

Delegated Report

Planning Application

Planning Application No: 20250122

Location: Broadwood House, Pondfield Lane, Shorne, Gravesend

Description: Demolition of rear conservatory. Erection of single storey rear/side extension with roof lanterns and first floor bedroom extension with juliet balcony.

Applicant: Mr & Mrs F Whitehead

Site Visit Date: Various

Submitted Documents/Plans

Application form
Covering letter
Letter of Comfort
Planning Statement
Drawing no. 24/431/03 (existing elevations)
Drawing no. 24/431/01 rev A (existing ground floor)
Drawing no. 24/431/02 rev A (first floor existing plan)
Drawing no. 24/431/03 rev A (existing elevations)
Drawing no. 24/462/04 (proposed ground floor plan)
Drawing no. 25/462/06 (proposed first floor plan)
Drawing no. 25/462/06 rev B (proposed elevations)

Relevant Planning History

20240934	Application for a Proposed Lawful Development Certificate for the erection of a garden building.	Certificate granted	28.11.2024
20240921	Demolition of first floor balcony store cupboard, removal of balcony railings and replacement of french door with windows. Erection of a single storey side extension.	Permitted	28.11.2024
20240920	Application for a Proposed Lawful Development Certificate for the demolition of the existing conservatory and erection of a single storey rear extension.	Certificate granted	28.11.2024
20240478	Demolition of existing conservatory and existing first floor patio store; removal of balcony balustrade and erection of a single storey side/rear	Refused	18.07.2024

extension with a Sedum roof covering. Juliet balcony bar to be installed across existing door opening on first floor.

20020287	Erection of two storey rear extension and single storey side extension to form utility room, w.c., clean room and living room at ground floor level with enlarged bedroom and balcony at first floor level; erection of a conservatory at the rear, detached double garage at the front and detached tractor shed at the side; alterations to the front elevations involving construction of an open porch, pitched roofs over existing ground floor flat roofs and construction of 2 gable fronts.	Permitted	31.05.2002
20020014	Erection of two storey rear extension and single storey extensions on both side elevations to form living room, utility room, w.c., clean room, double garage and tractor shed at ground floor level with an enlarged bedroom and balcony at first floor level; erection of a conservatory at the rear; alterations to front elevation involving construction of open porch, pitched roofs over existing ground floor flat roofs and construction of 2 gable fronts.	Refused	06.03.2002
19990577	Erection of a conservatory at the rear.	Refused	12.10.1999
19880923	Erection of s/s extension on northeast elevation to form snooker rm/jacuzzi/sauna/shower & changing rm, s/s extension on southwest elev to form double garage/refuse store/boiler rm/lobby, s/s extension on east elev to form enlarged living rm & conservatory, erec.of verandah at front & pergola at rear	Permitted	06.03.1989
19820553	Erection of a detached double garage	Permitted	16.09.1982
19560214	Erection of private rest home	Permitted	19.09.1956

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 - Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on the Highway Network
- C13 – Policy for Extensions to Dwellings in the Countryside

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 12 – Achieving well-designed places
- Section 13 – Protecting Green Belt land
- Section 15 – Conserving and enhancing the natural 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);
- Design for Gravesham: Design Code (2024);
- SPG 4 - KCC Parking Standards (2006);
- Householder Extensions/Alterations Design Guide (2021);
- Gravesham Landscape Character Assessment (2009); and
- North Downs AONB Management Plan

Consultations, Publicity and Representations

Consultees

Shorne Parish Council

The site is located in the Green Belt and the “Area of Outstanding Natural Beauty” (National Landscape Area), where the “one-third rule” should be applied.

The existing property is a large house in a large curtilage, which has already been considerably extended with a front extension, single-storey side and front extension and an attached 3 bay garage, a separate

single garage, a small single storey rear extension and a large part single, part two-storey rear extension with balcony.

This application is a re-application of ref 20240478, which was refused permission, although the Parish Council had no objection in principle but was concerned about the proposed size.

Subsequently, applications ref 20240920 (Lawful Development Certificate for the demolition of the existing conservatory and erection of a single storey rear extension), 20240921 (Demolition of first floor balcony store cupboard, removal of balcony railings and replacement of french door with windows. Erection of a single storey side extension) and 20240934 (Lawful Development Certificate for the erection of a garden building) were all approved. The Parish Council did not object to any of these.

It would appear that the applicant may at this time be attempting to use the previous permissions as a means of circumventing planning restrictions and forcing permission for acceptance of their original/current proposal.

As before, the Parish Council has no objection in principle to this proposal but has concerns about the size. The proposal will result overall in adding an L-shaped, single-storey extension which includes a further side-extension lining up with the rear wall of the garage and then a full-width rear extension. The design is modern, in contrast to the existing house, but should not be visually intrusive assuming that tree cover remains. We note that the previously proposed green sedum flat roof has been omitted and two roof lanterns added.

As the presently submitted plans are nearly identical to those previously submitted under ref 20240478, this present application should also be refused, for the same reasons.

If however GBC is minded to permit this application, we note reference is made to the footings of the previously permitted garden room. Any footings already installed should be completely removed. Permitted development rights should be withdrawn, as is standard practice when there is a very great increase in floor area.

Neighbouring properties

The application has been advertised by site notice and individual letters to eight neighbouring properties. No letters of representation have been received. The overall consultation period expired on 21 March 2025.

Officer's Analysis

Proposal

This planning application seeks permission for the demolition of rear conservatory, erection of single storey rear/side extension with roof lanterns and first floor bedroom extension with juliet balcony. At ground floor, the proposed extension will extend approx. 4m to the rear and will be 13m wide. It will project approx. 3m to the side and create a wrap around extension. At first floor there will be a side extension that will project approx. 3.3m to the side and will be approx. 6.5m deep.

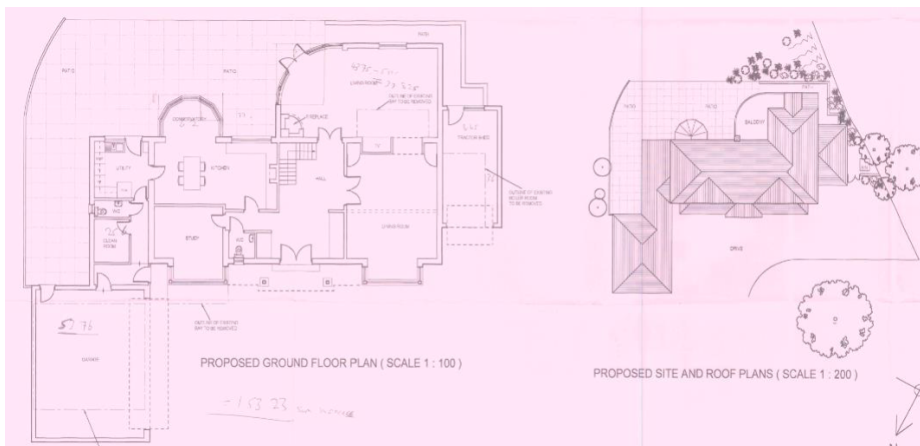
The alterations will provide for a larger living room/kitchen and utility room at ground floor and bedroom and en-suite (the two front bedrooms will be joined to make one larger room) at first floor.

This application is a resubmission of the planning application reference 20240478 which was refused planning permission on 18.07.2024 on the following ground;

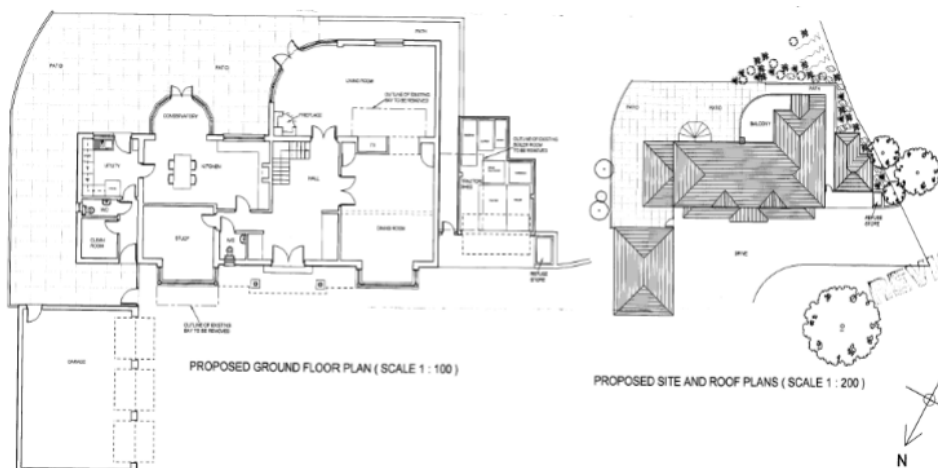
1. *The proposed extension, by virtue of the scale of the proposal when taken cumulatively with other extensive additions to the property, will result in further disproportionate additions to the dwelling impacting on the openness of the Green Belt, where no very special circumstances exist, contrary to policy CS02 of the Gravesham Core Strategy 2014, Saved Policy C12 of the Gravesham Local Plan*



An application for various extensions was refused application in 2002 (20020014) due to the extensions substantially exceeding the 1/3 limit set out in policy and adding to the bulk of the dwelling:



This application was resubmitted under reference 20020287:





Original floor area (measured externally):

Judging by the above the original ground floor area of the property measured externally is approx. 158sqm and first floor is 111sqm. The total is therefore approx. 269sqm.

The current dwelling is 265.38sqm at ground floor and 155.47sqm at first floor (including the balcony as this is built form and adds bulk and useable space). The total is therefore approx. 421sqm which is 57% larger than the original dwelling (not including the tractor garage).

A side extension of approx. 25sqm was approved under reference 20240921 on the basis that approx. 25sqm was lost to the removal of the balcony.

A rear extension of approx. 27.5sqm was shown to be able to be constructed under permitted development rights by a lawful development certificate under reference 20240920. This would replace an existing conservatory.

Both the side extension and the rear extension therefore added no additional floor space when taking into account what was being lost.

The plans now show an area infilled between the above extensions as shown by the yellow hatching below:



This area equates to an additional 26.5sqm ($79\text{sqm} - 25\text{sqm} - 27.5\text{sqm} = 26.5\text{sqm}$). The plans also show a

first-floor extension of approx. 21.45sqm. Together, this additional built form equates to 47.95sqm.

The original building was 269sqm and the current building is 421sqm. The addition of 47.95sqm will take the total to 468.95sqm which is 74% larger than the original building.

Saved Policy C13 of the Gravesham Local Plan 1994 states that extensions to dwellings will be considered on their merits but the Borough Council will expect the following criteria to be satisfied:

- (i) The existing dwelling must be an “original dwelling”* in permanent use as a dwelling.
- (ii) There will be an overall limit of one third of the gross floor area of the original dwelling (measured externally) prior to any later extension or alteration, unless the increased floorspace has no overall effect on the existing bulk and appearance of the dwelling.
- (iii) Those extensions which provide essential basic amenities such as a bathroom, toilet or kitchen, which are currently not available or are clearly inadequate, will normally be permitted.
- (iv) The extension shall not be in a form which would facilitate the future formation of a separate residential curtilage.
- (v) The dwelling to be enlarged must have sufficient curtilage to accommodate the extension without undue visual intrusion into the open countryside.
- (vi) The appearance, massing, scale, form and materials of any extension shall be appropriate to the existing dwelling and the Green Belt setting.
- (vii) Proposals for domestic garages and for other outbuildings will be considered on their individual merits but will be required to be well designed, discreetly sited and subservient to the scale of the main dwelling on the plot.

Footnote: * For definition of “original dwelling” see footnote to policy C12 – this states a building in permanent residential use at 1st July 1948 or subsequently erected as a permanent dwelling in accordance with planning permission in that behalf.

Clearly, before the proposed alterations, the property had already been extended by 57% and therefore already beyond what is allowed by this policy. Further extensions that increase the building by approx. 74% are therefore in conflict with this policy.

Paragraph 142 of the NPPF states that 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.

The Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 153 states:

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness⁵⁵. 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 considerations.

⁵⁵ Other than in the case of development on previously developed land or grey belt land, where development is not inappropriate.

Paragraph 154 of the NPPF states that:

Development in the Green Belt is inappropriate unless one of the following exceptions applies:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;**
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.**
- h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
 - i. mineral extraction;
 - ii. engineering operations;
 - iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location;
 - iv. the re-use of buildings provided that the buildings are of permanent and substantial construction;
 - v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
 - vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

Paragraph 154c is applicable in this instance. This states that the extension or alteration of a building is allowed provided that it does not result in disproportionate additions over and above the size of the original building. In this instance, there is an increase in built form which is considered disproportionate at 74% larger than the original dwelling.

The application site, due to being located in a garden area of a site outside of the urban area, can be considered previously developed land.

Paragraph 154g was not applicable before when the previous application was approved because it stated:

'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
– *not have a greater impact on the openness of the Green Belt than the existing development; or*
– *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority'*

The amended paragraph no longer considers the above but instead allows development 'which would not cause substantial harm to the openness of the Green Belt.'

Taken together, the approved side extension and lawful rear extension as well as the proposed infill extension and first floor extension will have some impact on the openness of the Green Belt. The infill extension is unlikely to have a significant impact as it will be joining two extensions together. The first floor extension will be set in from the side attached to the existing roof and will appear subservient to the existing first floor but will also have a greater impact on openness than the current situation.

The proposal therefore is not considered to meet the exceptions of paragraph 154 of the NPPF.

Paragraph 155 is not applicable because all parts of this policy need to apply and there is clearly no demonstrable unmet need for the type of development proposed.

Very Special Circumstances

Fall-back

A 'fall back' position is what could be built without requiring planning permission. 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 currently benefits from confirmations including planning permission (20240921) and a lawful development certificate (20240920). There is also a lawful development (20240934) certificate for a detached garden building of 50sqm. This would not provide a bedroom which the extension is required for but could be argued that it provides habitable space.

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

As stated above there is a lawful development certificate and the applicants have made clear they would build the outbuilding if permission was not granted for the extension.

3. If it is accepted that there is a genuine lawful fallback 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.

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. Details need to be provided of a potential fall-back and it is for the applicant to demonstrate a fall-back position.

The applicant has provided a letter of comfort that states that, if the proposed extensions were granted planning permission, they would not build the outbuilding and would accept that the Council will remove permitted development rights from the property to ensure no more inappropriate development is built without first applying for planning permission.

The outbuilding would result in a significant building located within the garden of the dwelling which would undoubtedly result in a loss of openness due to the sprawling nature of detached buildings. If this building were not to be built but instead the floor area used to extend the existing building, this would ensure development does not sprawl across the site but is contained thus having less of an impact on openness. It is accepted that there is a fall-back position and therefore 'very special circumstances' do exist. Openness has been discussed above but is discussed further below.

Openness

The Framework confirms that inappropriate development is by definition harmful to the Green Belt. The essential characteristics of Green Belts are their openness and permanence.

Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;

- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

In this case, the justification of not building the outbuilding in lieu of a first floor side extension would have a lesser impact on the openness of the Green Belt compared to a 50sqm detached building.

Taking into all of the above, 'very special circumstances' exist and the proposed development, subject to a condition removing permitted development rights, accords with policy CS02 of the Gravesham Core Strategy 2014 and Section 13 of the National Planning Policy Framework 2024.

Design, Character and Appearance

The application site is a large, detached dwelling located within a National Landscape (formerly an Area of Outstanding Natural Beauty), the Metropolitan Green Belt, close to a SSSI and within the Shorne Woodland Landscape Character Area. The site is also within an Area of Archaeological Potential. The property is situated along a private road and has one close neighbour with which it shares a drive. There is an attached triple garage and a detached tractor store. To the rear is a conservatory and large patio area leading onto a garden with many trees. In terms of design, the infill extension will not be readily visible from any public vantage point and will be finished to match the other approved extensions. The first floor extension will appear subservient to the dwelling and the pitch of the roof will follow the existing. With regards to the already approved extensions the loss of the balcony will reduce the overall bulk of the building from the rear and the side extension will appear subservient due to its location, infilling a vacant area to the side of the house with a flat roof that is not readily visible.

Landscape Character

The application site is located in the Shorne Wooded Downs Landscape Character Area and as such, Policy CS12 of the Core Strategy 2014 is also relevant. This policy states that the overall landscape character of the Borough will be conserved, restored and enhanced and that the Gravesham Landscape Character Assessment (LCA) will be taken into account in determining applications. Paragraph 187 of the NPPF 2024 seeks to protect and enhance such valued landscapes.

The assessment of the Landscape Character states that the sensitivity of this area is moderate and that the Planning Authority should aim to conserve and reinforce the distinctive features and elements of the landscape. There is a strong character of traditional rural dwellings. The proposed development will be located to the rear/side of the dwelling and will not be readily visible within the wider landscape and therefore no objections are raised in this regard.

National Landscape (formerly known as an Area of Outstanding Natural Beauty)

The site is located within the North Downs National Landscape.

The Levelling Up and Regeneration Act 2023 imposed a new statutory Duty on the Council such that the Council **must seek to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape in carrying out its functions**, including as a Planning Authority. In determining this application, the Local Planning Authority is meeting this Duty by considering the impact of the development on the National Landscape below:

The proposed extensions are confined to within the curtilage of the existing property and will reduce the potential sprawling development on the site due to restricting permitted development. They therefore will not impact the wider landscape and are considered to conserve the local character, qualities, distinctiveness and natural resources of the National Landscape in accordance with policy SD2 of the Management Plan. Likewise, the reduction in sprawl of development and its containment within the curtilage will ensure that the development does not impact negatively on the distinctive landforms, landscape character, special

characteristics and qualities, the setting and views to and from the National Landscape in accordance with policy SD8 of the Management Plan.

Policy LLC1 sets out to protect, conserve and enhance of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued. The proposed development, for the reasons stated above accord with the objectives of these policies.

The proposed extension will be confined to the residential curtilage of the dwelling and therefore will not have a detrimental impact on the surrounding National Landscape and therefore accords with policies within the AONB Management Plan.

The proposed development therefore accords with policies CS19, CS12 of the Gravesham Core Strategy 2014 and para. 187 of the National Planning Policy Framework 2024.

Amenity

Future Occupiers

The rear garden will not be significantly reduced in size by the proposal and therefore no concerns are raised.

Neighbouring Amenity

There are no neighbours close to the rear/side of the property where the proposal is indicated to be located and therefore there will be no loss of amenity in terms of loss of outlook, privacy, sunlight or daylight.

The proposed development therefore would accord with policy CS19 of the Gravesham Core Strategy 2014 and para. 135f of the National Planning Policy Framework 2024.

Ecology and Biodiversity

Biodiversity Opportunity Area

The proposed extension will be located on land which is already hard landscaped and therefore there will be no detrimental impact on biodiversity. The proposals therefore accord with policy CS12 of the Gravesham Core Strategy 2014 in this regard.

Parking and Highways

The proposal will not result in the increase in the number of bedrooms or the loss of off road parking and therefore no objections are raised on highways grounds.

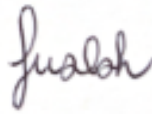
Conclusion

The proposed extensions are inappropriate in the Green Belt however very special circumstances do exist. Subject to conditions removing permitted development rights, the proposed development is, on balance, acceptable. There will be no detrimental impact on the character of the street scene or surrounding landscape, amenities, parking or highway safety and therefore the proposal accords with the above-mentioned policies and is recommended for approval.

Recommendation:

Permission

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

Case Officer:	Mrs Alison Webster	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	1 April 2025	Dated:	03 April 2025