

Delegated Report

Planning Application

Application No:	20240447
Location:	28 Lanes Avenue, Northfleet, Gravesend, Kent, DA11 7HR
Description:	Erection of a detached one bedroom dwelling in the rear garden.
Applicant:	Mr Vilciu, Vil Group Properties Ltd

Submitted Documents/Plans

- Application Form – dated 17 May 2024;
- Supplementary Information – Site Photographs;
- Drawing no. 1001 – Site Location Plan (scale – 1:1250);
- Drawing no. 1002 – Existing Block Plan (scale – 1:200);
- Drawing no. 1003 – Proposed Block Plan (scale – 1:200);
- Drawing no. 1004 – Proposed Plans and Elevations.

Relevant Planning History

No relevant planning history.

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Types and Size
- CS15 – Housing Density
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T5 – Access to the Identified Highway Network

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the

NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 5 – Delivering a Sufficient Supply of Homes
- Section 9 – Promoting Sustainable Transport
- Section 11 – Making Effective Use of Land
- Section 12 – Achieving Well-Designed and Beautiful Places
- Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15 – Conserving and Enhancing the Natural Environment

Supplementary Planning Guidance

- SPG 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 - amended June 2020
- Technical Housing Standards - Nationally Described Space Standard (2015)
- SPG 4 - KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)

Other Relevant Guidance

- Kent County Council Dropped Kerb Crossing: - Guidance and Self-Assessment (2023)
- Driveway Dropped Kerb Guidance
- Front Driveway Guidance

Consultations, Publicity and Representations

External Consultees

Kent County Council Biodiversity –

First Comment (14 August 2024) –

SUMMARY – ADDITIONAL INFORMATION REQUIRED

Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 180 and 186 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system.

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

- Revised Biodiversity Net Gain calculations; and
- Confirmation that mandatory 10% biodiversity net gain applies to this application.

Developer Contributions will need to be provided due to the increase in dwellings within the zone of influence of a Special Protection Area.

The submitted preliminary ecological appraisal report indicates that avoidance of harm to hedgehogs and foxes should be considered during construction. However, no other animals are anticipated to be adversely affected from proposals. Ecological enhancements for features such as bat and bird boxes can be secured by condition should planning permission be granted.

Mandatory 10% Biodiversity Net Gain

This application was received on 20th May 2024, with the application form declaration signed 17th May

2024, according to the information available on the planning portal. The site is 357 square metres (0.036 hectares) in size, according to the information in the application form.

Under the Environment Act 2021, all planning applications for major development (unless exempt) submitted on or after 12th February 2024 in England, will have to deliver at least a 10% biodiversity net gain. It is a requirement for minor applications, unless exempt, submitted on or after the 2nd April 2024. We highlight that local policy may expect a higher level of biodiversity net gain and that 'significant' on-site habitat gains, and off-site habitats created/enhanced to achieve biodiversity net gain will need to be secured for at least 30 years.

Any application which is required to achieve a 10% BNG must submit the following information as a minimum:

Information Needed	Provided	Comments
Confirmation that the applicant believes that planning permission, if granted, the development would be subject to the biodiversity gain condition.	No	The applicant has stated in the application form that they believe the development to fall under the de minimis exemption.
The pre-development biodiversity value(s), <u>either on the date of application or earlier proposed date (as appropriate).</u>	Yes	The applicant has provided a statutory small sites metric calculation tool for the site.
Where the applicant proposes to use an earlier date, this proposed earlier date and the reasons for proposing that date.	-	The metric was completed 16th July 2024 and was based on a site visit carried out 17th June 2024. This is considered acceptable to inform the baseline, based on the habitats reported to be present on-site.
<u>The completed metric calculation tool</u> showing the calculations of the pre-development biodiversity value of the onsite habitat on the date of application (or proposed earlier date) including the publication date of the biodiversity metric used to calculate that value.	Yes	A metric has been supplied. However, we have noted several input errors that require correction prior to determination, should mandatory 10% biodiversity net gain apply to the site.
A statement whether activities have been carried out prior to the date of application (or earlier proposed date), that result in loss of onsite biodiversity value (' <u>degradation</u> '), and where they have: • a statement to the effect that these activities have been carried out; • the date immediately before these activities were carried out; • the pre-development biodiversity value of the onsite habitat on this date; • the completed metric calculation tool showing the calculations, and • any available supporting evidence of this.	-	This has been provided in the Biodiversity Gain Statement Version 1.2.
A description of any <u>irreplaceable habitat</u> (as set out in <u>column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024</u>) on the land to which the application relates, that exists on the date of application, (or an earlier date).	Yes	No irreplaceable habitat is reported on-site.

Plan(s), drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application (or earlier proposed date), including any irreplaceable habitat (if applicable).	Yes	-
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We note that biodiversity calculations indicate that there will be a 13.32% biodiversity net loss at the site because of proposals. The applicant indicates in the application form that the de minimis exemption applies. A de minimis exemption can only be applied where:

- The development will not impact any onsite priority habitat (these proposals will not); AND
- The development will not impact more than 25 square metres of onsite habitat with a biodiversity value greater than zero; AND
- The development will not impact more than 5 metres of onsite linear habitat.

Government advice indicates that if an applicant considers that their development proposal is within the scope of the de minimis exemption, they must provide reasons for this. This is to provide sufficient information to the local planning authority to enable it to determine if the development is genuinely exempt at the validation stage. The reasons provided by the applicant to justify an exemption are currently insufficient. The information supplied by the project ecologist appears to indicate that mandatory 10% biodiversity net gain applies to the development proposals.

Hardstanding and buildings will have a biodiversity value of zero. However, vegetated garden/modified grassland has a biodiversity value greater than zero. A habitat can be recorded as retained (and therefore not impacted) if the baseline habitat type and condition can be restored within two years of the initial impact. However, the metric is currently showing a permanent net loss of vegetated garden/grassland habitat of 51 square metres. This would be above the de minimis threshold and indicates that mandatory 10% biodiversity net gain is likely to apply to proposals.

We can also see that the submitted metric includes details of 10 newly planted trees post-development. This seems high for the space available, and we query whether this is achievable. Additionally, the small sites metric user guide is clear that due to the difficulty in securing habitat creation in private gardens, newly planted trees sited within private gardens should not be recorded within the metric.

We recommend that the small sites metric calculation tool is updated in light of the above comments prior to determination to ensure that the baseline biodiversity value of the site is correct.

Following these changes, a greater net biodiversity loss than currently reported is anticipated. Off-site compensation is anticipated to be required for this development should planning permission be granted. Where off-site habitat creation is required, we direct the applicant towards the Kent Biodiversity Net Gain Site Register available on the Making Space for Nature in Kent and Medway website. Biodiversity Net Gain Guidance for Kent is also available on this website.

Off-site gains/the purchase of biodiversity credits will need to be subject to a deed of conservation covenants, unilateral undertaking or Section 106 (as appropriate). Off-site gains must be registered after determination.

The submission of provisional/draft legal documents outlining the agreement between the applicant and the provider of any off-site gains are advisable prior to determination to confirm that the proposed route to delivering net gain is feasible, but this information is not required until submission of the pre-commencement Biodiversity Gain Plan.

North Kent Sites

The development includes proposals for a new dwelling within the zone of influence (ZOI) (6km) of the

Thames Estuary and Marshes Special Protection Area and its associated Wetlands of International Importance under the Ramsar Convention (Ramsar Site).

Gravesham Borough Council must consider the impact the proposal will have on these designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework (NPPF) 2023.

Gravesham Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full Appropriate Assessment is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is still a need for an appropriate assessment to be carried out as part of this application.

The Conservation of Habitats and Species Regulations 2017 Regulation 63 (3) also indicates that for Special Areas of Conservation (SACs) and Special Protection Areas (SPAs): "*The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.*" The local planning authority (the "Competent Authority") must therefore consult with and take into consideration Natural England's advice in determining the application. The local planning authority also needs to be confident that proposals will not adversely affect these sites in line with the NPPF 2023.

The responsibility for carrying out a Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment lies with the Competent Authority, and Natural England has indicated for previous consultations within the ZOI for application sites affected by the North Kent SAMMS that it should be consulted only after an appropriate assessment has been completed by Gravesham Borough Council.

Second Comment (06 September 2024) –

SUMMARY – SUFFICIENT INFORMATION PROVIDED

We understand that a 10% mandatory biodiversity net gain applies to this application. Further, under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and paragraphs 180 and 186 of the National Planning Policy Framework (NPPF) 2023, biodiversity should be maintained and enhanced through the planning system. Enhancement refers to providing net benefits for biodiversity over and above requirements for avoidance, mitigation and compensation. Ecological enhancements for features such as bat and bird boxes can be secured by separate condition should planning permission be granted.

Developer Contributions will need to be provided due to the increase in dwellings within the zone of influence of a Special Protection Area.

Ecological Mitigation

The submitted preliminary ecological appraisal report indicates that avoidance of harm to hedgehogs and foxes should be considered during construction. However, no other animals are anticipated to be adversely affected from proposals.

Suggested Condition Wording:

From commencement of works (including site clearance), all mitigation measures for protected and priority species shall be carried out in accordance with the details contained in section 4 of the KB Ecology Ltd (July 2024) Preliminary Ecological Appraisal (Ref No 2024/05/36).

Ecological Enhancement

On-site habitat improvements can be made through the addition of habitat features such as bird and bat boxes. In line with the NPPF 2023, we recommend the following condition is included on the decision notice if planning permission is granted.

Suggested Condition Wording:

Prior to completion, details of how the development will enhance biodiversity through the inclusion of habitat features (e.g., bird and/or bat boxes, hedgehog holes in fencing) shall be submitted to, and approved in writing by, the local planning authority. Any boxes shall be building integrated and/or wall-mounted. Any boxes shall be made of durable materials (i.e., woodcrete). Any bird boxes shall be targeted at red or amber listed species as per the latest Birds of Conservation Concern report by the British Trust for Ornithology. The approved measures will be implemented and retained thereafter.

Mandatory 10% Biodiversity Net Gain

This application was received on 20th May 2024, with the application form declaration signed 17th May 2024, according to the information available on the planning portal. The site is 357 square metres (0.036 hectares) in size, according to the information in the application form.

Under the Environment Act 2021, all planning applications for major development (unless exempt) submitted on or after 12th February 2024 in England, will have to deliver at least a 10% biodiversity net gain. It is a requirement for minor applications, unless exempt, submitted on or after the 2nd April 2024. We highlight that local policy may expect a higher level of biodiversity net gain and that 'significant' on-site habitat gains, and off-site habitats created/enhanced to achieve biodiversity net gain will need to be secured for at least 30 years.

Any application which is required to achieve a 10% BNG must submit the following information as a minimum:

Information Needed	Provided	Comments
Confirmation that the applicant believes that planning permission, if granted, the development would be subject to the biodiversity gain condition.	No	The applicant has stated in the application form that they believe the development to fall under the de minimis exemption.
The pre-development biodiversity value(s), <u>either on the date of application or earlier proposed date (as appropriate).</u>	Yes	The applicant has provided a statutory small sites metric calculation tool for the site.
Where the applicant proposes to use an earlier date, this proposed earlier date and the reasons for proposing that date.	-	The metric was completed 16 th July 2024 and was based on a site visit carried out 17 th June 2024. This is considered acceptable to inform the baseline, based on the habitats reported to be present on-site.
<u>The completed metric calculation tool</u> showing the calculations of the pre-development biodiversity value of the onsite habitat on the date of application (or proposed earlier date) including the publication date of the biodiversity metric used to calculate that value.	Yes	A metric has been supplied. However, we have noted several input errors that require correction prior to determination, should mandatory 10% biodiversity net gain apply to the site.
A statement whether activities have been carried out prior to the date of application (or earlier proposed date), that result in loss of onsite biodiversity value ('degradation'), and	-	This has been provided in the Biodiversity Gain Statement Version 1.2.

where they have: • a statement to the effect that these activities have been carried out; • the date immediately before these activities were carried out; • the pre-development biodiversity value of the onsite habitat on this date; • the completed metric calculation tool showing the calculations, and • any available supporting evidence of this.		
A description of any <u>irreplaceable habitat</u> (as set out in <u>column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024</u>) on the land to which the application relates, that exists on the date of application, (or an earlier date).	Yes	No irreplaceable habitat is reported on-site.
Plan(s), drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application (or earlier proposed date), including any irreplaceable habitat (if applicable).	Yes	-

We note that biodiversity calculations indicate that there will be a 73.72% biodiversity net loss at the site because of proposals. The applicant indicates in the application form that the de minimis exemption applies. A de minimis exemption can only be applied where:

- The development will not impact any onsite priority habitat (these proposals will not); AND
- The development will not impact more than 25 square metres of onsite habitat with a biodiversity value greater than zero; AND
- The development will not impact more than 5 metres of onsite linear habitat.

Government advice indicates that if an applicant considers that their development proposal is within the scope of the de minimis exemption, they must provide reasons for this. This is to provide sufficient information to the local planning authority to enable it to determine if the development is genuinely exempt at the validation stage. The reasons provided by the applicant to justify an exemption are currently insufficient. The information supplied by the project ecologist appears to indicate that mandatory 10% biodiversity net gain applies to the development proposals.

Hardstanding and buildings will have a biodiversity value of zero. However, vegetated garden/modified grassland has a biodiversity value greater than zero. A habitat can be recorded as retained (and therefore not impacted) if the baseline habitat type and condition can be restored within two years of the initial impact. However, the metric is currently showing a permanent net loss of vegetated garden/grassland habitat of 51 square metres. This would be above the de minimis threshold and indicates that mandatory 10% biodiversity net gain is likely to apply to proposals.

Off-site compensation is anticipated to be required for this development should planning permission be granted. Where off-site habitat creation is required, we direct the applicant towards the Kent Biodiversity Net Gain Site Register available on the Making Space for Nature in Kent and Medway website. Biodiversity Net Gain Guidance for Kent is also available on this website.

If planning permission is granted, local planning authorities are encouraged to use suggested paragraphs for Biodiversity Gain Information on the written decision notice which are available to download. The applicant should submit a biodiversity gain plan form along with supporting information (e.g., legal

agreement) once planning permission has been granted to demonstrate in more detail how the proposed biodiversity net gain will be delivered.

Paragraph: 019 Reference ID: 74-019-20240214 of the government standing advice states:

“The statutory framework for biodiversity net gain involves the discharge of the biodiversity gain condition following the grant of planning permission to ensure the objective of at least 10% net gain will be met for a development. The determination of the Biodiversity Gain Plan under this condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Development may not be begun until the Biodiversity Gain Plan is approved.

Given this, it would generally be inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met.

However, decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged. Matters for consideration may include the following (but this is not an exhaustive list):

- *The appropriate balance expected between onsite gains, off-site gains and the use of statutory biodiversity credits for the development, taking account of the Biodiversity Gain Hierarchy;*
- *Whether the type and location of any significant onsite habitat enhancements proposed for onsite gains are appropriate, taking into account other policies to support biodiversity (including local nature recovery strategies) and other wider objectives (for example policies for design, open space and recreation, and retention of trees); and*
- *Any planning conditions which need to be imposed to secure any significant onsite habitat enhancements, including any conditions requiring the maintenance of the enhancement for at least 30 years after the completion of the development.*

Prior to the determination of the planning application, decision makers will also want to discuss with the applicant whether any section 106 planning obligations are required to secure either significant onsite habitat enhancements or offsite gains for the development”.

Off-site gains must be registered after determination. The submission of provisional/draft legal documents outlining the agreement between the applicant and the provider of any off-site gains are advisable prior to determination to confirm that the proposed route to delivering net gain is feasible, but this information is not required until submission of the pre-commencement Biodiversity Gain Plan.

North Kent Sites

The development includes proposals for a new dwelling within the zone of influence (ZOI) (6km) of the Thames Estuary and Marshes Special Protection Area and its associated Wetlands of International Importance under the Ramsar Convention (Ramsar Site).

Gravesham Borough Council must consider the impact the proposal will have on these designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework (NPPF) 2023.

Gravesham Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full Appropriate Assessment is needed under the Habitats Directive. Therefore, we advise that due to the need for the

application to contribute to the North Kent SAMMS, there is still a need for an appropriate assessment to be carried out as part of this application.

The Conservation of Habitats and Species Regulations 2017 Regulation 63 (3) also indicates that for Special Areas of Conservation (SACs) and Special Protection Areas (SPAs): "*The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.*" The local planning authority (the "Competent Authority") must therefore consult with and take into consideration Natural England's advice in determining the application. The local planning authority also needs to be confident that proposals will not adversely affect these sites in line with the NPPF 2023.

The responsibility for carrying out a Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment lies with the Competent Authority, and Natural England has indicated for previous consultations within the ZOI for application sites affected by the North Kent SAMMS that it should be consulted only after an appropriate assessment has been completed by Gravesham Borough Council.

Kent County Council Heritage – The site lies within an area of multi-period archaeological potential. However, based on existing Historic Environment Record data for the area and the relatively limited extent of the proposed works, which is understood would not involve any below-ground excavation, I consider it unlikely that these proposals would have a significant below-ground archaeological impact and have no further comments to make in this case.

Internal Consultees

GBC Environmental Protection (Regulatory Services) – No objection to this application. The following to be considered:

- Code of Practice on Construction and Demolition - Please apply as appropriate to minimise the impact on nearby houses during the construction.
- Smoke Control Informative - The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991 shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions and they can only be used for the fuel for which they are designed. When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk
- Drainage/sewerage Informative - The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable.

Neighbouring properties

A notice was displayed on site 01 August 2024.

In addition, six surrounding properties were consulted and one representation was received. The comment received was neither in support of or objection to, the application, instead requesting any future application on their property be determined in the same way.

The consultation period expired 27 August 2024.

Officer's Analysis

Site Description

28 Lanes Avenue is a semi-detached property located on the western side of the highway. The property is served by a rear access road, shared by other properties on Lanes Avenue as well as a new back-land development granted permission in 2016 (ref. 20160727).



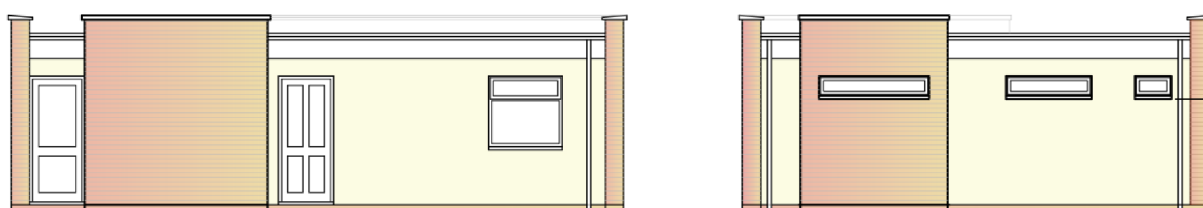
The garage at the property has been demolished. There is no off-street parking provision to the front of the dwelling.

Proposed Development

This application proposes the erection of a one bedroom, single storey dwelling in the rear garden of no.28 Lanes Avenue.

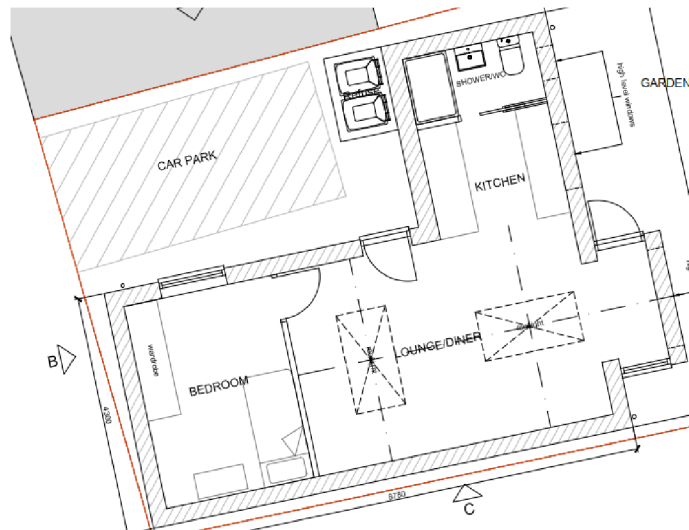
The proposed dwelling would be constructed in a similar location to the demolished garage, to the rear of the curtilage accessed by Lanes Avenue. It would be approx. 16.7m from the main dwelling, have an L shape with a flat roof and the following dimensions:

- Depth – 9.95m
- Width (max) – 7.65m
- Width (min) – 4.3m
- Height – 3.25m





The building would contain a single bedroom, shower room, kitchen and living/diner. It would also benefit from a dedicated parking space and a garden.



Principle of Development

The principle issues for consideration with this application are as follows:

- Housing Need
- Density of Development
- Design, Character and Appearance
- Amenity of Future Occupiers
- Neighbouring Amenity
- Parking and Highways
- Any Other Material Planning Considerations

Housing Need

In *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] 1 W.L.R. 1865, Lord Carnwath reemphasised that the National Planning Policy Framework is only a material consideration in planning decisions and that that planning applications should be determined in accordance with the development plan. Paragraph 12 of the NPPF expressly states that the starting point for decision-making is the development plan. Lord Carnwath as part of the Supreme Court decision stated,

"It is important, however, in assessing the effect of the Framework, not to overstate the scope of this policy-making role. The Framework itself makes clear that as respects the determination of planning applications (by contrast with plan-making in which it has statutory recognition), it is no more than "guidance" and as such a "material consideration" for the purposes of section 70(2) of the 1990 Act... It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme."

It is a matter of law that all planning applications need to be considered in accordance with the legislation and relevant policy that applies at the point a decision is taken. The Council published a revised 5 year housing land supply statement in March 2023, it demonstrates that based on data up for the period 2022-2027, the Council can only demonstrate a land supply of 2.9 years.

Given the Council's current inability to demonstrate a 5-year housing land supply, and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Gravesham's Local Plan Core Strategy (LPCS) (2014) Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the National Planning Policy Framework (NPPF) (2023). This requires that in regard to housing development, planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In the Gravesham context, the policies referred to in paragraph 11(d)(i) above are those set out in the NPPF at footnote 7 (rather than those in development plans) relating to any of the following:

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

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

The proposed development for a net increase of '1' residential units would offer a minimal contribution towards meeting this local need and, accordingly, officers considers that this should be accorded appropriate weight in support of the application. However, this has to be balanced against other requirements of the Development Plan and NPPF (2023) which requires new development to contribute positively to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

Density of Development

Development on this site should meet the requirements of Policy CS14 (LPCS), where the Council expects new housing development to provide a range of dwelling types and sizes, taking into account the existing character of the area.

Policy CS15 (LPCS) requires that all new housing will be developed at a density, which is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Subject to this overriding consideration, new residential development within the urban area will be expected to achieve a minimum density of 40 dwellings per hectare. It is clear that whilst Policy CS15 (LPCS) seeks to achieve this minimum density, this should not be at the expense of compromising the character of the surrounding area.

Based on the site area of the site the density of the development would be circa 56.3 dwelling units per hectare thus exceeding the minimum target density. Therefore, the proposal exceeds Policy CS15's (LPCS) minimum density in the urban area.

Design, Character and Appearance

Policy CS19 (LPCS) states that the design, layout and form of new sustainable development will be derived from a robust analysis of local context and character and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. The NPPF (2023) sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

The properties adjoining the application site are characterised by generous rear gardens in which there are numerous sheds, outbuildings and garages, that front onto the rear part of Lanes Avenue. To the rear of the application site is a recent development known as Alders Court, which was constructed following the demolition of the block of garages. These single storey bungalows with the majority of the surrounding properties being two storey.

The existing garage outbuilding serving 28 Lanes Avenue has been demolished and would be replaced by the new dwelling, which will be adjoined on either side by other garage structures. These garage outbuildings are varied in terms of height and design. They would originally have been clearly defined as outbuildings for vehicular parking, but as parking has been accommodated to the front of the properties, the use a garage at the rear is reduced, and so many of the outbuildings are utilised for storage instead. Based on this, the proposed dwelling would appear as an isolated residential property, in a location that is out of keeping with the established development pattern of the area. Moreover, the bungalow would be much larger in footprint than any of the existing garage building it would replace and the other similar structures within gardens of surrounding properties, and as a result would be viewed in distinct contrast to the existing dwellings and incidental domestic outbuildings in the immediate locality.

Therefore, the proposed dwelling would have a greater prominence than the pre-existing garage and other garages in the area, both in terms of its design, scale and use. This is similar to a recently dismissed appeal on Gouge Avenue (APP/K2230/D/23/3324637) (Appendix 1), which sought the demolition of a garage and erection of a single storey annexe. The Inspector concluded that "the introduction of a sizeable building to the rear of the site, whether an annex or an independent dwelling, would contrast with the existing pattern of development along Gouge Avenue and Coulton Avenue. While the proposal would make efficient use of land the proposal would represent a piecemeal development of a large garden that would be at odds with the existing pattern of development in the locality".

It is noted that the new dwellings to the south of the application site were a form of back land development, but they did not form residential curtilage and was a former garage block. However this development introduced 9no. dwellings of consistent design and materiality, which creates a consistent character and is large enough not to be considered as piecemeal development. This current proposal does not achieve any consistency and is a piecemeal development out of character with the area and therefore would fail to make a positive contribution to the street scene. Although there is no such thing as a precedent in planning decision making, allowing such a development at this site could lead to a snowball effect, resulting in many other properties looking to carry out similar works, detrimentally affecting the character of the area in terms of density, effecting resulting in overdevelopment.

It is also consider that the modern flat roof design of the dwelling is out of character with the area.

Overall, whilst the site is within the urban area of Gravesend, the principle of redevelopment on this site is not acceptable as the application site is not considered appropriate for an additional residential dwelling. The proposed dwelling would be at odds with the character of the area by virtue of being a piecemeal development viewed in contrast to domestic garages and would have a negative impact on the appearance

of the street scene. The proposal therefore fails to meet the requirement of Policy CS15 (LPCS), which at 5.11.16 states all new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated, and is contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Amenity of Future Occupiers

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

The Nationally Described Space Standards (2015) require a single storey dwelling for one person to have a floor area of 37m², with built in storage space of 2m². The internal space for the property is approx. 40m² and therefore, the proposed dwelling is considered to provide acceptable quality accommodation for future occupiers in terms of floor area.

Notwithstanding this, Gravesham's RLG breaks down the measurements further, recommending minimum floor areas for specific rooms as shown in the table below. These recommended minimum floor areas have been compared to the proposed room sizes within the property for comparison.

	RLG (minimum floor area)	Proposed Room Size
Living/Kitchen/Diner	25.2m ²	26.8m ²
Single Bedroom	7.5m ²	10m ²
Bathroom	3.6m ²	2.85m ²

The table has been colour coded (green complies, red fails) to show which rooms within dwelling meet the guidance within the RLG. The table demonstrates that most of the rooms comply with the minimum floor area recommendations, with the exception of the bathroom. However, this room is annotated on the floor plans as a shower room and given that a shower basin occupies less floorspace than a bath, this is not considered to impact on amenity. Therefore, on balance, the rooms within the dwelling are suitable and in accordance with Gravesham's RLG.

Notwithstanding the rooms meeting living standards, the Local Planning Authority do not consider the proposal to be a good quality living environment for future occupiers. The main living space of the dwelling is served by only high-level windows and velux roof lights, and as a result would have no outlook. Similarly, the bedroom window would face immediately onto the parking area and neighbouring garage (within 3.5m). Therefore, the quality of the living accommodation provided is limited due to the cramped and constrained site, to the detriment of future occupier amenity.

In terms of amenity space, the garden area for the proposed dwelling would have a garden area of 57.8m² and an overall depth of 7.6m, which is in accordance with the requirement set out in Gravesham's RLG. Nevertheless, there are concerns that the private amenity space of the new dwelling will be overlooked by the host dwelling, no.28 Lanes Avenue. The RLG states that the minimum window-window distance, over private garden area, should be 26m, and in this case is 16.7m to the rear wall of the new dwelling. Although the habitable rooms of the new property will not be directly overlooked, the private amenity space is considered to be the first 5m of the garden, which will be within 11.7m of the upper floor windows of 28 Lanes Avenue. Therefore, the private within the garden of which future occupiers of the dwelling should expect to enjoy would be impacted by virtue of proximity to the existing property.

Therefore, the development fails to safeguard amenity contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Existing Dwelling (no.28 Lanes Avenue)

The application property is a three bedroom semi-detached dwelling. The proposed development would reduce the existing garden area, but would retain an area of 73m² at a maximum depth of 9m. Gravesham's RLG requires a three bedroom dwelling to have an area of 60m at a depth of 10m and therefore the retained garden falls below the requirements of the RLG. However, on balance, given that the area of garden space exceeds the RLG minimum the depth is considered to be acceptable in terms of amenity.

Due to the proposed dwelling being single storey, the privacy of future occupiers of no.28 Lanes Avenue would be safeguarded and there would be no overshadowing or loss of light.

Therefore, the proposed development is considered to safeguard the amenity of future occupiers of no. 28 Lanes Avenue.

Conclusion on Amenity

Overall, the proposed development fails to safeguard future occupier amenity of the proposed dwelling, through providing a poor quality living environment with no outlook and an overlooked private amenity space. Therefore, the development is considered harmful to amenity of future occupiers and is contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Neighbouring Amenity

Policy CS19 (LPCS) requires new development to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land and the NPPF (2023) requires development to have a high standard of amenity for existing users (in this case surrounding properties).

The proposed conversion is not considered to impact on the amenity of any adjoining property. The dwelling is single storey and has limited windows on the front elevation and would therefore not have any impact on light or privacy. Moreover, the height of the building is not significantly greater than the adjacent garages and would not impact on outlook or sense of enclosure.

Therefore, the development is considered to safeguard the amenity of neighbouring properties in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Parking and Highways

KCC adopted parking standards (SPG4) (2006) states that a single bedroom dwelling within the urban area should provide one off-street parking space and one secure cycle space. The proposed dwelling would benefit from one off-street parking space and secure cycle storage in the garden, which would accord with SPG 4.

Notwithstanding the proposal meeting the parking standard requirements, there are concerns with the parking space and visibility splays of the vehicle egressing onto Lanes Avenue. The driveway is contained within a 3.3m span between the proposed dwelling and the adjoining garage, which means that the pedestrian visibility splays of 2m x 2m cannot be achieved and the driveway would represent a risk to safety. This is a concern given that the section of Lanes Avenue where the proposal would be located contains 9no. dwellings and would be used by pedestrians or children on bicycles. It is noted that a narrow strip of block paving is located on the opposite side of the road, intended for use by pedestrians, however the likelihood of people using the tarmacked surface is high and the lack of visibility contrary to guidance reflects the cramped, constrained site being unacceptable for a new dwelling.

The demolished garage to the rear of the property was the only off-street parking provision for the host dwelling, with no driveway or dedicated parking spaces to the front. Although it is unlikely that the garage/ rear of the property was used for parking recently, the erection of a new dwelling to the rear would remove

the dedicated parking provision for the application property, with no alternative proposed. As such, the proposal would result in a net loss of off-street parking provision for the host dwelling contrary to Gravesham's adopted parking standards (SPG 4) (2006).

Overall, the proposed driveway fails to provide pedestrian visibility splays onto a narrow road with limited footway and represents a risk to safety. Moreover, the proposal results in a net loss of off-street parking provision for the host dwelling contrary to parking standards. As such, the proposal is considered to be a risk to highway safety contrary to Policies CS11 and CS19 (LPCS), saved policy P3 and T5 of the Gravesham Local Plan First Review 1994, the Adopted Kent Vehicle Parking Standards (SPG4), Kent County Councils dropped kerb guidance (2023) and Section 9 of the NPPF (2023).

Any Other Material Planning Considerations

Waste Management and Refuse

Policy CS19 (LPCS) requires new development to incorporate appropriate facilities for the storage and recycling of waste.

The plans show that the bin store would be located in the frontage of the new dwelling. There is adequate space to the front of the building to accommodate bins, which would be dragged by occupiers to the edge of the highway on collection days. Therefore, the proposal accords with Policy CS19 (LPCS) and would provide suitable waste and recycling provisions.

Ecology and Biodiversity (Bird Mitigation)

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

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

The applicant has paid the SAMMS Mitigation Contribution Agreement and therefore meets the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 185 and 187) of the NPPF (2023) and Policy CS12 (LPCS) (2014).

Biodiversity Net Gain

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

In England, biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the

Town and Country Planning Act 1990 (inserted by the Environment Act 2021). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains.

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

The proposed development would affect 25m² of onsite habitat and would therefore be above the de-minimis threshold and would require the mandatory 10% biodiversity net gain. Kent County Council Biodiversity have confirmed this position and the applicant acknowledges that off-site compensation would be sought should permission be granted. Therefore, if permission were forthcoming, conditions relating to off-site biodiversity net gain and onsite biodiversity improvements would be attached to the decision notice, however this application is deemed to be unacceptable.

Conclusion

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

While the proposal may seek to make a more efficient use of the site, and would provide a 1 bed dwelling, this should not be outweighed by the clear development plan objectives that include maintaining and improving the character of the area. The proposed dwelling is an inappropriate piecemeal development which disrupts the established pattern of development within the street scene and is a cramped form of development that is contrived in design, is out of character with the layout and appearance of the properties in the immediate area. On this basis, the proposal is considered to be contrary to the requirements of Policies CS15 and CS19 of the Gravesham Local Plan Core Strategy (2014), and paragraphs 125, 128, 131 and 135 of the National Planning Policy Framework (2023).

The proposal represents a cramped form of development which fails to safeguard amenity of future occupiers by virtue of poor outlook, lack of privacy and poor-quality living environment. Therefore, by virtue of impacts on habitable rooms and private garden area, the development fails to safeguard the amenity of future occupiers and is contrary to Policy CS19 of the Gravesham Local Plan Core Strategy (2014) and Section 12 of the National Planning Policy Framework (2023).

The proposed crossover and driveways represent a risk to highway safety and an increased chance of accident due to inadequate pedestrian visibility splays and inadequate sightlines. Furthermore, the proposed dwelling would result in a net loss of off-street parking for the host dwelling contrary to Gravesham's adopted parking standards (SPG 4) (2006). As such the proposal is contrary to Policies CS11 of the Gravesham Local Plan Core Strategy (2014), saved policy T5 of Gravesham Local Plan First Review (1994) and Kent County Council dropped kerb guidance (2023), as well as Section 9 of the National Planning Policy Framework (2023).

Recommendation

Refusal

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

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
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Signed:		Signed:	
Dated:	16 th September 2024	Dated:	16 September 2025