



Delegated Report

Householder Planning Application

Planning Application No: 20230954

Location: Furzy Lea Bowesden Lane Shorne Gravesend

Description: Demolition of existing conservatory and erection of a two-storey side extension.

Applicant: Mr Yadwinder Gill

Site Visit Date: 20th September 2023

Submitted Documents/Plans

Application Form Dated 05/09/2023;
Drawing Number 001 Rev A (Block and Site Location Plan as Existing);
Drawing Number 002 Rev A (Block and Site Location Plan as Proposed);
Drawing Number 004 Rev A (Elevations as Proposed);
Drawing Number 005 Rev A (Floor Plans as Proposed);
Drawing Number 004 Rev A (Elevations as Existing); and
Drawing Number 003 Rev A (Floor Plans as Existing).

Relevant Planning History

Reference	Description	Decision	Decision Date
20230240	Application for a Proposed Lawful Development Certificate in respect of the erection of a Gym.	Certificate Granted	10.05.2023
20221191	Single storey rear extension with a depth of 8.00 metres, maximum height of 3.50 metres and eaves height of 2.40 metres.	Prior Approval not Required	29.11.2022
20220995	Single storey rear extension with a depth of 8.00 metres, maximum height of 3.50 metres and eaves height of 2.40 metres.	Prior Approval is Required and Refused	12.10.2022
20071061	Construction of new pitched roof to replace existing flat roof at rear and installation of new window in rear elevation at first floor level.	Permitted	18.01.2008

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- C13 – Extensions to Dwellings in the Countryside

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 1st 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 12 – Achieving Well-designed Places
- Section 13 – Protecting Green Belt land
- Section 15 - Conserving and enhancing the natural 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);
- Householder Extensions/Alterations Design Guide (2021); and
- Gravesham Landscape Character Assessment (2009)

Consultations, Publicity and Representations

Consultees

GBC Highways

I have no objections, the existing driveway has more than adequate car parking provision and cycles can be stored/parked in the garages.

Shorne Parish Council

The proposal is for an approximately 4m wide by 10m deep, two-storey side extension, set back by a few centimetres from the central frontage. The property will become a 5-bedroom, 2-bathroom (one en-suite) dwelling. Parking arrangements are unchanged with two garage spaces available plus hardstanding, so appear satisfactory.

The size of the extension represents a 50% increase in the floor area of the existing house, which will be over the “one third rule” limitation and will significantly increase its bulk, with negative impact on openness in an area that is Green Belt and bordering an AONB.

The Parish Council has no objection in principle to this proposal on its own but notes recent planning approvals 20221191 for an 8m deep single-storey rear extension and 20230240 for a large gym building. Taken together, the quantum of proposed construction on the site is very large, and the previous approvals should also be taken into account if permission is to be granted. We would also request that permitted development rights should be withdrawn.

Engineering works being undertaken: We note also that work has started on the site and that spoil is being deposited at the southern end of the property, some distance from the works, where it may raise land levels while constituting engineering works. We would be grateful if this could be considered as a Condition may also be needed about this.

Neighbouring properties

Six surrounding properties were consulted and a site notice was displayed on 20/09/2023. No responses were received and the consultation period expired on 03.10.2023.

Officer's Analysis

Proposal and Site Description

Furzy Lea is a large detached property located on the Eastern side of Bowesden Lane, adjacent to the border of the Kent Downs Area of Outstanding Natural Beauty. The application site is set on a large plot with a substantial driveway and a double detached garage.



The application proposes the demolition of the existing conservatory to the rear of the property and the

erection of a two storey side extension.

The proposed two-storey side extension would have a part pitched roof at a height of 8.5m and part flat roof at a height of 5.42m. It will measure 9.4m in length and will project from the flank elevation by 4m. The extension will be set back 0.2m from the front elevation.

The extension will create space for an office and extended dining area to the ground floor and a fifth bedroom with en-suite to the first floor.

It will be constructed with facing brickwork and UPVC windows and doors to match existing.

Principle of Development and the Green Belt

The application site is located in the Green Belt and as such Policy CS02 of the Gravesham Local Plan Core Strategy (LPCS) (2014) is relevant. Development in the urban area is prioritised as the sustainable location for development. In the rural area, Policy CS02 states that development will be supported within rural settlements that are inset from the Green Belt and defined on the policies map. Development outside those settlements, i.e. in the Green Belt, will only be supported where it is compatible with national policies for protecting the Green Belt and policies in the LPCS.

Paragraph 137 of the National Planning Policy Framework 2023 states:

The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 147 goes on to say that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

There are four principle issues in determining this application;

- 1 *Is the proposed development appropriate in the Green Belt?;*
- 2 *Fall Back and Very Special Circumstances;*
- 3 *Openness;*
- 4 *Conclusion of Green Belt Policies*

1. Is the proposed development appropriate in the Green Belt?

There are strict policy considerations within the Green Belt whereby paragraph 147 of the National Planning Policy Framework (NPPF 2023) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 goes on to say that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt unless it falls within the specified exceptions. The relevant exception to consider for this application is part c of paragraph 149 of the NPPF which states that it may be acceptable to extend or alter a building provided it does not result in disproportionate additions over and above the size of the original building.

In determining this proposal account will be taken of Saved Policy C13 of the Gravesham Local Plan First Review (LPFR) (November 1994) which relates to extensions to dwellings in the countryside. It sets out a number of criteria that should be met when considering proposals for domestic extensions. As the policy pre-dates the NPPF, the weight attached to the policy must be considered carefully, with greater weight being given where the approach is consistent with paragraph 149 of the NPPF.

In particular Policy C13 places an overall limit on extensions of one third of the gross floor area of the

original dwelling unless the increased floor space has no overall effect on the existing bulk and appearance of the dwelling (criteria ii). It also requires the massing, scale and form of any extension to be appropriate to the existing dwelling and the Green Belt setting (criteria vi). It is considered that these factors are relevant in determining whether the size of an extension is proportionate and as such, these aspects of the policy are broadly in line with the NPPF and should be afforded due weight.

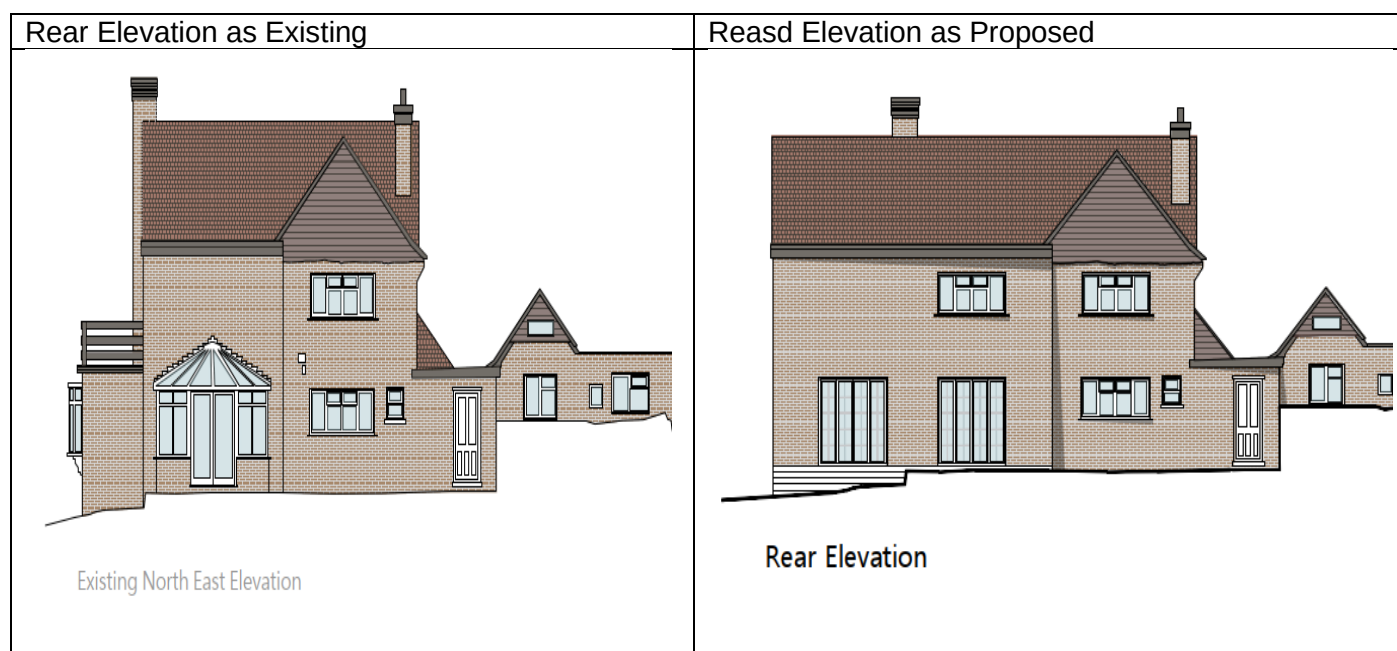
The table below shows a comparison of the footprint and floorspace calculations of the original dwelling and the proposed extended dwelling.

Floor area of original dwelling measured externally inc. garage	Floor area of proposed extended dwelling inc. garage
135.4sqm	266.2sqm

The calculations demonstrate that the proposed additions to the dwellinghouse, in addition to those already undertaken, equate to an increase in floor area (measured externally) of approx. 96.6% over and above the original dwelling (including the garage) and therefore exceed the one third limit set out in saved policy C13. Therefore, in numerical terms, the extension is contrary to the local plan Green Belt policy.

However, the numerical calculation forms only part of the overall assessment. Paragraph 149 of the NPPF states that it may be acceptable to extend or alter a building provided it does not result in a disproportion addition over and above the size of the original building. It does not provide a figure.

In addition to the increase in the floor area of the dwelling, the side extension proposes a large flat roof to the first floor. Whilst there is a historic flat roof to the first floor, the proposed design is much larger and creates a more bulkier feature than that of the existing. Furthermore, the expanse of blank brick work to the first floor further accentuates the bulk of the proposed addition and as such is considered to be a disproportionate addition to the original dwelling.



Furthermore, the proposed two storey side extension is set back by a minimal 0.2m from the original elevation. This is not considered to be a sufficient set back and also accentuates the bulk and disproportion of the development which is not subservient to the host dwelling:



It is therefore considered that by virtue of the extended flat roof and minimal set back from the front elevation, the proposal would result in a disproportionate addition to the property and as such would be considered inappropriate development which is by definition, harmful to the Green Belt and is therefore contrary to Policy CS02 (LPCS), Policy C13 (LPFR) and to paragraph 147 of the NPPF 2023.

2. Fall back and Very Special Circumstances

The applicant has successfully gained approval for a rear extension (20221191) and a lawful development certificate (20230240). The rear extension would add a further 37sqm to the property without requiring planning permission. The lawful outbuilding is shown a considerable distance from the dwelling (over 11m away) and is therefore not considered an extension to the dwelling.

In order to be considered as a “fall back”, the alleged fall back development has to be a use or development that is possible/can be implemented without the need for further planning permission, for example a current lawful use or change of use (i.e. does not fall within the definition of development in the Planning Act or permission has already been granted but not yet implemented) and/or development permitted by way of permitted development rights (i.e. the GPDO or a development order).

If there is a genuine “fall back” then there must be a possibility that this development will be implemented if the current application is not permitted.

If both these factors are evidenced, then the fall back can be a material consideration in determining an application. The weight to be attached to it is a matter for the planning authority

The case of *Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314; [2019] PTSR 1452* (highlighted in bold are most important parts) explains this issue:

“27. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar. Three things can be said about it:

- (1) Here, as in other aspects of the law of planning, the court must resist a prescriptive or formulaic

approach, and must keep in mind the scope for **a lawful exercise of planning judgment by a decision-maker.**

- (2) The relevant law as to a "real prospect" of a fallback development being implemented was applied by this court in Samuel Smith Old Brewery (see, in particular, paragraphs 17 to 30 of Sullivan L.J.'s judgment, with which the Master of the Rolls and Toulson L.J. agreed; and the judgment of Supperstone J. in R. (on the application of Kverndal) v London Borough of Hounslow Council [2015] EWHC 3084 (Admin) , at paragraphs 17 and 42 to 53). As Sullivan L.J. said in his judgment in Samuel Smith Old Brewery , in this context a "real" prospect is the antithesis of one that is "merely theoretical" (paragraph 20). The **basic principle is that "... for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice"** (paragraph 21). Previous decisions at first instance, including Ahern and Brentwood Borough Council v Secretary of State for the Environment [1996] 72 P. & C.R. 61 must be read with care in the light of that statement of the law, and bearing in mind, as Sullivan L.J. emphasized, "... **"fallback" cases tend to be very fact-specific**" (*ibid.*). The role of planning judgment is vital. And "[it] is important ... not to constrain what is, or should be, in each case the exercise of a broad planning discretion, based on the individual circumstances of that case, by seeking to constrain appeal decisions within judicial formulations that are not enactments of general application but are themselves simply the judge's response to the facts of the case before the court" (paragraph 22).
- (3) Therefore, when the court is considering whether a decision-maker has properly identified a "real prospect" of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. **This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.**

So, taking this into account, the factors in the determination of the fallback are:

1. *It is a genuine lawful fall back development?*

The development in question benefits from confirmations including planning permissions, a lawful development certificate and prior notification approval.

2. *Is there a "possibility" that the fallback would be implemented?*

In this case the applicants have not provided a statement that clearly says they would implement the prior notification application but this in itself does not render this impossible. No works have commenced on site.

3. *If it is accepted that there is a genuine lawful fallback, which in this case based on the information available, it appears that there is, then the current proposal needs to be assessed against the benefits or harm of that fall back being implemented.*

This is a matter of planning judgement based on the facts of the case. The current application is considered more harmful than the existing building together with the prior notification.

4. *If a fall-back argument is not to prevail, reasons for rejecting it should be given:*

Coln Park LLP v Secretary of State for Communities and Local Government [2011] EWHC 2282

(Admin)

Notwithstanding the above, the weight that should be attributed to the fall-back position is a matter of judgement relative to the specific development in question.

The applicants have not provided any information to support that they are relying on a fall-back however, given the recent planning history, it is likely that they are.

The original property (135.4sqm) plus the fall back (37sqm) equates to 172.4sqm. The resultant dwelling as shown would still be approx. 55% larger than the original dwelling.

3. Openness

Paragraph 137 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also states that the essential characteristics of Green Belts are their openness and permanence. The proposal does not meet the exception listed under paragraph 149c and therefore openness is not a consideration unless very special circumstances exist. The applicant has not listed any very special circumstances although it is noted above that previous applications have been made for a prior approval for a rear extension (20221191) and a lawful development certificate for an outbuilding (20230240) and therefore there is a fall-back position.

The proposal, by its nature, adds some additional built form of development to the property. However, the proposed extension when compared to what could be built under the 'fall-back' position is not considered to significantly erode the openness of the Green Belt.

4. Conclusion of Green Belt Policies

The proposed extension will result in additions over and above the original dwelling of approx. 97% (54% when taking into account the fall-back position, although the fall-back does not change the size of the original dwelling). The extension therefore results in disproportionate additions over and above the size of the dwelling and therefore conflicts with Policy CS02 of the Gravesham Core Strategy 2014, Policy C13 of the Gravesham Local Plan 1994 and paragraph 149 of the National Planning Policy Framework 2023. The proposal amounts to inappropriate development in the Green Belt where no very special circumstances exist.

Character and Appearance of the Area and Surrounding Landscape Character Area

Policy CS19 (Development and Design Principles) (LPCS) states that new development will be visually attractive and locally distinctive. It should also conserve and enhance the character of the local built and natural environment and integrate well with the surrounding area.

As demonstrated in section 1 '*Is the proposed development appropriate in the Green Belt*' It is considered that the proposed extension to Furzy Lea has not been designed to ensure subservience. The front elevation is stepped back by a minimal 0.2m from the original elevation and as such is not subordinate to the main dwelling.

As such, the proposal is not considered to respect the original character of the dwelling, has not been designed to reduce bulk and is deemed to be a disproportionate addition.

Additionally, as also referred to above, whilst there is a historical flat roof to the first floor, the proposal looks to extend upon this further. This creates a large, bulky flat roof to the first floor which is considered to be of an unacceptable design and is detrimental to the host dwelling. Furthermore, the proposal does not introduce a window to the extension at the rear elevation, resulting in a large area of blank brick work and an elevation with windows of unsymmetrical and poor design.

The screenshots below demonstrate the change:

Existing Elevations	Proposed Elevations
 Existing North East Elevation	 Rear Elevation
 Existing South East Elevation	 Side Elevation

Therefore, due to the minimal set back of the extension from the front elevation, the extended flat roof to the first floor and the unsymmetrical window arrangement, the application is considered to be of poor design and not visually attractive and is therefore contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Impact on the Landscape

In addition to being located within the Green Belt the property is within the Shorne Woodland Landscape Character Area. This area is characterised by gently undulating topography with a mix of arable and pasture farmland, three large settlements located along the A227 and traditional architecture surrounding village greens providing local vernacular.

Policy CS12 (LPCS) seeks to protect the Green infrastructure within the Borough and states at 5.7.26 the overall landscape character and valued landscapes will be conserved, restored and enhanced.

Due to its location attached to the side of a dwelling situated within a generous plot, the two storey side extension is not considered to impact on the wider Shorne Woodland Landscape Character Area.

Amenity of Future Occupiers

The development will provide acceptable living conditions in accordance with Policy CS19 (LPCS).

Neighbouring

The development will not cause any detrimental impact on the amenity of the neighbour in terms of overlooking, loss of light, sense of enclosure or outlook.

Conclusion

The proposed extension, due to its size and bulk in combination with previous additions to the dwelling results in disproportionate additions over and above the size of the original dwelling and therefore fails to meet the objectives of saved Policy C12 of the Gravesham Local Plan First Review 1994, Policy CS02 of the Gravesham Core Strategy 2014 and the exception criteria listed in para. 149(c) of the National Planning Policy Framework 2023. Consequently, it is considered inappropriate development in the Green Belt where no very special circumstances exist.

The proposed extension, by virtue of the minimal set back of the extension from the front elevation, the extended flat roof to the first floor and the unsymmetrical window arrangement, is considered to be of poor design, detrimental to the host dwelling and surrounding street scene. The proposed two storey side extension is therefore contrary to Policy CS19 of the Gravesham Core Strategy 2014 and Section 12 of the National Planning Policy Framework 2023.

Recommendation

Refusal

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

Case Officer:	Mrs Nina Goodbody	Team Leader:	Richard Hart
Signed:	<i>N Goodbody</i>	Signed:	<i>R Hart</i>
Dated:	7 th November 2023	Dated:	7th November 2023