



Delegated Report

Application No: 20230362

Location: 39 The Terrace, Gravesend, Kent.

Description: Refurbishment of an existing Listed building to form three additional flats.

Applicant: Ms Maxine Fothergill, Amax Estates And Property Services.

Site Visit Date:

Submitted Documents/Plans

The application comprises the following documents and plans:

- Application Form
- Drawing no. D-100 Plans As Existing
- Drawing no. D-101 Elevations & Sections As Existing
- Drawing no. D-102C Plans As Proposed
- Drawing no. D-103A Elevations & Section As Proposed
- Drawing no. D-104 Block Plan
- Drawing no. D-105 Acoustic & Ventilation Work
- Design & Access Statement (5 April 2023)
- Heritage Statement (5 April 2023)
- Acoustic Assessment (Document Ref: 032324)

Superseded drawings

- Drawing no. D-102A Plans As Proposed
- Drawing no. D-102B Plans As Proposed
- Drawing no. D-103 Elevations & Section As Proposed

Relevant Planning History

Reference	Description	Decision	Decision Date
20191157	Application for Listed Building Consent for the erection of a 3-storey building attached to No.39 The Terrace to provide 1no. studio and 2no. 1-bedroom flats along with associated cycle parking and waste storage; and, re-instatement of the original	Refused	13.04.2021

	entrance to No.39 The Terrace fronting Harmer Street.		
20191156	Erection of a 3-storey building attached to No. 39 The Terrace to provide 1no. studio and 2no. 1-bedroom flats along with associated cycle parking and waste storage; and, re-instatement of the original entrance to No. 39 The Terrace fronting Harmer Street.and proposed erection of a 4 bedroom detached dwelling at side garden of 4 Golf Links Avenue, Gravesend, Kent, DA11 7PA.	Refused	13.04.2021
20010969	Conversion of stables into 2 no. one bedroom dwellings involving construction of a new roof with conservation rooflights and stabilisation works during reconstruction/alteration works.	Permitted	20.02.2002
20010946	Application for Listed Building Consent for the construction of a new roof with conservation rooflights and stablisation works during reconstruction/alteration works in connection with the conversion of the building into 2 no. one bedroom dwellings.	Permitted	20.02.2002
19960742	Application for Listed Building Consent for the conversion of stables into 2 no one bedroom dwellings, involving external refurbishment; formation of 3 windows at ground floor level and infilling of existing window at 1st floor level on west elevation; alterations to windows on north elevation; formation of 2 no velux windows in western roof slope and internal alterations.	Permitted	27.12.1996
19960741	Conversion of stables into 2 no one bedroom dwellings	Permitted	27.12.1996
19950786	Listed Building consent for internal alterations at ground floor lvl. in connect. with proposed use as 4no. bedsits; removal of oil tank & encloser & formation of refuse area; construct. of flat roof over exist. lightwell & erection of a wall varying in height from 2.4m-1m on the Harmer St. frontage.	Permitted	24.01.1996
19950724	**AMENDED APPLICATION/REVISED	Permitted	24.01.1996

	DESCRIPTION** Conversion of the ground floor from a former tuition centre into 4 no. bedsitting-rooms with communal facilities, formation of a refuse area and erection of a wall varying in height from 2.4m-1m on the Harmer Street frontage.		
19790114	Use of ground floor and basement as a tuition centre	Permitted	05.04.1979
19780529	Application for Listed Building Consent for application for listed building consent for alterations to garage at the rear of 39 the terrace associated with its use as a design studio	Withdrawn	07.09.1981
19780501	Use of stable block at the rear as a design studio	Permitted	09.11.1978
19780500	Use of ground floor and basement of premises as a tuition centre	Permitted	09.11.1978
19770278	Change of use of clinic and residential premises to offices and use of stables as a garage	Permitted	01.09.1977
19663186	single storey extension at rear for a W.C. and lobby	Permitted	30.12.1970
19662186	Conversion of first and second floor into self-contained flats, for the Family Planning Association (Kent Branch)	Permitted	07.03.1968
19661186	Change of use of part of the property to office use.	Refused	27.04.1967
19660186	Change of use of the premises from medical surgery and residential to office use.	Withdrawn	30.11.1966

Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Courts have held that it is a matter of planning judgement as to whether a proposal is in accordance with the development plan when 'read as a whole' and conflict with a particular policy or policies may not pass that threshold.

Where there are other material considerations, the development plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date.

In this instance the development plan for Gravesham currently comprises: -

- The Gravesham Local Plan Core Strategy (September 2014);
- Remaining Saved Policies of the Local Plan First Review (1994); and
- The Kent Minerals and Waste Local Plan 2013 - 2030 (2016, revised 2020).

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development.
- CS02 – Scale & Distribution of Development.
- CS05 – Gravesend Town Centre Opportunity Area.
- CS11 – Transport.
- CS12 – Green Infrastructure.
- CS14 – Housing Type and Size.
- CS15 – Housing Density.
- CS18 – Climate Change.
- CS19 – Design & Development Principles.
- CS20 – Heritage and the Historic Environment.

Saved Policies in the Gravesham Local Plan First Review (November 1994):

- TC2 – Policy for Listed Buildings.
- TC3 – Development Affecting Conservation Areas.
- TC7 – Other Archaeological Sites.
- P3 – Vehicle Parking Standards.

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 First Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

Other material considerations

National Planning Policy Framework (2023)

- Section 2 – Achieving sustainable development.
- Section 5 – Delivering a sufficient supply of homes.
- Section 9 – Promoting sustainable transport.
- Section 11 – Making effective use of land.
- Section 12 – Achieving well-designed and beautiful places.
- Section 16 – Conserving and enhancing the historic environment.

Supplementary Planning Guidance

- Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020.
- Design for Gravesham – Design Code SPD (2024).
- Technical Housing Standards – nationally described space standard (2015); and
- SPG 4 - KCC Parking Standards (2006).
- Harmer Street Conservation Area Character Appraisal (2009).
- Management Plan Gravesend Town Centre Conservation Areas (2009).

Consultations, Publicity and Representations

1) Comments on originally submitted application.

External

KCC Highways and Transportation

Whilst I would raise no objection, on behalf of KCC Transport & Development Planning Team, the applicant would need to follow KCC Technical Approval Process regarding the proposed pavement lights. The applicant should follow the details provided in the informative below to start the process.

Subject to the above and provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links

to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

KCC Heritage

I have no comments to make on archaeological matters in this case. No doubt your Conservation Officer will be making recommendations with regards to the proposals

Internal

GBC Environmental Protection Officer

Although it's appreciated that this application does not represent a change in use and the existing use is residential, it does provide the opportunity to address the issues in this area of noise and air quality. This will improve the living conditions for future occupants in terms of noise and air quality. Having reviewed the submitted information, the following comments and advice is offered regarding this application:

Noise from traffic:

The property is in a town centre location adjacent to the A226 one-way system which is heavily trafficked. No consideration has been given by the applicant to traffic noise with habitable rooms being located at the road frontage of the building on all floors. A noise assessment will be needed to assess the impact of traffic noise on future occupants and mitigation (as appropriate) will be required to ensure that internal noise levels are in accordance with BS8223.

Internal noise:

There are some concerns with the stacking arrangements of the proposal. The kitchen and part of the bathroom of flat E4 is over bedroom 2 of Flat E2 and the kitchen of Flat E3 is over the bedroom of Flat E1. Rooms such as kitchens and bathrooms can have higher noise levels than bedrooms particularly at night-time, which could result in sleep disturbance.

Being a Listed building, it is possible that the sound insulation quality of the internal floor/ceiling and also wall partitions may not be that robust. As the building is Listed providing suitable and sufficient sound insulation for both internal (room to room) noise transmission and also insulating against external noise may be difficult to achieve without significant structural alterations. These alterations are likely to be contrary to Conservation stipulations.

The quality and the standard of the sound insulation properties of the building should be assessed to ensure that future residents are not impacted by internal noise between the flats, especially if the stacking arrangements are not ideal. A noise assessment should be undertaken to assess this. The assessment should include details of the assessment methodology and any enhanced sound insulation performance of the construction that separates the residential and ground floor commercial use and internal partitions between flats. This should resist the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) is not less than 53 decibels (i.e. an enhancement of the minimum levels stated in the Building Regulations of 10dB).

The assessment should look at any required mitigation measures to ensure that internal noise levels are appropriate. Overheating and ventilation must be considered in the design of any mitigation and noise from any mechanical ventilation systems (if required as a mitigation measure for air quality - see below), should be included.

Air Quality:

This area is within the A226 One Way System Air Quality Management Area (AQMA) declared for exceedances of the annual Air Quality Objective (AQO) for nitrogen dioxide (from traffic). With the proposal to reconfigure the building to add 3 additional flats (so 6 in total), new sensitive receptors will be introduced into an area recognised as having poor air quality. In this respect, air quality is considered to be a material planning concern and measures need to be investigated and put into place to ensure that there is no detrimental impact on future occupiers of the flats. Bearing this in mind, it is appropriate that a condition be applied to any planning permission that requires the applicant to undertake an air quality assessment and propose suitable mitigation measures as required.

It is advised that all habitable rooms (bedrooms and living rooms) of the flats fronting the A226, have upgraded and sealed windows so as to prevent pollution from entering the residential units. A Mechanical Ventilation and Heat Recovery (MVHR) system be installed to all habitable rooms fronting the A226 as a means of alternative ventilation and cooling. A MVHR system will provide a means of alternative ventilation and cooling to having windows open. This will also provide the occupants with choice i.e. to close windows to shut out noise from traffic.

To deal with the external/internal noise, air quality and other matters, the following conditions are recommended:

External Noise:

- a) A noise impact assessment shall be carried out and submitted to the LPA for approval demonstrating that:
 - 1. The internal ambient noise levels in all habitable rooms, including the roadside rooms of the proposed residential dwellings shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014
 - 2. The maximum internal noise levels in all habitable rooms should not exceed 45dB L_{Amax} more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.
 - 3. The rating noise from fixed building services/mechanical plant/equipment, including any air systems, associated with the development shall be at least 10dB below the existing LA90 background level at the nearest noise sensitive receptors (i.e. dwellings) when measured and assessed in accordance with BS4142:2014

The noise impact assessment must take into account traffic noise and noise from any air systems that are required, as well as the night-time economy.

Where compliance with these criteria will rely on closed windows, the development must include sufficient and suitable ventilation to affected residential dwellings by means other than opening windows to ensure that the internal noise levels required by the above conditions can be retained all year round.

- b) Prior to first occupation of the flats, a suitable post-completion demonstrating compliance with a) shall be submitted to and approved, in writing, by the Local Planning Authority

The approved details shall be maintained for the lifetime of the development.

Internal noise:

Prior to the first occupation of the flats, a sound insulation assessment shall be carried out, submitted to and approved in writing by the Local Planning Authority. The Assessment shall include details of the assessment methodology and the sound insulation performance of the internal wall partitions, internal floor/ceiling partitions and also adjacent party wall partitions. The sound insulation performance of these shall resist the transmission of airborne sound and impact sound to demonstrate that the minimum levels stated in the Building Regulations are capable of being complied with. The assessment will also include details of any proposed works to achieve these levels.

Any works identified being required in order to achieve these minimum levels shall be implemented and evidence provided (if necessary, by way of a further sound insulation assessment report) for approval by the Local Authority prior to first occupation.

Air Quality:

- a) The applicant must submit an air quality assessment undertaken by a suitably qualified person which should include an scheme of air quality mitigation for approval **prior to determination of this application** which should include the installation of an air system (or air systems) which positively pressurises all relevant residential units i.e. brings in more air than it extracts so that no air seeps into the residential unit through the fabric of the building or doors when people are entering and leaving etc. This requirement applies to the rooms on the first and second floor roadside of Milton Road. The scheme must include the following:

- a heat exchange unit,
- noise attenuation
- must bring in air from the upper most and furthest point away from the source of pollution i.e. the traffic on Milton Road, and
- must be sited away from other pollution sources e.g. flues, soil and vent pipes and must not bring in odour from any commercial extraction system.
- Windows to the affected rooms on the 1st floor shall not have trickle vents and shall be fixed shut.

The applicant will be provided with the checklist of points that must be considered and included in the scheme and which must be adequately demonstrated to the LPA by the submission of required information, plans, commitments etc. in order for the scheme to be approved.

- b) The approved scheme must be installed, **before occupation**. The installed scheme must be commissioned, before occupation, by an independent ventilation engineer to ascertain if the flow rates are correct and that it is fit for purpose i.e. that it fulfils its purpose of positively pressurising the residential units so that pollution cannot enter from the roadside and is not drawn into the property through the air system. The commissioning report must be submitted to the LPA including a signed declaration from the engineer that they are satisfied that it is fit for purpose it has been required for i.e. prevention of air pollution entering the building.

The LPA will visit the site following commissioning to ensure the approved systems are installed, seen working and are in the correct residential units etc.

Code of Practice on Construction and Demolition:

Please apply to prevent nuisance from noise and dust during the conversion and construction occurring to nearby premises.

Smoke Control Informative:

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

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.

Asbestos informative:

Owing to the likelihood of the existing building containing asbestos products, the applicant should be informed to contact the Health and Safety Executive (HSE) for advice on the submission of a suitable method statement for removal. Any asbestos found on site must be removed in a controlled manner by an appropriately qualified operator. This is in the interests of safeguarding the amenities of the surrounding area and safety.

GBC Highway Development Management Officer

I have no objections to the proposal but am concerned about the intention to open up light wells within the public highway to provide light to the occupied basements. Whilst it appears there may be two existing light wells two new ones would have to be constructed and this would require Kent County Council's approval and in particular technical approval if permitted to ensure the support of the highway is not compromised. This is a matter that can only be resolved with Kent County Council as Highway Authority and could be a lengthy and costly business.

Neighbouring properties

53 surrounding properties were consulted and the application has been advertised by a site and press notice. No responses have been received.

2) Additional comments following submission of Acoustic Assessment:

GBC Environmental Protection Officer

I've now had chance to review the Acoustic Assessment submitted for this application. I can confirm that the methodology used, and standards referred to are acceptable.

The report concludes that to comply with internal noise levels as laid down by BS8223:2014, upgraded windows will be required to be installed. As replacement sash windows are unlikely to achieve the required levels, additional secondary glazing will be needed, and some suitable examples have been given on page 21. In addition, the installer must ensure that all gaps around the windows/glazing units are sealed.

As the required internal noise levels can only be achieved with the windows closed, the report advises that alternative ventilation will be needed and again provides some recommended options but has left the overall decision up to the developer and is not proposing to fix windows shut. I must advise that trickle vents are not suitable for this location and there will be a requirement for windows to be fixed shut due to poor air quality (this has been advised previously). Noise resulting from any mechanical ventilation system must be controlled so as not to result in any increase in internal noise levels and this has been noted in the report (see section 7.12).

The report also addresses internal sound insulation of the wall and floor/ceiling partitions in order to deal with potential noise issues arising from poor internal layout/stacking arrangements. Resiliently hung primary ceilings with independent suspended acoustic ceilings treated with RW45A Rockwool (or similar) and SoundBloc (or similar) plasterboard has been recommended. For new party walls between flats, again a minimum specification has been recommended and this includes a twin independent stud wall using SoundBloc plasterboard with acoustic insulation in the cavity. For the existing party walls, a minimum of 2 x 12.5 mm SoundBloc plasterboard installed on metal framing with insulation in the cavity is proposed.

In order to ensure that these measures are implemented, the following condition is recommended:

The noise mitigation measures as detailed in report 'Acoustic Assessment at 39 The Terrace Gravesend' Document ref: 032324 by Ned Johnson Acoustic Consultants dated 19/06/2023 (The Report) shall be implemented by competent persons. Prior to the use commencing a post completion noise survey must be undertaken by a suitably qualified acoustic consultant, and a report submitted to and approved in writing by the Local Planning Authority. The post completion testing shall assess performance of the noise mitigation measures against the noise levels as set in the Report.

If the mitigation measures tested in the post-completion report prove to be insufficient, additional noise mitigation measures (where necessary to ensure the appropriate noise levels can be met), shall be submitted and approved in writing by the Local Authority and installed and tested prior to operation.

The mitigation measures must be retained thereafter.

I would advise that the Council's Conservation Officer is also consulted regarding these proposed measures to ensure that they are acceptable from a Listed Building perspective.

GBC Conservation Officer

Looking at the ventilation layout now provided it raises questions about how this will work within ceiling/ Is it cutting through joists? Altering the ceiling line which is unacceptable which is what appears to be proposed. It will be important to know how this affect cornices and architectural details. Normally we ask for chimney stacks to be used to get the vertical risers and they need to agree with us where they are going risers and ventilation dumps. We want to see where the actual plant is/ is it in the roof void or is it being put on the outside? We need cross sections showing how that works. Insufficient details is provided in the ventilation plans. As the building is listed ventilation details are important to ascertain prior to making a decision as these details will confirm how the fabric of the historic building would be impacted.

Analysis

The application site is defined on the Core Strategy Policies Map as lying outside the Gravesend Town Centre Boundary but within the Gravesend Town Centre Opportunity Area and the Harmer Street Conservation Area.

No. 39 The Terrace is a three storey building with basement. It currently accommodates 1 no. 3 bed flat and 2 no. 2 bed flats. The basement is unused. It is a grade II listed building, The list description is set out below:

Corner house to The Terrace and Harmer Street. Circa 1840, probably designed by the Brighton Architect Amon Henry Wilds in 1830-5. 3 storeys brown stock brick, the ground floor painted. Parapet, cornice and stringcourses. 3 sashes facing the Terrace and 3 facing Harmer Street, all with glazing bars intact. Round-headed windows in arcading on the ground floor. Round-headed doorway on each front with semi-circular fanlight. Iron balconettes on The Terrace front. Iron balcony, probably added, on the Harmer Street front.

No 39, the former Stables to No 39 form a group with Nos 1A and 2A Harmer Street.

This proposal involves the sub-division of the existing building to provide an additional three flats. The resulting accommodation would comprise the following:

Flat Number	No of beds/persons	Floor area (sq.m)	Location
Flat E1	1 bed, 1 person	37	Ground floor.
Flat E2	1 bed, 2 person	51	Ground floor
Flat E3	1 bed, 1 person	39	First floor
Flat E4	1 bed, 1 person	44	First floor
Flat E5	1 bed, 1 person	42	Second floor
Flat E6	1 bed, 1 person	43	Second floor

The proposal also involves internal alterations to facilitate the provision of the three additional flats.

The application as originally submitted proposed to incorporate the basement areas into the layout of Flats E1 and E2. Following concerns relating to the suitability of these basement areas for such use, the scheme has been amended. The basement areas are no longer shown to be included within the floor area of these flats.

Housing Need

Hopkins Homes Ltd v Secretary of State for Communities and Local Government [2017] 1 W.L.R. 1865, Lord Carnwath reemphasised that the National Planning Policy Framework is only a material consideration in planning decisions and that that planning applications should be determined in accordance with the development plan. Paragraph 12 of the NPPF expressly states that the starting point for decision-making is the development plan. Lord Carnwath as part of the Supreme Court decision stated,

It is important, however, in assessing the effect of the Framework, not to overstate the scope of this policy-making role. The Framework itself makes clear that as respects the determination of planning applications (by contrast with plan-making in which it has statutory recognition), it is no more than "guidance" and as such a "material consideration" for the purposes of section 70(2) of the 1990 Act... It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme.

It is a matter of law that all planning applications need to be considered in accordance with the legislation and relevant policy that applies at the point a decision is taken. The Council published a revised 5-year housing land supply statement in March 2023. It demonstrates that based on data for the period 2022-2027, the Council can only demonstrate a land supply of 2.9 years.

Given the Council's current inability to demonstrate a 5-year housing land supply, and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Gravesham's Local Plan Core Strategy (LPCS) (2014) Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the National Planning Policy Framework (NPPF) (2023). This requires that in regard to housing development, planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

The policies referred to in paragraph 11(d)(i) above are those set out in the NPPF at footnote 7 (rather than those in development plans) relating to:

...habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

Notwithstanding the Council's shortages in housing delivery and the consequent weight to be given in favour of the proposed development it is necessary to assess the proposals against the policies in the NPPF and established local planning policy taken as a whole.

Principle of residential development

The broad principle of the proposed residential development finds support in the NPPF. Paragraph 60 is particularly relevant:

To support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

In addition, paragraph 70 requires that in order to promote the development of a good mix of sites local planning authorities should, *inter alia*, "support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".

The application site is defined on the Policies Map of the Gravesham Local Plan Core Strategy as lying within the urban area. Policy CS02 of the Core Strategy "prioritises development in the urban area as a sustainable location for development".

The site is also defined as lying within the Gravesend Town Centre Opportunity Area. Policy CS05 states that within this area the Council will support “the provision of new residential development where a satisfactory living environment can be achieved”.

In light of these considerations, there is no objection to the broad principle of residential development subject to the proposal being appropriate in terms of other planning issues.

Design, Character and Appearance

Section 12 of the NPPF relates to “achieving well-designed and beautiful places” and sets out the Government’s requirements in relation to design issues. Paragraph 131 is particularly relevant:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The aims set out in paragraph 131 of the NPPF are reflected in Policy CS19 of the Council’s Core Strategy. This requires new development to be “visually attractive, fit for purpose and locally distinctive” and to “conserve and enhance the character of the local built, historic and natural environment”. It also requires new development to “integrate well with the surrounding local area”. In addition, Policy CS19 requires the following:

“....the design, layout and form of new development will be derived from a robust analysis of local context and character and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. Account will be taken of the scale, height, building lines, layout, materials and other architectural features of adjoining buildings.”

As the property is a grade II listed building and within a conservation area, Section 16 of the NPPF is also relevant. This sets out requirements relating to conserving and enhancing the historic environment. Paragraph 203 is of particular relevance and states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*

Policy CS20 of the Council’s Core Strategy and saved Policies TC2 and TC3 of the Gravesham Local Plan First Review 1994 are also relevant. Policy CS20 of the Core Strategy places a high priority on the preservation, protection and enhancement of the Council’s heritage and historic environment. Policy TC2 of the Gravesham Local Plan First Review 1994 sets out the Council’s approach to applications affecting listed buildings. It states that in the case of applications for development involving alterations or extensions to listed buildings or affecting the setting of listed buildings, the primary consideration of the Borough Council will be the maintenance of the integrity of the original listed building. Proposals will also need to be sympathetic to the listed building in terms of massing, scale, appearance and materials. Policy TC3 of the Gravesham Local Plan First Review 1994 requires that development within or affecting conservation areas will be carefully judged for its impact and will be expected to make a positive contribution to the conservation area.

No external alterations to the existing building are proposed. However, bin and cycle stores would need to be provided. The application site is located within a conservation area. Furthermore, both the existing building and neighbouring buildings are grade II listed. It is therefore essential that these structures respect the character and setting of existing heritage assets.

Details of the siting but not the design and appearance of the bin and cycle stores have been provided. In the absence of full details, it is difficult to fully assess whether the siting of these facilities is appropriate. For example, the cycle store would be located adjacent to the ground floor window of the neighbouring building, nos. 39A and 39B The Terrace. This window can be seen in the following photograph:



This building is in residential use. The cycle store could potentially obscure part of this window which would impact the residential amenity of the occupiers of this building.

Notwithstanding this, there is sufficient room within the application site for this to be relocated if necessary. If permission were to be granted it should therefore include a condition requiring full details of the siting and appearance of these structures. This will ensure that they respect the character and setting of existing heritage assets and do not impact upon the amenity of neighbouring occupiers.

Residential Amenity

Paragraph 135 of the NPPF requires planning decisions to, *inter alia*, provide “a high standard of amenity for existing and future users”. In addition, Policy CS19 of the Core Strategy requires new development to be located, designed and constructed to “safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land”. The Council’s adopted Residential Layout Guidelines provide more detailed guidance with respect to the protection of residential amenity.

Privacy and loss of sunlight/daylight

This proposal does not involve the extension of the existing building and no additional windows would be provided. As such, the proposal would not result in a loss of privacy or loss of sunlight/daylight to neighbouring occupiers.

Internal space standards

The “Technical housing standards – nationally described space standard” was published by the Department for Communities and Local Government in March 2015. This document sets out requirements for the gross internal area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home. The following table compares the proposed scheme to the requirements of these housing standards:

Flat	No of bedrooms	No. of bedspaces (persons)	No. of storey's	Gross internal floor area (sq.m.)	National standard minimum gross internal floor area (sq.m.)
Flat E1	1	1	1	37.0	37.0
Flat E2	1	2	1	51.0	50.0
Flat E3	1	1	1	39.0	39.0
Flat E4	1	1	1	44.0	39.0
Flat E5	1	1	1	42.0	39.0
Flat E6	1	1	1	43.0	39.0

The above table demonstrates that each of the proposed residential units would meet or exceed the minimum requirements for gross internal floor areas as set out in the “Technical housing standards – nationally described space standard”.

Although there is a concern with respect to the impact of the proposed cycle store on the amenity of the occupiers of the neighbouring building, nos. 39A and 39B The Terrace (as described above) there is sufficient room within the application site for this to be relocated. As such, a planning condition requiring details of the siting and design of this store would ensure that the amenity of neighbouring occupiers would be protected.

External space standards

Policy CS19 of the Core Strategy requires that new development “will provide appropriate levels of private and public amenity space”. In addition, the Council’s Residential Layout Guidelines require that for communal flats, a communal garden area equivalent to a minimum of 10 sq. metres shall be provided for amenity space.

Although this standard would be met in terms of the size of the amenity area, its location is not ideal. It would be located adjacent to the A226 one-way system which is heavily trafficked. As such residents using the amenity area would be subject to high levels of traffic noise. As there is only a low level wall between the amenity area and public highway, the traffic noise would be

particularly noticeable. Furthermore, due to the lack of significant boundary treatment, the amenity area would not be private but would be overlooked by passing pedestrians and motorists.

In the absence of a higher boundary wall adjacent to the public highway, the proposed amenity area to serve the development is not ideal. However, it is noted that the application site is located in proximity to the Riverside Leisure Area, a large area of public open space that includes a lake, play areas and a café. This area of public open space would contribute towards fulfilling the needs of future occupiers in terms of external space. Due to the proximity of this area of public open space, it would be unreasonable to refuse this application on the grounds of the quality of the amenity area to serve the proposed development.

Parking and Highways

Policy CS11 of the Core Strategy seeks to ensure that new development mitigates its impact on the highway and that sufficient parking is provided in accordance with adopted parking standards, reflecting the availability of public transport provision and the accessibility of local services and facilities.

In accordance with current Kent County Council Vehicle Parking Standards a maximum of one parking space for each one-bedroom unit and a maximum of two spaces for each two-bedroom unit should be provided. No on-site parking is proposed due to the location and limited size of the application site.

In this particular case, the application site is located within a sustainable location adjacent to Gravesend town centre with its associated retail, leisure, community, business and educational facilities. It is also located in close proximity to good public transport links. Gravesend train station lies within walking distance of the site and local bus services are available. Given the sustainable location of the application site and its proximity to good public transport links, it is considered that, on balance, a reason for refusal based on lack of provision of on-site parking to serve the new development would be difficult to substantiate.

The current Kent County Council Vehicle Parking Standards also provide minimum cycle parking standards. For flats, there is a requirement of one space per unit. As such provision for a total of six cycles would be required. A condition requiring details of cycle storage has been added to the recommendation for this application.

Noise and Air Quality

The Council's Environmental Protection Officer has identified noise as an issue due to the location of the building within a town centre location and adjacent to the A226 one-way system which is heavily trafficked. Concern is raised with respect to traffic noise as habitable rooms would be located at the road frontage of the building on all floors. The Environmental Protection Officer has also recommended that the quality and the standard of the sound insulation properties of the building should be assessed to ensure that future residents are not impacted by internal noise between the flats, especially as the internal stacking arrangement of rooms is not ideal.

The Council's Environmental Protection Officer has also identified air quality as an issue and recommended that an air quality assessment is submitted prior to the determination of the application. Seven areas of the Borough have been declared as Air Quality Management Areas (AQMA) as the air quality within these area does not meet the National Air Quality Strategy Objectives for nitrogen dioxide and/ or particulate matter. The application site lies within one such AQMA.

Paragraph 191 of the NPPF relates to the impact of pollution on health and living conditions:

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Paragraph 191 of the NPPF requires planning decisions to “ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development”. With respect to noise, it requires planning decisions to:

mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

Paragraph 192 of the NPPF relates specifically to air quality:

Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

At a local level Policy CS19 of the Core Strategy requires new development to “be located, designed and constructed” to, *inter alia*:

avoid adverse environmental impacts from pollution, including noise, air, odour and light pollution, and land contamination

Further to the initial comments from the Council’s Environmental Protection Officer, the applicant has submitted an acoustic assessment. Although it would appear from this report that a technical solution may be possible to address issues of noise, this would require significant work to the building including the upgrading of windows and floors.

The Conservation Officer has questioned how the ventilation layout would work and how the required works would impact the fabric of the building (see comments above under the heading ‘Consultations, Publicity and Representations’). The level of detail provided by the applicant is limited and there are concerns that the ceiling line would need to be altered, joists cut and architectural details such as cornices lost or altered to accommodate the system.

A balanced approach needs to be taken in terms of these issues. For example, paragraph 38 of the NPPF requires local planning authorities to “approach decisions on proposed development in a positive and creative way”. Furthermore, paragraph 55 of the NPPF requires that local planning authorities “should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations”.

In this particular case it is considered that it would be appropriate to address the issues of noise and air quality by way of planning conditions which require the submission of relevant details prior to the commencement of development. In addition, it should be noted that any works which may be required to the fabric of the building resulting from required air quality and noise mitigation measures would require listed building consent. An listed building application has been submitted and recommended for approval although this is subject to conditions requiring the applicant to provide sufficient details to demonstrate that these works would not have an adverse impact on the fabric and historic integrity of the listed building. The applicant should be aware that if this could not be achieved to the satisfaction of the local planning authority, it is likely that the conditions would not be discharged. In such a scenario it would not then be possible to implement

the planning permission and listed building consent for three additional flats. An informative advising the applicant of this has been added to the recommendation.

Recreational Pressures on the Thames Estuary and Marshes Special Protection Area (SPA) and SAMMS

The Thames Estuary and Marshes Special Protection Area (SPA) is classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and/or vulnerable in a European context, and also sites that form a critically important network for birds on migration. It is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity. Research conducted in 2011 found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within 6 km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European Sites.

The Local Planning Authority has mitigated out the impacts of this on each and every planning application for a new residential development of one or more units within the 6km zone since September 2015 by accepting a Strategic Access Mitigation and Monitoring Strategy (SAMMS) (tariff) payment (currently £328.27 per dwelling) where applicable. This approach is approved by Natural England for all new residential developments. For every planning application for a new dwelling (including new flats), the tariff contributions are secured through a Section 106 legal agreement or unilateral undertaking or if there are no other financial contributions this is secured through a contribution agreement. Where a developer is unwilling to make the SAMMS payment, sufficient evidence is required to be supplied to enable the Council to undertake an Appropriate Assessment to determine that it is unnecessary to mitigate any potential Likely Significant Effect.

The tariff has previously been accepted effectively in lieu of an Appropriate Assessment (AA). However, in a recent Court of Justice European Union (CJEU) ruling this approach was not considered to be valid, as the CJEU considered the first stage to be a screening assessment as to whether the development either alone or in combination, is likely to have significant effects on a designated site without mitigation. In this respect, the CJEU judgement made a distinction between “the plan or project” itself and “measures intended to avoid or reduce the harmful effects of a plan or project on a European site”. This means that mitigation measures, which are intended to avoid or reduce effects, should be assessed within the framework of an Appropriate Assessment and that mitigation measures cannot be taken into account at the screening stage.

The applicant has made the required contribution and on this basis, the proposal would comply with the NPPF, Policy CS12 of the Core Strategy and the requirements of the Conservation of Habitats and Species Regulations 2017.

Other issues

The comments of the Council’s Environmental Protection Officer on issues including construction and demolition, smoke control, drainage/sewerage and asbestos have been noted and are addressed by informatives set out in the recommendation below.

Conclusion

It is acknowledged that the Council is currently unable to demonstrate a five-year housing supply and as the delivery of housing is substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Policy CS02 of the Core Strategy must be regarded

to be out of date, as required by the Paragraph 11(d) of the NPPF.

The proposed development for a net increase of three dwellings would offer a limited contribution towards meeting this local need and delivery and, accordingly, adds some weight in support of the application.

For the reasons set out in this report, the principle of residential development is considered to be acceptable in this particular case. Furthermore, subject to an appropriate condition requiring the submission of details of the bin and cycle stores, the Design, Character and Appearance of the development would also be acceptable. Such a condition would also ensure that there would not be a detrimental impact upon the residential amenity of neighbouring occupiers. The proposal is also acceptable in terms of parking and highway safety.

Issues relating to noise and air quality have been discussed in this report. Air quality and noise mitigation measures would be required and these are secured by appropriately worded planning conditions. These measures would need to be considered carefully in terms of their impacts upon the fabric of the existing listed building.

The submission of full details of the proposed works is a requirement of the accompanying listed building application. This will enable the impact of these works on the existing listed building to be fully assessed. An informative added to this recommendation makes it clear that if the required works and their impact on the listed building could not be satisfactorily achieved it is likely that the conditions could not be discharged. It would not then be possible to implement this planning permission or the listed building consent for three additional flats.

Recommendation:

GRANT PLANNING PERMISSION subject to conditions:

See draft Decision

Case Officer: Gary Edwards	Team Leader: Miss Faye Hobbs
Signed: 	Signed: 
Dated: 12 July 2024	Dated: 12 July 2024