



Delegated Report

Application No:	20240370
Location:	Annexe At Oak Tree Cottage Knights Place Farm Watling Street Cobham Gravesend Kent
Description:	Change of use of detached building currently used as a residential annexe to a separate residential dwelling. Conversion of garage to habitable room with alterations to fenestration and laying of hardstanding for parking.
Applicant:	Mr Christopher Thompson

Submitted Documents/Plans

The application comprises the following documents and plans:

- Planning Statement (April 2024 – reference DHA/33352)
- Drawing no. 2370 – 01 Location Plan
- Drawing no. 2370 – 02 Block Plan
- Drawing no. 2370 – 03 Site Plan
- Drawing no. 2370 – 04 Existing Floor Plans
- Drawing no. 2370 – 05 Existing Elevations
- Drawing no. 2370 – 06 Proposed Floor Plans
- Drawing no. 2370 – 07 Proposed Elevations

Relevant Planning History

The planning history relating to this site is summarised below.

<u>Application No.</u>	<u>Description</u>	<u>Status</u>	<u>Decision</u>
20141209	Application for the variation of conditions 3 and 5 attached to planning permission reference number 20060917 to allow the retention of internal and external alterations and the conversion of two of the garages to residential use.	Permitted	08 Jun 2016
20060917	Erection of a detached triple garage and garden store with bedsit, bathroom and lobby in the roof space, in substitution of that part previously permitted under	Permitted	21.12.2006

	planning permission reference number GR/2006/591.		
20060916	Erection of stable block to provide two stables, tackroom and hay and feed store.	Permitted	13.12.2006
20060591	Demolition of existing rear extension and erection of a two storey rear extension to form a conservatory, dining/family room, wc and boot room at ground floor level with bedroom, ensuite shower room/wc and walk-in wardrobe at first floor level and erection of a detached triple garage with garden store.	Permitted	01.09.2006

Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Courts have held that it is a matter of planning judgement as to whether a proposal is in accordance with the development plan when 'read as a whole' and conflict with a particular policy or policies may not pass that threshold.

Where there are other material considerations, the development plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date.

In this instance the development plan for Gravesham currently comprises: -

- The Gravesham Local Plan Core Strategy (September 2014);
- Remaining Saved Policies of the Local Plan First Review (1994); and
- The Kent Minerals and Waste Local Plan 2013 - 2030 (2016, revised 2020).

Gravesham Local Plan Core Strategy (September 2014)

- CS01 – Sustainable Development.
- CS02 – Scale & Distribution of Development.
- CS11 – Transport.
- CS12 – Green Infrastructure.
- CS14 – Housing Type and Size.
- CS15 – Housing Density.
- CS18 – Climate Change.
- CS19 – Design & Development Principles.

Saved Policies in the Gravesham Local Plan First Review (November 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 First 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 5 – Delivering a sufficient supply of homes.
- Section 9 – Promoting sustainable transport.
- Section 11 – Making effective use of land.
- Section 12 – Achieving well-designed and beautiful places.
- Section 13 – Protecting Green Belt land.
- Section 15 – Conserving and enhancing the natural environment.

Supplementary Planning Guidance

- Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020.
- SPG 4 - KCC Parking Standards (2006).
- Gravesham Landscape Character Assessment (2009).
- Technical Housing Standards – Nationally Described Space Standard (2015).

Consultations, Publicity and Representations

Cobham Parish Council

On a previous approved Planning Application – 20141209, the annexe was converted into residential on the understanding that it would not then become a separate property.

The covenant wording is:

‘Not to use the Detached Outbuilding for any purpose other than for an annexe ancillary to the Main Dwelling.’

With the covenant and the fact this building is located within the Metropolitan Green Belt Cobham Parish Council therefore objects to this application.

Dickens’ Country Protection Society

The Society would wish to raise an objection on the grounds that the site is in an area within which Green Belt Policies apply. The proposal is to form an additional separate dwelling contrary to Green Belt Policy. No very special circumstances have been put forward to warrant overriding Green Belt Policy.

From its original approval, the building was conditioned to be used only as a motor car garage. Accommodation was permitted in the upper part of the building only as an annex to the main building and no separate curtilage was to be formed.

Neighbouring properties

Two neighbouring properties were consulted. No responses have been received. The overall

consultation period expired on 28 May 2024.

Analysis

The application site comprises a detached outbuilding which is used as an annexe to the dwelling known as Oak Tree Cottage. The outbuilding accommodates a living room, kitchen and integral garage at ground floor level and three bedrooms and a bathroom at first floor level.

This application proposes the conversion of the entire building into a separate and self-contained residential dwelling. It includes alterations to the fenestration and the provision of hardstanding for parking.

The application site is defined on the Policies Map of the Core Strategy as lying within the Green Belt, an Area of Outstanding Natural Beauty (AONB) and a rural area.

In the consideration of this application, Policy CS02 of the Core Strategy is relevant. Development in the urban area is prioritised as the sustainable location for development. In the rural area, Policy CS02 states that development will be supported within rural settlements that are inset from the Green Belt and defined on the policies map. Development outside those settlements, i.e. in the Green Belt, will only be supported where it is compatible with national policies for protecting the Green Belt and policies in the Local Plan Core Strategy.

The main planning considerations relating to this application are:

1. Housing need and the principle of development
2. Is the proposed development appropriate in the Green Belt?
3. The effect of the proposal on the openness of the Green Belt
4. Design and visual impact
5. Kent Downs National Landscape
6. Impact on landscape
7. Impacts on residential amenity
8. Highway issues
9. Waste management and refuse
10. Biodiversity net gain
11. Ecology and biodiversity (bird mitigation)

These issues are assessed below:

Housing need and the principle of development

Hopkins Homes Ltd v Secretary of State for Communities and Local Government [2017] 1 W.L.R. 1865, Lord Carnwath reemphasised that the National Planning Policy Framework is only a material consideration in planning decisions and that planning applications should be determined in accordance with the development plan. Paragraph 12 of the NPPF expressly states that the starting point for decision-making is the development plan. Lord Carnwath as part of the Supreme Court decision stated,

It is important, however, in assessing the effect of the Framework, not to overstate the scope of this policy-making role. The Framework itself makes clear that as respects the determination of planning applications (by contrast with plan-making in which it has statutory recognition), it is no more than "guidance" and as such a "material consideration" for the purposes of section 70(2) of the 1990 Act... It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme.

It is a matter of law that all planning applications need to be considered in accordance with the legislation and relevant policy that applies at the point a decision is taken. The Council published a revised 5-year housing land supply statement in March 2023. It demonstrates that based on data for the period 2022-2027, the Council can only demonstrate a land supply of 2.9 years.

Given the Council's current inability to demonstrate a 5-year housing land supply, and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Gravesham's Local Plan Core Strategy (LPCS) (2014) Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the National Planning Policy Framework (NPPF) (2023). This requires that in regard to housing development, planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

The policies referred to in paragraph 11(d)(i) above are those set out in the NPPF at footnote 7 (rather than those in development plans) relating to:

...habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

Notwithstanding the Council's shortages in housing delivery and the consequent weight to be given in favour of the proposed development it is necessary to assess the proposals against the policies in the NPPF and established local planning policy taken as a whole.

Is the proposed development appropriate in the Green Belt?

National policies for protecting the Green Belt are set out in Section 13 of the National Planning Policy Framework (NPPF). Paragraphs 152 and 153 are particularly relevant in the consideration of planning applications within the Green Belt:

152. *Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*
153. *When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

Paragraph 155 of the NPPF states that certain forms of development are not inappropriate in the

Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include:

- d) *the re-use of buildings provided that the buildings are of permanent and substantial construction;*

The outbuilding must be considered to be of permanent and substantial construction given that it currently accommodates a residential annexe which serves Oak Tree Cottage. The proposed development would therefore not be inappropriate development within the Green Belt if it was considered to preserve the openness of the Green Belt and not conflict with the purposes of including land within it as required by paragraph 155(d) of the NPPF. This issue is discussed below.

The effect of the proposal on the openness of the Green Belt

Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also states that the essential characteristics of Green Belts are their openness and permanence.

Paragraph 143 states that the Green Belt serves the following five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

This proposal would not significantly increase the levels of development on this site. The building would remain unchanged in terms of its size. The main additional forms of development would comprise the proposed hardstanding for parking and additional boundary treatment. These are very minor and would not significantly diminish the openness of the Green Belt. In addition, the proposal could not be considered to conflict with the five purposes of the Green Belt.

In light of this assessment, it is considered that the proposed development would not be inappropriate development within the Green Belt.

Design and visual impact

Section 12 of the NPPF relates to “achieving well-designed and beautiful places” and sets out the Government’s requirements in relation to design issues. Paragraph 131 is particularly relevant:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The aims set out in paragraph 131 of the NPPF are reflected in Policy CS19 of the Core Strategy. This requires new development to be “visually attractive, fit for purpose and locally distinctive” and to “conserve and enhance the character of the local built, historic and natural environment”. It also requires new development to “integrate well with the surrounding local area”. In addition, Policy CS19 requires the following:

“....the design, layout and form of new development will be derived from a robust analysis

of local context and character and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. Account will be taken of the scale, height, building lines, layout, materials and other architectural features of adjoining buildings.”

This proposal relates to the change of use of the existing building and does not involve any additions or extensions. The main change to the external appearance of the building involves the replacement of the existing garage door with brick infill and a window opening. The design of the window would match the other windows in the building and if permission were to be granted, an appropriate condition could be imposed to ensure the use of matching materials.

The proposed new dwelling would sit comfortably on the plot and would benefit from a generous private garden area. The size of the garden area would significantly exceed the minimum requirements for private amenity space as set out in the Council's Residential Layout Guidelines. In this respect the proposal could not be considered to result in a cramped form of development or an overdevelopment of the site.

Two parking bays would be provided immediately to the south of the building. Although details of the surfacing material have not been provided, these could be secured by planning condition. Similarly details of boundary treatment could also be secured by condition.

Given the very limited changes to the existing building and site, and in light of the above assessment, the design and visual impact of this proposal must be considered acceptable. The development would meet the criteria set out in the NPPF and Policy CS19 of the Core Strategy.

Kent Downs National Landscape

The site is located within the Kent Downs National Landscape. This was previously known as the Kent Downs Area of Natural Beauty and is still referred to as such in existing planning policy. The NPPF requires planning policies and decisions to “contribute to and enhance the natural and local environment”. Paragraph 182 of the NPPF relates to National Landscapes:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

At a local level Policy CS12 of the Core Strategy states the following:

The overall landscape character and valued landscapes will be conserved, restore and enhanced. The greatest weight will be given to the conservation and enhancement of the landscape and natural beauty of the Kent Downs Area of Outstanding Natural Beauty and its setting.

In light of the considerations set out above under the heading “Design and visual impact”, the visual impact of this proposal must be considered acceptable. As a result of these considerations, the proposed change of use could not be considered to have a detrimental impact upon the Kent Downs Landscape Area. The development would meet the tests set out in the NPPF and Policy CS12 of the Core Strategy. It would also not conflict with the provisions of the Kent Downs AONB Management Plan.

Impact on landscape

Section 15 of the NPPF highlights the importance of conserving and enhancing the natural environment, one aspect of which is the protection and enhancement of valued landscapes. Policy CS12 of Gravesham Local Plan Core Strategy states that the overall landscape character and valued landscapes within the Borough will be conserved, restored and enhanced and that proposals will take account of the Gravesham Landscape Character Assessment.

The site is located within the Ashenbank And Cobham Parkland Character Area. The key characteristics are defined in the Gravesham Landscape Character Assessment as follows:

- Slightly undulating topography with a strong presence of man made landform
- Historic Elizabethan manor set within Repton parkland landscape
- Golf course located within parkland landscape
- Large parkland trees
- Two large areas of dense ancient woodland
- Traditional village centre, typical of north Kent landscape
- Native hedgerows, three bar wrought iron and timber fencing

The Gravesham Landscape Character Assessment states that the landscape character and existing good condition of the Ashenbank and Cobham Parklands should be conserved, through the continuation of landscape restoration in the area.

In light of the considerations set out above under the sub heading “design and visual impact” it is considered that this proposal would not conflict with the characteristics of the Ashenbank And Cobham Parkland Character Area as identified in the Gravesham Landscape Character Assessment and would meet the tests set out in Policy CS12 of the Core Strategy.

Impacts on residential amenity

Paragraph 135 of the NPPF requires planning decisions to, *inter alia*, provide “a high standard of amenity for existing and future users”. In addition, Policy CS19 of the Core Strategy requires new development to 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 Council’s adopted Residential Layout Guidelines provide more detailed guidance with respect to the protection of residential amenity.

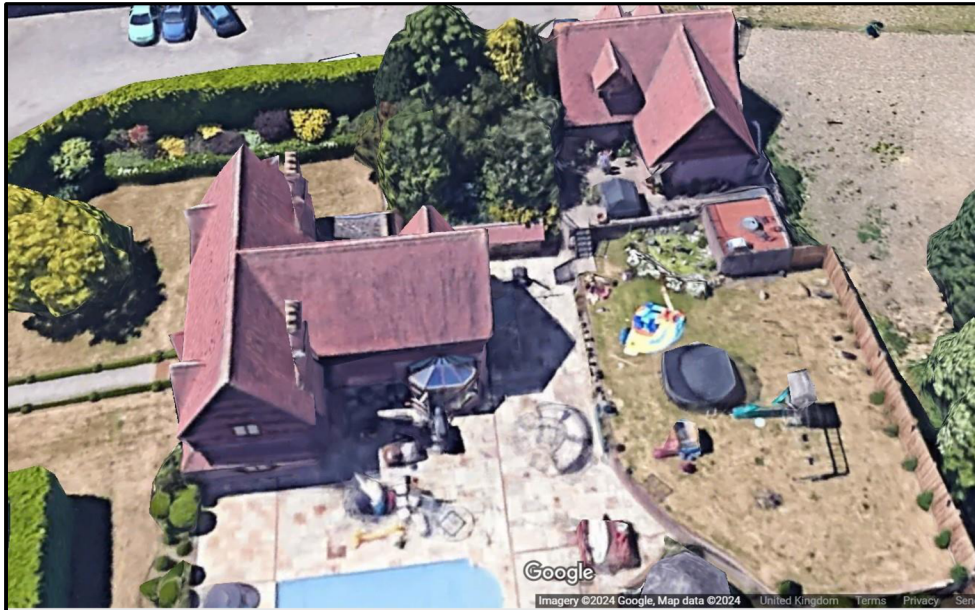
Sunlight/daylight/outlook

This proposal does not involve the extension of the existing outbuilding. Furthermore, given the siting of this building and the main dwelling and their separation distance it is considered that this proposal would not result in a loss of sunlight/daylight or outlook to the occupiers of the existing and proposed dwellings.

Privacy

Due to the relationship between the outbuilding and main dwelling and the location of windows within each, it is unlikely that there would be an issue in terms of window-to-window overlooking.

It is noted that the eastern elevation of the converted outbuilding would contain windows at first floor level which could potentially overlook the area immediately to the rear of the main dwelling. This can be seen more clearly in the following image:



The dormer window in the rear roofslope and the first floor window within the rear gable end of the outbuilding would have views of this area. However, this image suggests that the main private amenity area for the existing dwelling is located between the main building and the swimming pool. Given the distance of the windows in the outbuilding from this area, it is unlikely that a demonstrable loss of privacy would occur. Indeed, the majority of this area would be screened from these windows by the existing building.

It should be noted that there are no windows within the rear first floor gable end of the existing dwelling as evidenced from the following image:



As such there would be no overlooking of the private garden area of the proposed new dwelling.

Internal space standards

The “Technical housing standards – nationally described space standard” was published by the Department for Communities and Local Government in March 2015. This document sets out requirements for the gross internal area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home.

As shown on the submitted drawings, the proposed dwelling would comprise a two-storey, three bedroom, five person dwelling. The required minimum gross internal floor area for such units is 93m². The gross internal floor area of the proposed dwelling would significantly exceed this standard.

Notwithstanding this, it should be noted that bedroom 3 does not meet the minimum size requirements for a single bedroom. In order to provide one bedspace, a single bedroom is required to have a floor area of at least 7.5m². The floor area of this bedroom is less than 6.0m². Notwithstanding this, given that the gross internal floor area of the new dwelling exceeds the minimum standards, it is considered that the size of the property would provide an acceptable level of amenity for future occupiers.

The garden area is in excess 200m² which is more than adequate for a dwelling of this size. The host dwelling will have more than enough remaining garden amenity space and it appears from the aerial photos, the gardens have already been subdivided.

Highway issues

Policy CS11 of the Core Strategy seeks to ensure that new development mitigates its impact on the highway and that sufficient parking is provided in accordance with adopted parking standards, reflecting the availability of public transport provision and the accessibility of local services and facilities. Saved Policy P3 of the Gravesham Local Plan First Review requires development to make provision for vehicle parking in accordance with the Kent County Council Vehicle Parking Standards.

Two parking spaces would be provided to serve the new dwelling which would meet the requirements of Policy CS11 of the Core Strategy and Saved Policy P3 of the Gravesham Local Plan First Review. The existing dwelling already benefits from its own on-site parking provision.

It is noted that no on-site cycle storage has been provided. There is sufficient room within the site for this to be located. The provision of on-site cycle storage could therefore be secured through an appropriately worded condition.

Waste management and refuse

Policy CS19 of the Core Strategy requires new development to incorporate appropriate facilities for the storage and recycling of waste. The plans do not make provision for a bin store to serve the new development. There is sufficient space within the site to accommodate a bin storage facility. This could be secured through an appropriately worded condition.

Biodiversity net gain

Paragraph 180 of the NPPF requires that planning policies and decisions should contribute to and enhance the natural and local environment by, *inter alia*, “minimising impacts on and providing net gains for biodiversity”.

In addition, paragraph 5.7.24 of Policy CS12 of the Core Strategy states:

There will be no net loss of biodiversity in the Borough, and opportunities to enhance, restore, re-create and maintain habitats will be sought, in particular within the Biodiversity Opportunity Areas shown on the Strategic Green Infrastructure Network map and within new development.

Part of an existing hedge and some small trees will need to be removed in order to provide the parking area to serve the new dwelling. This would represent a loss of biodiversity. However, a condition could be imposed to ensure that suitable hard and soft landscaping schedules are submitted to, and approved in writing by the Local Planning Authority, which will ensure that suitable landscaping and biodiversity opportunities are provided.

Ecology and biodiversity (bird mitigation)

The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) are internationally important for nature conservation as the area is a wetland and supports important numbers of wintering waterbirds and migrating birds. There has been a decline in the number of birds using these sites in recent years. Studies show that this could be due to people using the estuary and marshes for recreation purposes. The North Kent Bird Disturbance Report concludes that all new housing development within 6km of the North Kent Ramsar Sites or Special Protection Areas (including the Thames Estuary and Marshes) and larger housing development beyond 6km from the sites could have an adverse impact on them. This is because new housing development is likely to lead to further increases in recreational use of the sites which means that further declines in the bird population cannot be ruled out. Possible mitigation measures are set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. Having considered a number of options, the Council have decided to impose a tariff on new housing development. Developers will need to pay £328.27 for every new dwelling provided within 6km of the Ramsar site and SPA and for larger housing developments beyond 6km from them. The money raised will be used to pay for schemes to avoid the adverse impacts of new housing development on the birds.

In this instance, the proposed development would result in the creation of an additional residential property and as such, additional recreational activity would result. Therefore, it is considered that there would be an adverse impact to the Thames Estuary and Marshes Ramsar Buffer Zone, which should be mitigated in line with Policy CS12 of the Core Strategy. In such cases the Borough Council has adopted a tariff that is payable for each new dwelling unit within 6km of the SPA/Ramsar site of £328.27.

The applicant has paid the SAMMS Mitigation Contribution Agreement and therefore meets the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 185 and 187) of the NPPF and Policy CS12 of the Core Strategy).

Conclusion

In summary it is considered that the broad principle of this development is supported in policy terms at a national and local level. Furthermore, it has been shown that the development would not constitute inappropriate development within the Green Belt.

The limited alteration to the external appearance of the existing buildings would be acceptable and would not harm the openness of the Green Belt. Furthermore, it has been shown that the design and visual impact of the proposal together with its impact on the Kent Downs National Landscape and the Ashenbank And Cobham Parkland Character Area would also be acceptable. The proposal has also been shown to be satisfactory in terms of highway issues, biodiversity net gain and ecology and biodiversity (bird mitigation)

It is noted that permission 20141209 (see 'Relevant Planning History' above) is subject to a legal agreement which states the following:

The Owners hereby covenant with the Council:-

- 2.1 *Not to use the Detached Outbuilding for any purpose other than for an annexe ancillary to the Main Dwelling*
- 2.2 *Not to permit nor cause to be permitted the occupation of the Detached Outbuilding by any person other than close family members (meaning the Occupiers children over the age of 18 years and/or brothers, sisters and grandparents of the Occupiers) and the occupiers visitors*
- 2,3 *Not to sell part with let or exchange part or whole of the Detached Outbuilding as a separate dwelling from the Main Dwelling.*

Notwithstanding the provisions of this legal agreement, in light of the conclusions reached relating to the planning merits of this proposal, it would be unreasonable to withhold planning permission due to this agreement. However the planning approval will not come into effect until a Deed of Variation of the S.106 Agreement has been submitted and agreed.

It is acknowledged that the Council is currently unable to demonstrate a five-year housing supply and as the delivery of housing is substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Policy CS02 of the Core Strategy must be regarded to be out of date, as required by the Paragraph 11(d) of the NPPF. The proposed development for a net increase of one dwelling would offer a limited contribution towards meeting this local need and delivery and, accordingly, adds further weight in support of the application.

Recommendation:

GRANT PLANNING PERMISSION subject to following conditions

See draft Decision

Case Officer: Gary Edwards	Team Leader: Miss Faye Hobbs
Signed: 	Signed: 
Dated: 14 June 2024	Dated: 19 July 2024