

Delegated Report

Planning Application No: 20230781

Location: Krystle Flower Design Limited 8 The Bay Vigo Gravesend

Description: Prior approval application for Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3).

Applicant: Mr B Rothbart

Site Visit Date: 27th July 2023

Submitted Documents/Plans

- Application form
- Planning Statement
- Site Location Map
- Drawing No: TB.08.EX/PR.01 (Existing Proposed Plans/Elevations)

Relevant Planning History

Reference	Description	Outcome	Decision Date
20140132	Change of use from A1 retail to a dental surgery.	Permitted	28.04.2014
19950371	Installation of roller shutter.	Permitted	24.07.1995

Development Plan

Gravesham Local Plan Core Strategy (September 2014)

- CS01 – Sustainable Development
- CS02 – Scale and Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development and Design Principles

Gravesham Local Plan: First Review (1994)

- T1 – Impact of Development on the Highway Network
- 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 5 – Delivering a sufficient supply of homes
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance

- 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)
- Kent Downs Area of Outstanding Natural Beauty Management Plan (2014)

Consultations, Publicity and Representations

Consultees

Vigo Parish Council

Vigo Parish Council would **object** to the above application for the following reasons:

- The "eligibility criteria" section of the application form (in reference to permitted development) states that the building is NOT in an Area of Outstanding Natural Beauty. This is not the case and is factually incorrect.
- We are concerned that any change of use to this unit would set a precedent which could culminate in further retail units being subject to a change of use. We would note that 7 of the 8 units are currently let and used for commercial retail purposes.
- We have been contacted by a number of residents who are also concerned about this proposal. We have encouraged them to comment directly on the application so that you are aware of their comments.
- We believe that a ground floor property in this location would not be in keeping with the area and would be detrimental to the street scene. At present the design of the area works well with residential properties on the first floor, retail on the ground floor and parking for cars at the rear.

Local Ward Councillors

No comments received.

Neighbouring properties

As required under the legislation a site notice was displayed on site on 27th July 2023 to publicise the application to surrounding landowners and occupiers inviting comments up to 25th August 2023. As a result of this site notice 30 objections were received.

The main points raised were:

- Loss of retail provision
- Impact on Character of the area
- Not in keeping with the area
- Concerns with retention of the shop front design
- Lack of Private Amenity Space
- Property not large enough to be divided into residential space
- No demand for residential units in Vigo
- Village needs shops and not bedsits
- Will set a precedence for other shops
- Due to lack of public transport in area local shops are needed for elderly
- Community area should be kept for the community
- This will negatively impact the demographic living in Vigo
- Good quality supermarket would be a far better choice.
- To change a part of the shops to dwellinghouses would negatively affect village life and community spirit, house prices in the village and reduce the future opportunity for shops and jobs.
- This is not an appropriate use of the property so close to a school (overlooking it essentially) and should be reserved for shops.

Officer's Analysis

The application site has an established use as a retail unit owing to the above planning consents of which the latest proposed a change of use from retail to a dental surgery. It is evident that this permission was not implemented and the unit is vacant with the old flower shop signage still present.



The submitted planning statement states:

The site is not covered by one of these listed designations

*(e) if the building is within—
(i) an area of outstanding natural beauty;
(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(a);
(iii) the Broads;
(iv) a National Park; or
(v) a World Heritage Site;*

The submission is a Prior approval application for Change of use from retail (Use Class E) to Dwellinghouses (Use Class C3) which is assessed against the below criteria.

Permitted development

M. Development consisting of—

- (a) a change of use of a building from—
 - (i) a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order;
 - (ii) a use as a betting office or pay day loan shop, or
 - (iii) a mixed use combining use as a dwellinghouse with—
 - (aa) a use as a betting office or pay day loan shop, or
 - (bb) a use falling within either Class A1 (shops) or Class A2 (financial and professional services) of that Schedule (whether that use was granted permission under Class G of this Part or otherwise),to a use falling within Class C3 (dwellinghouses) of that Schedule, and
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

M.1 Development is not permitted by Class M if—

- (a) the building was not used for one of the uses referred to in Class M(a)—
 - (i) on 20th March 2013, or
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- (b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;
- (c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;
- (d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;
- (e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- (f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or
- (g) the building is—
 - (i) on article 2(3) land;
 - (ii) in a site of special scientific interest;
 - (iii) in a safety hazard area;
 - (iv) in a military explosives storage area;
 - (v) a listed building; or
 - (vi) a scheduled monument.

As stated in Section M.1 g(i), development is not permitted by Class M if the site is on Article 2(3) land. Article 2(3) land can be defined as:

SCHEDULE 1

Article 2(3) to (5)

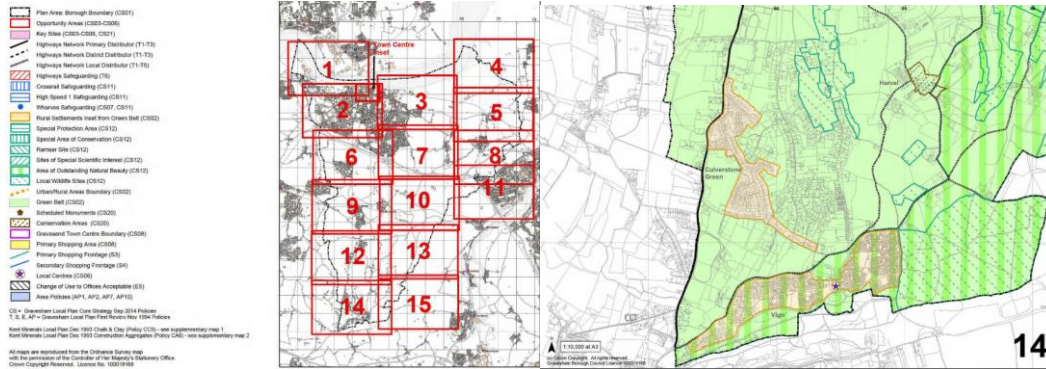
PART 1

Article 2(3) land

1. Land within—

- (a) an area designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (designation of conservation areas);
- (b) an area of outstanding natural beauty;
- (c) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981 (enhancement and protection of the natural beauty and amenity of the countryside)⁴⁴;
- (d) the Broads;
- (e) a National Park; and
- (f) a World Heritage Site.

Whilst It is noted that the submission states the application site not located within an Area of Outstanding Natural Beauty, Vigo Village is designated as an Area of Outstanding Natural Beauty as shown on the Gravesham Local Plan policy constraints map below.



Conclusion

The proposal fails to comply with Condition M.1 (g) (i), Class M, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, as the building is located on Article 2(3) land.

As such prior approval is required and refused.

Recommendation

Refusal

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

Case Officer:	Mrs Sharon Sahota	Team Leader:	Richard Hart
Signed:		Signed:	R Hart
Dated:	25th August 2023	Dated:	30 th August 2023