



Delegated Report

Full Planning Application

Application No: 20230513

Location: Charnwood, 77 Beechwood Drive, Meopham, Gravesend, Kent, DA13 0TX

Description: Part retrospective application for the use of the land for the stationing of 2 mobile homes, and associated landscaping and boundary treatments.

Applicant: Ms C Smith, C/O Graham Simpkin Planning Ltd

Site Visit: N/A Desktop Assessment

Submitted Documents/Plans

- Application Form - dated 11/05/2023;
- Covering Letter - dated 05/05/2023 (ref: PR3817.RO);
- Planning Statement - dated 05/2023 (ref: PR3817.RO);
- Drawing no. 01 - Rev. A - Site Location Plan (scale - 1:1250);
- Drawing no. 02 - Existing Block Plan (scale - 1:200);
- Drawing no. 03 - Mobile Homes 2 and 3 Floor Plans and Elevations;
- Drawing no. 04 - Mobile Homes 1 Floor Plans and Elevations;
- Drawing no. 05 - Proposed Block Plan (scale - 1:200).

Relevant Planning History

Reference	Description	Decision	Decision Date
20120696	Demolition of existing dwelling and erection of a detached three bedroom chalet bungalow and a detached double garage.	PERMITTED	12.09.2012
20110625	Outline application for the demolition of the existing dwelling and erection of two replacement dwellings.	REFUSED	18.08.2011

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS12 - Green Infrastructure
- CS18 - Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 - Vehicle Parking Standards

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)

- Section 2 - Achieving Sustainable Development
- Section 12 - Achieving Well-Designed Places
- Section 13 - Protecting Green Belt Land
- Section 15 - Conserving and Enhancing the Natural Environment

Supplementary Planning Guidance

- SPG 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 - amended June 2020
- Technical Housing Standards - Nationally Described Space Standard (2015)
- SPG 4 - KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)
- Gravesham Landscape Character Assessment (2009)

Consultations, Publicity and Representations

External Consultees

Meopham Parish Council - Following discussion by Meopham Parish Council's Planning Applications Working Group; the Council wishes to provide the following response:

- Meopham Parish Council refer this application back to GBC as the issue is complicated by the overall lack of site provision within the borough and the lack of strategy contained within the Gravesham Local Plan. However, precedent should not be set where there is in effect no confirmed GBC planning policy on this issue.

Internal Consultees

GBC Environmental Protection (Regulatory Services) - No objection to this application. The following conditions/informatives are recommended:

- *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 Highways Officer - I have no highway objections; the two accesses exist and served a house previously.

However, as the caravans will be permanent dwellings secure cycle parking should be provided at the same rate as a house at one space per bedroom. It is also noted that no details have been provided regarding foul drainage, it is essential to know that whatever system is used it has the capacity to serve two / three bedroom caravans.

British Water suggest that a domestic caravan will require the same amount of water and produce the same amount of effluent as a house per person. So, if the previous property was not on mains drainage, there is a possibility the foul drainage provision will need to be increased/replaced.

BRITISH WATER <i>expertise worldwide</i>			
Table of Loadings for Sewage Treatment Systems			
Per person / activity / day (unless otherwise specified)	FLOW	BOD	Ammonia
	(Litres)	(Grams)	as N
DOMESTIC DWELLINGS (Grams)			
Standard residential	150	60	8
Mobile home type caravans with full services	150	60	8

The applicant should also provide details on how a tanker can access the site if it is not on mains drainage so it does not obstruct the carriageway during sludge/effluent removal. (Tracked/swept path drawing).

Neighbouring properties

Two notices were displayed around the site 31st May 2023.

In addition, five surrounding properties were consulted and no representations were received. The consultation period expired 23rd June 2023.

Officer's Analysis

Site Description and Context

Charnwood is a site located on the eastern side of Beechwood Drive. It is an open site containing three static caravans, with accesses onto both Beechwood Gardens and Beechwood Drive.



The surrounding context is a mixture of authorised and unauthorised dwellings, which are predominantly chalet style bungalows.

Site History

The site was granted planning permission for the demolition of a bungalow and the construction of a replacement three-bedroom chalet bungalow and detached garage (ref. 20120696) on 12 September 2012.

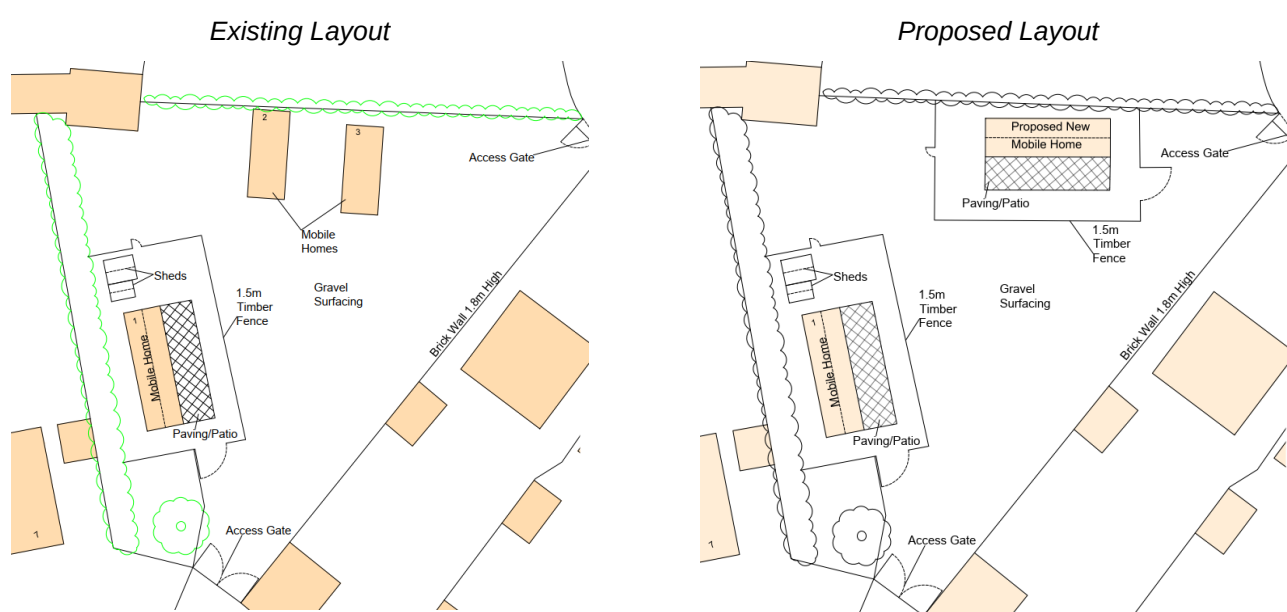
After the permission was granted, the bungalow was demolished but the permitted replacement dwelling was not constructed. The planning permission included a number of pre-commencement conditions, which were not discharged.

Therefore, the current use of the site is unauthorised, and this application seeks formalisation for the retention of no.2 static mobile homes.

Proposed Development

This application seeks planning consent for the use of the land for the stationing of two mobile homes, with associated landscaping and boundary treatments.

The existing mobile home within a fenced area, located on the eastern edge of the site, would be retained. The two other static homes would be removed and replaced by a single static home. There would be a total of two caravans on site post-development. The comparison layouts are shown below:



Green Belt

The application site is located in the Green Belt and as such Policy CS02 (LPCS) is relevant. Development in the urban area is prioritised as the sustainable location for development. In the rural area, Policy CS02 states that development will be supported within rural settlements that are inset from the Green Belt as defined on the policies map. Development outside those settlements, i.e. in the Green Belt, will only be supported where it is compatible with national policies for protecting the Green Belt and policies in the LPCS.

There are five principle issues in determining this application;

1. Is the proposed development appropriate in the Green Belt?
2. The effect of the proposal on the openness of the Green Belt;
3. Do any very special circumstances exist?
4. Sustainability;
5. Impact on the landscape;
6. The effect on the character and appearance of the area; and
7. Other matters.

1. Is the proposed development appropriate in the Green Belt?

There are strict policy considerations within the Green Belt whereby paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 goes on to say that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. A Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt unless it falls within the specified exceptions. The NPPF (paragraph 149) exceptions to this are: -

- (a) Buildings for agriculture and forestry;*
- (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*
- (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- (e) limited infilling in villages;*
- (f) limited affordable housing for local community needs under policies set out the development plan (including policies for rural exception sites); and*
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
 - not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

The Local Planning Authority do not consider the change of use of the land and stationing of mobile homes on the site to meet any of the specified exceptions set out in paragraph 149 of the NPPF (2021), given that a mobile home, such as those proposed in this application, cannot be a building. In Case Law (Carter v SEE 1991 JPL 131) it was acceptable that stationing a mobile home without wheels that met the definition of a caravan would not amount to a building operation. Furthermore, in Measor v SSETR [1999] JPL 182 the Deputy Judge stated that he would be wary of holding, as a matter of law, that a structure which satisfies the definition of a mobile home under S13 (1) of the 1968 Caravan Sites Act (as amended) could never be a building for the purpose of the 1990 Act, however it would not generally satisfy the well-established definition of having regard to factors of permanence and attachment. "Mobility" does not require the mobile home to be mobile in the sense of being moved on its own wheels, it is sufficient that units can be picked up intact and put on a lorry by crane or hoist. In the case of both the existing mobile home (to be retained) and the proposed mobile home, both would be transportable in this way and therefore cannot be classified as buildings. As such by not meeting any of the exception criteria of paragraph 149 of the NPPF (2021), in the first instance the proposal must be deemed inappropriate development in the Green Belt.

Nevertheless, the NPPF (2021) (paragraph 150) goes on to set out other types of development that are not inappropriate in the Green Belt. These are:

- (a) mineral extraction;*
- (b) engineering operations;*

- (c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- (d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- (e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- (f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

The Planning Statement (ref: PR3817.RO) argues that paragraph 150(e) is relevant to this case, being the “material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)”. It is acknowledged that the stationing of mobile homes on the site would constitute a material change in use of the land, even though the proposed use does not fall within the bracket list of para 150 (e). This list was deemed to be “neither closed nor exhaustive” by an Inspector in a combined appeal decision (Appendix 1), finding that the temporary mooring of boats would form part of the list in paragraph 150(e) but continuing to state that permanent moorings would not meet the criteria. In this case, as discussed previously, the proposal seeks permission for “mobile” homes. As these mobile homes are not permanent, they would align with the evidence from the boating appeals as being within the non-exhaustive list of paragraph 150(e) of the NPPF (2021). Nonetheless, paragraph 150 is predicated on the openness of the Green Belt being preserved and the form of development not conflicting with the purposes of including land within the Green Belt. These purposes are set out within paragraph 138 of the NPPF (2021).

2. The effect of the proposal on the openness of the Green Belt

Paragraph 137 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also states that the essential characteristics of Green Belts are their openness and permanence.

The openness of the Green Belt has both spatial and visual aspects, and any new built form of development is harmful to its open character. It is acknowledged that the proposal would remove one of the three existing mobile homes on the site, which would reduce the quantity of structures on the site to the benefit of openness. However, the proposed site would contain no.2 large static mobile homes and other small storage structures, be formed completely of gravel hardstanding and be surrounded by close board fencing and gates.

As stated in the NPPF (2021), openness and permanence are the essential characteristics of the Green Belt and the two static mobile homes, together with the excessive associated parking area, hardstanding, residential paraphernalia and lighting would permanently and irrevocably harm the Green Belt through loss of openness. Whilst it may be possible to mitigate visual impact to a limited degree by screening as suggested, this cannot overcome the adverse impact on openness which is defined by the presence or absence of the buildings themselves.

An argument is put forward in the Planning Statement (ref: PR3817.RO) that the previously approved application (ref. 20120696) was more harmful to the openness of the Green Belt than what is proposed as part of this application. This is to be discussed below in the very special circumstances section. However, a single residential dwelling, with one family residing in the property, would have a lesser impact on the openness of the Green Belt, compared to two families living on the same site. The former would include more substantial landscaping, significantly reduced hardstanding and substantially less residential paraphernalia.

Therefore, notwithstanding the development being considered an exception under paragraph 150(e) of the NPPF (2021), this exception is predicated on the basis of preservation of the openness of the Green Belt and not conflicting with the purposes of land included within it, which the proposal does not achieve. As such, the development is inappropriate development that should not be approved except in very special

circumstances.

3. Consideration of 'very special circumstances'

Having concluded that the development is inappropriate development, very special circumstances need to be considered as part of the Green Belt assessment. The argument for very special circumstances put forward by the application relate to the previous application for demolition of the dwelling and construction of a chalet bungalow with detached garage (ref. 20120696). The Planning Statement (ref: PRE3817.RO) states that this is an 'extant permission', however the Local Planning Authority contest this view.

While it is noted that the previous dwelling was demolished at some point in 2013 following the grant of planning permission, there were pre-commencement conditions attached to the decision notice that were never discharged. Given that the description of the development included "demolition of existing dwelling", these pre-commencement conditions should have been discharged prior to the demolition. The pre-commencement conditions were as follows:

3. *Prior to the commencement of the works hereby approved, details and samples of all external facing materials shall be submitted and approved, in writing, by the Local Planning Authority. The scheme shall then be constructed in accordance with these approved details.*

Reason *In the interest of visual amenity and to ensure a satisfactory standard of development upon completion.*

4. *A landscaping scheme, including, details of surface treatment, screening by walls, fences or other means, the planting of trees, hedges, shrubs and grassed areas, shall be submitted to and approved in writing by the Local Planning Authority before any works are commenced on site. The approved scheme shall then be implemented to the satisfaction of the Local Planning Authority before the dwelling hereby permitted is occupied and maintained to the satisfaction of the Local Planning Authority for a period of five years.*

Reason *No such details have been provided at this stage.*

5. *Prior to the commencement of works on site details of the slab level of the proposed dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be built in accordance with the approved details.*

Reason *No such details have been provided at this stage.*

The Local Planning Authority consider condition 5 to go to the heart of the permission as set out in case law, but acknowledge that conditions 3 or 4 do not.

In a recent High Court case, Meisels case (Meisels and Anor v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1987 (Admin), the High Court heard a statutory challenge under section 289 of the Town and Country Planning Act 1990 ("TCPA 1990") in respect of a Planning Inspector's dismissal of an appeal against an enforcement notice. This case provides a useful exploration, in a planning context, of the legal principles relating to the lawful implementation of planning permissions without compliance with a pre-commencement condition and the extent to which operations carried out otherwise than in compliance with approved plans are capable of commencing development.

The judge noted that, in respect of the ground (c) appeal, namely on the question of whether or not there was a breach of planning control, there were essentially three interlocking issues. The first issue, concerned whether the failure to comply with a pre-commencement condition attached to the planning permission prevented the development from constituting implementation of the approved scheme is applicable to the consideration of this application.

The Appellants had argued that in the consideration of the planning appeal to which the High Court case

related, that the Inspector had acted unlawfully in finding that a condition which had not been implemented, in relation to external materials, was a “condition precedent”. The Court considered the test in Hart Aggregates Ltd v Hartlepool BC [2005] EWHC 840 (Admin) was applied by the Inspector and he correctly considered whether the condition “goes to the heart of the planning permission”.

There are earlier cases, from Whitley & Sons Ltd v Secretary of State for Wales (1992) 64 P & CR 296 onwards, however they are not considered in detail in this report, but extensive analysis undertaken by Ouseley J of these cases can be found in R (Hammerton) v London Underground Limited [2002] EWHC 2307 (Admin) in the summary of the principles derived from the authorities at [122]-[133].

Hart Aggregates v Hartlepool BC [2005] EWHC 840 (Admin) (Hart) held that a distinction had to be drawn between a condition that required some action to be undertaken before development is commenced and a condition which expressly prohibits any development taking place before a particular requirement has been met. It was clearly noted that it is necessary for the condition both to be expressly prohibitive of commencement of development and to go to the ‘heart of the permission’.

In the case of F.G Whitley & Sons v SSW and Clwyd CC 1992 (Whitley) it was held that the question to be asked was whether the development was permitted by the planning permission read together with its conditions, and if there is a condition that has to be fulfilled before development commences, and development commences without the condition being fulfilled, the development has to be considered as being commenced unlawfully. Whitley also sets out that it is not necessary to try to determine whether or not the conditions contained are properly capable of being classified as conditions precedent or otherwise. The Courts have, in subsequent cases, been prepared to apply Whitley flexibly and recognising that there may need to be some leeway, in terms of timing, provided there was no prejudice to the purpose of the conditions.

In the case of the previous permission on this site, condition 5 clearly prohibits the commencement of works on site, until details of the slab level of the proposed dwelling are submitted to and approved by the local planning authority. The reason for this was that no such details had been provided at the application stage, as set out in the decision notice. The Officer’s delegated report for the application states, that “the replacement which has been submitted complies with the footprint requirements by not exceeding 92.9m and the overall height of the dwelling from the slab level to the ridge is 5.9 metres which is just below the maximum height allowed (6 metres).” However, to ensure that the overall height of the building did not exceed 5.9 meters from the slab level, in relation to the ground level, there was a need to ensure that this was controlled via a pre-commencement condition. Without this pre-commencement condition, the proposal would not be policy compliant (as per the Development Plan in 2012), as the pre-commencement condition fundamentally controlled the final appearance of the building and its relationship to its surroundings.

Planning condition 5 was clearly breached at some point after 2013, as the dwelling was demolished with no discharge application received. Having considered the wording of the pre-commencement condition and the planning considerations that justify it, it is clear that both tests set out in Hart are met and that the condition is therefore a condition precedent.

In Greyfort Properties Ltd v Secretary of State for Communities and Local Government [2011] EWCA Civ 908 (Greyfort) the court considered a case where an Inspector held that the work was carried out in breach of a condition of the planning permission and could not therefore amount to commencement of the development authorised by the permission. The Inspector found that the pre-commencement condition (4), relating to the ground floor levels of the building, which prohibited “work... on the site” went to the heart of the permission. This condition was not discharged prior to the works beginning and this constituted the commencement of the development. The Court concluded that *“the local planning authority was in my view reasonably entitled to treat the ground floor levels of the building as a matter of sufficient importance to justify the inclusion of a condition prohibiting the commencement of any work on the site, including access work, before the levels were agreed”* and the case was rejected.

The Greyfort case is similar to the previous application on this site, whereby the ground levels / slab levels of the site were controlled by a pre-commencement condition that went to the heart of the permission.

Therefore, following case law the previous planning permission has not been lawfully implemented and the site therefore has a nil-use.

Overall, having considered the case put forward by the applicant as constituting very special circumstances, it is clear that the planning permission from 2012 cannot be considered to have been lawfully implemented. Therefore, it cannot be considered as a reasonable fall-back position that should be given any weight in consideration of this application.

4. Sustainability

The NPPF (2021), taken as a whole, represent the Government's view of what constitutes sustainable development. Paragraph 80 of the NPPF (2021) provides specific advice on sustainable development in rural areas and seeks to avoid new isolated homes in the countryside unless there are special circumstances, which are listed as follows:

- a) *There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *The development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *The development would involve the subdivision of an existing residential dwelling;*
- e) *The design is of exceptional quality, in that it:*
 - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

It should be noted that a number of recent appeal decisions within the Borough of Gravesham have clarified the issue on sustainability in relation to both new build dwellings and conversions within the countryside.

Appeal decision APP/K2230/A/12/2186760 (Appendix 2) related to an outline application for erection of a detached dwelling and garage at land adjacent to the See-Ho Public House, Shorne, Gravesend, Kent which is situated directly adjacent to the settlement boundary of Shorne Ridgeway. The site the subject of this application is located 160 metres from the settlement boundary of Culverstone Green and over 1km from the nearest retail unit. When dismissing the above appeal, the Inspector stated:

"It was indicated to me at the Hearing that these services are very limited, with no more than a handful of buses a day at best, which reflects the 'infrequent' nature suggested in the Technical Paper. Both are factors which would mean that there would be an over-reliance on private motor vehicles to access local services. The proposal would therefore fail to achieve the social role of the planning system in terms of the lack of accessible local services, and the environmental role by minimising waste and pollution."

The Inspector went on to state *"due to limited accessibility, there would be difficulty for future occupiers in accessing local services to support the community's health, social and cultural well-being, which would be contrary to the social role of planning which seeks these aims. What is more, I have found that there would be significant harm to the Green Belt through inappropriateness. The proposal would therefore fail to fulfil the environmental role of sustainable development which includes contributing to protecting and enhancing our natural, built and historic environment."*

It is the Local Planning Authority's view that if the Inspectorate concluded that a proposed dwelling which is directly adjacent to a settlement inset from the Green Belt is deemed to be unsustainable, then the site for this application (Charnwood) being located within the countryside being over 1km to the boundary of the settlement of Culverstone Green (if going by the roads) is unsustainable. In addition, once future occupiers travel the 1km to the village boundary there is over 1km to be travelled along Whitepost Lane, without any

street lighting or footpaths. Furthermore, once persons travel over the 1km the only local services that area available is a small Class E retail shop and petrol station with ancillary Class E shop. The local primary school is a short distance to the north of the petrol station.

It is therefore considered that the sheer distance would result in future occupiers being over reliant on the private motor car in order to access the most basic facilities within Culverstone Green. There is also limited bus services from Culverstone Green and no bus services from within Culverstone Valley.

A further appeal decision (APP/K2230/16/3157994) (Appendix 3) relates to conversion and extension of existing stables into a one bedroom residential dwelling at Knights Cottage, Knights Place Farm. Knights Cottage is located 0.7 miles from the town of Strood, but is situated within the Green Belt and Kent Downs Area of Outstanding Natural Beauty. Notwithstanding the short distance from the town of Strood the Inspector concluded that converting an existing building into a dwelling would be unsustainable form of development and stated the following:

“The appeal development would be located on the edge of a small group of dwellings in the countryside. It would not be within easy walking distance of services, facilities or public transport. Further, the appeal site’s entry drive leads onto a very busy road that connects with the M2 motorway. For all these reasons, it is likely that the future occupiers would have a high dependence on private motorised modes of transport. For this reason, it would not be sustainably located. It would result in an new isolated home in the countryside, which would be contrary to paragraph 55 of the Framework, which indicates that such development should be avoided and would fail to accord with Gravesham Local Plan First Review (1994) (LP) Policy C11. That policy states that conversion of farm buildings to other uses will be permitted where, amongst other things, the building is a substantial one, of permanent construction and in an appropriate location in relation to roads and services.”

Appeal decision APP/K2230/W/15/3003758 (Appendix 4) relates to the development of a new dwelling within the same area as this application (Culverstone Valley Area).

“11. The nearest facilities to the appeal site are located in the village of Culverstone Green, and include a shop, post office and petrol station. There is also a primary school and a bus stop. A limited number of facilities, including a small convenience store and a community centre, are also available in the village of Vigo, approximately 1 kilometre from the appeal site. A wider range of facilities is available in Meopham, some 3.5 kilometres away, including shops, a secondary school, a day nursery, a library and doctors/dentist surgeries. The nearest railway station is at Hook Green, just beyond Meopham when travelling from the appeal site.

12. The limited range of facilities in Culverstone Green and Vigo are beyond comfortable walking distance. Moreover, the pedestrian route to these facilities involves negotiating narrow and unlit lanes that, whilst hard surfaced, do not have a dedicated pedestrian pavement. The route also involves significant gradients that, whilst not presenting a problem for some people, would present a significant obstacle for those with reduced mobility, including the elderly and those with young children. Pedestrian access to the facilities in Culverstone Green and Vigo would therefore be an unattractive and potentially hazardous prospect, particularly at night, and would be wholly impractical in adverse weather conditions. In relation to the wider range of services in Meopham and the railway station at Hook Green, these difficulties would be compounded by the greater distance involved. It is therefore likely that all these services would be primarily accessed by car, such that the occupiers of the proposed dwelling would be reliant upon the private car for their day-to-day activities.

13. I conclude that the proposed development would not provide a suitable site for housing, having regard to the principles of sustainable development. I therefore conclude that the proposed development would be contrary to Policy CS01 of the Core Strategy which provides, amongst other things, that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. In this respect, the proposed development would be contrary to the objectives of paragraph 17 of the Framework in terms of actively managing patterns of growth to make the fullest use of public transport, walking and cycling.”

Taking into account the above appeal decisions and the fact that the appeal sites are within the borough of Gravesham and have been assessed against the same local and national planning policies it has to be concluded for the above reasons the application site is also deemed to be an unsustainable location for residential use.

The proposal is therefore considered to be contrary to paragraph 80 of the NPPF (2021) and CS01 (LPCS) which seek to encourage sustainable living, and the policies of the Framework, which, amongst those cited, include improving conditions in which people live, work, travel and take leisure.

Final Balancing Exercise on Green Belt Issues

Overall, the proposed development is inappropriate development that is harmful to the openness of the Green Belt, without any very special circumstances being established. The development for mobile homes do not constitute buildings and therefore do not meet any of the exceptions set out in paragraph 149 of the NPPF (2021). Although meeting exception (e) of paragraph 150 of the NPPF (2021), this is predicated on there being no impact on the openness of the Green Belt and not conflicting with the purposes of land included within it, which as set out above this proposal does not achieve.

There are no very special circumstances established to justify inappropriate development. As set out above, the previous permission from 2012 contained pre-commencement conditions of which condition 5 went to the heart of the permission. Therefore, that planning permission cannot be considered to have been lawfully implemented and cannot be considered as a fall-back position that should be given any weight in consideration of this application.

As such, the proposed development is inappropriate development that is harmful to the openness of the Green Belt and in conflict with the purposes of land included within it, and is therefore contrary to local and national planning policy.

5. Impact on the Landscape

In addition to being within the Green Belt, the site is located within the Harvel Wooded Downs Landscape Character Area. This area is characterised by varied topography, ancient wood and haphazard mosaic resident plots and small holdings.

Policy CS12 (LPCS) seeks to protect the Green infrastructure within the Borough and states at 5.7.26 the overall landscape character and valued landscapes will be conserved, restored and enhanced.

The proposal seeks retrospective permission for the use of the site, which would contain two static mobile homes enclosed by close-board fencing and would retain significant gravel hardstanding. The plans demonstrate that the existing planting on the edge of the site would be retained, however no additional planting is proposed. As such, the site would have an open, urban appearance within a rural area. The landscape character assessment refers to haphazard mosaic residential plots and small holdings but sets out key guidelines to conserve the landscape including:

- Conserving and maintaining traditional and distinct buildings
- Resisting proposals that introduce inappropriate designs and materials
- Improving and softening new development using landscape elements

This proposal is not considered to meet the objectives set out in the landscape character assessment, by failing to introduce traditional or distinct buildings by proposing prefabricated mobile home units that do not introduce appropriate materiality for the rural location, nor is there sufficient planting to soften the impact on the landscape. As such, the development is considered to harm the Harvel Wooded Downs Landscape contrary to Policy CS12 (LPCS).

6. The Effect on the Character and Appearance of the Area

Policy CS19 (Development and Design Principles) (LPCS) states that new development will be visually attractive and locally distinctive. It should also conserve and enhance the character of the local built and natural environment and integrate well with the surrounding area. Moreover, Section 12 (Achieving well-designed places) of the NPPF (2021) sets out that developments should function well and add to the overall quality of the area, be visually attractive and sympathetic to local character.

Gravesham's newly published Householder Extensions/Alterations Design Guidance SPD (2021) set out key principles for new developments. Generally, the SPD highlights the importance of new development complimenting and corresponding to existing character and the wider context. In this case, the rural character of the area and other surrounding dwellings should be considered.

As discussed previously, the development is out of character and harmful to the established landscape character of the Harvel Wooded Downs.

The proposal is located on Beechwood Drive where the prevailing character is of detached brick-built chalet style bungalows. These properties have varied style and design, but are generally in single family occupancy. There are some exceptions to this, where mobile homes occupy sites however these are less prevalent and more sporadic within the street scene.

Similar to the assessment against the character of the landscape, the proposed development is not considered to be visually attractive nor distinctive in design terms. The expanse of hardstanding and lack of landscaping fail to integrate with the rural characteristics of the area and the pre-fabricated mobile homes do not enhance the prevailing characteristics of the local built environment. Compared to the previously approved dwelling on the site, which would contribute and compliment the surrounding dwellings the scheme hereby proposed is considered harmful to the street scene.

Therefore, the development is contrary to Gravesham's Design Guidance SPD (2021), as well as Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

7. Other matters

Amenity of Future Occupiers

Policy CS19 (LPCS) and Section 12 of the NPPF (2021) require developments to provide adequate living conditions for future occupiers, which is reinforced by the Council's Residential Layout Guidelines (2020) and the Nationally Described Space Standards (2015). These provide minimum requirements for room sizes and amenity space.

The mobile home to be retained and the replacement unit would provide acceptable living conditions for future occupiers. The habitable rooms within each home would receive adequate natural light and there is adequate space on site for both units to share. As such, the proposed development is considered to safeguard the amenity of future occupiers in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Impact on amenity of surrounding properties

Policy CS19 (LPCS) requires new development to safeguard the amenity, including privacy, daylight and sunlight, of neighbouring properties and land and Section 12 of the NPPF (2021) requires development to have a high standard of amenity for existing users (in this case surrounding properties).

There is not considered to be any impact on neighbouring amenity in relation to privacy, loss of light, outlook or sense of enclosure. In addition, no objections have been received from neighbouring properties notified by post or through the on site publications.

Nevertheless, the proposal seeks permission for two static homes, where two families would be in occupancy, and this is likely increase noise through proliferation of use. The noise levels could therefore be considered to be higher than a single occupancy site, however the surrounding area is residential and the site would also be within this use. As such, it is not considered to be sufficient grounds to refuse the application on harm to amenity through noise generated by use.

Overall, the development would safeguard the amenity of surrounding properties in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2021).

Parking and Highways

The site is accessed by gates from Beechwood Drive and Beechwood Gardens. There is more than sufficient space on site for off-street vehicular parking to serve both proposed mobile homes. As such, there are no issues relating to parking or highway policy.

Drainage

Gravesham's Environmental Protection (Regulatory Services) team have requested, in the event of a positive decision, that an informative relating to foul sewage drainage be attached. This informative would read as follows:

- *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.*

Lighting

Gravesham's Environmental Protection (Regulatory Services) team have requested, in the event of a positive decision, that an informative relating to external lighting be attached. This informative would read as follows:

- *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).*

Conclusion

The application has been fully considered and is contrary to local and national planning policy.

The proposed development is inappropriate development within the Green Belt, which is detrimental to its openness and permanence and is in conflict with the purposes of land included within it in. There are no very special circumstances established, with the previous planning permission not having been lawfully implemented. As such, the proposal is contrary to the advice in Section 9 (Protecting Green Belt Land) of the National Planning Policy Framework (2021).

The application site is not considered to be within a sustainable location for the dwellings due to its distance from retail, educational and community facilities, and being within an area with poor public transport provision. Therefore, the proposed development is considered to be contrary to Paragraph 80 of the National Planning Policy Framework (2021) and Policy CS01 of the Gravesham Local Plan Core Strategy (2014).

Moreover, the proposed development is not visually attractive nor distinctive in design terms, the site would be dominated by expansive hardstanding and lack soft landscaping, which fail to integrate with the rural characteristics of the area and the pre-fabricated mobile homes do not enhance the prevailing

characteristics of the local built or natural environments. The scheme is therefore harmful to the street scene and Harvel Wooded Downs landscape contrary to Gravesham's Design Guidance SPD (2021), as well as Policies CS12 and CS19 of Gravesham's Local Plan Core Strategy (2021) and Section 12 of the National Planning Policy Framework (2021).

As such, it is recommended that planning permission is refused.

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>

Having considered the equalities duty placed on the Council, with regards to specific circumstances of this planning application, no particular issues are raised that need to be addressed.

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. In not granting planning permission, the occupants of the site will not benefit from planning permission and may be subject to enforcement action.

Recommendation

Refusal

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

Case Officer:	Mr Ethan Bonthron	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	11 th July 2023	Dated:	11th July 2023