

Delegated Report

Planning Application

Planning Application No: 20230438

Location: Chalk Pit Cottages Green Farm Lane Shorne Gravesend

Description: Erection of a new dwellinghouse.

Applicant: Mr S Randhawa

Site Visit Date: 15th June 2023

Submitted Documents/Plans

Planning Application Form;
Planning Statement;
Biodiversity Gain Statement;
Photographs;
Drawing No. 4074 – 001 - A – Site Location and Existing Block Plan;
Drawing No. 4074 – 002 – A – Proposed Site Plan;
Drawing No. 3074 – 003 – A – Proposed Front Elevation and Street Scene;
Drawing No. 4074 – 004 – Proposed Block Plan;
Drawing No. 4074 – 005 – Proposed Floor Plans; and
Drawing No. 4074 – 006 – Proposed Elevations.

Relevant Planning History

None.

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale and Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS18 – Climate Change
- CS19 – Design & Development Principles
- CS20 – Heritage and the Historic Environment

Saved Policies in the Gravesham Local Plan First Review (November 1994):

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on the Highway Network
- T5 – Access to the Identified Highway Network

Paragraph 33 of the 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 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 (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 4 – Decision-making
- Section 5 – Delivering a sufficient supply of homes
- Section 8 – Promoting healthy and safe communities
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 13 – Protecting Green Belt land
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- 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 Landscape Character Assessment (2009)

Consultations, Publicity and Representations

External

KCC – Heritage Conservation

The application site lies within an area of multi-period archaeological potential with evidence for prehistoric, Romano-British and medieval settlement in the surrounding area. The proposed development groundworks including, landscaping, utilities and foundations, have the potential to impact on any below-ground archaeological remains at the site and I recommend that if planning permission is granted the following condition is applied to any forthcoming consent:

AR5 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

- i. archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and
- ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ and/or by record.

KCC – Biodiversity

We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application.

No information has been provided by the applicant with regards to the risk of protected species occurrence on-site (e.g., reptiles). We request to see an Ecological Impact Assessment (EclA), produced in accordance with the latest Chartered Institute of Ecology and Environmental Management (CIEEM) guidelines¹ for the site. All necessary surveys, and mitigation measures, will need to be submitted prior to determination of the planning application. This is in alignment with paragraph 99 of the ODPM 06/2005, which states “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

Additionally, we would like to see the biodiversity metric 3.1 calculation spreadsheet and condition assessment sheets to be able to review the biodiversity net gain calculations for the site. Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) 2021, biodiversity should be maintained and enhanced through the planning system.

Shorne Parish Council

The Parish Council has to OBJECT to this proposal, for the following reasons which are significant concerns:

1. New dwelling in the Green Belt: The proposal is for a new dwelling in the Green Belt, which is by definition harmful, and not permitted except in “very special circumstances”, which have not been discussed or demonstrated.
2. Negative visual impact: The proposal would have negative impact on openness and the streetscene due to being an incongruous, out-of-character design (large detached house) of greater bulk than usual in the immediate area.
3. Not infilling as outside of settlement boundary: The site is outside the boundary of the settlement of Lower Shorne so cannot be described as “infilling”.
4. Similar circumstances to other applications that have been refused and dismissed at Appeal: The situation is similar to the Land next to The See-Ho Public House where applications have been refused and Appeals dismissed.
5. Possible unsuitability of the land for building: The piece of land has not been built on previously because it is the site of a former chalkpit that was subsequently used for landfill, so it is made ground. Local residents state that large hollow items have been buried there and that they believe that the surface level is still sinking. We hope that the applicant was made aware of these aspects by the vendor prior to purchase.
6. Biodiversity gain: Reference is made to providing biodiversity gain however we note that the site was bulldozed soon after purchase.
7. Pre-app discussion: We note that the applicant had pre-app discussion with GBC (there has not been any discussion requested with the Parish Council). We have not seen the advice given but it is stated in the documentation that GBC indicated that a planning application would not be supported.

Dickens' Country protection Society

The Society notes the site is in an area within which Green Belt Policies apply, where new development would not normal be permitted. No very special circumstances have been put forward to warrant overriding Green Belt Policy.

In the Society's view, development on this site would have a significant impact on the openness of the Green Belt in this area. The Society does not consider the infill criteria are met. The Society would point out that part of this area is made ground and is the site of the chalk pit from which the cottages are named, filled and level with the adjoining farm land.

Internal

GBC - Environmental Protection Team (Regulatory Services)

Environmental Protection has no objection to this application but would make the following comments.

The site appears to have been in agricultural use and as such, a contamination assessment/investigation is required. Agricultural uses can give rise to contamination through the use and storage of fuels and oils (fuel for machinery and repair/maintenance of machinery/equipment), storage and use of chemicals including pesticides and fertilisers. In addition, the photos submitted with the application indicate that there has been some fly tipping on the site or material left on site by a previous user.

To deal with this and other matters the following conditions and informatives are recommended:

Contaminated Land:

No development approved by this permission shall be commenced prior to a contaminated land assessment (in accordance with the CLEA guidelines and CLR 11 methodology) and if necessary an associated remedial strategy, together with a timetable of works, being submitted to the Local Planning Authority for approval.

- a) The contaminated land assessment shall include a desk study to be submitted to the Local Planning Authority for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the Local Planning Authority prior to investigations commencing on site.
- b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature so as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
- d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance). If during any works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.
- e) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the Local Planning Authority. The closure report shall include details of the proposed remediation works and the quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- f) Where applicable, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over an agreed period of time, and the provision of reports on the same, must be prepared and approved in writing by the local planning authority.

Following completion of the measures identified in that scheme, and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the local planning authority.

Code of Practice on Construction and Demolition

Please apply as appropriate

Drainage/sewerage informative:

The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable. If foul sewage is to be removed using non-mains sewerage systems, a sewage treatment plant or septic tank system will be considered in preference to a cesspool. Such a system may require the prior consent of the Environment Agency under the terms of the Water Resources Act 1991. Applicants are therefore advised to discuss their requirements with the Environment Agency at the earliest opportunity. It should be ensured that the septic tank or cesspool is of adequate capacity to serve the proposed development and suitable access and hardstanding area shall be maintained to it on site.

Lighting:

Artificial lighting can cause a statutory nuisance under the Environmental Protection Act 1990. It is important that the applicants are not permitted to install external lighting that illuminate anything other than the ground within the curtilage of the new properties in order to assist in preventing a nuisance from occurring (which would be most likely if the bedrooms on neighbouring properties are illuminated).

GBC – Highways Officer

This proposal raises an issue on how foul water is to be disposed of:

The applicant seems to be uncertain about how foul drainage will be accommodated.

Foul Sewage
Please state how foul sewage is to be disposed of:
☒ Mains sewer
☐ Septic tank
☐ Package treatment plant
☐ Cess pit
☐ Other
☒ Unknown

Are you proposing to connect to the existing drainage system?
☐ Yes
☐ No
☒ Unknown

If mains drainage exists, then a simple connection should suffice, but if not some local form of foul water storage or treatment will be required and this in turn may require a tanker to visit to remove the effluent and/or sludge. Given the width of Green Farm Lane a Tanker would need to be parked off street and within 30 metres of the access to the system.

Kent County Council Vehicle Parking Standards SPG4 requires a parking space 12m long by 3.5m. SPG4 extract below for a rigid lorry.

B8. The preferred sizes for parking bays in Kent provided as part of development proposals are:

	Length	Width
Parking Bay Size for Powered Two-Wheelers ⁽¹⁾	2.5m	1.5m
Parking Bay Size for Cars ⁽²⁾	5.0m	2.5m
Parking Bay Size for People with a Mobility Handicap	5.5m	3.6m
Parking Bay Size for Light Goods Vehicles	7.5m	3.5m
Parking Bay Size for Minibuses ⁽³⁾	8.0m	4.0m
Parking Bay Size for Coaches ⁽³⁾	14.0m	4.0m
Parking Bay Size for Rigid Heavy Goods Vehicles	12.0m	3.5m
Parking Bay Size for Articulated Heavy Goods Vehicles	16.0m	3.5m

To ensure such a vehicle could park off street, so it does not obstruct the highway, (a single-track carriageway) some modifications to the proposed parking area are required. Plus, it needs to be demonstrated that there is a suitable access to the manhole to the sewage tank/treatment plant. Building Regulations Approved Document H states the following,

Septic tanks

1.15 Septic tanks should only be used in conjunction with a form of secondary treatment (e.g. a drainage field, drainage mound or constructed wetland).

Siting

1.16 Septic tanks should be sited at least 7m from any habitable parts of buildings, and preferably downslope.

1.17 Where they are to be emptied using a tanker, the septic tank should be sited within 30m of a vehicle access provided that the invert level of the septic tank is no more than 3m below the level of the vehicle access. This distance may need to be reduced where the depth to the invert of the tank is more than 3m. There should also be a clear route for the hose such that the tank can be emptied and cleaned without hazard to the building occupants and without the contents being taken through a dwelling or place of work.

As presented, I consider there is insufficient information available to make a recommendation on what is required in terms of a parking area. Once the issue of foul drainage is resolved a definitive recommendation should be possible.

Neighbouring properties

A site notice was displayed on site and 3 letters were sent out to surrounding properties with an overall consultation expiry date of 16th May 2023. One letter of representation has been received querying the location of the proposed dwelling in relation to boundary and detached garage, and what footings are proposed and also raised a concern of subsidence due to the history of the land.

Analysis

Housing Supply

Adopted Policy CS02 (LPCS) sets out the Borough's objectively assessed need for housing over the Plan period (up to the year 2028) and finds that there is a need for at least 6,170 new dwellings during the period. Evidence now available shows that the Council is not able to demonstrate a five-year housing supply (a 3.27 year supply has most recently been calculated), and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Core Strategy Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the NPPF.

This requires that in regard to housing development, planning permission should be granted unless: *"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 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."*

In the Gravesham context, the policies referred to in paragraph 11(d)(i) above are those set out in the NPPF(2021) at footnote 7 (rather than those in development plans) relating to any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 180)
- Sites of Special Scientific Interest;

- Green Belt,
- Local Green Space,
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats;
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 67); 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 (paragraph 125(c)) in context, 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.

As part of this balancing exercise it should be noted that paragraphs 130 and 134 of the NPPF (2021) requires development to add to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

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 National Planning Policy Framework (NPPF) and established local planning policy taken as a whole.

Whilst the Council is currently unable to demonstrate a five year housing supply, the proposed development for a net increase of '1' no. dwelling would offer a minimal contribution towards meeting this local need and, accordingly, the Local Planning Authority considers that very limited weight in support of the application can be applied in this instance.

An appeal decision APP/K2230/W/16/3165704 (Appendix 1) dating from April 2017 has considered the benefit of converting an existing building within the Green Belt into two dwellings and the Inspector concluded:

"This development would involve the provision of a very modest amount of housing and I therefore consider that it would do little to enhance or maintain the vitality of the settlements in the area, in terms of supporting local services and businesses and that the poor access to every day local facilities would, in any event, outweigh any benefits to the area's vitality."

The above appeal decision makes it clear that two new dwellings would contribute to the housing supply but this would not be outweighed by the harm to the Green Belt/landscape.

Of further relevance is a recent Court of Appeal decision, Suffolk Coastal District Council v Hopkins Homes Ltd & Anor (England and Wales Court of Appeal (Civil Division) (Mar 17, 2016)) where the Judge stated the following:

39. Mr Clay and Mr Crean submitted that footnote 9 in paragraph 14 of the NPPF supports the "narrow" – or at least the "intermediate" or "compromise" – interpretation of paragraph 49. But we cannot see how it does. Footnote 9 explains the concept of specific policies in the NPPF indicating that development should be restricted. The NPPF policies it gives as examples relate to protected birds and habitats, Sites of Special Scientific Interest, the Green Belt, Local Green Space, Areas of Outstanding Natural Beauty, Heritage Coasts, National Parks, the Broads, heritage assets and locations at risk of flooding or coastal erosion (see paragraph 12 above). For all of these interests of acknowledged importance – some of them also subject to statutory protection – the NPPF has specific policies. The purpose of the footnote, we believe, is to underscore the continuing relevance and importance of these NPPF policies where they apply. In the context of decision-taking, such policies will continue to be relevant even "where the development plan is absent, silent or relevant policies are out-of-date". This does not mean that development plan policies that are out-of-date are rendered up-to-date by the continuing relevance of the restrictive policies to which the

footnote refers. Both the restrictive policies of the NPPF, where they are relevant to a development control decision, and out-of-date policies in the development plan will continue to command such weight as the decision-maker reasonably finds they should have in the making of the decision. There is nothing illogical or difficult about this, as a matter of principle.

It is therefore concluded that the additional dwelling proposed whilst having limited weight in support of the proposal is not considered to be sufficient to outweigh the harm to the Green Belt/landscape that would result from the development proposal which is discussed in the following sections of the report

Green Belt

The application site lies within the Green Belt as defined on the adopted Gravesham Local Plan Core Strategy (2014) policies map and this must be the starting point for determining this application. Given paragraph 140 of the NPPF (2021) states that Green Belt boundaries should only be amended in exceptional circumstances, in the context of the preparation or review of a Local Plan, it is not for the current application to seek to amend such a policy designation.

Similarly, whilst the Council is committed under Policy CS02 to meet its full objectively assessed housing need for housing and employment and to undertake a strategic Green Belt review, if required, to achieve this end, it is not for a planning application to pre-empt due process given the outcome of this process may be to identify preferable and more sustainable alternatives.

On this, it is noted that the Inspector in finding the Gravesham Local Plan Core Strategy sound, was clearly of the opinion that a plan-led process should be followed rather than the ad hoc release of sites. The Inspector's report states at paragraph 48 that:

Nevertheless, a small element of total new housing supply would still need to come from the Green Belt to meet the overall requirements in the plan period, albeit in the latter part thereof. This should only reasonably and realistically be identified as part of a formal Green Belt review process that includes full public consultation and a comparative assessment of realistic opportunities, rather than through any "one off" releases in advance thereof. This should be conducted through a formal statutory process, as distinct from any ad hoc site by site decisions that would not necessarily identify the most suitable and sustainable locations for any new housing that may be required in the Green Belt.

[NB: The full Inspector's report is attached as appendix 2]

It is therefore considered that the key issues in this case relating to the Green Belt are:

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy, and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the proposal is inappropriate development in the Green Belt

Paragraph 149 states that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include:-

- a) Buildings for agriculture and forestry;
- b) Provision of appropriate facilities (in connection with existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments, as long as the facilities preserves the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) 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;

- d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) Limited infilling in villages;
- f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) Limited infilling or the partial or complete redevelopment of previously developed land (brownfield 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.

Clearly, the first four bullet points do not apply in this instance as the proposal is not for agriculture or forestry; is not for appropriate facilities for outdoor sport, recreation or cemeteries; is not an extension or alteration of an existing building; and it is not a replacement building. Consideration therefore needs to be given as to whether the development falls under categories e) and g).

The site the subject to this application is land that sits between No. 4 Chalk Pit Cottages and No. 1 Longtens Cottages. The site is partially separated by fencing and boundary wall from the adjacent dwellings but is open to the front and appears to be open to the fields to the west. The site is overgrown and has a substantial amount of mature landscaping and is devoid of any buildings.

The Local Planning Authority therefore contends that the only exceptions that might apply under paragraph 149 of the NPPF (2021) in this case relates to; e) limited infilling in villages; or g) 'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use'.

e) Limited infilling in villages

On this, it is noted that neither the NPPF or the development plan define the terms 'limited', 'infilling' or even what constitutes a 'village'. Because of this, the Local Planning Authority requires that the following points need to be addressed to determine whether the proposal should be considered as an exception or be deemed 'inappropriate' development.

These points are:

- Whether Shorne is a village
- If Shorne is a village, where its boundary lies relative to the application site?
- Whether the proposal subject to this application can be considered 'limited'; and
- Whether the proposal constitutes 'Infilling'

For the proposed development to constitute an 'exception' rather than be classed as 'inappropriate' development, it is contended that all of the above criteria need to be met.

Whether Shorne is a village

The adopted Gravesham Local Plan Core Strategy (2014) at 4.2.4, Table 2 and at 4.2.6 sets out a settlement hierarchy with 13 rural settlements inset from the Green Belt and two others (Harvel and Luddesdown) that are 'washed over'. None are specifically identified as 'villages'.

It is stated at 4.2.6 that where the rural settlements have been inset, the boundaries do not define the full extent of each settlement but relate to a coherent and established built up area where infilling would not adversely affect local character and identity or impact on the openness of the Green Belt.

This settlement hierarchy is reproduced below:

First Tier Settlements	Gravesend/Northfleet/Ebbsfleet, i.e. the urban area
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Second Tier Settlements	Istead Rise, Hook Green Meopham, Higham
Third Tier Settlements	Culverstone Green, Meopham Green, Vigo
Fourth Tier Settlements	Cobham, Shorne, Sole Street
Other Settlements	Harvel, Lower Higham, Luddesdown, Lower Shorne, Shorne Ridgeway, Three Crutches

Source: Settlement Hierarchy Technical Paper December 2009 (attached as appendix 3.)

As noted above, there is no definition of a 'village' in either the NPPF or the development plan. Whilst the boundaries and status of individual rural settlements may be subject to review in the context of the emerging Site Allocations and Development Management Policies DPD, the boundaries shown on the policies map derive directly and are unchanged from those shown on the Gravesham Local Plan First Review proposals map (1994) as villages under now defunct policy V1.

This issue has been recently considered at appeal where the Planning Inspector (APP/K2230/W/16/3161653 Appendix 4 considered whether Culverstone Green is a village and the Inspector stated:

Culverstone Green is defined in the Council's Core Strategy (CS) 2014 as a 3rd tier settlement and it is inset from the Green Belt boundary. Paragraph 4.2.6 of the CS states that where settlements have been inset, the boundaries do not define the full extent of each settlement but relate to a coherent and established built-up area where infilling would not adversely affect local character and identity or impact on the openness of the Green Belt. From what I have seen and read, it seems to me that Culverstone Green may be regarded as a 'village' for the purposes of this aspect of this appeal.

Shorne is a rural settlement inset from the Green Belt as defined by the Local Plan Policy Map. However, because it has all of the characteristics of a village in terms of having a school and a range of other facilities, treating Shorne as a 'village' would appear to be consistent with the intent of national Green Belt policy.

As paragraph 144 of the NPPF only allows 'villages' to be excluded from the Green Belt by way of an inset designation and the above mentioned rural settlements are inset from the Green Belt within the Gravesham Local Plan Core Strategy 2014, it is considered that Shorne should be treated as villages for the purposes of the application of planning policy.

However, in this instance, whilst the application site is listed as Shorne, it lies to the north of Lower Shorne, which is a small pocket of purely residential dwellings that is separated from the main area of Shorne by agricultural fields and the main Gravesend Road (A226). As such, whilst Shorne itself maybe considered in this instance to treated as a village, Lower Shorne cannot be considered a village in its own right due to the lack of any characteristics or amenities to define it as such.

As Shorne is a village, where does its boundary lie relative to the application site?

As Shorne is considered for the purposes of this application to be a village, the question arises what its boundaries are on the ground and whether the application site lies within those boundaries. In this context it will be noted that the Court of Appeal case for Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin) (Appendix 5) in quashing the original decision did not make a planning judgement as to where the boundary might lie, rather that the original Inspector had misdirected himself in accepting the Green Belt/inset boundary as being the edge of the village after he had noted the built development continuing to the east. The officer carried out an accompanied site visit on the 15th June 2023 and walked the application site and determined the boundary on the ground. The main built development of the village in relation to the site is located to the south of the site and the main Gravesend Road (A226) acts as a physical boundary between the main area of Shorne and Lower Shorne, together with agricultural fields separating the areas.

Whilst the site is outside the inset rural settlement boundary, paragraph 4.2.6 of the Local Plan Core Strategy accepts that these boundaries do not necessarily represent their full extent. Rather, they are

intended to relate to the coherent and established built up area where policy accepts infilling would not adversely affect local character or identity or impact on the openness of the Green Belt.

In this respect, the Local Planning Authority consider that there remains a clear distinction between the main area of Shorne, the existing residential area of Lower Shorne, and the application site.

Lower Shorne Outline - Local Plan Core Strategy Proposals Map (application site outlined in red)



Shorne sits to the south of Lower Shorne as shown below;



The following aerial photographs from 1940 to 1990 demonstrate how the village of Shorne and Lower Shorne around the application site evolved, and how the site has been devoid of development.

1940 Aerial Photo (Google Earth)

1960 Aerial Photograph (Google Earth)



1990 Aerial Photograph (Google earth)



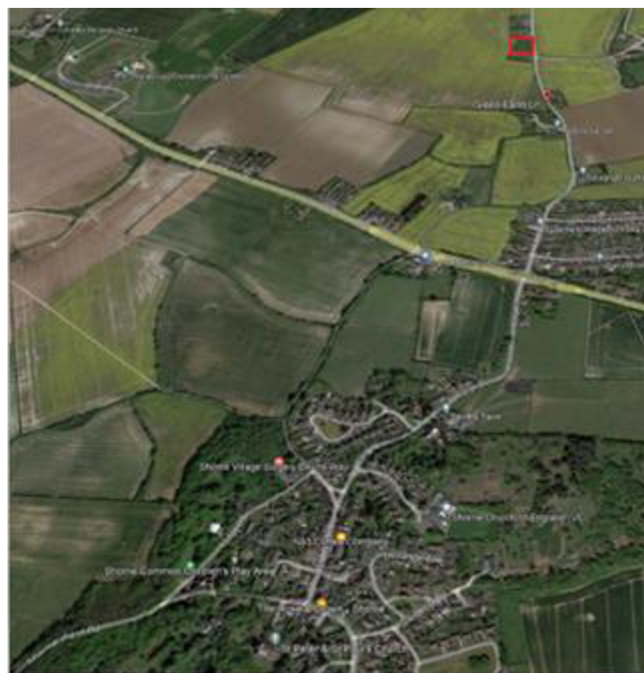
2003 Aerial Photograph (Google Earth)



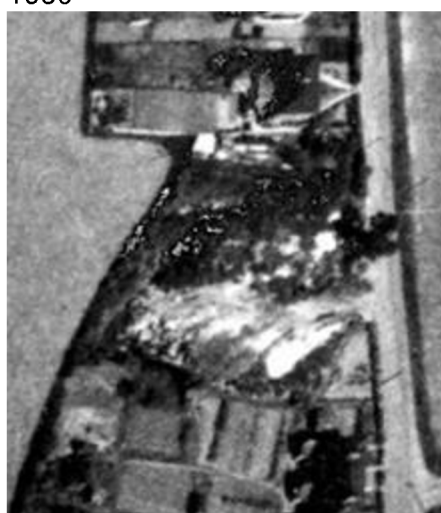
2015 Aerial Photograph (Google Earth)



2020 Aerial Photograph (Google Earth)

Application Site
1940

1960



1990



2003



2015



2020



The above images clearly show a distinct separation between the application site and the adjacent properties and the site has been devoid of any development. The application site clearly has no relationship with the adjacent Chalk Pit Cottages or Longten's Cottages or the surrounding dwellings within Lower Shorne.

As a result of the above the Local Planning Authority concludes that there remains a clear distinction between the more built up areas of Shorne and Lower Shorne. Quite rightly the application site is washed over and where the Local Planning Authority considers it important to maintain openness as a key characteristic of the Green Belt.

The Local Planning Authority therefore contends that the designated rural village boundary shown on the adopted policies map remains justifiable on the ground and that the application site lies beyond it within the Green Belt. The proposal is therefore considered to be 'inappropriate' development in the Green Belt.

g) Limited infilling or the partial or complete redevelopment of previously developed land (brownfield land)

On this, it is noted that neither the NPPF (2021) or the development plan define the terms 'limited', 'infilling'. Because of this, the Local Planning Authority requires that the following points need to be addressed to determine whether the proposal should be considered as an exception or be deemed 'inappropriate' development.

These points are:

- Does the whole site fall within the definition of previously developed land
- Whether the proposal subject to this application can be considered 'limited'; and
- Whether the proposal constitutes 'Infilling'
- Whether the proposal would have a greater impact on the openness of the Green Belt than the existing development

For the proposed development to constitute an 'exception' rather than be classed as 'inappropriate' development, it is contended that all of the above criteria need to be met.

Is the application Site Previous Developed Land

In the case of *Dartford Borough Council v Secretary of State for Communities & Local Government* (CO/3129/2015) the Deputy Judge held that the wording of the exemption to previously developed land, within the NPPF was significant. It reads "land in built-up areas such as: private residential gardens". As such, the Deputy Judge found that only residential gardens within the "built-up area" were exempt from the definition of previously developed land whereas, residential gardens outside "built up areas" were "brownfield". In terms of this current application, the site lies outside "built up areas" and has never been developed or used as in association, such as for a private residential garden, for either No. 4 Chalk Pit Cottages or No. 1 Longten's Cottages.

The application site is devoid of any buildings or development and from the historic images above, there does not appear to have been any buildings on this land. From the officer site visit, a brick boundary wall at the front and fencing along the whole side boundary clearly separates No. 4 Chalk Pit Cottages and No. 1 Longten's Cottages respectively from the application site and the site has been allowed to become overgrown. As such the site could be classified as scrub land and appears to have never been associated with none of the surrounding dwellings.

Therefore the application site it is not considered to fall within the definition of previous developed or brownfield land.

Application Site from Green Farm Lane



Taking all of the above into consideration and without any evidence to the contrary, the land to the north of No. 4 Chalk Pit Cottages is not previously developed land (brownfield land).

Furthermore, the site is devoid of any sort of development and the proposal would include the removal of a significant amount of soft landscaping and the construction of a large two storey detached dwelling would be highly visible from the surrounding Green Belt land, together with boundary treatment and hard landscaping for vehicular access and parking and all the domestic paraphernalia that would be associated with a domestic dwelling, which overall would have significant more built form and clustering than the existing. The proposal is therefore considered to be 'inappropriate' development in the Green Belt and contrary to paragraph 149(g) for the NPPF (2021).

Whether the proposal subject of the appeal can be considered 'limited'.

The application site has a width of 44.93m from the both side boundaries and a depth of 39.95m from the rear boundary of the site up to the front curtilage with Green Farm Lane. This large site would be cleared of a substantial amount of shrubbery and redeveloped to provide 1 new dwelling which due to the lack of any structures on this piece of land and it's separation from the village boundary, along with the scale of the property, together with the hardstanding and domestic paraphernalia, could not be viewed to be 'limited'.

This stance is shared by the planning inspectorate who dismissed an appeal (APP/F0114/W/16/3157766 attached as appendix 6) for the replacement of an existing workshop with two dwellings. The Inspector made the following comments on limited infill.

"Furthermore, the proposed two-storey dwellings would be substantially larger (bulk and mass) and have a greater visual impact than the existing single storey workshop. Consequently, having regard to the

Framework, the proposed dwellings would not amount to limited infill in the context of the village as the cumulative effect of the proposed dwellings would have a greater impact on the openness of the Green Belt, by way of their height, bulk and mass. Therefore, the proposed dwellings would have the effect of materially reducing the openness of the Green Belt.”

In light of the above appeal decision and the fact the demolition of a workshop and erection of 2 dwellings cannot be considered to be limited, then this application for the construction of one new dwelling on a site devoid of any development cannot be considered to be limited.

Whether the proposal constitutes ‘infilling’.

Having established that the development is not limited the next issue to evaluate is if the proposal constitutes infilling. Neither the NPPF (2021) nor the development plan currently defines the term ‘infilling’. However the Local Planning Authority accepts the generally agreed definition of infilling as the following:

The development of a small gap in an otherwise continuous built-up frontage, or the small-scale redevelopment of existing properties within such a frontage.

This application does not meet the above definition as it is not the development of a small gap between an otherwise built-up frontage. The site consists of extensive shrubbery/landscaping and hedging which covers the entire site. To the south of the site is Chalk Pitt Cottages, a pair of semi-detached two storey dwellings, which originally formed a row of 4no. small terraced properties. It is unclear when the development of the four units into two occurred. To the north of the site is Longten’s Cottages which are a row of 8no. two storey properties made up of two pairs of semi-detached properties and one row of four terrace properties. Whilst there is some form of built-up frontage either side of the site, these are modest properties that are closely related to each other and have been separated by a large parcel of land extending nearly 45m in width. The proposed two storey detached property would sit to the southern part of the site which would have no relationship to either of the rows of properties and the proposed property size and design would not relate to the surrounding built form. Therefore, in the case of this application it’s clear that the development does not result in the infilling of a small gap in an otherwise continuous frontage. This application is essentially a redevelopment of a site.

Existing Site



Proposed Site



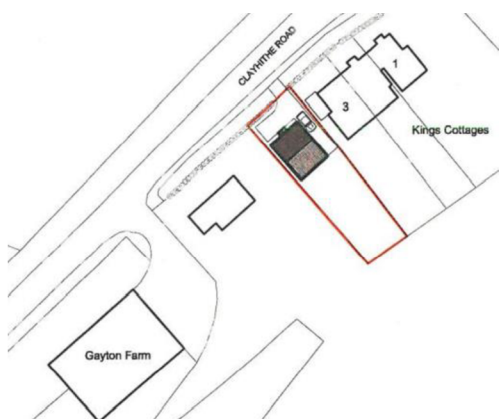
Streetscene



The Inspectorate has considered the issue of infilling on numerous appeals and APP/W0530/A/13/2207789 (Attached as appendix 7) is particularly relevant as the Inspector concludes the following

“The adjacent Kings Cottage and Gaytons Farm form a detached small group of development otherwise surrounded by countryside. As such, neither they nor the appeal site form a particularly cohesive, built-up frontage in the Green Belt which can readily accommodate an additional dwelling without an urbanising effect. Given its verdant, overgrown condition, development on the appeal site would be conspicuous. Thus, I conclude that the scheme cannot be considered to be the limited infilling or redevelopment of a previously-developed site in line with the sixth bullet point exception.”

The above is demonstrated on the below aerial photograph (2018) and the proposed block plan from the above appeal decision.



The direct similarities with the above appeal and this application is the frontage of the above appeal decision and this application do not form a particularly cohesive, built-up frontage in the Green Belt which can readily accommodate an additional dwelling without an urbanising effect.

In conclusion the Local Planning Authority is of the view that the proposal does not constitute infilling under the terms of paragraph 149 of the NPPF (2021) and this has been clearly back up by appeal decisions mentioned above.

Conclusion on Green Belt issues and assessment of harm

The Local Planning Authority is of the opinion that the application site lies outside the defined settlement boundary (for the purposes of this assessment a village) of Shorne within the Green Belt; that there have been no significant changes in circumstances since that boundary was defined that would warrant a different interpretation being taken now; and that in any event, the site is not considered to be previous developed land (brownfield) and the proposal does not constitute limited infilling.

It is therefore considered that the proposal represents 'inappropriate' development in the Green Belt which is by definition harmful and which should only be permitted where the applicant can demonstrate 'very special circumstances' that clearly outweigh harm caused by inappropriateness and any other harm.

In undertaking the balancing exercise to determine whether or not those 'very special circumstances' clearly outweigh such harm, substantial weight must be accorded to the harm caused to the Green Belt.

The Local Planning Authority contends that harm to the Green Belt in this instance primarily comprises:

Permanent loss of openness – Openness and permanence are the essential characteristics of the Green Belt. The site is currently devoid of any development and has substantial amount of trees and shrubbery which contribute to the character of the Green Belt. The construction of a new 3 bedroom detached dwelling with associated parking, hardstanding, residential paraphernalia and lighting will permanently and irrevocably harm the Green Belt through loss of openness at this point. Whilst it may be possible to mitigate visual impact to a limited degree by screening, this cannot in itself overcome the adverse impact on openness which is defined by the presence or absence of the building itself.

Encroachment of the countryside – This is a stated national purpose of the Green Belt at paragraph 138 of the NPPF (2021). The construction of an additional detached dwelling on this site would introduce urbanising features (Car parking, light pollution, hard landscaping and residential paraphernalia) that would adversely affect the character of the settlement at a point of transition from the built form of Foxdene to the surrounding open areas and open fields beyond. Whilst landscaping and boundary treatment could be introduced to reduce the impact of the development, the development would represent the encroachment of built development which would result in a reduction in openness. Furthermore, the existing site has extensive mature hedging and trees along the north, east and western boundaries which a significant amount would be lost as a result of the proposed development, therefore resulting in wider views of the development.

Safeguarding the countryside by minimising the expansion of the Borough's rural settlements - This is a stated local purpose of the Green Belt as set out at paragraph 4.2.7 of the adopted Gravesham Local Plan Core Strategy (2014). As noted above, the local planning authority considers the proposal subject of the application to represent an encroachment in the countryside. This would take place as a result of the effective expansion southwards of the Meopham Green rural settlement. The Local Planning Authority is also concerned that this could establish a precedent for similar such development elsewhere in the borough.

Consideration of 'very special circumstances'

The application does not include any argument for 'very special circumstances'.

Final balancing exercise on Green Belt issues

The application site lies within the Green Belt and constitutes 'inappropriate' development. The proposal

introduces 1 additional dwelling onto a site which currently does not contain any structures or development, and which contributes positively to the Green Belt due to the open nature with clear views across the surrounding fields. This proposal adversely impacts on the openness of the Green Belt at a point of transition between the more densely and finer grained development within the Shorne and Lower Shorne rural settlements, and the application site, the surrounding open fields and countryside in all four directions which are within the Green Belt. The introduction of built development on the application site would blur the distinction between the two areas and represent an encroachment of the countryside through the insertion of more urbanising form.

It is considered therefore that substantial weight should be accorded Green Belt harm as directed by the NPPF (2021).

The local planning authority is of the opinion that the applicant has failed to demonstrate the existence of 'very special circumstances' that clearly outweigh harm to the Green Belt caused by inappropriateness.

Impact on the Landscape

Section 15 of the NPPF (2021) 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.

In May 2009 the Local Planning Authority published the Gravesham Landscape Character Assessment which identified 11 distinct areas within the borough. The application site falls within Higham Arable Farmlands Landscape Character Assessment.

The 2009 Landscape Character Assessment lists the following key characteristics found within Higham Arable Farmlands as follows:

- Very gently undulating topography with open arable farmland
- Views out to the marshes and the Rivers Thames in the north
- Original Saxon village of Lower Higham and more recent development to the south
- Marsh side hamlets and settlements with isolated farmsteads and scattered properties with locally distinct styles and materials
- Pockets of orchards and garden nurseries

The Gravesham Landscape Character Assessment demonstrates the qualities which make the landscape area special and undermines Policy CS12 (LPCS) which seeks to restore and create its quality.

Notwithstanding the possible use of planning conditions to deal with soft landscaping/boundary treatment to reduce the visual appearance of the proposed dwelling, the Local Planning Authority views that no amount of landscaping/planting will be able to replicate the current stance of the site which is devoid of development and has extensive hedging and mature landscaping surrounding and within the site.

The introduction of a 1 dwelling with all the associated residential paraphernalia will undermine one of the key landscape characteristics of Higham Arable Farmlands which are very gently undulating topography with open arable farmland.

A further impact of this scheme on the landscape would be the introduction of domestic parking on the site which is currently void of any domestic vehicle parking and associated lighting generated by the scheme, both from the dwelling, car movements, and external lighting for the development.

In summary, the proposed development would adversely affect the character of the rural area, becoming more suburban and less rural. The proposal would therefore cause harm to the landscape character and natural beauty of the valued landscape. Therefore this proposal would conflict with Policy CS12 (LPCS) which seeks to ensure valued landscapes will be conserved, restored and enhanced.

Climate Change

Policy CS18 (LPCS) sets out the requirements for dealing with sustainable drainage and surface water run-off. The soakaways for the surface water drainage are unlikely to be acceptable to building regulations if they are within 5 metres of a building or highway and this would need to be confirmed with Building Control, if they consider the access as a highway for their purposes. In order to deal with Sustainable Urban Drainage Strategy (SUDS) for the site if permission was to be granted this would be dealt with through a planning condition which would look to include the following:

- Pervious pavements/road surface to allow water to drain through the surface;
- Outlet to pipes or infiltration to ground;
- Rain gardens for each dwelling (simple and small basins for roof water drainage); and
- Filter Drains.

Design

When evaluating the design of this proposal it needs to be considered against the design principles of Policy CS19 (LPCS) which require development to conserve and enhance the character of the local built, historic and natural environment, integrate well with the surrounding local area and meet anti-crime standards. At a national level the NPPF (2021) in paragraph 126 provides guidance on providing good design.

The rows of properties either side of the application site are modest two storey semi-detached or terrace dwellings of modest footprint. The proposed dwelling whilst has been designed to a high standard and incorporates materials such as brick and cream render, tiles and red clay roof tiles which can be seen in the surrounding properties, the overall size, layout, style and design of the property is not reflective of the existing dwellings. Its large footprint, height and design with large windows and integral garage are not features seen within the immediate area.

Overall, it is considered that the scale and design does not incorporate features of the existing dwellings to the south and north and as such, it is considered that the design of the proposed property would not integrate into the immediate setting and is unacceptable in design terms.

The effect on neighbouring properties living conditions

Careful consideration has been made in regard to whether this development would adversely impact on the amenity of surrounding properties. Gravesham's adopted residential layout guidelines provide clear guidance on the window to window distance between dwellings and how to consider impact on overshadowing. Having considered these guidelines it is not considered that an adverse impact on neighbouring properties living conditions would result from the development proposed.

Living environment for future occupiers

The proposed development needs to ensure that the development will provide adequate living conditions for future occupiers and this is reinforced by the Council's Residential Layout Guidelines. These guidelines provide requirements for room sizes and amenity space. Consideration also needs to be given against how the scheme compares to the Nationally Described Space Standards.

In this case the proposed dwelling complies with all local and national room size standards and has acceptable garden depth/area in terms of size requirements against the adopted residential layout guidelines.

Effects on highway safety/parking provision

The scheme as submitted needs to be considered against saved policy T1, T5 and P3 (LPFR), Policy CS11 (LPCS) and Section 4 of the NPPF (2021). These policies ensure that development has an acceptable amount of parking, is not detrimental to the highway network and promotes sustainable transport methods.

Whilst the application site is predominantly level with the road, there is no footpath and the proposal would require a new vehicular access directly onto Green Farm Lane. The proposal would provide four parking spaces for a five bedroom property.

The GBC – Highways Officer raises concerns relating to the layout of the parking area and advised the

parking layout be revised to ensure vehicles could park off street, so it does not obstruct the highway. In addition, the proposal raises an issue on how foul water is to be disposed of, with the supporting application form not being clear on how this would be dealt with.

However, as this scheme is inappropriate development in Green Belt clarification on foul water disposal, cycle storage, vision splays and service details together with seeking a revised parking layout have not taken place.

Sustainable Development

The NPPF (2021), taken as a whole, represents the Government's view of what constitutes sustainable development. Paragraph 80 of the NPPF (2021) provides specific advice on sustainable development in rural areas and seeks to avoid new isolated homes in the countryside.

In the case of this application the site access road fronts onto Green Farm Lane which is isolated in its location and is not served by a footpath. Shorne is the closest settlement that has a local centre and amenities which would not be easily reached on foot or cycle and there are no direct bus routes along Green Farm Lane, with the nearest bus route being on the A226 to the south. As such, residents would depend on a private vehicle to access local shops and amenities.

Therefore this proposal is not considered to be in a sustainable location and would be contrary with local and national planning policy in regard to sustainability.

Any other material considerations

Ecology and Biodiversity

No details or preliminary ecological appraisal were submitted with the application and KCC Biodiversity confirmed that additional information would be required prior to determination in order to assess the impacts of the proposed development adequately.

However, following the officer site visit and viewing the current condition of the site with dense hedging and shrubbery covering the whole site, it is considered that there is the possibility of substantial wildlife being present within the site.

As such, if the application were to be supported in principle, it would be necessary for a preliminary ecological report to be submitted and additional information would be sought prior to determination of the planning application in relation for the need for further surveys along with any necessary mitigation measures for reptiles.

Reptile surveys have not been carried out. Due to the proposed site layout and disruption during development, it is unlikely that the reptile population, if present, can be retained on site. Therefore if reptiles are present details of a suitable off site reptile receptor site must be included within the submission. However, as this scheme is inappropriate development in Green Belt it would not be necessary for further surveys to be carried out before determining the application.

As a result of the proposed application, the existing overgrown areas within the site, together with the mature hedging, landscaping and shrubbery would be removed, resulting in a biodiversity net loss.

Overall it is considered that the proposed development would result in a biodiversity net loss to the area and would conflict with Policy CS12 (LPCS) and paragraphs 180 and 181 of the NPPF (2021).

Conclusion

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 (LPCS) must be regarded to be out of date, as required by the Paragraph 11(d) of the NPPF (2021).

The proposed development for a net increase of 1no. dwelling unit (in this case 1 house) would offer a minimal contribution towards meeting this local need and delivery and, accordingly, adds minimal weight in support of the application.

However, notwithstanding this a balanced approach has to be taken and it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF (2021) and established local policy taken as a whole.

In this case the balance is tilted towards refusal for the following reasons:

1. The site is within the approved Metropolitan Green Belt. Within the Green Belt there is a strong presumption against permitting new development outside of the present defined extent of urban areas and the present extent of any village. National Planning Policy Framework 2021 Section 13 (Protecting Green Belt Land) indicates that the most important attribute of Green Belts is their openness. The development will not preserve the openness of the Green Belt through construction of 1 additional dwelling, associated hardstanding, lighting, car parking and residential paraphernalia and will conflict with the purposes of including land within the Green Belt as it will encroach into the countryside and urbanise the site. In the absence of any 'very special circumstances' that may otherwise outweigh the harm by reason of inappropriateness, and any other harm, the proposed development is considered to be contrary to the advice in Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework (NPPF) 2021, and Policy CS02 (Scale and Distribution of Development) of the Borough Council's adopted Gravesham Local Plan Core Strategy (September 2014).
2. The application site lies within the locally designated Higham Arable Farmlands Landscape Character Area, where local and national planning policy and guidance expect developments to conserve, restore and enhance the natural landscape. The proposed development, if permitted, would be harmful to the landscape character when compared to the existing site. The harm from the redevelopment of the site in this instance would be derived from the bulk and massing of the dwelling, the associated hardstanding, lighting, car parking and residential paraphernalia. The application is therefore contrary to Policy CS12 and CS19 of the Borough Council's adopted Gravesham Local Plan Core Strategy (September 2014) and Section 15 of the National Planning Policy Framework (NPPF) 2021.
3. The applicant has failed to provide any ecological evidence assessment covering the impact of the development on wildlife including reptiles. Together with the significant loss of mature landscaping and scrub land, the proposal would result in a biodiversity net loss, contrary to Policy CS12 (LPCS) and paragraphs 180 and 181 of the National Planning Policy Framework (NPPF) 2021.
4. The proposal fails to secure a contribution towards strategic mitigation measures within Special Protection Areas, and in the absence of this contribution or adequate information to inform an Appropriate Assessment, the development fails to comply with the requirements of the Habitat Regulations and Section 14 (specifically paragraphs 180 and 181) of the National Planning Policy Framework 2021 and Policy CS12 of the Gravesham Local Plan Core Strategy 2014.

Recommendation:

Refusal

See draft Decision

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:		Signed:	

Dated:	20 th June 2023	Dated:	21st June 202