



Delegated Report

Planning Application

Planning Application No: 20220840

Location: 18 Overcliffe Gravesend Kent DA11 0EH

Description: Change from a C3 Class to a vehicle repair garage (tyre repair) (B2 Class).

Applicant: Mohammad Hashim Nasiri

Submitted Documents/Plans

Planning Application Form;
Heritage Statement;
Design and Access Statement;
Drawing No. 2022/08/16 – Existing Block and Site Plan;
Drawing No. 2022/08/16 – Proposed Block and Site Plan;
Drawing No. 2022/06/19 – Roof Plans;
Drawing No. 2022/6/19 – Side Elevation Existing & Proposed;
Drawing No. 2022/6/19 – Elevation Existing and Proposed;
Drawing No. 2022/06/19 – Floor Plans Existing & Proposed;
Drawing No. 2022/06/19 – Front 3D Existing & Proposed; and
Drawing No. 2022/06/19 – Rear 3D Existing & Proposed.

Relevant Planning History

Reference	Description	Decision	Decision Date
20180929	Demolition of the existing garage and erection of a 2no. bedroom detached bungalow.	Refused Appeal Dismissed	09.09.2019 01.04.2020
20090031	Erection of two, two storey, two bedroom detached dwellings each with parking space.	Refused	02.03.2009
20070880	Erection of a two storey building to provide two, three bedroom dwellings and two, one bedroom self-contained flats with four car parking spaces underneath at ground floor level.	Refused	28.01.2008
20000730	Erection of a detached block of 7 no. garages at the rear for the occupants of no. 26 Overcliffe incorporating alterations to the vehicular access onto a classified road; erection of 1.3m high brick pier, 0.85m high brick wall and a 1m high cast iron moulded bollard fronting Overcliffe; and construction of a retaining wall with balustrade to form side pedestrian access.	Permission	22.03.2001
19830893	Conversion of dwelling into two self contained flats with maisonette over	Permission	30.04.1984

19820284	Use of garage at the rear for weight lifting and keep fit	Refused	09.06.1982
19820227	Use of premises for A Basement Caretakers flat B Ground floor Day Centre for elderly people C First floor Mother and Toddler Group D Second floor Storage	Refused	29.09.1982
19790834	Change of use from residential to community centre incorporating a caretakers flat at lower ground floor	Permission	10.03.1980
19790111	Use of ground floor first floor and second floor of dwelling house as a community centre for educational and social purposes and basement as caretaker flat and use of garage at rear as a hall for social functions for a temporary period	Refused	05.04.1979
19780953	Use of basement ground floor and first floor of dwelling house as a community centre for educational and social purposes and second floor as caretakers flat and use of existing garage at the rear as a hall for social functions	Refused	19.12.1978

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS07 – Economy, Employment and Skills
- 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 the Highway Network
- TC3 – Development Affecting Conservation Areas

Paragraph 33 of the NPPF (2021) 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 (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- 2 – Achieving Sustainable Development
- 11 – Making effective use of land
- 12 – Achieving sustainable development and well-designed places
- 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006); and
- Overcliffe Conservation Area Character Appraisal (2009).

The Council has a statutory duty under Sections 16(2) and 66 (1) of the Planning (Listed Buildings and

Conservation Areas) Act 1990 in considering whether to grant listed building consent or 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 architectural or historic interest which it possesses.

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

Consultations, Publicity and Representations

Consultees

GBC – Environmental Protection

After reviewing this application we have the following comments:

Noise Control

The nature of a vehicle repair garage will lend itself to causing substantially more noise than the building's existing residential classification. St James's Avenue is a residential street with no other commercial premises therefore a commercial garage there is likely to significantly impact the amenity of the local area to the detriment of residents we would therefore on these grounds alone recommend refusal. Should however the application be considered suitable we would strongly recommend that an appropriate noise impact assessment is carried out prior to determination by the Local Planning Authority, and the report includes the following;

1. The internal ambient noise levels in all habitable rooms of nearby residential dwellings shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014.
2. The maximum internal noise levels in all habitable rooms should not exceed 45dB L_{Amax} more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.

Odour/Fumes

There is the potential for odour and fume nuisance from commercial garages and it is unlikely that the garage will operate with its shutters closed, which would therefore make any air ventilation system ineffective. The garage is therefore unlikely to be able to prevent fugitive emissions such as diesel/petrol fumes from affecting nearby residences. However if the applicant believes that they will be able to control odour/fumes from the commercial use of the garage then prior to determination by the LPA, they should provide an odour/fume impact assessment report. It is recommended in the absence of specific guidance on odour/fume mitigation for commercial garages, that the following guidance is used, 'Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems - Annex B - Information Required To Support Planning Application For Commercial Kitchen.'

The report must include details of the garage's ventilation system, including detailed plans and a cross section of any air extraction system.

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.

Smoke Control Informative

The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991 shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions and they can only be used for the fuel for which they are designed. When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk

Waste Disposal Informative

All waste generated by the commercial use of a garage is considered trade waste and it would therefore be an offence, subject to an unlimited fine, for the business to burn any of their waste. Should the Environmental Protection Team be satisfied that waste is being burnt at the premises then enforcement action is likely to be taken against the owner/operator. Waste, including Tyres, should be suitably stored so as not to cause a nuisance and suitable waste carriers should be employed to dispose of all waste generated.

Code of Practice on Construction and Demolition

Please apply

Summary

Due to the quiet residential nature of the location we do not consider it appropriate for a commercial garage to operate here as there is a strong likelihood of both noise and odour/fume nuisance being caused, with limited options for mitigation. We therefore recommend that the LPA considers refusal of this application.

GBC – Conservation Officer

No comments received.

Neighbouring properties

Consultation was carried by the displaying of a site notice together with individual letters sent to 9 surrounding properties. 4 letters of representation were received objecting to the proposal making the following summarised comments;

- Restricted area with limited parking
- Noise
- Air pollution
- Out of character with residential area
- Impact on conservation area
- Parking
- Increased traffic
- Area is unsuitable for commercial activity

Officer's Analysis

Procedural Issues

The application site address is listed as 18 Overcliffe, however the subject of this application is the detached garage located to the rear of 18 Overcliffe which is accessed directly from St James's Avenue. The main property does not form part of this application.

Design, Character and Appearance

The application site is located to the rear of No. 18 Overcliffe and is a large detached garage with hardstanding to the front which provides off road parking for the occupants of No. 18. Originally the site would have formed part of the rear residential garden of No. 18. As the planning history shows, the associated property was given permission in 1994 for conversion of dwelling into two self contained flats with maisonette over (ref. 19830893). Condition iii of the decision notice states that;

- (iii) *The areas shown on the approved plan as existing garage and casual parking shall be used for and kept available for the parking of private motor vehicles for the occupants of the flats hereby permitted and no development whether permitted by the Town and Country Planning General Development Order 1977 (as amended) or not shall be carried out on the site in such a manner or in such a position as to preclude vehicular access into this reserved parking space.*

The site is located within an existing residential area and the Overcliffe Conservation Area.

Application Site



One of the core planning principles of the NPPF is that heritage assets, such as listed buildings and conservation areas, should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life for this and future generations.

Sections 66(1) and 72(1) of the (Listed Buildings and Conservation Areas) Act 1990 states local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings and Conservation Areas.

Policy CS19 (LPCS) sets out that new development should conserve and enhance the character of the local built and historic environment. Proposals should make a positive contribution to the street scene, the quality of the public realm and the character of the area.

Policy CS20 (LPCS) sets out 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 central to the regeneration of the area and the reinforcement of sense of place. 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, especially where these contribute to the distinct identity of the Borough.

At a national level, the NPPF (2021) at Section 16 (Conserving and enhancing the historic environment)

sets out national policy on heritage matters and it states that great weight should be given to a heritage asset's conservation. Account should be taken of the desirability of sustaining and enhancing the significance of heritage assets.

The proposal would result in the change of use of the existing garage which is currently within Class C3 residential use to a tyre repair, Class B2. The submitted plans show the replacement of the existing bi-fold shutter doors with a vertically opening roller shutter. No other elevational changes are proposed. Therefore in terms of design, there are no objections.

The area is characterised by large Victorian dwellings and whilst the existing garage on site is poor this proposal would result in a commercial use within an area that is wholly residential. Therefore in terms of principle of development, the proposal would be an unacceptable use that would be out of character with the area, thus being harmful to the conservation area and residential area as a whole.

This stance is supported by Policy CS07 which seeks for office, industrial and warehousing facilities to be located on Key Sites in the Swanscombe Peninsula and Northfleet Embankment Opportunity Area. Paragraph 5.1.33 of the policy states that the council would only support the refurbishment and upgrading of existing industrial and commercial premises.

The introduction of a tyre repair Class B2 Use within a C3 (residential) dwelling is out of character with the wholly residential nature of the area. Whilst there are only minor external changes proposed in the form of replacement shutter door and therefore the residential appearance is retained, the use will change the character of the area by the increase in activity and coming and goings to and from the site.

In conclusion, the proposal would result in a commercial garage located within a residential area that would not integrate well with the surrounding local area. Moreover, the proposal would not conserve the local built environment and fails to preserve or enhance the Conservation Area.

As such, the proposal would be contrary to Policies CS07, CS19 and CS20 of the Core Strategy 2014 and Sections 11 and 12 and 16 of the National Planning Policy Framework (2021), which require development to be visually attractive and to conserve and enhance the character of the local built environment.

Neighbouring Amenity

Policy CS19 of the Core Strategy 2014 states that new development will be located to safeguard the amenity of neighbouring properties and avoid adverse environmental impacts from pollution including noise, air, odour and light pollution.

The noise, disturbance and odour from a B2 tyre repair use in a residential area is likely to impact the neighbourhood significantly. The applicant has not submitted a noise impact assessment (NIA) and whilst the Local Authority would usually requested a NIA in order to assist in the assessment of the proposal, as covered within the design and character section above, the principle of the proposed development is wholly unacceptable and as such it was not deemed to necessary to put the applicant to additional time and expense in this case.

Parking is very restricted with only a small number of properties having private garages. The site has a small hardstanding located to the front of the garage which is currently used for parking for the residents of No. 18. With the exception of this, there appears to be no suitable place for additional vehicles to park or for the waiting of delivery vehicles or customer parking due to the parking restrictions within the area. As such the coming and going of the additional vehicles is likely to cause unreasonable disturbance to the neighbours.

Taking into account the comments from the GBC – Environmental Protection Officer, it is considered that due to the quiet residential nature of the location it is not considered it appropriate for a commercial garage to operate here as there is a strong likelihood of both noise and odour/fume nuisance being caused, with limited options for mitigation.

The proposal therefore, in terms of the noise, odour and disturbance likely to arise from a B2 use within a residential area, conflicts with the objectives of Policy CS19 of the Core Strategy 2014 and para. 130f of the National Planning Policy Framework 2021.

Parking and Highways

The application site, whilst is located to the rear of Overcliffe, is accessed from St James's Avenue which is a residential street which has parking restrictions in force. The parking for the development is a small area located directly to the front of the garage and on street. Neither the planning application form or the supporting design and access statement state how many staff, hours of operation or the number of customers that would be expected on site. The type of use proposed would lend itself to having more than one person working at the premises. The hours of operation are also not stated and by the very nature of the use proposed, there would be a more intensification of use of the garage due to staffing and customers attending the premises and potentially leaving their cars on site and on the surrounding roads.

Given that St James's Avenue is a residential street with restricted on street parking and the fact that there is no possibility of control on the popularity of the business. In addition, the proposal would result in the loss of parking associated with the residents of No. 18 Overcliffe and there would be no mitigation for the displacement of these vehicles.

On this basis, the proposed use does not mitigate its impact on the highway and is therefore contrary to Policy CS11 of the Core Strategy 2014 and Policy T1 of the Gravesham Local Plan 1994.

Conclusion

The introduction of a B2 (general industry) tyre repair premises within a C3 (residential) dwelling, by virtue of the use and additional activity at the site, is out of character with the wholly residential nature of the area and would have a detrimental impact on the Overcliffe Conservation Area and therefore contrary to Policies CS07, CS19 and CS20 of the Core Strategy 2014 and para. 130 of the National Planning Policy Framework 2021.

The proposed use as a tyre repair will give rise to an increase in noise, odour and disturbance to the detriment of the enjoyment of the neighbours' amenities and therefore conflicts with the objectives of Policy CS19 of the Core Strategy 2014 and para. 130f of the National Planning Policy Framework 2021.

The proposed part use of the premises as a tyre repair is likely to increase the number of visits to the site in an area where there is restricted on street parking and is already significant competition for parking spaces. The proposed use does not mitigate its impact on the highway and is therefore contrary to Policy CS11 of the Core Strategy 2014 and Policy T1 of the Gravesham Local Plan 1994.

Recommendation:

Refuse

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

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:	<i>A Grout</i>	Signed:	<i>R Hart</i>
Dated:	19 th October 2022	Dated:	20th October 2022