

Delegated Report

Planning Application

Planning Application No: 20241087

Location: 112 Beaumont Drive Northfleet Gravesend Kent

Description: Erection of self-build two storey attached dwelling.

Applicant: Mr & Mrs Bhullar

Site Visit Date: 14.03.2025

Submitted Documents/Plans

- Application form;
- OS Plan;
- Block Plan Existing;
- Block Plan - Proposed
- Drawing no. 77-18-P-01 Rev. A – Proposed Plans and Elevations; and
- Drawing no. 7718-P-05 Rev. A – Existing and Proposed Roof Plans.

Relevant Planning History

Reference	Description	Decision	Decision Date
20190933	Erection of a three bedroom dwelling.	Refused	02.01.2020

Development Plan

Gravesham Local Plan Core Strategy (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 and Development Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on Highway Network
- T5 - Impact of Development on Highway Network
- TC7 – Other Archaeological Sites

Paragraph 34 of the NPPF (2024) 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 (2024), the Council will also seek to replace these.

National Planning Policy Framework (2024)

- 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 9 – Promoting sustainable transport
- Section 12 – Achieving Well-Designed Places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

Supplementary Planning Guidance

- SPG 2 – Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020
- Technical Housing Standards – Nationally Described Space Standard (2015)
- SPG 4 – KCC Parking Standards (2006)
- Gravesham Householder Extensions/Alterations Design Guide (2021)
- Design for Gravesham – Design Code (2024)

Other Relevant Guidance

- Kent County Council Dropped Kerb Guidance and Self-Assessment (2023)
- Gravesham Driveway Dropped Kerb Guidance (Informal Guidance) (2023)
- Gravesham Front Driveway Design Guidance (Informal Guidance) (2023)

Consultations, Publicity and Representations

Consultees

GBC Environmental Protection

There is no objection to this application. The following to be considered:

Contaminated Land Watching Brief

The site falls within the buffer zone of a former landfill site and the following condition is therefore recommended:

The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

Code of Practice on Construction and Demolition

Please apply as appropriate to minimise any problems during the build to the nearby premises.

Smoke Control Informative

The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991 shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions and they can only be used for the fuel for which they are designed. When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk

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.

KCC Biodiversity

SUMMARY: SUFFICIENT INFORMATION

We have reviewed the information submitted by the applicant and advise that no ecological information is required for determination. This application is within a small, managed garden and therefore has limited habitats and features suitable for supporting biodiversity. The existing structure appears well maintained and therefore unlikely to support roosting bats. Recommended condition wording is provided.

Biodiversity Net Gain (BNG) SELF-BUILD EXEMPTION

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

It is not within our remit to verify that the proposed dwelling(s) meet the definition of self-build or custom housebuilding as defined in the 2015 Act. The LPA should therefore ensure that the proposals meet the definition and that biodiversity net gain does not apply.

Government guidance on self-build and custom housebuilding indicates that "[in] considering whether a home is self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing".

ECOLOGICAL ENHANCEMENTS

No biodiversity enhancements are currently proposed. Paragraph 187(d) of the NPPF 2024 states: *"Planning policies and decisions should contribute to and enhance the natural and local environment by ... minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support*

priority or threatened species such as swifts, bats and hedgehogs.” This is notwithstanding any exemption from statutory BNG.

Suggested biodiversity enhancements include the provision of durable bird/bat boxes (for house sparrows, starlings, swifts or as appropriate to the development and preferably integrated into new structures), native tree/shrub planting, sowing of an appropriate wildflower mix, the creation of artificial refugia for reptiles/amphibians, the creation of ‘hedgehog highways’ (13×13cm gaps in closed board fencing) and/or creation of bug hotels/bee bricks for invertebrates. Integrated features (e.g. swift bricks or bat tubes) should be clearly visible on elevations plans. A condition wording is suggested below.

Condition

Within three months of works commencement, a detailed plan(s) showing how the development will enhance biodiversity, will be submitted to, and approved in writing by, the local planning authority. Native and wildlife-friendly planting, and integrated durable bat and bird boxes aimed at species of conservation concern should be incorporated. The approved measures will be implemented and retained thereafter.

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 belowground archaeological impact and have no further comments to make in this case.

KCC Highways

Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

Kent Fire & Rescue

I can confirm that on this occasion it is my opinion that the access requirements for the Fire and Rescue Service appear to have been met. Please be aware that should this proposal be successful it would then be subject to a Building Regulations consultation where the access arrangements would again be examined under section B5.

Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

Neighbouring properties

15 surrounding properties were consulted with an overall consultation expiry date of 14.02.2025 – six responses received (objections) the comments of which can be summarised as follows:

Design, Character and Appearance

Overdevelopment of the site

New house would have no presence on the streetscene

Design for a 2 bed house in a road of 3 bed houses is odd and unlike all the others which would be

detrimental to street and neighbours;
House design very different from all the other houses;
Will introduce an additional dwelling that would not be in keeping with the surrounding housing landscape;

Parking and Highways

Red line is incorrect – all the properties from 98-112 should have access to the rear alley for shared access to the garages at the rear, it's not for the exclusive ownership of 112;
Detrimental effect on access to the garages and back gardens of properties along that line of houses;
Parking is already bad along this stretch, an additional property will make it worse;
Parking at rear would likely end up with cars backed up in the alleyway which would block theirs and other neighbours garages;
Parking already an issue in street with many works vehicles and this new house would exacerbate the issue;
Inappropriate parking would restrict access to public path to Dover Road;
Will mean cars will likely park in alley which would block access to their garage as cars won't necessarily park as shown;
Will cause problems on the street for parking which we already have;
There is no proposal for parking where parking is an issue;
Big concern is parking being proposed at the rear where access to garage for nos. 98-112 Beaumont Drive would be detrimentally affected, most likely end up in the alley blocking access as well as for pedestrians using the path to Dover Road;

*In previous application ref. 20190933 the matter of the red line boundary was queried with the agent. They advised that no. 114 also own the access way but no one else does so the applicant signed certificate B and served notice on no. 114 only.

In this application the red line does not include the access way although the blue line is shown partly over the accessway denoting land the applicant states that they own.

Officer's Analysis

The application site consists of the side garden of no. 112 Beaumont Drive.

The site is located in an Area of Archaeological Potential, Thames Estuary And Marshes Ramsar Buffer Zone and in the Historic Landfill Site Buffer Zone for Northfleet Power Station.

The proposal is for erection of a two storey attached self build dwelling in the side garden no. 112 Beaumont Drive.

Planning permission was refused on 2 January 2020 under application ref. 20190933 for erection of a three bedroom dwelling. This was refused on the following grounds:

1. *The proposal would be out of character with the built form of development in Beaumont Drive, which is characterised by terraced dwellings with a defined building line. Due to the shape of the side garden of the host property, the proposed dwelling would appear 'squeezed' in and of cramped appearance and would therefore appear of poor design harmful to the character of the street scene. As such, the proposal would be contrary to Policies CS14 (Housing Type and Size) and CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy Adoption Version (September 2014) and section 12 (Achieving well-designed places) of the National Planning Policy Framework which expects development to take into account the existing character of the area and make a positive contribution to the street scene.*

2. *Secondly, the proposed dwelling by virtue of it being 'squeezed' into the side garden of the host dwelling and its proximity to the adjacent terrace would result in undersized living areas and a lack of*

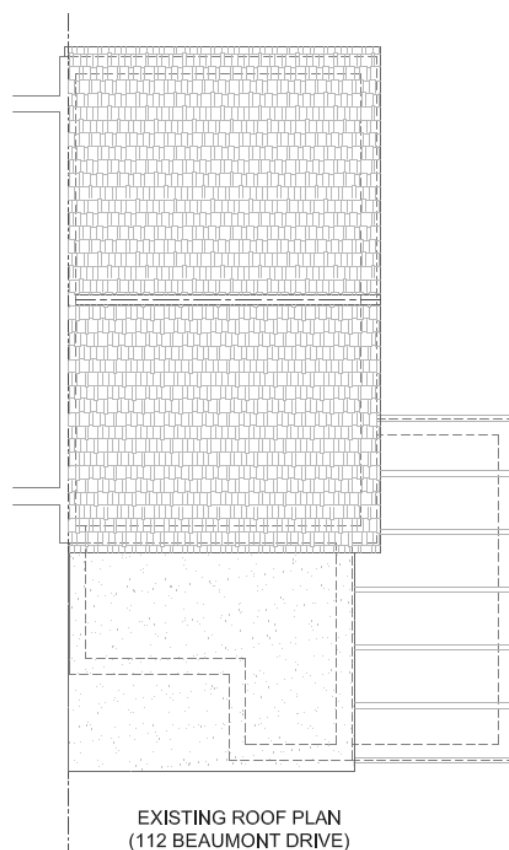
outlook from the property, this would be detrimental to the amenity of occupiers of the dwelling. As such, the proposal is contrary to SPG2, Policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy (September 2014) and Paragraph 127 of the National Planning Policy Framework which expects new development to secure a good standard of amenity for existing and future occupants of land and buildings.

3. The proposed new dwelling would result in an un-neighbourly form of development that is incongruous in nature, dominant in scale and would result in direct overlooking of the property at No.11 Beaumont Drive and overbearing on the host dwelling. This development would therefore be detrimental to the amenity of the occupiers of neighbouring properties, contrary to Section 12 of the National Planning Policy Framework 2019, SPG4 and Policy CS19 of the Gravesham Local Plan Core Strategy 2014, which states that new development will be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land.

It therefore needs to be seen whether this current proposal has addressed the above grounds of refusal.

For ease of reference the existing, refused and proposed plans are as follows:

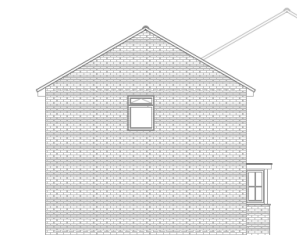
Existing site



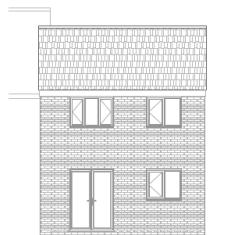
Refused (ref. 20190933)



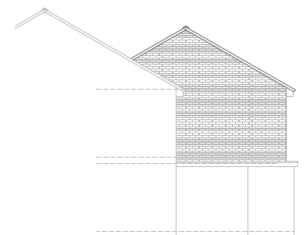
PROPOSED FRONT ELEVATION



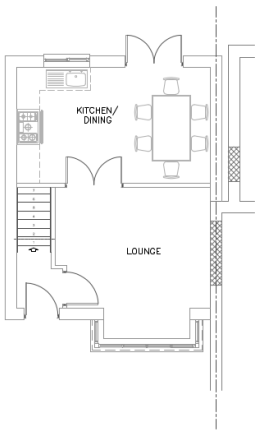
PROPOSED SOUTH FACING
SIDE ELEVATION



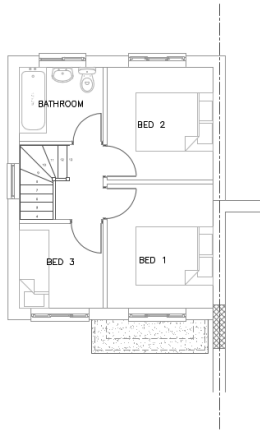
PROPOSED REAR ELEVATION



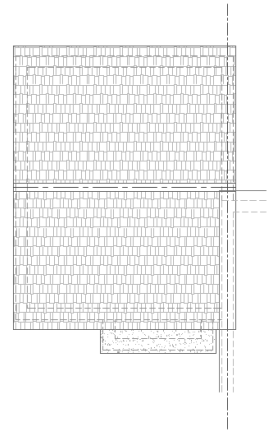
PROPOSED NORTH FACING
SIDE ELEVATION



PROPOSED GROUND FLOOR PLAN

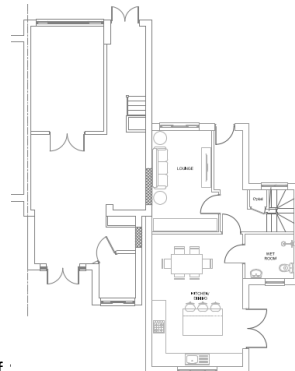
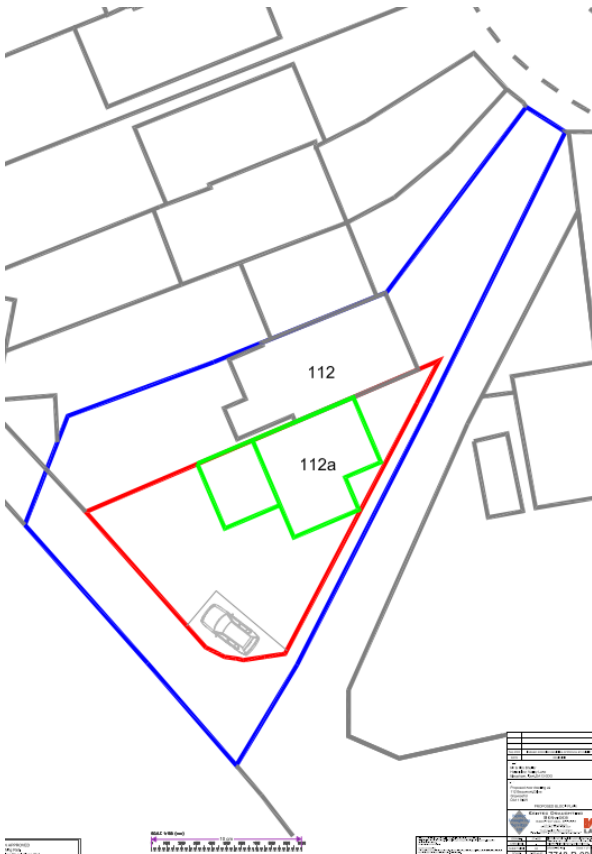


PROPOSED FIRST FLOOR PLAN

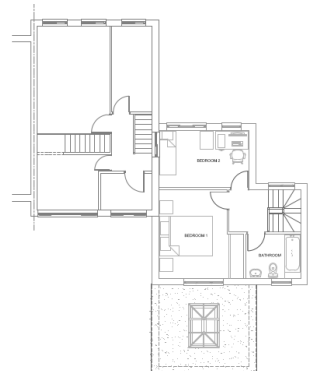


PROPOSED ROOF PLAN

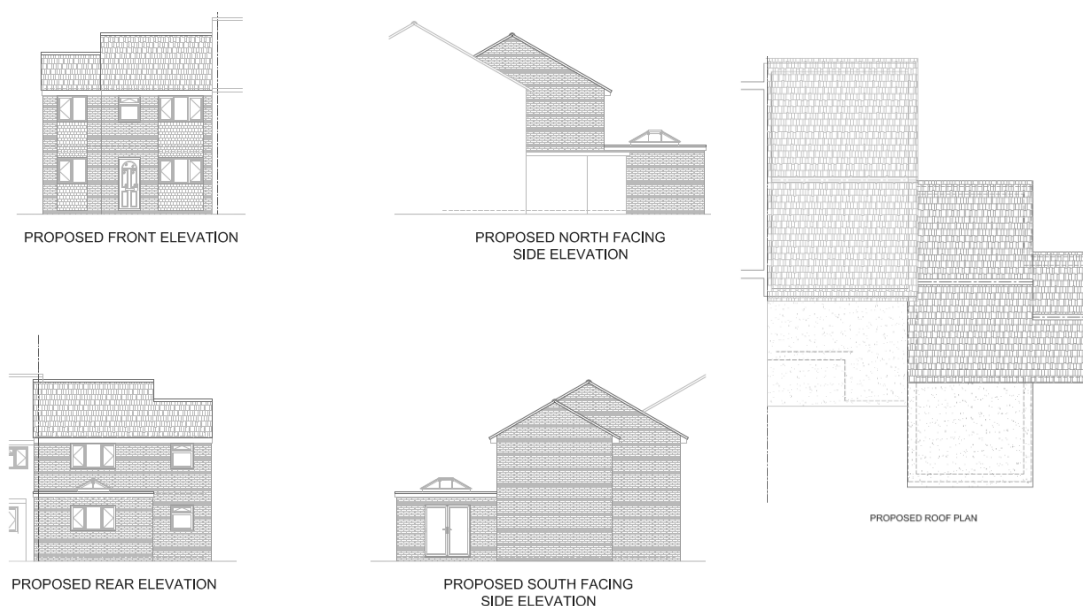
Proposed scheme ref. 20241087



PROPOSED GROUND FLOOR PLAN



PROPOSED FIRST FLOOR PLAN



Housing Need

In *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 National Planning Policy Framework (NPPF) (2024) 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 February 2025, it demonstrates that based on data up for the period 2024-2029, the Council can only demonstrate a land supply of 3 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) (2024). 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.

In the Gravesham context, 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 any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 194)
- Sites of Special Scientific Interest
- Green Belt
- Local Green Space
- A National Landscape
- Irreplaceable habitats
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 75)
- 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 129) 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.

The proposed development for a net increase of '1' residential units would offer a minimal contribution towards meeting this local need and, accordingly, officers considers that this should be accorded appropriate weight in support of the application. However, this has to be balanced against other requirements of the Development Plan and NPPF (2024) which requires new development to contribute positively to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

Design, Character and Appearance

This matter related to ground of refusal no. 1 of previous application ref. 20190933.

1. *The proposal would be out of character with the built form of development in Beaumont Drive, which is characterised by terraced dwellings with a defined building line. Due to the shape of the side garden of the host property, the proposed dwelling would appear 'squeezed' in and of cramped appearance and would therefore appear of poor design harmful to the character of the street scene. As such, the proposal would be contrary to Policies CS14 (Housing Type and Size) and CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy Adoption Version (September 2014) and section 12 (Achieving well-designed places) of the National Planning Policy Framework which expects development to take into account the existing character of the area and make a positive contribution to the street scene.*

The application site consists of a wedge shaped area of the side garden at 112 Beaumont Drive. The area of Beaumont Drive itself is characterised by terraced dwellings, the terraces vary in their character and the number of dwellings within them. The host property is adjacent to a side access that serves the rear of no. 112 and a number of surrounding properties. In previous application ref. 20190933 the red line boundary included the side access drive, in this application it has been removed.

It can be seen that the existing host dwelling no. 112 and the terrace it is a part of maintains a defined building line which contributes to part of the character of Beaumont Drive. The issues with the previous proposal ref. 20190933 were in terms of the positioning of the proposed dwelling and that it would have materially altered the established building line by introducing built development behind the defined building line of the terrace. Due to the size and wedge shape of the plot, in order to fit the dwelling on the plot it was proposed to set it so far back behind the building line and it would have been an extremely incongruous development. The dwelling would have had a cramped appearance on the site appearing squeezed in between the host dwelling and the accessway with no active frontage onto the streetscene itself. This served to highlight that the proposed development was an overdevelopment of the plot and was completely

out of keeping with the layout and character of the streetscene in this part of Beaumont Drive.

In this current application ref. 20241087 the proposed dwelling would still have the same issues as before but even worse as the dwelling is even larger. The proposed dwelling would still be set far back from the building line of the terrace and therefore be completely out of keeping with the established building line. Due to the wedge shape of the plot it is not possible to build a dwelling any further forward in the plot. Any dwelling on this site will always be at odds with the established building line therefore. By being set so far back beyond this line the dwelling appears an extremely incongruous form of development harmful to the character of the streetscene.

The dwelling would have an even more cramped appearance as it is even larger than previously refused. It would have a larger footprint and also additional two storey side and single storey rear elements. Whereas in the previous proposal only the front wall was built up to the side boundary with the access way, now the front and side walls of the dwelling would be built up to the side boundary.

The proposed dwelling would therefore still introduce a dwelling behind the defined building line and would have an even more cramped appearance on the plot with even more of the dwelling built up to the boundary with the access drive.

The proposal by virtue of its siting would be out of character with the built form of development in Beaumont Drive, which is characterised by terraced dwellings with a defined building line. The proposed dwelling would be completely at odds with the established building line and an incongruous form of development. It would appear 'squeezed' in and of cramped appearance and would therefore appear of poor design harmful to the character and appearance of the street scene. As such, the proposal would be contrary to Policies CS14 and CS19 (LPCS) and section 12 of the NPPF (2024) which expects development to take into account the existing character of the area and make a positive contribution to the street scene. Ground of refusal no. 1 of application ref. 20190933 has therefore not been resolved.

Amenity of Future Occupiers

This matter related to ground of refusal no. 2 of previous application ref. 20190933.

The issues were that all of the bedrooms would have been undersized and the windows in the front of the dwelling would have had very poor outlook as they would have faced onto the side of no. 114.

In this application the following assessment in respect of amenity of future occupiers is as follows:

Garden area and depth

Proposed dwelling – The proposed dwelling would be a two bedroom dwelling and the garden area would be 97 sq. m and between 7.7m to 9.7m in terms of rear garden depth. SPG2 (2020) states that the minimum standard for garden area for a two bedroom dwelling is 37 sq. m and the minimum depth from the rear wall of the house is 7.6m.

Internal area

The proposed dwelling is a 2 bedroom, 3 person, 2 storey dwelling and the internal space standard is 90 sq. m. The Technical Housing Standard (2015) states that for this type of dwelling the minimum internal floor area is 70 sq. m. The proposed dwelling therefore meets the minimum standard.

Bedrooms

Bedroom 1 (double) – 12.6 sq. m

Bedroom 2 (single) – 10.6. sq. m

The Technical Housing Standard (2015) states that the minimum size for a double bedroom is 11.5 sq. m and the minimum size for a single bedroom is 7.5 sq. m. The proposed bedrooms therefore meet the minimum standard.

Light and outlook

The windows in the front of the dwelling would have a very poor outlook as they would look out onto the brick flank wall of the neighbouring dwelling no. 114 Beaumont Drive.

This is because the dwelling would be set so far back in the site that it would have no real active view onto Beaumont Drive itself, just the brick flank wall of no. 114 which would be very detrimental to the amenity of future occupiers of the proposed dwelling.

In summary the issue of the undersized bedrooms in the previous application has been resolved however, the proposal would still provide the same poor outlook for future occupiers from the front windows so has not resolved that issue.

The proposed dwelling by virtue of its siting in the side garden of the host dwelling and its proximity to the adjacent terrace would result in a lack of outlook from the front windows of the property which would be detrimental to the amenity of occupiers of the proposed dwelling. As such, the proposal is contrary to Policy CS19 (LPCS) and paragraph 135(f) of the NPPF (2024) which expects new development to secure a good standard of amenity for existing and future occupants of land and buildings. Ground of refusal no. 2 of application ref. 20190933 has therefore not been resolved.

Neighbouring Amenity

This matter related to ground of refusal no. 3 of previous application ref. 20190933.

The issues were the impact on the first floor windows in the rear of the host dwelling by virtue of overshadowing due to the proposed dwelling extending 3.75m beyond the first floor level of the host dwelling. A further issue was that the proposed first floor bedroom windows in the front elevation would face onto the side of the neighbouring property no. 114 and there is a landing window in that side elevation and there would not be the minimum 11m privacy distance between those habitable and non-habitable windows.

The Council's Residential Layout Guidelines set out the standards that need to be achieved in order that a development would not impact on the amenity or privacy of any neighbouring properties.

In this new application these issues still remain. Due to the proposed dwelling being positioned so far back from the host dwelling the rear of it would still cause an impact on no. 112. The proposed dwelling would extend slightly less beyond the first floor level of the host dwelling (3.1m instead of 3.7m) but at this depth it would still cause overshadowing to the first floor rear windows of no. 112 and be an overbearing and unneighbourly form of development. A new issue with this application is that the dwelling would extend beyond the rear elevation of no. 112 at ground floor level also. This would be by 3m and given the close proximity of the two dwellings and location of the rear windows further adds to the overshadowing, overbearing and unneighbourly impact on no. 112. Furthermore, as before the first floor bedroom windows in the front elevation would still face onto the side of the neighbouring property no. 114 and be only 9.5m from them. This would therefore not meet the 11m minimum privacy distance expected between habitable and non-habitable windows and would therefore cause overlooking to the occupiers of no. 114.

Since previous application ref. 20190933 new dwellings have been built to the rear of the site (Bridge

Close). The two storey rear elevation element of the proposed dwelling would be 26m away from the nearest properties in Bridge Close therefore no overshadowing, loss of outlook or overlooking to those properties.

The proposed development by virtue of the siting, orientation and design of the proposed dwelling would result in overshadowing of the host dwelling no. 112, overlooking of the neighbouring dwelling no. 114 and would generally be an overbearing and unneighbourly form of development harmful to the amenity and privacy of those neighbouring dwellings. As such the proposal would be contrary to Policy CS19 (LPCS) and paragraph 135(f) of the NPPF (2024) which expects new development to secure a good standard of amenity for existing and future occupants of land and buildings. Ground of refusal no. 3 of application ref. 20190933 has therefore not been resolved.

Parking and Highways

There is one two off street parking space proposed at the rear of the property (in the previous application there were two) and the two parking spaces serving the existing dwelling no. 112 would be maintained. In terms of the parking space for the proposed dwelling the space marked out does not meet the minimum dimensions of 2.5m x 5m but this could be achieved. One parking space is sufficient to meet the maximum parking space standard for a two bedroom dwelling as set out in SPG4 (2006). In previous application ref. 20190933 the Councils Highways Development Management Officer requested that the parking area should have as a minimum 2m x 2m pedestrian visibility splays, as the access way had been identified within the planning statement as a public right of way. Should the application be permitted such details could be conditioned. In respect of parking and highways the proposal is therefore considered compliant with Policy CS11 (LPCS) and saved Policy P3 (LPFR).

Biodiversity and Ecology

Biodiversity Net Gain

Biodiversity Net Gain (BNG) is a mandatory requirement for all new development and proposals must deliver a BNG of at least 10% unless they are exempt. In this instance, the applicant is stating that the proposal is a self-build and is therefore exempt from BNG. Self-build has been inserted into the description and the applicant has completed the Custom and Self-build Delivery Statement Template.

Biodiversity

KCC Biodiversity have confirmed that as the site is a small well managed garden it has limited habitats and features suitable for supporting biodiversity. They also advise that the existing structure appears well maintained and therefore unlikely to support roosting bats. As such they recommended a condition to be attached to request biodiversity enhancements such as bird/bat boxes.

Thames Estuary and Marshes Special Protection Area (SPA)

The application site falls within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) 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 Borough Council 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 (£328.27per dwelling). This approach is approved by Natural England for all new residential developments.

For every planning application for a new dwelling (including new flats) which does not require any other contributions to be secured through a s106 legal agreement or unilateral undertaking the tariff has been secured through a contribution agreement.

The tariff has been accepted effectively in lieu of an Appropriate Assessment (AA) under the Habitat Regulations and thus avoiding the need to progress into a full AA.

However a more recent Court of Justice European Union (CJEU) ruling means that this approach is now no longer valid and although the mitigation measures (in the form of a tariff payment) will still need to be made the first stage will 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. The CJEU sees 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 AA and cannot be taken into account at the screening stage.

This proposal would result in the net addition of 1 unit and the applicant has not paid the required tariff (£328.27). The Local Planning Authority cannot therefore be satisfied that the proposal has put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site. Therefore, the proposal in respect of ecology and biodiversity is contrary to Policy CS12 (LPCS) and paragraphs 193 and 194 of the NPPF (2024). In previous application it was noted that the proposal was unacceptable in respect of the lack of a SAMMS payment but there was not a ground of refusal. It is presumed this was in error and a ground of refusal for this matter is required in this application, therefore this matter from previous application ref. 20190933 has not been resolved.

Archaeology

The site is located in an Area of Archaeological Potential and the proposal would involve groundworks. KCC Heritage have advised that based on existing Historic Environment Record data for the area and the relatively limited extent of the proposed works, it unlikely that these proposals would have a significant belowground archaeological impact. In respect of archaeology the proposal is therefore considered compliant with saved Policy TC7 (LPCS).

Land contamination

The site falls within the buffer zone of a former landfill site and GBC Environmental Protection recommend a watching brief condition which could be attached should permission be forthcoming. As such in respect of land contamination subject to such a condition the proposal is compliant with Policy CS19 (LPCS).

Any Other Material Planning Considerations

None.

Conclusion

The proposed development is acceptable in relation to parking and highway safety. However, it is not acceptable in respect of design, character and appearance, amenity of future occupiers, neighbouring amenity or biodiversity. It has therefore not addressed the grounds of refusal of previous application ref. 20190933.

Recommendation

Refusal

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Richard Hart
Signed:	<i>Rebecca Harrison</i>	Signed:	<i>R Hart</i>
Dated:	19th March 2025	Dated:	19th March 2025