



Delegated Report

Full Planning Application

Planning Application No: 20231002

Location: Barn East Of Abbotsview, Northfleet Green, Gravesend Kent

Description: Erection of a pair of semi-detached dwellings together with parking, landscaping, and associated development, following demolition of existing barn.

Applicant: Mr R Arnold

Site Visit Date: 17th October 2023

Submitted Documents/Plans

Planning Application Form;
Drawing No. 01 – Location Plan;
Drawing No. 10 Rev B – Proposed Ground Floor Plan;
Drawing No. 10 Rev A – Proposed First Floor Plan;
Drawing No. 12 A – Proposed Elevations;
Drawing No. 13 Rev B – Proposed Elevations, Block Plan and Section;
Drawing No. 14 Rev B – Location Plan and Block Plan;
Drawing No. 15 – Existing Floor Plan, Elevations & Block Plan;
Drawing No. 16 Rev A – Location Plan;
Drawing No. 17 Rev A – Street Elevations;
Drawing No. 18 – Comparison;
Planning, Design & Access Statement;
Sustainability Statement;
Preliminary Ecological Appraisal; and
Design and Access Appendices.

Relevant Planning History

Reference	Description	Decision	Decision Date
20221332	Application for approval of condition 2 attached to planning permission reference number 20211026 relating to Contaminated Land Assessment.	Approval of Details	09.03.2023
20211026	Application for determination as to whether prior approval is required for the proposed change of use and conversion of an agricultural building to 2no. 3 bedroom dwellings.	Granted	07.10.2021

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development

- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Design
- CS15 – Housing Density
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards

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 and beautiful 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); and
- Gravesham Landscape Character Assessment (2009).

Consultations, Publicity and Representations

Consultees

External

KCC – Biodiversity

09.01.24

SUMMARY – ADDITIONAL INFORMATION REQUIRED

We have reviewed the ecological information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application. We have reviewed additional information sent by email to the planning officer following our advice note provided 31 October 2023.

The submitted ecology report indicates that mitigations are or could be required for great crested newts (GCN). In an email sent by Rebus Planning Solutions dated Wednesday 6 December 2023 at 12.31pm, it is indicated that the applicant intends to apply for great crested newt district level licensing (GCN DLL) to mitigate/compensate for potential impacts to great crested newts.

Where applying for GCN DLL, a countersigned DLL impact assessment and conservation payment certificate (IACPC) should be submitted to the local planning authority prior to determination of the

application¹. Following that, evidence of the full conservation payment can be conditioned if planning permission is granted.

Evidence of the DLL IACPC is required prior to determination of the planning application in alignment with paragraph 99 of the ODPM 06/2005, which states “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system.

31.10.23

SUMMARY – ADDITIONAL INFORMATION REQUIRED

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

The submitted ecology report indicates that mitigations are or could be required for great crested newts (GCN).

The applicant will need to make clear at this stage, what mitigations are necessary for GCN: further survey and none, further survey and/or precautionary clearance methodology, further survey and traditional licensing, or District Level Licensing (DLL).

If following a traditional licensing route, a full mitigation strategy will have to be proposed to demonstrate that mitigations for impacts are achievable, and then evidence of licence acquisition can be conditioned. Alternatively, a countersigned DLL impact assessment and conservation payment certificate (IACPC) should be submitted to the local planning authority prior to determination of the application¹. Following that, evidence of the full conservation payment can be conditioned if planning permission is granted.

Any further necessary surveys, and mitigation measures, will need to be submitted prior to determination of the planning application. This is in alignment with paragraph 99 of the ODPM 06/2005, which states “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

The results of any further surveys and a conclusion as to whether the development will achieve a net gain for biodiversity, should be submitted within an Ecological Impact Assessment (EclA), produced in accordance with the latest Chartered Institute of Ecology and Environmental Management (CIEEM) guidelines². Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system.

North Kent Sites

The development includes proposals for new dwellings within the zone of influence (6km) of the Thames Estuary and Marshes Wetland of International Importance under the Ramsar Convention (Ramsar Site). Gravesham Borough Council 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.

KCC – Heritage Conservation

The site lies within an area of multi-period archaeological potential. However, I consider it unlikely that these proposals, adjacent to the existing dwelling, would have a significant below-ground archaeological impact and have no further comments to make in this case.

Internal

GBC – Environmental Protection

No objection to this application. It's noted that a condition regarding the investigation of potentially contaminated land was imposed on an earlier permission. This was satisfactorily discharged under reference 20221332. Therefore, this does not need to be investigated any further. It is however recommended that a watching brief condition is placed on any permission in case any contamination is found during the groundworks/excavation.

To address this and other matters, the following is recommended.

Watching Brief

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,

Drainage/sewerage informative

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

Lighting

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

GBC – Highways

It is interesting to note that the applicant makes extensive references to the National Planning Policy Framework, but when it comes to car parking he refers to KCC maximum parking standards. Whilst KCC's SPG4 was adopted by Gravesham Borough Council it has not adopted the latest guidance issued by Kent County Council in Interim Guidance Note 3 Residential Parking of the Kent Design Guide.

National Planning Policy Framework states:

"108. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities

should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists."

Given that SPG4 can no longer be considered appropriate, this only leaves the unadopted guidance issued by Kent County Council as Highway Authority as part of the Kent Design Guide as a guide. Although the County Council does have a draft revision in mind this has not progressed to the adoption stage. For a rural location the current Highway Authority Guidance suggests that there should be a minimum of 2 parking spaces for each three or four+ bedroom dwelling. In addition, it states there should be a 20% minimum provision for visitors. Given the rural location and the unsuitability of Northfleet Green Road to accommodate on street parking, it would be necessary to provide visitor parking on site, at least one space being provided but ideally two to provide one visitor space per property.

The draft guidance which is accepted does not carry any weight is in a rural location, the minimum parking requirement for a 4+ bedroom property would be three car parking spaces, with everything else remaining the same.

However a balance with what is already permitted is required and so any increase in parking beyond two vehicles per unit, may not be supported by an Inspector at appeal.

In terms of other parking requirements, KCC SPG4 does require one cycle parking space per bedroom, so cycle stores for 3 and 4 cycles as appropriate should be provided.

Concerning the access, whilst there is scope to improve the visibility there is no data to compare previous use with proposed use. Ideally 43m x 2.4 m x 43m visibility splays should be provided, which is the Manual for Streets requirements for a road travelled at 30mph. Whilst Northfleet Green Road is derestricted and as such subject to a 40mph limit, the nature of the road should restrict vehicle speeds. It is the drivers responsibility to drive to the environmental conditions and not the speed limit, if the nature of the road requires a more cautious approach.

In terms of foul drainage, reference is made in the application form to a package treatment plant and whilst the details will be subject to Building Regulations, I cannot see how it can be fitted within the red line boundary. In addition, access will be required by the occasional tanker or maintenance van, which supports the provision of visitors parking spaces. Building Regulations state,

Packaged treatment works

Siting

1.54 The discharge from the wastewater treatment plant should be sited at least 10m away from watercourses and any other buildings.

In addition, the associated drainage field or mound must meet the following requirements.

Siting

1.27 A drainage field or mound serving a wastewater treatment plant or septic tank should be located:

- a. at least 10m from any watercourse or permeable drain;
- b. at least 50m from the point of abstraction of any groundwater supply and not in any Zone 1 groundwater protection zone;
- c. at least 15m from any building;
- d. sufficiently far from any other drainage fields, drainage mounds or soakaways so that the overall soakage capacity of the ground is not exceeded.

1.28 The disposal area should be downslope of groundwater sources.

1.29 No water supply pipes or underground services other than those required by the disposal system itself should be located within the disposal area.

1.30 No access roads, driveways or paved areas should be located within the disposal area.

This I believe would place the drainage field and potentially the treatment plant within one of the paddocks.

So, whilst I have concerns on the visibility at the access and the provision of parking, given the fall-back position it is unlikely that any objections would carry any weight at appeal. The issue of the foul drainage is I believe slightly different but only needs to be plotted and I believe included within the red line to ensure appropriate provision is being made.

Neighbouring properties

Consultation was by way of the displaying of a site notice and one letter sent to the adjacent dwelling, with an overall expiry date of 7th November 2023. No comments have been received.

Officer's Analysis

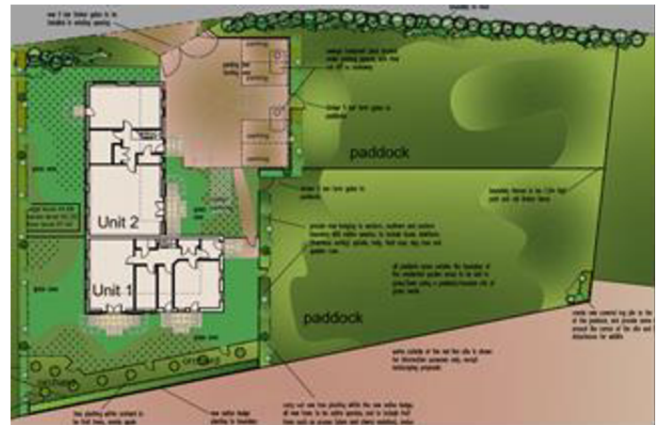
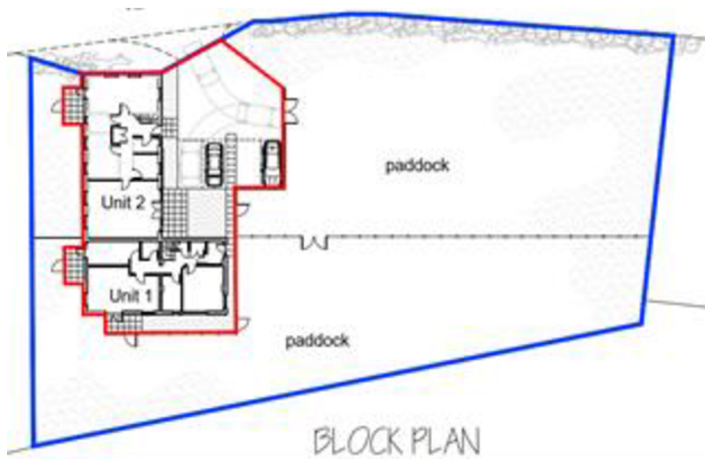
Procedural Notes

It is noted that the site location and proposed block plan (Drawing No. 01), shows only the main dwellings, access, parking and turning areas and small patio areas within the red line boundary and the surrounding paddock and remaining site area etched in blue. However Drawing No. 14 Rev B – Location and Block Plan clearly show a larger curtilage.

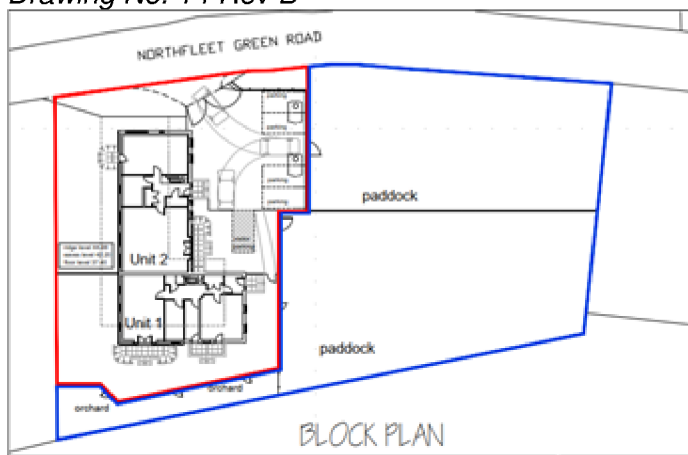
There also appears to be some discrepancies between the layout of the proposed block plan in Drawing No. 01 and the proposed block plan in Drawing No. 13 Rev B, in relation to the parking layout, accesses and patio areas.

Drawing No. 01

Drawing No. 13 Rev B



Drawing No. 14 Rev B



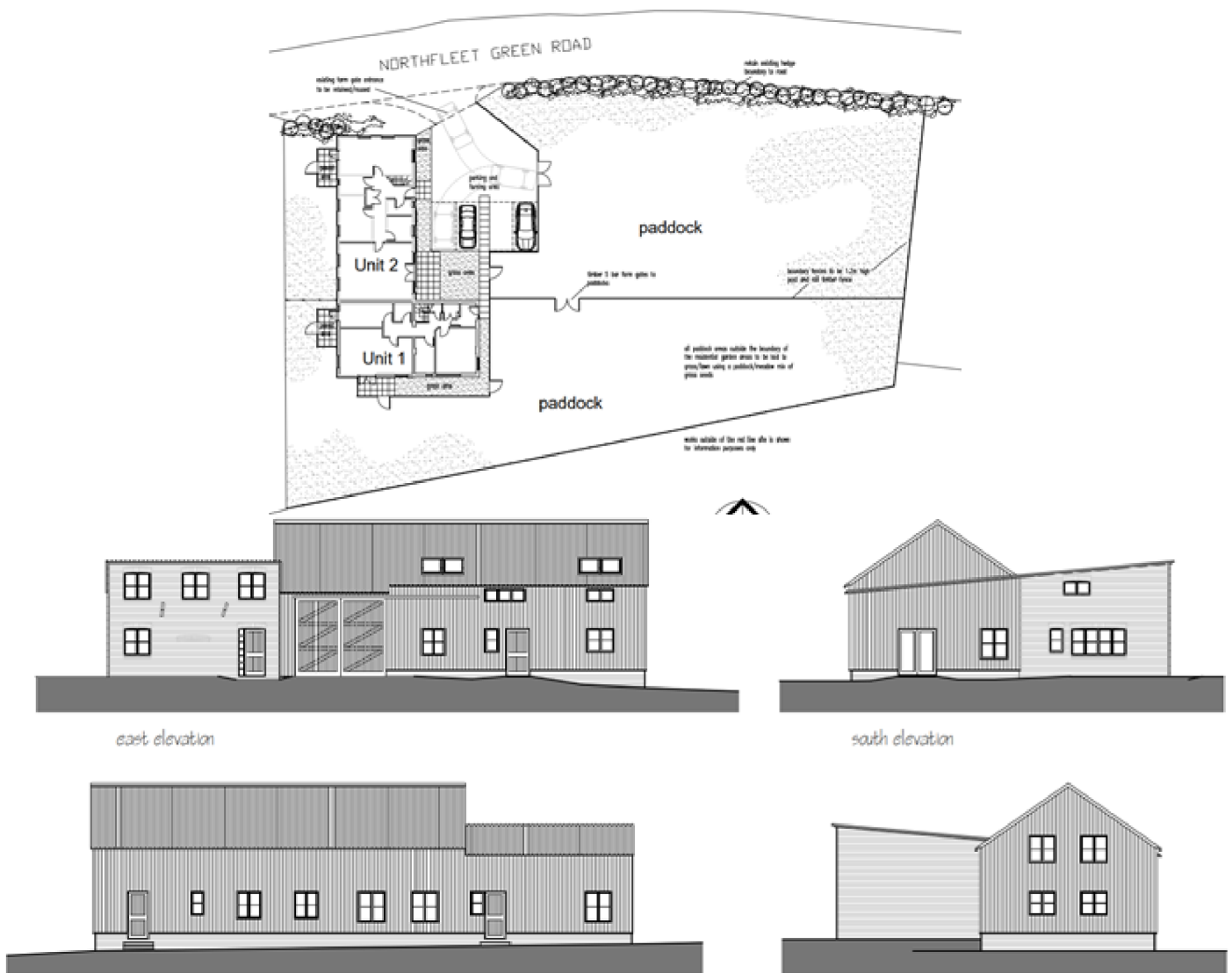
Background

As the planning history shows, the application site was subject to a prior approval application in 2021 (Ref. 20211026). This was assessed against Article 3, Part 3, Class Q of Schedule 2 to the Town and Country Planning (General Permitted Development) Order (England) 2015 (GPDO) as amended, and was granted. This is now extant.

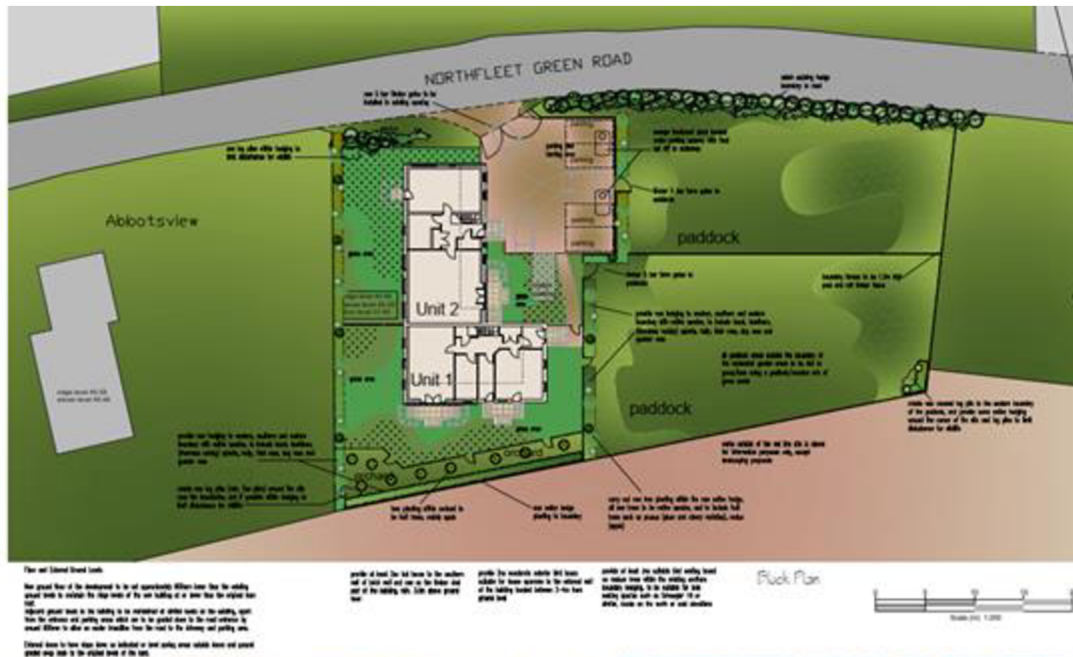
The current application is for full planning permission for the demolition of the existing barn and the erection of two semi-detached dwellings. The access and location of the properties would largely remain the same. The supporting planning, design and access statement states that the design, scale, siting and external finish of the proposed dwellings have been directly influenced by the of the existing barn.

The below images show the comparison of the two:

Granted Prior Approval



Current Proposal



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 (2023) 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 up 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.

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 182)
- Sites of Special Scientific Interest
- Green Belt
- Local Green Space
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 68)
- Areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land (paragraph 125(c)) in context, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

The proposed development for a net increase of '2' dwellings would offer a minimal contribution towards meeting local housing need and, accordingly, officers consider that this should be accorded minimal weight in support of the application.

Paragraphs 130 and 134 of the NPPF (2023) require development to add to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

Notwithstanding the Council's shortages in housing delivery and the consequent weight to be given in favour of the proposed development it is necessary to assess the proposals against the policies in the NPPF (2023) and established local planning policy taken as a whole.

Principle and Green Belt

The application site is located within the rural area and the Green Belt. The main issues are:

- Whether or not the proposal would be inappropriate development in the Green Belt
- The effect of the proposal on the openness of the Green Belt
- The effect of the proposal on the character and appearance of the area
- Whether the proposal would occupy a sustainable location in respect of access to local shops, services and facilities; and
- If the proposal is inappropriate development, whether or not there are material considerations which, together, clearly outweigh the harm to the Green Belt, and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

Green Belt

Policy CS02 states that development in the Green Belt that proposes to maintain and diversify the rural economy will be supported where it is compatible with national policies for protecting the Green Belt and policies in the Core Strategy.

Section 13 of the National Planning Policy Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other consideration.

Para. 142 states that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Para. 154 regards the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are listed. Exception (d) allows the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Exception (g) allows for the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Whilst the replacement building would not be materially larger, the use of the building would change from agricultural to residential. Furthermore the Glossary in Annex 2 of the Framework excludes land that is or has been occupied by agricultural buildings from the definition of previously developed land. Consequently the proposal does not comply with the listed exceptions as set out in para. 154 of the Framework. The proposal is therefore inappropriate development in the Green Belt which by definition is harmful to the Green Belt and should not be approved except in very special circumstances. No very special circumstances have been evidenced by the applicant.

The proposal would also conflict with Policy CS02 of the Core Strategy 2014 as this Policy requires, amongst other things, development within the Green Belt to be compatible with national policies for protecting the Green Belt.

Para. 153 of the NPPF states that in considering a planning application, substantial weight should be given to any harm to the Green Belt.

Para. 142 states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. The proposed building will follow a similar footprint to the existing barn but the curtilage will be extended to enable parking, turning areas and gardens. The increase in site area proposed to become residential will bring with it residential paraphernalia such as patios, sheds, washing lines etc. which will erode the openness of the Green Belt that the policy seeks to protect.

In addition, whilst it is acknowledged that the barn could have been converted under Class Q, part 3 of the General Permitted Development Order, this current application involves demolition of the barn and the inclusion of a larger area within its curtilage. Furthermore, the prior approval that was granted under Ref. 20211026 is still valid until 7th October 2024, as the permitted development require the works to be completed within three years of the prior approval date.

It is noted that the pre-commencement condition (2) against 20211026 for Land Contamination Assessment was discharged under reference 20221332 on 9th March 2023 and it would appear from the officer's site visit, that works to the barn had commenced.

A similar proposal was refused in 2019 for the erection of a single dwellinghouse, associated landscaping,

post-and-rail boundary fencing and ecological enhancements, with planning reference 20190702, and was subsequently dismissed at appeal on 11th November 2020. This site also benefited from prior approval for the conversion of the barn. A copy of the appeal decision with reference APP/K2239/W/20/3246765 has been attached as Appendix 1.

In summary the proposal is inappropriate within the Green Belt and no special circumstances have been stated to justify the development.

As such the proposal is considered to be contrary to the advice in National Planning Policy Framework Section 13 (Protecting Green Belt Land), and Policy CS02 (Scale and Distribution of Development) of the Gravesham Local Plan Core Strategy.

Character and Appearance

The site is located within the Istead Arable Farmlands Landscape Character area. The key characteristics include very gently undulating topography, open arable fields, fields divided by tracks, roads and occasional hedgerows, few roads, which are open in character and clusters of properties and farmsteads. The guidelines are to restore and create.

The site comprises an agricultural building with open fields to the east and south. To the west is Abbotsview, a detached chalet style property with modest single dormers in the roof slope. To the north west is Coachfields in equestrian use. To the north east on the opposite side of the road to the application site is a cluster of 3 no. individual properties. With the exception of Abbotsview, there are no residential properties on the southern side of Northfleet Green Road. As such, residential development is typically dispersed and haphazard yet generally linear. This results in an area with a strong rural character and appearance. The rustic quality of the agricultural building positively contributes to the rural character and appearance of the area. Whilst the proposed materials have been stated to respect the rural character of the area, and the shape of the building would follow the existing barn, the overall design, window placement, large front glazing and solar panels are not features that the barn currently possesses, or previously did prior to works being commenced. As such the proposal would permanently alter its rural character and appearance. In addition the architectural style of the dwelling would appear as a contrived reproduction of the agricultural building on the site. A residential property on this site would result in windows and internal and external lighting that would spill and make the residential use clearly apparent during the hours of darkness. Parking, formal gardens and domestic paraphernalia would inevitably be required by future occupiers of the dwellings which would have a further impact on the landscape character area.

The proposal would therefore result in considerable domestication and suburbanisation of the site that would encroach into an important area of the countryside over and above what can be converted under class Q, Part 3 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015, resulting in unacceptable harm to the rural character and appearance of the site and area as a whole contrary to Policy CS12 of the Core Strategy 2014.

Sustainable location

The property is located on a rural lane with no footpath and no local shops within close proximity. Northfleet Green Road is not served by public transport and is a single track lane. It would therefore not be possible to safely walk to any local amenities and is therefore highly likely that future residents would rely on private vehicles for transport and local amenities. The closest rural settlement is Istead Rise to the south east, which benefits from local amenities such as local shops, doctors, schools and churches. This is located some 1.7 miles away. The location is therefore considered to not be sustainable, contrary to Policies CS01 and CS02 of the Core Strategy 2014.

Amenity of Future Occupiers

The floor area required for a three bedroom, five person dwelling is 93sqm and the proposal is for

200.51sqm. The floor area required for a four bedroom, eight person dwelling is 124sqm and the proposal is for 233.65sqm. The proposed development therefore meet this standards. The bedrooms meet the national standards for both double and single rooms and offer sufficient outlook and privacy for future occupiers.

The garden area for the three bedroom property is 200.75sqm and the four bedroom property is 173.09sqm, both of which exceed the 60sqm and 100sqm minimums respectively within the Gravesham Residential Layout Guidelines.

Neighbouring Amenity

The distance between the western elevations of the new dwellings and the eastern rear elevation of Abbotsview is over 26m with only 2no. small non-habitable first floor windows in the western elevation of the building. There will therefore be no loss of privacy or outlook to the neighbours within this development. Due to the distances involved and the path of the sun there will be no detrimental impact on any neighbours in terms of loss of sunlight or daylight.

Furthermore, no objections have been received.

The proposal therefore complies with Policy CS19 of the Core Strategy 2014 and para. 135f of the National Planning Policy Framework 2023 in respect of amenities.

Any Other Material Planning Considerations

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 £314.05 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 applicants made a contribution of £253.83 per dwelling in 2021 when the prior approval was granted, however it would be necessary to make a further contribution of £60.22 per dwelling in line with the current tariff. This additional payment has not been made. Without this agreement in place and in the absence of information for an appropriate assessment to be undertaken, the Local Planning Authority cannot be satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the North Kent Marshes SPA which is contrary Paragraphs 180 and 181 of the NPPF (2023) and Policy CS12 of the Gravesham Local Plan Core Strategy 2014, and the requirements of the Conservation of Habitats and Species Regulations 2017.

Contaminated Land

It is noted that a condition regarding the investigation of potentially contaminated land was imposed on the prior approval application which was satisfactorily discharged under reference 20221332. Therefore, this does not need to be investigated any further and there are no objections in this regard.

Parking and Highways

There are no highway implications as the access exists and two dwellings on site has previously been agreed under Class Q of the GPDO. It is however suggested that 43m x 2.4 m x 43m visibility splays should be provided.

Conclusion

The site is within the approved Metropolitan Green Belt. Within the Green Belt there is a strong presumption against permitting new development outside of the present defined extent of urban areas and the present extent of any village. National Planning Policy Framework Section 13 (Protecting Green Belt Land) indicates that the most important attribute of Green Belts is their openness. The proposed development is inappropriate development and would cause harm to the Green Belt, and to the character and appearance of the area. As such the proposal is considered to be contrary to the advice in National Planning Policy Framework Section 13 (Protecting Green Belt Land), and Policy CS02 (Scale and Distribution of Development) of the Gravesham Local Plan Core Strategy.

The site is within the Istead Arable Farmlands Landscape Character Area and the proposed dwellings would be detrimental by introducing inappropriate residential development which will result in visual harm by suburbanising the site. The development is contrary to Policy CS12 of the Gravesham Local Plan Core Strategy which seeks to give long term protection of these areas.

The proposal fails to secure the full contribution towards strategic mitigation measures within Special Protection Areas, and in the absence of this contribution or adequate information to inform an Appropriate Assessment, the development fails to comply with the requirements of the Habitat Regulations and Section 14 (specifically Paragraphs 180 and 181 of the NPPF (2023) and Policy CS12 of the Gravesham Local Plan Core Strategy 2014, and the requirements of the Conservation of Habitats and Species Regulations 2017.

Recommendation:

Refuse

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

Case Officer:	Ms Amanda Cue	Team Leader:	Richard Hart
Signed:		Signed:	
Dated:	8 th January 2024	Dated:	9 th January 2024