



Delegated Report

Planning Application

Planning Application No: 20231010

Location: Sir John Falstaff Gravesend Road Higham Rochester

Description: Erection of a four bed dwelling house on the land to the rear of Sir John Falstaff Public House with associated car parking and landscaping, including reconfiguration of the public house car park and beer garden.

Applicant: Punch Partnerships (PML) Limited

Site Visit Date: 29 November 2023

Submitted Documents/Plans

- Covering Letter;
- Application form;
- Drawing no. 23.3459.000 Rev. P2 – Location Plan;
- Drawing no. 23.3459.001 Rev. P2 – Existing Site Plan;
- Drawing no. 23.3459.002 Rev. P1 – Existing PH Plans & Elevations;
- Drawing no. 23.3459.100 Rev. P5 – Proposed Site Plan;
- Drawing no. 23.3459.101 Rev. P4 – Proposed Plans, Elevations & Street Scene;
- Design & Access Statement;
- Biodiversity Metric Calculation;
- Biodiversity Metric 4.0 Calculation Tool;
- Transport Statement;
- Arboricultural Implications Assessment;
- Arboricultural Method Statement
- Planning Statement;
- Heritage Statement; and
- CIL Form.

Relevant Planning History

Reference	Description	Decision	Decision Date
19760317	Formation of extension to existing car park	Permitted	20.10.1976
19480073	The construction of car park and access	Permitted	28.09.1948

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS07 – Economy, Employment and Skills

- CS11 - Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- TC2 – Listed Buildings
- TC7 – Other Archaeological Sites
- P3 – Vehicle Parking Standards
- T1 – Impact of Development on Highway Network
- T5 – Access to the Identified Highway Network

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

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

Other material considerations

Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, the Council has a statutory duty in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architect or historic interest which it possesses.

National Planning Policy Framework (2023)

- Section 2 - Achieving sustainable development
- Section 4 – Decision Making
- Section 5 – Delivering a sufficient supply of homes
- Section 8 – Promoting healthy and safe communities
- Section 12 – Achieving well-designed and beautiful places
- Section 13 – Protecting Green Belt land
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020;
- Technical Housing Standards – nationally described space standard (2015);
- Householder Extensions/Alterations Design Guide (2021);
- Gravesham Landscape Character Assessment (2009)

Adopted Kent Council SPG's:

- SPG1: Landscape Character (2006)
- SPG2: Biodiversity (2006)
- SPG4: Kent Vehicle Parking Standards (1996)

Consultations, Publicity and Representations

Consultees

Ward Councillor

As Ward Councillor, please note that I would like to object to this planning application on the following grounds:

1. The application is situated on the curtilage of the Grade II Listed Building, the Sir John Falstaff Public House and will have a detrimental affect on the setting of this Listed Building.
2. The Listed Building is also adjoins the Charles Dicken's Wilderness which connects to the Grade 1 Gads Hill Place via a tunnel which Charles Dickens built to give him private access and this application would adversely affect the setting of the Wilderness and Tunnel.
3. The proposed location would dilute the character of the area and the historic importance and would set a precedence for similar infills of properties.
4. The proposed application is in proximity to or within the Green Belt.
5. The proposed dwelling is to be situated very close to The Sir John Falstaff Public House which could result in noise and disruption for the new residents.
6. The proposed development would overlook nearby existing properties and would be particularly detrimental to the property adjacent to the Public House.
7. The proposal would result in two fewer car parking spaces in the existing car park (actually may result in more) and the proposed plan to extend the car park on part of the garden land will result in the tarmacing over green amenity space.
8. Telegraph Hill is a single track road and at this point has a gradient of 25-30% which will cause danger to entering and exiting into the dwelling. Also, vehicles which currently use Telegraph Hill have to reverse down or up when encompassing a vehicle travelling in the opposite direction at this dangerous point. The current width of the car park does allow for vehicles to pull in and allow vehicles to pass. The proposed reduced entrance to the car park could mean reversing onto the A226, a main trunk road, which could endanger vehicles travelling on this road and may cause unnecessary accidents
9. An illumination plan for the car park would need to be installed due to the house over-shadowing the car park.
10. A Highway Risk Assessment should be considered
11. The proposed new car parking spaces would have a detrimental affect on properties to the north of the plans; by way of intrusion of visibility, more noise pollution for these properties who are currently sheltered by the trees and green spaces.

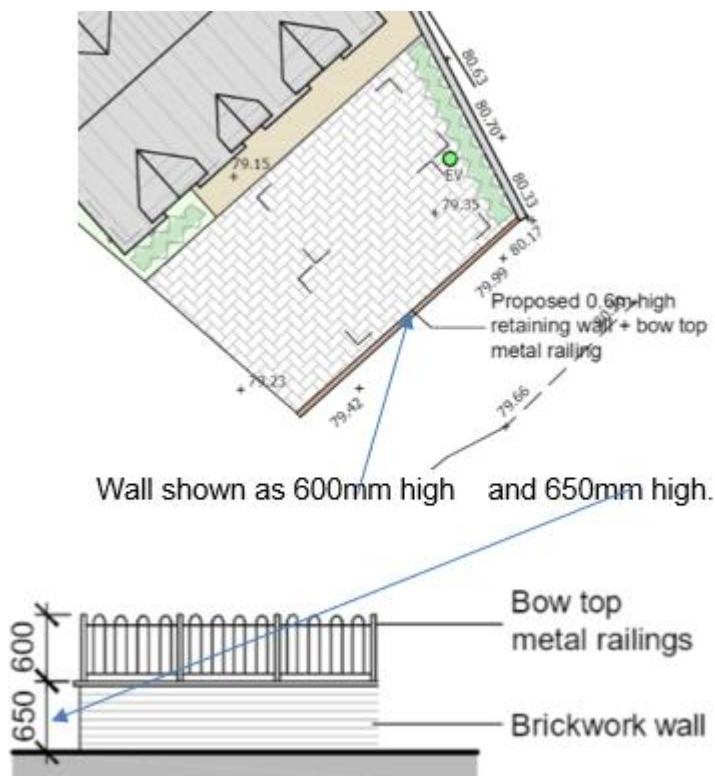
Furthermore, I do not feel this application would assist in the Gravesham Housing Allocation as stated by the Applicants but instead deem it an unnecessary development in this area.

GBC Highways Officer

This proposal raises a couple of issues.

1. The reduction in car parking for the public house, should ideally be supported by a parking survey of the car parking during trading hours on Friday, Saturday and Sunday lunch time.

2. The proposed retaining wall and railings could conflict with sight lines at the access, as at certain angles railings can form a wall to vision. There is also a conflict on the submitted drawing. Drawing number 23.3459.100 Revision P5



The boundary treatment should be revised so no part of the structure is above 850mm of the level of Telegraph Hill. To provide visibility of both vehicles and pedestrians as there is no footway.

3. As the dwelling will use the same access as the public house, to protect the access, it is considered appropriate a condition is imposed that protects this access. As turning the dwelling parking through 90° may not be suitable due to restricted sight lines.

Note the proposed dwelling parking is not necessarily ideal, but as it mimics the existing layout and the fact that Kent County Council now accept parallel parking at dwellings, it is not an issue to be considered further.

With regards to the parking survey, the Google Street View images are all taken during the day and from the images where shadows exist during the morning, so there worth in ascertain demand is non-existent.

The adequacy of car parking is liable to have a direct bearing on the financial viability of the public house and it is noted the publican does not object, although any upgrades in the property with the proceeds of the development may make the public house more attractive. It is suggested that the applicant should provide cycle parking for eight cycles, in compensation for the loss of two parking spaces if a survey is not completed. This would support sustainable/active travel and be an acceptable compromise.

GBC Environmental Protection

There is no objection as such to this application, but the following should be considered.

As the proposed dwelling is adjacent to a pub and its car park, there is the potential for noise. This could be from cars coming and going, late night noise from patrons in the car park, entertainment noise from the pub, and also noise from any extract/ventilation plant and equipment. In addition, the A226 is heavily trafficked, and although the proposed dwelling will be screened from the road by the pub itself, due to its

slightly elevated height, traffic noise could also be a problem particularly at nighttime. In this respect, a Noise Impact Assessment (NIA) is required. The NIA should ensure that noise levels both inside and also in the external amenity area (garden) are compliant with levels in BS8233:2014 and other appropriate guidance. The requirement for this should be placed as a condition on any planning permission.

As the proposed dwelling and garden will sit on the area currently used as a car park, there is a slight risk of contamination due to possible fuel/oil leakages from the parked vehicles. To cover this, a watching brief condition is proposed.

To address the above and other matters, the following is recommended.

Noise Control

Prior to commencement, a noise impact assessment shall be carried out and submitted to the LPA for approval demonstrating that

- The internal ambient noise levels in all habitable rooms of the proposed residential dwelling shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014.
- The maximum internal noise levels in all habitable rooms should not exceed 45dB LAmax more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.
- The external area shall be designed and located to ensure that amenity areas are protected on all boundaries as to not exceed 50 dBLAeq,16hr. If a threshold level relaxation to 55 dBLAeq,16hr is required for external areas full justification should be provided.

Noise from traffic, existing plant and equipment and any other noise sources in the area shall be included within the assessment.

For existing plant, equipment and commercial noise the noise impact assessment shall be undertaken in accordance with BS 4142:2014+A1:2019. The rated noise levels from plant and equipment shall include any penalties for noise characteristics such as tone, intermittency, that are liable to cause the noise to be a nuisance etc.

Any agreed mitigation must be installed and maintained thereafter.

Watching Brief

The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

Code of Practice on Construction and Demolition

Please apply as appropriate to minimise the impact of the construction on nearby dwellings.

Lighting

Artificial lighting can cause a statutory nuisance under the Environmental Protection Act 1990. It is important that the applicants are not permitted to install external lighting that illuminate anything other than the ground within the curtilage of the new properties in order to assist in preventing a nuisance from occurring (which would be most likely if the bedrooms on neighbouring properties are illuminated).

Drainage/sewerage informative

The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable.

GBC Waste

I am happy with the proposal.

Higham Parish Council

As a Parish Council, we feel it is in the best interest of our village and fellow residents to object to the planning application that has been submitted for the four-bed dwelling house on the land to the rear of Sir John Falstaff public house with associated car parking and landscaping, including reconfiguration of the public house car park and beer garden.

We have several reasons for objecting to this planning application.

The development proposals are situated within the curtilage of the Grade II Listed Sir John Falstaff public house and will have a detrimental affect on the setting of this Listed Building. As well as being close to this Listed Building, the Sir John Falstaff adjoins Charles Dickens' Wilderness, i.e., the garden he had on the north side of the Gravesend Road (A226), where he situated his Swiss chalet, which he used for writing. As set out in the description of the Grade I Listed Gads Hill Place, Charles Dickens built a pedestrian tunnel under the Gravesend Road so that he could access the Wilderness in private. This subway would appear to form part of the Grade I listing and the erection of the proposed dwelling would also adversely affect the setting of the Wilderness and the pedestrian tunnel.

Our councillors feels that additional buildings in the proposed location would dilute the character of the area and the historic importance and if this planning application was approved, it would set a precedent for similar infills of properties. Moreover, the location of the proposed dwelling is in proximity to or within the Green Belt.

To add to our reasons for objecting, our councillors feel the proposed dwelling would be situated very close to the Sir John Falstaff public house, resulting in noise and disruption for the new residents. Furthermore, it raises concerns that the proposed dwelling would overlook nearby existing properties and be particularly detrimental to the property adjacent to the public house.

Furthermore, the erection of the proposed dwelling would result in two fewer parking spaces in the pub's existing car park, which would have a negative impact on the pub's business, especially at peak times. Having two fewer parking spaces, vehicles could look for alternative parking arrangements, which could be on the A226 Gravesend Road outside the front of the Sir John Falstaff public house. This carries safety concerns due to the cycle lane on that main road that would be obstructed if vehicles were to park here.

Please consider our objections carefully when reviewing this planning application.

KCC Heritage

The site lies within an area of multi-period archaeological potential and the Sir John Falstaff public house is a grade II listed building. Historic mapping from the early 19th century records that there was a building adjacent to Telegraph Hill. Groundworks associated with the proposed development could impact on any archaeological remains at the site, including those of former buildings related to the public house as well as for evidence of earlier settlement activity at this junction between the Gravesend Road and Telegraph Hill.

The application has been made with a Heritage Statement which provides historic context for the site but there has been no Archaeological Desk-Based Assessment submitted. I limit my comments here to the archaeological interest of the site and in light of the potential for the development to impact below-ground archaeological remains I recommend that if planning permission is granted the following condition is applied to any forthcoming consent:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
i. archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and

ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

KCC Flood & Water Management

The application falls outside the definition of major development and falls outside of KCC's remit as statutory consultee.

Kent Fire & Rescue

I can confirm that on this occasion it is my opinion that the emergency access requirements for the Fire and Rescue Service under the above Act appear to have been met.

Fire Service access and facility provisions are also a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

Southern Water

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service:

developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements

Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer and should be in line with the Hierarchy of H3 of Building Regulations with preference for use of soakaways.

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Natural England

Designated Sites [European] – No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites (European Sites).

Dickens' Country Protection Society

The Society would wish to object to the application on the grounds that the loss of car parking would result in place at risk, the viability of the public house which is an important element to the setting of a Grade 1 Listed Building. No curtilage or means of access has been defined for the proposed dwelling and as a result the impact of the proposal cannot be fully evaluated. No evidence has been adduced to demonstrate that the car park with the public house will remain viable, if the car park area is reduced as is implied by the

proposal. The public house is an important building in its own right.

No response from:

- GBC Conservation Officer
- KCC Biodiversity
- Kent Police

Neighbouring properties

7 surrounding properties were consulted plus there were site and press notices – overall consultation expiry date was 22.12.2023 – 69 responses received the comments of which can be summarised as follows. 67 were in objection and 2 in support.

Objections

Principle

Huge amount of brown belt in Kent, why build on this Green Belt site;
Overdevelopment of the site and involves loss of garden land when a garden is important for a viable pub;
Rural village is being eroded by people who have no interest in village life, just commercialism;
Don't need to build on every spare bit of land including a pub car park;
A house in a pub car park will affect visitors, we should be supporting pubs and their communities, the Falstaff is opposite Gads Hill bringing in tourists;
Pub has just been taken over by new landlords and needs a chance to make it work;
Plenty of scope to increase the business especially with local support and possibility for wakes being that pub is so close to the crematorium;
Will impact on pub as they won't have a car park and eventually cease to trade;
Needs to remain as a pub car park, too small to build a house;
Keep it a village not a housing estate;
Reduce viability of pub;
Will ruin the village pub;
Will be the demise of the historic building as a viable pub/restaurant;
4 bed dwelling would consume car park and beer garden, would mean there are future plans as the public house would not be able to operate without parking facilities due to its location;
Threat of eventual closure of pub;
It won't stop – pub will be turned into residential;

Design & Heritage matters

Will adversely affect the setting of this Listed Building;
Detract from an important historic Public House due to its association with Charles Dickens and Gads Hill Area is rich in heritage – Sir John Falstaff himself, nearby Gads Hill;
Overdevelopment of historic areas with new and unsympathetic buildings is having a significant impact on the local area which is gradually losing its identity;
Overdevelopment of this historic pub and neighbourhood out of character with it and the surrounding buildings;
House will impact negatively on the pub, supports the Sir John Falstaff and its significant history;
The car park would be yards away from Dickens' tunnel and pod where Dickens is said to have rested and wrote some of his books;
Area is of historical significance with Charles Dickens, Dick Turpin - a major historic landmark for Higham which would be harmed;
Too big and too close to a Dickensian landmark which should be preserved and protected from surrounding overdevelopment;
Would look awful and too crammed in;
History of pub and village should be preserved;
Incredible that anyone could see fit to build a modern 4 bed house in what basically was the garden of a listed old historic building;
Scale and mass in close proximity to the adjacent listed buildings is detrimental to the historic setting and status of the listed buildings;

Future occupier amenity

Residents of house will complain about noise from pub;
Why would anyone want to live in the car park of a pub?

Neighbouring Amenity

Cause overlooking and loss of privacy, exacerbated by the fact the space is at an elevated level;
New section of car park would create unbearable level of noise, existing car park noise is already unacceptable and this would all be much closer;
Will block morning sunshine and light from reaching their windows and garden;
Be intrusive;
Too close to other existing properties;
Shared access would lead to increased noise disrupting ambience of pub and surrounding residential area
Lighting issues for local residents around proposed site;
Existing properties in Forge Lane and Telegraph Hill will be very overshadowed and encroached on;
Extra noise and vehicles;

Parking and Highway Safety

Telegraph Hill is a narrow road only one vehicle width – vehicles often have to reverse back down the hill to allow ongoing traffic to pass and they reverse into the pub car park. The narrowing of the access will stop/impede vehicles being able to reverse into the pub car park and they will/may reverse onto the main Gravesend Road instead which is very busy road. Alternatively, if reversing vehicles do attempt the narrowed car park opening it may create a queue of vehicles turning up the hill from Gravesend Road thereby blocking the main road;
Dangerous to drivers and pedestrians particularly at school opening and closing times when a number of parents are dependent on the car park opening to drop/pick up their children;
Increase traffic and make Telegraph Hill more congested;
Put additional pressure on existing parking facilities, leading to shortfall for both pub and new residence;
Removal of parking facilities will force people to park dangerously on main road or side road adjacent to public house and remove easy access for people will reduced mobility;
Pub car park is small and often full during school times from parents using car park to drop off/collect their children, exit of car park often blocked by people parking anywhere – any private house that needs to get out will cause problems and no doubt arguments;
Trying to exit Telegraph Hill is difficult enough at best of times, can see someone getting killed with added parking problems;
Will make walking Telegraph Hill more difficult;
With large amount of car park removed, people will park elsewhere for example on main road and it will be like it is at school times with cars parked in bicycle lane and pavement;
Car parking for the pub is only 21 spaces, the other 2 are for residential;
Increase of traffic on hill;
Loss of pub parking;
Number of spaces is overstated;
No passing point for vehicles;
No disabled spaces or access to pub;
No charge points;
No illumination in pub car park or new houses on an already dark dangerous road
Dangerous to drivers and pedestrians
Telegraph Hill is a narrow hill only one vehicle width
House will cause accidents – some people going down go fast and will not stop in time for the new residents
The house will impede on the passing place people currently have reversing into the pub car park, vehicles turning up the hill from Gravesend would then need to queue blocking main road;
Will make Telegraph Hill a death trap, space at bottom of hill needed for cars to pass;

Biodiversity

Loss of 25% of green space of the garden area

Other

Increased population will add to infrastructure issues in village;
Already have issues with school places, doctors, medical assistance, congested roads
There would be no social amenities for upper Higham, the large corporate company should invest in an all inclusive place for everyone to enjoy;
Tunnels from the pub under the car park to the marshes making environment unstable;
Appears far bigger than many of houses around it, not affordable housing which we desperately need
If Punch put more effort into improving the public house they will need more parking spaces not less;
House won't be affordable to local people;
Seems to be inappropriately sized and positioned being so close to the pub car park;
Pub will be overlooked by the new dwelling blocking off light in the building and garden;
The land is not suitable for any building, land is weak and sloped – landslips;

Non-material planning considerations

Disruption during construction – construction vehicles etc. – drivers and pedestrians
Will devalue properties;
Large organisation will ruin already stretched hard working residents lives in the village;
Not appropriate to use the grounds of Sir John Falstaff for profiteering purposes;

Support

Car park will still be significant and many pubs do not have car parks anyway;
1 house is a good move compared to building a semi or block of flats;
Fantastic to see pub will remain;
As long as pub is not affected, then let's make use of the land, its 1 house not a complete development like in Cliffe and pub will still have a car park.

Officer's Analysis

The application site consists of Sir John Falstaff a grade II listed building and its surrounding land including pub car park and beer garden. The site is located on the northern side of the Gravesend Road at the junction with the southern end of Telegraph Hill from which the pub's car park is accessed.

The site is located in a rural settlement inset from the Green Belt, an Area of Archaeological Potential, the Thames Estuary And Marshes Ramsar Buffer Zone and in the Higham Arable Farmlands Landscape Character Area.

To the south of the site is the grade II listed Gads Hill Place which is also Charles Dickens' former home. To the north is Holmewood a detached property and to the north and west is no. 61 Forge Lane a detached dwelling whose garden land to the west of the site consists of the former 'wilderness' which once belonged to Dickens who placed a chalet and constructed a tunnel from Gads Hill Place to get to it and which still exists to this day although the chalet has been moved. To the east of the site are the detached dwellings of The Old Surgery and Mulberry Rise.

The proposal is to erect one detached dwelling to the rear of the pub on part of the pub's car park. The dwelling would be located against the north-eastern boundary of the site and would have a hardstanding area in front of it for the parking of two vehicles and a garden area to the rear with some smaller areas of greenery to the sides of the dwelling. There would be a 0.6m high wall with railings along the front boundary and 1.8m high fencing is proposed along the boundary with south-western boundary of the site with the pub car park. It is stated the existing 1.8m fencing along the north-western boundary with no. 61 Forge Lane is to remain/be repaired and there will be a 1.8m fence with brickwork retaining wall on the north-eastern boundary with Holmewood. Between the car park extension and no. 61 the existing 1.4m high fence will be replaced with 1.8m close boarded fencing.

The access to the pub car park would be reduced in width and a number of parking spaces lost on the site of the proposed dwelling. It is proposed to extend the car park into an existing grassed area to form more hardstanding and spaces so that overall the total number of parking spaces lost would be two and the car parking for the public house would be reduced from 23 to 21.

Housing Need (As of December 2023)

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

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

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

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

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

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

- Habitats sites (and those sites listed in NPPF paragraph 188)
- Sites of Special Scientific Interest
- Green Belt
- Local Green Space
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 68)
- Areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land (paragraph 129(c)) in context, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

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

Principle

Policy CS02 (LPCS) states that in the rural area, development will be supported within those Rural Settlements Inset from the Green Belt and defined in the Policies Map. This is a proposal for the erection of a dwelling in the Rural Settlement Inset from the Green Belt of Higham and as such the proposed development is acceptable in terms of principle. The proposal would also need to meet all of the other principle considerations as discussed below.

Design and Appearance and Heritage

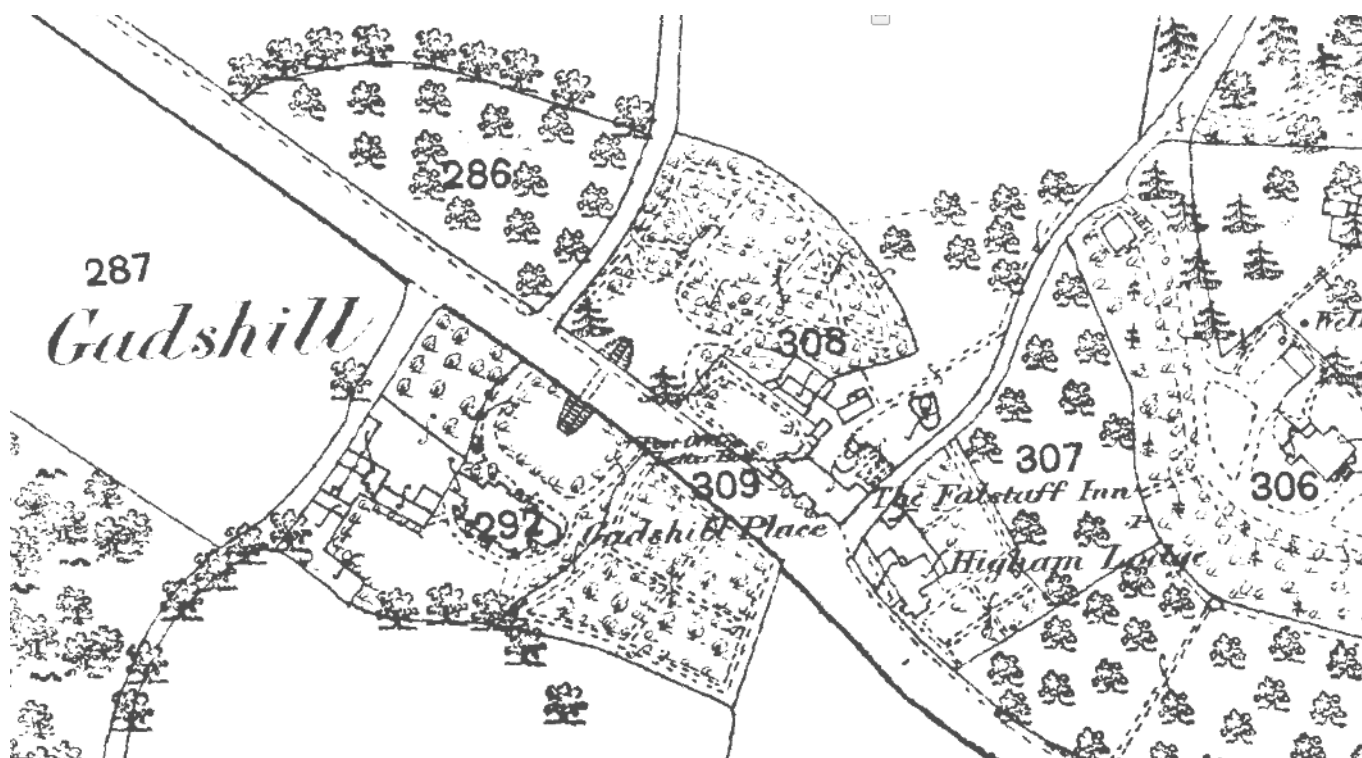
The application site includes the Sir John Falstaff public house and the surrounding land comprising pub car park and garden areas. The proposed dwelling would be located to the rear of the Sir John Falstaff pub. The Sir John Falstaff is a grade II listed building. The application is supported by a good quality Heritage Statement.

Under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be given to the desirability of preserving the listed building, its setting and any features of special architectural or historic interest.

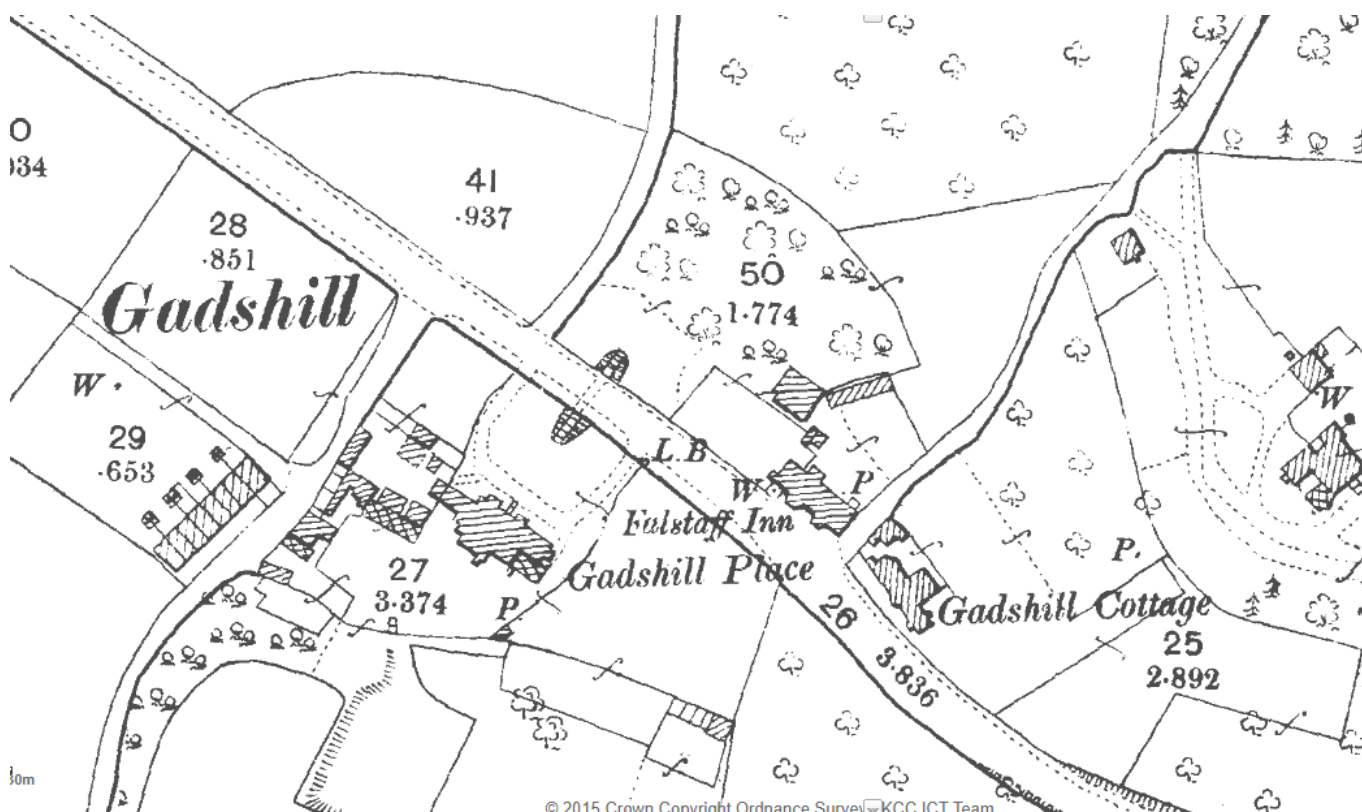
Policy CS14 (LPCS) states that the Council will expect new housing development to provide a range of dwelling types and sizes taking into account the existing character of the area. Policy CS15 (LPCS) states that all new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Policy CS19 (LPCS) states that 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 and integrate well with the surrounding local area. 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. Policy CS20 (LPCS) states that the Council will accord a high priority towards the preservation, protection and enhancement of its heritage and historic environment as a non-renewable resource. Proposals and initiatives will be supported which preserve and, where appropriate, enhance the significance of the Borough's heritage assets, their setting where it contributes to the significance of the asset and their interpretation and enjoyment. Saved Policy TC2 (LPFR) states that in the case of applications for development involving alterations or extensions to listed buildings or affecting the setting of listed buildings, the primary consideration of the Borough Council will be the maintenance of the integrity of the original listed building. Proposals will also need to be sympathetic to the listed building in terms of massing, scale, appearance and materials.

From an assessment of the historic map regression from 1871 - 1952, the Sir John Falstaff can be seen as follows with roughly the same plot size as is now with the land to the rear and side.

1871 – 1890



1897-1900



[illegible]

1960



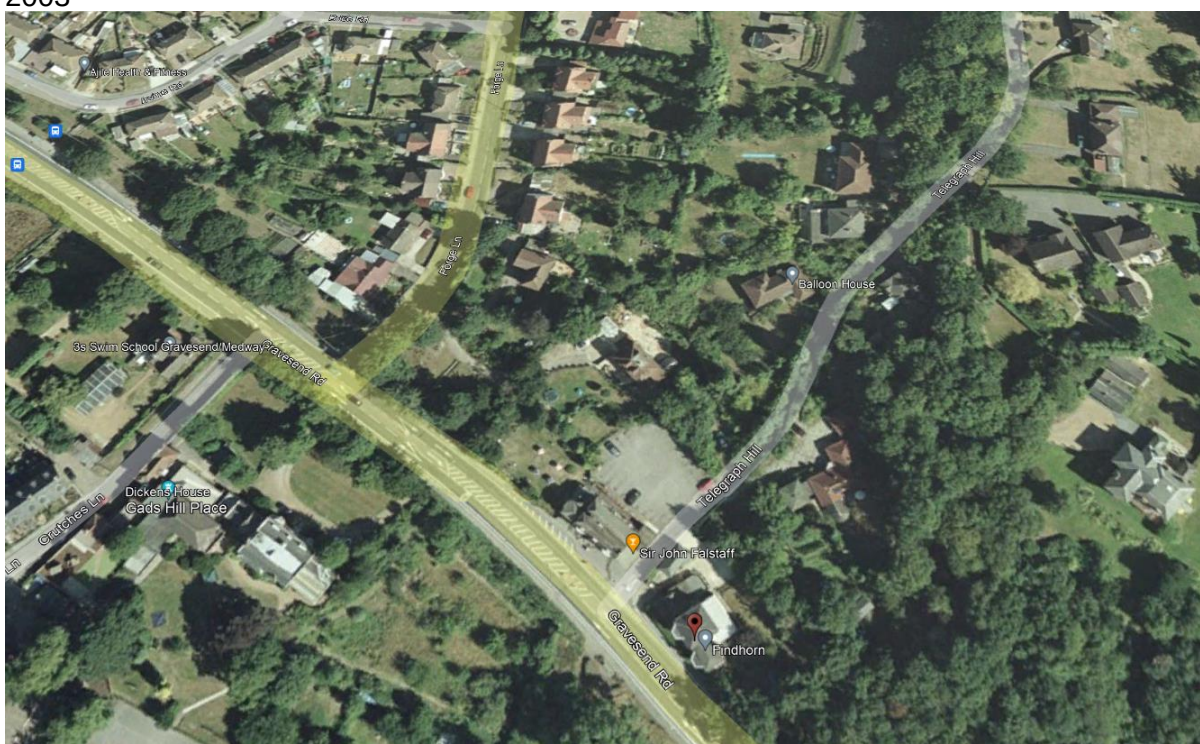
Permission was given in 1976 for an extension to the car park under 19760317 and the next available aerial imagery from 1990 shows the site as follows. It can also be seen that a beer garden has been formed on the land to the west of the pub evident by the picnic tables etc and that further new development has occurred including a second dwelling to the north of Dicken's wilderness and further dwellings in Telegraph Hill:

1990



The site and surroundings have mostly remained as the 1990 image as can be seen in the following images from 2003 and then from 2022:

2003





The Sir John Falstaff primarily derives its significance from its grandeur relative to its prominent position on the Gravesend Road. It also derives its significance from its late 18th Century/early 19th Century architecture with distinctive features including two storey bay windows, sash windows and gambrel roof. Its position within a relatively large and open plot, which is commensurate with many other plot sizes in the area contributes to the grandeur of the building and emphasises the distinctive features of the building. The building is also of historic importance in literary terms as it was referred to by Dickens as *"a delightfully old-fashioned roadside inn of the coaching days...which no man possessed of a penny was ever able to pass in warm weather"* and Dickens is said to have been a frequent customer at the inn, using it to supply rooms for visitors when Gads Hill was overflowing, and to supply refreshment for events he hosted ([The Charles Dickens Page - Gads Hill Place](#)).

The immediate surrounding streetscene along Gravesend Road has period buildings in respect of Gads Hill and 'The Old Surgery' and 'Findhorn' but the majority of the surrounding development is far more modern (since the 1960s) with a number of dwellings constructed in Telegraph Hill and two dwellings built to the north of the 'wilderness' area which Dickens had his chalet on and tunnel connecting to Gads Hill. However, despite the change in character of the surrounding area over the years, as indicated by the historic map regression and historic aerial photos above, the relatively spacious plot of the Sir John Falstaff has remained and means that its significance has not been significantly diminished by more modern 20th Century housing development.

In contrast the proposed development would result in a dwelling far closer in proximity to the listed building than those which currently surround it. The siting of the building would reduce the spacious grounds, crowding the existing building. Whilst the primary views towards the front of the listed building would remain unobscured, the setting of the listed building would undoubtedly be altered significantly, with views of the proposed dwelling in conjunction with the listed building fully visible from Telegraph Hill.

As a result the proposal would diminish the grandeur and historical significance of the listed building. This harm would be compounded by the design of the proposed dwelling, which would be modern and very unsympathetic to the existing character of the Sir John Falstaff. Indeed, the design of the proposed dwelling would be far more synonymous with the surrounding 20th Century housing. This would not result in a

suitable visual transition between the character of the listed building and the more modern housing which surrounds it.

Furthermore, due to the loss of parking spaces with the erection of the new dwelling, it is proposed to hardsurface part of the existing green areas to increase the car park area. This would further erode the setting of the listed building by removing existing greenery which is limited on the site, and replacing it with hardstanding.

Gads Hill to the south is grade I listed but given the location of the proposed dwelling to the rear of the Sir John Falstaff and the distance between the proposed dwelling to Gads Hill of some 60m it is not considered it would have an impact on the setting of Gads Hill. Dickens' former wilderness area is to the west of the site with steps down to the tunnel through to Gads Hill but given the separate nature this has to the application site with heavy tree coverage between and that its character has already been somewhat altered with the erection of two modern dwellings in close proximity to the north and their associated hardstanding and gardens etc., it is considered that the proposed development would not have any material impact on Dickens' former wilderness area which is mentioned in the listing description for Gads Hill.

In respect of design and heritage, the proposal would cause harm to the setting and thereby the significance of the grade II listed Sir John Falstaff public house and is of unacceptable design contrary to Policies CS19 and CS20 (LPCS), saved Policy TC2 (LPCS) and sections 12 and 16 of the NPPF (2023).

Landscape Character

The application site is located in the Higham Arable Farmlands Landscape Character Area and as such, Policy CS12 (LPCS) is relevant. This policy states that the overall landscape character of the Borough will be conserved, restored and enhanced and that the Gravesham Landscape Character Assessment will be taken into account in determining applications.

In relation to the Higham Arable Farmlands Landscape Character Area the document highlights that the key landscape characteristics are very gently undulating topography with open arable farmland, views out to the marshes and the River Thames in the north, marsh side hamlets and settlements, isolated farmsteads and scattered properties with locally distinct styles and materials and pockets of orchards and garden nurseries. It states that the overall condition of the landscape is poor and it has moderate sensitivity. It recommends that the landscape characteristics should be restored and created.

The area the site is located is in the rural settlement of Higham and the site itself contains a pub, car park and surrounding garden land including a beer garden. The proposed development would result in an increase in the built form on the site from the proposed dwelling and also an increase in hardstanding on the site due to the car park extension. Although there would be a grassed area for the rear garden of the new dwelling and nine new trees are proposed, there would still be an increase in built form and hardstanding on the site overall which would consolidate and extend the level of built development on the plot. It is therefore considered there would be an adverse impact on the landscape character. As such, the proposal would be contrary to Policy CS12 (LPCS) and section 15 of the NPPF (2023).

Amenity of Future Occupiers

Internal size and garden size

The dwelling would be a two storey, four bedroom, six person dwelling. The Technical housing standards (2015) state that for such accommodation there should be a minimum internal floor area of 106 sq.m. The dwelling would have an internal floor area of 117.4 sq. m so exceeds this minimum requirement.

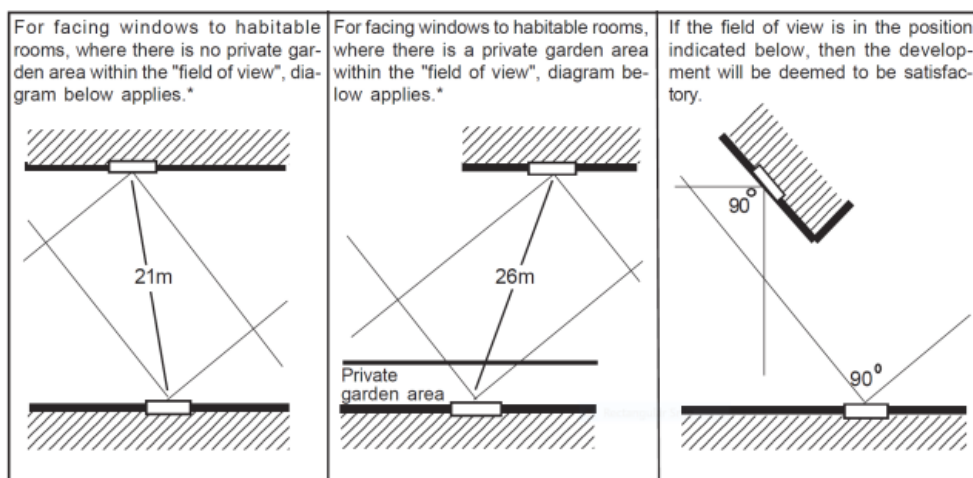
The two double and two single bedrooms would exceed the minimum standards as set out in the Technical Housing Standards (2015) for single and double bedrooms.

SPG2 (2020) states that for a dwelling with four or more bedrooms the minimum garden area should be

100 sq. m and the rear garden depth should be 10m. The garden area would be 128. sq. m and the rear garden depth would range in depth from 10.2m – 10.9m and therefore exceeds the minimum garden area and rear garden depth.

Overlooking, overshadowing, loss of outlook etc.

SPG2 (2020) states that where windows of habitable rooms face each other (whether across a road, pedestrian way or private garden) a window-to-window distance of at least 21 metres should be provided. Habitable rooms are defined as bedrooms and living areas, but specifically exclude kitchens and bathrooms. In addition, a minimum distance of 21 metres shall be provided between the windows of habitable rooms and the private garden area of any dwelling. A private garden area is defined as the first five metres of garden adjacent to the rear of the dwelling. For “single aspect” dwellings, the minimum distance from the window of a habitable room to any house wall of equivalent height containing no habitable room windows can be reduced to 11 metres. In all cases, the privacy distances will be applied on the basis of the principles set out in figure 1 on “fields of view” which are illustrated below:



There would only be 11m distance from the first floor bedroom window in the south-east elevation of no. 61 Forge Lane to the private rear garden area of the proposed dwelling (first 5m from rear wall of dwelling) and therefore the minimum standard of 21m would not be achieved and future occupiers of the dwelling would have their private rear garden overlooked which would be harmful to their amenity.

There is a set of doors shown in the rear elevation of the proposed dwelling at ground floor level which would serve a kitchen. There would be a distance of some 18m between the first floor bedroom window in the south-east elevation of no. 61 Forge Lane and the kitchen door of the proposed dwelling which would exceed the minimum 11m required.

In the south west side elevation of the proposed dwelling facing the pub there would be a first floor bathroom window. In the rear elevation of the pub there are a number of windows at ground, first and second floor levels. The pub is at ground floor and the upper floors are a residential unit in connection with the pub. The distance between the bathroom window in the south-west side elevation of the dwelling and the number of windows in the rear elevation of the pub would be some 15.4m therefore, this exceeds the 11m minimum required. The distance between the first and second floor windows in the rear of the pub to the nearest part of the private rear garden area of the proposed dwelling would be some 17m therefore, not achieving the 21m minimum distance required and so the private rear garden area would also be overlooked by the upper windows of the residential unit on the upper floors of the pub.

The distance between the nearest bedroom window in the front of the proposed dwelling to the nearest windows in the south west side elevation of the dwelling to the east Mulberry Rise would be some 23m therefore exceeding the 21m minimum required.

However, notwithstanding this as stated above, future occupiers of the proposed dwelling would have their private garden area overlooked from the bedroom window of no. 61 Forge Lane and a number of windows serving the residential unit on the upper floors of the pub and therefore experience a real lack of privacy. Although the minimum distance of 11m is achieved between the first floor bedroom window of no. 61 and the kitchen doors in the rear of the proposed dwelling, given the close proximity between the two and the relative height of no. 61 to the proposed dwelling, it is considered future occupiers would also experience a perception of overlooking. Overall future occupiers would therefore have a lack of privacy, both actual and perceived, which would be extremely harmful to their amenity.

Noise & Disturbance

Further matters relate to the fact that the proposed dwelling would be located directly adjacent to a pub and its pub car park where there is therefore the potential for future occupiers to be impacted by noise and disturbance. This would potentially be from noise from the pub such as music, patrons using the outside beer garden, ventilation extraction systems, noise from vehicles entering and exiting the car park, customers talking/shouting in the car park, doors slamming and also light impact from headlights/reverse lights etc. There would be parking spaces immediately located alongside the rear garden area of the dwelling. All these potential noise/distance sources could take place throughout the day till late due to the pub's opening hours.

GBC Environmental Protection advise that in respect of the above potential noise and disturbance a Noise Impact Assessment would be required and which could be secured by condition. However, it is considered such information would be required at application stage in order to ensure that future occupiers would not be impacted on. Also, information would be needed to demonstrate that future occupiers would not be impacted on by light from the car park and headlights/reverse lights etc.

In summary, given that future occupiers would have their private garden area overlooked by both no. 61 Forge Lane and the Sir John Falstaff upper residential unit and would also experience perceived overlooking to their rear kitchen opening from no. 61 given the close proximity of that neighbouring dwelling, the proposal would provide insufficient privacy for future occupiers which would be harmful to their amenity. It has also not been demonstrated that future occupiers would not be impacted on by noise and disturbance from the pub and its car park etc. or impacted by light, the proposal would therefore not provide acceptable living conditions for future occupiers and would therefore be harmful to their amenity.

In respect of future occupier amenity the proposal is therefore contrary to Policy CS19 (LPCS).

Neighbouring Amenity

It can be seen that consideration has been given in designing the proposal in respect of window positioning and the amenity of neighbouring properties. The assessment for the surrounding neighbours is as follows.

No. 61 Forge Lane

In terms of the matter of overlooking, there would be no windows in the rear elevation of the proposed dwelling at first floor level and therefore no overlooking to any windows in the south elevation of no. 61.

There would be a set of doors serving a kitchen at ground floor level in the rear elevation of the proposed dwelling. The only window in no. 61 in the field of view is a window serving a utility room window, the distance between the two would be some 17m therefore the minimum distance required of 11m is achieved. The two nearest windows in the west elevation of no. 61 serve a kitchen/dining/family room in the west elevation however, due to their orientation they are not facing towards the kitchen doors of the proposed dwelling and they are not in the field of view therefore no overlooking between the two.

However, when one stands in the car park of the pub currently it is possible to view into those two windows above the 1.8m high fencing which exists along the boundary, due to the land levels in the car park which slope down towards the pub. It is noted the dwelling would be set down with a retaining wall at the front but

on the basis of the submitted information it is considered that where the rear garden of the proposed dwelling would be located it would be possible for future occupiers standing in the rear garden to be able to do the same. Occupiers of no. 61 would therefore experience overlooking from users of the garden of the proposed dwelling.

There would be two bedroom windows in the north east side elevation of the proposed dwelling, the nearest of which would be a dormer and the furthest a standard window. In terms of the windows in the south east elevation of no. 61 Forge Lane it is only the two orangery windows that would be in the field of view from the bedroom dormer window. The distance between the bedroom dormer window and the orangery windows in no. 61 would be around some 17.8m & 19.2m which is under the 21m minimum that SPG2 (2020) states is required between habitable windows. Therefore, the bedroom dormer window would result in overlooking to the orangery windows and therefore be harmful to the amenity of the occupiers of no. 61 Forge Lane. No windows in no. 61 would be in the field of view of the other first floor bedroom window. The proposed doors at ground floor level serving a dining room would be some 20.4m from the nearest orangery window which would be in the field of view from the dining room doors; this is 600mm under the 21m required but due to the land levels, at that point the 1.8m high fencing along the boundary would sufficiently screen any view otherwise possible.

Due to the distances involved between the proposed dwelling and the windows as described above there would be no actual overshadowing or loss of outlook to no. 61 but notwithstanding this it is considered it would still be an overbearing and unneighbourly form of development to that property as well as the overlooking as explained above.

The proposed car park extension would mean that the car park would be much closer to no. 61 Forge lane and would be only 10m in front of windows in the front elevation of no. 61 with all the associated comings and goings of a pub car park which could go on till late due to nature of a pub's opening hours. It is stated that the existing 1.4m fence would be replaced with a 1.8m close boarded fence however, it is considered that as a result of the car park being brought closer and being only 10m away from the front windows of no. 61, it would cause noise and disturbance to that property worse than would be the case now.

Holmewood, Telegraph Hill

There would be a distance of some 46m between the nearest part of the proposed dwelling and the nearest part of Holmewood therefore, no impact on Holmewood with regards overshadowing, loss of outlook or overlooking.

Mulberry Rise, Telegraph Hill

There would be a distance of some 20.4m between the nearest part of the proposed dwelling and the nearest part of Mulberry Rise, therefore no issues with overshadowing or loss of outlook. There would be a distance of some 22.7m between the nearest windows in the front of the proposed dwelling and the nearest window in the south-west side elevation of Mulberry Rise therefore, this exceeds the 21m minimum between habitable windows and therefore no impact on Holmewood with regards overlooking.

Sir John Falstaff

There is a four bedroom residential unit on the upper floors of the pub. There would be a bathroom window in the south west side elevation at first floor level of the proposed dwelling. The distance between this window and the windows in the upper rear windows in the pub would be some 15.2m which exceeds the 11m minimum distance required between habitable and non-habitable windows. Therefore, no overlooking to the residential unit on the upper floors of the pub. Also due to the distance between the proposed dwelling and the rear of the pub there would be no overshadowing or loss of outlook to the windows of the upper unit of the pub.

In summary however, due to the overlooking that would be possible from users in the rear garden of the proposed dwelling to the two windows serving the kitchen/dining/family room of no. 61 and also from the

bedroom dormer window of the proposed dwelling to the two orangery windows of no. 61 there would be overlooking caused to the occupiers of no. 61 and therefore an impact on their privacy. Also increased noise and disturbance from the car park extension meaning the car park would be only 10m in front of windows in the front elevation of no. 61 harmful to their amenity. As such in respect of neighbour amenity the proposal would be contrary to Policy CS19 (LPCS).

Parking and Highway Safety

The proposed dwelling would use the access of the pub to enter the front garden area in which there would be two parking spaces parallel to the highway. With the construction of the dwelling on part of the car park there would be a loss of some parking spaces however, it is proposed to extend the car parking area to the north west so that the overall loss of parking spaces would be two, a reduction from 23 to 21 spaces. It is stated there will be four cycle spaces. The Council's Highways Officer states that the reduction in car parking for the public house should ideally be supported by a parking survey of the car parking during the trading hours of Friday, Saturday and Sunday lunch time. He considers the submitted parking survey is of little value in ascertaining demand as the Google Street View images appear to be taken during the mornings. The officer considers the adequacy of car parking is liable to have a direct bearing on the financial viability of the public house although notes the publican does not object and the proceeds would go towards the pub. The officer therefore suggests that cycle parking for eight cycles should be provided in compensation for the loss of the two parking spaces if a parking survey is not to be completed as this would support sustainable/active travel and be an acceptable compromise. Therefore, as the Highways Officer does not raise an objection and states that if an amended parking survey is not submitted then another four cycle spaces (in addition to the four already proposed) would be sufficient, it is considered that no objections can be raised on highway grounds in respect of the reduction in two parking spaces for the pub. The proposed cycle storage currently shows four spaces therefore if permission were to be forthcoming details would need to be conditioned to request amended cycle storage provision for eight spaces.

The Highways Officer advises that the retaining wall and railings would conflict with sight lines at the access and so any boundary treatment would need to be revised so no part is above 850mm of the level of Telegraph Hill in order to provide pedestrian and vehicle visibility as there is no footpath. This could be secured by condition should permission be forthcoming.

The Highways Officer finds the number of parking spaces (2 no.) for the new dwelling acceptable. He does advise they are not ideal in positioning (parallel to the highway) but notes this is an existing situation with the existing car parking for the pub and also KCC now consider this type of parking acceptable. The officer does advise that as the dwelling will use the same access as the pub it's access will need to be protected by condition (should permission be forthcoming).

Overall therefore it is considered that on balance that the proposal would be acceptable in respect of parking or highway safety and therefore compliant with Policy CS11 (LPCS) and saved Policies P3, T1 and T5 (LPFR).

Ecology & Biodiversity

Ecological & Biodiversity Impact

The area to the north-west of the current car park which it is proposed to extend the car park into was scrubland but in early September 2023 this was being removed. The scrubland was not protected so permission was not required for its removal.

There are some trees within the site and some just outside within the grounds of no. 61 Forge Lane as shown in the below aerial view:



Four of the trees have been assessed in the Arboricultural Implications Assessment. It states that Trees T1, T2 & T3 which are within no. 61 and protected by a TPO will remain with no impact. It states that Tree T4 which is within the site and not protected by a TPO will remain but that the proposed car park extension would encroach into its root protection area (RPA), it states however that there would be no detrimental impact on the safe useful life expectancy of the tree due to its species, condition and limited extent of encroachment. The Arboricultural Method Statement however, states that T4 will be felled. The Biodiversity Metric Calculation report advises that the extension of the car park into part of the existing pub garden would involve the removal of existing wooden decking and a row of cypress trees however, the removal of such cypress trees is not mentioned anywhere else in the application including the Arboricultural reports. The impact on the other trees to the north west of the pub garden some of which are in the site and some just within the grounds of no. 61 Forge Lane are not mentioned at all in the Arboricultural Implications Assessment or Method Statement.

Due to the discrepancies in the information regarding trees within and adjoining the site it is considered insufficient information has been submitted to enable a full assessment of the impact on trees within the site and nearby from the development.

Trees themselves also have the potential for protected species present which may shelter under the trees or nest within them. It is considered that further information is also needed with regards the potential for ecological impacts such as in the form of an ecological impact assessment report. The Biodiversity Metric Calculation report does recommend the use of bat and bird boxes built into the east and west facing gables of the proposed dwelling.

Overall however, due to the discrepancies within the application concerning some of the trees and the lack of ecological information on what if any species the trees may provide, it is considered insufficient information has been submitted to enable an assessment of the ecological impact of the proposal and as such the proposal is considered contrary to Policy CS15 (LPCS) and sections 12 & 15 of the NPPF (2023).

Biodiversity Net Gain

There would be the addition on the site of a new grassed area for the rear garden of the proposed dwelling along with small areas down the side and hedging and also the planting of nine new trees around the site, seven in the pub beer garden and two in the back garden of the proposed dwelling. The Biodiversity Metric Calculation carried out shows the development would result in a biodiversity net gain of 0.07 biodiversity units or an 11.59% increase in biodiversity units.

The Thames Estuary and Marshes Special Protection Area and Ramsar site

The application site falls within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) 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 Borough Council 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 £314.05 per dwelling). This approach is approved by Natural England for all new residential developments.

For every planning application for a new dwelling (including new flats) which does not require any other contributions to be secured through a s106 legal agreement or unilateral undertaking the tariff has been secured through a contribution agreement.

The tariff has been accepted effectively in lieu of an Appropriate Assessment (AA) under the Habitat Regulations and thus avoiding the need to progress into a full AA.

However, a more recent Court of Justice European Union (CJEU) ruling means that this approach is now no longer valid and although the mitigation measures (in the form of a tariff payment) will still need to be made the first stage will 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. The CJEU sees 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 AA and cannot be taken into account at the screening stage.

This proposal would result in the net addition of 1 unit and the applicant has not paid the required tariff (£314.05). The Local Planning Authority cannot therefore be satisfied that the proposal has put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site. Therefore, the proposal in respect of ecology and biodiversity is contrary to Policy CS12 (LPCS) and Paragraphs 180 and 181 of the NPPF (2023).

Archaeology

The site is in an Area of Archaeological Potential; KCC Heritage advise that the site lies within an area of multi-period archaeological potential and that groundworks associated with the proposed development could impact on any archaeological remains at the site, including those of former buildings related to the public house as well as for evidence of earlier settlement activity at this junction between the Gravesend Road and Telegraph Hill. They recommend that the standard archaeological condition should permission be forthcoming; subject to this it is considered the proposal would be compliant with saved Policy TC7.

Refuse

Refuse storage would be located in the rear garden of the dwelling and elevations have been provided. The location, size and appearance are considered acceptable and GBC Waste confirm it is acceptable. In respect of refuse storage the proposal is therefore considered compliant with Policy CS19 (LPCS).

Land contamination

GBC Environmental Protection advise that as the proposed dwelling and garden will be sited on a car park there is a slight risk of contamination due to possible fuel/oil leaks from parked vehicles. They raise no objections but advise a watching brief condition would be required should permission be forthcoming.

Public House use

The public house would remain a public house and the Highways Officer has advised that in parking terms the reduction of two car parking spaces can be mitigated by eight cycle spaces. The applicant Punch Taverns have submitted a letter with the application advising that they do not consider the proposal will impact on the pub's viability and that proceeds from the development will help fund wide ranging enhancements to Sir John Falstaff. Overall it is considered there is no evidence to demonstrate that the proposal would affect the viability of the public house.

Any Other Material Planning Considerations

None.

Conclusion & Recommendation

The proposal would have the benefit of providing one dwelling which would be a minimal contribution to the Borough's housing supply and the funds from the development would also provide enhancements to Sir John Falstaff although it is not stated exactly what they may be; however, both add some weight to the proposal. The proposal is considered acceptable in respect of principle of development, parking and highway safety, archaeology, refuse and land contamination. However, it has also been found that the proposal would be unacceptable in respect of the setting and significance of the grade II listed Sir John Falstaff, the amenity of future occupiers, neighbouring amenity, ecology and biodiversity and would not protect the Thames Estuary and Marshes SPA/Ramsar site.

Paragraph 205 of the NPPF (2023) requires that great weight be given to conserving and enhancing designated heritage assets. Paragraph 186 (a) also states that if significant harm to biodiversity resulting from a development cannot be avoided, including being adequately mitigated, then planning permission should be refused. As stated in paragraph 187 of the NPPF (2023) SPA's and Ramsar sites should be given the same protection of habitats sites.

On balance, it is considered that the weight of all the other considerations including the benefits of the proposal do not significantly and demonstrably outweigh the harm that has been identified. As such it is recommended that planning permission is refused.

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Richard Hart
Signed:	<i>Rebecca Harrison</i>	Signed:	<i>R Hart</i>
Dated:	5th January 2023	Dated:	8th January 2024