



Delegated Report

Householder Planning Application

Planning Application No: 20240031

Location: 17A Dover Road East Gravesend Kent DA11 0RQ

Description: Conversion of detached garage to an annexe ancillary to the main house.

Applicant: Mrs Harpreet Kaur

Site Visit Date: 04/03/24

Submitted Documents/Plans

Application Form

D01 – Existing and Proposed Ground Floor Plan

D01 – Existing and Proposed Elevations

D03 – Existing and Proposed Block Plans

D04 – Site Location Plan

HM Land Registry Plans

Planning Statement

Relevant Planning History

Reference	Description	Decision	Decision Date
20040534	Construction of a vehicular 'in' access on a classified road with 'out' access through side garden of 19A Dover Road East on to non-classified private road.	Permitted	16.08.2004
19760845	Erection of a single storey kitchen and dining room extension at rear	Permitted	11.01.1977

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

No comments received.

GBC Highways Officer

I find this proposal unacceptable and should be refused.

Referring to application 20040534 for an access, I note that the parking to the front is restricted to a single vehicle, due no doubt to the peculiarity of the access arrangements, two properties sharing an entrance and an exit, with one in each garden.

**17A Dover Road East
Northfleet
Kent**

and being **Construction of a vehicular 'in' access on a classified road with 'out' access through side garden of 19A Dover Road East on to non-classified private road**

referred to in your application for permission for development dated 04 June 2004

SUBJECT TO THE CONDITIONS SPECIFIED hereunder -

- 1 The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted
- 2 The development shall be carried out in precise accordance with the plans and specifications and there shall be no deviation therefrom, without the prior approval in writing of the District Planning Authority
- 3 The front garden hardstanding shall only be used for the parking of one motor vehicle at any one time
- 4 Before the vehicular access hereby permitted is brought into use visibility splays of two metres by two metres shall be provided either side of the access and thereafter no boundary wall, fence or other means of enclosure or obstruction over 600mm in height shall be erected or placed within the visibility splays
- 5 A vehicular crossover in accordance with the Highway Authority's design shall be constructed prior to the vehicular access hereby permitted being brought into use
- 6 The width of the access hereby permitted shall not exceed three metres

and the grounds for the imposition of such conditions are -

Dated this 16 August 2004

So, the property currently has the benefit of a single parking space to the front of the property and a garage to the rear.

The proposal results in an annex that can operate as an independent dwelling or as part of a four bedroom property. In either case a parking space should be provided. Gravesham's parking standards as they are maximum's no longer comply with the National Planning Policy Framework and although not adopted by Gravesham, Kent County Council as Highway Authority has its own guidance in the form of Interim Guidance Note 3 Residential Parking of the Kent Design Guide.

In a suburban location this requires a minimum of one parking space for a single bedroom dwelling, 1.5 spaces for a three bedroom and 2 for a 4 or more bedroom dwelling. Given the annex will have its own independent access without passing through the main dwelling, I consider the provision of an independent parking space for the annex appropriate, and as the garage can be used as a vehicle parking space, there are two parking spaces available for the existing property which should be retained. (one in the front garden and one in the garage).

GUIDANCE TABLE FOR RESIDENTIAL PARKING

LOCATION	CITY/TOWN CENTRE	EDGE OF CENTRE	SUBURBAN	SUBURBAN EDGE/VILLAGE/RURAL
ON-STREET CONTROLS	On-street controls preventing all (or all long stay) parking	On-street controls, residents' scheme and/or existing saturation (Note 3)	No, or very limited, on-street controls	No on-street controls, but possibly a tight street layout
NATURE OF GUIDANCE	MAXIMUM (Note 1)	MAXIMUM	MINIMUM (Note 6)	MINIMUM (Note 6)
1 & 2 BED FLATS	1 space per unit	1 space per unit	1 space per unit	1 space per unit
FORM	Controlled (Note 2)	Not allocated	Not allocated	Not allocated
1 & 2 BED HOUSES	1 space per unit	1 space per unit	1 space per unit	1.5 spaces per unit
FORM	Controlled (Note 2)	Allocation possible	Allocation possible	Allocation of one space per unit possible
3 BED HOUSES	1 space per unit	1 space per unit	1.5 spaces per unit	2 independently accessible spaces per unit
FORM	Controlled (Note 2)	Allocation possible	Allocation of one space per unit possible	Allocation of one or both spaces possible
4+ BED HOUSES	1 space per unit	1.5 spaces per unit	2 independently accessible spaces per unit	2 independently accessible spaces per unit
FORM	Controlled (Note 2)	Allocation of one space per unit possible	Allocation of both spaces possible (Note 7)	Allocation of both spaces possible (Note 7)
ARE GARAGES ACCEPTABLE? (Note 4)	Yes, but with areas of communal space for washing etc.	Yes, but not as a significant proportion of overall provision	Additional to amount given above only	Additional to amount given above only
ADDITIONAL VISITOR PARKING (Note 5)	Public car parks	Communal areas, 0.2 per unit maximum	On-street areas, 0.2 per unit	On-street areas, 0.2 per unit

NOTES

1. Reduced, or even nil provision is encouraged in support of demand management and the most efficient use of land.
2. Parking/garage courts, probably with controlled entry.
3. Reduced, or even nil provision acceptable for rented properties, subject to effective tenancy controls.
4. Open car ports or car barns acceptable at all locations, subject to good design.
5. May be reduced where main provision is not allocated. Not always needed for flats.
6. Lower provision may be considered if vehicular trip rate constraints are to be applied in connection with a binding and enforceable Travel Plan.
7. Best provided side by side, or in another independently accessible form. Tandem parking arrangements are often under-utilised.

GBC Environmental Protection

We have no comments with regards to this application.

GBC Waste and Refuse

No comments received.

Neighbouring properties

A site notice was placed on 4th March 2024. The date of expiry shown on the site notice was 29th March. However, public holidays should be disregarded in the 21-day consultation period and as such the final date for acceptance of comments ended on 2nd April 2024. 3no. surrounding properties were consulted, and 1 comment of representation was received requesting details of the plans. The administration team responded to the applicant advising that the plans are available to view on the website.

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 whether the development would result in an independent dwellinghouse and the potential impact on; Visual Amenity (Design, Character and Appearance), Amenity of Future Occupiers, Residential Amenity of neighbours and Highways and Parking Provision.

Whether development would result in an independent dwellinghouse

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).

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 planning permission and so permitted development rights are not a consideration for this type of application.

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, and a bedroom. The building would also have its own separate access.

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. The statement provided with the application confirms that it would be occupied by a family member. On the site plans the buildings are shown to be closely related. However, the garage is set further to the west than the subject dwellinghouse, and would relate more appropriately to the row of garages that it would adjoin. With the separate access and distance, there would be possibility for erection of divisible landscaping, although it is noted that this is not proposed by this application. 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. This application confirms that the individual occupying the building would be a relative of the applicant. The only potential dependence to the main dwellinghouse, would possibly be the shared parking provision. However, the parking spaces would be reduced from 2 to 1 and so adequate parking for the site as whole would not be available. 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 development would therefore contradict the proposal and full planning permission would be required, in order to assess the development appropriately.

Design, Character and Appearance

The image below was taken during the site visit and shows the front of the garage.



Image taken during site visit on 7th March 2024

As can be seen the garage is set to the rear of the dwellinghouses and sits at the end of a row of garage buildings. The proposed change would result in removal of the garage door and replacement with a door and window. There would also be an additional door and window installed in the northern side elevation, facing into the rear garden of the subject dwellinghouse. It is noted that the buildings are set back from the main road and have limited visibility in the streetscene. The additional residential door and window would not be out of character. Although it is noted that this would somewhat contradict the appearance of the row of garages. However, the garages themselves are residential outbuildings and so the proposed addition of windows would not be inappropriate.

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.

The proposed lounge/bedroom area would be 12.3m². The kitchen would be 8.4m² and the shower and WC

would be 2.5m². All rooms would meet the minimum space standards outlines in the Residential Layout Guidelines SPD (2015), with exception to the Shower and WC. A bathroom and WC should have a space of 3.6m². This lack of space could indicate some dependence to the main dwellinghouse. Alternatively, it could indicate lack of adequate internal space standards for an independent unit. As assessed previously within this report the proposal would result in a separate planning unit, therefore the latter would apply and adequate internal space standards would be available.

The proposal fails to provide high quality amenity space and will result in poor living standards for future occupants and as such would be contrary to Policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy 2014 which states that new development shall be designed and constructed to safeguard the amenity of its occupants and paragraph 130 of the National Planning Policy Framework (2023) and SPG2 Residential Layout Guidelines (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 development would not result in any increase in bulk. Additional windows would be located to the west, facing onto the existing entrance to the row of garages and to the north, in towards the applicant's property only. There would be no overlooking. Environmental Protection have raised no comments on this application, but it is noted that residential use of the building which would directly adjoin the rear boundary of neighbouring property; 19a Dover Road East, could potentially increase noise for this property. However, such noise would be residential in nature as expected in a residential area and would likely not result in significant noise increase albeit the position of the outbuilding is unusual as it would be located to the rear of this neighbour's property.

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

Parking Provision

The GBC Highways Officer has advised that a four-bedroom property as proposed would require parking for 2 vehicles. There is one parking space on the front drive and one within the existing garage. As part of the proposed conversion the parking space within the garage would be lost, leaving only one available parking space. This would therefore not meet the required parking provision for 2 vehicles.



Image taken during site visit on 7th March 2024

Adequate vehicle and cycle parking provision is therefore **NOT** available in accordance with paragraphs 110 to 113 of the National Planning Policy Framework (2023), Saved Policies T1 and P3 of the Local Plan First Review (1994) and Policies CS11 and CS19 of the Core Strategy 2014 subject to further details of cycle parking provision.

Conclusion & Recommendation

The proposed annexe has a limited relationship with the main dwelling by virtue of distance, location, appearance and scale which represents clear physical and spatial separation between the two buildings, and there is potential for creation of a secondary access, separating the main dwellinghouse and the proposed building would have excessive facilities for an ancillary annexe. Therefore, the annexe could become a separate planning unit which contradict the proposal and this Householder Planning Application is the incorrect procedure for determination of the acceptability of the development.

The proposal fails to provide high quality amenity space and will result in poor living standards for future occupants and as such would be contrary to Policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy 2014 which states that new development shall be designed and constructed to safeguard the amenity of its occupants and paragraph 130 of the National Planning Policy Framework (2023) and SPG2 Residential Layout Guidelines (2020).

The proposed development by reason of its inability to demonstrate adequate level of vehicle on site vehicle and cycle parking provision, resulting in harmful impact to highway safety and failing to take opportunity to improve active travel accessibility, would as result be contrary to paragraphs 110 to 113 of the National Planning Policy Framework (2023), 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:	Mrs Lisa Fisher	Team Leader:	Richard Hart
Signed:		Signed:	
Dated:	4 th April 2024	Dated:	10 th April 2024