



Delegated Report

Householder Planning Application

Planning Application No: 20240359

Location: 31 Mitchell Avenue Northfleet Gravesend Kent

Description: Addition of kitchen and shower room to existing outbuilding.

Applicant: Mr Sukhchain Singh

Submitted Documents/Plans

Application Form
Location Plan
Block Plan
Existing Floor Plan
Proposed Floor Plan
Photograph
Supporting Statement

Relevant Planning History

Reference	Description	Decision	Decision Date
20240259	Application for a non-material amendment to planning permission reference number 20230553 to allow addition of a shower and kitchenette to provide an annexe for use ancillary to the main dwelling.	Refused	11.04.2024
20230553	Erection of a garden outbuilding for ancillary use to the main dwelling.	Permitted	17.07.2023

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 (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.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 12 – Achieving well-designed and beautiful 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

I do not feel that this represents any difference to the application made earlier this year to change the material use of the building for which planning approval was granted in 2023. It would make the use of the building for which planning approval was approved from an outbuilding to be used as a gym to something completely different, and I do not see why the changes should be agreed this time either.

Neighbouring properties

5no surrounding properties were consulted and 0 comments were received from members of the public. The final date to submit comments ended on 21/05/24.

Officer's Analysis

Principle of Development

This application is located inside the Urban Boundary, where alterations and extensions to residential buildings are generally acceptable in principle as per Policy CS02: Scale and Distribution of Development. However, all other relevant matters should be considered. In this instance, the main points to consider would be the potential impact on; Visual Amenity (Design, Character and Appearance), Amenity of Future Occupiers and Residential Amenity of neighbours.

It is noted that this application follows approval 20230553 for 'Erection of a garden outbuilding for ancillary use to the main dwelling.' The photograph submitted by the applicant shows the structure has been built. However, the original intention to use this building as a gym and wc would be altered by this decision, if approved the structure would be used as a living, kitchen and shower space. The applicant contends in their supporting statement that this would be for personal use only and not as a separate living accommodation.

The applicant previously attempted to make these same changes via application for Non-Material Amendment (Reference 20240259). However, that application was refused as it was the incorrect method to apply for these changes.

Given that the structure has been built, this application will focus only on the changes proposed by this application and will not re-assess the erection of the building.

Use of Building

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. 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 facility to be independent to the main dwellinghouse, including bathroom and kitchen facilities. It is noted that there is a singular pedestrian access and one drive to the front. The site is therefore not capable of providing shared parking provision for both the existing dwellinghouse and the ancillary outbuilding accommodating should the living area proposed be used as a bedroom. Whilst there is no vehicular access directly to the ancillary outbuilding, there is clear pedestrian access via the side gate and through the rear garden. Given the angular nature of the plot, there is limited possibility that vehicular access could be made possible in the future given the lack of adequate side spacing to the dwellinghouse. Therefore, this application for change of use of the outbuilding into an annex will not change the operation of the dwelling from a single planning unit.

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, there is a close relationship between the buildings and there are clear shared landscaping elements between the two, without division. The size of the accommodation would also be very modest and 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 family members, in the supporting information submitted with this application.

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 CS02 of Gravesham's Local Plan Core Strategy.

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.

Design, Character and Appearance

This application relates to a residential plot, in an urban area. The majority of nearby buildings are similarly sized dwellinghouses and associated outbuildings. To the rear of this site lies Wombwell Park.

There would be no change to the external appearance of the outbuilding and so no impact in terms of design, character and appearance.

On balance, the proposed development would comply with the requirements of Policy CS19 of the Core Strategy 2014 and paragraph 135 of the NPPF (2023) in terms of design, character and appearance.

Amenity of Future Occupiers

The NPPF (2023) states that planning decisions should aim to secure a high standard of amenity for all existing and future users. The impact on amenity is also considered with regard to the criteria with Policy CS19 of the Core Strategy, 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. The impact on neighbours will be assessed in the next section of the report.

Minimum space standards are applied to habitable rooms by the Residential Layout Guidance (2020)

Room	Space provided	Minimum Space Standards
Living Room	21.22m ²	13.2m ²
Kitchen	4.4m ²	7.2m ²
Bathroom	4m ²	3.6m ²

The proposed kitchen would be undersized. However, given that this building would not be independent of the main dwellinghouse, adequate kitchen facilities would be available in the main dwellinghouse. There would be no change to the footprint of the building and so no changes to the garden space are proposed.

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.

There would be no change to footprint, bulk or openings as a result of the change. Whilst use as a habitable space may result in more extensive use than a gym, and so potentially greater noise disruption. However, residential noise between neighbours is expected in a residential area and so the use as proposed would not result in a significant increase in noise disruption to neighbours.

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

Conclusion & Recommendation

The proposed use of this building as an ancillary annexe would comply with all relevant national and local planning policies.

The recommendation is to approve.

Should the nature of the use of the building change, further consent may be necessary as it could no longer be considered an ancillary annexe and instead be considered an ancillary, separate dwellinghouse.

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

Case Officer:	Mrs Lisa Fisher	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	4th June 2024	Dated:	7th June 2024