



Delegated Report

Application No: 20240497

Location: 36B Brandon Street Gravesend Kent DA11 0PL

Description: Erection of a loft development for the creation of a new 1 x 2 bed flat with box dormers to rear roof slope and roof light windows to the front roof slope.

Applicant: Mr Oluwaseyi Babatunde

Submitted Documents/Plans

The application comprises the following documents and plans:

- Application Form.
- Drawing no. 000 - Site Location Plan.
- Drawing no 001 - Existing Block Plan.
- Drawing no. 002 - Existing Ground and First Floor Plans.
- Drawing no. 003 - Existing Loft and Roof Plans.
- Drawing no. 004 - Existing Sections A-A and B-B.
- Drawing no. 005 - Existing Front and Side Elevations.
- Drawing no. 006 - Existing Rear and Side Elevations.
- Drawing no. 007 - Proposed Block Plan.
- Drawing no. 014 - Proposed Ground and First Floor Plans.
- Drawing no. 015 - Proposed Loft and Roof Plans.
- Drawing no. 016 - Proposed Sections A-A and B-B.
- Drawing no. 017 - Proposed Front and Side Elevations.
- Drawing no. 018 - Proposed Rear and Side Elevations.
- Drawing no. 019 - Loft Volume Calculation.

Relevant Planning History

Reference	Description	Decision	Decision Date
20240496	Erection of a single storey side extension at 36A Brandon Street Gravesend Kent DA11 0PL	Pending consideration	N/A

Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Courts have held that it is a matter of planning judgement as to whether a proposal is in accordance with the development plan when 'read as a whole' and conflict with a particular policy or policies may not pass that threshold.

Where there are other material considerations, the development plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date.

In this instance the development plan for Gravesham currently comprises: -

- The Gravesham Local Plan Core Strategy (September 2014);
- Remaining Saved Policies of the Local Plan First Review (1994); and
- The Kent Minerals and Waste Local Plan 2013 - 2030 (2016, revised 2020).

Gravesham Local Plan Core Strategy (September 2014):

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

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

- P3 – Vehicle Parking Standards.

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 First Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

Other material considerations

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.

Supplementary Planning Guidance

- Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020.
- Design for Gravesham – Design Code SPD (2024).
- Technical Housing Standards – nationally described space standard (2015); and
- SPG 4 - KCC Parking Standards (2006).

Consultations, Publicity and Representations

GBC Environmental Protection Officer

There is no objection to this application. The following is recommended:

Code of Practice on Construction and Demolition

Please apply as appropriate due to the proximity of nearby residential premises

GBC Private Sector Housing

We can confirm Private Sector Housing have no comments to relay in relation to our housing legislation and requirements. We believe the proposed scheme is currently outside of our remit with Planning requirements and Building Regulations taking precedence.

Neighbouring properties

Ten surrounding properties were consulted and the application has been advertised by a site notice. No responses have been received. The overall consultation period expired on 02 August 2024.

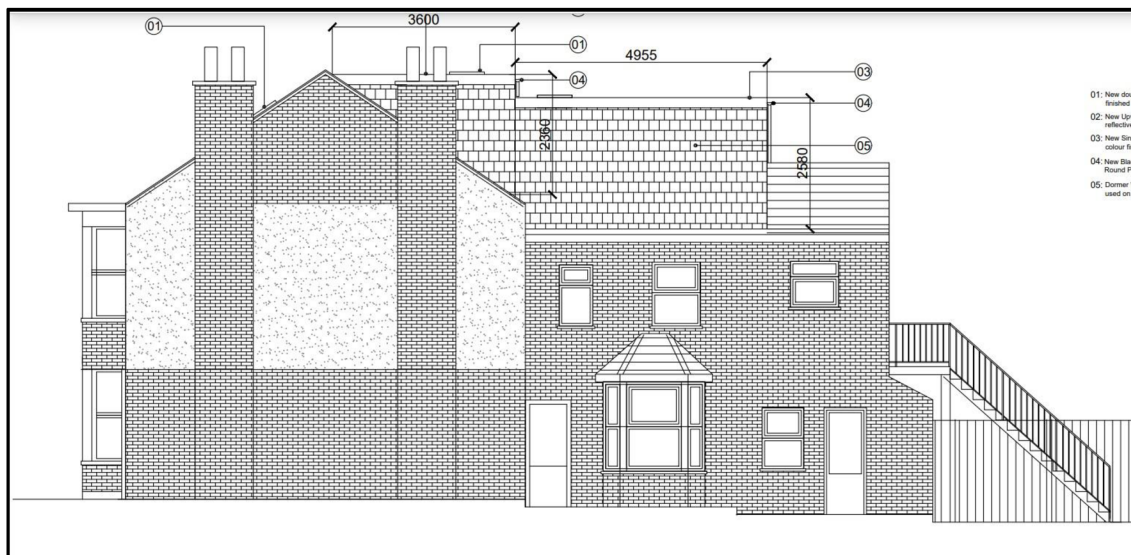
Analysis

The application site is defined on the Core Strategy Policies Map as lying within the urban area. It lies on the eastern side of Brandon Street and comprises a detached building that has been subdivided into two flats. This building can be seen in the following photograph:

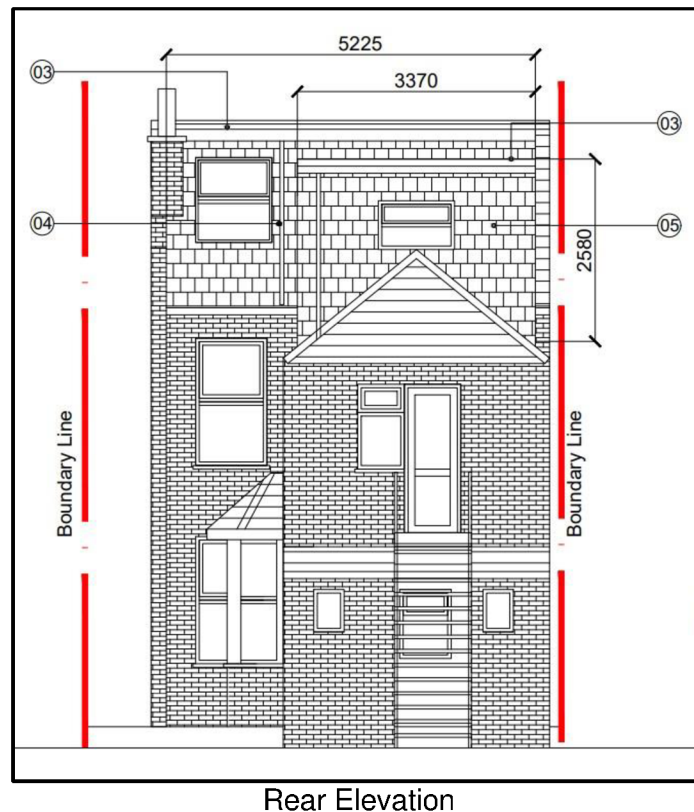


This application relates to the first floor flat. This flat currently accommodates two bedrooms, living room, kitchen and bathroom.

This proposal involves the provision of a roof extension to the existing property. This would comprise a dormer which would be located within the rear roofslope and the roofslope of the rear outrigger. The side and rear elevations of this proposed addition can be seen in the following extracts from the submitted drawings:



Side Elevation



Rear Elevation

The proposed roof extension would provide a second floor to the building. This together with a reconfigured first floor, would be used to accommodate a total of two flats. The first flat (no. 36B) would be located at first floor level and would accommodate a living/kitchen/dining area, one bedroom and a bathroom. The second flat (no.36C) would be located at first and second floor levels. It would accommodate a kitchen/living/dining room at first floor level and two bedrooms (one with an en-suite bathroom) and a bathroom at second floor level.

Housing need

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 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

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:

...habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and 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, 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.

Notwithstanding the Council's shortages in housing delivery and the consequent weight to be given in favour of the proposed development it is necessary to assess the proposals against the policies in the NPPF and established local planning policy taken as a whole.

Principle of residential development

This application is located in the urban area where alterations and extensions to residential buildings are generally acceptable in principle as per Policy CS02 of the Core Strategy. As such there is no objection to the broad principle of the extension of this property.

With respect to the creation of an additional residential unit, the broad principle of this element of the proposal finds support in the NPPF. Paragraph 60 is particularly relevant:

To support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

In addition, paragraph 70 requires that in order to promote the development of a good mix of sites local planning authorities should, *inter alia*, "support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".

The application site is defined on the Policies Map of the Gravesham Local Plan Core Strategy as lying within the urban area. Policy CS02 of the Core Strategy “prioritises development in the urban area as a sustainable location for development”.

In light of these considerations, there is no objection to the broad principle of the extension of the existing building and the provision of an additional residential unit subject to the proposal being appropriate in terms of other planning issues.

Design, character and appearance

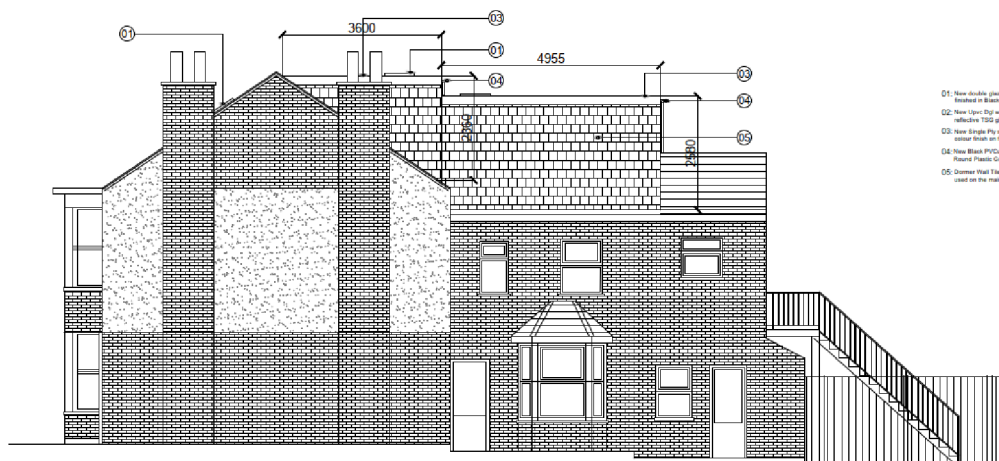
Section 12 of the NPPF relates to “achieving well-designed and beautiful places” and sets out the Government’s requirements in relation to design issues. Paragraph 131 is particularly relevant:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The aims set out in paragraph 131 of the NPPF are reflected in Policy CS19 of the Council’s Core Strategy. This requires new development to be “visually attractive, fit for purpose and locally distinctive” and to “conserve and enhance the character of the local built, historic and natural environment”. It also requires new development to “integrate well with the surrounding local area”. In addition, Policy CS19 requires the following:

“....the design, layout and form of new 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. Account will be taken of the scale, height, building lines, layout, materials and other architectural features of adjoining buildings.”

The proposed dormer would wrap around two sides of the hipped roof of the existing building. It would occupy almost the entire rear facing roofslope and the majority of the roofslope of the outrigger to the rear. It is normally expected that roof extensions are set away from the gables, hips, eaves and ridge of a property. This would not be the case with this proposal. The extension would appear as a large domineering addition to the roof. The development would result in an incongruous, bulky and disproportionate addition to the property. This would be to the detriment of the character of the existing building and surrounding area. The elevation below highlights the bulk of the roof alterations;



The aerial photograph is useful to visual how the proposal will overwhelm the roofslope;



In addition, the southern elevation of the dormer would comprise a large blank façade that would be devoid of windows. This would have an overbearing appearance and would be unacceptable in design terms.

In light of the above assessment, this proposal would fail to meet the tests set out in the NPPF and Policy CS19 of the Council's Core Strategy in relation to the requirement for good design.

Residential amenity

Paragraph 135 of the NPPF requires planning decisions to, *inter alia*, provide “a high standard of amenity for existing and future users”. In addition, Policy CS19 of the Core Strategy requires new development to be located, designed and constructed to “safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land”. The Council's adopted Residential Layout Guidelines provide more detailed guidance with respect to the protection of residential amenity.

Privacy

Two windows are proposed within the eastern elevations of the roof extension. The main aspect of these windows would be towards the rear boundary of the site. As such they would not result in window to window overlooking or a loss of privacy to the amenity areas of neighbouring occupiers. Two rooflights are also proposed within the front roofslope of the building. The main aspect of these rooflights would be towards the public highway to the west of the site. As such, these windows would also not result in a significant loss of privacy to neighbouring occupiers.

Sunlight/daylight/outlook

No. 35 Brandon Street lies to the south of the application site. An access drive, which serves a

builders yard to the rear of no. 35 Brandon Street, is located between the buildings. This can be seen on the following Google aerial image:



It is also clearly shown on the following extract from the “existing block plan” accompanying planning application 20210364 which relates to the builders yard (Demolition of existing ground floor office and erection of first floor office with undercroft parking at CAP Developments Ltd, 35A Brandon Street, Gravesend, Kent, DA11 0PL):



Due to the separation distance between the application site and no. 35 Brandon Street, including the presence of the existing access drive, it is considered that the proposed additions would not significantly impact upon the occupiers of this property in terms of loss of daylight or loss of outlook. In addition, as the building at no. 35 Brandon Street lies to the south of the application site, there would not be any impacts in terms of loss of sunlight.

No. 37 Brandon Street lies to the north of the application property. It benefits from a large two storey rear extension which was granted permission in March 1994 (Gravesham planning reference 19930559). The relationship of this extension and the application property can be seen in the following photograph:



No. 37 Brandon Street is the property to the right in the above photograph.

The southern elevation of the extension to no. 37 Brandon Street contains a kitchen window at ground floor level and a bathroom window at first floor level. These windows currently experience minimal levels of sunlight/daylight due to the proximity of the outrigger at the application property. It is unlikely that the proposed extensions would significantly increase any loss of sunlight/daylight to these windows. Furthermore, due to the location of the proposed extension there would be no significant increase in loss of outlook to the occupiers of this neighbouring property.

Internal space standards

The “Technical housing standards – nationally described space standard” was published by the Department for Communities and Local Government in March 2015. This document sets out requirements for the gross internal area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home. The following table compares the proposed scheme to the requirements of these housing standards:

Flat	No of bedrooms	No. of bedspaces (persons)	No. of storey's	Gross internal floor area (sq.m.)	National standard minimum gross internal floor area (sq.m.)
Flat 36B	1	1	1	34.5	39.0
Flat 36C	2	3	2	57.0	70.0

The above table demonstrates that each of the proposed residential units would fail to meet the minimum requirements for gross internal floor areas as set out in the “Technical housing standards – nationally described space standard”.

External space standards

Policy CS19 of the Core Strategy requires that new development “will provide appropriate levels of private and public amenity space”. In addition, the Council’s Residential Layout Guidelines require that for communal flats, a communal garden area equivalent to a minimum of 10 sq. metres shall be provided for amenity space.

Although this standard would be met in terms of the size of the amenity area, it is not clear how this would be accessed by future occupiers. Flat 36A would have direct access from the door serving the kitchen and Flat 36B would have direct access via a rear external staircase. However the occupiers of Flat 36C do not appear to have direct access. Occupiers would need to exit the front door and then walk around the building to reach the rear garden area. A fence and gate is shown on the drawings adjacent to Flat 36A. It is not explicitly clear whether occupiers of Flat 36C have access via this gate to the amenity area. If permission were to be granted, this would need to be fully established to ensure that each unit has access. A condition could be imposed requiring full details to be submitted and approved of access arrangements for all occupiers of the development to the communal amenity area.

In summary and in light of the above considerations, this proposal would fail to meet the minimum requirements for gross internal floor areas as set out in the “Technical housing standards – nationally described space standard” and as such would not provide a satisfactory level of amenity for future occupiers of the development.

Parking and highways

Policy CS11 of the Core Strategy seeks to ensure that new development mitigates its impact on the highway and that sufficient parking is provided in accordance with adopted parking standards, reflecting the availability of public transport provision and the accessibility of local services and facilities.

In accordance with current Kent County Council Vehicle Parking Standards a maximum of one parking space for each one-bedroom unit and a maximum of two spaces for each two-bedroom unit should be provided. No on-site parking is proposed due to the location and limited size of the application site.

In this particular case, the application site is located within a sustainable location in proximity to Gravesend town centre with its associated retail, leisure, community, business and educational facilities. It is also located in proximity to good public transport links. Gravesend train station lies within walking distance of the site and local bus services are available. Given the sustainable

location of the application site and its proximity to good public transport links, it is considered that, on balance, a reason for refusal based on lack of provision of on-site parking to serve the new development would be difficult to substantiate.

The current Kent County Council Vehicle Parking Standards also provide minimum cycle parking standards. For flats, there is a requirement of one space per unit. No provision has been made for secure cycle storage. However, the site is of sufficient size to accommodate such storage. As such, if permission were to be granted, this could be secured by planning condition.

Recreational Pressures on the Thames Estuary and Marshes Special Protection Area (SPA) and SAMMS

The Thames Estuary and Marshes Special Protection Area (SPA) is classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and/or vulnerable in a European context, and also sites that form a critically important network for birds on migration. It is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity. Research conducted in 2011 found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within 6 km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European Sites.

The Local Planning Authority has mitigated out the impacts of this on each and every planning application for a new residential development of one or more units within the 6km zone since September 2015 by accepting a Strategic Access Mitigation and Monitoring Strategy (SAMMS) (tariff) payment (currently £328.27 per dwelling) where applicable. This approach is approved by Natural England for all new residential developments. For every planning application for a new dwelling (including new flats), the tariff contributions are secured through a Section 106 legal agreement or unilateral undertaking or if there are no other financial contributions this is secured through a contribution agreement. Where a developer is unwilling to make the SAMMS payment, sufficient evidence is required to be supplied to enable the Council to undertake an Appropriate Assessment to determine that it is unnecessary to mitigate any potential Likely Significant Effect.

The tariff has previously been accepted effectively in lieu of an Appropriate Assessment (AA). However, in a recent Court of Justice European Union (CJEU) ruling this approach was not considered to be valid, as the CJEU considered the first stage to be a screening assessment as to whether the development either alone or in combination, is likely to have significant effects on a designated site without mitigation. In this respect, the CJEU judgement made a distinction between “the plan or project” itself and “measures intended to avoid or reduce the harmful effects of a plan or project on a European site”. This means that mitigation measures, which are intended to avoid or reduce effects, should be assessed within the framework of an Appropriate Assessment and that mitigation measures cannot be taken into account at the screening stage.

The applicant has not made the required contribution. On this basis, the proposal would fail to comply with the NPPF, Policy CS12 of the Core Strategy and the requirements of the Conservation of Habitats and Species Regulations 2017.

Conclusion

It is acknowledged that the Council is currently unable to demonstrate a five-year housing supply and as the delivery of housing is substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Policy CS02 of the Core Strategy must be regarded

to be out of date, as required by the Paragraph 11(d) of the NPPF.

The proposed development for a net increase of one dwelling would offer a limited contribution towards meeting this local need and delivery and, accordingly, adds some weight in support of the application.

However, notwithstanding this a balanced approach has to be taken and it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and established local policy taken as a whole. In this case the balance is tilted towards refusal.

The proposed development would result in an incongruous, bulky and disproportionate addition to the property which would be detrimental to the character of the existing building and surrounding area. As such, the proposal is considered to be contrary to Policy CS19 of the Gravesham Local Plan Core Strategy (2014), and Section 12 of the National Planning Policy Framework (2023).

The proposed development would fail to provide a satisfactory level of residential amenity for future occupiers due to insufficient levels of internal living space. The development would therefore fail to meet the tests set out in the National Planning Policy Framework (2023), Policy CS19 of the Gravesham Local Plan Core Strategy (2014) and the Technical Housing Standards - nationally described space standard (2015).

The applicant has failed to provide any ecological evidence to inform a habitat regulations assessment to address the impact of the proposed development on the Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) or offered a financial contribution towards the identified mitigation measures to address the impact of the development on the SPA/Ramsar site. The proposal is therefore contrary to Policy CS12 of the Gravesham Local Plan Core Strategy (2014) which seeks to ensure that detrimental effects on the integrity of SPA/Ramsar sites are avoided, and also contrary to Paragraphs 186 and 187 of the National Planning Policy Framework (2023).

Recommendation:

REFUSE PLANNING PERMISSION

See draft Decision

Case Officer: Gary Edwards	Team Leader: Miss Faye Hobbs
Signed: 	Signed: 
Dated: 14 August 2024	Dated: 16 August 2024