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PLANNING STATEMENT PREPARED FOR MR & MRS COWARD
SHORNE MEAD, PEAR TREE LANE – JAC/OR/JF/16501

May 2023

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1 Introduction

1.1 Report Purpose

- 1.1.1 This planning statement has been prepared by DHA Planning on behalf of Mr and Mrs Coward to support a full planning application for the demolition of the existing dwelling and the construction replacement dwelling with associated access and landscaping works at Shorne Mead, Pear Tree Lane.
- 1.1.2 The proposal is for the demolition of the existing dwelling, hard standing and structures and replacement with a new residential dwelling.
- 1.1.3 The site benefits from a permitted planning application and deemed consent via a prior notification application in relation to the existing dwelling and garage. The applications have established a genuine fallback position which the Applicant will implement if this proposal is not concluded to be acceptable by Gravesham Borough Council.
- 1.1.4 The permitted works on site will await the outcome of this application.

1.2 Statement structure

- 1.2.1 Chapter 2 of this statement sets out the context of the site, the immediate surroundings, and the relevant planning history.
- 1.2.2 Chapter 3 sets out a description of the development proposal, whilst chapter 4 considers the planning policy context by which the planning application will be considered, including having regard to the advice of the National Planning Policy Framework (NPPF) and the formal policies of the development plan.
- 1.2.3 Chapter 5 considers the 'principle' of development and other relevant planning considerations.
- 1.2.4 Chapter 6 draws conclusions to justify why we consider the development to be acceptable.

1.3 Supporting documents

- 1.3.1 This statement is supported by the following documents:

Documents		
Reference	Title	Author
JAC/OR/JF/16501	Planning statement	DHA Planning
	Design and Access Statement	Mark Carter Associates
3316-001 (Rev H)	Site Plan	Mark Carter Associates
3316-002 (Rev K)	Floorplans- Basement and Ground Floor	Mark Carter Associates
3316-003 (Rev D)	Floorplans- First Floor and Roof	Mark Carter Associates
3316-004 (Rev C)	Proposed Elevations	Mark Carter Associates
3316-005 (Rev A)	Proposed Street Scene	Mark Carter Associates
3316-006	Site Location and Block Plan	Mark Carter Associates
3316-007	Proposed Site Sections	Mark Carter Associates

3316-008	Existing Plans and Elevations	Mark Carter Associates
3316-009	Existing Elevations in setting	Mark Carter Associates
3316-010	Building Comparison	Mark Carter Associates
	CGI Renders	Mark Carter Associates

2 The site

- 2.1.1 The site is located in a residential area along Pear Tree Lane, which comprises substantial detached residential dwelling set typically in large plots.
- 2.1.2 The houses on Pear Tree Lane are of varying architectural styles, ages and sizes and many neighbouring houses are considerably wider, and larger in scale. The existing dwelling sits in an varied street scene with no single distinct style.
- 2.1.3 The site lies on the outskirts of Higham, approximately 400m from the edge of confines. Shorne Ridgeway is just over 1km to the west.



Figure 1: Site location plan

- 2.1.4 At present, the site comprises a residential dwelling which has been extended since 1946. The site is bound to the south by Pear Tree Lane, to the west and east by residential dwellings (incl. Springhill to the west and Little Priory to the east), and to the south by woodland which abuts the rear garden.

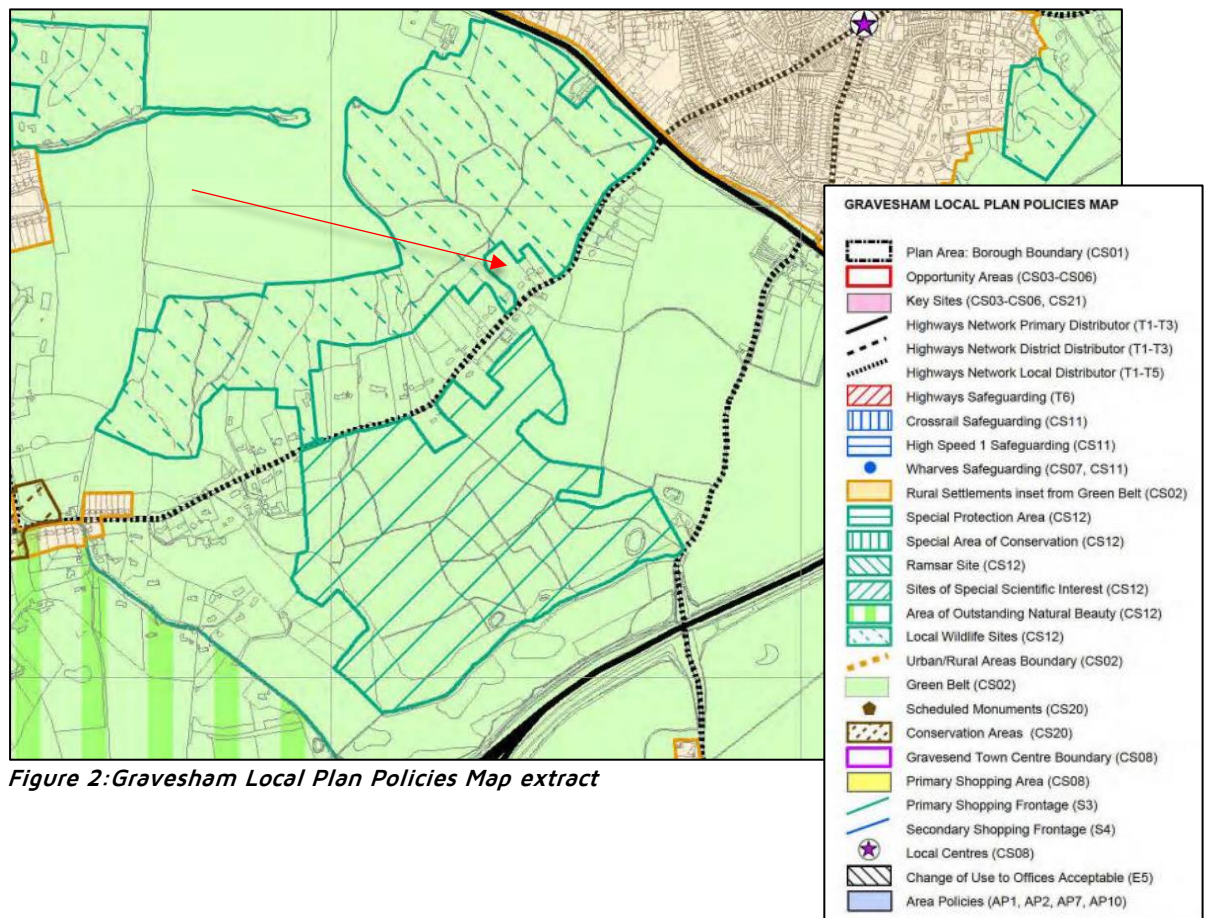


Figure 2: Gravesham Local Plan Policies Map extract

- 2.1.5 It should be noted that the proposal lies within the Green Belt and lies to the north of the Great Crabbles Wood Site of Special Scientific Interest (SSSI). However, the dwelling is separated from the SSSI and will not cause harm to it.
- 2.1.6 Peartree Wood Ancient Woodland can be found to the north of the site, and to the east on the other side of Pear Tree Lane. The proposed development will not be located within 15m of the boundary. The Ancient Woodland to the north is also a Local Wildlife Site. The proposal will not impact upon this.
- 2.1.7 The site is not located in a Conservation Area, Area of Outstanding Natural Beauty or an area of archaeological potential, and there are no Listed Buildings or Public Rights of Way (PRoW) that would be impacted by the proposal. In addition, the site is located entirely in Flood Zone 1 (least likely to flood).
- 2.1.8 Finally, the site does not lie within article 2(3) land.
- 2.1.9 The application site has an area of 0.85ha and is amongst the largest of the plots locally.



Figure 3: Proposed front and rear elevations (Drawing no. 3316-005)

2.2 Planning history

2.2.1 Following a desktop study of the of Gravesham Borough Council's public access system, the following planning history has been found for the site:

Reference	Description	Decision & Date
20221114	Alterations to existing garage to provide garage and annex accommodation incorporating increase in roof height, two dormer windows in the front roof slope and Juliette balcony on the north-west elevation to provide for ancillary accommodation, including a garden room with tea point at ground	Application permitted 07/12/2022

	level and gym and games room accommodation above.	
20220788	Single storey rear extension with a depth of 8.00 metres, maximum height of 3.75 metres and eaves height of 2.35 metres.	Prior approval not required 22/08/2022
20220593	Single storey rear extension with a depth of 8.00 metres, maximum height of 3.75 metres and eaves height of 2.35 metres.	Prior approval is required and is refused 12/07/2022
20220543	Proposed engineering works to rear garden creating retaining walls to sloping site.	Permitted 20/07/2022
20181314	**REVISED PLAN** Alterations to existing garage to provide garage and annex accommodation incorporating increase in roof height, two dormer windows in the front roof slope and Juliette balcony on the north-west elevation to provide for ancillary accommodation, including a garden room with tea point at ground level and gym and games room accommodation above.	Permitted 27/02/2019
20170496	Demolition of existing garage and erection of a detached two storey annex and garage incorporating a dormer window in the front roof slope and Juliette balconies on the north-west and south-east elevations.	Refused 20/03/2018

20140811	Construction of a new roof over existing garage incorporating an increase in the height of the building, two dormer windows in the front roof slope and a juliet balcony on the north-west side elevation to provide for gym, games room and w.c./changing facilities in the proposed roof space.	Permitted 14/10/2014
20060164	Erection of single storey rear infill extension to form enlarged kitchen/diner.	Permitted 07/04/2006
19970317	Construction of new pitched roofs over existing garages/boat port, incorporating dormer window in proposed front roof slope and infilling of central boat port to form garage.	Permitted 21/08/1997
19840557	Erection of a two storey extension at the side to form a dining room with bathroom over.	Permitted 10/08/1984
19830673	Change of use of land from woodland to residential garden and alterations to vehicular access.	Permitted 19/12/1983
19780438	Erection of a single storey extension to form an enlarged kitchen childrens playroom and a new boiler room at the side of a dwelling.	Permitted 21/06/1978
19590307	Erection of a loose box and tack room.	Permitted 10/11/1959
19560253	Extension to lounge.	Permitted

		09/01/1957
19510230	Additions.	Permitted 01/02/1952
19560253	Erection of a private garage.	Permitted 09/05/1951
19480125	Erection of a garage.	Permitted 04/03/1949

3 Planning Policy Framework

3.1 Introduction

- 3.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70 of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the statutory Development Plan, unless material considerations indicate otherwise.
- 3.1.2 For the purpose of this planning application, the adopted Development Plan for Gravesham Borough Council comprises the Gravesham Local Plan (1997) and Gravesham Core Strategy (2014).
- 3.1.3 The National Planning Policy Framework ('NPPF' or 'the framework', 2021) will also be considered.

3.2 Gravesham Local Plan – 1997 (Saved Policies)

- 3.2.1 Policy C12 – Policy for Replacement Dwellings in the Countryside

There will be 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.

"Original dwelling" for the purpose of this policy and policy C13 means a building in permanent residential use at 1st July 1948 or subsequently erected as a permanent dwelling in accordance with planning permission in that behalf.

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

3.2.2 C12 is a policy of its time and is at odds with the most recent iteration of the NPPF, dated July 2021. The emerging policy with regards to this principle of development is more in line with current practice, albeit the emerging plan is only at Regulation 18 stage and cannot be afforded significant weight.

3.2.3 T4 – Development outside the built-up area. *The Local Planning and Highway Authorities will not normally permit any proposed development outside the confines of the built up area that generates significant vehicular or pedestrian traffic.*

3.3 Gravesham Core Strategy 2014

3.3.1 Policy CS01 – Sustainable Development. When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development.

3.3.2 Policy CS02 – Scale and Distribution of Development. In the rural area, development will be supported within those rural settlements inset from the Green Belt and defined on the Policies Map. Development outside those settlements, including affordable housing and proposals to maintain and diversify the rural economy, will be supported where it is compatible with national policies for protecting the Green Belt and policies in this plan.

CS02 therefore accepts that certain exceptions apply in the Green Belt, which is the case for this application.

3.3.3 Policy CS11 – Transport. New developments should mitigate their impact on the highway and public transport networks as required. Sufficient parking in new development will be provided in accordance with adopted parking standards which

will reflect the availability of alternative means of transport and accessibility to services and facilities.

- 3.3.4 Policy CS19 - Development and Design Principles. New development will be visually attractive, fit for purpose and locally distinctive. It will conserve and enhance the character of the local built, historic and natural environment, integrate well with the surrounding local area and meet anticrime standards. The design and construction of new development will incorporate sustainable construction standards and techniques, be adaptable to reflect changing lifestyles, and be resilient to the effects of climate change.

3.4 Gravesham Local Plan Regulation 18 Stage 2 Consultation - Part 2: Draft Development Management Policies Document (October 2020)

- 3.4.1 Paragraph 48 of the NPPF sets out that LPA's may give weight to relevant policies in emerging plans, according to the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).

- 3.4.2 Gravesham have most recently published their Regulation 18 Draft Local Plan, and therefore limited weight can be afforded to it. Nevertheless, it is helpful for understanding the Council's preferred direction of travel.

- 3.4.3 Proposed Policy GB 5 - Extensions, Replacement Buildings and Ancillary Development in the Green Belt. Proposals for the replacement of an existing building in the Green Belt will only be permitted where the new building is in the same use and will not result in a materially larger building unless justified by very special circumstances that clearly outweigh harm to the Green Belt and any other harm. The following will be taken into account in determining whether the proposal is materially larger:

- its footprint, floorspace, (ii) volume and height compared to the existing building; and
- its scale and mass compared to the existing building.

In addition to the above, Core Strategy Policy CS19 will apply in determining whether the design of any proposed replacement building is appropriate, having regard to the presence of existing development on the site, prominence, visual impact, and whether the building could be relocated within the site to have less impact on the Green Belt.

- 3.4.4 This emerging policy therefore moves away from the now dated saved policy and reflects the NPPF guidance and the fall-back position, allowing for the justification of very special circumstances.

3.5 National Planning Policy Framework

- 3.5.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Paragraph 2 of the NPPF states that it is a material consideration in planning decisions.

Achieving sustainable development

- 3.5.2 At the heart of the Framework is a presumption in favour of sustainable development (paragraph 10).
- 3.5.3 Paragraph 11 states plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means
- a) approving development proposals that accord with an up-to-date development plan without delay; or
 - b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission 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.

Decision-making

- 3.5.4 Paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
- 3.5.5 Paragraph 48 states local planning authorities may give weight to relevant policies in emerging plans according to:
- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - (c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Promoting sustainable transport

- 3.5.6 Paragraph 111 states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Making effective use of land

3.5.7 Planning policies and decisions should 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 (Paragraph 119).

3.5.8 Paragraph 120 states planning policies and decisions should:

- Promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively

Achieving well-designed places

3.5.9 Paragraph 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

3.5.10 Paragraph 130 states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- 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, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

3.5.11 Paragraph 134 states that development that is not well-designed should be refused, especially where it fails to reflect local design policies and the government guidance on design, taking into account any local designed guidance and supplementary planning documents such as design guides and codes.

Proposals affecting the Green Belt

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

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

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and 44
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Habitats and Biodiversity

3.5.14 Paragraph 174 sets out how planning policies and decisions should contribute to and enhance the natural and local environment.

3.5.15 To protect and enhance biodiversity and geodiversity, plans should: b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity (paragraph 179).

3.5.16 With respect to habitats and biodiversity, paragraph 180 says that when determining applications, local planning authorities should apply the principles that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

4 Planning Appraisal

4.1 Introduction

- 4.1.1 The following section sets out the planning merits of the application and demonstrates why it is acceptable when fully and carefully assessed in the context of both Gravesham Borough Council's and National policy.
- 4.1.2 We first set out case law that is highly relevant to the current application. The reason for doing so relates to the rather onerous policies contained in the 1997 Local Plan. Particularly, Policy C12 which sets out limiting criteria that Gravesham Borough Council apply to replacement dwellings. As a consequence we consider it important to set out Case Law that relate to the question of how big and impactful the current building can be through legitimate use of permitted development rights, alongside any consented schemes.

4.2 Case law

Mansell Vs Tonbridge and Malling Borough Council

- 4.2.1 The full judgement is appended to this application, but in summary:
- 4.2.2 The Court of Appeal decision specifically addresses whether the Council was entitled to accept there was a real prospect of the fallback development being implemented, and ultimately concluded that there is a relatively low bar to demonstrate a real prospect of a fallback.
- 4.2.3 The legal considerations in determining the materiality of a fallback position as a planning judgement were:
- 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;
 - 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 judgement in the particular circumstances of the case in hand.
- 4.2.4 Lord Justice Lindblom concluded that the clear desire of the landowner to develop the site was sufficient to demonstrate there was a real prospect to the GPDO fallback position in this case.

Relevance to the planning application at hand

- 4.2.5 For a fallback position to be given material weight in the decision-making process, it simply needs to be a possibility of occurring. It does not mean that the proposals have to be built, and rather it is the possibility that the works could happen.
- 4.2.6 In relation to the proposal to replace the existing dwelling, the applicant has received deemed consent for a prior notification application, and received full planning permission for alterations and extensions to the garage. In the event that this application is unsuccessful, the applicant intends to commence these works, as they require a larger property with additional facilities to meet family needs. The Applicant would ideally like to gain permission for this application, but if they are not successful with Gravesham Borough Council or at Appeal, they will implement the fallback position.
- 4.2.7 The fallback position is therefore a material consideration when deciding upon the application.

Appeal decision Ref: V3120/A/12/2188869 (Woodpecker House, Orchard Lane, Boars Hill, Oxford, OX1 5JH)– Replacement dwelling in green belt – allowed

Relevance to the planning application at hand

- 4.2.8 This appeal decision discusses the fallback position, and further supports our case in respect of it being a material consideration.
- 4.2.9 For this Appeal the Appellant had secured a permission for an extension, along with securing lawful development certificates for available permitted development rights. None of the extensions had been erected on site, however the Appellants Team had provided drawings of the extensions to demonstrate that they were deliverable. The Architect had also been instructed to prepare detailed drawings subject to the outcome of the Appeal. The Inspector was satisfied that there was a strong likelihood of the fallback position being implemented.
- 4.2.10 Furthermore, the Inspector also addressed openness of the Green belt and compared the footprint, floorspace and volume that was proposed to the fallback position rather than the original dwelling. The Inspector was satisfied that there would be a limited improvement to the openness of the Green Belt.
- 4.2.11 This appeal decision address many similar issues that are presented in the application at hand. It is also noteworthy that the Inspector gave substantial weight to the improved design & visual appearance and improved energy efficiency performance, which are also of relevance and importance for the proposed application.

Case law conclusion

- 4.2.12 To conclude, it is clear in Case Law and Appeal decisions that a fall-back position is material consideration. The fall-back position can include decisions that have not been implemented, however there must be a genuine possibility of doing so.

- 4.2.13 The NPPF is clear that a replacement dwelling is an acceptable form of development in the Green Belt provided that is not materially larger. In our submission, the test here is whether the replacement dwelling is materially larger when compared to the 'legitimate fall-back position'.
- 4.2.14 This applicant will demonstrate that they clearly have a lawful fall-back position as shown by the extant permissions on the site. The statement will then demonstrate that there is an overall reduction in footprint, volume and scale from the proposed development when compared to the lawful fallback position. Consideration should also be given to the improvements in design and visual appearance of the property, and energy efficiency improvements.

4.3 Extant permissions fallback

- 4.3.1 The following section outlines the extant permissions available for the property.

Application reference: 20221114

- 4.3.2 The site has recently had an approval for: *"Alterations to existing garage to provide garage and annex accommodation incorporating increase in roof height, two dormer windows in the front roof slope and Juliette balcony on the north-west elevation to provide for ancillary accommodation, including a garden room with tea point at ground level and gym and games room accommodation above"*
- 4.3.3 The application was for the renewal of a previously approved application (20181314)

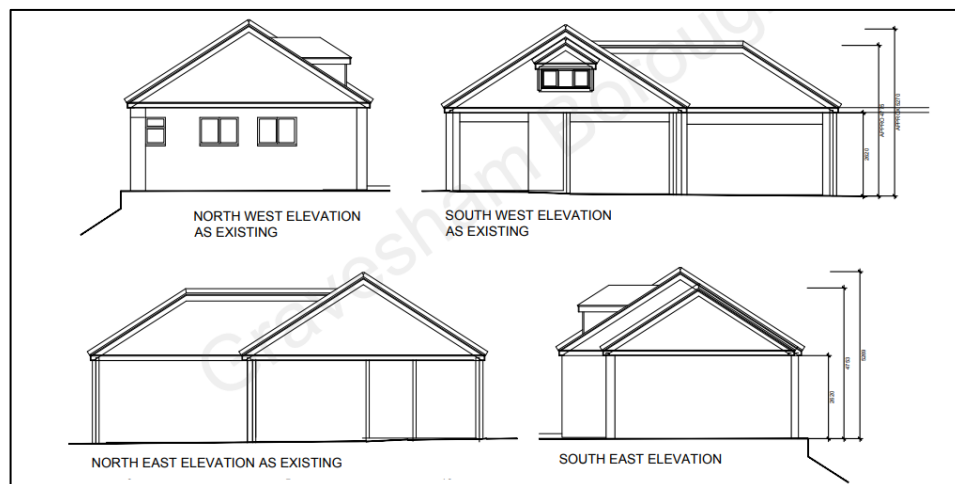


Figure 4: Existing elevations of garage

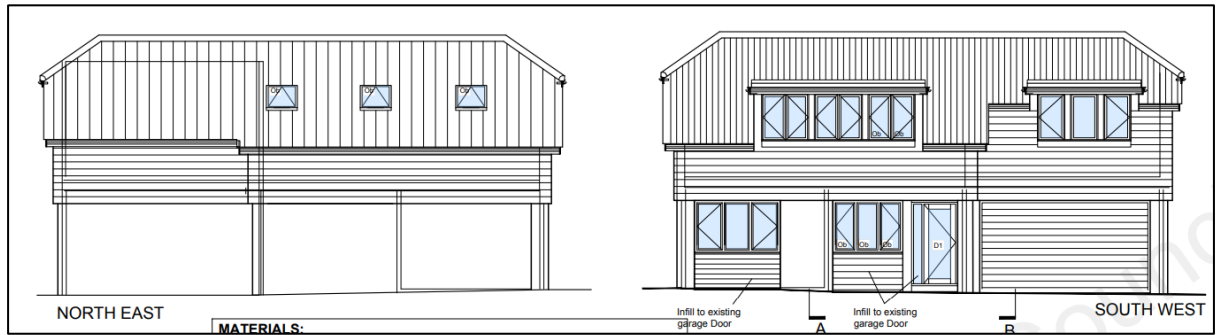


Figure 5: Approved proposed elevations

- 4.3.4 The extension to the garage as approved by the 20221114 application would result in an overall volume of 453m³, and increase of 147m² from the original garage.

Application reference: 20220788

- 4.3.5 In July 2022, a prior notification application was submitted for "Single storey rear extension with a depth of 8.00 metres, maximum height of 3.75 metres and eaves height of 2.35 metres."
- 4.3.6 The works comprised of 3no. ground floor extensions to an existing C3 dwelling ('Shorne Mead'); comprising 3m² front porch, 6m² side extension and 77m² rear extension (total 86m²) and demolition of some earlier extensions.
- 4.3.7 The application was an amendment of the refused application 20220593. The proposed rear extension was amended to ensure that it does not project more than 8m beyond the rear extension of the original dwellinghouse as 21st July 1948.
- 4.3.8 The image below sets out the 'original dwelling' (the blue line) and 'extended dwelling' (red line).

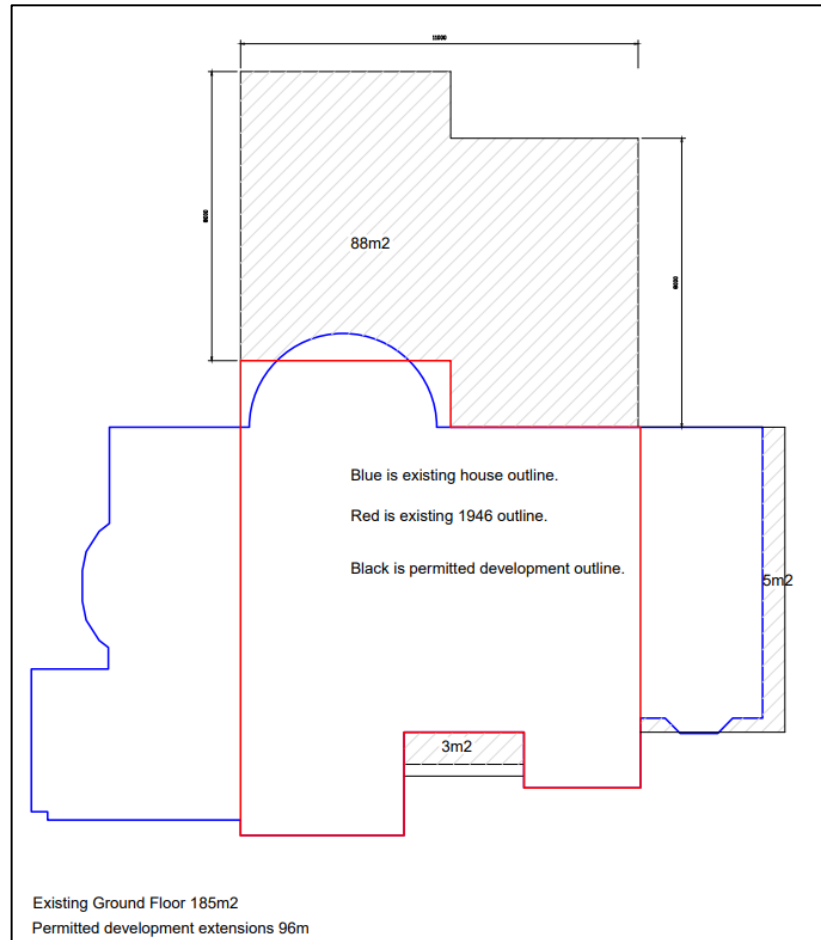


Figure 6: Floor layout - 20220788

4.3.9 The image below shows the existing property with permitted extensions.

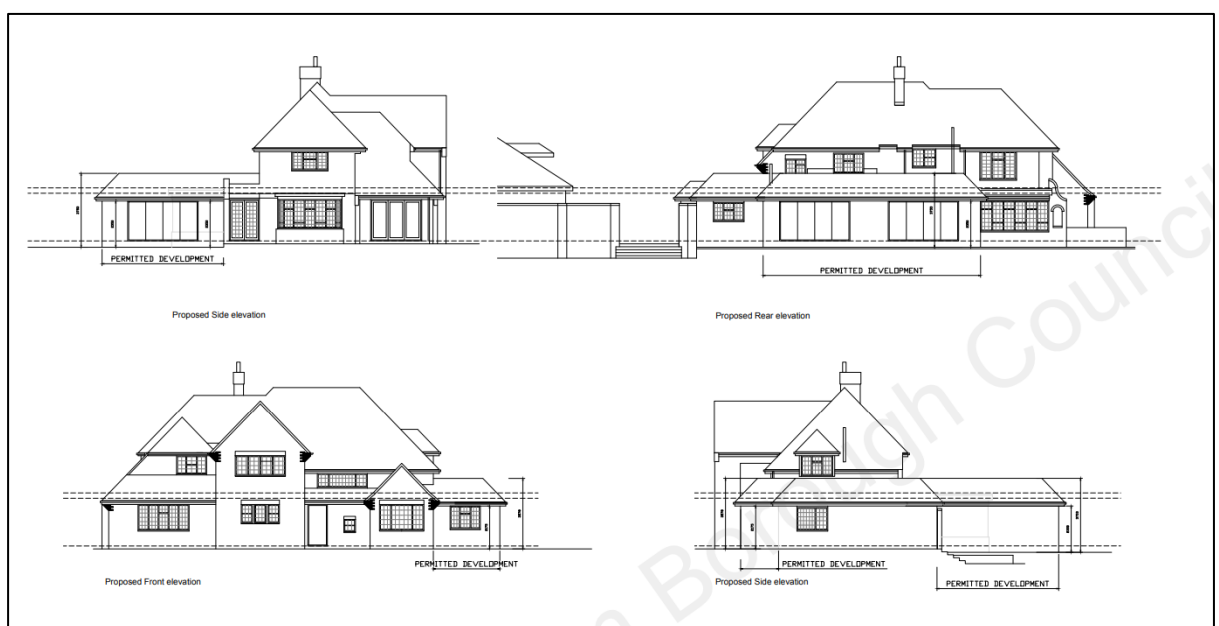


Figure 7: Proposed elevations - 20220788

- 4.3.10 Following the amendments, it was considered the application comprised of permitted development and prior approval was not required. A proposed lawful development certificate was therefore issued for the proposal. As stated the Applicant intends to implement the fallback scheme if this scheme does not find favour with Gravesham Borough Council or the Inspectorate.

4.4 Fallback position

- 4.4.1 The following information is provided to illustrate the comparison between the current proposal and the legitimate fallback position.

Status	Volume (M ³)	Footprint (GEA M ²)	Floor area (M ²)
Original dwelling (1948)		195m ²	
Dwelling as built today	985m ³	185m ²	315m ²
Existing Garage	306m ³	84m ²	84m ²
Dwelling with approved applications (Fallback position)	1,245m ³	281m ²	382m ²
Approved Garage Extension	453m ³	84m ²	117m ²
Outbuilding	34m ³	12.9m ²	12.9m ²
Total size of approved works on site	1,732m ³	365m ²	399m ²
Proposed Dwelling	1,697m ³	219m ²	538m ²

Table 1: Proposed and Existing volumes and areas

- 4.4.2 From the above it can be concluded that;

- The volume of the proposed dwellings is 35m³ less than the legitimate fallback position.
- The existing footprint of 365m² is larger when compared to proposed dwellings footprint of 219m².

- The proposed dwelling has a total footprint of 538m², while this is larger than the 'legitimate fall back position' of 399m², in reality the majority of the additional floorspace is comprised of a proposed swimming pool and spa of 47m². This does not increase 'occupation' or the level of use of the site.

4.4.3 In the above circumstances we conclude that the height above ground and volume of the proposed dwelling are less than the legitimate fallback position. We therefore, conclude that the impact of the dwelling on the openness of the Green Belt is similarly reduced.

4.5 Comparison of the merits of the schemes to similar nearby cases

4.5.1 20221239 – Long Acre, Pear Tree

4.5.2 This application is of particular relevance to the proposal at Shorne Mead, as the application proved that the additional two storeys and basement would not be considered materially larger than the existing dwelling, thus would be in accordance with National Policy. The application additionally outlined that the 'fallback' position and further lawful development/ prior approval consents that had been recently granted on the site would further increase the size of the existing dwelling. In determining whether the fallback could be a material consideration when assessing the application, the case of *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314; [2019] PTSR 1452 outlined the issues.

4.5.3 It was concluded that there was a genuine fall back position and that in terms of the amount of buildings on the site, it was clear that due to the size the proposed dwelling would have less of an impact than the existing dwelling plus its additional extension consents.

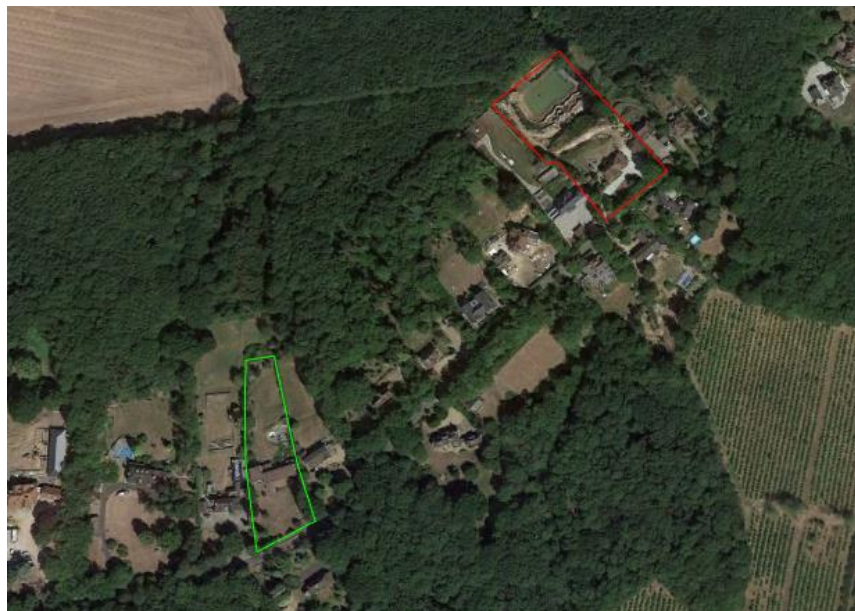


Figure 8: Application site (red), Long Acre (green)

20200984 – Merrievale, Pear Tree Lane.

- 4.5.4 Of significant relevance to the proposed application is the above approved application at Merrievale, Pear Tree Lane, just to the south-east of the site.



Figure 9: Application site (red) and Merrievale (Green)

- 4.5.5 Permission was granted for the demolition of an existing detached dwelling, outbuildings and hard standing and erection of a replacement detached dwelling and associated landscaping. The comparative issues are shown below.



Figure 10: Existing and proposed front elevations (20200984)

4.5.6 The Merrievale application is considered highly relevant as the case heavily relied on the fallback position provided by various approved extensions that would have a realistic likelihood of being built out.

4.5.7 The following extract is taken from the Officer's delegated report for this application:

"In order to be considered as a "fall back", the alleged fall back development has to be a use or development that is possible/can be implemented without the need for further planning permission, for example a current lawful use or change of use (i.e. does not fall within the definition of development in the Planning Act or permission has already been granted but not yet implemented) and/or development permitted by way of permitted development rights (i.e. the GPDO or a development order).

If there is a genuine "fall back" then they must be a possibility that this development will be implemented if the current application is not permitted.

If both these factors are evidenced, then the fall back this can be a material consideration in determining an application."

4.5.8 The Officer's report confirmed that the Merrievale application benefitted from a realistic fallback position and was satisfied that there was a genuine possibility that the fallback position could be implemented. In the instance of the application, the applicants had made 'a start' on the fallback to demonstrate it's capacity for implementation. It was recognised that the case law does not require such a physical intent.

4.5.9 The proposal did represent an increase in volume from the original dwelling and existing dwelling, and it was recognised that this would therefore not qualify as a Green Belt exception under paragraph 145(g) (now 149(g)) of the NPPF. Nevertheless, the fallback position was given material weight for the application.

4.5.10 The officer stated:

"The applicant has demonstrated and it is the Local Planning Authority's view that the applicant fallback position is material consideration in this application, It is demonstrated that the proposed replacement dwelling will result in an overall reduction in footprint and very slight reduction in volume (when existing outbuildings are taken into account) but it would be an increase in scale, mass, built forms, heights when compared to the existing dwelling and fall-back position."

4.5.11 In reaching the conclusion, further consideration was given to the quality of the design, the removal of tennis court hardstanding and removal of PD allowances. The officer concluded:

"In this circumstance however, factors including the fallback position, the quality of design proposed, the removal of the existing tennis court hard surfacing 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."

20150719 - Brackenside, Pear Tree Lane



Figure 11: Application site (red) and Brackenside (yellow)

- 4.5.12 The above application was approved in December 2015.
- 4.5.13 While no delegated report is available for this application, the proposed scheme was for the replacement of a dwelling in the green belt with a larger property than existed.
- 4.5.14 The DAS of the application makes it clear they were advised by the Council at pre-application stage to 'include clear justification for the development and the 'PD fallback position'.
- 4.5.15 The Gravesham Borough Council pre-application response stated "As the property retains its permitted development rights you should clearly demonstrate what could be achievable without the benefit of planning permission as this would be taken into consideration when determining the planning permission".

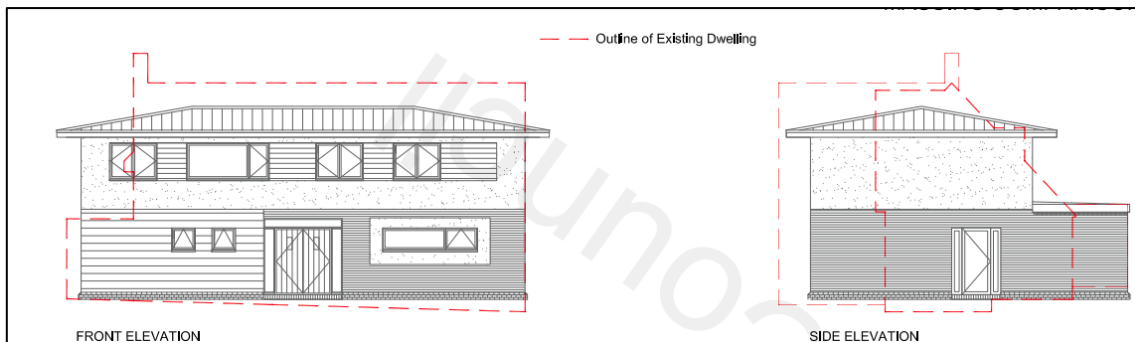


Figure 12: Proposed elevations with existing outlines (inc. pd)

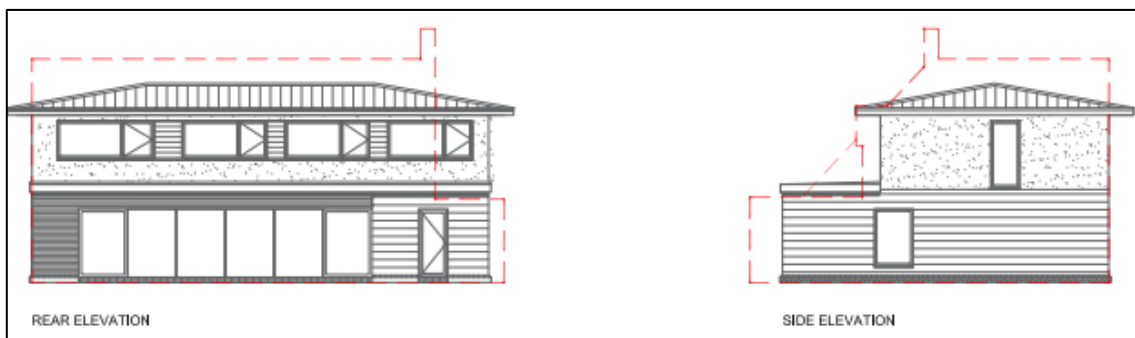


Figure 13: Proposed elevations with existing outlines (inc. pd)

- 4.5.16 The application demonstrated that the proposed development would result in a net reduction in the gross external floor area when comparing the existing dwelling with PD rights applied, to the proposed development. This was therefore concluded to result in a betterment for the openness of the Green Belt. We consider this is highly material to the application at hand.

4.6 Impact Assessment of the proposal on The Green Belt

- 4.6.1 Section 13 of the NPPF outlines guidance on protecting Green Belt land. Paragraph 137 outlines that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

4.6.2 Paragraph 138 outlines that the Green Belt serves five purposes:

- (1) To check the unrestricted sprawl of large built-up areas;
- (2) To prevent neighbouring towns merging into one another;
- (3) To assist in safeguarding the countryside from encroachment;
- (4) To preserve the setting and special character of historic towns; and
- (5) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.6.3 We consider that the proposed development will not conflict with the aim of the Green belt, as it will not add to the sprawl of large built up areas, or the merging of neighbouring towns, as the proposal is for a replacement dwelling on a 0.85ha plot. It will not result in any additional encroachment to the countryside, as the site is already developed. Finally, the development will not have any impact on the setting and special character of a historic town nor would it have any impact on urban regeneration as the proposal is a replacement dwelling that overall, has a smaller volume than the existing property.

4.6.4 Paragraph 149 outlines that new buildings in the Green Belt are considered inappropriate, but sets out a number of exceptions. Such as (d) 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.' As well as, (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing dwelling.

4.6.5 As outlined earlier in the report, the proposal is for a replacement dwelling, and will not result in a development that is materially larger than the existing property, when the 'legitimate' fallback position is considered, in compliance with point (f). While the calculations included in Table 1 highlight how the proposed replacement benefits from a lower volume, ensuring the development will have no greater impact on the openness of the Green Belt.

4.7 Sustainability

4.7.1 The proposal has been assessed in terms of its sustainability, in line with the NPPF. It is considered that this proposal will bring economic, social and environmental benefits that will outweigh any perceived harm the development may bring.

Economic Role

4.7.2 Developing this site would provide an opportunity to employ local construction work, generate an increase in the gross value of the site and provide the opportunity to make use of local construction materials.

Social Role

- 4.7.3 In terms of social sustainability, the proposal would provide for an attractive development, providing a significant visual improvement and a genuinely high-quality development of architectural merit.
- 4.7.4 The proposed dwelling would provide a family home that would enable the applicants family to live comfortably.

Environmental Role

- 4.7.5 The scheme has been designed to be environmentally sustainable, and the dwelling will be constructed to the latest Building Regulation Standards. The dwelling is to insulated to a high standard with energy efficient lighting installed.
- 4.7.6 A dedicated space in the garage for storage and separation of waste for recycling prior to collection will be provided and the bin collection point will continue to be at the entrance to the site.

4.8 Design

- 4.8.1 The proposed dwelling at Shorne Mead, designed by Mark Carter, has sought inspiration from the work of world-renowned architects such as Frank Lloyd Wright and Peter Womersley and Zaha Hadid.



Figure 14: CGI Render (courtesy of Mark Carter)

- 4.8.2 As identified by the figure above, the architect has sought to reflect and highlight the harmony between the natural environment and manmade built form, a nod to Frank Lloyd Wright's, Fallingwater, quoted as being "the greatest architect of the 19th Century". Due to the site's steep topography, care was taken throughout the design process to ensure that the 2 storey building with a basement would not have an over bearing impact upon the surrounding area, and would embrace nature rather than impede upon it. The proposed dwelling has been designed to

'sink' into the hillside, ensuring that the building's roof line is lower than the neighbouring dwellings, whilst still creating a functioning family space. The figure below shows how the proposed dwelling's roof line would be lower than the existing roof line at Shorne Mead.



Figure 15: Elevation overlay of Proposed over existing (Courtesy of Mark Carter)

- 4.8.3 Large linear windows define the front and rear facades, allowing natural light to enter the home, further expanding upon the connection between nature and built form. The large windows also act to break up the elevations. This design approach can be considered to be inspired by schemes such as JDS Architect's work in Bois D'amont, France as shown on the figure below, here the building is set into a hillside, and uses glass and overhanging balconies to ensure the elevations are separated and do not appear as one large solid surface. The proposed development incorporates a flat roof and floor to ceiling windows, as well as large balconies with differing widths and over hangs. This ensure that when the building is viewed from a distance it doesn't appear as one continuous mass, but is instead broken up into different elevations to ensure separation of the buildings mass.



Figure 16: Bois D'amont

- 4.8.4 The award winning Zaha Hadid, whose accolades include the Pritzker Architecture Prize, designed the Dominion Office Building in Russia further illustrates how a

building can be designed with off-set floors, stacked to create irregular protrusions as well as overhanging ledges to break up the perception of massing. The eye is drawn to individual sections of the building, rather than the entirety of the building as a whole. This all helps to minimise the perceived massing when buildings are seen in three dimensions.



Figure 17: Dominion Office Building

- 4.8.5 Mark Carter's design also echoes design features used for Farnley Hey as seen below, one of Britain's most celebrated Modern homes designed by architect Peter Womersley in 1954, one of the first post-war buildings to achieve a Grade II listed status. With English Heritage commenting 'In style, Farnley Hey suggests the influence of Le Corbusier and Frank Lloyd Wright, brought to a dramatic site in the Pennines. It typifies the best of the 1950s in its lightness, sense of the picturesque and optimistic stance'. Simon Beckett from The Observer wrote in 2004, "There's a tremendous impression of space about the house....It's windows that form Farnley Hey's most striking feature....they allow uninterrupted views over the wooded gardens and Pennine Countryside beyond".
- 4.8.6 Mark Carter's design similarly uses floor to ceiling windows and stepped-elevations to ensure the proposed dwelling would be well connected to its settings through the relationship between vision and natural light. Careful consideration was taken to ensure that the correct materials were selected to make living in and around the proposed development easy and enjoyable, whilst interior open spaces ensure freedom of movement, within what is essentially one continuous space.



Figure 18: Farnely Hey

- 4.8.7 As previously mentioned, the proposed dwelling at Shorne Mead has been designed to ensure a harmonious outcome between the building and the surrounding landscape and topography, as Frank Lloyd Wright achieved at Falling Waters. The figures below show how large terraced areas and balconies have been incorporated into the design to ensure that the relationship between interior and outdoor spaces is enhanced. Whilst inside the building, one's eyes fail to register the division between exterior and interior spaces, not truly establishing where the house ends and the natural environment starts. This ensures that users of the space will be more receptive to the changes in scenery, atmosphere and season, and that once inside the building, users will not feel detached from the outside.
- 4.8.8 The proposed replacement dwelling at Shorne Mead has been designed to the highest standards. The architect has ensured that glass facades and overhanging balconies create an irregularly shaped built form, that break up the mass of the building, as Zaha Hadid achieved with The Dominion Office Building. Floor to ceiling windows, leading to large terraced and balcony spaces enhance the relationship between both interior and exterior spaces, as well as providing natural light and views over the surrounding area, a stylistic approach that was implemented at Farnley Hey. We consider the modernist approach entirely suitable for this site and strongly commend the design of the design of the scheme to the Council.

4.9 Access and Traffic

- 4.9.1 The access is to remain in its existing format, with no intensification of the access proposed.
- 4.9.2 The entrance is considered acceptable in its current format.
- 4.9.3 In terms of parking provision, a large area of hardstanding to the front of the property will provide ample parking space, in accordance with KCC IGN3 and CS11.

5 Comparison between Fall Back Position and Development Proposals

5.1 Volume & Floor Area Calculations

- 5.1.1 The application is accompanied by a series of drawings providing calculations gross external areas and volumes of the existing dwelling, the dwelling with permitted extensions, and then of the proposed dwelling.
- 5.1.2 The application is also accompanied by a series of overlay drawings showing that the proposed dwelling has a smaller footprint and more compact form than the existing fall-back position.

5.2 Development Proposals

- 5.2.1 Within the Green Belt, a key consideration of any proposal is the impact on the openness of the Greenbelt. The proposed dwelling will result in a smaller footprint, volume and overall gross floor area when compared to the 'legitimate fall back position', as highlighted in Table 1, ensuring the proposal is compliant with paragraph 149(c) of the NPPF.
- 5.2.2 The main house will have an overall volume of 1,697m³, while the volume of the existing house with the approved extensions would amount to 1,732m³. Therefore, the proposed development would result in an overall decrease of built form in the green belt of 35m³. Paragraph 126 states that good design is a key aspect of sustainable development and should contribute positively to make places better for people. The proposal offers a bespoke design that would result in a development of the highest quality and sustainability.
- 5.2.3 The figures below show the comparison of the existing and proposed building volumes.

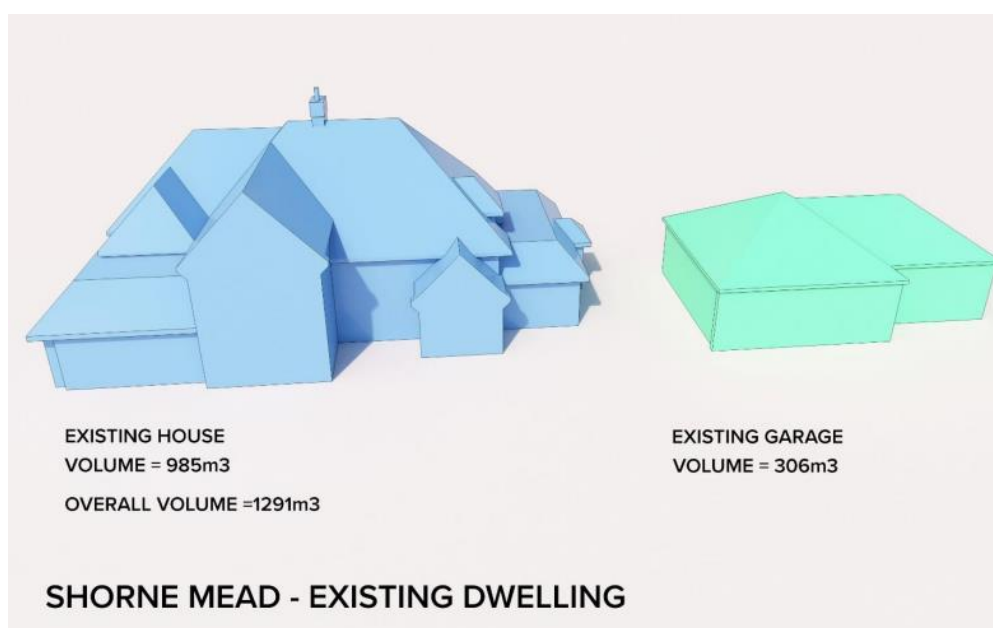


Figure 19: Existing volumes

- 5.2.4 The figure below shows the volume of the existing dwelling and garage with the approved fallback position.

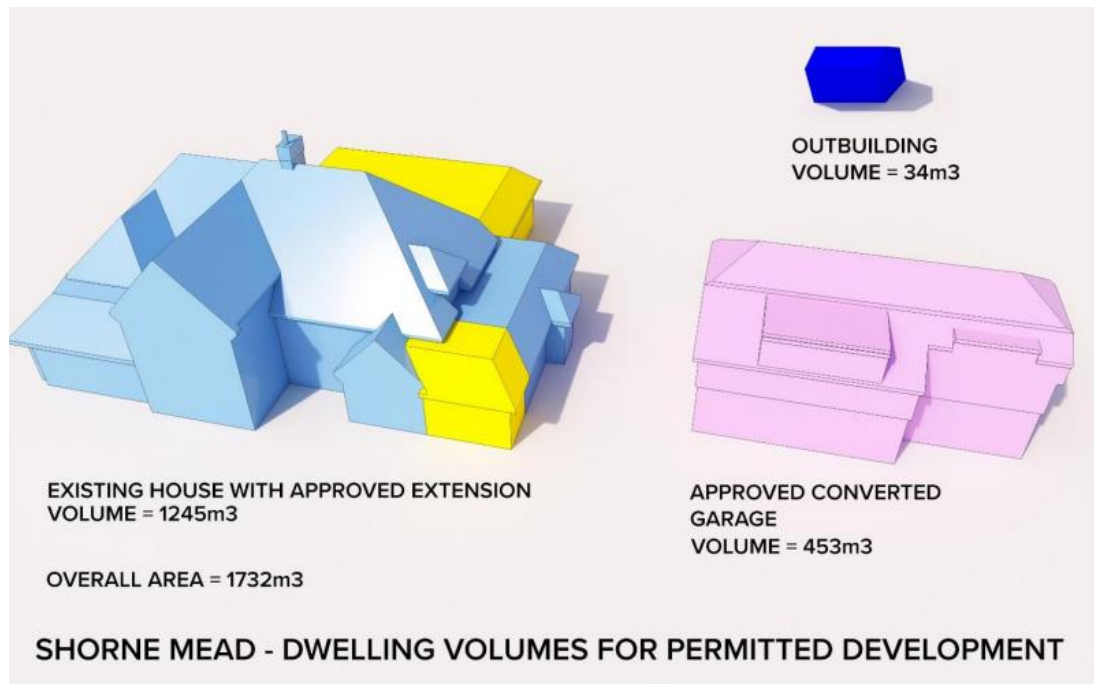


Figure 20: Dwelling volumes with permitted dwelling

- 5.2.5 The figure below shows the volume of the proposed new dwelling. The volume of the proposed dwelling is 35m³ less than the legitimate fallback position.

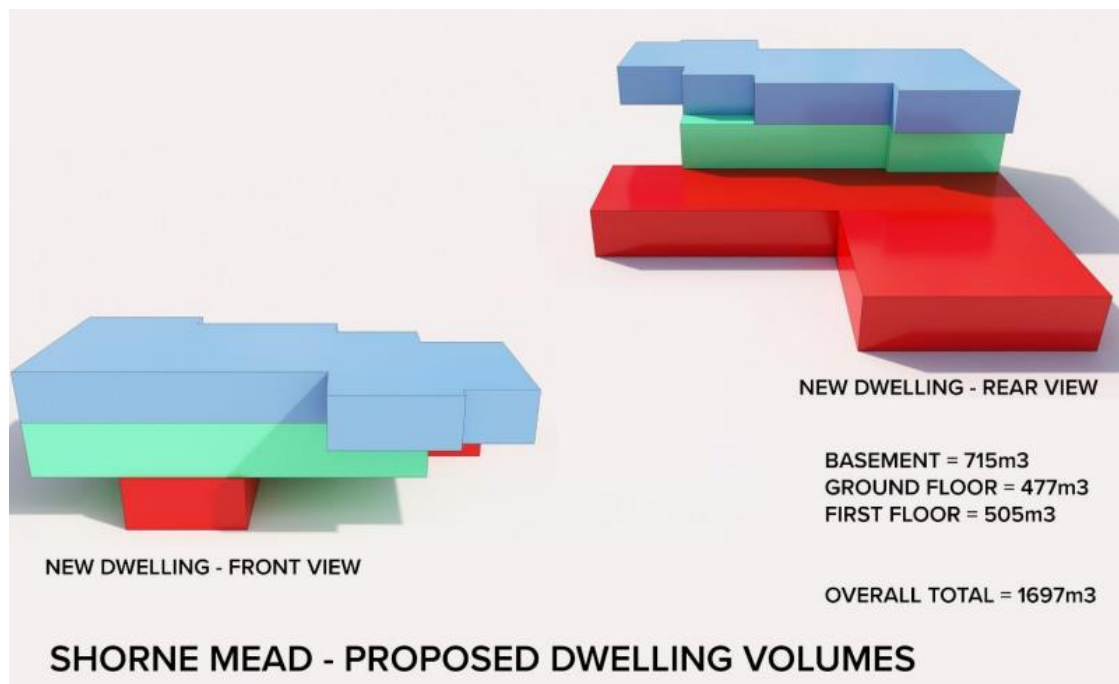


Figure 21: Proposed dwelling volume

6 Conclusions

6.1 Overview

- 6.1.1 This planning statement has been prepared by DHA Planning on behalf of Mr and Mrs Coward for the demolition of the existing dwelling, hard standing and structures and replacement with a new residential dwelling.
- 6.1.2 The site benefits from a number of permitted development rights, certificate of lawfulness development and existing building which establishes a genuine fall-back position on footprint, scale, and volume and this amount to Very Special Circumstances sufficient to allow the development.
- 6.1.3 The proposed dwelling will be smaller than the established fall-back position, with reductions in the over all volume ensuring that the development does not have a greater impact on the openness of the Green Belt, nor would it conflict with the five purposes of the Green Belt, in accordance with National Policy.
- 6.1.4 The replacement dwelling is a high-quality design that is in keeping with the character of the area. The submitted material demonstrates the high design standards of the applicant who wishes to build a family home that respects the existing community and positively responds to the character of Pear Tree Lane. The proposed dwelling will offer an exceptionally designed bespoke family home, at the forefront of 21st Century eco-living, constructed to the latest Building Regulation Standards, as shown in the figures below. The replacement dwelling will be constructed from highly sustainable materials, offering considerably higher energy efficiency than the existing dwelling, offering compliance with both Gravesham Borough Council's Local Plan and National Policy.



