

Delegated Report

Application No: 20240431

Location: 148 Darnley Road Gravesend Kent DA11 0SN

Description: Erection of dormer extension to the rear to provide space for an additional bedroom to increase the number of bedrooms in the House of Multiple Occupation (HMO) from 7 to 8.

Applicant: Mr Harminder Dhanda

Site Visit Date:

Submitted Documents/Plans

The application comprises the following documents and plans:

- Application Form.
- Drawing no. 001 Rev A - Location Plan, Existing Block Plan, Proposed Block Plan.
- Drawing no. 002 Rev A - Existing Floor Plans.
- Drawing no. 003 Rev A - Proposed Floor Plans.
- Drawing no. 004 Rev A - Existing Elevations.
- Drawing no. 005 Rev A - Proposed Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20210450	Application for the approval of conditions 2 and 3 attached to planning permission reference no. 20190410 relating to details of condition (2) secure, weather proof cycle store and its location within the rear garden and condition (3) location and appearance of the refuse and recycling storage area.	Permitted	07.06.2021
20190410	Removal of the lean-to at the rear and change of use of the dwelling to a 7 bedroom HMO.	Permitted	09.10.2019
20180554	Creation of a one bedroom self-contained flat in the rear part of the ground floor level of the property, including erection of a single storey rear extension, with	Withdrawn	18.09.2019

	the existing property to remain as a five bedroom dwelling.		
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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.
- CS18 – Climate Change.
- CS19 - Design & Development Principles.
- CS20 – Heritage and the Historic Environment.

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

- P3 – Vehicle Parking Standards.
- TC3 – Development Affecting Conservation Areas.

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 9 – Promoting sustainable transport.
- Section 11 – Making effective use of land.
- Section 12 – Achieving well-designed and beautiful places.
- Section 15 – Conserving and enhancing the natural environment.
- Section 16 – Conserving and enhancing the historic environment

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).
- Darnley Road Conservation Area Character Appraisal (2009).
- Management Plan Gravesend Town Centre Conservation Areas (2009).

Consultations, Publicity and Representations

GBC Private Sector Housing

I can't foresee any issues around increasing the licence to 8 occupants, 8 households.

Bedroom 5 will be slightly under the required 10m² (as there's no communal living space provided) but we can use our discretion on this.

The property already achieves the required amenities for 6-10 occupants.

Neighbouring properties

Six surrounding properties were consulted and the application has been advertised by a site and press notice. No responses have been received.

Analysis

The application site is defined on the Core Strategy Policies Map as lying within the urban area and the Darnley Road Conservation Area. It lies on the western side of Darnley Road and comprises a semi-detached building that has been converted into an HMO which accommodates seven bedrooms. The building can be seen in the following photograph:



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 extract from the submitted drawings:



The proposed roof extension would enable the provision of an additional bedroom with en-suite shower room within the HMO, thereby increasing the total number of bedrooms to eight. It would also facilitate the enlargement of bedroom no. 5 including the provision of an en-suite shower room to serve that bedroom.

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.

The proposed development would provide a net increase of one bedroom. However, HMOs cannot be counted as net additional dwellings as they would have been counted as net additional dwellings in a previous year. A HMO would only contribute towards the local housing need if the HMO is created by change of use from a non-residential building. As such the application does not affect the five year housing supply.

Principle of residential development

This application is located in the urban area as defined on the Policies Map of the Core Strategy. Policy CS02 of the Core Strategy prioritises development in the urban area as a sustainable location for development. As such, there is no objection to the broad principle of the proposed development subject to it meeting the detailed requirements of government and development plan policy, which will be assessed in later sections of this report.

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.”

As the property is located within a conservation area, Section 16 of the NPPF is also relevant. This sets out requirements relating to conserving and enhancing the historic environment. Paragraph 203 is of particular relevance and states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*

Policy CS20 of the Council’s Core Strategy and saved Policy TC3 of the Gravesham Local Plan First Review 1994 are also relevant. Policy CS20 of the Core Strategy places a high priority on the preservation, protection and enhancement of the Council’s heritage and historic environment.

Policy TC3 of the Gravesham Local Plan First Review 1994 requires that development within or affecting conservation areas will be carefully judged for its impact and will be expected to make a positive contribution to the conservation area.

The Darnley Road Conservation Area Appraisal is also a relevant consideration. This document defines the special architectural and historic interest for which Darnley Road Conservation Area merits designation. It identifies the positive features that should be protected and highlights the negative factors that detract from its character and appearance.

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.

In addition, the northern 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 these considerations, the design of the proposed development would have an adverse impact on the character and appearance of the existing building and surrounding area. It would also have a negative impact upon this part of the Conservation Area. As such, this proposal would fail to meet the tests set out in the NPPF, Policies CS19 and CS20 of the Core Strategy, saved Policy TC3 of the Gravesham Local Plan First Review 1994 and the Darnley Road Conservation Area Character Appraisal (2009).

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

Windows are proposed within the western 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.

Sunlight/daylight/outlook

Due to the design, orientation and scale of the proposed development, it is unlikely that there would be any undue impacts on neighbouring occupiers in terms of loss of sunlight, daylight or outlook.

Internal living space

In relation to the internal living space, Gravesham's Residential Guidelines (2020) and the Nationally Described Space Standards (2016) set out minimum internal areas for new dwellings based on the level of occupancy, bedrooms size and number of storeys. However, these are more applicable to flat conversions rather than HMOs. The Council's own adopted 'Guidance for HMO

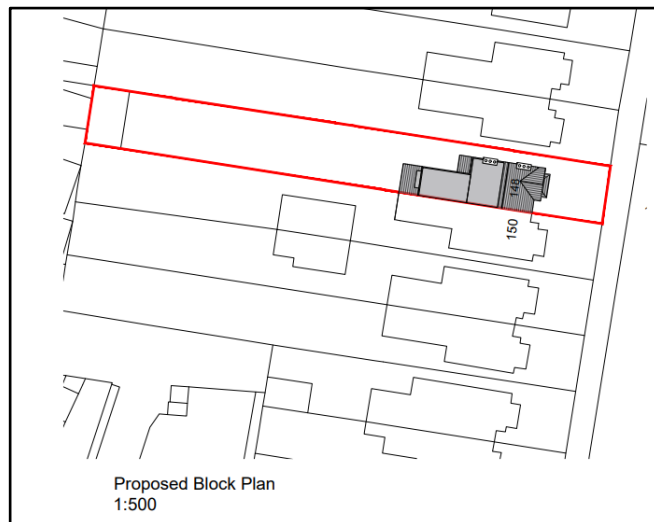
Amenity Standards' (2023) includes a more appropriate room sizes for this application type.

The comments of the Council's Private Sector Housing are noted. Although bedroom 5 would have a floor area which is slightly less than the minimum standard, Private Sector Housing has indicated that discretion can be used on this issue. In light of this, there is no objection to this proposal on the grounds of internal living space.

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.

It is not clear from the application whether the occupiers of the proposed new room would have access to external amenity space. Although the submitted block plans appear to indicate that the property benefits from a large garden area, this does not appear to be the case when the site is viewed on Google Maps as shown below:



Notwithstanding this, given that there would only be an increase in one bedroom and given the proximity of the application site to areas of public open space, including Dashwood Open Space and Woodlands Park, any reason for refusal based on lack of private amenity space would be

difficult to substantiate.

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.

The building currently benefits from two on-site car parking spaces which are located to the front of the property. Due to the physical constraints of the site, it would not be possible to provide additional on-site parking to serve the additional bedroom.

Notwithstanding this, 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, additional on-site parking would not be required in this case.

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.

In this instance, the proposed development would result in the creation of one additional bedroom and as such, additional recreational activity would result. 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

In summary it is considered that the proposed dormer would have an adverse impact on the character and appearance of the existing building and surrounding area. It would also have a negative impact upon this part of the Conservation Area. In addition, the applicant has failed to make the required contribution towards mitigation measures to address the impact of the development on the SPA/Ramsar site. These issues are reflected in the reasons for refusal set out in the recommendation below.

Recommendation:

REFUSE PLANNING PERMISSION

See draft Decision

Case Officer: Gary Edwards	Team Leader: Richard Hart
Signed: Gary Edwards	Signed: <i>R Hart</i>
Dated: 24 September 2024	Dated: 3rd October 2024