

Delegated Report

Householder Planning Application

Planning Application No: 20240142

Location: 22 Thong Lane Gravesend Kent DA12 4LD

Description: Creation of vehicle access and driveway to front; Erection of new front boundary and eastern side boundary treatments.

Applicant: Mrs Sophie Lewis

Site Visit Date: 07 March 2024

Submitted Documents/Plans

Householder Application for Planning Permission form;
Drawing no. RA1670/01 Existing block plan;
Drawing no. RA1670/02 Proposed block plan;
Drawing no. RA1670/03 Existing layout;
Drawing no. RA1670/04 Proposed layout;
Drawing no. RA1670/05 Existing and proposed front boundary elevations and sections;
Site location plan;
Letter from Kent County Council dated 23 October 2023; and
Supporting statement.

Procedural issues

The application details do not illustrate the proposed surfacing for the hardstanding across the grass verge and the proposed site plan does not show the extent of the proposed sleeper wall along the southern boundary. In addition, there are no elevation details of the sleeper wall. However, as there is an 'in principle' highway objection to this proposal, this information has not been requested from the applicant.

In an email from the agent received 15 April 2024, it is suggested that the proposed development is to create a joint access from Thong Lane to nos. 22 and 24 Thong Lane. However, it is noted that this application has been submitted in relation to proposed works to no. 22 Thong Lane only. The application details do not refer to the access being shared. An application relating to no. 24 Thong Lane (reference 20231164) has been made separately. As such, this proposal has been determined on its own merits, as an independent application.

Relevant Planning History

Reference	Description	Decision	Decision Date
20231138	Creation of vehicle access and driveway to front.	Refused	12.01.2024

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

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

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

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

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 9 – Promoting Sustainable Transport
- Section 12 – Achieving well-designed and beautiful places

Supplementary Planning Guidance

- 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020
- SPG 4 - KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)
- Kent Design Guide Making it Happen – Highways (Design Standards – Residential & Industrial)

Informal Guidance

- Driveway Dropped Kerb Guidance (2023)
- Front Driveway Design Guidance (2023)
- Kent Design Guide Review: Interim Guidance Note 3 Residential Parking (2008)
- KCC Residential Dropped Kerb Guidance and Self-Assessment May (2023)
- KCC Specification for the construction of a light vehicle crossing over a footway or verge (V2)

Consultations, Publicity and Representations

GBC Highways Officer

Looking at the drawing RA1670/05, the gradient crossing the grass verge appears to be in the region of 1 in 4, against a preferred gradient of 1 in 10, this is very steep with a high risk of vehicles grounding, either at the front, rear or even potentially both at the bottom of the slope and the underside vehicle at the top of the slope. It all depends on the overhang of the vehicle and its ground clearance. There would also be the risk in icy conditions of a vehicle either sliding into the carriageway or being unable to climb the gradient.

The Kent Design Guide states

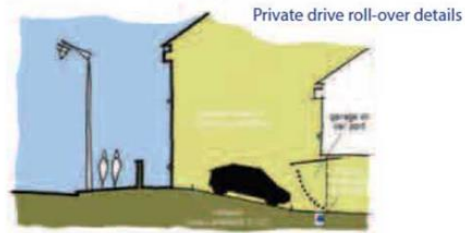
Wherever possible driveways should incorporate shallow gradients or include roll-over details. (see opposite). Drivers will have less control of their vehicle's speed on steeper gradients, which could result in accidents.

Shared private driveways must incorporate suitable drainage systems which prevent surface water migrating onto the highway, and causing a safety hazard in the winter where the water freezes.

Shared private driveways should not be surfaced with gravel or any similar material which could migrate onto the highway.

Small stones can be hazardous for pedestrians on footways, can exacerbate drainage problems and are dangerous if propelled at high speed.

The local District Planning Authority may insist that some garages are located behind houses and may discourage the use of integral garages. Early discussions should be held with them to determine their requirements.



Kent Design 'Making it Happen' Design Standards Page 26

Here the gradient is neither shallow nor are any rollover areas included that would reduce the risk of grounding.

I therefore stand by my original comments.

Given the loss of amenity space could set a precedent for further applications from neighbours, and there is no guarantee that the driveway would be useable, I would suggest, it seems inappropriate that Kent County Council are not following their own adopted design standards.

It should also be noted that the property benefits from a rear access so off-street parking in the rear can be made available and this is the preferred highway option.



I consider my view is supported by the Kent County Council disclaimer in their letter regarding the construction of a crossover.

As we have previously discussed, due to site topography and levels present, there are concerns that the completed gradient may make the vehicle crossing difficult to use by some vehicles, which could result in vehicle contact with either the new crossing surface, the road or the boundary line at the front of your property. By accepting this quotation you would also be accepting that neither Kent County Council or our contractor New Approach Contractors can accept any liability for any future damage caused to vehicles in its use

KCC - Highways & Transportation

Initial response:

Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

Second response:

I would recommend that you are in a position wherein the application should be refused on account of the access being too steep i.e. greater than 1 in 10 as previously suggested. It is suggested that the application runs on the lines of it not meeting KCC vehicle crossing criteria.

Neighbouring properties

The application was publicised by a site notice and to seven neighbouring properties by letter. Six representations (in support of the proposal) have been received and are summarised as follows;

- The proposal would reduce on-street parking in Thong Lane decreasing congestion and improve highway safety.
- There are numerous existing dropped kerbs/crossovers in Thong Lane, including one close to the application site.
- A shared vehicle access between nos. 22 and 24 will minimise damage to the grass verge.
- The proposal would not be detrimental to visual amenity.
- The application is fully supported.

Officer's Analysis

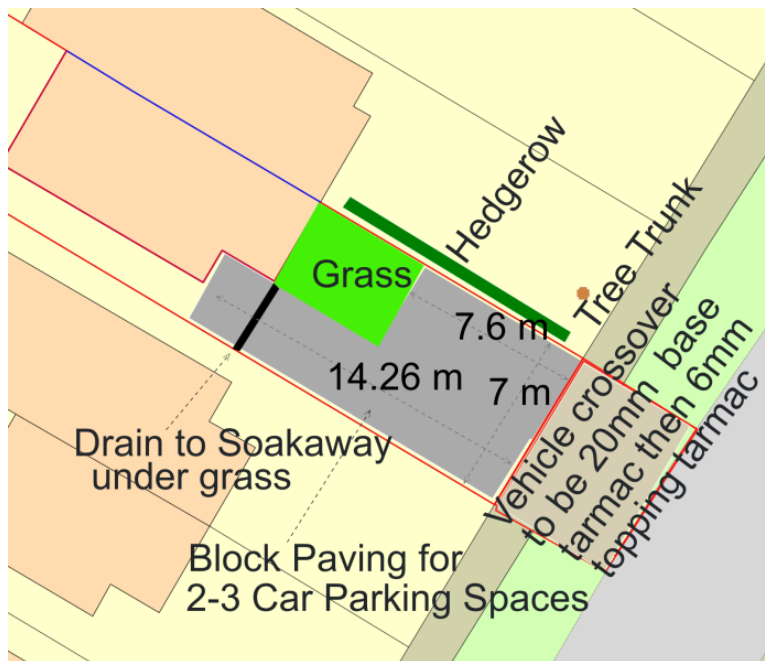
Background

Planning permission was refused for a similar proposal in January 2024 under reference 20231138 on the following grounds;

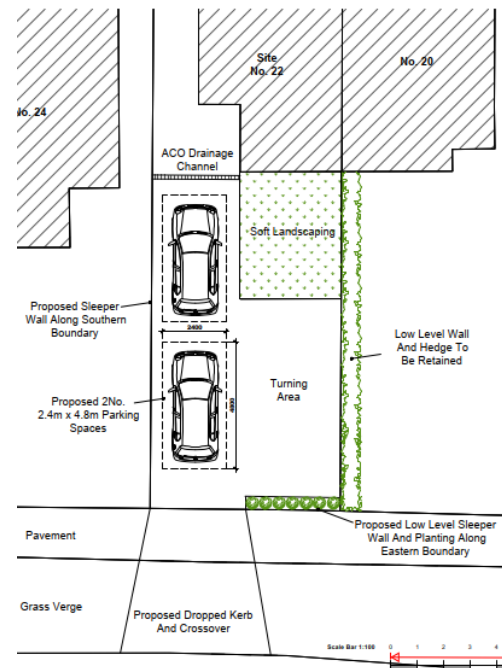
1. *The proposed development would result in a wide, hard surfaced break in the grass verge and the loss of the whole front boundary treatment at the application site, which would be detrimental to visual amenity and harmful to the character and appearance of the surrounding area. As such, the proposed development would be contrary to Policy CS19 of the Gravesham Local Plan Core Strategy September 2014, to the Householder Extensions/Alterations Design Guide (2021) and to paragraph 130 of the National Planning Policy Framework 2023.*
2. *The proposal fails to demonstrate that there would be no adverse highway safety impacts and as such, the proposal would be contrary to Policy CS11 of the Gravesham Local Plan Core Strategy (2014), Saved Policy T5 of the Gravesham Local Plan First Review (1994) and paragraph 114(a) of the National Planning Policy Framework 2023.*
3. *The proposal would result in the replacement of existing vegetated areas with significant areas of hardstanding, which would be detrimental to biodiversity and contrary to Policy CS12 of the Gravesham Local Plan Core Strategy (2014) and paragraph 180 of the National Planning Policy Framework 2023.*

The current application must overcome the above grounds of refusal to be considered acceptable. The previously proposed layout and the current proposed layout are as follows;

20231138 proposal



Current proposal



It is noted that the hedgerow shown on the north eastern side of the site frontage is not within the application site, it is within the front garden of no. 20 Thong Lane.

The current proposal includes a hardstanding over the grass verge with a reduced width and the erection of boundary treatments on the front and south western side boundaries of the application site. The proposal also includes a site section which illustrates the proposed gradient of the hardstanding.

Design, Character and Appearance

Paragraph 135 of the National Planning Policy Framework 2023 (NPPF 2023) sets out various design requirements and includes the need for the development to add to the overall quality of an area; be visually attractive; and be sympathetic to local character, including the surrounding built environment. Paragraph 139 of the NPPF 2023 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 sets out that new development will be visually attractive, fit for purpose and locally distinctive. It should conserve and enhance the character of the built environment and take account of the scale, height, building lines and other architectural features of buildings. Account should also be taken of strategic views, site topography, the significance of heritage assets and features of townscape and landscape value which contribute to local character and sense of place.

In relation to front gardens and parking, the Householder Extensions/Alterations Design Guide (2021) sets out (amongst other things) that hardstandings should be proportionate to the size of the dwelling and the car parking standards and should avoid paving over a significant amount of the site frontage. Planted borders should be provided along all boundaries and landscaping should be provided in all spaces not required for parking or turning.

The application property is a two storey, semi-detached dwelling, located on the western side of Thong Lane on land that is significantly higher than the roadway. There is a strip of amenity grassland than runs between the pavement/site frontage and the roadway. It is considered that the existing grass verge makes a positive contribution to the character and appearance of the area by providing verdant soft landscaping in this built-up area. Recent works have been undertaken to hard surface most of the front garden area and to remove boundary treatments at the application site;



Site visit photograph 06 December 2023

Prior to the recent works to the site frontage, the application site benefitted from a low-level boundary wall, mature landscaping and a grassed front garden (as shown below). This had a positive contribution to the visual amenities of the street scene and was typical of the surrounding area. It is noted that the properties surrounding the application site are characterised by having low front boundary treatments (walls mainly), elevated above the highway.



Google Street View image November 2022

The amenity grassed verge located in front of the application site is an important feature of the street scene, which greens and softens this urban area. The particular section of grass verge outside the application site is still intact for a significant length and has not had any sections of it removed for crossovers as seen below;



The proposed development comprises of the installation of a dropped kerb and hardstanding to allow vehicle access to the front garden parking area across the grass verge. The proposed hardstanding would have a width of between 4.4 metres (closest to the front boundary) and 5.7 metres (at the back edge of the roadway) and would be located on the south-western side of the site frontage. A front and side boundary treatment (sleeper walls) would be erected, with the front boundary wall being softened with planting.

It is considered that the grass verge immediately in front of the application site provides an important green break in an otherwise built-up area and in the vicinity of the application site, it appears as a linear green feature along the western side of the Thong Lane. The proposed development would result in a wide, hard surfaced break in the grass verge, which would significantly erode the soft landscaped quality of the street scene. The stark appearance of the proposed hardstanding and loss of the existing soft landscaping quality of the grass verge would result in significant harm to the character and appearance of the surrounding area.

Whilst it is acknowledged that the proposed hardstanding across the grass verge has been reduced in width since the previous refusal, it is considered that the proposed hardstanding would still have an excessive width. The minimum width for a vehicle parking space is 2.4 metres (although it is noted that some vehicle accesses have a width of 3 metres). Due to the need to retain as much of the grass verge as possible, any proposed hardstanding would need to be as narrow as possible. As such, it is considered that the proposed hardstanding, not only would be harmful in principle (by breaking up the linear verge feature) but would also remove an excessive width of the grassed verge.

Furthermore, it is considered that the adverse impact of the proposed hardstanding across the grass verge on the character and appearance of the area, would be exacerbated by the recent works to the site frontage. Mature landscaping and a grassed front garden has been replaced with a large hardstanding, which when viewed in conjunction with the proposed access across the verge, would be significantly detrimental to the visual amenities of the street scene.

It is noted that there are other vehicular accesses through the grass verge to the south of the application site, which serve either parking in front gardens as proposed here or accesses to the rear of properties – these include nos. 32, 34 & 36, 38, 46 & 48, 50 & 52, 58, 60 & 62, 64 & 82 & 84 Thong Lane as seen

below:



Furthermore, it is noted that out of the existing crossovers further south along Thong Lane only one of these has received planning permission – no. 32 Thong Lane (crossover permitted under ref. 20160589).

In the Delegated Report for ref. 20160589 in respect of character and appearance the officer stated that although the Council has been successful in defending appeals against similar crossovers where a grass verge would be harmed, in this case the crossover was considered acceptable as a number of other crossovers were noted in the vicinity and a brick wall would be reinstated against the part of the front boundary which would not be used by the crossover. It is noted that it was not highlighted that none of these other crossovers had the benefit of planning permission. Also at the point where no. 32 Thong Lane is there is one of these crossovers in very close vicinity between nos. 34 & 36 and then also at no. 38. It can therefore be seen that given the very close proximity to no. 32 of other crossovers, a crossover at no. 32 was considered acceptable albeit those other crossovers had not had the benefit of planning permission. However, in the case of no. 22 Thong Lane as stated, the section of grass verge outside of it is a much more intact longer section than was the case with no. 32 and the grass verge outside has not had any sections removed for crossovers. The proposed crossover would go through the middle of this section of grass verge removing the grass and replacing with hardstanding which would be detrimental to the character of the street scene. For these reasons the crossover at no. 32 is not considered directly comparable.

The other crossovers further south have not received planning permission although it can be seen from Google Earth Pro that they have been in place for more than ten years and so would be immune from enforcement action. It is considered that they as well as the crossover at no. 32 demonstrate the harm that is caused to the character and appearance of the surrounding area when crossovers go through grass verges as these piecemeal crossovers diminish the extent and character of grassed verges over time. It is unfortunate that the basis of the permission for no. 32 in respect of character and appearance was on there being a number of other crossovers further south when they did not have the benefit of planning

permission. Furthermore, the presence of harmful development elsewhere is not a good reason to allow similar development; these have therefore been attributed little weight.

Overall, it is considered that the proposed vehicular access would detract from the character and amenity of the street scene, by virtue of the loss of the grassed verge outside the dwelling between the pavement and the road and its replacement with hardstanding. The loss of this part grass verge would erode the soft landscaped quality of the streetscape and be harmful to the visual amenity and character and appearance of the area. As such, this proposal is contrary to Policy CS19 of the Gravesham Local Plan Core Strategy (2014) and section 12 of the NPPF 2023.

Amenity of Future Occupiers

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 requires new development to be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants. In this regard, the Nationally Described Space Standards (NDSS) and the Borough Council's adopted Residential Layout Guidelines (RLG) are relevant.

The proposed development would improve the living conditions for future occupiers. As such, the proposal would not be detrimental to their residential amenity and would be in line with Policy CS19 of the Gravesham Local Plan Core Strategy (September 2014).

Neighbouring Amenity

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 requires new development to be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of neighbouring occupiers. In this regard, the Borough Council's adopted Residential Layout Guidelines (RLG) are relevant.

The closest residential properties to the application site are nos. 20 and 24 Thong Lane (located to the north and south respectively). Nos. 25 to 29 Thong Lane are located to the south across the roadway.

Due to the distance between the proposed development and the neighbouring properties and to the design of the proposed development, there would be no adverse impacts to the residential amenity of any of the surrounding occupiers. As such, it is considered that the proposal would be in line with Policy CS19 of the Gravesham Local Plan Core Strategy September 2014.

Highways and Parking

Paragraph 114(b) of the NPPF (2023) requires new development to ensure that safe and suitable access can be achieved for all users and paragraph 115 of the NPPF (2023) sets out (amongst other things) that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Policy CS11 (LPCS) and saved Policies T1 and P3 (LPFR) require new development to mitigate its impact on the highway and public transport networks and to provide sufficient parking in accordance with adopted parking standards. Saved Policy T5 of the Gravesham Local Plan First Review (1994) requires new accesses to be in an acceptable location and to an acceptable standard and to not give rise to danger.

According to the Borough Council's adopted Vehicle Parking Standards, a three bedroom dwelling should have two vehicle parking spaces and according to the KCC Residential Dropped Kerb Guidance and Self-Assessment document, parking spaces located perpendicular to the roadway should be a minimum of 2.4 metres (width) by 4.8 or 6 metres (depth). Six metres depth would be required if the space is in front of an access door or garage. The proposed frontage parking area would meet these requirements and could accommodate two vehicles, which would be in line with the adopted Vehicle Parking Standards.

The Kent Design Guide making it happen – highways (design standards – residential and industrial) and the KCC Specification for the Construction of a Light Vehicle Crossing Over a Footway or Verge (V2) state that gradients for driveways should be no steeper than 1 in 10 or in extreme cases 1 in 8;

The Kent Design Guide making it happen – highways (design standards – residential and industrial)

Widening on bends

On roads serving more than 25 dwellings, carriageways are normally widened around bends, that curve more than 10 degrees in accordance with the requirements shown below.

Table C

Widening on Bends						
Centre-line radius (m)	20	30	40	50	60	80
Minimum widening (m)	0.60	0.40	0.35	0.25	0.20	0.15

Bends should be widened for industrial and commercial roads in accordance with the advice included in this section on design standards for Industrial and Commercial Roads.

You will be required to produce computerised vehicle-path assessments to show that the proposed layout can accommodate vehicles without endangering other road users, especially pedestrians and cyclists.



Roads can be widened at bends to allow larger vehicles to negotiate them. Areas that maybe over-run by vehicles can be attractively finished in paving materials.

Gradients

Sometimes there is a tendency to use steep gradients to avoid excessive cut and fill of the natural landscape when designing a layout. In order to minimise the dangers to road users in icy conditions and improve road safety on bends and at junctions, the maximum acceptable gradient that

can be used must be restricted. Similarly, to assist in draining the road and prevent ponding areas occurring, there is a need to restrict the minimum acceptable gradient.

The maximum and minimum longitudinal gradients for roads are detailed in the movement and connections part of the main document.

You will need to design Industrial and Commercial Road gradients in accordance with the advice included in this section on design standards for Industrial and Commercial Roads.

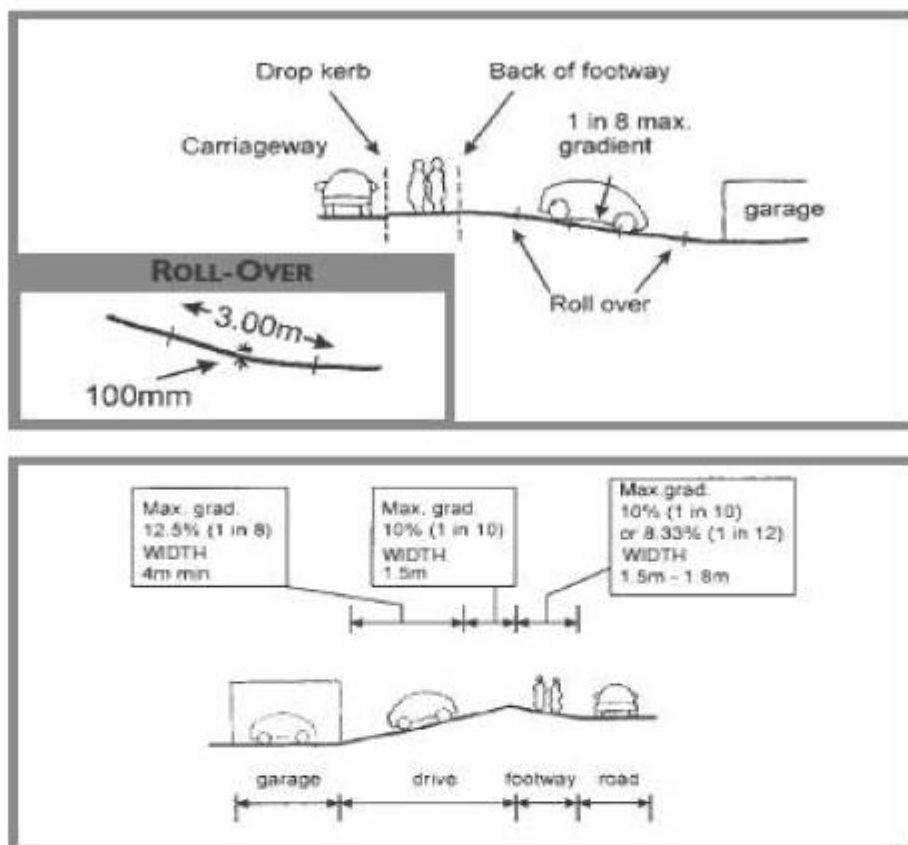
Shared and individual private drives should not normally have a longitudinal gradient steeper than 10% (1 in 10). However, access gradients may be increased to a maximum of 12.5% (1 in 8) on sites where the level differences make it impractical to use less steep gradients.

To prevent vehicles from grounding, the gradient must be maintained at 10% (1 in 10) for a distance of at least 1.5m from the back of the highway boundary, or include a roll-over detail as shown below.

Private Drive Roll-over details



KCC Specification for the Construction of a Light Vehicle Crossing Over a Footway or Verge (V2)



Where the footway is situated adjacent to the carriageway the profile of the crossing shall give a uniform gradient between the back of the footway and the lowered kerb. However, where there is an area of verge between the footway and the carriageway the crossing shall be ramped over the verge width leaving the footway with uniform cross fall and longitudinal gradient. Where there is an area of verge between the footway and the highway boundary, or where there is only a verge between the carriageway and the highway boundary, the gradient of the crossing over the verge shall not exceed 1 in 10 unless otherwise agreed by the KCC Officer.

The gradient of the driveway on private land should not normally exceed 1 in 10 or in extreme cases 1 in 8, and a 'roll-over' should be incorporated at the start of the driveway to ensure that vehicles do not 'bottom' on the vehicle crossing on entry or exit.

In this case both the Council's Highways Officer and KCC Highways advise that the application should be refused on account of the access being too steep i.e. greater than 1 in 10 and so would not meet the KCC vehicle crossing criteria. The crossover could potentially lead to vehicles slipping into the carriageway during icy weather which would be detrimental to highway safety.

Regarding accesses in Thong Lane further south as mentioned in the above section, the gradient of the grass verge has levelled much more by this point and is not as steep as at the application site and so those cases are not considered comparable. Furthermore the majority of these accesses did not have the benefit of planning permission and no. 32 which was granted permission the verge is not as steep as is the case at the application site.

A local resident has stated that the proposal would reduce on-street parking in Thong Lane decreasing congestion and improving highway safety. However, any benefit of a reduced demand for on-street parking, would not overcome the significant detriment to highway safety arising from the steep gradient of the proposed development.

The proposed crossover by virtue of its steep gradient would be unacceptable as it could potentially lead to vehicles slipping into the carriageway during icy weather which would be detrimental to highway safety. As such the proposal would be contrary to Policy CS11 (LPCS), saved Policy T5 (LPFR), section 11 of the NPPF (2023) and would not adhere to the guidance as set out in the Kent Design Guide making it happen – highways (design standards – residential and industrial) and KCC's Specification for the Construction of a Light Vehicle Crossing over a Footway or Verge.

Ecology and biodiversity

The NPPF 2023 requires planning decisions to protect and enhance sites of biodiversity value (at paragraph 180(a)) and to minimise impacts on, and provide net gains for, biodiversity (at paragraph 180(d)). Paragraph 186 of the NPPF 2023 states that when determining planning applications, Local Planning Authorities should refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for.

Policy CS12 of the Gravesham Local Plan Core Strategy (September 2014) requires no net loss of biodiversity in Gravesham and seeks opportunities to enhance, restore, re-create and maintain habitats particularly in Biodiversity Opportunity Areas and within new developments.

The proposed development would be on amenity grassland that is located immediately in front of a front garden that has been extensively block paved, with a small, grassed area. The front garden, prior to recent works, was laid to grass with mature vegetation. The surfacing for the proposed hardstanding outside the site is not specified but reference to the previous application would lead to the assumption that it would be tarmac. Therefore, the proposal would result in the replacement of an existing vegetated area with significant areas of hardstanding and would be detrimental to biodiversity. The small, grassed area on the site frontage and the proposed frontage planting would not be sufficient to mitigate the adverse impacts to biodiversity and as such, the proposed development would be contrary to Policy CS12 of the Gravesham Local Plan Core Strategy (2014) and paragraph 180 of the NPPF 2023.

Any Other Material Planning Considerations

The application site is located within an area of multi-period archaeological potential. However, as the proposed development comprises of a relatively small amount of groundworks, then it is considered that there would be no adverse impacts to archaeology. As such, the proposal would be in line with Policies CS19 and CS20 of the Gravesham Local Plan Core Strategy (September 2014) and Saved Policy TC7 of the Gravesham Local Plan First Review November 1994.

Local residents have raised a number of issues, the majority of which have been covered in the above discussion. The outstanding issue is summarised (in italics) and commented on as follows;

- *A shared vehicle access between nos. 22 and 24 will minimise damage to the grass verge – this proposal is not for a shared access. It would provide access to no. 22 only.*

The support of local residents is acknowledged and is attributed some weight in the determination of this application. However, it does not overcome the significant adverse impacts of the proposed development set out above.

Equalities Considerations

The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who

do not;

- foster good relations between people who share a protected characteristic and persons who do not share it.

The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

It is noted that the applicant is visually impaired and that parking on-street in Thong Lane can be dangerous due to the need for her to cross the road. However, the application site benefits from a rear access, which may provide an alternative parking arrangement. It is noted that personal circumstances rarely provide a justification for a proposal that would otherwise be refused. Overall, the applicant’s visual impairment has been attributed weight in the determination of this application and it can be concluded that there would be no adverse equality impact.

Human Rights Implications

In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

Along with any supporting material supplied by the applicant, this report has outlined the consultation that has been undertaken on the planning application and representations made to the Council as Local Planning Authority.

In determining the application, the Council needs to satisfy itself that the potential adverse amenity impacts

are acceptable and that any potential interference with the above Convention Rights are legitimate and justified. Both public and private interests are to be considered in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. The Council must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

In making the recommendation on this application, consideration has been given to the requirements of the Human Rights Act. Where it is engaged, any interference in those rights is considered proportionate, lawful and in the public interest to secure the proper planning of the area in accordance with adopted policy, having regard to any other material considerations.

Conclusion & Recommendation

The proposed development would have no adverse residential amenity or archaeological impacts and would provide sufficient car parking. The support given by local residents and the applicant's personal circumstances are acknowledged, all of which weigh in support of the proposal. However, the design of the proposed development would lead to an unacceptable amount of hardstanding and a loss of greenery on the site frontage, which would be detrimental to the character and appearance of the street scene. Furthermore, the proposal would be detrimental to highway safety and biodiversity.

Overall, it is considered that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits and therefore planning permission should be refused on design, highways and biodiversity grounds. The previous grounds of refusal have not been overcome.

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

Case Officer:	Mrs Kelly Joyce	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	26th June 2024	Dated:	26 June 2024