

Delegated Report

Full Planning Application

Application No:	20211293
Location:	124 St Dunstan's Drive, Gravesend, Kent, DA12 4BQ
Description:	Conversion of outbuilding to annex to be used ancillary to main dwelling.
Applicant:	Mr Robin Purdue
Site Visit:	12/01/2021

Submitted Documents/Plans

Application Form - dated 19/10/2021;
 Covering Letter - dated 13/10/2021;
 Drawing no. 1 - Existing and Proposed 'Right Side View' Elevations;
 Drawing no. 2 - Existing and Proposed 'Left Side View' Elevations;
 Drawing no. 3 - Existing and Proposed 'Front View' Elevations;
 Drawing no. 4 - Existing and Proposed 'Rear View' Elevations;
 Drawing no. 5 - Existing and Proposed Floor Plans;
 Drawing no. 9 - Ordnance Survey Site Location Plan;
 Drawing no. 10 - Block Plan (annotated);
 Unnumbered Location Plan - Block Plan - dated 27/10/2021.

Relevant Planning History

Application No.	Description	Status	Decision
20120755	Application for a Lawful Development Certificate in respect of the proposed erection of a detached single storey outbuilding at the side and a detached single storey outbuilding at the rear for uses incidental to the enjoyment of the dwelling house.	CERTIFICATE REFUSED	16.10.2012
20120697	Application for Lawful Development Certificate for the proposed erection of a detached outbuilding in the rear garden.	CERTIFICATE GRANTED	28.08.2012
20100193	Erection of detached two storey chalet style building to provide three self contained one bedroom flats.	REFUSED	13.04.2010
20091000	Erection of a two storey building to provide three, one bedroom self contained flats each with car	REFUSED	05.02.2010

parking space.

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

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

Gravesham Local Plan: First Review (1994)

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

Gravesham Local Plan Review

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.

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

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

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

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

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

- *the scale of the annex is subordinate to the existing dwelling and is the minimum level of accommodation required to support the needs of the intended occupant/s; and*
- *there is adequate parking and amenity facilities (areas for bin storage, drying clothes, garden space etc.) for the needs of the annex occupants and existing residents; and*
- *there is no boundary demarcation or subdivision of garden areas between the curtilage annex and principal dwelling;*

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

National Planning Policy Framework (2021)

- Section 2 - Achieving Sustainable Development
- Section 4 - Decision Making
- Section 9 - Promoting Sustainable Transport
- Section 12 - Achieving Well-designed Places

Supplementary Planning Guidance

- SPG 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 - amended June 2020;
- SPG 4 - KCC Parking Standards (2006);
- Gravesham Householder Extensions/Alterations Design Guidance SPD (2021).

Consultations, Publicity and Representations

Consultees

GBC - *Highways Officer* - I find this application slightly confusing the proposal is described as an annex ancillary to the main dwelling, but the applicant will move into the converted building with no reference to what happens to the house.

The annex has the potential to be a standalone property and as such I believe needs to be considered as a separate building in terms of car parking provision. A parking plan should be conditioned, showing two spaces for the dwelling and one for the annex as well as defining the access to the parking for the annex which must be kept clear of other vehicles.

Secure parking for a single cycle should be provided due to the increase in bedrooms. (Note cycle not bicycle, so it includes adaptive cycles that can be used by the disabled) In addition, suitable cabling should be installed to accommodate a future electric vehicle charging point.

Neighbouring properties

Thirteen surrounding properties were consulted and one representation was received. The neighbour registered objection to the proposed development, stating that the outbuilding was built with the intention of changing to a bungalow and that the main property is currently being rented out. The representation expressed concerns that the annex will be rented out, increased parking congestion and increased noise through use over and above the existing levels.

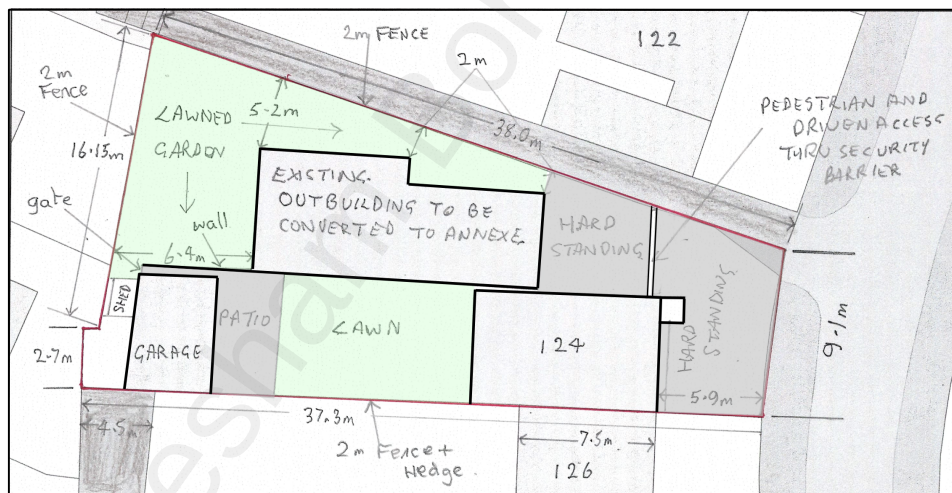
The consultation period expired 24th November 2021.

Officer's Analysis

124 St Dunstan's Drive is a semi-detached two storey dwelling located on the western side of the highway. The property has a hard-paved frontage used as a driveway, with a separate pedestrian access and vehicle entrance to an outbuilding and parking area behind. There is a detached double garage at the bottom of the garden and a large outbuilding within the garden.



The outbuilding was granted a Lawful Development Certificate in 2012 for use incidental to the main dwelling. The garden of property is subdivided with a wall and gate separating a lawn area behind the outbuilding and the lawn area of the main dwelling (see annotated Block Plan (Drawing no.10) below).



Principle of the Development

The planning position relating to the provision of buildings or structures for annexes or the conversion of buildings for use as annexes (sometimes termed 'granny annexes') or other ancillary accommodation is quite complex and sometimes contradictory and there is case law, in relation to such development, which can itself be open to interpretation.

Existing residential properties enjoy permitted development rights which allow certain building works, such as extensions or outbuildings to be carried out without having to make a planning application. Permitted development rights are set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As aforementioned, this outbuilding was granted a Lawful Development Certificate in 2012 (ref.20120697) and therefore must remain incidental to the enjoyment of the main dwelling, and any change to the intended use would require planning consent.

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

There is no specific local or national planning policy that directly relates to the provision of new, or use of existing buildings, as annexes. However, there are emerging policies in the Regulation 18 (Stage 2) Development Management Policies Document (2020), including RES 3: Residential Annexes, that show the direction of travel the Council is going and such emerging policies may be accorded some limited weight.

By way of general guidance, a proposed annex should (where possible):

- Be subordinate to, and used in connection with, the main dwelling and must not be able to function without the main dwelling (for example, not having separate kitchen facilities).
- Be interconnecting with the main dwelling as a whole (for instance via doorways); if accessed by a separate external entrance this should not separate from the main dwelling and therefore should rely on a common shared access with the main dwelling.
- Be within the curtilage of the main dwelling.
- Have a functional connection with the main dwelling (e.g. the occupant should be a dependant relative of the residents of the main dwelling or employed at the main dwelling).
- Be in the same ownership as the main dwelling.
- Be designed in such a way as to easily allow the annex to be used at a later date as an integral part of the main dwelling.
- Have no boundary demarcation or sub division of the garden areas between the curtilage of the main dwelling and the annex.
- Have adequate parking and amenity facilities for the needs of the annex occupants and the residents of the main dwelling.
- Comply with the Council's normal standards for extensions to a dwelling including those relating to design and the amenities of neighbouring occupiers.

***Note: The above is largely reflected in emerging policy RES3: Residential Annexes Regulation 18 (Stage 2) Development Management Policies Document (2020).*

A key consideration in this application is whether the site will continue to operate as a single planning unit or whether there will be two households living independently of each other on the site.

In essence, the annex hereby proposed will function as a separate single dwellinghouse. It will contain primary living accommodation in the form of a bedroom, bathroom and kitchen. There are existing separate accesses, through both the pedestrian/vehicular, that mean the occupants of the annex will not rely upon a common shared access. The annex has an existing garden area, subdivided from the main dwellings private garden area by a brick wall. Therefore, this application for change of use of the outbuilding into an annex will change the operation of the dwelling from a single planning unit into two independent households on one site.

However, identifying a separate planning unit requires consideration of a range of factors and not simply if a unit of accommodation is self-contained, but is a matter of fact and degree. Even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling; it is a matter of fact and degree whether a change of use has occurred.

In a recent appeal decision, an Inspector refused to permit an ancillary annex in the rear garden of a dwelling in St Albans (ref. APP/B1930/W/18/3217177) (attached as Appendix 1). *"The appeal building would replace the existing single storey garage and would be located 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, which include a kitchen and living area, a separate bedroom and a shower room"*. Although *"the plans show that the existing vehicular access nearest the development 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. In addition, the Inspector observed that due to the siting of the annex 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 appeal 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.

Another appeal, albeit an much older case, made similar conclusions (ref. APP/84-135)) (attached as Appendix 2).

The application was made to use a first floor storeroom/playroom above a garage as a residential bedsit. An Inspector concluded that 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 DCS No 036-440-970.

In this case the applicant has explained in the covering letter that the annex will be occupied by the applicants in their older age, when requiring single storey living. However, as highlighted in the Swansea appeal the use by family or friends does not make an annex incidental. Given that the outbuilding is detached from the main dwelling, is served by a separate access, contains day-to-day living facilities and even a self-contained garden area, the annex hereby proposed would be or become a separate planning unit.

To further the consideration of the intention to create a separate planning unit, the frontage of the property has been designed with a clear segregation and is visible when viewing the pattern of the driveway brickwork. The patterns in front of the main dwelling differs significantly from the pattern in front of the outbuilding (see photograph below). There is space for a single vehicle to park in front of the garage door, with a strip of grey brickwork dividing and demarcating the main driveway from the outbuildings.



This application follows previous planning refusals in 2010, submitted by the same applicant, which proposed to erect detached chalet style building within the garden to form multiple units of residential accommodation (20091000 / 20100193). These applications were appealed and dismissed by the Planning Inspectorate. Since these refusals the applicant has been granted a lawful development certificate to construct an outbuilding and the current proposal will create an annex, establishing a residential use. Therefore, the applicant could be viewed to be circumnavigating the refused applications.

Prior to the site visit the applicant was contacted via telephone to arrange access and it was confirmed that the main dwelling (no.124 St Dunstan's Dr) is currently being rented out. On the site visit the tenants stated that they did not have access to the annex and as such external photographs were taken. These photographs showed no.6 refuse/recycling bins, the subdivision of the garden and that the annex and main dwelling are independent units. It could not be confirmed how the outbuilding was being used, however this will be raised with planning enforcement to investigate.

The following image taken from Google Earth shows the current layout of the site.



Design, Character and Appearance

The existing outbuilding will not be extended or changed in terms of external design as part of this application. The outbuilding is large with a footprint of 96.9m², which is significantly larger than the footprint of the main dwelling (65.8m²). As such, the proposal to create what will become a separate planning unit will be overdevelopment of the site. Even though the outbuilding was considered lawful development, the proliferation of use by creating a separate planned unit of accommodation on the site will be overdevelopment. Moreover, the proposed dwelling will compete with, and exceed the scale of the main dwelling which is considered poor design. As such the development is contrary to Policy CS19 (LPCS) and Section 12 (NPPF) by virtue of being overdevelopment.

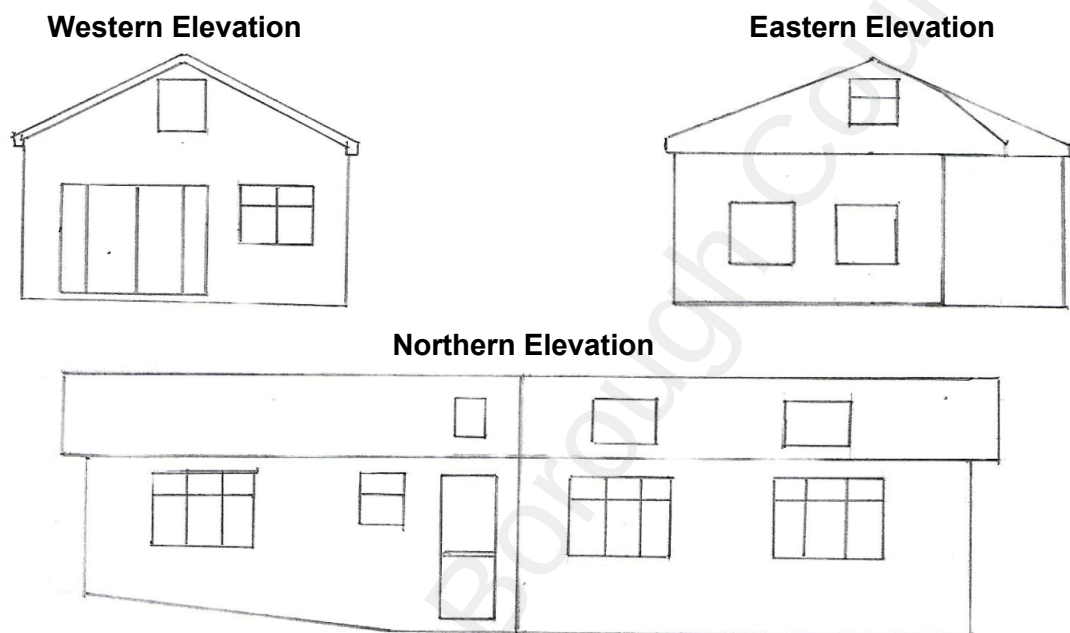
Amenity of Future Occupiers

The application description states that this is to be used as a granny annex and the covering letter highlights that this will be used by the owners as a ground floor accommodation in old age.

The internal space is approx. 66.5m² at ground floor, with some space above for storage. The National Housing Standards require a floor to ceiling height of at least 2.3m in order to be classed as useable floor

area. Whilst section drawings have not been provided, it is considered that the approx. ceiling height would be above 2.3m. As such with a useable floor area of 66.5m² the proposed annex accords with the space standards and would not be considered a cramped form of development.

There are no windows on the southern elevation, facing the lawn area of the main dwelling. However, there is an entrance door and four windows on the southern elevation facing the footpath, with three velux windows. There is a set of patio doors, one ground floor window as well as a first floor window on the western elevation, which leads out onto a decking area and segregated lawn for the annex. Lastly, there are two ground floor windows and a first floor window on the eastern elevation. This eastern elevation faces onto the hardstanding area, behind the garage door and is adjacent to the flank wall of the main dwelling.



Although there are numerous windows in the outbuilding the conversion is considered to provide dark, gloomy rooms and poor quality accommodation. The majority of the windows are located on the northern elevation and not receive direct sunlight. The bedroom specifically will receive less light than other rooms. The bedroom is located on the eastern edge and has east facing windows, however these will be overshadowed by the main dwelling for the majority of the day.

In addition, the parking area for the annex will be directly to the front of the outbuilding, and the bedroom. Thus as the bedroom will be dark, overshadowed and facing the parking area the outlook and quality of accommodation provided in the annex would be poor and oppressive, contrary to Policy CS19 (LPCS) and Section 12 (NPPF).

Neighbouring Amenity

There are no external alterations proposed to the outbuilding. As such there is not considered to be any detrimental impact the amenity of neighbouring properties in terms of overshadowing, loss of privacy, outlook or sense of enclosure.

A neighbour representation was received which expressed concerns with parking provisions and the noise generated by the proposed annex. The parking provision will be assessed in the 'Traffic Generation, Highway Safety and Parking' section below.

The noise generated by the use of the annex is not considered to have a material impact on any surrounding property. The annex will be a single bedroom unit and there closest neighbouring property is

approximately 12.5m from the annex. Moreover, the annex will not generate significant noise over and above the levels within the surrounding residential area.

Overall, the development is considered to safeguard the amenity of surrounding properties in accordance with Policy CS19 (LPCS) and Section 12 (NPPF).

Traffic Generation, Highway Safety and Parking

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

The Highways Officer commented on the application and considered the potential of the annex being used as a standalone property. From this position it was recommended that if permission were to be granted that a condition is attached to ensure that a parking plan is submitted and approved by the Local Planning Authority.

However, there is space demarcated on the driveway for one vehicle in front of the garage door. In addition, there is space behind the garage door which is seen to be used as vehicular parking on Google Earth. Given that the annex has a single bedroom and there is space available for parking, the development is not considered to significantly impact on the parking provision within the street scene.

As such, there are not sufficient grounds to refuse the proposed conversion of the outbuilding on highway grounds.

Conclusion and Balancing Exercise

The application has been fully considered and is contrary to local and national planning policy.

The proposed annex would be independent of the main dwelling as it would include all the day-to-day facilities of a separate planning unit, including having a segregated garden area with no access to the host dwelling, separate residential parking and independent pedestrian access. As such the conversion of the outbuilding would be overdevelopment of the site and would provide poor quality amenity for future occupiers, contrary to Policy CS19 (LPCS) and Section 12 (NPPF).

Therefore it is recommended that planning permission is refused.

Recommendation

Refusal

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

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	12 th January 2022	Dated:	12 January 2022