

Delegated Report

Householder Planning Application

Application No: 20230916

Location: Prince Albert, 26 Wrotham Road, Gravesend, Kent, DA11 0PW

Description: Construction of an outbuilding to make ancillary restaurant seating.

Applicant: Mr Edris Barbers

Site Visit: 29 September 2022

Submitted Documents/Plans

- Application Form - dated 25 August 2023;
- Drawing no. 002 - Rev. A - Site Location and Block Plans (Existing and Proposed);
- Drawing no. 002 - Rev. A - Existing Floor Plan;
- Drawing no. 003 - Rev. A - Existing Elevations;
- Drawing no. 004 - Rev. A - Proposed Floor Plan;
- Drawing no. 005 - Rev. A - Proposed Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20220813	Application for continued use as a Public House and Restaurant with the creation of an ancillary Shisha Area	REFUSED	29.09.2022
20120547	Retention of the double doors on Zion Place frontage; fire exit doorway at rear; railings and staircase to exit roof area and new rear window opening onto chimney.	PERMITTED	14.11.2012
20070504	Remodelling of the front patio area involving the erection of a permanent rectangular umbrella and a dwarf planter wall to demark the front boundary.	REFUSED	08.08.2007
19760671	Erection of a single storey extension at rear to form sanitary accommodation and internal alterations to public house	PERMITTED	03.11.1976

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS05 - Gravesend Town Centre Opportunity Area
- CS07 - Economy, Employment and Skills
- CS08 - Retail, Leisure and the Hierarchy of Centres

- CS12 - Green Infrastructure
- CS18 - Climate Change
- CS19 - Development & Design Principles
- CS20 - Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 - Vehicle Parking Standards
- S7 - Restaurants & Hot Food Takeaways
- TC3 - Developments Affecting a Conservation Area

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 6 - Building a Strong, Competitive Economy
- Section 7 - Ensuring the Vitality of Town Centres
- Section 12 - Achieving Well-Designed Places
- Section 16 - Conserving and Enhancing the Historic Environment

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006)
- Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Gravesend Town Centre Conservation Areas Management Plan (2009)
- Windmill Hill Conservation Area Character Appraisal (2009)

Section 72(1) of the Planning Listed Building and Conservation Areas Act 1990 (as amended) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Consultations, Publicity and Representations

Consultees

GBC Licensing - The area the applicant wishes to turn into a restaurant is not covered by the plan attached to the Premises Licence. This means that the premises licence holder will have to submit an application for a full variation of the premises licence to include this area. They can do this through the Council's website following the below route: Licensing, Entertainment and Alcohol, Premises Licence, Full Variation.

The hours mentioned in the planning application are within those granted under their Premises Licence.

GBC Environmental Protection (Regulatory Services) - There is no objection to his application. However, it should be noted complaints have been received by this team in relation to noise from amplified music emanating from the pub. In this respect, due to the proximity of the proposed area to residential premises, no amplified music (either live or recorded) should take place within the ancillary restaurant seating area.

GBC Commercial Health (Regulatory Services) – No objection in principle. The following comments are

made for the information of the applicant.

- Health and Safety - In these premises Gravesham Borough Council (GBC) Environmental Health will be the enforcing authority. The applicant must ensure that the building complies fully with the Health and Safety at Work (etc) Act 1974 and all relevant regulations made there under. For information and advice on health and safety matters check out the HSE website www.hse.gov.uk or contact the Environmental Health team on commercialhealth.admin@gravesham.gov.uk or 01474 337 000.
- Smoke Free Legislation - Because of the previous illegal use of the building the applicant is reminded that they have a duty under the smoke free legislation to take all reasonable steps to prevent staff and patrons from smoking within the building

GBC Conservation Officer - Regarding the latest application for the above unauthorised extension, the proposals offer a replacement building approximating the current footprint.

It should also be noted that there is now a new extraction system installed on the side of the building and illuminated signage, which is highly visible and out of character with the conservation area, causing further visual harm to its appearance and therefore contrary to local and national policy. This should be checked against planning applications and notified to the planning enforcement manager for investigation.

Referring to the comments offered on the previous application (ref. 20220813):

1. The proposals indicates some separation between the rebuilt restaurant area and the main building.
2. The proposed replacement building is constructed in brick with concrete tile roof. There is no information regarding the window system. There is no heritage statement setting out the impact of the proposals on the conservation area.
3. As previously stated the proposal is highly visible, being set at the back of an unattractive and highly visible car park, where the boundary wall has been removed.

The proposal remains and incongruous design that is out of character with the conservation area and the host building. The cumulative harm now further exacerbated by the extraction system and illuminated signs that have recently appeared on the main building. The proposals are therefore contrary to local and national planning policy and cannot be supported.

Neighbouring properties

An advert was published in the Gravesend Messenger and a notice displayed on site.

In addition, nineteen surrounding properties were consulted, and no representations were received.

The consultation period expired 13 October 2023.

Preliminary Matters

This application follows a similar refused application (ref. 20220813). The refused application proposed the “continued use as a Public House and Restaurant with the creation of an ancillary Shisha Area”, with the retention of an outbuilding in the beer garden. The application was refused for the following reasons:

1. *The proposed change of use of the beer garden into a shisha area will materially impact the amenity of adjoining neighbours by virtue of unacceptable levels of noise and disturbance as well as fugitive odours. The unsubstantial structure will shelter users in all weather conditions enabling year-round use, but cannot achieve adequate sound proofing or smoke and odour control to mitigate noise nuisance and fugitive smoke and odour emissions whilst meeting Smoke free regulations which require an open air structure. Therefore, the development fails to provide adequate mitigation to safeguard neighbour*

amenity, and is contrary to Policy CS19 of Gravesham's Local Plan Core Strategy (2014) and Section 12 National Planning Policy Framework (2021).

2. *The structures are disproportionate in scale and poorly designed additions within the smoking area, which appear as a ramshackle quality and of incongruous design due to differing roof forms and poor quality external finishes in a prominent position visible from the street. As such, the development has a detrimental impact on the character and appearance of the street scene, fails to preserve or enhance the quality of the host building or the Conservation Area setting. Therefore, the development fails statutory test s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, is contrary to Policies CS19 and CS20 of Gravesham's Local Plan Core Strategy (2014), saved policies TC2 and TC3 of the Gravesham Local Plan First Review (1994), as well as Sections 12 and 16 of the National Planning Policy Framework (2021).*

It is noted that this application does not propose a shisha area, and therefore some matters included in ground of refusal 1 are not relevant, however in order to receive a favourable decision this proposal must be considered to overcome the reasons for refusal attached to the previous application.

Officer's Analysis

Site Description

The application site is the Prince Albert public house, located on the corner of Wrotham Road and Zion Place. The site is adjacent to the Town Centre Opportunity Area as designated by Gravesham's Local Plan Core Strategy (LPCS) (2014) and is within the Upper Windmill Street Conservation Area.

The premises were constructed as a Shepherd Neame Public House during the 19th Century and have remained in this use since. A small rear extension was added in 1976 to provide toilet accommodation. Permission was granted in 2007 for the re-modelling of the front patio area to provide a permanent umbrella and erection of a planter to mark the boundary. An application was permitted in 2012 for retention of doors on the front and alterations to the rear to provide a fire exit.

It is a part three storey building with a two storey projection to the rear. It has blue block elevations to the ground floor and white painted rendered elevations to the upper floors with decorative mouldings all under a slate roof.

The ground floor of the building operates as a public house, with the upper floors used as individual letting rooms that are accessed via a metal staircase at the rear of the building from the car parking area.

A timber outbuilding was erected within beer garden to form a smoking area which was extended and converted in 2022 for the smoking of shisha. The subsequent proposal to regularise the use of the outbuilding for the smoking of shisha was refused in 2022 (ref. 20220813). This application follows the refusal and sets out to retain the outbuilding, albeit reduced in scale, for use as an ancillary restaurant seating.

Proposed Development

This application seeks planning permission for the erection of a detached outbuilding for an ancillary restaurant seating area.

The outbuilding would have main pyramid pitch roof section to the rear of the site and a subservient hipped roof projection towards the pub. The building would have the following dimensions:

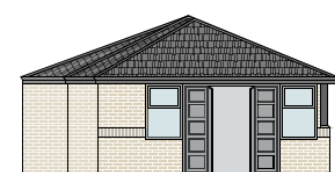
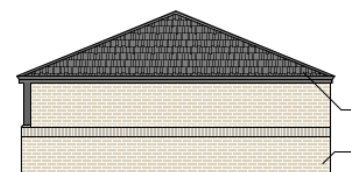
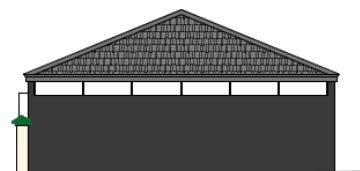
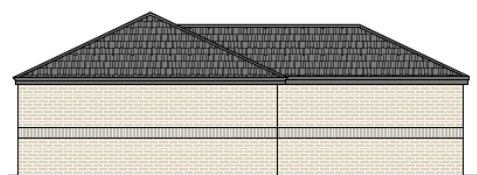
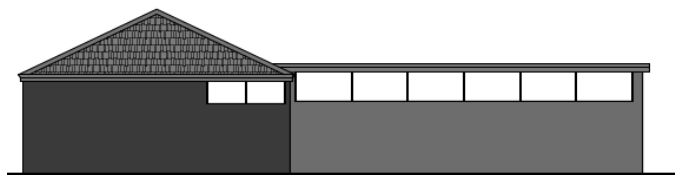
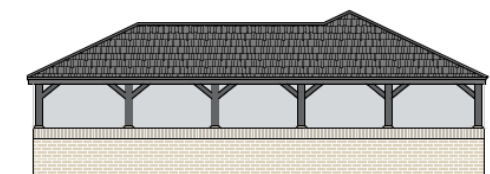
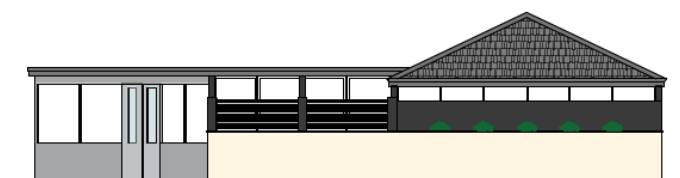
- Depth (max) - 9.9m
- Width (max) - 6.88m
- Height (max) - 3.65m
- Height (eave) - 2.25m

Although the application states that the proposed development is for the erection of a new outbuilding, there is an existing outbuilding on the site that does not benefit from planning consent and is inherently similar to the proposed structure (as demonstrated in the site photograph and screenshots below):



Existing Elevations

Proposed Elevations



The details state that the outbuilding would be finished in yellow stock bricks with smooth grey concrete roof tiles.

Principle of Development

The application site is shown as bordering the edge of the Gravesend Town Centre Opportunity Area (Policy CS05 - sub area 3.3) and within the Upper Windmill Street Conservation Area (Policy CS20). It also located outside of the Gravesend Town Centre Boundary (Policy CS08). The site fronts on to Wrotham Road and Zion Place, primary distributors on the highway network.

Policy CS05 of the Local Plan Core Strategy (LPCS) (2014) seeks to ensure that the competitiveness of the town centre is improved through economic and social activity, by supporting and enhancing; retail, leisure and entertainment, whilst maintaining a satisfactory living environment.

Policy CS07 (Economy, Employment and Skills) (LPCS) (2014) seeks to enhance opportunities for all local people to access new jobs arising from the Council's employment policies which also lends support to the provision of employment on this site. Policy CS08 of Gravesend Local Plan Core Strategy (LPCS) seeks to support development of a scale and type appropriate to the position of the centre in the hierarchy and their

character and safeguard the retail character and function of existing centres. The National Planning Policy (2023) states at paragraph 81 that significant weight should be placed on the need of supporting economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The application site is located within the Upper Windmill Street Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. These duties are reflected in Section 16 (Conserving and Enhancing the Historic Environment) of the National Planning Policy Framework (NPPF) (2023) and Policy CS20 (Heritage and the Historic Environment) of the Gravesham Local Plan Core Strategy 2014 (LPCS), saved policies TC2 (Policy for Listed Buildings) and TC3 (Development Affecting Conservation Areas) of the Gravesham Local Plan First Review 1994 (LPFR).

Therefore, the key considerations within this application are:

- Change of Use
- Amenity
- Character, Appearance and Impact on the Conservation Area
- Parking and Highways

Change of Use

As stated in the committee report for the previous application, “the use of the Prince Albert as a restaurant or ‘gastro-pub’ does not require planning permission. The change of use from a drinking establishment to a drinking establishment with expanded food provision is permitted under Schedule 2, Part 3, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)”. Although the proposed seating area would be in the garden, it is ancillary to the main public house and would therefore not require a change of use. Nevertheless, this would likely be an issue with GBC licensing which will be considered below.

Amenity

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

Under this proposal, the key issues that would affect amenity relate to the hours of operation, noise and odour.

Hours of Use

The application form states the intended opening hours of the restaurant seating area would be:

Mon-Fri	12:00-22:00
Sat	11:00-22:00
Sun / Bank Hol	12:00-20:00

The proposed operating hours of the seating area fall within the licenced hours for the public house. However, GBC Licensing have highlighted that if permission were granted that a licensing application would be required as the garden is not covered in the existing license.

Notwithstanding the licensing issue, the proposed hours of operation of the garden seating area are considered to be acceptable.

Noise and Odour

The previous application for a shisha area was refused for impact on amenity through noise and odour contrary to Policy CS19 (LPCS) and Section 12 (NPPF), however as aforementioned this application proposes an ancillary seating area for the restaurant and not a shisha area. Therefore, the fugitive odour impacts from fumes is not an impact, but the restaurant seating area would still have potential noise and odour impacts.

It is unclear from the information provided whether the amplified music systems within the building would be retained for the seating area. GBC Environmental Protection highlighted that complaints have been received relating to noise emissions from the building previously, but have raised no objection to this proposal. Therefore, it is considered that adequate conditions could be attached to a decision notice, if permission were forthcoming, to ensure that no live or recorded amplified music should take place within the seating area at any time.

In relation to the general use of the area for restaurant seating, there would be some noise from patrons, cutlery, etc. however this is not considered to be at levels to impact the amenity of surrounding properties. Moreover, the hours of operation are considered to be acceptable for a residential area. The odour emissions from the seating area would similarly have no detrimental impact on the amenity of surrounding residents.

Conclusion on Amenity

The proposed ancillary restaurant seating area would be operated at acceptable times and is not considered to generate unacceptable noise or odour nuisance through use. Therefore, subject to conditions ensuring that no amplified music is played in the area at any time, the proposed development would safeguard amenity in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Character, Appearance and Impact on the Conservation Area

Development Plan policy places considerable emphasis on the importance of achieving high quality, beautiful and sustainable buildings and places. Paragraph 130 of the NPPF (2023) seeks to ensure that development will add to the quality of an area, be visually attractive, and sympathetic to local character and history. Policy CS19 (LPCS) reflects these aims and requires that new development is well designed and respects the character and appearance of the surrounding area.

The NPPF (2023) also places great significance on the desirability of sustaining and enhancing heritage assets, and on new development making a positive contribution to local character and distinctiveness (paragraph 197). This is echoed in Policy CS20 (LPCS), which states that the significance of the Borough's heritage assets and their setting should always be preserved or enhanced. Saved Policy TC3 of the Local Plan 1994 sets out that developments will be carefully judge for its impact and to ensure they make a positive contribution on Conservation Areas.

From a historic building/conservation point of view, the application site comprises a focal and positive building on a prominent corner site within the Upper Windmill Street Conservation Area. Therefore, these policies are all relevant to the consideration of this application and care must be taken to ensure that developments preserve or enhance the character of the Conservation Area.

GBCs Conservation Officer has reviewed the application and raised objection to the development, stating that "the proposal remains an incongruous design that is out of character with the conservation area and the host building". This is exacerbated by the recently installed ventilation/extraction system and signage, which are associated to the restaurant use, and when viewed with the incongruous outbuilding result in cumulative harm to the character and appearance of the Conservation Area. These do not benefit from planning permission and planning enforcement have been notified.

The outbuilding is located against the backdrop of the unsightly car park, and both individually and

cumulatively the carpark and structure would have a detrimental impact on Conservation Area. It is proposed that the outbuilding would be constructed using facing yellow stock bricks, which would represent an improvement on the existing poor quality timber finish, however the scale and prominence of the building and smooth grey concrete roof tiles would be harmful to the character of the Conservation Area.

The development causes harm to the appearance of the Upper Windmill Street Conservation Area, the scale of the structure, incongruous appearance and its prominent position would, along with the obtrusive extraction system and signage, would have a detrimental cumulative harm to the Conservation Area. Therefore, the proposal fails to preserve or enhance the quality of the host building nor the Conservation Area and the proposed development fails statutory test s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy CS20 (LPCS) and TC3 (Development Affecting Conservation Areas) of the Gravesham Local Plan First Review 1994 (LPFR).

Parking and Highways

Policy CS11 (LPCS) seeks to ensure that new developments mitigate their impact on the highway and provide sufficient parking in accordance with adopted parking standards.

The application site is located on the edge of the town centre, with good access to surrounding public car parks on Parrock Street and Lord Street. There are some spaces available to the front of the site. No information has been provided regarding the parking on site, or who will be permitted to use the carpark.

Due to the availability of parking near to the site, there is no objection on highway terms. However, the existing carpark area to the rear of the main building does not benefit from a full width dropped kerb and if permission were forthcoming, a condition would be attached to ensure that the dropped kerb is extended prior to the additional external seating area being first brought into use.

Conclusion

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

The proposed outbuilding is an incongruous addition, that would dominate the beer garden within a prominent and highly visible location within the street scene, it is incongruous and out of character with the host building and along with the associated extraction unit and signage would have a negative cumulative impact on the Upper Windmill Street Conservation Area. Therefore, the development fails to preserve or enhance the quality of the Conservation Area and is poor design contrary to local and national planning policy.

Therefore, the proposal has failed to overcome the previous ground of refusal 2 and will be refused for the following reasons:

1. The proposed outbuilding is an incongruous addition that would dominate the beer garden within a prominent and highly visible location within the street scene, is out of character with the host building, and along with the associated extraction unit and signage would have a negative cumulative impact on the Upper Windmill Street Conservation Area. Therefore, the development fails statutory test s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, is contrary to Policies CS19 and CS20 of Gravesham's Local Plan Core Strategy (2014), saved policy TC3 of the Gravesham Local Plan First Review (1994), as well as Sections 12 and 16 of the National Planning Policy Framework (2023).

Recommendation

Refusal

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

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Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	9 th November 2023	Dated:	10 November 2023