

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20211421
Location	Thong Lodge Thong Lane Shorne Gravesend
Proposal:	Application for Lawful Development Certificate for proposed conversion of existing stable into annex incidental to the main dwelling.
Applicant:	Mr Peter Sparks
Site Visit	N/A Desktop Assessment

Plans & Documents

Covering letter received 18 November 2021.
Application form received 18 November 2021.
Drawing no. 001 rev A (location/block plan) received 18 November 2021.
Drawing no. 002 rev A (existing plans) received 18 November 2021.
Drawing no. 003 rev A (proposed plans) received 18 November 2021.

Property Type

The property comprises a large detached dwelling with stables and paddock to the front.

Development Plan

Due to the nature of this application, the adopted plan and national planning policies are not relevant since it relates to whether the proposed outbuilding falls under permitted development.

Planning Legislation

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

Relevant Planning History

20210835	Application for change of use of the existing stables to form an annexe, incidental to the main dwelling house, and erection of a single storey extension to the annexe.	REF	16.09.2021
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Consultations

Due to the nature of this application consultations with neighbours are not undertaken, however, the following comments have been received:

Shorne Parish Council

This application is a revised version of refused application Ref 20210835.

The Parish Council has no objection in principle to this proposal, for a habitable bedsit annexe, but has some comments/concerns:

1) Loss of the existing stable for animal use:

It needs to be confirmed/assured that the existing stable is permanently redundant (i.e. the applicant no longer keeps any horses/other livestock on the site) lest residential conversion now results in a subsequent need for another stable or other outbuilding at a future date.

Has extending the main house been considered as an alternative to losing the stable/outbuilding?

2) Need for an annexe:

The application does not provide any information about why the residential conversion is needed, who will occupy it etc, e.g. is it for use only by family members.

3) Green Belt and AONB location:

The property is located in the Green Belt where new residential buildings would not normally be permitted. It is also just inside the boundary of the North Kent Downs AONB. As the stable building already exists conversion will not lead to significant additional reduction in openness but the altered nature of the building and any associated garden area (not shown on the revised plans) will have some minor visual impact and intensify residential use of the site.

4) Layout and use of the proposed annexe:

The proposal is now for a bedsit however, as the building has a full bathroom and could easily have kitchen facilities installed it is capable of use as a separate dwelling.

The layout has three doors, two double width, which is a lot for a small structure – these could compromise use of the building.

4) Proposed Conditions:

We request that it be considered to attach Conditions to any permission such that the annexe is only associated with Thong Lodge, cannot be used as a separate dwelling or to operate a business/for other commercial activity and cannot be extended without planning permission.

In view of the overall amount of building and extension that has taken place on the site over time we would also request that permitted development rights should be withdrawn for the site.

Dickens' Country Protection Society

The Society would wish to object to this application on the grounds that the site is in an area within which Green Belt Policies apply and an Area of Outstanding Natural Beauty. In the Society's view the word 'annex' clearly implies an intended residential use since that is the use of the building to which it would be annexed. There is lack of detail in this application.

The proposal concerns the same building as was refused planning consent for conversion under reference GR/2021/0835. That proposal would have created a building that could be occupied as a separate dwelling.

Officer Assessment

This application for a lawful development certificate differs from the previously refused planning application 20210835 in that it no longer involves extending the stable building to provide accommodation but simply involves the conversion of what is already there.

The applicant's agent has ticked 'no' to question 4 of the application form to state that the proposal does not consist of the change of use of land or buildings. They have stated that the proposals would be lawful by virtue of Class E of the GPDO 2020 (question 5).

It would appear that they are stating that the building is currently incidental and will remain incidental.

The site is a detached dwelling set back from the road surrounded by a large amount of land. The applicant's agent has outlined the entire site in red, however this is not necessarily the residential curtilage. Much of the land to the west is woodland and allocated as an Area of Outstanding Natural Beauty, Biodiversity Opportunity Area and Site of Special Scientific Interest in the Local Plan. It would appear from the land use designations and aerial photographs that the site outlined in red is not the residential curtilage of the dwelling. However it would appear from aerial photographs that the stables, visible in 1990, are close in proximity to the main house and the paddock is to the east. It is reasonable to conclude that the stable and paddock are incidental to the dwellinghouse.

Does the conversion of the stables, that are incidental to the dwellinghouse, to an annex result in a change of use?

In terms of assessing whether an annexe is ancillary or a separate planning unit there is extensive 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 states 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 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; it is a matter of fact and degree whether a change of use has occurred.

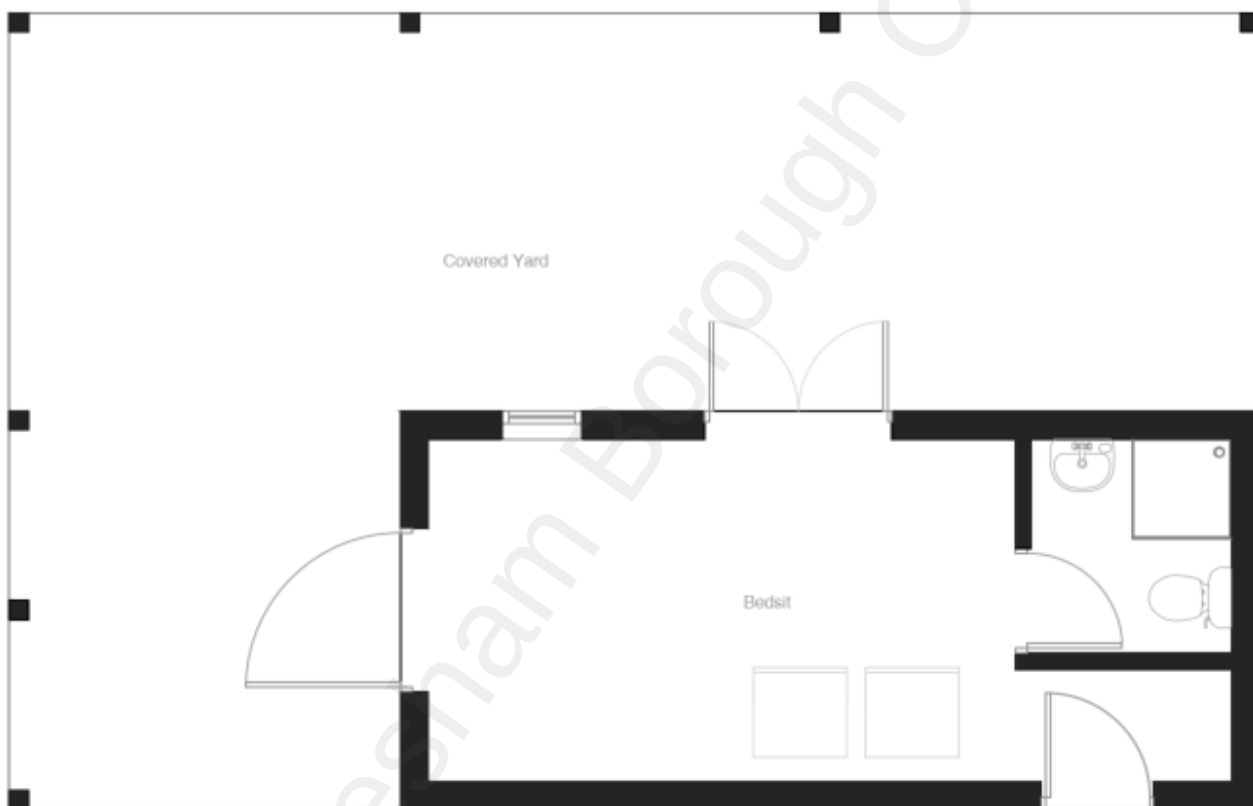
A recent appeal decision is relevant;

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 (included as 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 (included as appendix 2).

In the development which is the subject of this application, the proposed accommodation, labelled as a bedsit, is likely to contain everything required for independent living (see below) but falls considerably short of what could be considered as living accommodation. Notwithstanding this, the building is detached and a separate access can easily be constructed. A garden area can easily be provided by the former paddock which would be rendered surplus to requirements with the loss of the stables.



There has also been a recently refused planning application to extend the stables to create a two bedroom ‘annex’ that was refused for the following reasons:

1. The proposed annexe would not be for use incidental to the main dwelling due to its potential for forming a wholly separate unit of accommodation with its own potential independent access, which together with the inadequate levels of internal floor area, will have an adverse impact on the residential amenities of future occupiers. 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.
2. The application site lies within the locally designated Shorne Wooded Landscape Character Area, where local and national planning policy and guidance expect developments to conserve, restore and

enhance the natural landscape and the Kent Downs Area of Outstanding Natural Beauty. However, the proposed development would be harmful to the landscape character when compared to the existing equestrian use by reason of the domestication of the site that will result from the large amount of windows creating light pollution, excessively large residential garden, on site car parking areas, associated hard and soft landscaping, and other domestic paraphernalia. The application is therefore contrary to Policies CS12 and CS19 of the Borough Council's adopted Core Strategy, paras. 174 and 176 of the National Planning Policy Framework 2021 and SD8 of the Kent Downs AONB Management Plan.

3. The application site lies within the Metropolitan Green Belt within which inappropriate development should not be approved except in very special circumstances. Forms of development that are not inappropriate development include (i) the re-use of buildings provided that the buildings are of permanent and substantial construction, preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt, and (ii) the partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Whilst the proposal seeks to convert the existing stables, no satisfactory evidence has been provided to confirm that the building is substantial and permanent or capable of conversion. It is therefore considered that the building is not of permanent and substantial construction and its proposed conversion to residential use, requiring considerable extension, therefore comprises inappropriate development that is, by definition, harmful to the openness of the Green Belt. The development will not preserve the openness of the Green Belt and will conflict with one of the purposes of including land within the Green Belt as it will encroach into the countryside. In the absence of any 'very special circumstances' that may otherwise outweigh the harm by reason of inappropriateness, and any other harm, the proposed development is contrary to national planning guidance contained in paragraphs 148 and 150 of the National Planning Policy Framework 2021 and Policy CS02 of the Borough Council's adopted Core Strategy.
4. No information has been provided within the application of how the proposal affects the Shorne and Ashenbank Woods Site of Special Scientific Interest adjacent to the site including any potential impacts on designated features and how these may be avoided and/or mitigated. No Construction Environmental Management Plan (CEMP) for the construction phase of the development has been submitted with the application. Without this information the proposal conflicts with the objectives of Policy CS12 of the Gravesham Local Plan Core Strategy 2014 and Section 15 of the National Planning Policy Framework 2021.

It is considered that this application for a lawful development certificate is essentially the same building as before but smaller and therefore the intention of the previous application remains. A generally held definition of a bedsit (as the building is labelled) is a one-roomed unit of accommodation typically consisting of combined bedroom and sitting room with cooking facilities. The drawing shows a bathroom in addition to this which indicates the intention to provide self-contained accommodation. In addition to this, the stables are adjacent to the paddock which would become redundant without the stables. This leads to further concerns that the 'bedsit' would result in a separate planning unit with its own access. 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 and therefore the issues that arose from the previous application are still a concern.

Conclusion

The proposed development cannot be classed as incidental in the manner required by Schedule 2 Part 1 Class E (a) of the Town and Country Planning (General Permitted Development (England) Order 2015 for a purpose incidental to the enjoyment of the existing dwelling house, as the proposed plans show a likely self-contained bedsit. The Permitted Development Rights for Householders Technical Guidance (2019) states that under

Class E a purpose incidental to a house would not 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. On this basis, planning permission would be required and a lawful development certificate is refused.

Recommendation: <u>Refuse</u> Lawful Development Certificate		
	Name/Signature	Date
Planning Officer		10 January 2022
Team Leader		11 January 2022