



Delegated Report

Application No: 20211132
Location: 130 Old Road East Gravesend Kent DA12 1PF
Description: Retention of an outbuilding to be used as a games room.
Applicant: Mr Thamey
Site Visit Date: 29 September 2021.

Submitted Documents/Plans

The application comprises the following documents and plans:

Application form received 15 September 2021.
Drawing no. 001 rev A (site location plan) received 27 September 2021.
Drawing no. 002 rev A (plans) received 27 September 2021.

Relevant Planning History

20211184	Retrospective application for a single storey rear extension.	Pending Consideration (as of 17.11.21)	
19490481	Private garage	Permssion	04.05.1949

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS18 – Climate Change
- CS19 - Design & Development Principles

Paragraph 33 of the National Planning Policy Framework (2021) sets out those 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 The review 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 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 saved policies via the emerging Local Plan.

Saved Policies in the Gravesham Local Plan First Review (November 1994):

- T1 – Impact of Development
- P3 – Vehicle Parking Standards

Other material considerations

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 12 – Achieving well-designed places

Supplementary Planning Guidance

- SPG2 - Residential Layout Guidelines (2020)
- SPG 4 - KCC Parking Standards (2006)
- Technical Housing Standards – Nationally Described Space Standards (March 2015)
- Housing Standards Policy Statement (1st October 2015)
- Householder Extensions/Alterations Design Guide (2021)

Consultations, Publicity and Representations

GBC - Highways Officer

The hole through to the garage suggests the intent to extend into the garage, which is protected by a planning condition for use as a private garage. The loss of the garage would displace vehicles onto the surrounding highway network with possible adverse consequences for highway safety and the free flow of traffic, plus the loss of some amenity for nearby residents.

The route to the garage also suggests that there will be some impact on parking even if it is intended to retain it as a garage, as fossil fuelled vehicles should not be discharging their exhaust emissions into an area where people may gather. I would therefore suggest the application is flawed as it states car parking provision will not change.

Given the issues raised by a neighbour should surface water disposal be considered as part of the application, either now or as a condition.

I would therefore suggest there are reasonable highway grounds to support refusal. These however would fall away if the wall between garage and games room were restored. Somehow I doubt this would be a long term solution as it could be easily removed later and would require the neighbours to be vigilant if they consider any changes are being made without appropriate permissions.

GBC - Environmental Protection Team (Regulatory Services)

No comment.

KCC Heritage

No comment.

Neighbouring properties

The application has been advertised by site notice and individual letters to two neighbouring properties. Two letters of support have been received. Three letters of objection have been received (two from the same address). The main concerns:

- The building is built on a platform causing overlooking
- Security camera also overlooking
- The two buildings appear to be knocked together
- There is a mechanic pit
- Cladding is out of character
- There is no guttering or drainage
- The building does not fall within permitted development
- The building is much bigger than the garage
- Unattractive building
- Together with the extension, the buildings appear to cover more than 50% of the curtilage
- New concrete block wall
- Roof overhangs boundary

Analysis

Proposal

This application seeks planning permission for the retention of an outbuilding to be used as a games room. The outbuilding is approx. 5.3m deep, 6m wide and 3.3m high with a pitched roof. It is attached to the existing garage.

Case Law

In terms of assessing whether an annexe is ancillary or a separate planning unit there is extensive case law.

Notwithstanding this the stated intension of the use of the outbuilding, for the reasons below it is not unreasonable to expect that this building is to be used as a separate unit:

Not only does the building contain a kitchen but there is also the potential to link it to the garage which has its own access. The photo below shows the rear of the garage:



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. In this case permission is required whether the building is incidental or not due to the overall height.

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 DCS No 400-021-342 (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 DCS No 036-440-970 (appendix 2).

It is considered that this application, given the size of the building, essentially has the capability to form a separate residential unit due to its location to the rear and access either through the existing garage or to the side passageway. 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 in this case.

Character and Appearance

The application site is a two storey semi-detached property with a garage to the rear. The properties are located off a private access to the front and there is vehicular access to the rear. The land slopes steeply down to the east. There are many outbuildings visible in the street scene, most being used as garages or sheds.

As well as the garage to the rear, the property has an outbuilding that is subject to this application and a single storey rear extension that is subject to application reference 20211184.

The outbuilding is large and, due to the slope of the land, appears dominant when seen from the rear properties. It has a floor area of approx. 30sqm which is close to the floor area of a one bedroom flat (37sqm). The two buildings together have an external footprint of over 60sqm. Due to its location to the rear of the garage and use of materials, scale and height, the outbuilding appears an alien feature within the street scene and dominant when seen from the rear of neighbouring properties.

The outbuilding is not visually attractive, locally distinctive and neither conserves or enhances the character of the local built environment. It does not integrate well within the surrounding local area and is therefore contrary to Policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130 of the National Planning Policy Framework 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.

The plans show a building that could easily be converted to a separate unit without any reliance on the main dwelling and therefore has been assessed as if it contains primary residential accommodation.

Amenity of future occupiers

In terms of the impact on the occupiers of the outbuilding, it would not adequately serve as a self-contained unit of accommodation due to its size (GIFA 30m²), which is below the space required in the NDSS of 50m² for a 1 bedroom, 2 person single storey dwelling, however, with the garage included, it would provide sufficient space. There are also likely to be overlooking issues for the occupiers of the outbuilding caused by the proximity of habitable room windows of no. 130 only 9m away and no. 132, which is well below the recommended 21m in the Residential Layout Guidelines SPG. Furthermore, there would be an inadequate amount of amenity space for the occupiers of the outbuilding and the original dwelling.

The property has a single storey rear extension which does not have the benefit of planning permission as well as the garage to the rear and the outbuilding. The remaining garden space is approx. 59sqm and 8.5m deep. This is marginally under the required standards of the Local Residential Standards which, for a three bedroom property requires a garden of 10m in depth and 60sqm. The garden land is sloped however and it is not clear how it is intended to be finished. The land level difference between the dwelling and the outbuilding raises concerns as to whether the remaining garden area will be useable for a family. Notwithstanding this, in the event of the subdivision of the plot, neither building would retain sufficient outdoor amenity space.

Whilst the building is labelled as a games room, the potential for the separation of the outbuilding and the subdivision of the plot is too likely in this case, and would be detrimental to the amenities of the occupiers of the main dwelling, through the reduction in outside amenity space and likely noise and disturbance issues from a residential unit being within 9m of the main house.

Neighbouring amenities

In terms of the impact on neighbouring amenities, the use of an outbuilding/games room would result in material harm to adjoining properties, particularly no. 132 in terms of loss of privacy to habitable room windows and private garden area. The outbuilding is single storey and is positioned at the bottom of the garden however the land has been built up to create a level surface which further increases the dominance of the building. Due to the height differences, boundary treatment would not sufficiently screen the development from this neighbour.



Regardless of whether the building is incidental to the dwellinghouse or not, there will be either direct overlooking or perceived overlooking of the neighbouring property (132) and its rear garden.

No. 128 is located to the west of the application site and on higher ground. On balance there is no significant detrimental impact on this neighbour with regards to loss of amenity.

On the basis that the outbuilding is not considered incidental to the main dwelling, together with the unacceptable impact on the residential amenities of the occupiers of the annexe, the main dwelling and neighbouring property, it is considered the proposal would fail to comply with the requirements of Policy CS19 of the Core Strategy 2014 and paragraph 130(f) of the NPPF 2021.

Parking and Highways

Providing the garage remains as such and as shown on the plans then there is sufficient off road parking to serve the property. The hole through to the garage suggests the intent to extend into the garage, which is protected by a planning condition for use as a private garage. The loss of the garage would displace vehicles onto the surrounding highway network with possible adverse consequences for highway safety and the free flow of traffic, plus the loss of some amenity for nearby residents.

The route to the garage also suggests that there will be some impact on parking even if it is intended to retain it as a garage, as fossil fuelled vehicles should not be discharging their exhaust emissions into an area where people may gather. As it stands the parking is not proposed to change and therefore no objections are raised on highways grounds.

Conclusion

The outbuilding would not be for use incidental to the main dwelling due to it the potential for forming a wholly separate unit of accommodation with its own potential independent access, which together with the inadequate levels of privacy and amenity space for future occupants, will have an adverse impact on the residential amenities of both properties as well as the neighbouring property (132 Old Road East). The proposal would thereby fail to comply with the requirements of Policy CS19 of the Gravesham Local Plan Core Strategy 2014 and paragraph 130(f) of the National Planning Policy Framework 2021.

The outbuilding, due to its overall height, bulk, use of materials and position on higher ground than surrounding buildings, together with the cumulative impact of the existing garage, results in a dominant and incongruous feature when seen from neighbouring properties to the detriment of the character and appearance of the area contrary to Policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130 of the National Planning Policy Framework 2021.

Recommendation:

Refuse

See draft Decision

Appendix 1 – appeal reference APP/B1930/W/18/3217177

Appendix 2 – appeal reference APP 84-135

Case Officer: AW	Team Leader: Richard Hart
Signed: 	Signed: <i>R Hart</i>
Dated: 17 November 2021	Dated: 17 th November 2021