



Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20260311
Location	27 St Francis Avenue Gravesend Kent DA12 4SY
Proposal:	Application for a Proposed Lawful Development Certificate; for the conversion and extension of the existing loft into habitable rooms with dormer extension to the rear elevation and a rooflight to the front elevation. Conversion of the existing garage into a study with associated internal and external works with alterations to fenestration.
Applicant:	Ms C. Wilcocks
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form dated 21/03/2026;
Drawing Number 1000 (Site Location Plan);
Drawing Number 1001 (Site/Block Plan – Existing);
Drawing Number 1002 (Supplementary Information – Site Photographs – Existing);
Drawing Number 1010 (Ground Floor Plan – Existing);
Drawing Number 1011 (First Floor Plan – Existing);
Drawing Number 1012 (Second Floor Plan – Existing);
Drawing Number 1013 (Roof Plan – Existing);
Drawing Number 1020 (Section AA – Existing);
Drawing Number 1021 (Section BB – Existing);
Drawing Number 1030 (North Elevation – Existing);
Drawing Number 1031 (South Elevation – Existing);
Drawing Number 1032 (East Elevation – Existing);
Drawing Number 1033 (West Elevation – Existing);
Drawing Number 1101 (Site / Block Plan – Proposed);
Drawing Number 1110 (Ground Floor Plan – Proposed);
Drawing Number 1111 (First Floor Plan – Proposed);
Drawing Number 1112 (Second Floor Plan – Proposed);
Drawing Number 1113 (Roof Plan – Proposed);
Drawing Number 1120 (Section AA – Proposed);
Drawing Number 1121 (Section BB – Proposed);
Drawing Number 1130 (North Elevation – Proposed);
Drawing Number 1131 (South Elevation – Proposed); and
Drawing Number 1133 (West Elevation – Proposed).

Property Type

27 St Francis Avenue is a two storey detached dwellinghouse.

Material Consideration

Section 55(1) of the Town and Country Planning Act 1990 (as amended).

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Relevant Planning History

Reference	Description	Decision	Decision Date
19900018	Erection of single storey rear extension to form enlarged dining room.	Permitted	07.03.1990
19750817	Formation of a new vehicular access and alteration of existing vehicular access into a pedestrian access	Permitted	17.02.1976

Officer Assessment

General approach

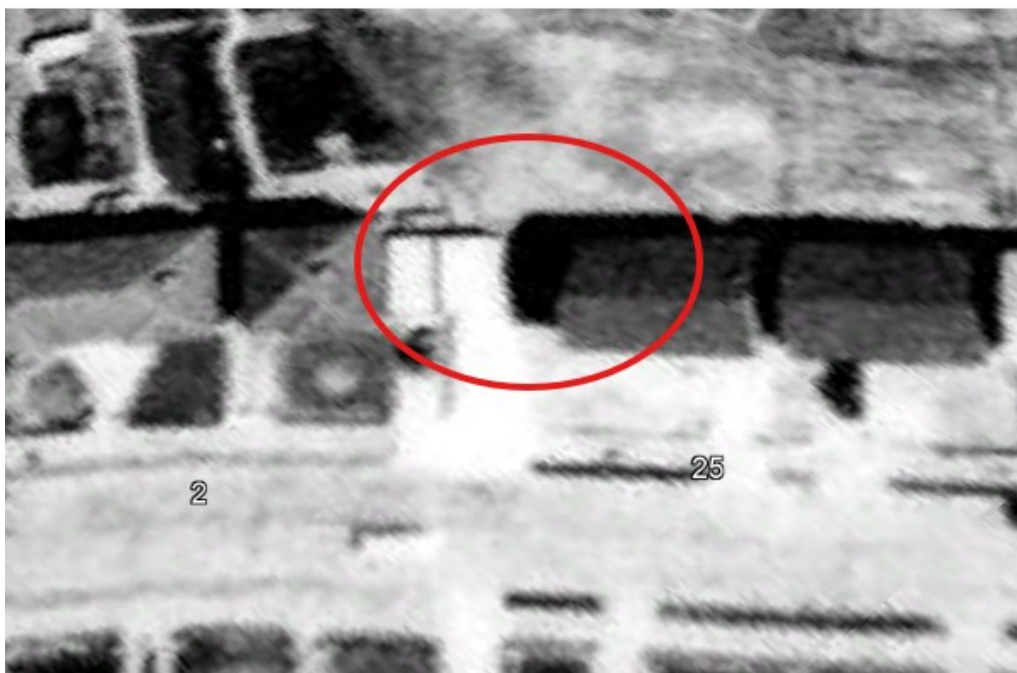
This application is for a Lawful Development Certificate and not for a planning permission and therefore, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The applicant is responsible for providing sufficient information to support the application and the proposal must be described with sufficient clarity and precision to enable the Local Planning Authority (LPA) to understand exactly what is involved. The case officer has had regard to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009).

Details of the proposed development

The applicant has submitted a number of plans/documents, which are set out in the Plans & Documents Section above.

The applicant is proposing the conversion and extension of the existing loft into habitable rooms with dormer extension to the rear elevation and a rooflight to the front elevation and the conversion of the existing garage into a study with associated internal and external works with alterations to fenestration.

While no planning permission has been granted for the existing garage to the western flank elevation, as evidenced on Google Earth Images from 1960, the garage does not form part of the original footprint of the host dwelling but is in fact a later addition:



As such, the proposed conversion of the existing garage would constitute as a side extension. This would not be permissible under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended as the development would exceed the limits set out in (ja) as below:

(ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);

Where the proposed extension is to be joined to an existing extension to the original house, whether that was built following a planning application or under permitted development rights, the total enlargement (being the proposed extension together with the previous extension) must meet the limits set out in (e) to (j) above (see examples on pages 18, 21 and 27).

This is based on the side extension exceeding half the width of the original dwelling to the rear.

As such, the conversion of the garage to habitable rooms with alterations to fenestration needs to be assessed separately under Section 55(1) of Part 3 of the Town and Country Planning Act 1990 (as amended).

Definition of Development

Section 55(1) of Part 3 of the Town and Country Planning Act 1990 (as amended) sets out the meaning of development as follows:

“development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Section 55(1A) of Part 3 of the Town and Country Planning Act 1990 (as amended) sets out that;

For the purposes of this Act “ building operations ” includes—

- (a) demolition of buildings;

- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

Sections 55(2)(a) to (g) of Part 3 of the Town and Country Planning Act 1990 (as amended) set out various operations or uses that shall not be taken as involving development of the land. Section 55(2)(a) and (d) are relevant to this application and read as follows;

- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building,
- (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such,

Therefore, in order to determine whether the proposal constitutes development, it is necessary to consider the following;

- Would the proposed development affect only the interior of the building or have a material effect on the external appearance of the building?
- Would the proposed development be for purposes incidental to the enjoyment of a dwellinghouse?
- Would the proposal constitute a material change of use?

Material effect on external appearance

Externally, the proposed garage conversion would involve the replacement of the existing garage door with a brick wall and window. Such alterations would be small scale and would not be out of character with the existing building and as such, they would not have a material impact on its external appearance. The rest of this part of the proposal would only affect the interior of the building.

Therefore, the proposal would be in line with Section 55(2)(a) of Part 3 of the Town and Country Planning Act 1990 (as amended).

Purposes Incidental to the enjoyment of a dwellinghouse

The Department of Communities and Local Government Technical Guidance Permitted Development Rights for Householders (September 2019) is helpful in giving clarity to the range and type of uses that can be considered as being for a purpose incidental to the enjoyment of a dwelling. On page 41, it states;

A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

Whilst it is acknowledged that this advice is in the context of assessing proposals for Class E permitted development, i.e. outbuildings, it provides useful background information.

In planning law there is a difference between an ancillary residential use - generally anything a person could do normally in a standard house as built e.g. eat, sleep, sit comfortably, pray, study, watch TV, shower and an incidental residential use - generally everything else, including storage, swimming, bowling, gym, art studio, or something that can be classed as a hobby. However, the distinction between 'incidental' and 'ancillary' uses is not always clear-cut. Usually, an incidental use is "parasitic" on the primary use - it cannot exist without it. Furthermore, the essential feature of ancillary uses is that there should be some functional relationship between the ancillary use and the primary use and that that functional relationship should be one that is normally found.

The proposed study and utility area would have a functional relationship with the rest of the dwelling and would be connected to the rest of the dwelling by a doorway, without a separate external access. As such, the proposed conversion of the garage would constitute an ancillary residential use.

Therefore, as an ancillary use, the proposal would not be for a purpose incidental to the enjoyment of the dwellinghouse and it would not be in line with Section 55(2)(d) of Part 3 of the Town and Country Planning Act 1990 (as amended).

Material change of use

Section 55(1) of the Town and Country Planning Act 1990 (as amended) sets out the definition of development, which includes the making of any material change in the use of any buildings or other land. A material change of use is not defined in any statute or statutory instrument and is a question of fact and degree in each individual case. In judging whether there would be a material change of use in any given case, there must be a significant difference in the character of the new activity, from that which has taken place previously.

Any off-site impacts of any new activity may be relevant in making such a judgement, including the impact on residential amenity, highway safety and parking. However, these issues are not determinative by themselves and should not be considered in isolation. They can be indicators of whether the increase in scale of a use has reached the point where it gives rise to materially different planning circumstances.

In this instance, the external appearance of the application property would remain as a dwelling and the proposal would provide habitable accommodation that would be used as part of the main dwelling. Therefore, the proposed use would not have a significantly different character to that of the existing lawful use and as such, there would not be a material change of use, that would constitute development under Section 55(1) of the Town and Country Planning Act 1990 (as amended).

Therefore, the proposed garage conversion to habitable rooms with alterations to fenestration would be in accordance with section 55(1) of the Town and Country Planning Act 1990 (as amended), planning permission would not be required.

The conversion and extension of the existing loft into habitable rooms with dormer extension to the rear elevation and a rooflight to the front elevation will be assessed under Schedule 2, Part 1, Class B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended:

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	N

Class B - The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

1, Original Roof Volume (m ³)	N/A
2. Existing Roof Extensions (m ³)	N/A
Remaining Roof Volume (m ³)	N/A – No previous alterations

B.1	Development is not permitted by Class B if –	Y/N
(a)	Permission to use the dwellinghouse as a dwellinghouse has been granted only by	N

	virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);	
(b)	Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;	N
(c)	Any part of the dwellinghouse would, as a result of the works, extend, beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;	N
(d)	The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than – (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case;	N 40.55m2
(e)	It would consist of or include – the construction or provision of a verandah, balcony or raised platform or the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or	N N
(f)	The dwellinghouse is on article 2 (3) land	
B.2	Development is permitted by Class B subject to the following conditions –	Y/N
(a)	The materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;	Y
(b)	The enlargement must be constructed so that – (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side – extension (aa) the eaves of the original roof are maintained or reinstated; and (bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and (ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwelling house; and	Y Y Y
(c)	Any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be – (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.	N/A

Class C - Any other alteration to the roof of a dwellinghouse.

C.1	Development is not permitted by Class C if -	Y/N
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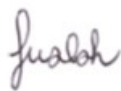
(a)	permission to use the dwelling as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);	N
(b)	the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;	N
(c)	it would result in the highest part of the alteration being higher than the highest part of the original roof;	N
(d)	it would consist of or include – (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.	N N
C.2	Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be- (a) obscure-glazed; and (b) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.	N/A

Conclusion

The proposed conversion of the existing loft into habitable rooms with rear dormer extension and rooflight to the front elevation complies with Schedule 2, Part 1, Class B and C of THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015, AS AMENDED.

The proposed conversion of the existing garage into a study and utility room with associated internal and external works with alterations to fenestration would result in a change in the use from a garage (incidental use) to habitable accommodation (ancillary use) but it would not constitute a material change of use and as such is in accordance with section 55(1) of the Town and Country Planning Act 1990 (as amended) and planning permission would not be required. The proposal would therefore be lawful and pursuant to section 192(2) of the Town and Country Planning Act 1990 (as amended).

Recommendation: Grant Lawful Development Certificate

Case Officer:	Mrs Nina Goodbody	Team Leader:	Mrs Faye Walsh
Signed:	<i>N Goodbody</i>	Signed:	
Dated:	18th May 2026	Dated:	18 May 2026