



Delegated Report

Outline Planning Application

Application No:	20240684
Location:	4 Gouge Avenue, Northfleet, Gravesend, Kent, DA11 8DP
Description:	Outline application for the demolition of existing dwelling and erection of new residential development with layout and access to be determined.
Applicant:	Nathan Bal and Ashveer Bains
Site Visit:	15 February 2024 / 18 September 2024

Submitted Documents/Plans

- Application Form – dated 19 July 2024;
- Planning, Design and Access Statement (ref. 4122.SC) – dated May 2024;
- Drawing no. 01 – Site Location Plan (scale – 1:1250);
- Drawing no. 02 – Existing Block Plan (scale – 1:200);
- Drawing no. 03 – Rev. B – Proposed Block Plan (scale – 1:200);
- Drawing no. 04 – Rev. A – Proposed Biodiversity Net Gain Block Plan (scale – 1:200).

Relevant Planning History

Reference	Description	Decision	Decision Date
20240071	Outline application with some matters reserved for the demolition of existing dwelling and erection of 4 no. residential dwellings, with layout and access to be determined.	REFUSED	25.03.2024
20080488	Outline application for the erection of a detached dwelling with off-street car parking.	PERMITTED	24.09.2008

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 Size
- CS15 – Housing Density
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards

- T1 – Impact of Development on Highway Network
- T5 – New Accesses onto Highway Network

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 5 – Delivering a Sufficient Supply of Homes
- Section 9 – Making Effective Use of Land
- Section 12 – Achieving Well-Designed and Beautiful Places
- 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)
- SPG 4 – KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)
- Design for Gravesham (2024)

Other Relevant Guidance

- Kent County Council Dropped Kerb Guidance and Self-Assessment (2023)
- Department for Transport – Manual for Streets (2007)
- Driveway Dropped Kerb Guidance
- Front Driveway Guidance

Consultations, Publicity and Representations

External Consultees

Kent County Council Highways – It would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If permission is granted please attach the relevant informatives.

Kent County Council Heritage – The application site lies within an area of high Palaeolithic, and general multi-period archaeological potential with evidence for Mesolithic activity recorded c.300m to the west of the site. This area, north of Perry Street was largely developed during the early 20th century before modern archaeological investigations and therefore our understanding of the archaeological potential of this site is limited. It would appear from historic aerial photography that much of the site may not have been heavily impacted by modern development and thus any below-ground archaeological remains may have survived relatively undisturbed, although it should be noted that even where there has been a building, it is possible that below-ground archaeological remains may survive.

On the basis of the existing Kent Historic Environment Record data for the area and the fact that development would include significant groundworks which could adversely impact any below-ground archaeological remains, I recommend that if planning permission is granted the following condition is

applied to any forthcoming consent:

To evaluate and mitigate the impacts of development on heritage assets with archaeological interest:

- a) *Prior to any development ground works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a Specification and written timetable which has been submitted to and approved in writing by the local planning authority.*
- b) *Following completion of archaeological field evaluation works, no development groundworks shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or archaeological mitigation excavation and recording in accordance with a Specification and timetable which has been submitted to and approved by the local planning authority.*
- c) *The archaeological safeguarding measures, mitigation excavation and recording shall be completed in accordance with the agreed Specification and timetable.*
- d) *Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:*
 - a. *a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;*
 - b. *an Updated Project Design outlining measures to analyse, report and disseminate the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;*
 - c. *a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.*
- e) *The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.*

Reason: To ensure that features of archaeological and palaeo-environmental interest are properly examined and recorded in accordance with relevant Local and the National Planning Policy.

Kent Fire and Rescue Service – It appears from the plan drawing: Proposed Block Plan, that the minimum width of the access route from Gouge Avenue leading to Plot 3 and 4 is too narrow and unsuitable for a fire appliance in accordance with ADB vol 1. B5 Table 13.1, resulting in extended hose lay distances beyond the 45m access requirements. In my opinion, the emergency access requirements for the Fire and Rescue Service, under the above 1981 Act, have not been met.

Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2019 edition incorporating 2020 and 2022 amendments, to be established.

Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2019 edition incorporating 2020 and 2022 amendments and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

Internal Consultees

GBC Environmental Protection (Regulatory Services) – The following to be considered:

- *Code of Practice on Construction and Demolition* – Please apply as appropriate to minimise the

impact on nearby residential properties.

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

Neighbouring properties

A notice was displayed on site 15 August 2024.

In addition, fifteen surrounding properties were consulted and five representations were received. The representations received objected to the development, raising a number of material and non-material planning considerations.

Please note only the material planning considerations are relevant to this decision.

Material Planning Considerations

- Out of Keeping with the surrounding properties
- Loss of light
- Overlooking / Loss of privacy
- Increase parking pressures
- Impact on the highway
- Capacity of physical infrastructure – mains drainage
- Impact on biodiversity – removal of habitat, trees and bushes from the site

Non-Material Planning Considerations

- Impacts arising from the Construction Period
 - Heavy good vehicles
 - Dust, mess and noise
 - Disruption
- Impact on health

The consultation period expired 06 September 2024.

Preliminary Matters

This application follows a refused outline application for the “the demolition of existing dwelling and erection

of 4 no. residential dwellings, with layout and access to be determined” (ref. 20240071). The Local Planning Authority refused the application on the following grounds:

1. *The proposed layout of the development hereby proposed fails to safeguard the amenity of neighbouring properties, through direct overlooking, loss of light, loss of outlook and sense of enclosure to habitable rooms of the adjoining bungalow, resulting in an unneighbourly form of development. Therefore, the proposal would have an overbearing impact on surrounding properties to the detriment of their amenity contrary to Policy CS19 of Gravesham's Local Plan Core Strategy (2014) and paragraph 135 of the National Planning Policy Framework (2023).*
2. *The proposed access represents a risk to pedestrian safety by virtue of unacceptable and impeded visibility splays. Therefore, the proposal is contrary to Policy CS11 of Gravesham's Local Plan Core Strategy (2014), saved policies T1 and T5 of Gravesham's Local Plan First Review (1994), Kent County Council dropped kerb guidance (2023), as well as paragraph 115 and 116 of the National Planning Policy Framework (2023).*

In order to receive a favourable decision, this application must be considered to have addressed the above grounds.

Officer's Analysis

Site Description

4 Gouge Avenue is a detached two storey dwelling located on the eastern side of the highway.



The property is set-back from and elevated above the highway, and benefits from a large curtilage.



The plan indicates two pairs of semi-detached dwellings, with one pair fronting Gouge Av and the other located towards the rear of the site. The two buildings would be separated by approx. 31m, with gardens and parking areas between.

It is unclear from the information submitted how many bedrooms each property would have.

Principle of the Development

The application site is not protected or of particular importance. It is within the urban boundary of Gravesend, Northfleet and Ebbsfleet.

The main issues to consider in the determination of this application are as follows:

- Housing Need
- Design, Character and Appearance
- Amenity of Future Occupiers
- Neighbouring Amenity
- Highways and parking
- Ecological and Biodiversity
 - Recreational Pressures on the Thames Estuary and Marshes Special Protection Area (SPA) and SAMMS
 - Biodiversity Net Gain

Housing Need

In *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] 1 W.L.R. 1865, Lord Carnwath re-emphasised that the National Planning Policy Framework is only a material consideration in planning decisions and that that planning applications should be determined in accordance with the development plan. Paragraph 12 of the National Planning Policy Framework (NPPF) (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 Gravesend'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 '3' residential units would offer a minimal contribution towards meeting this local need and, accordingly, officers considers that this should be accorded appropriate weight in support of the application. However, this has to be balanced against other requirements of the Development Plan and NPPF (2023) which requires new development to contribute positively to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

Design, Character and Appearance

Whilst it is recognised that development which makes effective use of land should be supported, this comes with the proviso that it should safeguard and improve the environment and not conflict with other policies in the NPPF (2023) (paragraph 123). Relevant to this proposal, paragraph 128 of the NPPF (2023) states that developments that make efficient use of land should take into account the identified need for different types of housing, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed buildings and places. This latter point is fundamental to what the planning and development should achieve.

Paragraph 131 of the NPPF (2023) states that good design is a key aspect of sustainable development, creates better places and helps make development acceptable. Paragraph 135 of the NPPF (2023) seeks to ensure that development will add to the quality of an area, be visually attractive, and sympathetic to local character and history. Policy CS19 (Development and Design Principles) (LPCS) reflects these aims and requires that new development is well designed, and respects the character and appearance of the surrounding area.

Policy CS14 (LPCS) sets out that new housing development is expected to provide a range of dwelling types and sizes, taking into account the existing character of the area and evidence of local need to create sustainable and balanced communities. Gouge Avenue primarily consists of a mix of two storey terraced properties and detached bungalows. Most of the bungalows in the road remain at single storey level and the application site is positioned between a collection of bungalows. Given the immediate context, it would be more appropriate to introduce a single storey dwelling onto the front to create continuity and uniformity of height. While it could be argued that the existing dwelling is two storey, this was set back further from the highway and the proposal would bring the building line forward between the existing bungalows (which raises concerns with impact on amenity – explored later in this report).

Policy CS15 (LPCS) seeks to achieve a minimum density for residential development in the urban area of 40 dwellings per hectare (dph), subject to the overriding consideration that it achieves good design and does not compromise the distinctive character of the area. In terms of the density of development currently proposed for this site this would be 31 dph (the application site measures 0.126 hectares; 4 dwellings on this site). This would be below the minimum density for this area at 40dph, but this is considered in keeping with the character of the area in this location.

The submitted plans show that one pair of semi-detached dwellings would front the highway creating a continuity in the established building line on Gouge Avenue. The other pair of dwellings set back at the rear of the site, which is similar to other back land developments on Gouge Avenue (rear of no. 44) and is therefore not considered to be out of character with the area. These back land dwellings at the rear of no. 44 are bungalows, which are at a more comparable scale to the established and pre-planned garage blocks behind properties within the surrounding area. Therefore, the scale of the dwellings proposed within this development, both at the front and rear are considered important. However, no details have been submitted at this stage with regards to the appearance and scale of the proposed dwellings.

As referenced above it is considered that the appearance and scale development could designed to complement the immediate street scene and wider area, responding to the scale of the bungalows adjoining the site and other back land developments within the area. However, these issues would be properly considered at reserved matters stage.

Overall, the proposal seeks to make a more efficient use of the site for housing, and the layout would be in keeping with the character and appearance of properties in the immediate area. On this basis, the submitted outline details are considered to comply with the requirements of Policies CS12, CS14, CS15 and CS19 (LPCS), and paragraphs 123, 128, 131, 135 and 180 of the NPPF (2023).

Amenity of Future Occupiers

Policy CS19 (LPCS) requires that all development should be 'fit for purpose' and be 'adaptable to allow changes to meet the need of users' and that 'the design and layout of new residential development, including conversion, will accord with the adopted Residential Layout Guidelines' (RLG) (2020). Moreover, on 25 March 2015 the Government issued a written ministerial statement, which introduced new technical housing standards in England and set out how these would be applied through planning policy. These standards came into effect on 1 October 2015.

The number of bed spaces nor the internal layouts have been specified in this application, therefore it is not possible to determine if the proposal complies with the Technical Housing Standards - Nationally Described Space Standards 2015 in terms of the size of the proposed accommodation.

The proposal does however provide layouts for the plots, defining the garden area for each of the proposed dwellings, which are as follows:

Plot	Garden Depth	Garden Area
1	11.4m	72.5m ²
2	11.4m	54.4m ²
3	15.8m	130m ²
4	16m	125m ²

The below screenshot is taken from Gravesham's RLG and indicates the minimum garden areas for properties with different numbers of bedrooms:

Accommodation with :	Minimum garden area (sq. metres)	Minimum depth from rear wall of house (metres)
1-2 bedrooms	37.2	7.6
3 bedrooms	60.0	10.0
4 or more bedrooms	100.0	10.0

Therefore, based on the amenity spaces indicated within the layout of the development, the garden sizes would comply with Gravesham's RLG.

Due to the general pattern of development on the road, there is unlikely to be any adverse impact on the proposed properties from overlooking or loss of light, with the flank dormer windows approved at the neighbour being obscure glazed. The dwellings themselves are separated by some 31m and therefore there would be no conflict with the window-window distance of the RLG for overlooking or loss of privacy.

There is therefore no conflict with the requirements of the SPG2 Residential Layout Guidelines (2020), Policy CS19 (LPCS) and paragraph 135f of the NPPF (2023) in respect of the proposed layout and external amenity area for future occupants of the proposed dwellings on the site.

No details are provided on internal layouts, and these are reserved for future consideration.

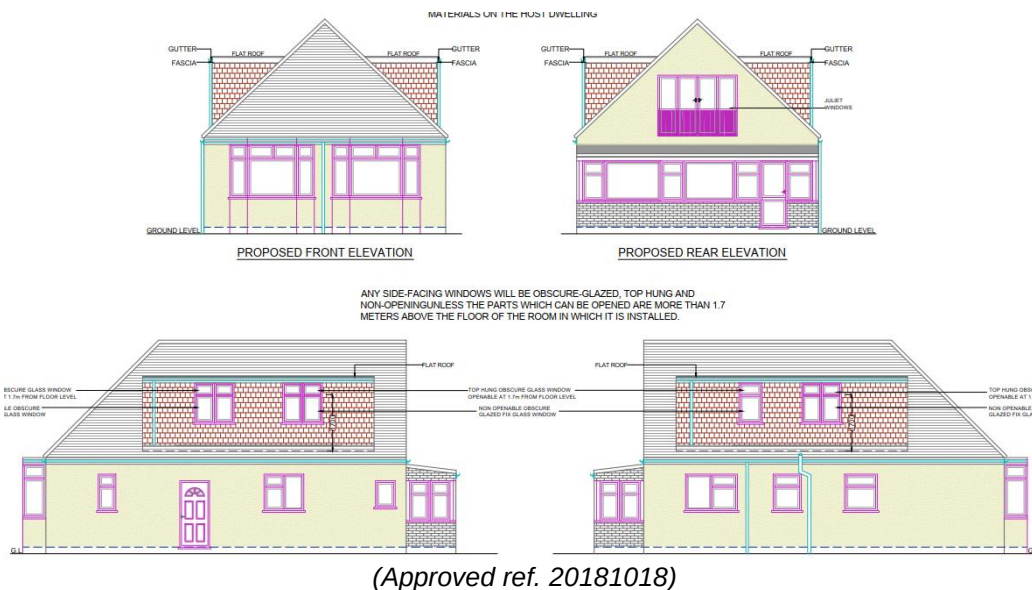
Neighbouring Amenity

Policy CS19 (LPCS) seeks to protect amenity and ensure acceptable future living conditions. Section 16 of the NPPF (2023) also assists and seeks to ensure developments will function well, do not undermine quality of life and create attractive and comfortable places to live, work and visit and seeks to "secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings".

The proposed residential use of the site will be in keeping with the existing and surrounding uses, and there will be modest uplifts to the present situation with regard to noise, disturbance, increased traffic and activity levels with the addition of three dwellings on the site.

The main neighbouring properties likely to be affected by the proposal are the bungalows adjoining the site No. 2 to the south and No. 16 to the north of the application site. The property to the south (no.2) has flank windows facing the application site, and has permission for roof alterations, which introduce additional fenestration onto the flank elevation (ref. 20181018). The proposed development has moved the new dwellings fronting Gouge Avenue to the north side of the site, away from no.2 and would be 6.1m from the windows on the neighbour. This is considered to address concerns with outlook, sense of enclosure and loss of light, by virtue of the distance between the buildings. Therefore the development is considered to safeguard neighbour amenity in accordance with Policy CS19 (LPCS) and paragraph 135f of the NPPF (2023).





Nevertheless, the new dwellings in the rear of the site would be within approx. 24m of the neighbour (no.2) and would therefore fall within the 26m minimum window-window distance set out within Gravesham's RLG. As such, this would impact on the privacy of neighbours contrary to Policy CS19 (LPCS) and paragraph 135f of the NPPF (2023).

The neighbour to the north (no.16) does not have any flank windows facing the development and would be some 1.3m from the new dwelling (plot 2). Unlike no.2, this property is set closer to the highway and is approx. 30m from the front of the proposed dwelling at the rear (plot 4), as such this dwelling will not be overlooked as part of this development.



Overall, it is considered that the proposed development would fail to protect the amenities of neighbouring properties through loss of privacy, by virtue of the rear dwelling (Plot 3) being within the 26m privacy distance over gardens. Therefore, the proposal fails to comply with the requirements of the SPG2 Residential Layout Guidelines (2020), Policy CS19 (LPCS) and paragraph 135f of the NPPF (2023).

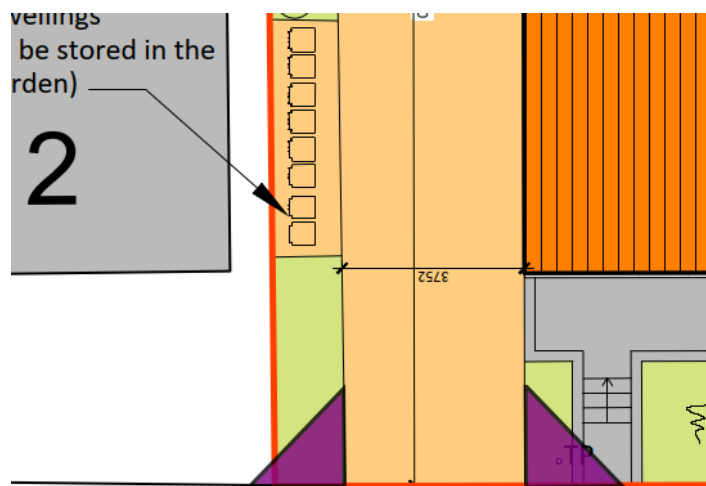
Parking and Highways

According to Gravesham's adopted parking standards (SPG4) (2006) a two bedroom property would require a maximum of 2 car parking spaces. There are 2 parking spaces proposed for each property, within the shared parking area between the sets of dwellings, and the proposal would therefore comply with parking standards.

The proposed access has a width of 3.75m, which complies with Kent Design Guide for accesses, and the

provision of vehicular parking is acceptable. However, there remain concerns with the pedestrian visibility splays. Although the bin store and steps do not impeded the splays in the current design, the visibility splay to the south goes beyond the redline and onto the neighbours ownership, which means that any condition to maintain the splay cannot be enforced.

Kent County Council's dropped kerb guidance (2023) and Manual for Streets (2007) state that pedestrian visibility splay should be 2m x 2m with no obstructions over a height of 600mm. The visibility splay to the south goes beyond the ownership, onto the neighbouring property (no.2) (as shown in the image below);



The neighbour (no.2) has a brick wall on the shared boundary with the application site, which stands at a height of approx. 1.265m with a pillar standing at approx. 1.5m. Therefore, the pedestrian visibility splay would be impeded at a height greater than the 600mm maximum in Kent County Council's Dropped Kerb Guidance (2023) and Manual for Streets (2007) and would represent a risk to safety.



Therefore, the access would fail to achieve the required pedestrian visibility splays and represents a risk to safety contrary to KCC's dropped kerb guidance (2023), Manual for Streets (2007), as well as Policy CS11 (LPCS) and saved policies T1 and T5 of Gravesham's Local Plan First Review (1994).

Kent Fire and Rescue Service have raised concerns with the originally submitted block plan, due to the lose lay distance exceeding the 45m access requirements and the proposal did not meet the emergency access requirements of the 1981 Act. However, the revised plan demonstrates a 45m hose access from the wider part of the access road. Kent Fire did not respond to the agents submission of the revised plan, but this corresponds with the layout of the refused application (ref. 20240071) and therefore is considered to be acceptable, with building regulations covering other Fire and Safety matters.

Overall, the proposed access would have adverse highways impact by failing to provide satisfactory pedestrian visibility splays and increases the risk of accident contrary to KCC's dropped kerb guidance

(2023), Policy CS11 (LPCS) and saved policies T1 and T5 of Gravesham's Local Plan First Review (1994) as well as paragraph 115 and 116 of the NPPF (2023).

Ecology and Biodiversity

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

The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) are internationally important for nature conservation as the area is a wetland and supports important numbers of wintering water birds and migrating birds. There has been a decline in the number of birds using these sites in recent years. Studies show that this could be due to people using the estuary and marshes for recreation purposes. The North Kent Bird Disturbance Report concludes that all new housing development within 6km of the North Kent Ramsar Sites or Special Protection Areas (including the Thames Estuary and Marshes) and larger housing development beyond 6km from the sites could have an adverse impact on them. This is because new housing development is likely to lead to further increases in recreational use of the sites, which means that further declines in the bird population cannot be ruled out. Possible mitigation measures are set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. Having considered a number of options, the Council have decided to impose a tariff on new housing development. Developers will need to pay £328.27 for every new dwelling provided within 6km of the Ramsar site and SPA and for larger housing developments beyond 6km from them. The money raised will be used to pay for schemes to avoid the adverse impacts of new housing development on the birds.

In this instance, the proposed development would result in the creation of an additional residential property and as such, additional recreational activity would result. Therefore, it is considered that there would be an adverse impact to the Thames Estuary and Marshes Ramsar Buffer Zone, which should be mitigated in line with Policy CS12 (LPCS). In such cases the Borough Council has adopted a tariff that is payable for each new dwelling unit within 6km of the SPA/Ramsar site of £328.27 per new dwelling unit.

The applicant has paid the SAMMS Mitigation Contribution Agreement and therefore meets the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 185 and 186) of the NPPF (2023) and Policy CS12 (LPCS) (2014).

Biodiversity Net Gain

Biodiversity net gain is a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity.

In England, biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains.

Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.

The proposed development would affect 25m² of onsite habitat and would therefore be above the de-minimis threshold and would require the mandatory 10% biodiversity net gain. The application was submitted alongside a preliminary ecological appraisal and biodiversity net gain metric.

The information included within the Baseline Biodiversity Net Gain Metric cover the existing situation and show that the proposal would deliver a 16.29% net gain in biodiversity. However, this figure uses the baseline for the site as it currently stands. When taking into consideration the post-clearance situation, the

figure stated within the assessment cannot be accurate. As shown in the images below, for in excess of 16 years, the site contained numerous trees and shrubs, eventually growing into an unmanaged state, which possibly contained protected/notable species within the site.



Google Streetview (November 2022)



Google Earth (August 2022)



Google Earth (July 2013)



Google Earth (November 2006)

The information within the Biodiversity Net Gain Metric states that the on-site baseline habitats are a vegetated garden, development land and an urban tree(s). The tree coverage within the Metric provides an area of 0.015ha, which equates to approx. 11.87% of the application site (0.1264ha). However, as demonstrated in the images above, the site contained significant habitat potential and was densely vegetated with comfortably more than 11.87% of the site being covered by dense vegetation, certainly in August 2022 at the latest. Further to this, the application form acknowledges that site clearance and degradation has occurred, but states that the current biodiversity value and pre-clearance biodiversity values are the same, at 0.32, which as demonstrated in the evidence above, cannot be the case. There has been a clear loss of biodiversity on the site.

The Local Planning Authority is granted measures by the Environment Act (Schedule 14) (2021) to recognise any habitat degradation since 30th January 2020 and take the earlier habitat state as the baseline for the purposes of biodiversity net gain. Therefore, the baseline for the Metric should provide an accurate picture of the site pre-clearance, as of 30th January 2020, but instead provides an imprecise and false figure for the purposes of the 10% biodiversity net gain target.

The Planning, Design and Access Statement sets out that a Preliminary Ecological Assessment has been submitted in support of the application, however this has not been supplied in the submission and therefore cannot be assessed. No other evidence regarding the biodiversity, in terms of species and location, which was present on site prior to clearance, or since remaining on the site, has been provided to enable any further assessment.

Therefore, additional information is required under Article 7 of The Town and Country Planning

(Development Management Procedure) (England) Order 2015. The application is deemed to be unacceptable and contrary to policy, based on the details submitted with the application.

Conclusion

The application has been fully considered and is contrary to local and national planning policy.

It is considered that the proposed access and layout of the development is unacceptable and would fail to safeguard neighbouring amenity through overlooking and represent a risk to safety by failing to provide pedestrian visibility splays. Therefore, the proposal is contrary to Policies CS11 and CS19 (LPCS), saved Policies T1, T5 and P3 (LPFR), and paragraphs 115, 116 and 135(f) of the NPPF (2023).

Lastly, the development fails to safeguard biodiversity impact of the development on site by providing no net gain. Therefore, the development fails to offset biodiversity loss through site clearance contrary to Section 15 (specifically paragraphs 185 and 186) of the National Planning Policy Framework (2023) and Policy CS12 of the Gravesham Local Plan Core Strategy (2014).

Recommendation

Refusal

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

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	19 th September 2024	Dated:	19 September 2024