



Delegated Report

Householder Planning Application

Application No:	20221190
Location:	83A Chalk Road, Gravesend, Kent, DA12 4UT
Description:	Erection of an annexe for use in connection with the main dwelling.
Applicant:	Miss Sheila Sekasi
Site Visit:	3 rd October 2022

Submitted Documents/Plans

Application Form - dated 06/11/2022;
Planning Statement;
Un-numbered Location Plan - Ordnance Survey Site Location Plan (scale - 1:1250);
Un-numbered Location Plan - Proposed Block Plan (scale - 1:500);
Drawing no. PL-01C - Proposed Floor Plans and Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20220895	Erection of an annexe for use in connection with the main dwelling.	WITHDRAWN	27.10.2022
20100171	Application for Lawful Development Certificate for the proposed erection of a conservatory at the rear.	CERTIFICATE GRANTED	24.03.2010

Development Plan

Gravesham Local Plan Core Strategy (LPCS) (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 (LPFR) (November 1994)

- P3 - Vehicle Parking Standards
- T1 - Impact of Development on Highway Network

Gravesham Local Plan Review

Paragraph 33 of the National Planning Policy Framework (NPPF) (2021) 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 (LPCS) (2014) 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 (LPFR) (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

Gravesham Local Plan Regulation 18 Stage 2 Consultation Part 2: Draft Development Management Policies Document (2020)

The Council published in 2020 a Regulation 18 (stage 2) consultation on its proposed Development Management Policies Document, replacing the 2018 Stage 1 version, which will in due course form part of and update the Gravesham Local Plan. Under paragraph 48 of the NPPF, policies in this document may be accorded weight in the decision making process with this varying according to its stage of preparation; the extent to which there are unresolved objections; and the degree of consistency of policy with those in the Framework. As the Development Management Policies Document is at an early stage and the fact that the consultation has only recently concluded, the policies therein should at this stage be given very limited weight. It should be noted, in any event, that many of the relevant policies reflect those set out in the Framework and for the purposes of this application these should be relied on instead.

The following draft policy, '*Proposed Policy RES 3: Residential Annexes*', from the Regulation 18 (Stage 2) Development Management Policies Document (2020) show the direction of travel the Council is going albeit the weight that these emerging policies may be accorded at this stage is very limited.

9.3.8. Planning permission will only be granted for residential annexes within the curtilage of an existing residential property where there is a proven need that cannot be met either within the existing property through adaptation or acceptable extension and:

- there is a functional link with the principal dwelling (i.e. the occupants should be a dependant relative/s);*
- both the annex and principal dwelling are in the same ownership and remain so in perpetuity;*
- the accommodation forms a linked extension to the main dwelling and is capable of being used as an integral part of the dwelling, or forms a separate outbuilding which is in close proximity to and within the curtilage of the principal dwelling, and shares some essential facilities with the main dwelling; and*
- the scale of the annex is subordinate to the existing dwelling and is the minimum level of accommodation required to support the needs of the intended occupant/s; and*
- there is adequate parking and amenity facilities (areas for bin storage, drying clothes, garden space etc.) for the needs of the annex occupants and existing residents; and*
- there is no boundary demarcation or subdivision of garden areas between the curtilage annex and principal dwelling;*

9.3.9. Where planning permission is granted for a residential annex, a planning obligation will be imposed to ensure that the annex retains a functional link with the main dwelling (i.e. the occupants should be a dependant relative(s) and that the annex is retained in the same ownership as the main dwelling and that this remains the case in perpetuity.

National Planning Policy Framework (NPPF) (2021)

- Section 2 - Achieving Sustainable Development
- Section 4 - Decision Making
- Section 9 - Promoting Sustainable Transport

- Section 12 - Achieving Well-designed 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

Local Ward Councillors - No comment received, but requested call-in to planning committee if recommended for permission.

Neighbouring properties

A notice was displayed on site 10th November 2022.

In addition, seven surrounding properties were consulted by letter and two representations were received. The comments received have been separated into material and non-material planning considerations.

Please note only the material planning considerations are relevant to the decision.

Material Planning Considerations

- Proposing a separate dwelling
- Poor design / Cluttered appearance
- Unneighbourly and imposing height
- Harmful to neighbour amenity – close to boundary, elevated land levels, windows/doors facing gardens
- Loss of biodiversity (trees already removed)
- Access lane is not within the applicant's ownership
- Questioning if all homes using the alley (access lane) have been consulted
- Insufficient information

Non-Material Planning Considerations

- Matters Controlled Under Building Regulations (drainage / services / energy & sustainability)

The consultation period expired 9th December 2022.

Officer's Analysis

Site Description and Surroundings

83A Chalk Road is a detached two storey property located on the northern side of the highway. The property is located adjacent to an access road serving properties on Chalk Road and Havisham Road, and benefits from a double garage at the rear.

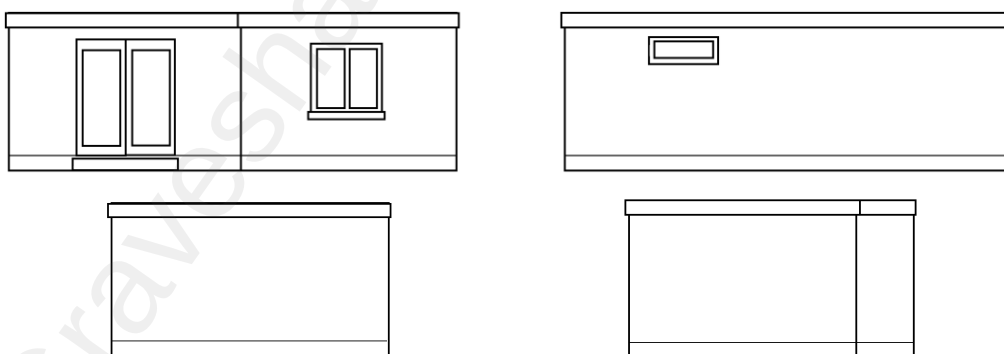


Google Maps Streetview (November 2022)

Proposal

This application proposes the erection of an annexe in the garden, located towards the rear of the garden, approximately 28m from the main dwelling, and 2m from the garage. The annexe will have an L shape and a flat roof, with the following dimensions:

- Depth - 7.7m
- Width (max) - 4.9m
- Width (min) - 3.9m
- Height - 2.7m



The annexe will contain a bedroom, bathroom and kitchenette/living space. It will be occupied by an older relative of the family and be ancillary by virtue of reliance on the main dwelling for day-to-day living functions (these matters are assessed in detail later in this report).

Principle of the Development

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.

It is recognised that 'residential annexes' in whatever form that might take are an increasingly common form of development that are generally proposed in order to allow relatives to live with their family with some degree of independence. However, to remain ancillary accommodation and not a separate unit of accommodation, the use of annex must normally retain some form of reliance on the main dwelling.

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. 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* 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 this case, the proposed annexe would be capable of being occupied independently, as there are limited some cooking facilities within the annexe. The kitchenettes facilities are limited and the planning statement confirms that there will be no washing appliances within the annexe, which would suggest a reliance on the main dwelling for day-to-day living and key functions. Moreover, the information submitted states that the annexe will be occupied by a close family member.

However, the proposed annexe would be separated from the dwellinghouse by 28m, will be orientated away from the main dwelling, with no fenestration facing the dwelling, and could be accessed through the rear gate. Although pathways and hardstanding connect to the main dwelling, the distance, orientation and lack of facing windows represents clear separation between the two structures, along with the rear access,

and are therefore considered to lend towards plot severance and the creation of a separate planning unit on the site (as demonstrated in the images below):



While it is acknowledged that planning conditions could restrict plot severance, the orientation of the annexe and the lack of fenestration clearly represent both a physical and spatial separation between the two buildings. Although the annexe will be occupied by a close family member, the Local Planning Authority would not be able to restrict facilities within the annexe to ensure it remains somewhat incidental to the main dwelling house. 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 proposal would therefore conflict with Policy CS02 (LPCS) and paragraphs 149 and 150 of the NPPF (2021).

Design, Character and Appearance

Policy CS19 (LPCS) states that new development will be visually attractive, fit for purpose and locally distinctive. It also seeks to conserve and enhance the character of the local built, historic and natural environment and integrate well with the surrounding local area, whilst ensuring that the design, layout and form of new development will be derived from a robust analysis of local context and character and make a positive contribution to the street scene, the quality of the public realm and the character of the area. Section 12 (Achieving well-designed places) of the NPPF (2021) sets out that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Gravesham's Householder Design Guidance SPD (2021) discusses outbuildings and states that they should not occupy a significant amount of the garden, be subordinate to the main dwelling and should not be prominent or impact on the street scene. Moreover, the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, allows incidental outbuildings to be constructed in the garden of a dwelling, subject to the following stipulations:

- Not covering 50% of the curtilage
- Being situated behind the principal elevation
- Being single storey
- Not exceeding 2.5m within 2m of the boundary (with a flat roof)
- Eaves not exceeding 2.5m

The proposed annexe outbuilding is not excessive in size or bulk, and will be located at the rear of the property in a position that is not visible from the street scene. Although occupying a large portion of the rear of the garden and exceeding the height of a permitted development outbuilding, a larger pitched roof structure could be constructed in the garden without planning consent.

The outbuilding will be constructed using timber cladding, with a single ply roof and upvc windows and doors. There will be patio doors and a window facing west, towards the garden of no.83 Chalk Road, and a high-level window facing east.

A neighbour representation stated that the design of the outbuilding is poor and would result in a cluttered appearance. The outbuilding is an irregular shape, however is not considered to be poor design. The timber clad materials are considered acceptable and the building will have no impact on the street scene. Moreover, the proposed outbuilding is not overdevelopment nor excessive clutter within the garage. Although introducing another building into the garden the scale of the building, combined with the existing garage, is not excessive compared to other garages along Chalk Road and a larger structure could be constructed under permitted development.

Overall, the outbuilding is not excessive in size or height, will be constructed using appropriate materials and has no impact on the character or appearance of the street scene. As such, the proposal is in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Amenity of Future Occupiers

Policy CS19 (LPCS) requires that all development should be 'fit for purpose' and be 'adaptable to allow changes to meet the need of users' and that 'the design and layout of new residential development, including conversion, will accord with the adopted Residential Layout Guidelines' (RLG) (2020). Moreover, on 25 March 2015 the Government issued a written ministerial statement, which introduced new technical housing standards in England and set out how these would be applied through planning policy. These standards came into effect on 1 October 2015.

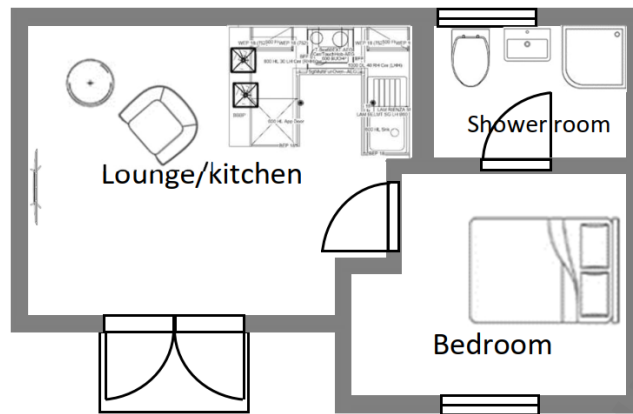
The Nationally Described Space Standards (2015) require a single storey dwelling for one person requires a floor area of 39m², however it does not provide a figure for an annexe. The floor area of the proposed annexe is approximately 28.85m², which would fall below the minimum floor area for a unit of single occupation.

Further to the minimum floor area requirements set out in the Nationally Described Space Standards (2015), the RLG breaks down the measurements further, recommending minimum floor areas for specific rooms as shown in the table below. These recommended minimum floor areas have been compared to the proposed room sizes within the property for comparison.

(Please note there is no figure provided for a lounge/kitchenette and as such the figures for a lounge and kitchen have been combined for this assessment).

	RLG (minimum floor area)	Proposed Room Size
Living Room / Kitchenette	20.4m ²	15.45m ²
Double Bedroom	11.2m ²	8.3m ²
Bathroom & WC	3.6m ²	3.75m ²

The table above demonstrates that the rooms within the annexe fail to accord with the recommendations set out within the RLG, with the exception of the shower room/w.c. However, the planning statement provides details on the use of the annexe and its limited facilities, with the floorplans demarcating the proposed furnishings.



This information indicates that the annexe will be very limited in terms of use. For instance, the planning statement highlights that the living/kitchen space will only be used for occasional dining at the breakfast bar, with reliance on the main dwelling for main meals. Moreover, even though the plans show a double bedroom, the annexe will be occupied by a single family member and therefore could be under the requirement within the RLG without impacting on amenity.

The rooms within the annexe will be served by a window or patio doors and will receive adequate levels of natural light and ventilation. However, the proximity of the annexe to the boundaries and therefore the proximity of the bedroom window and patio doors to the 1.8m high fence is poor outlook. This proximity and poor outlook will result in the living spaces feeling cramped and enclosed, creating a poor quality living environment for occupiers of the annexe.

On balance, the proposed annexe is considered to provide a poor quality living environment for future occupiers. Although the undersized living space could be justified for single occupancy, this along with the poor outlook by virtue of the annexe's proximity to the boundary, will create a cramped and poor quality space for occupiers to enjoy. As such the development fails to safeguard the amenity of future occupiers and is contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Neighbouring Amenity

Policy CS19 (LPCS) seeks to protect amenity and ensure acceptable future living conditions. Section 16 of the NPPF (2021) also assists and seeks to ensure developments will function well, do not undermine quality of life and create attractive and comfortable places to live, work and visit and seeks to "secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings".

The outbuilding is not excessive in size or bulk, however it will be constructed 1.25m from the shared boundary with no.83 Chalk Road. Nevertheless, as a single storey outbuilding, located approx. 26m from the neighbouring dwelling, it is considered to have no impact on amenity in terms of loss of light, privacy, sense of enclosure or outlook.

A neighbour representation stated that the land levels of the properties would result in an overly dominant, imposing and unneighbourly development. The window and door on the outbuilding will face a 1.8m fence at the bottom of the garden and therefore will be screened and will not impact on the private amenity space of the neighbour (the private amenity space is defined as the first 5m of garden space from the rear of a property). The distance of the annexe from the neighbours' property is considered to overcome any issues of dominance and unneighbourly impact. Furthermore, as discussed previously, the annexe building is considerably smaller in scale and height compared to surrounding garages near which it is located.

The annexe will be occupied by the applicants' elderly family member and as a small residential use will not result in any significant noise increase. Furthermore, the distance between the annexe and the properties will mitigate any additional noise.

Therefore, the development is considered to safeguard the amenity of future occupiers in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Parking and Highways

Any proposals would need to be considered against saved policy T1 (LPFR) (1994) and Policy CS11 (LPCS). These policies ensure that development provides an acceptable amount of parking in accordance with the adopted KCC Parking Standards and the access and parking arrangements do not have a detrimental impact on highway safety.

The existing property benefits from a double garage, with a parking space in front. As such there are three existing off-street parking spaces available. Gravesham's adopted KCC parking standards (SPG4) (2006), states that a four bedroom property (three bed dwelling and one bed annexe) should provide no.2 off-street parking space. Therefore, the proposed development is in accordance with parking guidance and will not impact on parking provision or the highway network.

Any Other Material Planning Considerations

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 water birds 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 £275.88 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 annexe 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 (LPCS). 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 £275.88 per new annexe.

The applicant has paid the SAMMS Mitigation Contribution Agreement tariff and therefore complies with the requirements of the Habitat Regulations, as well as Section 15 (specifically paragraphs 180 and 181) of the NPPF (2021) and Policy CS12 (LPCS).

Loss of Biodiversity

Section 16 of the NPPF (2021) states that development should result in a biodiversity net gain. The annexe will occupy a portion of the garden which is soft landscaped. There were concerns raised by surrounding residents regarding the loss of trees and the existing hedgerow. The outbuilding is set in from the hedge by 0.6m and the hedgerow will be retained. The planning statement highlights that the two apple trees will be relocated to another part of the garden, however the development itself would result in a biodiversity net loss. To overcome this issue a soft landscaping condition would be attached to the decision notice if a permission were to be forthcoming, to ensure that a suitable level of planting is reinstated prior to, then retained after the development is in place. Therefore, subject to conditions, the proposal will ensure that

biodiversity is not impacted as part of this development in accordance with Section 16 of the NPPF (2021) and Policy CS12 (LPCS).

Conclusion

The application has been fully considered and is contrary to local and national planning policy.

The proposed annexe has no relationship with the main dwelling by virtue of distance, orientation and lack of fenestration facing the property, which represents both a physical and spatial separation between the two buildings, and can be accessed by a separate rear gate. Therefore, the annexe is considered to be, or could become, a separate planning unit which would therefore conflict with Policy CS02 (LPCS) and paragraphs 149 and 150 of the NPPF (2021).

Moreover, the proposed annexe is considered to provide a poor quality living environment for future occupiers by virtue of its cramped position alongside the boundary with poor outlook creating unacceptable sense of enclosure for future occupiers, contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Therefore, it is recommended that planning permission is refused.

Recommendation

Refusal

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	6 th January 2023	Dated:	06 January 2023