

Delegated Report

Planning Application

Planning Application No: 20240478

Location: Broadwood House, Pondfield Lane, Shorne, Gravesend DA12 3LD

Description: Demolition of existing conservatory and existing first floor patio store; removal of balcony balustrade and erection of a single storey side/rear extension with a Sedum roof covering. Juliet balcony bar to be installed across existing door opening on first floor.

Applicant: Mr & Mrs F Whitehead

Site Visit Date: Various

Submitted Documents/Plans

Application form
Design and Access Statement
Drawing no. 24/431/01 (existing ground floor)
Drawing no. 24/431/02 (existing first floor)
Drawing no. 24/431/03 (existing elevations)
Drawing no. 24/431/04 (proposed ground floor)
Drawing no. 24/431/05 (proposed first floor)
Drawing no. 24/431/06 (proposed elevations)

Relevant Planning History

20020287	Erection of two storey rear extension and single storey side extension to form utility room, w.c., clean room and living room at ground floor level with enlarged bedroom and balcony at first floor level; erection of a conservatory at the rear, detached double garage at the front and detached tractor shed at the side; alterations to the front elevations involving construction of an open porch, pitched roofs over existing ground floor flat roofs and construction of 2 gable fronts.	Permitted	31.05.2002
20020014	Erection of two storey rear extension and single storey extensions on both side elevations to form living room, utility room, w.c., clean room, double garage and tractor shed at ground floor	Refused	06.03.2002

level with an enlarged bedroom and balcony at first floor level; erection of a conservatory at the rear; alterations to front elevation involving construction of open porch, pitched roofs over existing ground floor flat roofs and construction of 2 gable fronts.

19880923	Erection of s/s extension on northeast elevation to form snooker rm/jacuzzi/sauna/shower & changing rm, s/s extension on southwest elev to form double garage/refuse store/boiler rm/lobby, s/s extension on east elev to form enlarged living rm & conservatory, erec.of verandah at front & pergola at rear	Permitted	06.03.1989
19820553	Erection of a detached double garage	Permitted	16.09.1982
19560214	Erection of private rest home	Permitted	19.09.1956

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

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on the Highway Network
- C13 – Policy for Extensions to Dwellings in the Countryside

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 4 – Decision-making
- Section 12 – Achieving well-designed and beautiful places

- Section 13 – Protecting Green Belt land
- Section 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance

- SPG2 - 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);
- North Downs AONB Management Plan; and
- Design for Gravesham (2024)

Consultations, Publicity and Representations

Consultees

Shorne Parish Council

The Parish Council has no objection in principle to this proposal but has concerns about the size.

The site is located in the Green Belt and the “Area of Outstanding Natural Beauty” (National Landscape Area), where the “one-third rule” should be applied.

The existing property is a large house in a large curtilage, which has already been considerably extended with a front extension, single-storey side and front extension and an attached 3 bay garage, a separate single garage, a small single storey rear extension and a large part single, part two-storey rear extension with balcony.

The proposal will result overall in adding an L-shaped, single-storey extension which includes a further side-extension lining up with the rear wall of the garage and then a full-width rear extension. The design is modern, in contrast to the existing house, but should not be visually intrusive assuming that tree cover remains. A green roof is proposed to the extension and Conditions are needed ensuring that this is properly maintained.

Neighbouring properties

The application has been advertised by site notice and individual letters to six neighbouring properties. No letters of representation have been received.

Officer’s Analysis

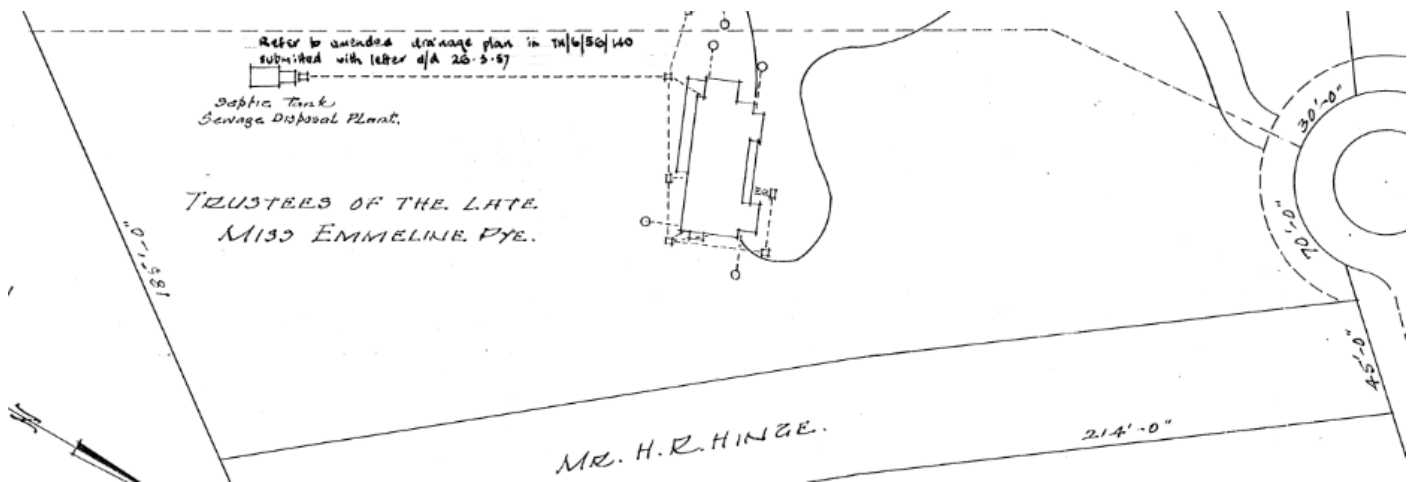
Proposal

This application seeks planning permission for the demolition of the existing conservatory and existing first floor patio store; removal of balcony balustrade and erection of a single storey side/rear extension with a Sedum roof covering. Juliet balcony bar to be installed across existing door opening on first floor.

The proposed extension will project approx. 4.19m from the rear elevation and 6.32m from the original side elevation. It will be approx. 3.31m high with a flat sedum roof surrounded by a parapet. Internally it will provide for a kitchen/living/dining room and utility room.

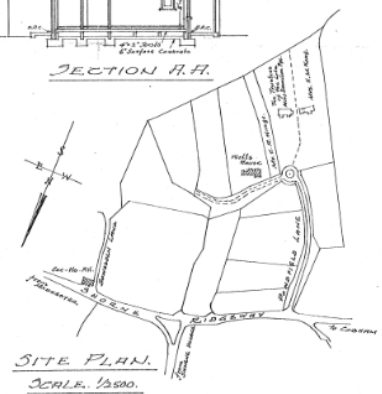
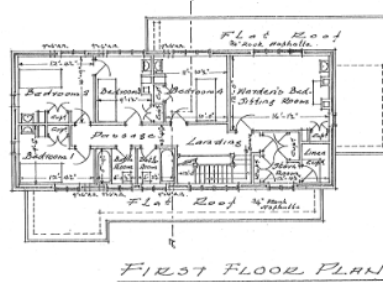
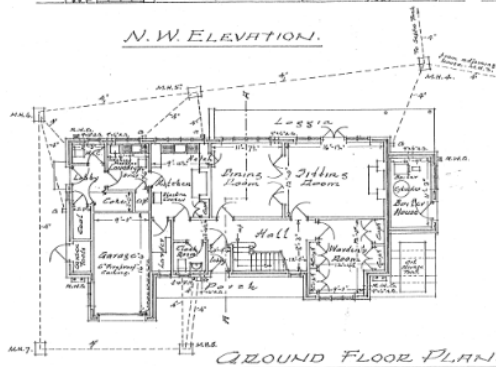
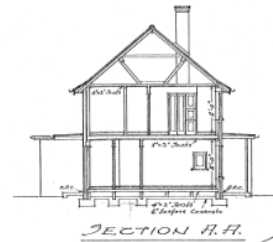
Principle and Green Belt

Original house approved in 1956 (19560214):



PROPOSED REST HOME
AT PONDFIELD LANE, SHORNE.
FOR THE TRUSTEES OF
THE LATE MISS EMMELINE PYE.
SCALE: EIGHT FEET TO ONE INCH.

Roof slopes to be covered with multi-coloured and fixed tiles. External walls to be 8" cavity with multi-coloured facings and pale cream stucco as shown. Internal walls 4 1/2" brick with 2" breeze block partitions where shown on First Floor. Roof rafters to be carried to eavesway with 8" x 8" joists and 3" x 6" battens, spaced 15" c/c away from building. Roof timbers: Rafters and Collars 4" x 3", Purlins 2" x 3", Stems and Wall Plates 4" x 3", Ridge 7" x 12", Joists 7" x 12".



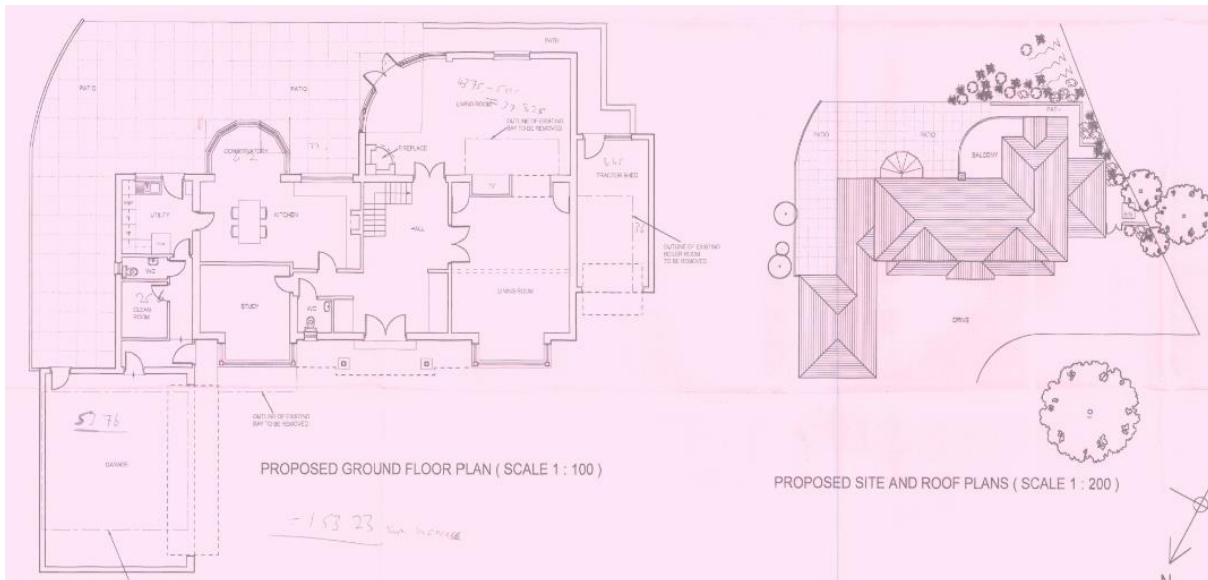
MacLynn & Baldwin,
Architects & Surveyors,
Leicester. July 1956.

The detached double garage was granted permission in 1982 (19820553) and therefore does not form part of the original dwelling.

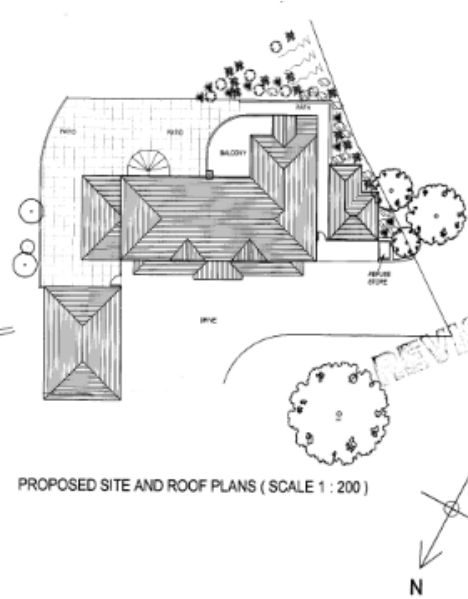
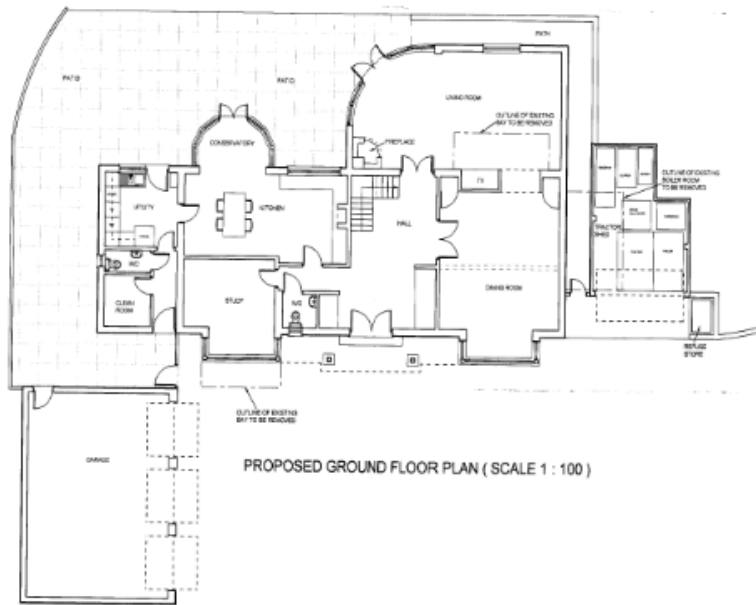
An application was submitted to extend the property in 1988 (19880923) however according to the 2002 (20020014) case officer report only the sitting room extension was undertaken:



An application for various extensions was refused application in 2002 (20020014) due to the extensions substantially exceeding the 1/3 limit set out in policy and adding to the bulk of the dwelling:



This application was resubmitted under reference 20020287



Original floor area (measured externally):

Judging by the above the original ground floor area of the property measured externally is approx. 158sqm and first floor is 111sqm. The total is therefore approx. 269sqm.

The current dwelling is 265.38sqm at ground floor and 155.47sqm at first floor (including the balcony as this is built form and adds bulk and useable space). The total is therefore approx. 421sqm which is 57% larger than the original dwelling (not including the tractor garage).

The proposed floor area will be 346sqm at ground floor and 127sqm at first floor. The total is therefore 473sqm.

The increase in floor area to the original dwelling is 204sqm which represents a 76% increase in floor area (measured externally).

Policy C13 of the Gravesham Local Plan 1994 states that extensions to dwellings will be considered on their merits but the Borough Council will expect the following criteria to be satisfied:

- (i) The existing dwelling must be an “original dwelling”* in permanent use as a dwelling.
- (ii) There will be an overall limit of one third of the gross floor area of the original dwelling (measured externally) prior to any later extension or alteration, unless the increased floorspace has no overall effect on the existing bulk and appearance of the dwelling.
- (iii) Those extensions which provide essential basic amenities such as a bathroom, toilet or kitchen, which are currently not available or are clearly inadequate, will normally be permitted.
- (iv) The extension shall not be in a form which would facilitate the future formation of a separate residential curtilage.
- (v) The dwelling to be enlarged must have sufficient curtilage to accommodate the extension without undue visual intrusion into the open countryside.
- (vi) The appearance, massing, scale, form and materials of any extension shall be appropriate to the existing dwelling and the Green Belt setting.
- (vii) Proposals for domestic garages and for other outbuildings will be considered on their individual merits but will be required to be well designed, discreetly sited and subservient to the scale of the main dwelling on the plot.

Footnote: * For definition of “original dwelling” see footnote to policy C12 – this states a building in permanent residential use at 1st July 1948 or subsequently erected as a permanent dwelling in accordance with planning permission in that behalf.

Clearly, before the proposed additions, the property had already been extended by 57% and therefore already beyond what is allowed by this policy. The proposed extensions, even with some demolition, would constitute a 76% increase in floor area (not taking into account the tractor shed) of the original building and therefore would be contrary to this policy.

The one third limit is an arbitrary figure whereby larger extensions could be acceptable provided the increased floorspace has no overall effect on the existing bulk and appearance of the dwelling. Therefore each application will be determined on a case-by-case basis.

Given that this policy pre-dates the National Planning Policy Framework 2023 less weight is afforded to it that the policies within the NPPF.

Paragraph 142 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Para. 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Para. 154 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. 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 in 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.

Para 154c is applicable in this instance. This states that the extension or alteration of a building is allowed provided that it does not result in disproportionate additions over and above the size of the original building. In this instance, an increase in floor area of 76% over the original building is considered disproportionate and therefore contrary to this policy.

It is worth noting the applicant disagrees with the Council's figures on what is the original dwelling floor space. Notwithstanding this a recent appeal decision Ref: APP/K2230/W/24/3336638 (appendix 1) has dealt with this where the inspector concluded the following.

8. I understand the current building has a floor area of approximately 315m², plus 84m² in the garage. Therefore, the total floor area of the existing buildings is just under 400m². According to the Council, the proposed building would have a floor area of some 763m², including the proposed basement, which would be considerably larger than this existing quantum. Even if I were to accept the appellant's figure of 538m² for the proposed floor area, this would be greater than the floor area of the existing dwelling and garage combined. The fact that some of this would comprise an internal swimming pool and spa is of little consequence. By the appellant's calculations, the total volume of the proposed dwelling would also exceed that of the existing house and garage by some 400m³. I therefore find the new building would be materially larger than the buildings it would replace, whether or not its footprint would be smaller.

What the above appeal decision shows is that whilst figures are a factor it ultimately comes down to is the builder materially larger/disproportionate. In this instance the extensions proposed disproportionate to the original building.

Fall back

A 'fall back' position is what could be built without requiring planning permission. In order to be considered as a "fall back", the alleged fall back development has to be a use or development that is possible/can be implemented without the need for further planning permission, for example a current lawful use or change of use (i.e. does not fall within the definition of development in the Planning Act or permission has already been granted but not yet implemented) and/or development permitted by way of permitted development rights (i.e. the GPDO or a development order).

If there is a genuine "fall back" then there must be a possibility that this development will be implemented if the current application is not permitted.

If both these factors are evidenced, then the fall back can be a material consideration in determining an application. The weight to be attached to it is a matter for the planning authority

The case of Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314; [2019] PTSR 1452 (highlighted in bold are most important parts) explains this issue:

“27. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar. Three things can be said about it:

- (1) Here, as in other aspects of the law of planning, the court must resist a prescriptive or formulaic approach, and must keep in mind the scope for **a lawful exercise of planning judgment by a decision-maker.**
- (2) The relevant law as to a "real prospect" of a fallback development being implemented was applied by this court in Samuel Smith Old Brewery (see, in particular, paragraphs 17 to 30 of Sullivan L.J.'s judgment, with which the Master of the Rolls and Toulson L.J. agreed; and the judgment of Supperstone J. in R. (on the application of Kverndal) v London Borough of Hounslow Council [2015] EWHC 3084 (Admin) , at paragraphs 17 and 42 to 53). As Sullivan L.J. said in his judgment in Samuel Smith Old Brewery , in this context a "real" prospect is the antithesis of one that is "merely theoretical" (paragraph 20). The **basic principle is that "... for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice"** (paragraph 21). Previous decisions at first instance, including Ahern and Brentwood Borough Council v Secretary of State for the Environment [1996] 72 P. & C.R. 61 must be read with care in the light of that statement of the law, and bearing in mind, as Sullivan L.J. emphasized, "... **"fallback" cases tend to be very fact-specific**" (*ibid.*). **The role of planning judgment is vital. And "[it] is important ... not to constrain what is, or should be, in each case the exercise of a broad planning discretion, based on the individual circumstances of that case,** by seeking to constrain appeal decisions within judicial formulations that are not enactments of general application but are themselves simply the judge's response to the facts of the case before the court" (paragraph 22).
- (3) Therefore, when the court is considering whether a decision-maker has properly identified a "real prospect" of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. **This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand."**

So, taking this into account, the factors in the determination of the fallback are:

1. *It is a genuine lawful fall back development?*

The development in question does not currently benefit from confirmations including planning permission and prior notification approval. It is acknowledged that there may be a possibility a 4m rear extension could be built from the original rear wall but no plans have been submitted to show how this would work and no lawful development certificate has been granted for such a development.

2. *Is there a "possibility" that the fallback would be implemented?*

In this case the applicants have not provided full details of a fall back and therefore there is not currently a possibility of implementation.

3. *If it is accepted that there is a genuine lawful fallback then the current proposal needs to be assessed against the benefits or harm of that fall back being implemented.*

This is a matter of planning judgement based on the facts of the case.

4. *If a fall-back argument is not to prevail, reasons for rejecting it should be given:*

Coln Park LLP v Secretary of State for Communities and Local Government [2011] EWHC 2282 (Admin)

Notwithstanding the above, the weight that should be attributed to the fall-back position is a matter of judgement relative to the specific development in question. No details have been provided of a potential fall-back. It would appear that a 4m single storey rear extension projecting from the original rear wall only may be achievable under permitted development but this would need to be confirmed by a lawful development certificate. As the property is located within a National Landscape (formerly known as an AONB) it is unlikely that any prior notification applications would be successful. The applicant has been advised of this but has not taken the opportunity to apply for a lawful development certificate.

It is for the applicant to demonstrate a fall-back position. The applicant was advised that the loss of other built form from the building may be used to justify built form in another location to ensure the overall floor area remains the same. However they have not taken the opportunity to demonstrate this.

Openness

The Framework confirms that inappropriate development is by definition harmful to the Green Belt. The essential characteristics of Green Belts are their openness and permanence.

Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

In this case, the removal of the conservatory would positively impact on the openness of the site but its replacement with a much larger extension would negatively impact on openness.

The proposed extensions, due to a significant increase in floor area, to a property that has already been heavily extended will result in a detrimental impact on the openness of the Green Belt contrary to policy CS02 of the Gravesham Core Strategy 2014, C12 of the Gravesham Local Plan 1994 and Section 13 of the National Planning Policy Framework 2023.

Design, Character and Appearance

The application site is a large, detached dwelling located within a National Landscape (formerly an Area of Outstanding Natural Beauty), the Metropolitan Green Belt, close to a SSSI and within the Shorne Woodland Landscape Character Area. The site is also within an Area of Archaeological Potential. The property is situated along a private road and has one close neighbour with which it shares a drive. There is an attached triple garage and a detached tractor store. To the rear is a conservatory and large patio area leading onto a garden with many trees. In terms of design, the large expanse of flat roof does not relate to any other previous extension to the property however, is it not readily visible and the sedum roof would aid in softening the appearance.

Landscape Character

The application site is located in the Shorne Wooded Downs Landscape Character Area and as such, Policy CS12 of the Core Strategy 2014 is also relevant. This policy states that the overall landscape character of the Borough will be conserved, restored and enhanced and that the Gravesham Landscape Character Assessment (LCA) will be taken into account in determining applications. Paragraph 180 of the NPPF 2023 seeks to protect and enhance such valued landscapes.

The assessment of the Landscape Character states that the sensitivity of this area is moderate and that the Planning Authority should aim to conserve and reinforce the distinctive features and elements of the landscape. There is a strong character of traditional rural dwellings. The proposed development will be located to the rear/side of the dwelling and will not be readily visible within the wider landscape and therefore no objections are raised in this regard.

National Landscape (formerly known as an Area of Outstanding Natural Beauty)

The site is located within the North Downs National Landscape. The proposed extension will be confirmed to the residential curtilage of the dwelling and therefore will not have a detrimental impact on the surrounding National Landscape and therefore accords with policies within the AONB Management Plan.

The proposed development therefore accords with policies CS19, CS12 of the Gravesham Core Strategy 2014 and para. 180 of the National Planning Policy Framework 2023.

Amenity

Future Occupiers

The rear garden will not be significantly reduced in size by the proposal and therefore no concerns are raised.

Neighbouring Amenity

There are no neighbours close to the rear/side of the property where the proposal is indicated to be located and therefore there will be no loss of amenity in terms of loss of outlook, privacy, sunlight or daylight.

The proposed development therefore would accord with policy CS19 of the Gravesham Core Strategy 2014 and para. 135f of the National Planning Policy Framework 2023.

Ecology and Biodiversity

Biodiversity Opportunity Area

The proposed extension will be located on land which is already hard landscaped and therefore there will be no detrimental impact on biodiversity. The proposals therefore accord with policy CS12 of the Gravesham Core Strategy 2014 in this regard.

Parking and Highways

The proposal will not result in the increase in the number of bedrooms or the loss of off road parking and therefore no objections are raised on highways grounds.

Conclusion

The proposed extension, by virtue of the scale of the proposal when taken cumulatively with other extensive additions to the property, will result in further disproportionate additions to the dwelling impacting on the openness of the Green Belt, where no very special circumstances exist, contrary to policy CS02 of the Gravesham Core Strategy 2014, C12 of the Gravesham Local Plan 1994 and Section 13 of the National Planning Policy Framework 2023.

Recommendation:

Refuse

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

Case Officer:	Mrs Alison Webster	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	17 July 2024	Dated:	18th July 2024