

Delegated Report

Planning Application

Planning Application No: 20221237

Location: 98 Old Road West Gravesend Kent

Description: Erection of an additional 2 x 1 bedroom flats within the roof space of this purpose built three storey block including alteration to the roof and the insertion of dormer windows.

Applicant: Bains, JB Construction

Site Visit Date: 16 February 2023

Submitted Documents/Plans

Application for planning permission form;
Drawing no. ORW98-A 001 Rev. A Existing and proposed block plans and location plan;
Drawing no. ORW98-A 002 Rev. A Existing and proposed roof plans;
Drawing no. ORW98-A 003 Rev. A Proposed loft floor layout;
Drawing no. ORW98-A 004 Rev. A Existing elevations;
Drawing no. ORW98-A 005 Rev. A Proposed elevations;
Drawing no. ORW98-A 006 Rev. A Existing second floor layout;
Drawing no. ORW98-A 007 Rev. A Proposed second floor layout; and
Letter from the agent dated 17 November 2022.

Procedural issues

The initially submitted application form referred to a notification regarding ownership certificate B to existing occupiers of the application building, that had not actually been undertaken. Following a request from the case officer, the applicant served notice on the occupiers and signed ownership certificate B (with the date that the actual notice was served) on a new application form. This led to the application being made invalid and then revalidated and as a result, the application was publicised to neighbours (by the Borough Council) on two occasions.

The submitted red line boundary does not include the full extent of the site access and on the location plan, it excludes a section of the car park at the rear of no. 96A Old Road West (which is not consistent with the red line boundary shown on the existing and proposed layout plans). The following image highlights the areas of concern;

Location Plan 1:1250



However these omissions have not undermined the assessment of the proposed development. In the event that planning permission is proposed to be granted, the applicant could clarify/amend the red line boundary information as necessary. It is noted that an amended red line boundary may require the application to be subject to additional publicity and consultation.

The application site includes an area of land that used to be part of the garden of no. 96 Old Road West. It should be noted that no planning permission exists, which would allow for a change of use of this land from a private garden to part of the car park. Therefore this proposal would regularise an unauthorised change of use. For clarity, this aspect of the development should have been referred to in the above description. However this omission has not undermined the assessment of the proposed development. In the event that planning permission is proposed to be granted, then the application should have an amended description and be subject to additional publicity and consultation.

The proposed elevation drawing and roof plan appear inconsistent and the elevation drawing does not correctly illustrate the proposed alterations to the roof (in the area surrounding the flat roofed staircase). However these inaccuracies have not significantly undermined the assessment of the proposed development. In the event that planning permission is proposed to be granted, then revised drawings could be requested.

Relevant Planning History

Reference	Description	Decision	Decision Date
20201324	Application for the erection of an additional 2 x 1 bedroom flats within the roof space of this purpose built three storey block including alteration to the roof and the insertion of dormer windows.	Refused Appeal dismissed	10.03.2021 13.07.2022
20190307	Confirmation that all of the financial obligations and non-financial obligations contained in the Section 106 Agreement attached to planning permission 20130541 have been complied with.	Confirmed	03.10.2019
20171182	Confirmation that all of conditions attached to planning permission reference number 20110429 have been complied with.	Confirmed	08.12.2017
20120954	Application for approval of condition 4, 6 10, 11, 12 and 13 (a) (b) (c) attached to planning permission reference number 20110429 relating to the external facing materials, boundary treatments, details of rear entrance gates, landscaping scheme, refuse storage, and contaminated land assessment.	Approved	03.09.2014
20110429	Application for renewal of planning permission reference number 20080001 for erection of a three storey building to provide nine, one and two bedroom self contained flats and five detached two storey, four bedrooms dwellings each with two car parking spaces and formation of vehicular access onto Old Road West leading to rear car parking area providing 10 parking spaces for the flats and with a further two car parking spaces for the flats fronting Darnley Road.	Permitted	17.01.2012
20080001	Erection of a three storey building to provide nine, one and two bedroom self contained flats and five detached two storey, four bedrooms dwellings each with two car parking spaces and formation of vehicular access onto Old Road West leading to rear car parking area providing 10 parking spaces for the flats and with a	Permitted	27.06.2008

	further two car parking spaces for the flats fronting Darnley Road.		
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Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS16 – Affordable Housing
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on Highway Network
- TC3 – Development Affecting Conservation Areas
- H5 – Increasing the Housing Stock by the Conversion of Existing Buildings

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)

- 2 – Achieving Sustainable Development
- 5 – Delivering a sufficient supply of homes
- 9 – Promoting sustainable transport
- 11 – Making effective use of land
- 12 – Achieving sustainable development and well-designed places
- 15 – Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic 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)
- Darnley Road Conservation Area Character Appraisal (2009)

Consultations, Publicity and Representations

GBC – Environmental Protection Team (Regulatory Services)

Environmental Protection has no objection to this application. Although the property falls close to the A227/B261 Wrotham Road/Old Road West Junction Air Quality Management Area (AQMA) the proposed

development is unlikely to have any impact or detrimental effect on the AQMA. In addition, as the development is in the roof space of a purpose built 3 storey block, there is unlikely to be any impact on future residents from the nearby AQMA. In view of this, an Air Quality Assessment will not be required.

It is noted that no noise impact assessment has not been submitted with the application. Although on a B road, the road is a busy/heavily trafficked and the property is on a cross road/junction so occupants could be impacted by traffic noise. In this respect, a noise assessment will need to be undertaken to assess the traffic noise and provide suitable mitigation measures. The noise assessment must be undertaken in accordance with BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' and ensure that internal noise levels are in accordance with the levels specified within this. One suitable mitigation measure could be a mechanical ventilation/heat recovery system is installed in addition to openable windows so that future residents have a choice as to whether to have windows open or not.

As well as addressing internal noise from external sources, the noise assessment should also consider internal noise transmission between the new/proposed flats and the existing flats on the floor below to ensure that suitable and sufficient sound insulation can be afforded to the floor/ceiling partitions. It is noted from the plans that the stacking arrangement of the rooms is not ideal. For example, the living areas of the proposed flats are over bedroom of the existing flats. This could result in unavoidable noise disturbance to the residents of the existing flats (particularly at night-time) and is not a matter that Environmental Protection can deal with under statutory nuisance legislation.

To address these matters (and others), the following conditions and informatives are recommended:

Noise Control: External noise

a) Before any works commence, a noise impact assessment considering noise from traffic and plant, shall be carried out and shall be submitted to and approved, in writing, by the Local Planning Authority. For the avoidance of doubt the noise impact assessment shall set out how the change of use of the building will ensure compliance with the following requirements:

- i. The internal ambient noise levels in all habitable rooms of the residential dwellings shall not exceed the guideline LAeq values in Table 4 of BS 8233:2014
- ii. The maximum internal noise levels in all habitable rooms should not normally exceed 45dB LAmax more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.
- iii. The rating noise from fixed building services/mechanical plant/equipment 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

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 apartments, 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 proposed residential units, 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 partitions particularly the internal floor/ceiling 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.

Reason: In order to protect the amenity of future occupiers in accordance with Policy CS19 of the Gravesham Local Plan Core Strategy (September 2014).

Code of Practice on Construction and Demolition:

Please apply as appropriate. A robust condition is particularly important in this situation due to the fact that construction work will be taking place above existing flats and access and storage of materials will have to be via/within existing communal spaces. Unless adequately controlled there could be a detrimental impact on existing residents.

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

GBC – Highways Officer

The area fronting parking spaces 10 and 9 is shown a little over 6 metres a standard car park aisle width. Similarly the available width for the two spaces is shown a little over 6 metres against a minimum requirement of 5.4 metres. The depth of the two parking spaces appears to be 4.8 metres, which is less than the requirement of 5 metres in SPG4, but 4.8m is generally taken nationally as a car bay length. So, whilst I encourage compliance with SPG4, I wouldn't go to appeal unless a car parking space is less than 4.8 metres. The accepted maximum reversing distance for a car in the Kent Design guide is 25 metres. So, a car can turn using the aisle fronting bays 4 to 8 and reverse into bay 9 or 10 and comply with guidance. It may be an unattractive manoeuvre, but it conforms to guidance and what has been permitted elsewhere.

The parking for 96B appears to be awkward particularly for the southern space, as a vehicle turning out could conflict with the spaces for 96A, but there is room on site to manoeuvre around this, either by shunting or using the aisle in front of spaces 4 to 8 to turn. It may be best to request tracked/swept path drawings for access and egress to the spaces for 96B based on a large family saloon, vehicle to be specified on any submitted drawing.

However, there may be an argument regarding the cycle store, I have reviewed the requirements in Local Transport Note 1/20 <https://www.gov.uk/government/publications/cycle-infrastructure-design-ltn-120>

Table 5-2 states the desirable minimum width of a cycle lane is 2 metres with a minimum width of 1.5metres. Now I'm not suggesting a person will cycle to the entrance to the cycle store, although it would be desirable to do so.

Table 5-2: Cycle lane and track widths

Cycle Route Type	Direction	Peak hour cycle flow (either one way or two-way depending on cycle route type)	Desirable minimum width* (m)	Absolute minimum at constraints (m)
Protected space for cycling (including light segregation, stepped cycle track, kerbed cycle track)	1 way	<200	2.0	1.5
		200-800	2.2	2.0
		>800	2.5	2.0
	2 way	<300	3.0	2.0
		>300-1000	3.0	2.5
		>1000	4.0	3.0
Cycle lane	1 way	All – cyclists able to use carriageway to overtake	2.0	1.5

*based on a saturation flow of 1 cyclist per second per metre of space. For user comfort a lower density is generally desirable.

A person needs to walk adjacent to their cycle whilst wheeling it, and the doors to the cycle store must be sufficiently large to allow a cycle to be turned in from the path. Table 11-2 states the access aisle width for Sheffield stands should be a minimum of 1.8 metres against a recommended width of 3 metres, I see no reason why the access aisle to a cycle store should be different.

Table 5-3 gives additional width requirements when the path is adjacent to kerbs or an enclosing boundary.

Table 11-2: Recommended and minimum dimensions for banks of Sheffield stands

	Recommended	Minimum
Bay length (length of cycle parked on a stand)	2m	2m
Bay length (tandems, trailers and accessible cycles)	3.0m	2.5m
Access aisle width (if larger cycles use the end bay only)	3m	1.8m
Access aisle width (if large cycles use internal bays)	4m	3m
Edge access aisle + one bay to the side	5m-6m	3.8m-5m
Central access aisle + one bay to each side	7m-8m	5.8m-7m
Spacing between stands	1.2m	1.0m
Gap between stand and wall (part of bay width)	700mm (typical wheel diameter)	500mm

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Table 5-3 gives additional width requirements when the path is adjacent to kerbs or an enclosing boundary.

Table 5-3: Additional width at fixed objects

Type of edge constraint	Additional width required to maintain effective width of cycle track (mm)
Flush or near-flush surface including low and splayed kerbs up to 60mm high	No additional width needed
Kerbs 61mm to 150mm high	200
Vertical feature from 151mm to 600 mm high	250
Vertical feature above 600 mm high	500

Based on the above a minimum access width of 1.8 metres would seem appropriate. The block plan suggests the access would only be some 1.2 metres wide and this is reason for refusal as it appears to be inadequate given guidance.

GBC - Service Manager (Housing Options)

We can confirm Private Sector Housing have no comments to relay in relation to our housing legislations and regulations. We believe the proposed scheme is currently out of our remit with Planning requirements and Building Regulations taking precedence.

GBC – Conservation Officer

No response received.

GBC – Waste & Recycling Manager

Four more bins should be sufficient. Details of bin sizes provided in Planning Guidance on Waste Collection Requirements document.

Natural England

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for one or more European designated sites, such as North Kent Special Protection Area (SPA). It is anticipated that new residential development within this zone is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development and therefore such development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will (in our view) be sufficiently certain and effective in preventing adverse impacts on the integrity of those European Site(s) within the ZOI from the recreational impacts associated with such development.

However, following the People Over Wind ruling by the European Court of Justice, mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment. In the light of this, these measures should be formally checked and confirmed by your authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing adverse effects on the integrity of the relevant European Site(s) from recreational impacts for the duration of the development proposed within the relevant ZOI.

Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of

appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Neighbouring properties

The application was publicised by a site notice and to 35 neighbouring properties by letter (two letters were sent due to the application being revalidated). Four representations have been received and are summarised as follows;

Planning issues

- Occupiers of the application building have not been notified of the proposed development by the applicant, i.e. the application form is incorrect.
- Two of the existing properties at the application site have three bedrooms.
- Queries the accuracy of the plans in relation to the staircase roof extension and the overall roof design as there would appear to be insufficient head height, without extending the roof higher.
- Overdevelopment of the building/site.
- Other properties in the area are a maximum of three storeys high, this proposal would make the application site the only four storey building.
- Insufficient details of external facing materials provided.
- There are not 15 spaces in the car park at present.
- Storage of materials/equipment in the car park during construction would exacerbate existing parking problems.
- The car park already has inadequate space for parking and the proposed development would exacerbate existing parking problems.
- The car park is not shown accurately on the submitted plans, part of it is in use as a driveway for the house next door and would restrict the proposed layout.
- The existing car park has no dropped kerb.
- Queries the accessibility of the proposed parking spaces.
- Adverse noise and disturbance impacts to existing occupiers as the proposed layout would put living rooms/kitchen space above existing bedrooms (and vice versa for proposed occupiers).
- The proposed development has not addressed all of the issues set out in the Inspector's decision regarding application reference 20201324.
- Queries why the connection to the existing drainage system is unknown.
- Queries whether the bin store could accommodate four additional bins.

Non-planning issues

- The applicant has no first name.
- Noise and disturbance and dust and debris from building works above existing flats.
- To construct the flats, structural support would be needed inside flats below and permission will not be granted for this by the owners.
- Scaffolding from the proposed works would block light and be detrimental to privacy for all flats during construction.
- It would not be possible to retain safe access and egress to the existing flats during construction works (fire escape and health and safety concerns).
- Owners of existing flats were not told of the proposed works prior to them purchasing their properties.
- Potential for damage to the ceilings/walls of existing flats from construction works.
- Cladding to the dormers could be a safety risk
- Cladding to the dormers could mean that existing flats are harder to sell or re-mortgage.
- Do not wish to have neighbours above the existing top floor flats.
- Existing ventilation systems from the top floor flats discharge through the loft space and may be compromised.
- Adverse security risk from existing loft hatch in flat 8 during construction works.

Officer's Analysis

Background

The application property was part of a wider development that was built under planning permission reference 20110429 (as amended by non-material amendment reference 20130541) for the erection of five detached dwellings and a block of nine flats on the site of a former public house.

The application site comprises of a three storey building which accommodates nine flats, with communal, bin storage and parking areas at the rear. There are nine existing parking spaces for the flats and two existing parking spaces each for nos. 96A and 96B, Old Road West within the car park (a total of 13 spaces). Vehicle access to the parking area is from Old Road West but there is no dropped kerb.

The proposed development would comprise of the erection of four dormers and various alterations to the roof of the property, to allow the conversion of the roof space into two, one bedroom flats. The existing car park would be rearranged to provide two extra parking spaces, cycle storage (for eight cycles) and an extension to the existing bin store.

It would appear that the existing building and site layout do not accord with the approved plans under previous planning permissions/approvals for the application site. Therefore the application site will be referred to the Planning Enforcement Team for investigation.

It should be noted that a similar proposal for the formation of two flats in the existing roof space was recently refused planning permission and dismissed on appeal (reference 20201324). The Inspector's report is contained in Appendix 1.

The following images compare the proposed elevations and layout for the previous and current proposals;

Southern elevation



20201324

Current proposal

Western elevation



20201324

Current proposal

Northern elevation



20201324

Current proposal

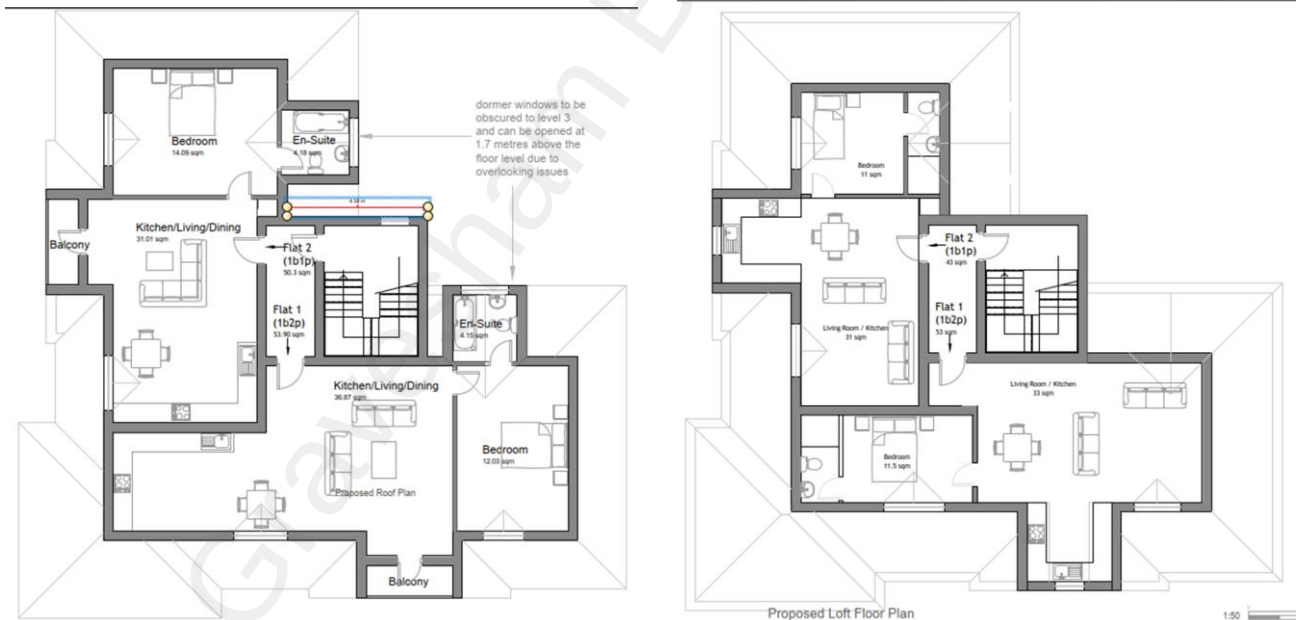
Eastern elevation



20201324

Current proposal

Layout



20201324

Current proposal

These images also illustrate the inaccuracies of the elevation drawings in the current proposal. The dormers that extend upwards from the wall plate (shown in side profile on the eastern and western elevations) appear not actually to be proposed (when compared to the layout plan) but they obscure the roof design in the area surrounding the staircase.

Principle of the development

Policy CS02 of the Gravesham Local Plan Core Strategy September 2014 sets out the Borough's objectively assessed need for housing over the Plan period (up to the year 2028) and finds that there is a need for at least 6,170 new dwellings during the period. Gravesham is currently unable to demonstrate a five year housing land supply. Reference to the Five Year Housing Land Supply Statement 2020-25 illustrates that a 3.27 year supply has most recently been calculated.

In addition, this document illustrates that the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test. Therefore the housing delivery element of Core Strategy Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the National Planning Policy Framework 2021 (NPPF 2021). This paragraph 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.

In the Gravesham context, the policies referred to in paragraph 11(d)(i) above are those set out in the NPPF 2021 at footnote 7 (rather than those in development plans) relating to any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 180)
- Sites of Special Scientific Interest;
- Green Belt,
- Local Green Space,
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats;
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 68); and
- Areas at risk of flooding or coastal change.

The application site is not within an area of particular importance as defined above (although it is located adjacent to one – the Darnley Road Conservation Area). Therefore paragraph 11(d)(ii) of the NPPF 2021 is relevant to the consideration of this application.

Overall, 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 (paragraph 125(c) of the NPPF 2021) in context, 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.

The proposed development would provide two new market dwellings, which would represent a modest increase in housing supply, which weighs in favour of the proposal. However, this has to be balanced against the other requirements of the NPPF 2021 and in particular, Sections 2, 5, 9, 11, 12, 15 and 16, which require development to be sustainable and make effective use of land, to add to the overall quality of the area, be visually attractive, sympathetic to local character and to provide a high standard of amenity for existing and proposed users; to provide safe and suitable access; and to contribute to and enhance the natural, historic and local environment. These issues will be discussed in detail in the sections below.

Policy CS02 of the Gravesham Local Plan Core Strategy September 2014 prioritises development in the urban area as a sustainable location and seeks to achieve this by promoting regeneration by prioritising redevelopment and recycling of underused, derelict and previously developed land, predominately in Opportunity Areas located within Gravesend and Northfleet. It also suggests that around 2280 new dwellings will be provided on other sites in the urban area and rural settlements inset from the Green Belt. Therefore the application site would be an appropriate and sustainable location for new housing in principle,

provided that the detailed elements of the proposal comply with local and national policy.

The following sections will consider the detailed design and impacts of the proposed development.

Design, Character and Appearance

Paragraph 130 of the National Planning Policy Framework 2021 (NPPF) sets out various design requirements and includes the need for the development to add to the overall quality of an area; be visually attractive; and be sympathetic to local character, including the surrounding built environment. Paragraph 134 of the NPPF 2021 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 sets out that new development will be visually attractive, fit for purpose and locally distinctive. It should conserve and enhance the character of the built environment and take account of the scale, height, building lines and other architectural features of buildings. Account should also be taken of strategic views, site topography, the significance of heritage assets and features of townscape and landscape value which contribute to local character and sense of place.

Policy CS14 requires new housing development to provide a range of dwelling types and sizes, taking account of the existing character of the area and evidence of local need.

Policy CS15 requires new housing to be developed at a density that achieves good design and does not compromise the distinctive character of the local area. In urban areas, residential development should achieve a minimum density of 40 dwellings per hectare. Proposals that fail to make efficient use of land for housing, having regard to the character and location of the area may be refused.

The application site is located adjacent to the Darnley Road Conservation Area and as such, Policy CS20 of the Gravesham Local Plan Core Strategy (September 2014) and Saved Policy TC3 of the Gravesham Local Plan First Review November 1994 are also relevant. These policies accord a high priority towards the preservation, protection and enhancement of the heritage and historic environment and support proposals which preserve and enhance heritage assets, including conservation areas.

Local residents have raised concerns that the proposal would be an overdevelopment of the site, which would be out of character with the surrounding buildings.

The application property is situated in a prominent, corner location and is highly visible in the surrounding area, including from the conservation area. The proposed development would involve a number of alterations to the roof, including four dormers, an extension above second floor level and the insertion of a window in the gable ends on the southern and western elevations.

The proposed dormers would be small and subservient to the existing roof and as such, would not detract from the character of the building or those in the surrounding area.

The proposed extension above the existing second floor level would be a bulky addition to the roof, which would have a roof design that does not match with existing and as such, would undermine the simplicity of the existing roof line when viewed from the north and east. This simplicity is illustrated in following image;



View of application property from Kent Road

The proposed windows in the gable ends would interrupt the existing fenestration pattern of the building both horizontally and vertically, where the existing windows in each storey are separated by some 1.6 metres vertically and are consistent in appearance horizontally. However the new windows would only be 0.8 metres above the windows in the second storey and would be out of alignment horizontally with the windows in the rest of the building. As such, they would appear incongruous.

As a conversion of the roof space of an existing building, the proposal would increase the housing density of the site, which would make more efficient use of the space available. However, in order to provide the additional car/cycle parking and refuse storage for the new dwellings, the layout of the external areas of the application site would be likely to be compromised. The existing site layout (which is unauthorised) is relatively cramped and according to existing residents, does not contain sufficient car parking provision at present. Reference to the Highways and Parking section below highlights that the proposed car/cycle parking layout may not be accessible and therefore even if the unauthorised extension to the car park is regularised, it would be difficult to accommodate all the required external features within the application site. Furthermore reference to the Amenity of Future Occupiers section below highlights that the existing external layout may require amendment to provide communal amenity space for existing residents. Therefore it is considered that the proposed development would be an overdevelopment of the site, which would lead to a cramped and unworkable site layout.

Section 72(1) of the Planning Listed Building and Conservation Areas Act 1990 (as amended) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

It is noted that the planning inspector, when considering the appeal into the refusal of planning application reference 20201324, concluded that views of the appeal site from within the Darnley Road Conservation Area were limited and that, whilst the proposed development was visible, it would preserve the core value of the conservation area. It is considered that this proposal would have similar visual impacts and as such, the proposal would not be contrary to Policy CS20 of the Gravesham Local Plan Core Strategy 2014 or Saved Policy TC3 of the Gravesham Local Plan First Review (1994).

Very little information has been provided in relation to the proposed external facing materials, other than that the dormers would be clad in weather boarding. Therefore in order to ensure that the proposed development would be sympathetic to the building and its conservation area setting, any planning permission granted should be conditioned to require the submission of all external facing materials details for approval.

The design approach has been amended since the refusal of planning application 20201324 and the removal of balconies and the dormers rising from the wall plate is welcomed. However concerns remain regarding the proposed alterations in the area surrounding the staircase, the insertion of windows in the gables and the external arrangements. Therefore the ground of refusal relating to design on application 20201324 has not fully been overcome.

Overall it is considered that the proposed development, by reason of its form, layout and appearance, would be an overdevelopment of the site, be out of character with the existing building and undermine the character of the surrounding area. As such, the proposal would be contrary to paragraph 130 of the NPPF 2021 and Policy CS19 of the Gravesham Local Plan Core Strategy September 2014.

Amenity of Future Occupiers

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 requires new development to be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants. In this regard, the Nationally Described Space Standards (NDSS) and the Borough Council's adopted Residential Layout Guidelines (RLG) are relevant.

	NDSS Standard in m ² (m)	Flat 1 m ² (m)	Flat 2 m ² (m)
Bedroom area (width)	7.5 (2.15) for a single or 11.5 (2.75) for a double	15 (5.4)	10.4 (3.3)
Total floor area	50 + 1.5 (1 bed, 2 person, 1 storey) 39 +1 or *37 + 1 (1 bed, 1 person, 1 storey) * if shower room proposed instead of bathroom	56	46

These figures illustrate that the proposed internal layout would be acceptable, provided that one unit is for one bedroom, two person accommodation and the other unit is for one bedroom, single person accommodation.

The application site should have an existing communal external amenity space of some 73 square metres at the rear (according to previously approved plans) but at the site visit, it was noted that two private garden areas were fenced off and used in connection with existing ground floor flats. Therefore no external amenity space exists for the majority of the existing flats.

For communal gardens for flats, the RLG requires a minimum of 10 square metres per unit (but where two or more bedroom units are proposed, space in excess of this figure is required). The approved arrangement of flats at the application site was for three, one bedroom units and six, two bedroom units. Therefore the approved amount of amenity space was well below the requirements of the RLG.

For the proposed development to comply with the RLG, a minimum of 20 square metres of additional amenity space would be required (above the existing situation) but none is proposed. However it is noted that no family sized units would be created and that the application site is located in close proximity to two public open spaces (in Dashwood Road). As such, it is considered that the lack of amenity space would not be significantly detrimental to the living conditions of future occupiers (of the proposed flats).

Notwithstanding this, it should be noted that the unauthorised lack of existing amenity space at the application site would be detrimental to the living conditions of existing occupiers (especially families) and is therefore likely to require some alterations to the external layout. These alterations could put pressure on the amount of available space at the rear of the building and would potentially undermine the viability of the proposed layout, which would add weight to the argument that this proposal is an overdevelopment of the application site.

The proposed development would provide an enlarged bin store (2.4 metres longer), which would be likely to provide adequate refuse storage. However no details of the layout/elevations of the enlarged bin store have been provided. Therefore any planning permission granted would be conditioned to require the submission and approval of these details.

The proposed approach to refuse storage has been amended since the refusal of planning application 20201324 and the comments of the Inspector in relation to external amenity space have been taken on board. Therefore the ground of refusal relating to impacts to future occupiers on application 20201324 has been overcome.

The proposed development would provide adequate living conditions for future occupiers and as such, the

proposal would not be detrimental to residential amenity and would be in line with Policy CS19 of the Gravesham Local Plan Core Strategy (September 2014), the NDDS and the RLG.

Neighbouring Amenity

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 requires new development to be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of surrounding occupiers.

The closest residential properties to the application site are nos. 161-167 Darnley Road and no. 59 Kent Road (adjoining to the north/west), nos. 94, 96, 96A and 96B Old Road West (adjoining to the south/east), nos. 162A to 170 Darnley Road (located to the west across the roadway) and nos. 129 to 137 Old Road West (located to the south across the roadway). Flat nos. 7-9, 98 Old Road West directly adjoin the proposed flats from below, as they are located on the existing second floor of the application building.

It is noted that local residents have raised a number of concerns relating to the adverse impacts of the proposed development on the residential amenity of surrounding occupiers.

The proposed development would increase the amount of residential activity and vehicle movements in the surrounding area, potentially causing adverse noise/disturbance/pollution impacts to existing occupiers. However in this busy residential environment, it is considered that the level of noise/disturbance/pollution associated with two flats would not be so significant as to warrant the refusal of planning permission.

Due to the distance between the properties, their orientation and the design of the proposed development, there would be no adverse overshadowing or overbearing impacts to the occupiers of surrounding dwellings from the proposed external alterations.

In terms of overlooking, due to the distance between the properties, there would be no loss of privacy for the occupiers of nos. 162a to 170 Darnley Road and nos. 129 to 137 Old Road West (privacy distances of between 21 and 28 metres) from the proposed dormer and gable end windows.

The proposed development would regularise the unauthorised car park use of land, which was formerly part of the garden of no. 96 Old Road West. The residual garden area for no. 96 would be some 100m² in area and over 10m depth. Therefore there would be no adverse impacts to the living conditions for the occupiers of that property and the proposal would be in line with the RLG.

The proposed development would result in new residential units being located above existing dwellings. Due to the layout of the proposal, new kitchen/living/dining rooms would be located directly above existing bedrooms and vice versa. This would have the potential to cause adverse noise and disturbance to both existing and future occupiers. Due to the physical limitations of the existing building, it is not clear whether sufficient space would be available to accommodate sound insulation. Indeed, local residents have specifically drawn attention to this issue.

The GBC Environmental Protection Team (Regulatory Services) requires the submission of a noise impact assessment and requires an external noise assessment to be submitted prior to the commencement of the development and a sound insulation assessment to be submitted prior to the first occupation of the development. However in light of the existing situation (where flats have already been permitted and are occupied at the application site), it is considered that there would be no adverse external noise impacts and as such, an external noise assessment would not be necessary.

With regard to an internal sound insulation assessment, due to the potential difficulty in installing adequate sound proofing, it is considered that this document should have been submitted as part of this application. This is because the potential for adverse noise impacts would be so significant, that it would not be appropriate to rely on a planning condition for effective mitigation.

Therefore, in the absence of evidence to the contrary, it is considered that the proposed development would be likely to lead to adverse noise and disturbance impacts to both existing and future occupiers.

In relation to this issue, it should be noted that, in dismissing the appeal against the refusal of planning application reference 20201324, the Inspector stated that;

24. However, the vertical arrangement (or stacking) of the proposed flats would result in the living areas in Flats 1 and 2 being directly above some or all of the bedrooms of the flats below. Conversely the proposed bedrooms would be above some of the living areas of the flats below. These overlaps could give rise to unacceptable noise and disturbance transfer between these spaces.
25. The appellant indicates that sound insulation would be provided and would be governed by Building Regulations. Whilst the building appears to be of relatively modern construction, the separation distance between the existing top floor and the proposed additional flats appears less generous than those between the existing floors of the building. There is no evidence or information before me to indicate whether sound proofing could be accommodated or that the transfer of noise between living areas and bedrooms could be minimised to acceptable standards.
26. I have considered the use of a condition to secure sound attenuation between the living areas and bedrooms. However, given the extent of the overlap between living areas and bedrooms and the uncertainty as to whether such an approach would be effective, the use of a condition would not be reasonable in this case.

Whilst the proposed layout has been amended since this refusal, there continues to be vertically adjacent bedrooms and living areas. Therefore the Inspector's comments remain relevant and the ground of refusal relating to noise on application 20201324 has not been overcome.

It should also be noted that the applicant's covering letter suggests that the Inspector stated 'insulation between the floors would be a requirement of the Building Regulations and could adequately be dealt with by condition. He felt that there was no reason why existing occupiers would be effected by noise.' However this is clearly a misrepresentation of the Inspector's findings.

Overall, the proposed development would be detrimental to the residential amenity of surrounding and future occupiers, by virtue of adverse noise and disturbance impacts. As such, the proposal would be contrary to Policy CS19 of the Gravesham Local Plan Core Strategy September 2014.

Highways and Parking

The proposed development needs to be considered against Policy CS11 of the Gravesham Local Plan Core Strategy 2014, which states that new developments should mitigate their impact on the public highway and that sufficient car parking will be provided in accordance with adopted standards, which will reflect the availability of alternative means of transport accessibility to services and facilities. This is also reflected by Saved Policy T1 of the Gravesham Local Plan First Review (1994) which requires proposed development to be adequately served by the highway network and Saved Policy P3 of the Gravesham Local Plan First Review (1994) which sets out parking standards for development.

The proposed development would result in an increase of two residential units (one bedroom flats) above the existing nine residential units (one and two bedroom flats) at the application property. According to the Borough Council adopted vehicle parking standards (SPG4), a one bedroom flat should have one parking space.

The existing car park at the application site is an unauthorised development, which although providing the approved amount of car parking spaces (13), is not laid out in accordance with the approved drawings for the site. It should be noted that the car park includes an area of land, which was formerly part of the garden of no. 96 Old Road West and which does not have planning permission to be used for parking. Furthermore, it should also be noted that the entrance to the car park does not have a dropped kerb (which was a requirement of the previous permission) and that the car park affords access to a rear garden parking area at no. 96 Old Road West, which is not shown on the submitted drawings.

The proposed development would regularise the unauthorised car park extension and this land would be used to accommodate two new car parking spaces. In addition, a cycle store with eight spaces would be provided. The GBC Highways Officer has raised concerns that the proposed car parking arrangements are not compliant with SPG4 and promote unattractive manoeuvres to access spaces. For example, the parking for 96B appears to be awkward (particularly for the southern space) as a vehicle turning out could conflict with the spaces for 96A. Furthermore the GBC Highways Officer has raised concerns that the proposed access to the cycle store has insufficient width and that the dimensions shown on the drawings are not accurate.

It should be noted that, due to the site's proximity to the junction and the existing on-street parking restrictions in the area, any on-street parking for residents and visitors associated with the proposed flats would be likely to be detrimental to highway safety. Despite the application site being relatively close to the town centre, local amenities and the railway station and also being very close to a bus stop, existing residents appear to be very reliant upon the private car. Indeed local residents have stated that the existing car park is already insufficient for the current parking demand at this site.

The approach to cycle parking has been improved since the refusal of planning application 20201324 but has still not been proven to be accessible. In addition, a lack of swept path analysis and inaccurate drawings undermine the proposal. Therefore the ground of refusal relating to parking/highways on application 20201324 has not fully been overcome.

Overall it is considered that in the absence of swept path analysis, which proves that the whole of the proposed car park is accessible; accurate details of all aspects of the proposed car park (including dimensions and details of the access to the rear of no. 96 Old Road West) and details of an accessible cycle store, then it is considered that the proposed parking arrangements would be insufficient. As such, the proposed development would be detrimental to highway safety and contrary to Policy CS11 of the Gravesham Local Plan Core Strategy September 2014 and Saved Policies T1 and P3 of the Gravesham Local Plan First Review November 1994.

Ecology and Biodiversity

Paragraph 180 of the NPPF (2021) states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

Policy CS12 of the Gravesham Local Plan Core Strategy September 2014 states that sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated Special Protection Areas, Special Areas of Conservation and Ramsar sites. It also states that, where a negative impact on a protected or priority habitat/species cannot be avoided, compensatory provision will be required.

The application site falls within 6 km of the Thames Estuary and Marshes Special Protection Area (SPA), 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. The site is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site) and is within a Site of Special Scientific Interest Impact Risk Zone.

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 Borough Council 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 6 km zone since September 2015 by accepting a Strategic Access Mitigation and Monitoring Strategy (SAMMS) tariff payment (currently £275.88 per dwelling).

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. This means that mitigation measures, which are intended to avoid or reduce effects, should be assessed within the framework of an AA. This approach is in line with the comments of Natural England set out above. The AA for the proposed development is contained in Appendix 2.

The proposed development would result in the creation of two new dwellings and as such, additional recreational activity would result. No suitable planning obligation or bespoke mitigation scheme has been submitted and an insufficient tariff payment has been made. As such, there would be no mitigation of the impacts of the additional recreational activity and the consequent adverse impact on biodiversity. As such, the proposed development would be contrary to Policy CS12 of the Gravesham Local Plan Core Strategy September 2014 and to paragraph 180 of the NPPF.

It should be noted that a SAMMS payment was made under application 20201324, which has not been refunded. However the payment is not sufficient (because the tariff has since increased). If the proposed development were to be recommended for permission, then a top up payment and a new contribution agreement would be requested. Therefore the ground of refusal relating to biodiversity on application 20201324 has not fully been overcome.

Affordable housing

Paragraph 64 of the NPPF 2021 states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).

Policy CS16 of the Gravesham Local Plan Core Strategy (September 2014) states that the provision of affordable housing will be required on new housing developments of 15 dwellings or more or on sites of 0.5 hectares or more in the urban area, at a level of 30%.

The application site is less than 0.5 hectares and the proposed development would provide two new dwellings and as such, there is no requirement to provide affordable housing and the proposal would be in line with paragraph 64 of the NPPF 2021 and Policy CS16 of the Gravesham Local Plan Core Strategy (September 2014).

Contamination and Climate Change

Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 requires new development to be located, designed and constructed to avoid adverse environmental impacts from pollution and land contamination and to not pose an unacceptable risk or harm to the water environment.

Policy CS18 of the Gravesham Local Plan Core Strategy September 2014 seeks to ensure that the run off from new development has, as a minimum, no greater adverse effect than the existing situation and requires the use of Sustainable Drainage Systems where feasible. It also requires new homes to reduce impacts on potable water supply and encourages a reduction in carbon footprint.

The application site is located in Groundwater Source Protection Zone 3 but, as the proposed development is mainly located within existing roof space and only a relatively small amount of external works would occur, then it is considered that there would be no adverse impacts to groundwater.

The application site is located close to the Woodfield Avenue historic landfill site and as such, there may be potential for ground contamination affecting the proposed works to rearrange the car park. Therefore, in order to ensure that there are no adverse contamination issues during the construction work or for future occupiers, a watching brief contamination condition should be attached to any planning permission granted.

The application site is located in a smoke control area. As such, advice regarding smokeless fuels/appliances can be given to the applicant in an informative attached to any planning permission granted.

The proposed development would not include electric vehicle charging points and there are no details of any specific energy or water saving proposals, which would be negative features. However if planning permission were to be granted, a condition(s) could be attached to ensure that measures to reduce the adverse impacts of climate change are secured.

Overall, the proposed development would be broadly in line with Policies CS18 and CS19 of the Gravesham Local Plan Core Strategy September 2014.

Issues raised by local residents

It should be noted that the non-planning issues raised by local residents are not relevant to the consideration of this proposal and as such, have not been taken into consideration in the determination of the application.

The majority of the planning issues raised by local residents have been discussed in the above paragraphs, however the outstanding issues are summarised and considered below;

- Two of the existing properties at the application site have three bedrooms – the existing internal arrangements will be subject to investigation by the GBC Planning Enforcement Team.
- Other properties in the area are a maximum of three storeys high, this proposal would make the application site the only four storey building – this is noted.
- Storage of materials/equipment in the car park during construction would exacerbate existing parking problems – any planning permission granted would be conditioned to ensure that there would be no adverse parking impacts during the construction works.
- The proposed development has not addressed all of the issues set out in the Inspector's decision regarding application reference 20201324 – this is noted.
- Queries why the connection to the existing drainage system is unknown – this would be covered by any future building regulations application.

Conclusion & Recommendation

The Borough Council cannot currently demonstrate a five-year housing land supply and accordingly, the presumption for sustainable development as outlined in paragraph 11(d)(ii) of the NPPF is applicable. This states that planning permission should be granted for residential development unless the benefits of the proposal are significantly and demonstrably outweighed by the harm.

Whilst the proposed development would deliver two additional dwellings, the benefits arising from this provision are somewhat limited, given that the proposal is for two units only. Furthermore, any economic benefits arising from the construction and occupation of the development would be limited by reason of the scale of the proposal and be relatively localised in impact.

The proposed development would be located in a sustainable, urban area; would cause no adverse overshadowing, overbearing or overlooking impacts to neighbours; and would not adversely affect groundwater, nature conservation or geological interests. All of which weigh in support of the proposal. However the proposed development would be poorly designed and an overdevelopment of the site, be detrimental to the character of the building and the surrounding area; be detrimental to highway safety, the residential amenity of adjacent and existing occupiers and biodiversity. As such, the proposal would be contrary to sections 2, 9, 12 and 15 of the NPPF 2021, to Policies CS11 CS12 and CS19 of the Gravesham Local Plan Core Strategy September 2014 and to Saved Policies T1 and P3 of the Gravesham Local Plan First Review November 1994.

On balance, it is considered that the benefits of the proposal are significantly and demonstrably outweighed by the significant harm to the character and appearance of the surrounding area, to highway safety, to residential amenity and to biodiversity.

The existing breaches of planning control at the application site should be referred to GBC Planning Enforcement for investigation.

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

Case Officer:	Mrs Kelly Joyce	Team Leader:	Miss Faye Hobbs
Signed:	K Joyce	Signed:	
Dated:	22nd February 2023	Dated:	23 February 2023