



Delegated Report

Application No:	20211361
Location:	Courtlands, Gravesend Road, Shorne DA12 3JR
Description:	Demolition of existing house and outbuildings and erection a of a new two storey Georgian style 3-bed dwelling with associated landscaping.
Applicant:	Mr Pawar
Site Visit Date:	Desktop

Submitted Documents/Plans

The application comprises the following documents and plans:

Application form received 4 November 2021.

Planning Statement and Design and Access Statement received 2 November 2021.

CGI images received 2 and 3 November 2021.

Drawing no. 001 (site location) received 2 November 2021.

Drawing no. 007 (proposed elevations) received 2 November 2021.

Drawing no. 006 (proposed floor plans) received 2 November 2021.

Drawing no. 004 (block plan showing buildings) received 2 November 2021.

Drawing no. 005 (proposed block plan) received 2 November 2021.

Drawing no. 003 (existing plans) received 2 November 2021.

Drawing no. 002 (existing plans) received 2 November 2021.

Drawing no. 008 (size comparison) received 2 November 2021.

Relevant Planning History

20210368	Application for Lawful Development Certificate for the proposed erection of three outbuildings incidental to the main dwelling, single storey side extension, two storey rear extension and construction of a swimming pool.	Certificate Granted	14.05.2021
20201375	Application for Lawful Development Certificate for the proposed erection of three outbuildings incidental to the main dwelling, single storey side extension, two storey rear extension and construction of a swimming pool.	Certificate Granted	12.03.2021

20200211	Application for a Lawful Development Certificate in respect of the proposed erection of 2 no. single storey outbuildings for purposes incidental to the main dwelling	Certificate Granted	21.04.2020
20191312	Application for a Lawful Development Certificate in respect of the proposed erection of 2 no. single storey outbuildings for purposes incidental to the main dwelling	Certificate Refused	13.02.2020
20190717	Change of use of land from agricultural to equestrian and erection of stable building with tack room and a detached barn.	Permitted	19.02.2020
20131058	Erection of single storey rear extension to form bedroom and bathroom/wc; installation of three dormer windows in rear roof slope and conversion of existing detached double garage into a games room and gym involving front and rear infill extensions.	Permitted	13.01.2014
20000084	Erection of a conservatory at the rear.	Refused, appeal dismissed	27.03.2000
19940734	Erection of a two storey extension on the south western elevation to form living room with bedroom over.	Refused	17.02.1995
19800893	Outline application for the erection of 4 detached houses and garages and the laying out of an access road	Refused	19.01.1981
19790681	Erection of two storey extension at the side to form entrance hall and lounge with bathroom and bedroom and en suite bathroom over	Permitted	15.11.1979
19780716	Erection of a detached double garage and store at the rear	Permitted	02.10.1978

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

The Core Strategy sets out the Council's spatial vision and strategic objectives for the Borough to 2028 and the policies which will deliver them. It identifies the main areas where major change is likely to take place and allocates sites which are key to achieving the strategy.

The application site lies within the Green Belt in the Gravesham Local Plan Policies Map. Court Wood Local Wildlife site lies to the south-east of the site. The site lies within an area of archaeological potential. It also lies within the Shorne Woodland Landscape Character Area.

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

Paragraph 33 of the National Planning Policy Framework (2021) sets out those 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 The review 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 a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the National Planning Policy Framework (2021), the Council will also seek to replace these saved policies via the emerging Local Plan.

Saved Policies in the Gravesham Local Plan First Review (November 1994):

The Gravesham Local Plan First Review was originally adopted in November 1994.

A substantial number of policies of the Gravesham Local Plan First Review were saved by a Direction dated 25 September 2007 of the Secretary of State under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 as transitional arrangements pending adoption of the Core Strategy.

Saved policies contained in the Gravesham Local Plan First Review should still be accorded significant weight, albeit that the weight accorded should be greater where policies are consistent with the National Planning Policy Framework (NPPF) 2021 , paragraph 149 d.

Those Local Plan First Review policies that remain in force are listed in Appendix 1 of the Local Plan Core Strategy. The remaining saved policies will be replaced following the adoption of the Site Allocations and Development Management Policies Development Plan Document.

- C12 – Replacement Dwellings in the Countryside
- T1 – Impact of Development on the Highway Network
- P3 – Vehicle Parking Standards
- T5 - New Accesses onto Highway Network

Saved Policy C12 is of particular note, albeit that some aspects of the policy are not directly in accord with the NPPF. This indicates that there will be a strong presumption against allowing the replacement of existing dwellings which will only be set aside if the following criteria are satisfied:

- (i) The existing dwelling must be an “original dwelling”* in permanent use as a dwelling. Proposals for the replacement of dwellings which are not “original” but which have gained immunity from the enforcement of planning control will be considered on their individual merits, having regard to their origins, their location and the nature of the accommodation they currently provide.*
- (ii) The existing dwelling must be in an appropriate location, meaning that it must be well related to existing roads and to essential services and must be in or close to an established rural settlement. The only exception to this criterion will be where the proposed replacement dwelling is required on the site for an agricultural worker, where the standard agricultural occupancy condition will be imposed.*
- (iii) The replacement dwelling must be of similar scale and mass to the existing dwelling and must be no larger than the existing dwelling, unless it can be demonstrated that modest enlargement+ is required to allow the provision of essential basic amenities such as a bathroom, toilet or kitchen, which currently do not exist or are clearly inadequate or to meet the special needs of the occupants.*
- (iv) The internal layout of the replacement dwelling shall not be such as to facilitate its later subdivision.*
- (v) The replacement dwelling should normally occupy the same site as the existing dwelling. Where it is agreed that the replacement dwelling may be located elsewhere on the plot, adequate safeguards# will be required to ensure the demolition of the existing dwelling.*
- (vi) The existing or proposed means of access, including access for firefighting appliances, must be satisfactory.*
- (vii) The existing or proposed site drainage and means of soil and waste disposal must be satisfactory.*

Footnotes:

* “Original dwelling” for the purpose of this policy and policy C13 means 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.

+ In such cases the modest enlargement should not in any case be greater than one third of the floorspace of the existing dwelling excluding garage(s) and outbuildings and the replacement of bungalows by dwellings of two or more storeys will be resisted.

“Adequate safeguards” will normally mean a planning condition and/or a formal agreement under Section 106 of the Town and Country Planning Act 1990.

While the above saved policy C12 provides guidance on replacement dwellings in the countryside, the policy approach is negatively phrased, containing a strong presumption against replacement dwellings, and the criteria (ii and iii) are now inconsistent with national policy as set out in paragraph 149 of the NPPF (see section below). As such, limited weight is given to these criteria. The remaining criteria (i, iv, v, vi and vii) are material when considering the detail of this proposal

Saved Policy P3 indicates that development will be expected to make provision for vehicle parking in accordance with the KCC Vehicle Parking Standards.

Saved Policy T5 requires that the formation of new accesses or the intensification of use of

existing accesses to the roads forming the highway network shown on the Proposals Map, will not normally be permitted, except where no danger would arise and where a properly formed access can be created in a location and to a standard acceptable to the Local Planning and Highway Authorities.

Other material considerations

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 12 – Achieving well-designed places
- Section 13 – Protecting Green Belt land

Of particular relevant to this application are the following paragraphs from the NPPF (2021).

“147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘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.

149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- 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) 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, 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.”*

Supplementary Planning Guidance

- SPG2 - Residential Layout Guidelines (2020)
- SPG 4 - KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)
- Landscape Character Assessment (2009)

Consultations, Publicity and Representations

Shorne Parish Council

The applicant has previously submitted several applications for this site, the most recent being Ref 20210368 for a swimming pool and three large outbuildings in connection with, and extensions to, the existing house. That Lawful Development application was approved by GBC, however to date, the outbuildings and swimming pool have not been constructed.

This present application seeks to retain the permission for the swimming pool and three large outbuildings but to demolish and rebuild the existing house with larger dimensions.

NB: The application refers to a 3-bedroom dwelling (two-storey) but the Planning and Design Statement describes a 4-bedroom dwelling (three storey) - this requires clarification with the applicant.

Plans for the second/loft level have not been provided and this deficiency must be rectified.

We also note that the “stable” (“stables” in point 3.2 of the Planning and Design statement) is described as an “existing gym room” on the Size Comparison Plan - it appears to have been converted to residential use without planning permission, and we question whether it can contribute to the Size Comparison considerations.

There are a number of elements to this application:

1) Demolition and rebuilding of the existing house with larger dimensions:

The Parish Council has no objection in principle to this element of the application as the site is large, the built forms are set well back, there will be relatively low impact on the streetscene, and immediate neighbours will not be detrimentally affected.

We note however that the house was previously/has already been extended by more than 100% compared with its original footprint.

The proposal reduces openness in the Green Belt by virtue of the increased width and mass of the building, which has a less blending design and will be visible in the landscape from higher ground.

2) Discrepancies between submitted plans and the Planning and Design Statement:

- Point 5.38 refers to the “Boot Room” on the plans actually being a boot room/cycle store but in point 5.54 states that cycle storage “....could be provided within the garage due to the size proposed” – the actual intention requires clarification.
- Point 5.38 refers to “stairs to the loft providing further storage or addition dressing room facilities” and Point 5.39 states that “the landing to the loft is provided with an oriel window to the projecting gable to provide natural daylight” however the plans do not show the staircase or any layout for the second/loft level. Clarification of the window type is also required as it appears on the plans to be just a circular window.
- Point 5.42 refers to the proposed house as “4-bedroom” (as does point 5.49), “the fourth bedroom provided in the loft space” and that “all of the bedrooms are en-suite”.

Clarification and detailed plans are needed regarding the intentions for the second floor/loft level. We note that no windows or other ventilation, fire protection and fire-escape arrangements are shown for the second/loft level.

3) Other comments on the proposed design:

- Lack of symmetry – The Planning and Design statement refers on page 20, point 5.37 to the layout as being symmetrical however this is not the case and might be reconsidered - with a subsidiary side extension on the east side but not on the west the design looks unbalanced.
- Proposed outbuildings - The need for outbuildings was predicated on there not being sufficient accommodation in the main house however there is presently an opportunity to remedy this and reduce the sprawl of built forms on the site. We note e.g. that there is now provision of an office in the main house and a desk area is shown in the second bedroom.
- The plans do not include e.g. a basement level, or as presently submitted, any use of the loft level. The Parish Council considers that use of the site could be considerably more compact than presently proposed and would like to see the overall number of built structures reviewed and consequently reduced in size and number.
- The area of hardstanding is being extended, this must be permeable.

4) Previous Approval for Outbuildings and swimming pool

The application assumes that the outbuildings that were previously permitted in relation to the existing house are still permitted with its replacement and a completely new planning application however we would question whether this is automatically the case. As confirmed by the applicant, the outbuildings have not been built or even commenced at this date, so consideration should be given as to whether this present application, if permitted, supersedes all those prior.

5) Suggested Conditions (assuming all plans are correct as presently submitted):

- The loft level does not have any permanent access and can only be used for storage.
- Any residential use of the loft level or changes to the roof design and fenestration would require planning permission.
- The outbuildings are only annexes to the main house and cannot be used residentially or as separate dwellings. Excepting with additional planning permission they cannot be joined together or otherwise altered, cannot be subject to any change of use or used for any commercial purpose, cannot be repositioned or extended, and the pool cannot be enclosed.
- All hardstanding must be permeable.
- If permitted, this application supersedes all previous applications including for Lawful Development.

KCC Heritage

The site lies in an area of multi-period archaeological potential. However, I consider it unlikely that the proposed works will have a significant below-ground archaeological impact at this location and have no further comments to make in this case.

Dickens' Country Protection Society

The site is in an area within which Green Belt Policies apply. In the Green Belt extensions or rebuilding is normally restricted to an increase of one third of the original building. This proposal represents a threefold increase on the original building (referring to the plans submitted for application GR/1979/0681).

The Society is already concerned at the substantial quantum of development that has been approved on this Green Belt site.

Environment Agency

No comment.

Highway Development Management Officer

I have no objections to the proposal, a four bedroom dwelling is replaced with a three bedroom one and the existing access remains unaltered. There will be sufficient space on the drive to comply with car parking requirements.

It is suggested that as this is a new build, the applicant should make appropriate provision for the charging of electric vehicles, which at a minimum would be providing the cables necessary to support a minimum of two charging points each capable of accommodating a minimum continuous supply (more under surge demand) of 7kW

Neighbouring properties

The application has been advertised by site notice and individual letters to 4 neighbouring properties. No letters of representation have been received.

Officer's Analysis – Background & Proposed Development

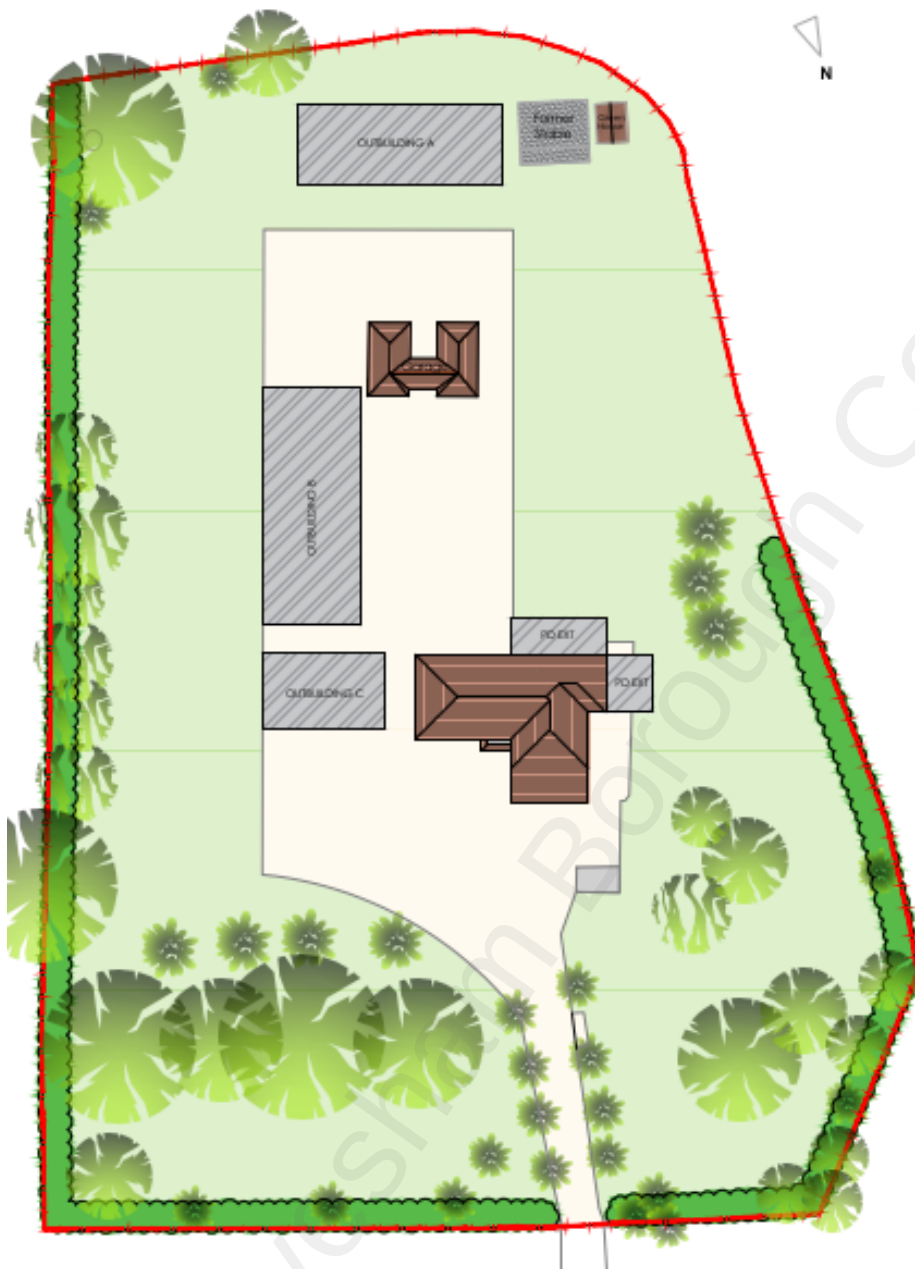
Background

The fall-back position

On site there is currently the house, garage, stable and green house:



The applicant has applied for various lawful development certificates and the following buildings were deemed to fall within permitted development:



The submitted design and access statement states that the fact these buildings can be constructed lawfully constitute 'very special circumstances' to allow inappropriate development in the Green Belt.

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 they must be a possibility that this development will be

implemented if the current application is not permitted.

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

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

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

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

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

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

The development in question benefits from confirmations including lawful development certificates.

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

In this case the applicants have clearly stated that they would implement the LDCs and have taken steps already to implement this by undertaking ground works and commenced construction of the extensions to the dwelling (not the outbuildings). Officers do not anticipate that such a fall back position, even though assembled to help enable a new build dwelling, would be likely to be carried out should permission for the new dwelling not be forthcoming.

3. *If it is accepted that there is a genuine lawful fallback, which in this case based on the information available, it appears that there is not, then the current proposal does not need to be assessed against the benefits or harm of that fall back being implemented. The current application along with the LDCs is considered more harmful than the existing building together with the LDCs.*

This is a matter of planning judgement based on the facts of the case. The applicants have made clear that they intend to implement the outbuildings **AND** build the new dwelling if it is granted permission.

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.

Successful applications for lawful development certificates for various outbuildings, without them being built, would not be considered as a 'fall back'. However, in this instance the applicant has stated that they are intending on building these before implementing any forthcoming permission for a replacement dwelling. Their 'fall-back' is that the floor area of these proposed lawful buildings should be counted as 'original' as demonstrated by their calculations in the Design and Access Statement (para. 5.21 and 5.23) which, in turn, allows for the % change in the gross internal area of the replacement dwelling to be -5.3%.

The applicant has relied heavily on this 'fall-back' position stating what can be built under permitted development in terms of outbuildings. They have stated that the buildings have been implemented however, upon visiting the site, the only implementation visible is of the two extensions to the main dwelling. There is no evidence of the outbuildings being implemented save for what appears to be a planter in the garden. Notwithstanding this, the buildings that can be undertaken do not count as original floor space as they are not part of the original dwelling.

However, it is the Council's view that local and national Policy is clear when deciding applications for replacement dwellings – that the consideration is what is materially larger than the original/existing dwelling. Policy C13 defines the 'original dwelling' as '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'. It does not include subsequent lawful development applications.

Notwithstanding this there is no mention in either Policy of outbuildings. Outbuildings are dealt with under Policy C12 of the Gravesham Local Plan First Review 1994 and are not mentioned at all in the NPPF other than to say that the construction of new buildings are inappropriate in the Green Belt (para. 149).

The applicant intends to build the outbuildings prior to the replacement dwelling, if permission is forthcoming and therefore a permission for a replacement with permitted development rights removed would not improve the 'openness' if this were to happen.

Proposal

This application seeks planning permission for the demolition of the existing house and outbuildings and erection of a new two storey Georgian style 3-bed dwelling with associated landscaping. The replacement dwelling will be approx. 20m wide, 12m deep and 9.6m high with a part hipped/part flat roof. Internally it will have a boot room, utility room, kitchen/diner, two living rooms, lobby, office and WC at ground floor and three bedrooms, three en-suites, a laundry room and two dressing rooms at first floor.

There have been a number of lawful development certificates granted for development on the land. Design and Access Statement (para. 3.3) states that 'the applicant is intending to implement these outbuildings prior to any implementation of this application such that the buildings would fall outside of the control of the current application.'

The extent of demolition would be the existing dwelling, detached garage, stables and shed.

Housing Need

The applicant has made reference in their Design and Access statement that the Council cannot demonstrate a five-year housing supply. This is irrelevant to this application because there is no net increase in dwellings. The application is for a replacement dwelling.

Green Belt

The site is located in the Green Belt and the Shorne Woodland Landscape Character Area.

The Government attached 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 (para. 137 of the NPPF).

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

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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 (para. 148).

Para. 149 states that new buildings in the Green Belt should be regarded as inappropriate but lists exceptions to this. These are:

- 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) 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

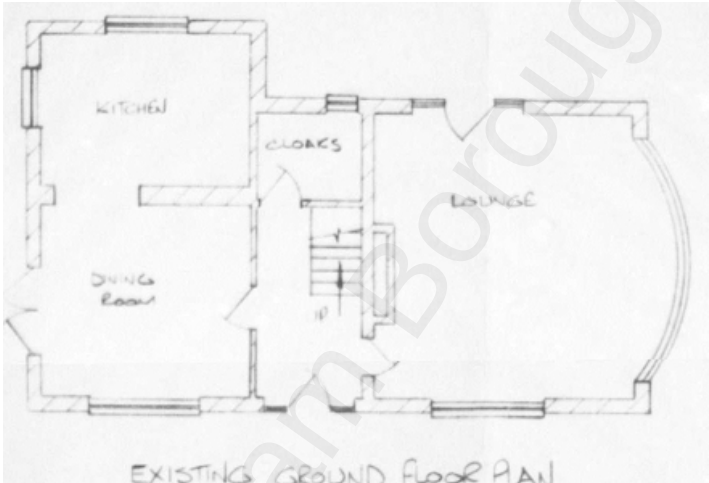
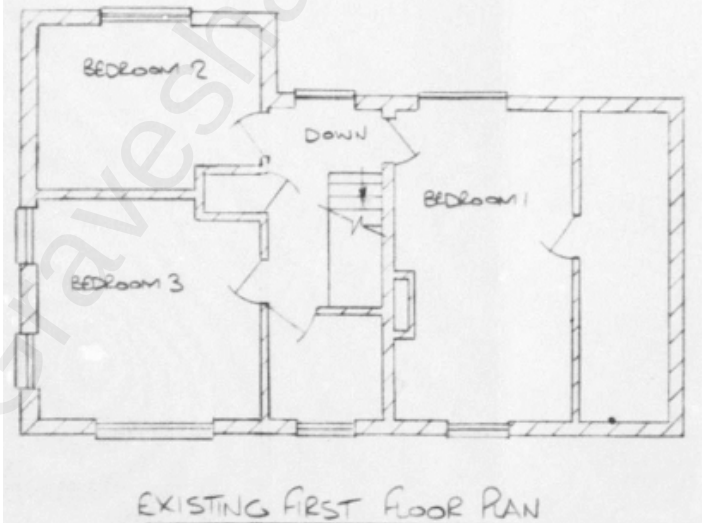
land, whether redundant or in continuing use (excluding temporary buildings), which would:

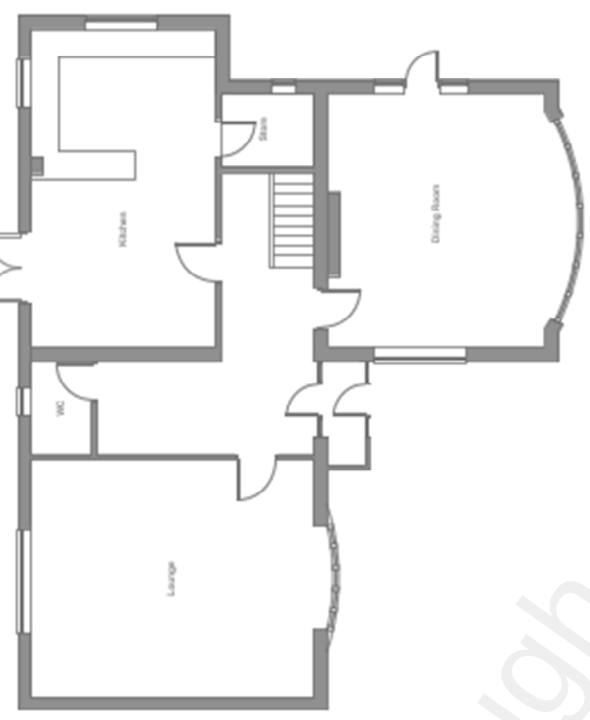
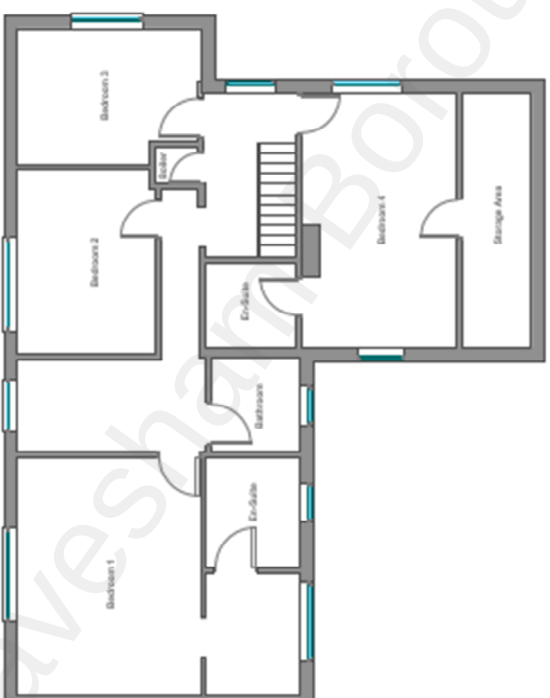
- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

This application falls to be determined under point (d) ‘the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces’.

Saved Policy C12 of the Gravesham Local Plan First Review 1994 is also relevant. This Policy states that there will be a strong presumption against allowing the replacement of existing dwellings which will only be set aside if certain criteria are satisfied. The existing dwelling must be an ‘original dwelling’. The replacement must be of a similar scale and mass to the existing dwelling and must be no larger than the existing dwelling unless it can be demonstrated that modest enlargement is required to allow for the provision of essential basic amenities such as bathroom, toilet or kitchen, which currently do not exist or are inadequate.

The original dwelling (1979):

Ground floor:	
First floor:	

Existing ground floor	 The ground floor plan shows a central staircase. To the left of the stairs is a large Lounge and a smaller WC. To the right of the stairs is a Kitchen and a Dining Room. The Dining Room has a curved exterior wall. There are also small rooms labeled 'Store' and 'Hall' near the stairs.
Existing first floor	 The first floor plan shows four bedrooms: Bedroom 1 (bottom left), Bedroom 2 (middle left), Bedroom 3 (top left), and Bedroom 4 (middle right). There are two bathrooms, one located between Bedroom 1 and 2, and another between Bedroom 2 and 3. A central staircase connects to the ground floor. A Storage Area is located at the top right. There are also several 'Exit' points marked around the perimeter of the rooms.

As can be seen from the existing floor plan above the entrance hall, lounge and WC are later additions to the 'original' dwelling. The original dwelling had a floor area (measured externally) of approx. 165.2sqm. The additions over the years amount to a further 110sqm which represents approx. 66% increase over the original building.

The proposed replacement dwelling has a floor area (measured externally) of approx. 395.3sqm. This constitutes an approx. 140% increase over the original floor area. Saved Policy C12 is clear that a replacement dwelling shall be of a similar scale and mass to the 'original' dwelling and the proposal to create a dwelling 140% larger is not considered to meet the criteria of this Policy.

Likewise, para. 149 (d) states that the replacement building is not materially larger than the one it replaces. The replacement dwelling is 395.3sqm and the dwelling as currently exists is approx. 272.91sqm. This is approx. 45% larger and therefore is considered materially larger.

Notwithstanding this the design and bulk of the building is significantly larger than the existing building:



The proposed replacement dwelling is materially larger than both the existing dwelling and significantly larger than the original dwelling. It therefore conflicts with the objectives of both Saved Policy C12 of the Gravesham Local Plan First Review 1994 and para. 147 (d) of the National Planning Policy Framework 2021. It is noted that the lawful extensions are underway, however, as discussed above, these do not form part of the 'original dwelling'.

The applicant's agent has also referenced (g) as applicable to this application which states

'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.

Annexe 2 of the NPPF 2021 defines 'previously developed land' as 'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

It is clear in the definition that it should not be assumed that the whole curtilage should be developed. It is the Council's view that the proposal does not fall within the parameters of exception (g) as the whole curtilage should not be considered developable. Notwithstanding this, the proposal is considered to detrimentally impact on the openness of the Green Belt as discussed 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.

The applicant's agent makes reference to Paragraph: 001 Reference ID: 64-001-20190722 of the planning practice guidance.

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.

The applicant's agent states that the application site is already screened from Gravesend Road by way of an existing boundary fence and hedge as well as perimeter trees (para. 3.5 of the Design and Access Statement). A recent appeal relating to an outbuilding in the Green Belt that was dismissed dealt with the issue of openness where a site was significantly screened. The Inspector stated 'the overall visual impact on openness would not be significant. However, the absence of significant visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. When considered as a whole, the spatial impact of the development means that it would clearly fail to preserve the openness of the Green Belt'. The appeal was dismissed (Appendix 1 - APP/K2230/D/21/3270667). The proposed replacement dwelling therefore is considered to impact on the openness of the Green Belt.

Very Special Circumstances

The development comprises inappropriate development as defined by the NPPF (2021). Paragraph 148 requires that:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘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.”

Whether the development causes any other harm and whether there are any other relevant considerations to balance the overall planning argument, should now be considered.

In this instance is the Local Planning Authority’s view that the applicant’s fall-back position is not a material consideration as they are using the floor area of the lawful, but as yet unbuilt, outbuildings and partially built extensions in their calculations of what constitutes ‘original’. They have already made it clear they are intending to build out the LDCs. There are no ‘very special circumstances’.

Landscape Character and Appearance

Policy CS19 states that new development will be visually attractive, fit for purpose and locally distinctive. It will conserve and enhance the character of the local built, historic and natural environment, integrate well with the surrounding local area and meet anti-crime standards.

In terms of scale and proportion, as has already been discussed, the replacement dwelling is significantly larger than that which exists. In order to demonstrate this the Technical housing standards are a useful tool. They state a three bedroom, 6 person, two storey dwelling would require a floor area of 102 sqm. The Planning Statement (para. 5.42) mentions that the proposal is for a four bedroom dwelling with one of those bedrooms in the roof space although the plans do not show this. If this were the case then the standards would require at least 130sqm. The internal floor area of the proposed dwelling is approx. 342sqm which is more than twice the size standard for a six bedroom, eight person, three storey dwelling. The master bedroom alone has an internal floor area of approx. 65.5sqm which is larger than the floor area of a two bedroom flat.

Whilst there are no maximum standards, these calculations serve to demonstrate that this property is considerably out of scale compared to the original dwelling. The character of the area is modest dwellings on spacious plots whereas the design of this replacement is an ostentatious, grandiose building which, due to its height, width and bulk will appear as a dominant form of development, unrespectful to the surrounding local character. The requirement for a two storey flat roof further demonstrates the overdevelopment of the building. The proposed development therefore fails to comply with the objectives of Policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130 of the National Planning Policy Framework 2021.

The site falls within the Shorne Woodlands Landscape Character Area where the key characteristics are undulating topography with varied building style and age. There are open arable fields surrounding Court Wood. The sensitivity of the landscape is assessed as being moderate and the guidelines are to conserve and reinforce. The proposed replacement dwelling, on balance, will not have a significant detrimental impact on the surrounding landscape character and therefore accords with Policy CS12 of the Gravesham Local Plan Core Strategy 2014.

Amenity of Future Occupiers

The proposed replacement dwelling has sufficient internal and external space to raise no concerns in terms of the amenity of future occupiers.

Neighbouring Amenity

The closest neighbour is The Manor House to the west of the site. This is approx. 80m away and therefore will suffer no detrimental impact in terms of loss of amenity from the proposals.

The proposed replacement dwelling therefore complies with policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130f of the National Planning Policy Framework 2021 in terms of amenity.

Parking and Highways

There is ample off road parking to serve the replacement dwelling and therefore no objection is raised.

Conclusion

The proposed replacement dwelling, due to its size, bulk and appearance is materially larger than the building it seeks to replace and therefore fails to meet the exception criteria listed in para. 149 (d) of the National Planning Policy Framework 2021 and would have substantial additional harm on the openness of the Green Belt than the existing development and therefore fails to meet the exception criteria listed in para. 149 (g). It is therefore inappropriate development in the Green Belt that would detrimentally impact on the openness of the Green Belt. The proposed replacement building is significantly larger than the original dwelling and therefore fails to comply with the objectives of Policy C12 of the Gravesham Local Plan First Review 1994.

The design of the proposed replacement dwelling is considered bulky and dominant within the street scene contrary to Policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130 of the National Planning Policy Framework 2021.

Recommendation:

Refuse

See draft Decision

Case Officer: AW	Team Leader: Richard Hart
Signed: 	Signed: <i>R Hart</i>
Dated: 5 January 2022.	Dated: 10 th January 2022