



Delegated Report

Application No: 20240666

Location: 258 Singlewell Road Gravesend Kent DA11 7RE

Description: Conversion of existing dwellinghouse into two separate dwellinghouses. Erection of two storey rear extension, alteration of roof including increase in height, rooflights in each side roof slope and dormer extension in each rear roof slope, single storey front extension and construction of vehicle access and hard paving of front garden.

Applicant: Mr Peter Chopra

Submitted Documents/Plans

The application comprises the following documents and plans:

- Application form.
- Planning Statement.
- Drawing no. SR/PD/24/01 Rev G – Planning Drawing Proposed Details.
- Drawing no. SR/PD/24/02 Rev E – Planning Drawing Existing Details.
- SAMMS Contribution Agreement.

Relevant Planning History

The planning history relating to this site is summarised below.

<u>Application No.</u>	<u>Description</u>	<u>Status</u>	<u>Decision</u>
20240235	Conversion of existing dwellinghouse into two separate dwellinghouses. Erection of two storey rear extension, alteration of roof including increase in height, rooflights in each side roof slope and dormer extension in each rear roof slope, single storey front extension and construction of vehicle access and hard paving of front garden.	Refused	10.06.2024
20210188	Erection of part single storey and part two storey rear extension, erection of a two storey front porch extension and an increase in ridge	Permitted	11.05.2021

	height of the main dwelling roof converting the loft space to provide playroom, study, and store with the insertion of roof lights.		
20191058	Erection of part single storey and part two storey rear extension for additional living and bedroom accommodation; increase in ridge height of main dwelling roof with use of loft space to provide playroom, study and store and insertion of roof lights in rear and side roof slopes.	Permitted	09.12.2019
20130606	Erection of part two storey and part single storey rear extension incorporating raising the ridge height of the roof by 500mm to form second reception room enlarged kitchen and gym at ground floor level with two bedrooms and enlarged bedroom at first floor level and playroom, study and store in roof space.	Permitted	07.10.2013
20130542	Application for the renewal of planning permission ref. no. 20130542 for the erection of part two storey and part single storey rear extension incorporating raised ridge on existing roof to provide second reception room, enlarged kitchen and gym at ground floor level with two bedrooms, enlarged bedroom and two ensuite shower room/wc's at first floor level with a playroom, study and store in the roof space.	Withdrawn	25.06.2013
20090384	Erection of part two storey and part single storey rear extension incorporating raised ridge on existing roof to provide second reception room, enlarged kitchen and gym at ground floor level with two bedrooms, enlarged bedroom and two ensuite shower room/wc's at first floor level with a playroom, study and store in the roof space.	Permitted	03.07.2009
20081063	Erection of two storey rear extension to form a playroom, second reception room and enlarged kitchen at ground floor level with two bedrooms and enlarged bedroom at first floor level and alterations to increase the height of the roof.	Refused	04.02.2009

19930070	Erection of two storey side extension to form garage, w.c. and dining area with en-suite shower room and dressing room at first floor level.	Permitted	26.03.1993
19800656	Erection of single storey rear extension to form sun lounge	Permitted	19.09.1980

Development Plan

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

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

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

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

Gravesham Local Plan Core Strategy (September 2014):

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

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

- P3 – Vehicle Parking Standards.
- T1 – Impact of Development on the Highway Network.
- T5 – Access to the Identified Highway Network.
- TC7 – Other Archaeological Sites.

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan First Review (1994)

generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving sustainable development.
- Section 5 – Delivering a sufficient supply of homes.
- Section 9 – Promoting sustainable transport.
- Section 11 – Making effective use of land.
- Section 12 – Achieving well-designed and beautiful places.
- Section 15 – Conserving and enhancing the natural environment.

Supplementary Planning Guidance

- Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020.
- Technical Housing Standards – nationally described space standard (2015); and
- SPG 4 - KCC Parking Standards (2006).
- Householder Extensions/Alterations Design Guide (2021).
- Front Driveway Design Guidance (2023).
- KCC Dropped Kerb Guidance and Self-Assessment (2023).
- Design for Gravesham (2024).

Consultations, Publicity and Representations

KCC Heritage

The site lies within an area of multi-period archaeological potential. However, based on existing Historic Environment Record data for the area and the relatively limited extent of the proposed works, I consider it unlikely that these proposals would have a significant below-ground archaeological impact and have no further comments to make in this case.

KCC Biodiversity Officer

No ecological information has been submitted with this application. As a result of reviewing the data we have available to us, and the information submitted with the planning application, we advise that further information is sought from the applicant with regards to the potential for ecological impacts to arise.

We have taken this view as the images available to us (including google earth) suggest that the building may have gaps under a number of tiles in the roof and therefore it is possible that roosting bats may be present. As such, an Ecological Impact Assessment (EcIA) should be undertaken by a suitably qualified ecologist, in accordance with good practice guidelines.

The EcIA will include the following:

- Details of the impacts of development proposals on the ecological baseline established via a Preliminary Roost Assessment (PRA) and any necessary additional surveys undertaken;
- Details of any necessary and achievable ecological mitigation and/or compensation measures;
- Details of ecological enhancement measures, and;
- Provision of sufficient information to determine whether the project accords with relevant nature conservation policies and legislation.

To ensure that the planning determination is adequately informed in respect of all potential

ecological impacts, we advise that the EclA is sought prior to determination of the planning application. This is in alignment with paragraph 99 of the Office of the Deputy Prime Minister (ODPM) Circular 06/20052 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”.

The EclA will also ensure alignment with the National Planning Policy Framework (NPPF) 2023 and the Natural Environment and Rural Communities Act (NERC) Act 2006. Under section 40 of the NERC Act 2006 and paragraphs 180 and 186 of the NPPF 2023 biodiversity should be maintained and enhanced through the planning system.

Biodiversity Net Gain

Under the Environment Act 2021, all minor planning applications in England submitted on or after the 2nd April 2024 will have to deliver at least a 10% biodiversity net gain (unless exempt). The application was submitted after the commencement of mandatory BNG.

Having reviewed proposals we note that the applicant considers the proposals to be exempt from mandatory biodiversity net gain, so that a mandatory biodiversity net gain of 10% will not apply. The applicant has stated that proposals meet the following criteria:

- consists of no more than 9 dwellings;
- on a site that has an area no larger than 0.5 hectares; and
- consists exclusively of dwellings that are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015

Section 1(A1) of the Self-build and Custom Housebuilding Act 2015 states: “In this Act “self-build and custom housebuilding” means the building or completion by—

- (a) individuals,
- (b) associations of individuals, or
- (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals.”

Section 1(A2) states: “But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.”

It is not within our remit to verify that dwellings meet the definition of self-build or custom housebuilding as defined in the 2015 Act. Gravesham BC should satisfy itself that proposals meeting the definition and that biodiversity net gain does not apply.

Designated Sites

The development includes proposals for new dwellings within the zone of influence (ZOI) (6km) of the Thames Estuary and Marshes Special Protection Area (Special Protection Area) and its associated Wetland of International Importance under the Ramsar Convention (Ramsar Site).

Gravesham BC must consider the impact the proposal will have on these designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework (NPPF) 2023

Gravesham BC will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full Appropriate Assessment is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is still a need for an appropriate assessment to be carried out as part of this application.

The applicant has confirmed that they will pay the SAMMS tariff.

Neighbouring properties

6 surrounding properties were consulted. No representations have been received.

Analysis

The application site is defined on the Core Strategy Policies Map as lying within the urban area. It lies on the eastern side of Singlewell Road and comprises a detached two-storey residential dwelling which can be seen in the following photograph:



Singlewell Road is a local distributor route and a C class classified highway.

In March 2024 a planning application relating to this property was submitted seeking planning permission for the following:

Conversion of existing dwellinghouse into two separate dwellinghouses. Erection of two storey rear extension, alteration of roof including increase in height, rooflights in each side roof slope and dormer extension in each rear roof slope, single storey front extension and construction of vehicle access and hard paving of front garden. (Gravesham planning reference 20240235).

This application was refused permission on 10 June 2024 for the following reasons:

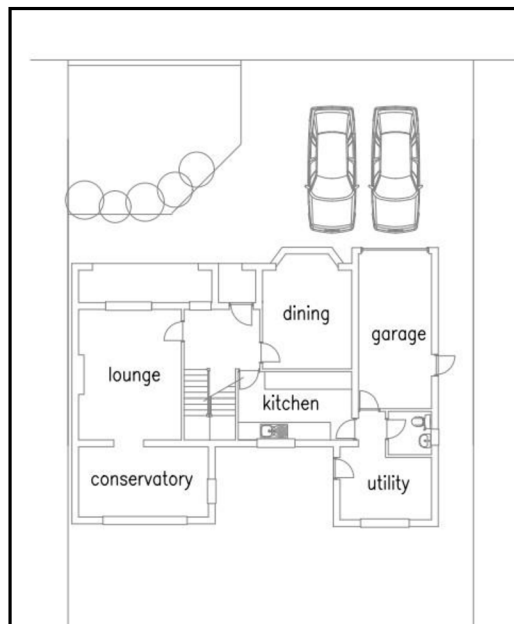
- 1. The proposed development by virtue of the proposed loss of all of the existing soft*

landscaping in the front garden and its replacement with hardstanding for parking together with the loss of all of the existing front boundary wall would result in the development having a harmful impact on the character and appearance of the streetscene and a net loss of biodiversity. The proposal would therefore be contrary to Policy CS12 and Policy CS19 of the Gravesham Local Plan Core Strategy (2014) and sections 12 and 15 of the National Planning Policy Framework (2023).

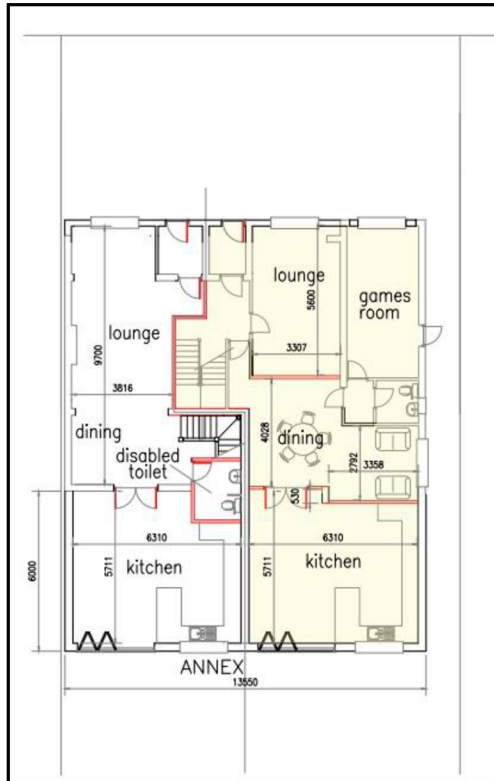
- 2. The applicant has failed to provide any ecological evidence to inform a habitat regulations assessment to address the impact of the proposed development on the Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) or offered a financial contribution towards the identified mitigation measures to address the impact of the development on the SPA/Ramsar site. The proposal is therefore contrary to Policy CS12 of the Gravesham Local Plan Core Strategy (2014) which seeks to ensure that detrimental effects on the integrity of SPA/Ramsar sites are avoided, and also contrary to Paragraphs 186 and 187 of the National Planning Policy Framework (2023).*

The current application seeks to address these reasons for refusal.

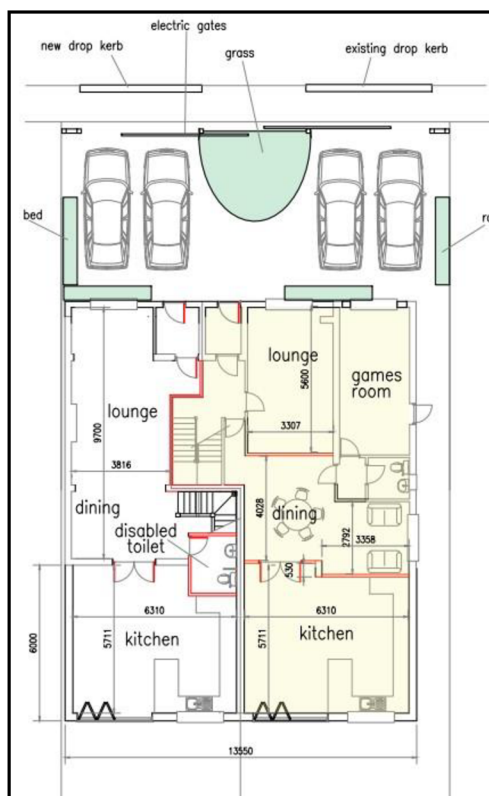
The main difference between the current application and the previously refused application relates to the front garden area and front boundary treatment. The ground floor layout including front garden area of the property as existing, as proposed by application 20240235 and as proposed by the current application are shown below:



Existing ground floor layout including front garden area

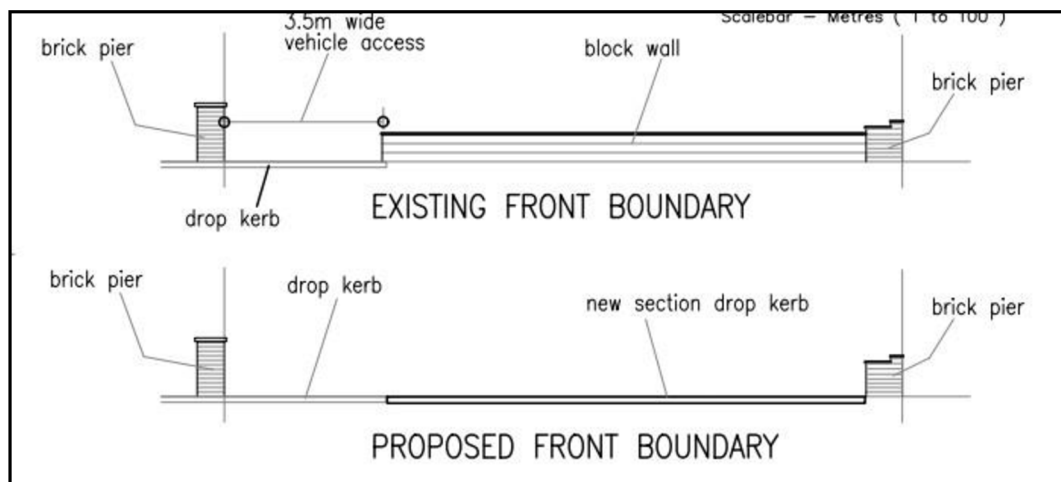


Application 20240235 - Proposed ground floor layout including front garden area.

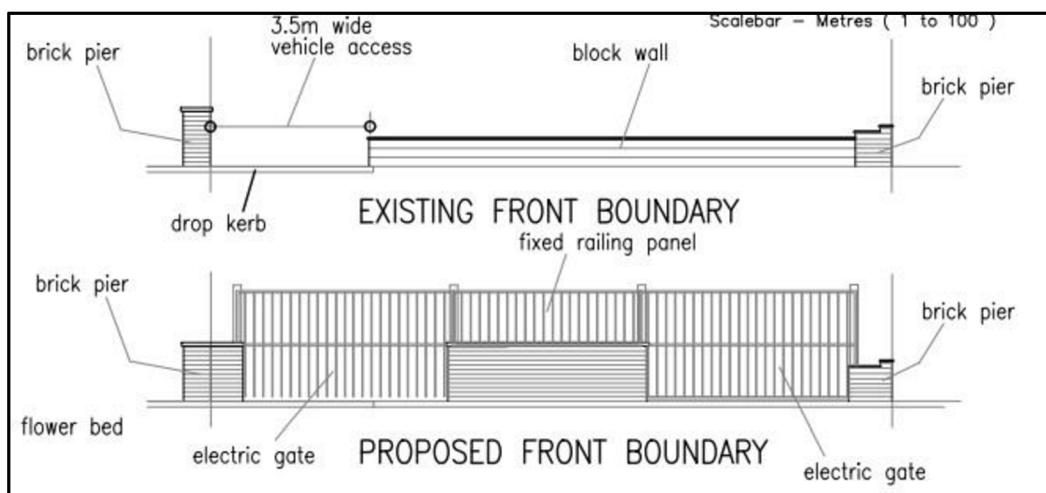


Current application - Proposed ground floor layout including front garden area.

A comparison of the front boundary treatment to the property as existing, as proposed by application 20240235 and as proposed by the current application are shown below:



Application 20240235 - Proposed front boundary.



Current application – proposed front boundary.

The details of the proposed extensions and conversion of the resulting building are identical on the previously refused application and the current application.

Housing Need

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

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

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

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

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

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

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

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

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

Principle of residential development

The broad principle of the proposed residential development finds support in the NPPF. Paragraph 60 is particularly relevant:

To support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed,

that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

In addition, paragraph 70 requires that in order to promote the development of a good mix of sites local planning authorities should, *inter alia*, "support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".

The application site is defined on the Policies Map of the Gravesham Local Plan Core Strategy as lying within the urban area. Policy CS02 of the Core Strategy "prioritises development in the urban area as a sustainable location for development".

In light of these considerations, there is no objection to the broad principle of the conversion of this property to two residential dwellings subject to the proposal being appropriate in terms of other planning issues. Indeed, it should be noted that in the consideration of planning application 20240235 no objection was raised to the principle of the proposed conversion.

Design, character and appearance

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

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

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

....the design, layout and form of new development will be derived from a robust analysis of local context and character and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. Account will be taken of the scale, height, building lines, layout, materials and other architectural features of adjoining buildings.

The delegated planning report relating to application 20240235 set out a detailed analysis of the design and visual impact of the proposed development in the context of the previous extensions that had been approved on this property. With reference to these permissions the report included the following analysis:

The proposed extension would therefore be 600mm greater at ground floor level and 1.8m greater at first floor level. Although the two storey rear extension would be larger the extension would not be significantly larger than what has already been approved under the previous permissions and it can be seen that it would still be in keeping with the scale and character of the host dwelling. The flat roof for the dwelling has already been permitted under all the previous permissions so no comment is given in regard to this. The rooflights proposed in the side roofs slopes are the same as approved in application ref. 20130606. The two proposed dormers in the rear roof slopes are acceptable as they are modestly sized and acceptable design. The single storey front extension would be very modest in

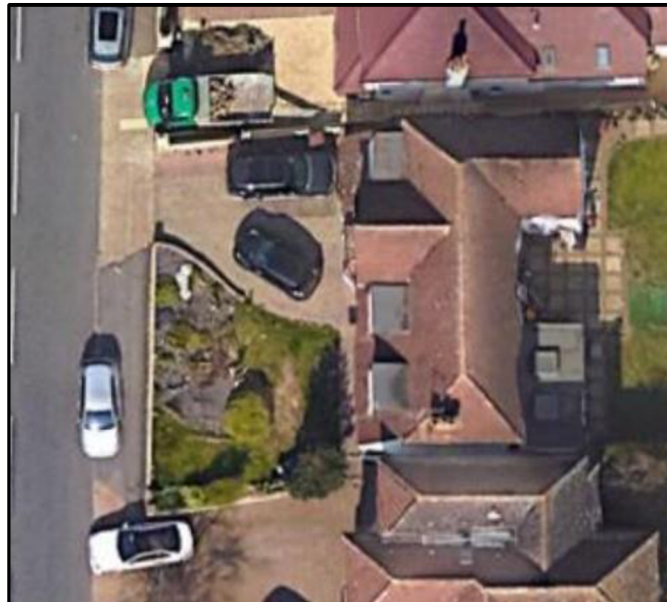
depth and with a mono pitched roof which is acceptable in scale and design.

Given that the details of the proposed extensions and conversion of the resulting building proposed by application 20240235 are identical to the current application, the above conclusions are equally applicable to this proposal. In these respects, the proposal must be considered acceptable in terms of its design and visual impact.

The main difference between application 20240235 and the current proposal relates to the front garden area and front boundary treatment. These differences have been outlined earlier in this report.

The first reason for refusal relating to application 20240235 raised concern that “the proposed loss of all of the existing soft landscaping in the front garden and its replacement with hardstanding for parking together with the loss of all of the existing front boundary wall would result in the development having a harmful impact on the character and appearance of the streetscene and a net loss of biodiversity”.

The existing area of soft landscaping within the front garden area can be seen in the following photograph:



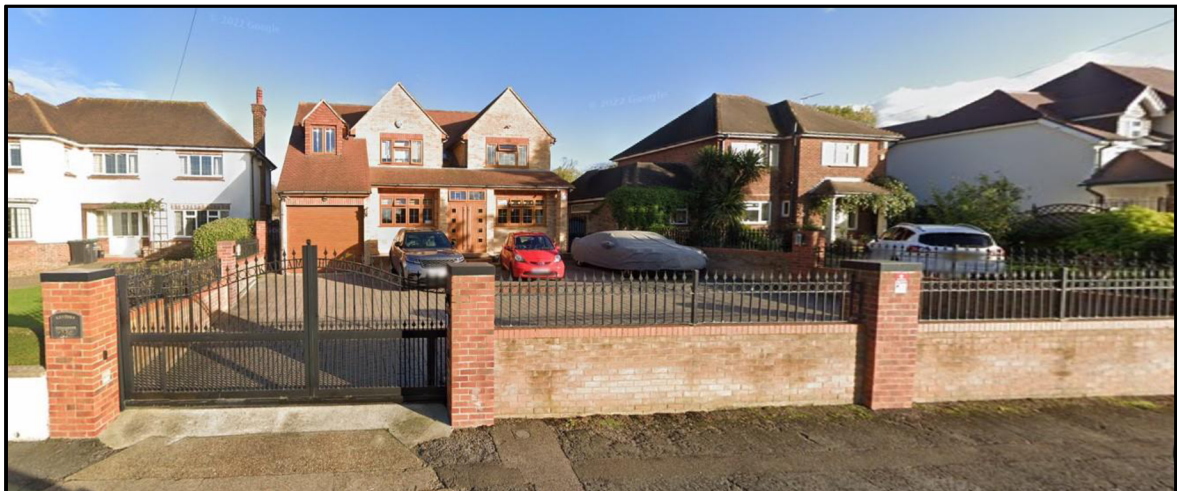
Although the current proposal indicates that soft landscaping would be provided within the front garden area, this is limited in size and would not replicate the size of the soft landscaping area to be lost. Notwithstanding this, it is considered that a larger area of soft landscaping could be provided within the front garden area which could incorporate measures to increase biodiversity. If permission were to be granted, it is considered that this could be secured by an appropriately worded planning condition.

However, there is concern with the proposed front boundary treatment. The frontages of properties in this locality tend to have an open and spacious appearance. Low level boundary walls are a common feature which contribute to this feeling of spaciousness. There are also many examples of soft boundary treatments including hedges. The appearance of the proposed wall, railings and gates would have a very different character. They would be approximately 2.5m in height and as a result of their design would have a harsh and urban appearance which would not be in-keeping with the locality.

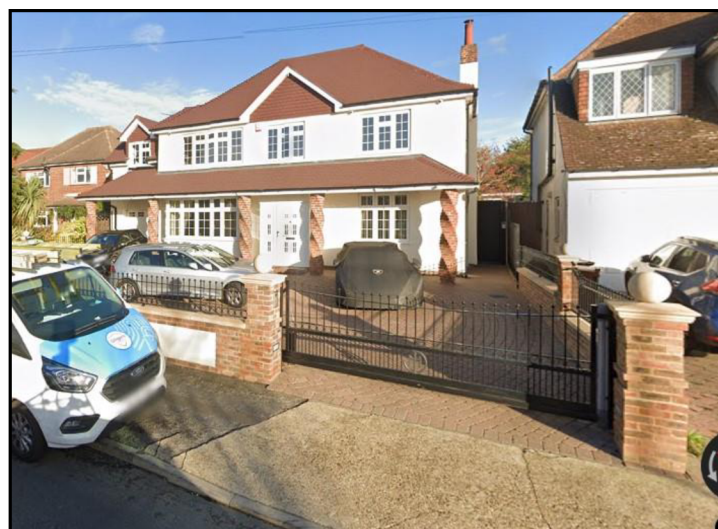
It is acknowledged that there are a limited number of properties within this part of Singlewell Road that have railings and gates as shown in the photographs below:



234 Singlewell Road



246 Singlewell Road



256 Singlewell Road

These examples clearly have a very different character to the existing proposal. They are lower in height and the use of decorative ironwork gives them a more domestic appearance. By contrast the current proposal has a very commercial appearance due to its greater height and functional design.

In light of the above, it is considered that this proposal would fail to meet the tests set out in the NPPF and Policy CS19 of the Core Strategy.

Residential amenity

Paragraph 135 of the NPPF requires planning decisions to, *inter alia*, provide “a high standard of amenity for existing and future users”. In addition, Policy CS19 of the Core Strategy requires new development to be located, designed and constructed to “safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land”.

In the delegated planning report relating to planning application 20240235 the residential amenity of future occupiers was assessed as follows:

The proposal includes conversion of the dwelling into two separate dwellinghouses.

Dwelling marked in yellow on plan (4 bed, 6 person 3 storey dwelling – 245.82 sq. m – exceeds the minimum standard in the Technical Housing Standards (2015) which is 112 sq. m

Dwelling marked as white on plan (2 bed, 3 person, 3 storey dwelling – 189.5 sq. m – no relevant standard in the Technical Housing Standards (2015) but the figure of 189.5 sq.m exceeds the minimum standard for a 3 bed, 4 person 3 storey dwelling which is 90 sq. m.

As such the dwellings exceeds the minimum standards in the Technical Housing Standards (2015) and are therefore of acceptable size.

Both rear gardens would be 138.61 sq. m in area and 19.3 m which would exceed the minimum garden areas and depths as set out in SPG2 (2020) for 4 and 2 bed dwellings respectively.

In respect of occupier amenity the proposal is therefore compliant with Policy CS19 (LPCS).

Given that the details of the proposed extensions and conversion of the resulting building proposed by application 20240235 are identical to the current application, the above conclusions are equally applicable to this proposal.

In the delegated planning report relating to planning application 20240235 the impact of the development on the residential amenity of neighbouring occupiers was assessed as follows:

Although there is an increase in the depth of the two storey rear extension proposed by 600mm at ground floor level and 1.8m at first floor level, given the depth of the adjacent dwellings and the distance between them there would be material harm caused to either neighbouring dwelling. As before the extension would not project any further than no. 256 to the north. There is a window proposed at first floor level in the north flank elevation serving a study but this is shown to be non-opening and obscure glazed therefore no concerns in terms of overlooking.

No. 260 is located to the south of the application site. The proposed extension would mean

the extension would extend approx. 1m beyond the rear of no. 260 however, given this is not a significant amount and combined with the distance between the two properties it is considered this would not cause any overshadowing to no. 260. There is a window proposed at first floor level in the south flank elevation serving bathroom but this is shown to be non-opening and obscure glazed therefore no concerns in terms of overlooking.

The rear dormers would not result in any additional overlooking over the rear windows below. The single storey front extension is of a modest size and given this and its siting and distance from the neighbouring properties it would not impact on any of the neighbouring properties.

As such in respect of neighbouring amenity the proposal is considered compliant with Policy CS19 (LPCS).

Given that the details of the proposed extensions and conversion of the resulting building proposed by application 20240235 are identical to the current application, the above conclusions are also equally applicable to this proposal.

In light of the above assessment, it is considered that the impact of the proposed development on residential amenity would be acceptable and would meet the tests set out in the NPPF, Policy CS19 of the Core Strategy, the Technical Housing Standards – nationally described space standard and the Council's Residential Layout Guidelines.

Parking and highways

Parking

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

Four on-site car parking spaces are shown to be provided. Given that the Kent County Council Vehicle Parking Standards are maximum standards and given the sustainable location of the site within the urban area, it is considered that on balance this level of on-site parking provision would be acceptable.

Access

Paragraph 114 of the NPPF requires that in assessing applications for development, it should be ensured that "safe and suitable access to the site can be achieved for all users".

Policy CS11 of the Core Strategy states that new developments should mitigate their impact on the highway. Saved Policy T5 of the Gravesham Local Plan First Review requires that the formation of new accesses or the intensification of use of existing accesses to the roads forming the highway network shown on the Proposals Map will not normally be permitted except where no danger would arise and where a properly formed access can be created in a location and to a standard acceptable to the Local Planning and Highway Authorities.

The KCC Dropped Kerb Guidance and Self-Assessment document (2023) states that gates should not open outwards onto the public highway and that there should be a minimum distance of 5.5m from the highway edge in order to ensure that vehicles do not obstruct the public highway when

accessing a property. Furthermore, the document sets out that there should be a pedestrian visibility play of at least 2 metres by 2 metres from the back edge of the footway with a maximum height of 0.6 metres above footway level.

The Council's Front Driveway Design Guide and the Householder Extensions/Alterations Design Guide state that front garden parking should not include gates but where they already exist, they must not open outwards and should allow enough space to open inwardly while a car is parked. They further state that gates should enable a pedestrian on the footway to have clear visibility of any vehicle exiting (ie they should be railings or have some form of transparency) and should not be of a height that blocks visibility of passing pedestrians and should enable visibility from the footway. They also require that pedestrian and vehicle visibility splays should be provided.

The proposed boundary wall/railings/gates would abut the back edge of the footway and would measure approximately 2.5m in height. No pedestrian or vehicle visibility splays are provided. Due to the lack of any set back, vehicles entering the application site would be required to wait for the gates to open before entering, which would result in vehicles being stationary on the carriageway or across the pavement outside the application site.

It is noted that the proposed gates would have automated opening. However, such a system does not work for ad hoc visitors and is dependent on the system being in working order. Even in use, it is possible that a vehicle would have to wait on the carriageway or across the pavement (depending on the distance over which the opening mechanism would operate). As such, the proposal would obstruct the free flow of traffic on the roadway and pedestrians on the pavement.

In addition, the lack of any pedestrian or vehicle visibility splays would result in drivers exiting the application site with limited visibility, resulting in danger to passing pedestrians and to highway safety.

In summary it is considered that the proposal would be detrimental to highway safety and would result in danger to pedestrians using the public footpath. As such it would be contrary to the NPPF, Policy CS11 Core Strategy, Saved Policy T5 of the Gravesham Local Plan First Review, the KCC Dropped Kerb Guidance and Self-Assessment and the Householder Extensions/Alterations Design Guide.

Ecological Impact

Section 15 of the NPPF relates to conserving and enhancing the natural environment. It seeks to ensure that new developments protect and enhance biodiversity and geodiversity.

Policy CS12 of the Core Strategy relates to green infrastructure and requires that there will be no net loss of biodiversity in the Borough and opportunities to enhance, restore, re-create and maintain habitats will be sought within new development.

The comments of the KCC Biodiversity Officer concerning roosting bats are noted. In the assessment of the previous application relating to this site, this was not identified as an issue as no representations had been received from the KCC Biodiversity Officer. However, now that it has been raised, it needs to be taken into consideration in the assessment of this application.

Advice in Circular 06/2005 states that the presence of a protected species (such as bats) is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or habitat. The Circular goes on to say that 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 (paragraph 99).

Consequently, attaching a pre-commencement condition requiring a bat survey would not be appropriate in this case and would not overcome the comments of the KCC Biodiversity Officer. In the absence of an Ecological Impact Assessment there is insufficient information on which to determine that harm to bats would be avoided. The proposal is therefore contrary to the NPPF and Policy CS12 of the Core Strategy.

Recreational Pressures on the Thames Estuary and Marshes Special Protection Area (SPA) and SAMMS

The Thames Estuary and Marshes Special Protection Area (SPA) is classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and/or vulnerable in a European context, and also sites that form a critically important network for birds on migration. It is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity. Research conducted in 2011 found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within 6 km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European Sites.

The Local Planning Authority has mitigated out the impacts of this on each and every planning application for a new residential development of one or more units within the 6km zone since September 2015 by accepting a Strategic Access Mitigation and Monitoring Strategy (SAMMS) (tariff) payment (currently £328.27 per dwelling) where applicable. This approach is approved by Natural England for all new residential developments. For every planning application for a new dwelling (including new flats), the tariff contributions are secured through a Section 106 legal agreement or unilateral undertaking or if there are no other financial contributions this is secured through a contribution agreement. Where a developer is unwilling to make the SAMMS payment, sufficient evidence is required to be supplied to enable the Council to undertake an Appropriate Assessment to determine that it is unnecessary to mitigate any potential Likely Significant Effect.

The tariff has previously been accepted effectively in lieu of an Appropriate Assessment (AA). However, in a recent Court of Justice European Union (CJEU) ruling this approach was not considered to be valid, as the CJEU considered the first stage to be a screening assessment as to whether the development either alone or in combination, is likely to have significant effects on a designated site without mitigation. In this respect, the CJEU judgement made a distinction between “the plan or project” itself and “measures intended to avoid or reduce the harmful effects of a plan or project on a European site”. This means that mitigation measures, which are intended to avoid or reduce effects, should be assessed within the framework of an Appropriate Assessment and that mitigation measures cannot be taken into account at the screening stage.

The applicant has paid the required contribution. On this basis, the proposal complies with the NPPF, Policy CS12 of the Core Strategy and the requirements of the Conservation of Habitats and Species Regulations 2017.

Other Issues

Under the Environment Act 2021, all minor planning applications in England submitted on or after the 2 April 2024 will have to deliver at least a 10% biodiversity net gain (unless exempt). This application was submitted after the commencement of mandatory BNG.

On the submitted application forms, the applicant’s agent has indicated that the proposal would be

exempt from mandatory biodiversity net gain as the development would consist exclusively of dwellings that are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

If permission were to be granted for this development, it would be subject to a planning condition/legal agreement to ensure that the development would meet the definition of a self-build or custom housebuild as defined in the Self-build and Custom Housebuilding Act 2015.

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

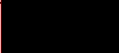
The proposed development for a net increase of one residential unit would offer minimal contribution towards meeting this local need and delivery and, accordingly, adds limited weight in support of the application.

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 and established local policy taken as a whole. In this case the balance is tilted towards refusal for the reasons set out in the recommendation below.

Recommendation:

REFUSE PLANNING PERMISSION

See draft Decision

Case Officer: Gary Edwards	Team Leader: Richard Hart
Signed: 	Signed: 
Dated: 10/10/2024	Dated: 11th October 2024