

Delegated Report

Householder Planning Application

Planning Application No: 20240815

Location: 35 Mitchell Avenue Northfleet Gravesend Kent

Description: Erection of a single-storey garden annexe for use associated with the main dwelling.

Applicant: Mr Singh

Site Visit Date: 19/09/24

Submitted Documents/Plans

Application Form
Site Location Plan
Existing Block Plan
Proposed Block Plan
PFP01 – Proposed Floor Plans
PE01 – Proposed Elevations
Design and Access Statement

Relevant Planning History

No relevant planning history for this site.

Development Plan

Gravesham Local Plan Core Strategy (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)
- Gravesham Householder Extensions/Alterations Design Guide (2021)
- Design for Gravesham – Design Code (2024)

Consultations, Publicity and Representations

Consultees

Ward Councillors

No comments received.

Neighbouring properties

5no. surrounding properties were consulted and a site notice was placed on 19th September. 0 comments were received from members of the public. The final date to submit comments ended on 11th October 2024.

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 the potential impact on; Visual Amenity (Design, Character and Appearance), Amenity of Future Occupiers and Residential Amenity of neighbours.

Use of Building

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. 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 annex 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 and kitchen facilities. It is noted that there is a singular pedestrian access by a side garden gate which could allow for separate access to the main dwellinghouse and the proposed structure. The proposal does not include any subdivision of the garden area.

There is no parking provision on the site. The site is therefore not capable of providing shared parking provision for both the existing dwellinghouse and the ancillary outbuilding accommodating should the living area proposed be used as a bedroom. Whilst there is no vehicular access directly to the ancillary outbuilding, there is clear pedestrian access via the side gate and through the rear garden. Given the angular nature of the plot, there is limited possibility that vehicular access could be made possible in the future given the lack of adequate side spacing to the dwellinghouse. Therefore, this application for erection

of the outbuilding to be used as an annex will not change the operation of the dwelling and its site from a single planning unit.

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 would occur.

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* 27/11/2020 DCS No 400-028-727 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 DC 2011* 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 the case of the annexe at 35 Mitchell Avenue, whilst the proposed annexe would be capable of being occupied independently, there is a close relationship between the buildings and there are clear shared landscaping elements between the two, without division. The size of the accommodation would also be very modest and would not adequately serve as a separate self-contained unit of accommodation. Furthermore, it has been made clear by the Agent that the annexe is for the sole use of family members, in the supporting information submitted with this application.

It is on this basis and in considering the above case law, as a matter of fact and degree, a new planning unit would not be created at the application site, and the proposal would therefore comply with saved Policy CS02 of Gravesham's Local Plan Core Strategy.

Nevertheless, given the concern relating to the potential for plot severance, it will be essential to impose a condition restricting the use of the annexe as ancillary and related to the main dwelling, and when it is no longer required for such a use, to return to its former use.

Design, Character and Appearance

This application relates to a residential plot, in an urban area. The majority of nearby buildings are similarly sized dwellinghouses and associated outbuildings. To the rear of this site lies Wombwell Park.

The proposed outbuilding would be located to the rear, with limited visibility from the street. There would however be some pedestrian visibility from Wombwell Park. The rear fencing would partially obscure the building.

As assessed above, the proposed outbuilding would be ancillary in use. It would extend along the full width of the rear boundary at 4.6m wide. However, with a depth of 6m and a height of 2.8 metres, the scale would be relatively minor. This is particularly evident when compared to neighbouring outbuildings to the southeast which meets the opposite shared boundary at a depth of 13.1m.

Given that the building would have limited public visibility, it would be minor in scale and would use appropriate materials to its exterior (as detailed in the application form), it is considered that the proposed outbuilding would not result in significant harm to the character of the area.

On balance, the proposed development would comply with the requirements of Policy CS19 of the Core Strategy 2014 and paragraph 130 of the NPPF (2021) 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.

Minimum space standards are applied to habitable rooms by the Residential Layout Guidance (2020)

Room	Space provided	Minimum Space Standards
Living Room	31.26m ² (Combined with Kitchen)	13.2m ²
Kitchen	31.26m ² (Combined with Living Room)	7.2m ²
Bathroom	2.6m ²	3.6m ²

The proposed bathroom would be undersized. However, given that this building would not be independent of the main dwellinghouse, adequate bathroom facilities would be available in the main dwellinghouse. The garden would have 13m depth and 91.44m². The planning agent has confirmed by email that the property is currently a 3-bedroom dwellinghouse. There is therefore adequate garden space for a 3-bedroom property.

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 outbuilding would be located to the rear at single storey height. It would not be excessive in depth or height so as to creating an enclosing, or overbearing space from the neighbours perspective. There would also be no concerns regarding excessive overshadowing of the neighbours property given the scale of the building. The openings on the outbuilding would face into the subject property garden only and so there would be no direct overlook as a result of the development.

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

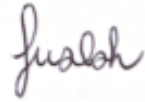
Conclusion

The proposed development complies with all relevant national and local planning policies.

Recommendation

The recommendation is to approve.

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mrs Lisa Fisher	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	25th October 2024	Dated:	31 October 2024