

Planning Statement

An Teachin, Hawley Road, Hawley, Dartford, DA2 7RG



Planning Statement

Introduction

Introduction

This Planning Statement is in support of a Full Planning Application for the change of use and extension of an outbuilding to create a “granny annexe” at An Teachin, Hawley Road, Hawley, Dartford, DA2 7RG .

This statement should be read in conjunction with the submitted existing and proposed plans, together with a Structural Survey.

This statement provides information on the background to the site, relationship to surrounding buildings, planning policy at a national, and local level and an assessment and justification of the proposal. The statement has been prepared in full accordance with Government guidance, including DCLG Guidance on information requirements and validation for planning applications.



Planning Statement

Site and Surroundings

Site and Surroundings

The application site comprises a property off Hawley Road, Hawley, Dartford, DA2 7RG . To the rear of the existing dwelling is a single storey outbuilding.

The area is characterised by a mixture of open space, residential and commercial development.

To the east is the River Darent, and the M25 motorway.

The site is located adjacent to the village of Hawley, but falls within a defined settlement boundary.

Farningham Road railway station is 2 miles from the site, providing regular services to London. The closest bus stop is 100 metres to the north, providing access to the wider area.

Vehicular access to the site is directly off Hawley Road, with quick access to Dartford, A2 and M25.





National Planning Policy Framework

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states any determination should be made in accordance with the Development Plan unless material considerations indicate otherwise.

The local planning authority is Dartford Borough Council, with the Core Strategy and Local Plan comprising the Development Plan.

The proposal has been considered within the context of National, Local and emerging planning policy and the key policies are summarised below.

National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) was published and adopted on 27 March 2012, which has subsequently been updated as of February 2019. The NPPF replaces a plethora of Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs) into a single concise framework.

The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in the determination of planning applications.

Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development.

Paragraph 8 outlines that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles. With regards to social, this includes supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations and by creating a high quality built environment.

Planning Statement

Planning Policy

Paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible.

Paragraph 61 states that within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

Paragraph 84 states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Paragraph 134 states that Green Belt serves five purposes:

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

Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Paragraph 146 states that certain other forms of development are also 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:

- the re-use of buildings provided that the buildings are of permanent and substantial construction

Planning Statement

Planning Policy

Local Plan Policy

Policy DP2 states that in determining planning applications, the Local Planning Authority will consider how the height, mass, form, scale, orientation, siting, setbacks, access, overshadowing, articulation, detailing, roof form, and landscaping of the proposals relate to neighbouring buildings, as well as the wider locality. Appropriate weight will also be given to outstanding or innovative design that will help raise design standards in the wider area. Materials should support a sense of place, and be locally sourced or recycled from within the site where possible.

Policy DP5 states development will only be permitted where it does not result in unacceptable material impacts, individually or cumulatively, on neighbouring uses, the Borough's environment or public health. Particular consideration must be given to areas and subjects of potential sensitivity in the built and natural environment (including as highlighted on the Policies Map) and other policies, and other potential amenity/ safety factors such as:

- a) air and water quality, including groundwater source protection zones;
- b) intensity of use, including hours of operation;
- c) anti-social behaviour and littering;
- d) traffic, access, and parking;
- e) noise disturbance or vibration;
- f) odour;
- g) light pollution;
- h) overshadowing, overlooking and privacy;
- i) electrical and telecommunication interference;
- j) HSE land use consultation zones;
- k) land instability;
- l) ground contamination.

Policy DP7 states that development should maintain and provide for an appropriate range of housing stock and garden sizes, retention or enhancement of the character, local environment and amenity of established residential areas, and achieve satisfactory quality of residential/ householder development

Policy DP22 states that applications for re-use should relate to lawful permanent buildings of substantial construction. They should take into account the character and scale of the existing building(s). In circumstances where character and scale are important to the local setting, excessive external alterations and additions will not be permitted.

In addition, extensions to buildings will be permitted where: a) They are proportionate and subservient in appearance, bulk, massing and scale of the original building; and b) The proposal would not result in a disproportionate addition to the original building. The extension must constitute no more than a 30% volumetric increase over and above the original building, and maximising the footprint of the building will not be appropriate in every circumstance.

Planning Statement

Appeal Decision

Appeal Decision

Appeal Ref: APP/R3650/X/09/2118631
Paddock Woods, Petworth Road, Wormley, Godalming GU8 5TR
Allowed - 5th May 2010

“The appellants’ property lies in extensive grounds in countryside within the Metropolitan Green Belt and within a designated Area of Outstanding Natural Beauty and an Area of Great Landscape Value. There are other stables or horse related outbuildings within the site. While the building is easily seen in the landscape to the north, the site is screened by woodland when seen from elsewhere. A public bridleway passes through the grounds in front of the main house.

It is submitted on behalf of the appellants that section 55(2) (d) of the Act provides that the proposed use, incidental to the enjoyment of the dwellinghouse as such, does not constitute development. Attention has been drawn to the decision of the High Court in Uttlesford DC v SoS and White 1991 where it was held that a ‘granny annexe’ within the curtilage of a dwellinghouse does not constitute a separate planning unit for the purposes of the Act.

Although Uttlesford is persuasive, the contemporaneous commentary on the case in JPL, also provided by the appellants’ agent, casts some doubt on the judgment. By reference to other authorities, it is suggested in the commentary that where two physically distinct buildings have been used as one dwelling-house it amounts to a change of use if each building is used as a separate dwelling. The Deputy Judge in Uttlesford decided the case mainly on the grounds that the judgment was a matter of fact and degree for the inspector and held that the existence of the facilities to live independently did not settle the matter. The fact of a blood relationship must be significant but could not be conclusive.

The Encyclopedia suggests, when considering permitted development, that in assessing what constitutes a purpose incidental to the enjoyment of a dwellinghouse, something “incidental” cannot itself be a dwellinghouse; nor, therefore, can it be something for the provision of a primary dwelling house purpose, such as a bedroom or kitchen. Nevertheless the Encyclopedia advises that such a distinction cannot govern subsequent changes in use for the purposes of section 55(2). A building in the curtilage may be put to any use which is either a primary residential use or incidental to such a use.

Inspection of the site demonstrates that the stable block falls within the definition of the residential curtilage. There is a garden courtyard that links the house with the stable block. The area is paved and incorporates an ornamental pool. Doors open from the main house onto this area to give access to the stable block. The courtyard is also defined by a separating balustrade from the drive that forms the approach to the appellants’ property, while on the southern side the land rises to other gardens with woods behind. These features emphasise the link between the house and the stable block.

As to the conditions imposed in the 1990 permission, use of the building for a residential annexe would be incidental to the enjoyment of the dwelling house as such. Although it would no longer accommodate horses, there would be no commercial or industrial use of the building. I have noted the Council’s reliance on Fawcett Properties v Bucks CC [1961] AC 66 which held that a condition is only void for uncertainty if it can have no meaning. The Council’s concern is understandable but the conditions do not prevent the use of the building for purposes incidental to the enjoyment of the dwelling house. In that context the Fawcett case does not suggest that the residential use cannot take effect.”

Planning Statement

Planning Applications

MO/97/0574/PLA – Toogoolawah, Partridge Lane, Newdigate
Mole Valley Borough Council

Alterations to existing outbuilding in association with conversion to use as incidental habitable accommodation to existing dwelling

Approved – 3rd December 1997

The Committee Report stated that “prior to the submission of the application, the applicant was advised that the proposed use did not require planning permission, provided it remained ancillary to the existing dwelling and no separate curtilage was formed. The application has therefore been made on the basis that only the external alterations require planning permission. This view has been challenged in letters of representation and, in light of these letters, further legal advice has been obtained on the matter. The Solicitor to the Council has instructed Counsel to advise on the following:

1. Whether the outbuilding, the subject of the application, falls within the curtilage of the dwellinghouse known as Toogoolawah
2. Whether the fact that the outbuilding was formerly in agricultural use affects the answer to 1.
3. If the outbuilding does fall within the curtilage, whether planning permission is required for its proposed change of use into a granny annex

The extent of a residential curtilage is a matter of fact and degree, dependent on the characteristics of each individual site. Counsel’s advice is that the building lies within, but at the edge of the residential curtilage, with the land immediately to the rear lying outside the curtilage and being classed as agricultural land. Although aware of the agricultural origins of the building, he concludes that the recent history and appearance of the building indicate that it has been used for purposes ancillary to the main dwelling for a period of at least 15 years and it can properly be regarded as lying with the curtilage.

With regards to the proposed use, Counsel highlighted the fact that, under the terms of Section 52(2)(d) of the Town and Country Planning Act 1990, “the use of any buildings or land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such...” is not taken to be development and planning is not therefore required for such uses. He further advises that determination whether a proposed use is incidental to the enjoyment of a dwelling is dependent on the circumstances of each case. However, he states that there is case law to confirm that the fact an annex provides all the facilities for independent living does not preclude it from being regarded as incidental to the enjoyment of the dwelling.

In summary, Counsel concludes that, although the scale and nature of facilities to be provided in this case is comprehensive, they are not so extensive as to prevent the proposed use being incidental and subordinate to that of the main house. This advice is offered on the basis that a series of conditions will be met:

- *The building must be used only by members of the same immediate family as the occupiers of the main house*
- *The extent of physical development should be restricted to the envelope and footprint of the existing building (with the exception of the bay windows and porch, which he regards as acceptable)*
- *No new access to be formed*
- *A legal agreement should be obtained to prevent the converted building being occupied separately from the main house.*

The proposal meets the conditions advised by Counsel and is therefore considered to meet the requirement that the new accommodation provided should be incidental to the enjoyment of the existing dwelling. On this basis, the proposed use of the building does not in itself require planning permission and permission is required only for the external alterations.”

Planning Statement

Planning Applications

1/2011/0035 - Woodlea Manor, Browney Bank, Lanchester County Durham
Durham County Council

Application to vary Condition 3 of Planning Permission 1/2006/0243 to enable part of garage, stable and storage building to be used as a residential annex with external alterations (Resubmission)

Approved – 28th March 2011

Committee Report stated that “use of an existing residential outbuilding for accommodation in association with a main dwellinghouse is not considered to require planning permission. Section 55 (2) (d) of the Town and Country Planning Act provides that the use of buildings within the curtilage of a dwellinghouse is not development if used for any purpose incidental to the enjoyment of that dwellinghouse. A number of cases have shown for the purposes of section 55 (2) (d) that ‘incidental to the enjoyment’ may be interpreted generously to mean that outbuildings within a residential curtilage may be used for any residential incidental purpose. The creation of a granny annex would therefore unlikely to require planning permission provided a family member occupied the building. However if the accommodation created constitutes a separate self-contained unit and a separate planning unit, this is a different matter.

Case law advises that if there remains a primary use associated with the main dwellinghouse and no independent use of the building as a separate dwelling occurs this would not constitute a separate planning unit. A quality of separateness has been found to be someone who was not connected with the family occupation of the whole dwelling unit, like tenants, even if the accommodation is capable of independent use by anyone.

In this case, the utility supply would not be separate from the main house and the address would not be different. The access arrangements would be retained and there would be no separate curtilage. Given the fact that the person occupying the annex would be the applicant’s elderly mother who would clearly rely upon the applicants for a range of services, amenities and socialisation she could well be described as a ‘lodger’. The building would be remained and maintained by the applicant who would continue to utilise the garage and first floor for storage.”

PP/2013/1991-WT/MAF - 87 Eastcote Lane, Northolt, Middlesex, UB5 5RH
London Borough of Ealing

Use of outbuilding as residential annexe (Application for a Certificate of Lawful Use Proposed)

Approved – 30th July 2013

The certificate stated that “it is considered that the use of the outbuilding as a residential annexe as shown in the submitted plans and described in the application for the use of the premises as a residential annexe are lawful as it does not constitute development nor a material change of use as defined by Section 55 of the Town and Country Planning Act 1990, or would be contrary to condition 3 of planning permission PP/2012/4556 and therefore would be lawful.”

13/02068/LDP – Kingswood, School Lane, Denford
East Northamptonshire Borough Council

Change of use from domestic leisure building to granny annexe under permitted development

Approved – 30th January 2014

The Delegated Report stated that “whilst the applicant has not provided full details of his proposal in accordance with the requirements of Section 192 of the Town and Country Planning Act 1990, it is clear that the change of use of the building would not constitute development and would remain incidental to the enjoyment of the dwellinghouse to which it is associated. Therefore it is considered that a certificate of lawfulness can be granted. The use of the building as a granny annexe is not considered development under Section 55 of the Town and Country Planning Act 1990.”

Planning Statement

Material Considerations

Use / Principle of Development

The application is for full planning permission for the use and extension of an outbuilding to create a granny annexe.

Section 55 of the Town & Country Planning Act states the following:

Meaning of “development” and “new development”.

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

*The following operations or uses of land shall **not** be taken for the purposes of this Act to involve development of the land, and these include the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.*

As a result of evidence found within the quotes Appeal Decision, Planning Applications and the above, the use of the outbuilding as a “granny annexe” is something which does not need planning permission.

That aside, to assist with this application, we continue to make the case for the proposed use.

Green Belt policy prevents inappropriate development in the Green Belt and new dwellings are generally considered to be inappropriate development. However, in this case, the proposal is for the conversion of an existing building to an ancillary residential annexe.

The Framework advises that *“certain other forms of development are also 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 the re-use of buildings provided that the buildings are of permanent and substantial construction.”*

In this case, the existing building has undergone a Structural Survey, which confirms that the existing building is permanent and of substantial construction.

Given that the Framework is supportive of the re-use of buildings within the Green Belt

and that the proposed annexe does not require planning permission, the use remains entirely appropriate within the Green Belt.

The only element which requires planning permission is the extension to this building to make for a larger outbuilding/annexe.

Design

Planning Law required that decisions are made in accordance with the development plan unless material considerations indicate otherwise (s38(6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990).

Local Plan policies are generally supportive of appropriate uses and buildings in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of Green Belt.

New development must be of a high-quality design which respects the character of the area and the amenity of neighbours.

Paragraphs 145 and 146 of Section 13 identify that in Green Belt the re-use of buildings and extensions, constitute appropriate development in the Green Belt. This is provided the development would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

Paragraph 145 of the NPPF confirms that the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

The existing building has a volume of 90m³, with the extension resulting in an annexe of 143m³. This represents an increase of 58%.

Policy DP22 suggests that a disproportionate addition to the original building would constitute a volumetric increase over 30% of the original building.

However, given that the extension relates to an annexe and it is positioned within a large plot, it is not considered that a 58% increase represents a disproportionate addition. Furthermore, it is important to acknowledge the occupants are elderly, and therefore do not share a bedroom. This is why a two bedroom annexe is required.

Planning Statement

Material Considerations

The proposed use of the outbuilding as an annexe is entirely appropriate, in line with paragraph 146, and the extension is the only element which requires planning permission.

This area of the Green Belt is designated as such primarily to safeguard the countryside from encroachment. The proposed use of outbuilding as an annexe (with extension) would not conflict with this purpose of the Green Belt.

The siting, scale and design of the annexe is related to its function and existing appearance.

The annexe would provide for two bedrooms, bathroom and kitchen/living room. As mentioned, the two bedroom layout allows for both elderly parents to occupy their own rooms.

The occupiers will be the parents of the occupiers of An Teachin. Both parents are 65 and above, currently living in rented accommodation which is neither suited to their physical needs nor affordable.

Instead, this annexe provides a suitable “granny annexe” with a levelled access and close relationship which allows for care when necessary. The second bedroom allows for occupation of grandchildren, when required, providing a babysitting opportunity.

The west facing elevation includes a bifold door to the kitchen/living room, allowing for views across the neighbouring horse paddock.

The proposed use and extension is therefore acceptable in principle in planning policy terms subject to the material impacts of the detailed proposals being acceptable. Paragraph 8 of the NPPF identifies three overarching objectives to sustainability: economic, social and environmental. The potential material impacts of the scheme are considered under each of these headings below.

Economic and Social

The proposed development would deliver short term economic benefits through the provision of trade for local suppliers and contractors whilst the annexe is constructed.

However, the development provides significant social benefits in accommodating the applicant's elderly parents. In doing so, a degree of care can be provided, reducing the burden on local health services.

The development is therefore considered to be sustainable from an economic and social perspective.

Environmental

The existing site is the residential garden to An Teachin.

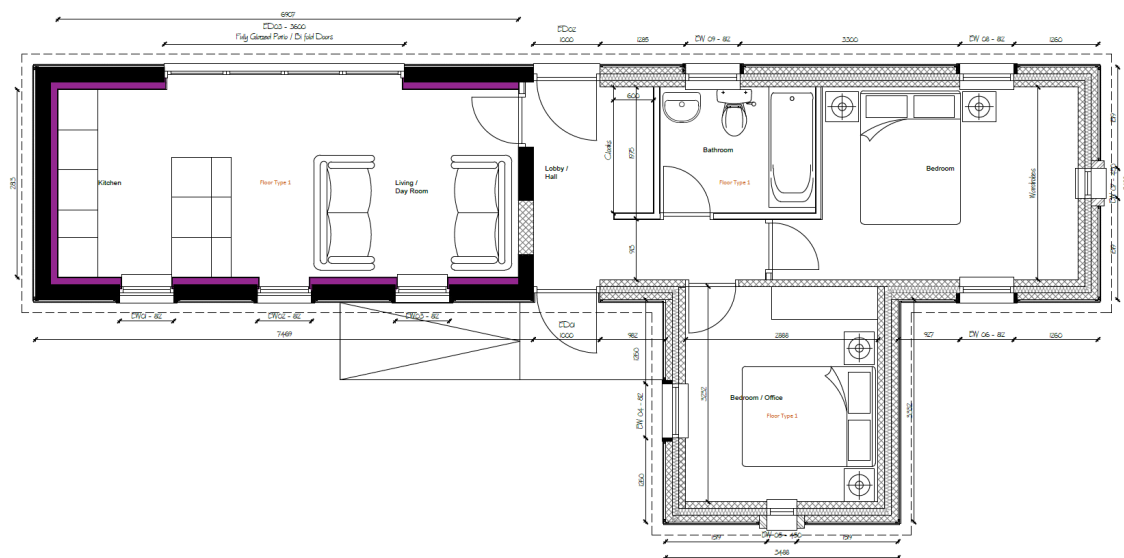
Due to the proposed position of the annexe relative to public viewpoints and the significant amount of vegetation the proposed development would not be unduly prominent in any public views.

For these reasons, it is considered that the proposed annexe would respect the character and appearance of the existing site and its surroundings and would not have a significant impact on the openness of the green belt.

Means of Access

Access will be gained from the garden of An Teachin. The means of vehicular access would be via the existing access from Hawley Road.

It is therefore considered that the site access is suitable to prove safe and suitable access to the annexe. Given the scale of the development, there is no evidence that the use of the proposed access would result in unacceptable impact on highway safety or that the residual cumulative impacts on the road network would be severe, in terms of the tests set out at paragraph 109 of the NPPF.



Planning Statement

Summary

Summary

This Planning Statement is in support of a Full Planning Application for the change of use and extension of an outbuilding to create a “granny annexe” at An Teachin, Hawley Road, Hawley, Dartford, DA2 7RG.

As a result of evidence found within the referenced Appeal Decision and Planning Applications, the use of the outbuilding as a “granny annexe” is something which does not need planning permission. The only element which requires planning permission is the extension to this building to make for a larger outbuilding/annexe.

Local Plan policies are generally supportive of appropriate uses and buildings in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of Green Belt.

The existing building has a volume of 90m³, with the extension resulting in an annexe

of 143m³. This represents an increase of 58%. It is not considered, given the use and location of the site, that this represents a disproportionate addition.

The two bedroom layout also allows for both elderly parents to live in the building, as they no longer share a bedroom given their age.

The proposed development is therefore fully compliant with the Framework and Policy DP22 of the Local Plan and should therefore be approved.

