-135 – appendix 2).

In this case, the proposed annexe would be capable of being occupied independently. The garage and outbuilding is at the end of the garden approx. 15m away from the main dwelling and bears no relationship with it. There are no paths between the two buildings and there is space being provided for garden and parking for the ‘annexe’. The size of the accommodation is not modest. The internal floor area is approx. 57.5sqm at ground floor and 29.1sqm at first floor. The total floor area is therefore approx. 86.6sqm. The Nationally Described Space Standards requires 84sqm for a three bedroom, two storey dwelling and therefore the proposal exceeds this. It is not modest or subservient to the host building and can easily serve as a self-contained unit of accommodation. It is therefore considered that this application is essentially a new dwelling in the Green Belt and is therefore inappropriate development. As was the case with the St Albans appeal, a condition or UU linking the main house to the annexe is considered too difficult to monitor or enforce.

On the basis of the case law above and, as a matter of fact and degree, a new planning unit would be created at the application site, and therefore the proposal would conflict with saved policy C13 of the Gravesham Local Plan 1994 and policy CS02 of the Gravesham Core Strategy 2014 and para. 149 and 150 of the National Planning Policy Framework 2021.

Very Special Circumstances

The applicant’s agent has mentioned that the applicant’s daughter requires accommodation so that her

parents can care for her as she has a medical condition. Be that as it may, this does not justify the construction of what is essentially a new dwelling.

Despite having regard to all the other considerations, it is considered that the factors cited in its favour do not clearly outweigh the harm the scheme would cause. Consequently, very special circumstances do not exist, and the proposal conflicts with the Framework and Policy CS02 of the Core Strategy.

Although there is limited information about the disability of the family member, the Council has had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Nevertheless, for the reasons set out above, it does not follow from the PSED that the application should succeed.

To conclude, the proposal is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and causes harm to the openness of the Green Belt. The Framework requires that substantial weight is given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Design, Landscape Character and Appearance

Development Plan policy places considerable emphasis on the importance of achieving high quality, beautiful and sustainable buildings and places. Paragraph 130 of the NPPF 2021 seeks to ensure that development will add to the quality of an area, be visually attractive, and sympathetic to local character and history. Policy CS19 of the Core Strategy 2014 reflects these aims and requires that new development is well designed and respects the character and appearance of the surrounding area.

The application site lies in the countryside, in the Green Belt and in the Harvel Wooded Downs Landscape Character Area. With regard to the impact on the landscape, Policy CS12 of the Gravesham Core Strategy 2014 is relevant to this application, relating to green infrastructure. This policy states that the overall landscape character of the Borough will be conserved, restored and enhanced and that the Gravesham Landscape Character Assessment (LCA) 2009 will be taken into account in determining applications. The Harvel Wooded Downs Landscape Character Area comprises varied topography, ancient woodlands and small paddocks and pasture. There is a haphazard mosaic of residential plots and small holdings. The LCA recognises the overall condition of the landscape as moderate and the sensitivity of the area as moderate. It is recommended that the key landscape elements should be conserved and created.

Paragraph 137 of the NPPF 2021 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also states that the essential characteristics of Green Belts are their openness and permanence. Paragraph 001 of the Planning Practice Guidance 2019 on Green Belts looks to assess the impact of a proposal on the openness of the Green Belt by taking into account the spatial and visual aspects of a development, its duration and remediability, and the activity levels generated.

In this case, as mentioned above, the proposed extension to and conversion of the existing garage to ancillary residential accommodation will have an impact on the openness of the site and the character of the surroundings. Not only this, but as a substantial building, and one that can be completely severed from the main dwelling, there is likely to be an increase in residential paraphernalia at the site in the form of washing lines, patios, hardstandings, sheds, patio furniture etc. which will also impact on the openness of the Green Belt and surrounding landscape character.

In summary, it is considered that the proposed garage conversion to an ancillary annexe would not preserve the openness of the Green Belt and the rural landscape character and appearance of the site and surrounding area and, as such, the proposal would conflict with the requirements of Policies CS02, CS12 and CS19 of the Core Strategy 2014, and paragraphs 130, 137 and 174 of the NPPF 2021.

Residential Amenity

The NPPF 2021 states that planning decisions should aim to secure a high standard of amenity for all existing and future users (paragraph 130f). The impact on amenity is also considered with regard to the criteria within Policy CS19 of the Core Strategy 2014, which states that new development should be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants, and those of neighbouring properties and land.

Future Occupiers

In terms of additional living accommodation, the proposal will add a further three bedrooms to the application property, bringing the total number of bedrooms to 8. Garden space around the property will not be affected, as there are no external additions proposed. There is therefore no conflict with Policy CS19 of the Core Strategy 2014, or the standards set out in the NDSS 2015 and SPG2 in respect of the accommodation standards and retained garden for future occupants of the dwelling.

If the proposed annexe were to be severed from the main dwelling there would be various amenity concerns: Given the 15m gap between the properties there would be likely to be overlooking issues for occupiers of the annexe caused by the proximity of neighbouring windows well below the recommended 21m in the Residential Layout Guidelines SPG particularly to the garden areas. Furthermore, there would be an inadequate amount of amenity space for occupiers of the annexe.

It is noted that the window to the third bedroom is to be fitted with obscure glass which offers no outlook to this room resulting in oppressive accommodation for the occupier of this room. There appears to be a window to the northern elevation to serve this bedroom but this is not shown on the elevational plans which could overcome this concern and could be controlled by condition if a permission was forthcoming at appeal.

Neighbouring Properties

The proposed building will have no significant impact on any neighbouring properties in terms of loss of outlook, sunlight or daylight. No windows face to the west or south at first floor and therefore no concerns are raised with regards to loss of privacy. Overall, the proposal would therefore safeguard the amenities of neighbouring properties, and as such, would comply with Policy CS19 of the Core Strategy 2014 and paragraph 130(f) of the NPPF 2021. No neighbour representations have been received.

Ecology and Biodiversity

The proposal will not result in a significant loss of biodiversity due to the existing buildings and hardstanding however, if the proposal were allowed at appeal a soft landscaping condition would be recommended to ensure that there is no net loss of biodiversity in accordance with policy CS12 of the Gravesham Core Strategy 2014.

Parking and Highways

As a three bedroom dwelling the proposed parking is adequate as two spaces would be required, whilst the existing house has the benefit of parking in the front garden.

In terms of cycle parking the matter is more complex. SPG4 requires secure cycle parking at the rate of one cycle per bedroom. The existing dwelling has the benefit of the garage that will be lost for its current cycle parking requirements, so this needs to be replaced elsewhere, whilst an additional three cycle parking spaces should be provided for the new annex/dwelling and this is shown on drawing 1337(02)01 P1.

There is enough space on the plot to incorporate sufficient cycle parking and, if the application were approved at appeal, a condition could be imposed to ensure plans are submitted to show this.

Conclusion

The proposed annexe would not be for use incidental to the main dwelling due to its scale, self-contained accommodation and the potential for forming a wholly separate unit of accommodation with its own potential independent access. The proposal is therefore inappropriate development within the Green Belt where 'very special circumstances' that may otherwise outweigh the harm by reason of inappropriateness do not exist and is contrary to Policy CS02 of the Gravesham Core Strategy 2014, saved Policy C13 of the Gravesham Local Plan 1994 and paragraphs 148 and 150 of the National Planning Policy Framework 2021.

Recommendation:

Refuse

Case Officer:	Mrs Alison Webster	Team Leader:	
Signed:		Signed:	
Dated:	28 September 2022	Dated:	