

Planning Statement

**3 Havisham Road, GRAVESEND, Kent,
DA12 4UW**

Application to vary restrictive occupancy
condition (condition 4 of permission
20160561)



RTPI

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1 Introduction

- 1.1 This Planning Statement has been submitted in support of an application for the following development at 3 Havisham Road, GRAVESEND, Kent, DA12 4UW (hereafter referred to as 'the Site'):

Application to vary restrictive occupancy condition (condition 4 of permission 20160561)

- 1.2 The proposed development affects the following Land Registry title(s):

Title Number	Description	Owner
K133008	3 HAVISHAM ROAD, GRAVESEND DA12 4UW	The Applicants

- 1.3 The application is accompanied by the following plans and documents:
- Application Form
 - Planning Statement
 - Drawing nos.
 - 4437.100 Site Location and Existing and Proposed Block Plan
 - 4437.101 Existing and Proposed Floor Plans
 - 4437.102 Existing and Proposed Elevations

2 Site Context

- 2.1 This Site is located at Chalk and lies within the urban area of Gravesend inset from the Green Belt. It is situated in the area that lies north of Chalk Road and south of Lower Higham Road. The surrounding area is predominantly residential in character and comprised of a mix of both single and two-storey detached, semi-detached and terraced units. Immediately to the west of the Site is an area of allotments.
- 2.2 The building is sited approximately 22m to the south of, and front of the main dwelling. It is constructed of red/brown facing brick under a plain tiled roof that are similar external materials to the main dwelling. The existing building has accommodation over one-and-a-half storeys, with a garage bathroom and kitchen on the ground floor and office and a bedroom on the first floor contained within the roofspace. Three dormer windows face westwards over the adjacent allotments and three rooflights face east towards an open grassed area to the front of numbers 4-12 (even) Havisham Road.

- 2.3 The accommodation has a small garden, room for outside drying of clothes, a shed for outside storage, a place for bins and 2 parking spaces on the drive. It has a separate Council Tax account to the main dwelling.
- 2.4 This Site has no designation or allocation in the adopted Development Plan. It does however lie within the 6km zone of influence for the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar sites.

3 Relevant History

- 3.1 The following records are understood to be relevant to the Site and the current application:

Planning Applications (3)

- Ref. No: 20140252: [Demolition of garage and erection of detached garage with extended footprint to form a wc and kitchenette at ground floor, and office area with work space area above on first floor, incorporating three dormer windows in the rear roof slope.](#): Application Permitted
- Ref. No: 20150044: [Application for non-material amendment to planning permission reference number 20140252 to allow the replacement of the barn hips to the roof to gable ends.](#): Permitted
- Ref. No: 20160561: [Variation of condition 4 attached to planning permission reference number 20140252 relating to demolition of garage and erection of detached garage with extended footprint to form a wc and kitchenette at ground floor, and office area with work space area above on first floor, incorporating three dormer windows in the rear roof slope; to allow the use for office/residential accommodation ancillary to the main dwelling.](#): Application Permitted

4 Proposed Development

- 4.1 The application seeks to vary condition 4 of planning permission 20160561.

- 4.2 Condition 4 states:

4. The double garage hereby permitted shall be used only for the accommodation of a private motor car for the occupants of 3 Havisham Road as a private dwelling house and for home office purposes ancillary to the main dwelling with one room on the first floor used for ancillary sleeping accommodation, in accordance with Drawing No. D_01 and for no other purpose and no development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order equivalent to that order in any statutory instrument evoking or re-enacting that Order with or without modification, without the prior approval, in writing, of the Local Planning Authority. The

building shall not at any time be sold, parted, let or exchanged as a separate unit of living accommodation and no trade or business shall be carried on therefrom.

Reason In order to restrict the occupancy of the outbuilding and to ensure that the development is in accordance with policy CS19 of the Gravesham Local Plan Core Strategy (September 2014).

- 4.3 The accommodation was previously occupied by an elderly family member as annexe accommodation.
- 4.4 It is proposed to vary the existing restriction linking occupation of the accommodation as ancillary to the main dwelling.
- 4.5 The garage element within the building is still in use and would remain in use by the applicant.
- 4.6 However, the applicants wish to retain ownership of the building but to have the ability to rent-out the accommodation independently. In the first instance it is intended that a family friend whose own living accommodation is being refurbished and renovated would occupy the accommodation.
- 4.7 Along with updated references to the application drawings, the variation of the final sentence of the condition as originally approved, is sought to read as follows;

'The building shall not at any time be sold as a separate unit of living accommodation and no trade or business shall be carried on therefrom.'

5 Planning Policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Court of Appeal has clarified that for a decision maker this means establishing whether a proposal is in accordance with the development plan as a whole. The question of compliance with one policy should not dictate the outcome of a proposal in the absence of considering compliance with all other relevant policies. Decision makers are therefore tasked with identifying and understanding all relevant policies and material considerations in order to reach a properly informed planning judgment on a proposal, and to avoid an irrational or vulnerable decision that may be subject to criticism in a public law challenge.

- 5.2 Paragraph 2 of the National Planning Policy Framework ('the Framework') reiterates what is said in Section 38(6), whilst paragraph 12 of the Framework is clear that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 5.3 Paragraph 39 of the Framework encourages local planning authorities to approach decisions on proposed development in a positive and creative way. It also encourages working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, adding that decision-makers should seek to approve applications for sustainable development where possible.
- 5.4 Annex 1 of the Framework confirms that for the purposes of decision-taking, the policies in the plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. It adds that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, with greater weight being given to those policies that are closer to the policies in the Framework.

Development Plan

- 5.5 It is understood that the Development Plan for the area within which the Site is located comprises the following documents:
- Core Strategy 2014
 - Local Plan First Review 1994 (Saved Policies)
- 5.6 In the Development Plan, the following policies are considered most relevant in connection with the proposed development:

Core Strategy

- CS01 Sustainable Development
- CS02 Scale and location of New Development
- CS12 Green Infrastructure
- CS14 Housing Size and Type
- CS15 Housing Density
- CS18 Climate Change
- CS19 Development and Design Principles

Gravesham Local Plan First Review (Saved Policies)

- T1 Impact of development on the highway network
- P3 Vehicle Parking Standards

Other Material Considerations

The Framework NPPF 2024 as updated February 2025

- 5.7 In summary, the following paragraphs are considered most relevant as additional material considerations in connection with the proposed development:
- | | |
|-----------------------|--|
| 7-8 | Achieving sustainable development |
| 11-12 | Decision making & presumption in favour |
| 39 | Positive and creative decision making |
| 61, 72-73, 78 | Supply and Delivery of Housing |
| 110, 115-116 | Sustainable Transport and Highway capacity |
| 124, 129 | Making effective use of land |
| 131, 135 & 139 | Design |
| 187, 189-190, 192-193 | Natural Environment and Biodiversity |
- 5.8 Gravesham Borough Council cannot currently demonstrate a five-year supply of deliverable housing sites. As of 1 April 2024 as updated/published in February 2025 to take into account the December 2024 NPPF, the Council's 5-year Housing land supply was calculated to be 3 years.
- 5.9 The Council has also continued to un-deliver in terms of the Housing Delivery Test (HDT). The latest published HDT measurement issued on 12 December 2024 advises that Gravesham have delivered 1056 units as opposed to a requirement of 1789 units. This represents just 59% of the required number of dwellings albeit it is a small improvement from the 53% outlined in the previous year's results. As such permission should be granted for applications if they accord with an up-to-date development plan unless the site is protected under the National Planning Policy Framework or the adverse impacts of development significantly and demonstrably outweigh the benefits.

6 Planning Assessment

Key Issues

- 6.1 The following are considered to be the key issues in the assessment of this application:
- The principle of the development and;
 - Residential amenity
 - Biodiversity Net Gain/Impact on Thames Estuary & Marshes SPA/Ramsar Sites

Principle

- 6.2 The site and the application building are located in a defined urban area inset from the Green Belt and free from any other planning designation or allocation..
- 6.3 Furthermore, residential use of the unit has already been approved and has occurred for a number of years following its regularisation under the 2016 application. The only change as a result of the proposed variation of the condition will be a potential alteration in the linkage of any resident of the building to the family occupying the main dwelling.
- 6.4 It is again emphasised that the applicants seek to retain ownership and control of the building and do not wish or intend to sever the building from association with the main dwelling. As indicated earlier the applicants still use and would continue to use the garage space within the building. A functional linkage to the main dwelling would still therefore be retained.
- 6.5 It is considered that the principle of the development is acceptable

Residential amenity

- 6.6 The Council have previously accepted that the floorspace exceeds the requirements in their adopted Residential Layout Guidelines which are in-turn based on the Nationally Described Space Standards.
- 6.7 The Council has also previously assessed the impact on privacy on neighbouring properties including 39 and 41 Chalk Road to the south. The three dormer windows primarily face onto the allotments with a slight view of the very rear of the gardens at 39 and 41 Chalk Road. The Officer concluded

'Notwithstanding this, it is considered that this level of outlook onto the bottom end of the rear gardens will not adversely disturb the privacy of these neighbours.'

The Council's subsequent assessment of the changed situation when the first floor accommodation became habitable stated as follows;

'The bedroom will be served by one dormer window and the Juliette balcony. The Juliette balcony faces onto the host dwelling and there is a distance of 22 metres. As the proposed is to be an annexe and therefore used by family of the host dwelling and due to the distance, it is not considered that this will result in a material loss of amenity. The dormer serving the bedroom overlooks allotment gardens and therefore does not result in a loss of amenity.'

- 6.8 It is not considered that the separation between the dwelling and the front elevation of the main dwelling would lead to an acceptable loss of privacy or amenity for occupiers of either unit of accommodation. It is similar or indeed more generous to the existing situation elsewhere along Havisham Road where

dwellings face each other across a road or an amenity area, as in the case of Nickleby Road.

- 6.9 The proposed change to allow non-family occupancy will not alter the appearance of the unit nor change its relationship to the wider area and adjacent dwellings. It is not considered that there would be an adverse impact on residential amenity.

Biodiversity Net Gain/Impact on the Thames Estuary & Marshes Special Protection Area/Ramsar Sites

- 6.10 The proposed use will not result in any physical changes to the exterior of the building. It will not result in the loss of any priority habitat, result in any loss of habitat greater than 25m² or linear habitat greater than 5m. It therefore meets the de-minimus requirements for Biodiversity Net Gain to not apply.
- 6.11 Policy CS12 of the Core Strategy seeks to protect and enhance Green Infrastructure and to ensure no net loss of biodiversity in the Borough. The Thames Estuary and Marshes SPA and Ramsar sites are an important and integral part of the Borough's Green Infrastructure, but they have increasingly been under recreational pressure from residential development in nearby areas on an in-combination basis, which has affected their role and existing biodiversity.
- 6.12 The SPA/Ramsar sites are a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) as now adopted in UK law following Brexit requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 6.13 This proposal therefore has potential to affect the said sites' features of interest. The Council as the 'Competent Authority' is required to consider whether Appropriate Assessment under the Habitat Regulations is required.
- 6.14 The proposed development is of a very small scale, and in itself, would not have a direct adverse effect on the integrity of the SPA. However, in combination with other development and proposed development, there is considered to be a likely impact in terms of additional recreational pressure. In the light of this, Natural England the Government's Conservation Body has stipulated that, when considering any residential development within 6km of the SPA, Councils should secure financial contributions to the Thames Estuary and Marshes Strategic

Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwellings are occupied. Such a mechanism was put in place in 2015 following discussion with Natural England and the affected North Kent Authorities. This is applied to all proposed residential development situated within 6km of the SPA/Ramsar Sites.

- 6.15 The applicant is committed, prior to the determination of the current application, to make an appropriate SAMMS payment at the currently published rate of £337.49 relating to the net increase of one dwelling. This will ensure appropriate mitigation has been secured.

Other issues

- 6.16 Appropriate car parking provision will be provided to serve both the unit and the main dwelling. There will be no impact on highway safety or the capacity of the local network arising from the proposed change.
- 6.17 There will be no additional impact on foul or surface water drainage arising from the variation of the condition.

7 Conclusions

- 7.1 In consideration of all relevant development plan policies and material considerations, this application should be viewed positively by the authority and it is respectfully requested that this submission is approved.