



## Delegated Report

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**Application No:** 20211172

**Location:** 2 Martins Close, Higham

**Description:** Erection of an outbuilding in the rear garden to be used as an annex ancillary to the main dwelling (demolition of existing outbuilding).

**Applicant:** Mrs Suzan Ataseven

**Site Visit Date:** 29 September 2021.

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### Submitted Documents/Plans

The application comprises the following documents and plans:

Application form received 23 September 2021.

Drawing no. AWA/1074/01 (site location plan) received 23 September 2021.

Drawing no. AWA/1074/02 (existing block plan) received 23 September 2021.

Drawing no. AWA/1074/03 (proposed block plan) received 23 September 2021.

Drawing no. AWA/1074/04 (existing floor plans) received 23 September 2021.

Drawing no. AWA/1074/05 (floor plans) received 23 September 2021.

Drawing no. AWA/1074/06 (roof plans) received 23 September 2021.

Drawing no. AWA/1074/07 (existing house elevations) received 23 September 2021.

Drawing no. AWA/1074/08 (elevations) received 23 September 2021.

### Relevant Planning History

|          |                                                                                                                                           |            |            |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| 20210942 | Erection of a single storey side extension and a single storey rear extension.                                                            | Permission | 15.09.2021 |
| 20210941 | Erection of an outbuilding in the rear garden to be used as an annex ancillary to the main dwelling (demolition of existing outbuilding). | Refusal    | 15.09.2021 |

### 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 - 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 1<sup>st</sup> 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)
- Landscape Character Assessment (2009)
- Householder Extensions/Alterations Design Guide (2021)

#### **Consultations, Publicity and Representations**

##### Dickens' Country Protection Society

The Society observes that the proposal would result in a very cramped development close to the highway boundary.

##### KCC Heritage

The site lies within an area of multi-period archaeological potential. I consider it unlikely, however, that these proposals will have a significant archaeological impact and have no further comments to make in this case.

##### GBC - Highways Officer

It might be nice to have a shower associated with a gym and it is noted that the kitchen has now been changed to storage, but that does not mean it cannot be changed back at some stage.

As the site does not benefit from any parking, the pragmatic approach should be based on whether or not there is an access to the outbuilding that doesn't involve walking through the existing dwelling. If they can get down the side of the bungalow or enter from the rear then it can be a standalone unit/holiday let. If they have to walk through the dwelling then it is reasonable to

consider it is an annex.

### Neighbouring properties

The application has been advertised by site notice, press notice and individual letters to four neighbouring properties. Two letters of representation have been received. Main concerns:

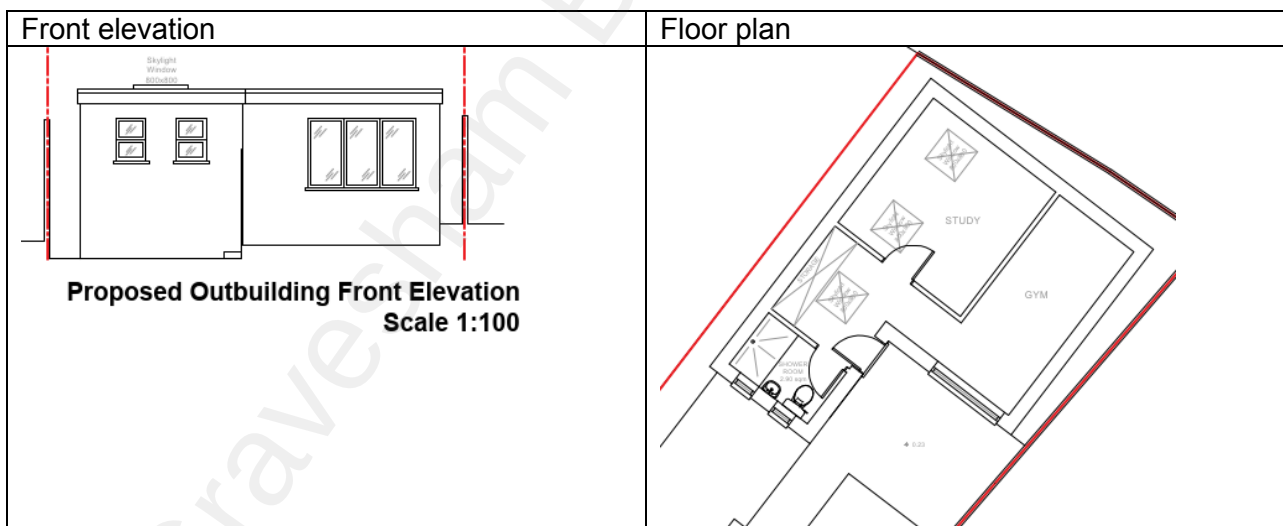
- The drawings are identical to those refused
- This is an additional habitable building close to neighbours
- Loss of privacy
- Noise
- Obvious this is not an annex or gym but a new dwelling
- Overdevelopment, too close to neighbours
- The application form states there are no trees or bushes close to the site and there are both
- There is no oil or gas in the area and therefore a storage tank will be required

### **Analysis**

#### Proposal

This application seeks planning permission for the erection of an outbuilding in the rear garden to be used as an annex ancillary to the main dwelling (demolition of existing outbuilding).

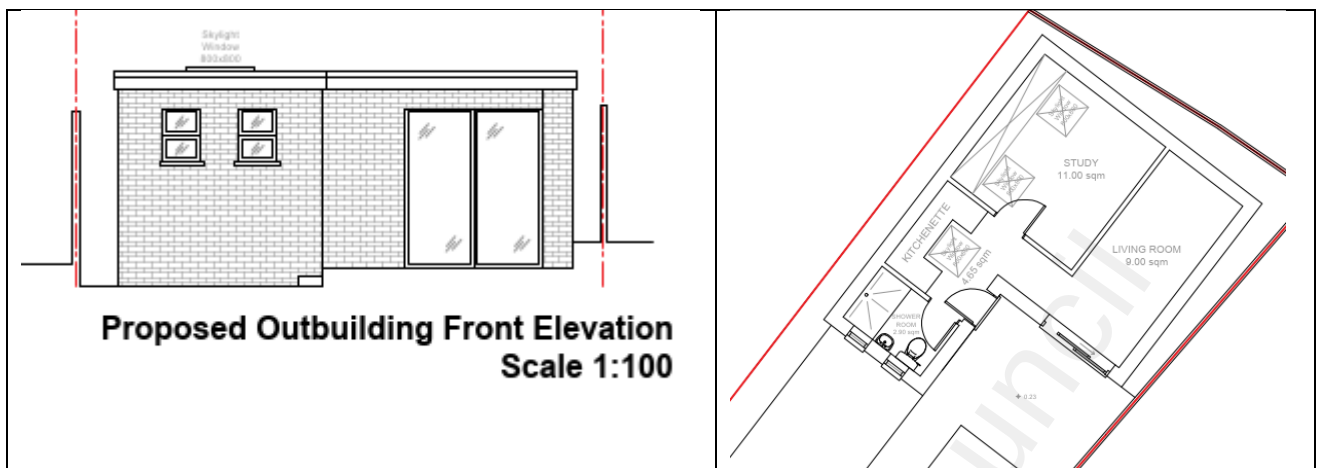
The existing outbuilding is a garage that would have taken access from the road behind (Gore Green Road). The proposed outbuilding will be located to the rear of the property on land currently forming the drive and garage. It will be approx. 7.8m deep, 6.1m wide and 2.8m high with a flat roof. Internally it will have a study, gym, storage and shower room.



### Background

Application no. 20210941 sought permission for the erection of an outbuilding in the rear garden to be used as an annex ancillary to the main dwelling (demolition of existing outbuilding). The plans are shown below:

| Front elevation | Floor plan |
|-----------------|------------|
|-----------------|------------|



This was refused for the following reasons:

1. *The proposed annexe 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. 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 proposed annexe would be likely to increase the pressure placed on parking in the area as a result of the increased demand and reduced capacity for parking at the site. The proposal would thereby fail to comply with Policies CS11 and CS19 of the Gravesham Local Plan Core Strategy 2014 and Saved Policy P3 of the Gravesham Local Plan First Review 1994.*

A copy of the previous report can be found at appendix 1 and the decision notice at appendix 2.

### Case Law

The application is essentially for the same building as previously refused but the rooms have been renamed. 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 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 3). 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 4).

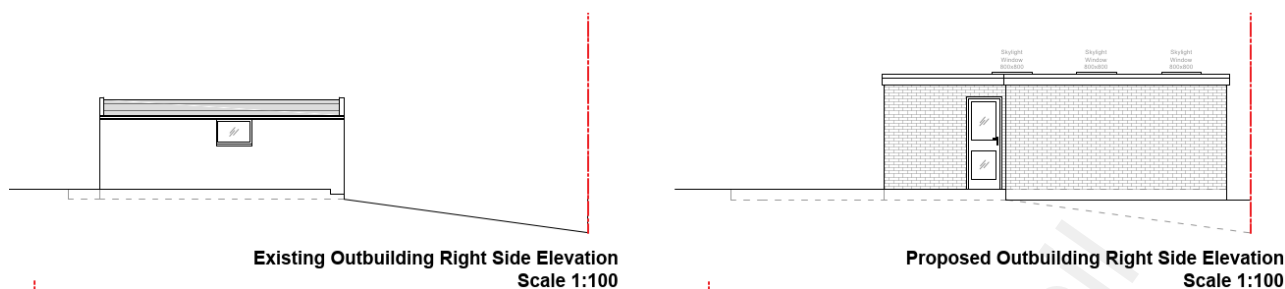
It is considered that this application is essentially the same building as was refused before and therefore the intension of the previous application remains. As was the case with the St Albans appeal, a condition or UU linking the main house to the annexe is considered too difficult to monitor or enforce and therefore the issues that arose from the previous application are still a concern.

### Character and Appearance

The application site is located within a village location inset from the Green Belt where the principle of development is acceptable. The site is also located adjacent, but not within, a Conservation Area and is within the Higham Arable Farmland Landscape Character Area. The site is located within a cul-de-sac of mid 20<sup>th</sup> century bungalows. Most have generous front gardens with off road parking.

The application site is a semi-detached bungalow close to the entrance to the cul-de-sac. There is a garage to the rear which once would have taken access from Gore Green Road. The land to the rear slopes down to the north. The rear garden is arranged over a few levels as it slopes down.

The proposed outbuilding will be located to the rear where the existing garage and driveway is located. This is at a lower level than the house. The application drawings show the land being built up by approx. 0.8m in order to form a flat surface.



The existing height of the garage to the southeastern elevation is approx. 2.09m and the proposed height of the new building will be approx. 2.8m.

The site is located within the Higham Arable Farmlands Landscape Character where the guidelines are to restore and create. The proposed outbuilding would be located to the rear of a small enclave of houses within the village and therefore the proposals will not impact on the surrounding landscape character.

In terms of the street scene, the proposed development is considered to comply with the objectives of Policies CS12 and 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 proposed plans show exactly the same building as was refused before apart from the rooms internally have been renamed (as can be seen from the plans above) and the patio doors have been replaced with a window. The rooms shown could easily be used for the purpose as intended in the first application and for a habitable building.

Whilst it is understood from the applicant that the annexe would be for visiting family, the potential for the separation of the annexe 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 11m of the main house.

In terms of the impact on the occupiers of the annexe, it would not adequately serve as a self-contained unit of accommodation due to its size (GIFA 29m<sup>2</sup>), which is below the space required in the NDSS of 50m<sup>2</sup> for a 1 bedroom, 2 person single storey dwelling. There are also likely to be overlooking issues for the occupiers of the annexe caused by the proximity of habitable room windows of no. 2 only 11m away, 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 annexe.

In terms of the impact on neighbouring amenities, the use of an annexe would not cause material harm to any adjoining properties in terms of loss of light, outlook, privacy or sense of enclosure. The annexe is single storey and is positioned at the bottom of the garden. The land will be built up by approx. 0.8m however the neighbouring property to the north is located on higher ground than the application site and the boundary treatment is also on the higher ground. It therefore would be

unlikely to cause any overlooking issues or loss of privacy or light. There are no windows on the side elevations, and those proposed on the front and rear would be no higher than a typical boundary fence between residential properties.

On the basis that the proposed annexe would not be incidental to the main dwelling, together with the unacceptable impact on the residential amenities of the occupiers of the annexe and main dwelling, 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

The application property does not have any off-road parking spaces to the front. However, it does benefit from a rear vehicular access route. There is a garage and parking area that has previously been accessed from Gore Green Road. This appears to have not been used for parking in recent years and in reality is not an ideal access to resursect.

The proposed building has a shower, gym and storage area and has the same footprint and same rooms (albeit renamed) as the previously refused building. As discussed above the study seems to be easily capable of conversion to a bedroom at a later date, increasing the number of bedrooms at the property. It is not possible to restrict the use of the annex so no overnight sleeping can take place or the study is restricted to home office and therefore a parking space should be provided to meet the needs of a potential three bedroom property.

Central Government no longer supports maximum residential vehicle parking standards and Kent County Council's, Kent Design Guide, Interim Guidance Note 3, Residential Parking, requires a minimum of two parking spaces for a three bedroom property in a village, but one can be discounted for the existing two bedroom property. (Guidance suggests on average 1.5 per 2 bed dwelling). This could be considered generous as there is an existing garage even if they do not use it, but as indicated earlier it would be preferable that it was not in use and this development will remove it.

The proposal would increase parking demand at the site, the position of the annexe would also lessen the capacity of the rear garden for parking use. The residential use of the annexe and the increase in the total number of bedrooms at the site is likely to increase the pressure placed on parking in the area as a result.

As such, it is considered that there would be adverse parking impacts as a result of this proposal, and the proposal would fail to comply with Policies CS11 and CS19 of the Core Strategy 2014 and Saved Policy P3 of the Local Plan 1994.

### **Conclusion**

1. The proposed annexe 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. 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 proposed annexe would be likely to increase the pressure placed on parking in the area as a result of the increased demand and reduced capacity for parking at the site. The proposal would thereby fail to comply with Policies CS11 and CS19 of the Gravesham Local Plan Core Strategy 2014 and Saved Policy P3 of the Gravesham Local Plan First Review 1994.

**Recommendation:**

Refuse – see appendices:

Appendix 1 – Delegated report for 20210941

Appendix 2 – Decision notice for 20210941

Appendix 3 – appeal reference APP/B1930/W/18/3217177

Appendix 4 – appeal reference APP 84-135

**See draft Decision**

|                                                                                                  |                                              |
|--------------------------------------------------------------------------------------------------|----------------------------------------------|
| <b>Case Officer:</b> AW                                                                          | <b>Team Leader:</b> Richard Hart             |
| <b>Signed:</b>  | <b>Signed:</b><br><i>R Hart</i>              |
| <b>Dated:</b> 15 November 2021.                                                                  | <b>Dated:</b> 17 <sup>th</sup> November 2021 |