



Delegated Report

Householder Planning Application

Planning Application No: 20230353

Location: Lucas Heron Hill Lane Meopham Gravesend

Description: Conversion of garage into a granny annexe.

Applicant: Mr Joe Grixx

Site Visit Date: Desktop Assessment

Submitted Documents/Plans

Application Form

001 A – Block Plan/Location Plan

002 A – Existing Floor Plans and Elevations

003 A – Proposed Floor Plans and Elevations

Photographs

Relevant Planning History

Reference	Description	Decision	Decision Date
20000763	REVISED DRAWINGS: Erection of a detached dwelling with rooms in the roof space, a detached double garage at the front and installation of a septic tank in the front garden.	Permitted	06.04.2001
19980555	Erection of a detached 3 bedroom dwelling with accommodation in the roof space; detached garage at the front and installation of a septic tank.	Permitted	06.11.1998
19920692	* REVISED APPLICATION* Erection of bungalow and detached garage, and installation of septic tank.	Permitted	24.02.1993
19890767	Erection of chalet for weekend and holiday use.	Permitted	02.02.1990

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS16 – Affordable Housing
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- T5 – Access to the Identified Highway Network
- P3 – Vehicle Parking Standards
- C13 – Policy for Extensions to Dwellings in the Countryside

Paragraph 33 of the National Planning Policy Framework (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 National Planning Policy Framework (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 – Achieving Sustainable Development
- Section 5 – Delivering a Sufficient Supply of Homes
- Section 11 – Making Effective use of Land
- Section 12 – Achieving sustainable development and well-designed places
- Section 13 – Protecting Green Belt Land
- Section 15 – Conserving and enhancing the Natural Environment

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);
- Gravesham Landscape Character Assessment (2009)

Consultations, Publicity and Representations

Consultees

Ward Councillors: No comments received.

Meopham Parish Council:

Following discussion by Meopham Parish Council's Planning Applications Working Group; the Council wishes to provide the following response:

- *Meopham Parish Council Meopham Parish Council objects to this planning application as what is proposed constitutes an additional property on the plot. There is insufficient detail in the planning application to comment otherwise.*

GBC Highways Officer:

First, I need confirmation of the existing use, the building is described as a garage, but there is no vehicular access for cars etc?

In terms of the conversion, the building could be used as an independent dwelling, so suitable car parking provision needs to be made for the existing dwelling and this annex/dwelling. The parking plan should also include suitable provision for visitors as Heron Hill Lane is not suitable for on street car parking. This equates to a total provision of five car parking spaces, one for the new annex/dwelling, two for the existing

dwelling and two visitor spaces which can be communal or allocated one each. In addition to comply with the requirements of SPG4 issued by Kent and Medway, a cycle space should be available due to the additional bedroom.

The site is large, so no doubt the car parking can be provided so a suitable condition should suffice.

Officer Note: The existing Rear elevation provided does not correctly reflect the elevation. The below photograph provided by the planning agent shows the current rear elevation which shows a garage door.



Neighbouring properties

A site notice was placed near the site on 3rd May 2023. The expiry for submission of comments ended on 26th May 2023.

1no. surrounding property was consulted, and no comments were received from members of the public.

Officer's Analysis

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.

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). However, relevant to this case decision notice for planning approval 20000763 removed permitted development rights related to the garage. Condition 10 of the decision is as

follows:

'The areas identified on the submitted drawings for the parking of vehicles shall be formed before the dwelling hereby permitted is first occupied and thereafter used for the parking of private motor cars only and no development whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, shall be carried out on the site in such a manner or in such a position as to preclude vehicular access thereto.'

Permitted Development Rights under Class E, part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), apply to buildings which are incidental to the enjoyment of the main dwelling. However, this application is for an ancillary building and permitted development rights have been removed for the conversion of this particular building as stated above and so consent is required.

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 building as proposed 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, kitchen facilities, living space, separate dining space and a bedroom.

The building also has a separate pedestrian and a single vehicular access point as shown in the google earth image below (dated 2016):



As per the comments from the GBC Highways Officer, parking provision would be required for 5 vehicles in total. It is not clear how this would be arranged and whether this would separate the accesses or combine the parking. However, based on the scale, position and extent of the use as described this application for change of use of the outbuilding into an annex would 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. There is no evidence provided to support the application that details how the annex will be used. On the site plans the buildings do appear to be closely related, with only a 7.9m distance between them. However, the garages is set further forward and higher than the main dwellinghouse. Given that they are situated side by side, a 7.9 metres distance would not prevent divisive landscaping. Fenced dwellinghouses side by side with less than 7.9 metres between are common in more urban areas and so it is clear that the potential is there. Parking and landscaping details have not been provided. The GBC Highway Officer has identified the need for 5 parking spaces to be provided between the properties. The pedestrian and vehicular accesses are currently separated. Based on the location, layout and spacing of the site it appears likely that parking details will reveal necessity for separate parking access. The size of the accommodation would also not be modest. And given its position and scale when viewed from the street, it is not clear currently that it is a building subservient to the dwellinghouse. As this is the case, it is evident that the multitude of factors indicate that the building would serve as a separate self-contained unit of accommodation.

While it is acknowledged that planning conditions could restrict plot severance, there is a clear physical, locational and spatial separation between the annexe and dwelling with all the facilities expected in an independent dwellinghouse provided in the proposed building. It is unclear who will occupy the building,

which contains excessive facilities for an ancillary annexe. The only potential dependence to the main dwellinghouse, would possibly be the shared parking provision, for which adequate information has not been provided. As such, on the information provided with this application and the relationship between the two structures, the annexe is considered to create a separate planning unit.

It is on this basis and in considering the above case law, as a matter of fact and degree, a new planning unit would be created at the application site. The proposal would therefore **conflict** with Policy CS02 (LPCS) and paragraphs 149 and 150 of the National Planning Policy Framework (2021).

Principle of development in the Green Belt

Green Belts are of great importance. The fundamental aim of Green Belt policy is to prevent urban sprawl by preserving the open and permanent characteristics of Green Belts (paragraph 137 of the National Planning Policy Framework (2021). Paragraph 147 of the National Planning Policy Framework (2021) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. '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.

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.

Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt (paragraph 149 of the National Planning Policy Framework (2021). However, there are exceptions to this which, as in the case of this proposal, and as set out in paragraph 150 of the National Planning Policy Framework (2021), include:

(d) the re-use of buildings provided that the buildings are of permanent and substantial construction.

The proposed annex would be a re-use of a building however, no details have been provided to demonstrate whether this is of permanent and substantial construction. However, based on the appearance and that planning consent was provided in 2000, the building is likely 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 National Planning Policy Framework (2021), 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 National Planning Policy Framework (2021).

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 and dwellinghouse 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. 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.

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. No such special circumstances have been presented. The proposed would therefore be **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.

Design, Character and Appearance (Openness in the Green Belt and Landscape Character Area)

Development Plan policy places considerable emphasis on the importance of achieving high quality, beautiful and sustainable buildings and places. Paragraph 130 of the National Planning Policy Framework (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 National Planning Policy Framework (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 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 National Planning Policy Framework (2021) 2021.

Amenity of Future Occupiers

The National Planning Policy Framework (2021) 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.

However, it is felt that appropriate external spacing would remain be provided given the large size of the plot. The proposal would therefore comply with the requirements of SPG2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020.

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 proposed building is located away from other residential neighbours and 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 lack of side windows. There would also be no change to the scale of the building.

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

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 is approved 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 Provision

As per the comments received from the GBC Highway Officer, 5 spaces in total would be required for both buildings. Details of parking provision and vehicular accesses have not been provided.

As insufficient information is available, it is not possible to ascertain whether the parking provision would be appropriate in terms of adequate spacing, layout, accesses that would provide the necessary parking provision for the uses of the site, in a safe manner.

Insufficient information has been provided to ensure that adequate vehicle and cycle parking provision is available, **contrary** to 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

1. It is considered that the proposed development in the manner shown of an independent unit of residential accommodation that is not reliant upon or ancillary to the main dwellinghouse use would result in an inappropriate form of plot sub-division out of character with the prevailing pattern of development in the locality. 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.

2. The proposal would result in the separation of the annexe from the main dwelling and its use as a separate unit of living accommodation, which would result in additional residential paraphernalia on the site that would adversely impact on the openness of the Green Belt and fail to conserve or enhance the character of the rural landscape. The proposal is therefore considered to conflict with Policies CS02, CS12 and CS19 of the Core Strategy 2014, and paragraphs 130, 137 and 174 of the National Planning Policy Framework (2021).

3. The proposed development by reason of its inability to demonstrate adequate level of on-site vehicle parking provision, resulting in harmful impact to highway safety, would as result be contrary to 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.

(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:	31 st May 2023	Dated:	9th June 2023