

PLANNING & DESIGN STATEMENT

Replacement dwelling at Courtlands

Gravesham Borough Council

PLANNING & DESIGN STATEMENT

Replacement dwelling

Courtlands, Gravesend Road, Shorne

Mr G Pawar

October 2022

OUR REF: M21/0805.04.RPT

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Introduction

Section 1

- 1.1 This planning and design statement is prepared by Tetlow King Planning on behalf of Mr Pawar (the applicant) in connection with the proposed redevelopment of Courtlands, Gravesend Road, Shorne.
- 1.2 This statement describes the site and its recent planning history, explains the proposed development and sets out the relevant planning policy and planning considerations. There is also a section specifically exploring the considerations of greenbelt constraints. It seeks to address the recent refusal through a revised design approach to overcome the concerns expressed.
- 1.3 This statement also serves as a Design and Access Statement for the purposes of validation.

Scope of Supporting Information

- 1.4 This application is supported by the following plans in support of the proposals
- Site location plan
 - Existing Block Plan
 - Existing Floor Plan & Elevations
 - Proposed Block Plan
 - Proposed Floor Plans
 - Proposed Elevations
 - Size comparisons

Site & Surroundings

Section 2

Accessibility

- 2.1 The application site is located on the southern side of Gravesend Road (A226), providing a connection from the Medway Towns to the east to Gravesend in the west.
- 2.2 There are bus stops on both the north and south side of the A226 almost immediately outside of the application site. The buses provide connectivity to Gravesend and beyond to the west, and Chatham to the east. The services in both direction are frequent with buses approximately every 20 minutes from just before 10am through to 6pm.

The Surrounding Area

- 2.3 Immediately east of the application site is the property known as The Manor House.
- 2.4 The village boundary of Higham is to the north east of the application site and encompasses all of the residential development on the northern side of Gravesend Road (A226).



Site Characteristics

- 2.5 Courtlands is a detached two storey dwelling set within large grounds totally approximately 0.58 hectares. At present the site also contains a detached double garage located to the rear of the property

Site Allocations

- 2.6 The application site is located within the Metropolitan Green Belt and outside of the defined settlement boundary for the village of Higham. The woodland to the south west of the site is a designated local wildlife site.

Planning History

- 2.7 The application site history available online from the council notes the following relevant applications:

App ref:	Description:	Decision:
19780716	Erection of a detached double garage and store at the rear	Permitted
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
19800893	Outline application for the erection of 4 detached houses and garages and the laying out of an access road	Refused
19940734	Erection of a two storey extension on the south western elevation to form living room with bedroom over.	Refused
2000084	Erection of a conservatory at the rear.	Refused
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
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
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
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 refused
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
20211361	Demolition of existing house and outbuildings and erection of a new two storey Georgian style 3-bed dwelling with associated landscaping	Refused. Appealed

Development Proposals

Section 3

Built Development

- 3.1 The proposal is for the demolition of the existing property and its replacement with a detached two storey property as shown on the proposed block plan.
- 3.2 The proposals would also result in the demolition of the existing detached double garage to the rear of the property as well as the stables and shed further to the rear of the site.
- 3.3 The proposed replacement dwelling is reduced in footprint from the previous application that was recently refused and is the subject of a current planning appeal.
- 3.4 The proposed block plan also indicates the provision of three additional outbuildings on the site. These outbuildings are not covered as part of this planning application as they have been considered under application reference 20210368 and deemed to be lawful for the provision of incidental accommodation. 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.
- 3.5 The outbuildings are therefore shown on the proposed block plan for completeness whilst relying on the fallback of the grant of the LDC to implement.

Landscape

- 3.6 The application site is already screened from Gravesend Road by way of an existing boundary fence and hedge as well as perimeter trees. Perimeter trees are also provided along the remaining south, east and west boundaries such that the site is well enclosed.
- 3.7 The existing boundary planting is to be retained as part of the proposals.

Access

- 3.8 The application site presently benefits from a vehicular access from Gravesend Road which has an area of hardstanding in front of the entrance gates to ensure that vehicles are drawn clear of the highway upon entering.
- 3.9 The existing means of access are to remain unaltered as part of the application.

Planning Policy Framework

Section 4

Introduction

- 4.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 The Development Plan for the application site consists of the Gravesham Local Plan Core Strategy (2014) and the Local Plan 1st Review (1994)

Development Plan Policy

Gravesham Local Plan Core Strategy (2014)

- 4.3 The Core Strategy (hereafter LPCS) was adopted in 2014 and sets out the Council's strategic policies and proposals for the development and use of land within the Borough up to the period of March 2028.
- 4.4 The following policies are considered to be relevant in the context of this proposal and are considered in further detail in section 5 of this statement:

Policy CS01 Sustainable Development

This policy merely reaffirms the application of the approach to sustainable development as set out in the Framework.

Policy CS02 Scale and Distribution of Development

This policy seeks to ensure that at least 6,170 new dwellings are delivered in the Borough in the period up to 2028. It confirms that new development will be delivered by ensuring effective use of previously developed land and focussing development in the most sustainable locations, whilst preserving the openness and maintaining the local and national purposes of the Green Belt and protecting it from inappropriate development.

Policy CS10 Physical and Social Infrastructure

This policy states that the Council will support proposals that protect, retain or enhance existing physical and social infrastructure or that lead to the creation of additional infrastructure that improves the well-being of the community. Where there is threat of loss of existing infrastructure, consideration will be given to the viability and whether sufficient alternative provision is available. Additionally, all new development is expected to make the most efficient use of new and existing infrastructure.

Policy CS11 Transport

This policy refers to the potential impact on highways and the public transport network, caused by new

developments and the importance of mitigating that impact using appropriate measures.

It recognises the importance of providing sufficient parking in accordance with adopted parking standards. It also explains how the Council will support proposals which improve public transport provision and lead to improvements in walking and cycling facilities.

Policy CS12 Green Infrastructure

This policy states there will be no loss of biodiversity in the Borough, with emphasis being given to designated sites.

Policy CS18 Climate Change

This policy sets out a number of issues and procedures that developments need to address and confirm in order to reduce the impacts of climate change. The Council will require the use of Sustainable Urban Drainage Systems on all developments where technically and financially feasible

Policy CS19 Development and Design Principles

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

4.5 In accordance with the provisions of the Framework, a strategic review of the CS was undertaken in September 2019.

4.6 The review confirmed that policy CS02 would require modification to reflect the objectively assessed development needs noting that to review the development strategy and green belt boundaries requires assessment through the plan making process.

4.7 The review considered that although policy CS12 was slightly out of conformity with the Framework in that it now requires net gains in biodiversity there was no requirement to modify the policy as the Framework is a material consideration.

Gravesham Local Plan 1st Review (1994)

4.8 The Local Plan 1st Review (LP) was adopted in 1994 and many of its policies were saved until subsequently superseded by the LPCS.

4.9 The following policies are considered to be relevant in the context of this proposal and are considered in further detail in section 5 of this statement:

Policy C12 Replacement Dwellings

This sets out that replacement dwellings will only be permitted subject to a set of specific criteria such as:
(i) it must be an original dwelling in use as a dwelling;
(ii) it must be in an appropriate area well related to existing roads and services and close to an established rural settlement;

	(iii) the replacement dwelling must be of similar scale and massing to the existing and must be no larger unless demonstrated to be necessary; (iv) the replacement dwelling shall not be designed to be suitable for subdivision; (v) the replacement dwelling should normally occupy the same site as the existing; (vi) the existing/proposed access must be satisfactory; and (vii) the existing/proposed drainage must be satisfactory.
Policy LT6 Additional Open Space in New Housing Development	This sets out that proposals for new housing development will be expected to make provision for open space and play space.
Policy T1 Impact of Development on the Highway Network	This seeks to ensure that developments assess the impact on the highway network and that are adequately served by the highway network.
Policy P3 Vehicle Parking Standards	This policy expects new development to provide parking on site in accordance with the Vehicle Parking Standards.

Material Considerations

National Planning Policy Framework

- 4.10 In July 2021 the Government published the latest National Planning Policy Framework (the 'Framework') which sets out its objectives for securing sustainable economic growth.
- 4.11 At the heart of the revised Framework is a presumption in favour of sustainable development, encompassing social, economic and environmental roles. The approach to sustainable development involves making the necessary decisions now to realise the vision of stimulating economic growth, maximising wellbeing and protecting our environment, without negatively impacting on the ability of future generations to do the same. Paragraph 8 of the Framework states that under this approach, planning is expected to deliver:
- a strong, flexible and sustainable economy, by ensuring that sufficient land of the right type, and in the right places, is available to allow growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure (Economic role);
 - protection and enhancement of our natural, built and historic environment, prudent use of natural resources and actions to mitigate and adapt to climate change, including moving to a low carbon economy (Environmental role);

- strong, vibrant and healthy communities, by providing an increased supply of housing to meet the needs of present and future generations; and by creating a good quality built environment, with accessible local services, that reflects community needs and supports well-being (Social role).
- 4.12 Paragraph 11 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise, whilst paragraph 12 further states that developments that accord with an up to date local plan should be approved and those that conflict should be refused unless material considerations indicate otherwise
- 4.13 Paragraph 23 confirms that development plans should continue to identify broad locations for development and include strategic policies to bring forward sufficient land to address objectively assessed needs.
- 4.14 Paragraph 38 reaffirms that decision makers should seek to approve applications for sustainable development wherever possible.
- 4.15 Paragraph 60 of the revised Framework establishes that *"to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."*
- 4.16 Paragraph 68 sets out the process by which planning policies need to demonstrate a sufficient supply and mix of sites.
- 4.17 Paragraph 74 establishes the requirement for strategic policies to outline trajectories for housing delivery over the plan period with the requirement to maintain a minimum of five years' worth of housing. This supply is to include the relevant buffer amount depending on the position of the council, varying from 5% through to 20%.
- 4.18 Paragraph 78 sets out the need for planning policies and decisions to be responsive to local circumstances and support developments that reflect local needs within rural areas.
- 4.19 Paragraph 105 recognises that opportunities to maximise sustainable transport will vary between urban and rural areas, confirming that this needs to be reflected within plan-making and decision-taking.
- 4.20 Paragraph 110 acknowledges that in decision making it is necessary to consider whether proposals have sought to deliver appropriate opportunities to promote

sustainable transport, provide for safe and suitable access and mitigate any impacts on the transport network.

- 4.21 Paragraph 111 clearly sets out that developments should only be refused on highway grounds where there is an unacceptable impact on highway safety or where the residual cumulative impacts on the road network would be severe.
- 4.22 Paragraph 119 reaffirms the aim to *"promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions."*
- 4.23 Paragraph 126 of the Framework establishes that *"the creation of high quality buildings and places is fundamental to what the planning and development process should achieve."*
- 4.24 Paragraph 130 sets out that planning decisions should ensure that developments meet a number of design criteria, including that developments:
- (a) *"will function well and add to the overall quality of the area..."*,
 - (b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - (c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting..."*
- 4.25 Paragraph 134 states that *"Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:*
- (a) Development which reflects local design policies and government guidance on design, taking into account and local design guidance and supplementary planning documents such as design guides and codes; and/or*
 - (b) Outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings."*
- 4.26 Section 13 sets out the role for protecting the Green Belt, to which great importance is attached (paragraph 133).
- 4.27 Paragraph 138 sets out that the Green Belt serves five purposes, namely:

- “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.”*

- 4.28 Paragraph 148 clearly sets out 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.”*
- 4.29 Paragraph 149 sets out certain criteria where exceptions to the construction of new buildings exist, which includes under criteria (d) *“the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;”* and under criteria (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;”*

National Planning Practice Guidance

- 4.30 The Department for Communities and Local Government published new Planning Practice Guidance (“PPG”), which launched on 6th March 2014.
- 4.31 The PPG is a live document and has been updated since its original release; it provides practical (online only) guidance on the implementation of the Framework.
- 4.32 This provides key guidance such as that design is an integral part of sustainable development that creates *“places, buildings or spaces that work well for everyone, look good, last well and will adapt to the needs of future generations”* (Paragraph: 001 Reference ID: 26-001-20140306). Well-designed places should be functional, attractive and encourage ease of movement.
- 4.33 The Guidance notes that development proposals can *“support strong, vibrant and healthy communities and help create healthy living environments”* (Paragraph: 002 Reference ID: 53-002-20140306). A healthy community is a *“good place to grow up and grow old in”* and one in which active healthy lifestyles are made easy through good

urban design and access to local services and facilities (Paragraph: 055 Reference ID: 53-005-20140306).

- 4.34 The PPG reinforces the importance of the Framework as representing the most up-to-date Government planning policy, which must be taken into account where it is relevant to a planning decision. This includes the presumption in favour of development found at Paragraph 14 of the Framework.
- 4.35 Importantly, the PPG states that if decision takers choose not to follow the Framework, where it is a material consideration, clear and convincing reasons for doing so are needed (Paragraph: 006 Reference ID: 21b-006-20190315).
- 4.36 The PPG also sets out further guidance in relation to housing land availability assessments and the impact of these on five-year housing land supply matters.
- 4.37 Specifically that *“Authorities can use evidence such as a Strategic Housing Land Availability Assessment (SHLAA)/ Housing and Economic Land Availability Assessment (HELAA) which will identify sites which may be suitable, available and achievable for housing development and also provide some evidence as to their deliverability. “In order to demonstrate 5 years’ worth of deliverable housing sites, strategic policy-making authorities will need to provide robust, up to date evidence to support plan preparation. Their judgments on deliverability of housing sites, including windfall sites, will need to be clearly and transparently set out.”* (Paragraph: 030 Reference ID: 3-030-20180913).
- 4.38 The PPG requires Councils to provide five years’ worth of housing against their housing requirements at all points during the Plan period, and that housing requirement figures in up-to-date adopted Local Plans should be used as a starting point for calculating five-year supply.
- 4.39 It confirms that considerable weight should be given to the housing requirement figures in adopted Local Plans which have successfully passed through the Examination process, unless significant new evidence comes to light.
- 4.40 It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs (Paragraph: 032 Reference ID: 3-032-20180913 and Paragraph: 038 Reference ID: 3-038-20180913).
- 4.41 When a 5-year housing supply plus a relevant buffer cannot be demonstrated by a Local Authority, then the presumption in favour of sustainable development will apply,

as set out in footnote 7 on the Framework (Paragraph: 039 Reference ID: 3-039-20180913).

4.42 Section 64 of the PPG relates to the Green Belt and supports section 13 of the NPPF. It confirms that when assessing the impact of proposals on openness there needs to be an assessment of both the spatial and visual aspects. It sets out three elements to be considered, noting that this is not an exhaustive list and other factors may also need to be assessed. The matters listed are

- *“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.”*(Paragraph: 001 Reference ID: 64-001-20190722)

Planning Assessment

Section 5

5.1 This section of the statement provides an assessment of the proposed development having regard to the relevant planning policy background, the character of the local area and the site's planning history.

5.2 This planning statement explains why some of the most relevant policies of the development plan should be considered out of date and attributed less weight. It concludes that whilst the proposed development constitutes inappropriate development there are very special circumstances that outweigh the harm by reason of inappropriateness and any other harm. This demonstrates that the adverse impacts of the development do not significantly and demonstrably outweigh the benefits.

A. Land Use Considerations

Principle of Development

5.3 The application site is not located within a defined settlement boundary and is within the Green Belt. However, it is clearly previously developed land by reason of the existing property on site and the accompany outbuildings.

5.4 The principle of redevelopment of the site is therefore considered acceptable in principle subject to compliance with policy C12 of the saved local plan (replacement dwellings) and section 13 of the Framework (Protecting Green Belt land), and all other relevant development plan policies.

Brownfield Development

5.5 Although the application site is located outside of a defined settlement boundary it contains significant existing built form (together with an LDC for additional outbuildings) such that there is no doubt that the application site meets the definition of previously developed (brownfield) land as set out within Annex 2 of the Framework.

5.6 It is considered that the proposal would make best use of previously developed land. This is in accordance with Development Plan Policy CS02.

Housing Land Supply

- 5.7 Paragraph 60 of the Framework sets out that strategic policies should be informed by a local housing need assessment to determine the minimum number of homes needed in an area. Paragraph 73 reaffirms the requirement for Councils to demonstrate five years supply of housing against their housing requirements plus an additional buffer of 5% to ensure choice and competition in the market for land, or 10% where the Council wishes to demonstrate the supply through an annual position statement of a recently adopted plan or finally 20%, where there has been significant under-delivery of housing over the previous three years.
- 5.8 The Housing Delivery Test (February 2020) confirms that for the 3-year period from April 2016 to March 2019 only 734 new homes were delivered against a requirement of 975. This represents 75% of the requirement and as such a 20% buffer is to be applied in accordance with paragraph 73 of the Framework. This is an improvement on the previous 64% delivery when measured in February 2019, yet still demonstrates the inability to deliver a sufficient quantum of housing required to meet the identified housing needs of the area.
- 5.9 The LPCS was adopted in 2014 and therefore does not meet the definition of a 'recently adopted local plan, as set out in footnote 38 of the Framework. Although the LPCS was reviewed in 2019 this does not constitute a recent adoption.
- 5.10 Given that the site relates to the redevelopment of a previously developed land and is considered acceptable in principle subject to compliance with policy C12 of the saved local plan and section 13 of the Framework the matter of housing land supply is not relevant to this application.

B. Green Belt considerations

- 5.11 The application site is located in the Green Belt and relates to a redevelopment of the existing site, as such it falls to be considered against the requirements of Policy C12 of the saved local plan and paragraph 148(d) or 148(g) of the Framework.
- 5.12 Saved policy C12 of the local plan states in full 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 fire fighting appliances, must be satisfactory.

(vii) The existing or proposed site drainage and means of soil and waste disposal must be satisfactory.”

5.13 Paragraph 148(d) of the Framework states that a development is not inappropriate where it relates to *“the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces...”*

5.14 Paragraph 148(g) of the Framework states that a development is not inappropriate where it relates to *“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...”*

5.15 In dealing with first elements of these criteria it is accepted that the existing property is an “original” dwelling for the purpose of policy C12 and is still in use as a dwelling and

would remain in such a use (namely class C3) as a result of the proposals such that there is no conflict with policy C12(i) or the first part of paragraph 148(d).

- 5.16 In regard to location (dealt with subsequently under part E of this section), the application site is directly accessed from the main Gravesend Road and within walking distance of services in Higham and public transport. It therefore accords with the requirement of policy C12(ii).
- 5.17 The replacement dwelling is designed as a single-family dwelling such that it complies with policy C12(iv). Similarly, the proposed block plan demonstrates that the replacement is in the same location as the existing dwelling in order to comply with policy C12(v).
- 5.18 The means of access to serve the existing dwelling is satisfactory and is not to be altered as a consequence of the proposals indicating that policy C12(vi) is complied with. The existing means for dealing with site drainage and soil and waste disposal remains the same for the proposed replacement dwelling such that the requirements of policy C12(vii) are adhered to.
- 5.19 The sole remaining issue to consider is compliance with policy C12(iii) and the second part to paragraph 148(d) of the framework concerning the relative sizes between the existing and proposed dwellings.
- 5.20 As explained in section 3, the outbuildings shown on the proposed block plan benefit from the granting of an LDC and have been implemented in accordance with that certificate prior to any works that would be permitted through this application. The floorspace from these outbuildings is therefore not material to the assessment of the application against policy C12 or paragraph 148(d).
- 5.21 As part of the same previous LDC application, the council considered and approved a single storey extension and two storey rear extension to the existing dwelling. The relevant areas have been set out on drawing 210603 A-012 and are also copied below.

	Previously Refused App 20211361	Existing House	Existing House (inc. LDC extensions)	Proposed House	
Footprint (m ²)	190.1	137.3	176.8	217.61	
GIA (m ²)	342.8	243.3	301.3	333	
Max Height (m)	9.57	8.9	8.9	8.5	

- 5.22 As demonstrated above, when considering the implications of the permitted, and implemented, extensions the replacement dwelling has both a smaller footprint and GIA than the existing dwelling.
- 5.23 The relevant consideration though is whether or not there is a fallback position when considering what the relevant 'existing dwelling' calculation is. The applicant clearly owns the site and wishes to make the most efficient use of the site and buildings to meet the demands for their family. It is their preferred option of pursuing the redevelopment of the site to deliver the outbuildings under the current certificate and a replacement dwelling that has been designed from the ground up as a new dwelling to meet the family demands. However, should that fail then they will instead opt to deliver the outbuildings and complete the residential extensions in accordance with the certificate in order to maximise the amount of accommodation available on site.
- 5.24 It is only necessary to demonstrate that there are reasonable prospects of the fallback position being implemented for them to count as a material consideration in the determination of this application. The leading case on alternatives remains *Mansell v Tonbridge & Malling BC* [2017] EWCA Civ 1314. The most relevant part of the case is set out at paragraph 27, which states in full that:

"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, "... "fall back" 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."

- 5.25 Clearly, the applicant has demonstrated an intention to develop the site to its fullest potential by reason of the 4 separate lawful development certificate applications since 2020 for both outbuildings and extensions to the main dwelling. The most recent submission sought to deliver the greatest development potential with the three outbuildings in addition to the residential extensions. The proposed redevelopment now considered would deliver very similar arrangements for the main dwelling such that they would be implemented should the redevelopment proposals not be forthcoming. This therefore is considered to establish a higher degree of likelihood of delivery than the mere possibility that was established in *Mansell*.
- 5.26 The "possibility" test is clearly met given that (i) the applicant has made a material commencement of the LDC extensions; (ii) the applicant has expressed a clear intent to fully implement the extensions should the current proposals be found unacceptable; and (iii) the approved extensions provide additional habitable accommodation to the property such that they would be implemented to improve family living. Furthermore, the permitted extensions are similar in nature to the additional accommodation that would be provided as a consequence of the replacement dwelling to afford an alternative scheme.
- 5.27 Accordingly, it is considered that the lawful extensions to the dwelling established under application 20210368 count towards the definition of existing dwelling within the

terms of policy C12 and therefore the proposals for the replacement dwelling are considered acceptable. The same conclusion similarly applies in the context of paragraph 148(d) of the framework.

- 5.28 This approach to the fallback position and compliance with the policy should not be new to the council given that the very same issue was raised in the context of a previous appeal for another replacement dwelling in the Green Belt (ref: APP/K2230/W/19/3225211). The fallback position was considered at paragraphs 16 and 17 of the decision, noting:

“16. The appellant has stated that a Certificate of Lawful Use of a Proposed Use or Development (CLOPUD) was granted for alterations and extensions to the property which would comprise the erection of single storey extensions to each side of the existing bungalow and alterations to the roof comprising a change from hip to gable end. The appellant states that this provides a fallback position and would result in an extended dwelling which would have a GEFA of approximately 278m² and a volume of approximately 888m³. I note that the appellant states that whilst it would be possible to extend the existing dwelling lawfully, it would not appear as attractive; would result in a compromise to the internal layout and would not comply with standards of insulation and energy efficiency.

17. Therefore, whilst I note that the appellant states that the CLOPUD development would be a compromise, there would be a reasonable fallback position if the appeal was not allowed and due to its larger GEFA and less attractive design, it would have a significantly greater spatial and visual impact on the openness of the Green Belt.”

- 5.29 The matters for consideration to this application are therefore similar to those being considered by the Inspector in the above quoted appeal in the context that the original dwelling plus PD extensions was assessed both in terms of floor area and volume.

- 5.30 The Inspector then considered the matter of the fallback in the overall planning balance, concluding at paragraph 19 that

“The CLOPUD presents a reasonable, but less attractive and sustainable fallback position which would have a greater adverse effect on the openness of the Green Belt and character and appearance of the surrounding area. Moreover, the fallback position would not produce the higher quality of design or spacious benefits that would result from the development proposed. These considerations clearly outweigh the harm to the development plan and the overall benefits of the development proposed on

openness, compared to the CLOPUD and would represent very special circumstances, which justify the development proposed.”

- 5.31 Separate to this appeal, the issue of the fallback was also considered in the context of application 20200984. The delegated report reached the same conclusion on the likelihood of the fallback being implemented in that case as argued in this application and considered by the other appeal (reference on page 11 of the report).
- 5.32 However, when then moving on to consider the VSC test for application 20200984 the delegated report sets out on page 18 that “*case law does not require that such an intent needs to be present, so this does not undermine the weight that must be given to the fallback position*” and “*The weight that is given to the fallback position is further enhanced...by the opportunity to inhibit the carrying out of future development under Permitted Development allowances, following the implementation of this permission.*”
- 5.33 In arriving at the overall planning balance, the report concluded that “*factors including the fallback position, the quality of design proposed, the removal of the existing tennis court hardsurfacing and the ability to prevent further development under Permitted Development allowances, and together considered, on balance to cumulatively demonstrate such very special circumstances that outweigh the harm caused to the Green Belt by virtue of the inappropriate development.*”
- 5.34 Although in this application there is no trade off with the removal of a tennis court and hardsurfacing the other matters relating to the fallback and consideration of the removal of permitted development for further extensions and/or outbuildings is the same.
- 5.35 When considering compliance against paragraph 148(g) it is clear that the site represents previously developed land, is in continuing residential use and does not relate to any temporary buildings. The only matter for consideration therefore is whether or not the proposals result in a greater impact on openness of the Green Belt.
- 5.36 Section 64 of the PPG relates to the Green Belt and supports section 13 of the NPPF. It confirms that when assessing the impact of proposals on openness there needs to be an assessment of both the spatial and visual aspects. It sets out three elements to be considered, noting that this is not an exhaustive list and other factors may also need to be assessed. The matters listed are
- “*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.*”(Paragraph: 001 Reference ID: 64-001-20190722)

- 5.37 In terms of the PPG, the final two bullets are not conflicted with when assessed against the current use of the site as residential and the fact that should this application not be supported then the applicant will implement the permitted extensions. The amount of traffic generation will not change between the existing and proposed development.
- 5.38 The only matter therefore is whether the visual or spatial openness is impacted as a result of the proposals. Importantly, this assessment needs to be made comparing the existing dwelling with the extensions considered under the LDC application against the proposed replacement dwelling given that the extensions will be implemented if the replacement is not considered acceptable.
- 5.39 Again, referring to drawing 210603 A-012 it is evident that in spatial terms the proposed replacement dwelling has a reduced width to the existing dwelling with the extensions, and shallower depth when accounting for the existing dwelling with the rear extension. Noting that the replacement dwelling also occupies the same location within the site as the existing dwelling it is considered that the proposal has no detrimental impact on the spatial openness of the site.
- 5.40 Whilst there is a marginal difference in height this is not deemed to be so harmful that it of itself results in spatial or visual harm to deem the application inappropriate development in the green belt. Noting the existing boundary planting and set back of the dwelling from any public viewpoints the visual impacts on openness are not considered to be so significant that they result in detrimental impacts. Again, the effect of a taller building was considered in the context of the above quoted appeal, which stated at paragraph 12 that *“The development proposed would result in a dwelling with a larger footprint but would be in a similar position on the appeal site, set well back from the front of the site. Its roof would be much higher than the existing bungalow and the design incorporating two pitch roofs and a central flat roof would alter the sites appearance.”* Notwithstanding that position the inspector went on to state at paragraph 13 that *“It would be similar to the bungalow it proposes to replace, and which is characteristic of the style of development along the full length of Longfield Avenue.*

Overall, I conclude that there would be no harmful effect on the openness of the Green Belt as a result of the development proposed.”

- 5.41 It is therefore concluded that if the proposal does not fall within the exception allowed under paragraph 148(d) then it meets the criteria for 148(g) and is not inappropriate development in the Green Belt and similarly does not conflict with policy C12 of the saved local plan either.

C. Design and Layout

Layout and Appearance

- 5.42 The proposed replacement dwelling occupies broadly the same location as the existing dwelling, being set back a considerable distance from the road frontage and behind a mature landscape boundary.
- 5.43 It should be noted that the overall design and appearance of the replacement dwelling is largely similar to the previous proposal that was refused and the issue in terms of character and appearance as referenced in the delegated report was a technical matter relating to compliance with saved policy C12 as opposed to the scheme in general, noting that the delegated report stated *“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.”*

Scale and height

- 5.44 The scale of the proposed replacement dwelling is discussed in detail in the context of compliance with policy C12 of the saved local plan and paragraph 148(d) and (g) of the Framework and is not therefore repeated, save for the fact that the proposed scale is not considered to be out of keeping for the site and immediate locale.
- 5.45 In terms of height, it is noted that the replacement dwelling is 0.67 metres taller than the existing dwelling. That is not of sufficient impact to be unacceptable in the immediate setting, or be so significant or harmful to have such an impact on openness that the development itself should be deemed inappropriate in Green Belt terms.

Residential Accommodation

- 5.46 The proposed replacement dwelling provides for a well-proportioned 4-bedroom family dwelling to include a full height entrance lobby with a home office, separate formal and informal living rooms and a large family kitchen diner.

- 5.47 At first floor there are three bedrooms and a master bedroom suite, together with a family bathroom and a laundry room.

D. Trees and Landscape

Trees

- 5.48 The existing trees along the boundary to the site will be retained during and after the development to maintain the current degree of privacy and screening to the property.

Landscape

- 5.49 There are no formal landscape proposals for the scheme other than to replace much of the existing hardstanding that serves the driveway to the existing detached double garage with soft landscape as demonstrated on drawing 210603 A-008.

E. Transport

- 5.50 It is considered that the proposal is in accordance with the aims and requirements of Policy CS11 and will not result in severe impact in terms of transport, in the context of the Framework, paragraph 111.
- 5.51 The proposed development will not result in a material increase in vehicle trips in the network peak hours or across a typical day such that there *“would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* as set out in paragraph 111 of the Framework.

Access

- 5.52 The site benefits from an existing access off Gravesend Road which is to be retained as part of this application with no works necessary to address visibility or widths.

Parking

- 5.53 The council continue to use Kent County Councils SPG4 (July 2006) for residential developments.
- 5.54 The SPG sets out that for 4-bedroom dwellings a maximum of 3 spaces are required. This can include garages so long as the garages are 5.5m length by 3.6m wide for single garages or 5.5m length by 6m wide for double garages. In terms of cycle parking provision, the requirement is 1 space per bedroom.

- 5.55 Outbuilding C provides a triple garage to serve the dwelling. The garage is in excess of 6m in length and 10m in width to ensure that it more than complies with the requirements of SPG4. In addition, there is ample hardstanding in front of the garaging to accommodate at least three further cars should the garaging not be deemed to standard.
- 5.56 Cycle provision is provided within the garage due to the size proposed.

F. Sustainability

- 5.57 The existing local facilities within Higham are approximately 1.2km walking distance from the application site, meaning that they are technically considered beyond a reasonable walking distance from the site.
- 5.58 However, there are bus stops almost immediately outside of the site providing services to Gravesend to the west and Chatham to the east. These locations provide access to a comprehensive range of services and facilities.
- 5.59 Higham railway station is located approximately 2.3km to the north east of the site providing connections to London or to the Medway Towns and further beyond to the east.

Conclusion

Section 6

- 6.1 The application proposal has been demonstrated to comply with saved policy C12 of the local plan and paragraphs 148(d) and 148(g) of the Framework such that it is appropriate development in the Green Belt and therefore the presumption in favour of sustainable development is to be applied.
- 6.2 The application site is situated within the rural area of Shorne. The application proposals comprise the demolition of existing dwelling and the construction of a replacement detached dwelling.
- 6.3 This is therefore not a speculative proposal for residential development on greenfield land, but instead a proposal seeking to make more efficient use of a previously developed site which is encouraged by planning guidance.
- 6.4 Furthermore, the proposed development has been carefully designed to ensure that there will be no detrimental impact to the character and appearance of the surrounding area.
- 6.5 In conclusion, the proposed development accords with the development plan and should therefore be granted planning permission in accordance with the provisions of Section 38(6) of the 2004 Act. There are no material circumstances that dictate determination should be otherwise than in accordance with the development plan. Indeed, in relation to the main material considerations identified above, the proposed development constitutes sustainable development and consequently deserves to benefit from the presumption in favour of sustainable development enshrined in the NPPF.