

Delegated Report

Planning and Listed Building Consent Applications

Planning Application Nos.: 20240131
20240132

Location: Crown And Thistle Public House, 44 The Terrace Gravesend Kent

Description: 20240131 – Conversion of the building from a public house with flat above to a 5 bedroom House of Multiple Occupation (HMO) with associated internal and external alterations.

20240132 - Application for Listed Building Consent for the conversion of the building from a public house with flat above to a 5 bedroom House of Multiple Occupation (HMO) with associated internal and external alterations.

Applicant: Mr A Rai

Site Visit Date: For previous planning and listed building consent application refs. 20230648 & 20240649

Submitted Documents/Plans

- Application form;
- Drawing no. 22/399/03 Rev. F – Proposed elevations, location and block plan
- Drawing no. 23/399/04 Rev. C – Proposed plans;
- Drawing no. 23/399/02 – Survey plans;
- Drawing no. 22/399/01 Rev. A – Existing elevations, location and block plan;
- Heritage Statement;
- Letter from Robinson Michael Jackson Estate Agents
- Planning, Design and Access Statement; and
- Noise Impact Assessment.

Relevant Planning History

Reference	Description	Decision	Decision Date
20230649	Application for Listed Building Consent for the change of use from Public House with flat above to a 6 bedroom House of Multiple Occupation (HMO), with part demolition of the single storey rear extension, erection of a bin store in the rear garden, replacement of the UPVC window in the rear elevation at second floor level with a timber sash window and associated internal and external alterations.	Refused	17.08.2023
20230648	Change of use from Public House with flat above to a 6 bedroom House of Multiple Occupation (HMO), with part demolition of the single storey rear extension, erection of a bin store in the rear garden, replacement of the UPVC window in the rear elevation at second floor level with a	Refused	17.08.2023

	timber sash window and associated internal and external alterations.		
19880602	Application for Listed Building Consent for the refurbishment of the front elevation, replacement of the roof tiles and elevational alterations in connection with the erection of a single storey rear extension	Permitted	31.10.1988
19880601	Erection of single storey rear extension to form toilet accommodation and internal alterations to form enlarged bar area	Refused	31.10.1988
19850337	Change of use of part of 1st floor from residential to quiet lounge clubroom	Refused	19.07.1985
19810769	Application for Listed Building Consent for alterations to the front and rear elevation internal alterations demolition of existing rear extension and erection of replacement rear extension	Permitted	04.12.1981
19810766	Erection of single storey rear extension to form games room lobby and sanitary accommodation	Permitted	04.12.1981
19490575	Women's w.c. and store	Permitted	02.08.1949

Development Plan

Gravesham Local Plan Core Strategy (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
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- H5 – Increasing the Housing Stock by the Conversion of Existing Buildings
- P3 – Vehicle Parking Standards
- TC2 – Listed Buildings
- TC3 – Development Affecting Conservation Areas
- TC7 – Other Archaeological Sites

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

Other material considerations

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works to have

special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, the Council has a statutory duty in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, states that with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision-making
- Section 5 – Delivering a sufficient supply of homes
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport
- Section 12 – Achieving well-designed and beautiful places
- Section 15 – Conserving and enhancing the natural environment
- Section 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);
- Riverside Conservation Area Character Appraisal (2009)
- Management Plan Gravesend Town Centre Conservation Areas (2009)
- Maintenance/Replacement Windows and Doors Guidance (2020)
- Listed Buildings A Guide for owners and occupiers (2020)

Other Guidance

- Historic England Traditional Windows Their Care, Repair and Upgrading (2017)

Consultations, Publicity and Representations

Consultees

GBC Conservation Officer

From memory these buildings are timber framed in construction, although the rear extensions may be brick and render.

It is hoped that the hanging sign ironwork is still in place on the front elevation as this is an early survivor showing on the historic photo and should still be in place. It isn't shown on the elevation drawing.

Generally acceptable but how will the bins will be collected.

Subject to complying with non-heritage requirements I raise no adverse comments.

Will need conditions to cover fire and sound separation details including floor, wall and joinery details for doors, architraves and skirting boards. Joinery details for new windows and doors also needed.

GBC Environmental Protection

The Noise Impact Assessment by MRL Acoustics dated October 2023 (Report Ref MRL/100/2038.1v1A) has been reviewed. The methodology and findings are accepted. The report addresses noise from external sources (road traffic, river traffic and other existing noise sources in the area) and the impact on the internal noise levels with reference to the criteria in BS8233:2014. Appropriate noise levels were undertaken, and the results indicate that internal noise levels will be compliant with the criteria in BS8233:2014 with windows partially open for ventilation. No formal mitigation is therefore required, but some glazing specification examples have been given in section 5.0 should windows/glazing be replaced as part of the scheme. This will ensure that internal noise levels continue to be compliant. No additional ventilation is needed with standard trickle vents being acceptable.

In terms of the external area at the rear of the property, if this is to be used as an amenity area by the HMO occupants, levels are within the BS8233:2014 criteria. No specific mitigation is therefore needed but the report recommends a 1.8m close boarded fence or brick wall around the area.

The sound insulation properties of the internal partitions (walls and ceiling/floors) has also been reviewed with reference to the Building Regulations Document E requirements, however, a sound insulation test was not undertaken, which is disappointing bearing in mind the comments made for the previous (refused) application and the fact that the building is empty which provides a good opportunity to carry out the test.

A specification for recommended works to the floor/ceiling partition has been given in the report (see pages 20-21) and software used to calculate the airborne sound insulation. These calculations indicate that the ceiling/floor partitions will be compliant with the Document E requirements. However, no statement has been given as to the effectiveness of the internal wall partitions in terms of sound insulation. The report states that the maximum level in Document E from impact sound should be achieved with the proposed works, but again, this was not tested/measured.

There were some inconsistencies in the proposed stacking of the rooms with the previous application and these do not all appear to have been addressed. For example, bedroom 4 on the 1st floor is over the living area on the ground floor and bedroom 3 on the 1st floor is over the kitchen on the ground floor. In addition, bedroom 2 on the second floor is over the ensuite bathrooms of the rooms below. Rooms such as kitchen and living rooms generally have higher noise levels than bedrooms particularly at night-time, which could result in sleep disturbance. Again, bathrooms can generate noise eg toilet flushing, water running away etc which at night can be noisy.

If these poor stacking arrangements can't be altered, then it is recommended that the floor/ceiling partition between these are upgraded so that they are of a standard greater than that required under Building Regulations – this is ideally an enhancement of the minimum levels stated in the Building Regulations of 10dB. As this is a Listed Building, we need to be certain that this can be undertaken without any detrimental impact to the Listed Building and is in accordance with the Conservation Officer's requirements.

It is advised therefore, that a full sound insulation test is undertaken at this stage for both airborne and impact sound and an appropriate mitigation specification (to achieve an enhancement of the minimum levels stated in the Building Regulations of 10dB) is submitted for consideration. It is advised that this takes place before any determination of the application is made to ensure that the required works can be undertaken.

GBC Highways Officer

This is a town centre location, so no car parking is required. It is noted cycle parking is being provided, and whilst not ideal being in the basement, given the limitations of the site is a reasonable option. No objections.

GBC Private Housing – 10/04/2024 (first comment)

A couple of observations from our side: Having reviewed drawing no. 23/399/04A

1. We are not in favour of cooking facilities sited within the bedrooms, due to the increased fire risk,

and the potential for bedrooms to become bedsits. There is a communal kitchen which would suffice.

2. Bedroom 5 leading directly off of a high-risk room (communal kitchen) is not favourable. There is not a suitable means of escape nor secondary means of escape highlighted for this bedroom. We cannot accept the primary means of escape through a high-risk room.
3. There is no secondary means of escape which leads away to a place of safety highlighted within the proposal, due to the rear yard being enclosed.

Where a HMO is the applicants preferred option, the team welcomes a conversation or visit to the premises to discuss requirements and suitable configuration.

GBC Private Housing – 22/05/2024 (second comment)

Following a conversation with the agent, the following was agreed via email:

I'd suggest the kitchen be fully enclosed, if fully enclosed does the kitchen still achieve circa 7m²? Perhaps with a viewing pane incorporated within the kitchen FD30.

Happy with the addition of the rear exit door. Pleased to hear waste services are happy with the rear refuse storage arrangement.

The kitchens within the bedrooms have been removed and the rear ground floor bedroom will now have additional fire separation from the communal living space, as well as communal kitchen being enclosed. The waste storage/collection requirement will be likely dictated by Stuart's team, our regs just require the refuse to be stored on a suitable/dedicated hard standing. In line with the authority's waste procedures.

GBC Waste 04/04/2024 (first comment)

Unfortunately, there is no easy solution here.

Looking at the new plans, we would require provision for recycling and food on top of the refuse to make sure the property is compliant with the new Simpler recycling regulations.

As we will be collecting fortnightly, having a food waste collection will stop the black sacks smelling.

It will be the responsibility of the tenants to make sure the correct bags are put out each week.

GBC Waste – 22/05/2024 (second comment)

I have advised that we will collect fortnightly and that bagged waste/recycling is ok as long as it is put out on the correct day. Naturally food waste would be collected weekly.

Really it is no different than a terraced house.

No response from:

- GBC Economic Development
- National Amenity Societies

Neighbouring properties

20240131 – 21 neighbouring properties were consulted on this application plus site and press notices – overall consultation expiry date was 22.03.2024 – no responses received.

20240132 – site notice and press notices - overall consultation expiry date was 22.03.2024 – no responses received.

Officer's Analysis

The proposal is for planning and listed building consent applications for conversion of the building from a public house with flat above to a 5 bedroom House of Multiple Occupation (HMO) with associated internal and external alterations.

These planning and listed building consent applications are a re-submission of planning and listed building consent application references 20230648 & 20230649 which were refused on the 17 August 2023 on the following grounds:

20230648:

1. The proposal would result in unsympathetic alterations to the Listed Building. Furthermore, insufficient information has been submitted in respect of works that may be required under the Building Regulations such as ventilation and extraction systems and noise mitigation; such works that would be required for those measures have the potential to cause further harm to this Listed Building and the Conservation Area. On the basis of the submitted information the proposal would cause harm to the architectural and historic interest of this Grade II Listed Building and the character and appearance of the Harmer Street Conservation Area contrary to Policies CS19 and CS20 of Gravesham's Local Plan Core Strategy (LPCS) (2014), saved Policies TC2 and TC3 (LPFR) (1994) and section 16 of the NPPF (2021).

2. This development would result in the loss of the existing use as a Public House, removes the possibility of any commercial use on the ground floor and provides insufficient evidence to show a commercial use is no longer viable. As such the principle loss of the commercial use is considered to be contrary to Policies CS05 and CS07 of Gravesham's Local Plan Core Strategy (LPCS) (2014).

3. No details have been submitted to demonstrate that future occupiers would not be impacted on from noise and disturbance. In addition, there is a lack of defensible space at the front of the property and overall, the proposal would provide a poor level of amenity and living conditions for future occupiers. The proposal therefore fails to safeguard the amenity of future occupiers contrary to Policies CS19 (LPCS) (2014) and Section 12 (NPPF) (2021).

4. The new fenestration on the ground floor raises concerns in terms of neighbouring privacy and overlooking. As such, the proposal fails to satisfactorily safeguard the amenity of neighbouring properties contrary to Policies CS19 (LPCS) (2014) and Section 12 (NPPF) (2021).

5. The applicant has failed to provide any ecological evidence to inform a habitat regulations assessment to address the impact of the proposed development on the Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) or provided a financial contribution towards the identified mitigation measures to address the impact of the development on the SPA/Ramsar site. The proposal is therefore contrary to Policy CS12 of the Gravesham Local Plan Core Strategy (2014) which seeks to ensure that detrimental effects on the integrity of SPA/Ramsar sites are avoided, or mitigated, and is also contrary to Paragraphs 180 and 181 of the National Planning Policy Framework (2021).

20230649:

1. The proposal would result in unsympathetic alterations to the Listed Building. Furthermore, insufficient information has been submitted in respect of works that may be required under the Building Regulations such as ventilation and extraction systems and noise mitigation; such works that would be required for those measures have the potential to cause further harm to this Listed Building and the Conservation Area. On the basis of the submitted information the proposal would cause harm to the architectural and historic interest of this Grade II Listed Building and the character and appearance of the Harmer Street Conservation Area contrary to Policies CS19 and CS20 of Gravesham's Local Plan Core Strategy (LPCS) (2014), saved Policies TC2 and TC3 (LPFR) (1994) and section 16 of the NPPF (2021).

It therefore needs to be seen in these current planning and listed building consent applications whether

these grounds of refusal have been resolved and also whether all other matters are acceptable or not.

Housing Need (As of December 2023)

In *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 up 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.

In the Gravesham context, 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 any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 188)
- 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)
- 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 (paragraph 129(c)) 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 for a net increase of 4 residential units would offer a modest contribution towards meeting this local need and, accordingly, officers consider that this should be accorded appropriate weight in support of the application. However, this has to be balanced against other requirements of the

Development Plan and NPPF (2023) which requires new development to contribute positively to the overall quality of the area, be visually attractive, sympathetic to local character and create a high standard of amenity for existing and future occupiers.

Whether the proposal would protect the architectural and historic interest of this grade II listed building and preserve or enhance the character and appearance of the Riverside Conservation Area

This matter related to ground of refusal no. 1 of previous application refs. 20230648 & 20230649.

The application building is grade II listed and situated in the Riverside Conservation Area.

The issues regarding heritage in the previous applications were that the Heritage Statement submitted was severely lack in detail, the application did not provide sufficient information or go into the level of detail that is required to demonstrate there would be no harmful impact on the listed building or conservation area, proposed first floor window would be double glazed, no detail on the Building Regulations works required and waste arrangements would mean bins would be likely permanently located at the front of the property.

In these current planning and LBC applications there is a much more detailed Heritage Statement. It advises that the interior layout and features of the property date from the 1980s and so therefore no historic interest will be lost as a result of the scheme. This is supported by the Council's Conservation Officer who has commented on this application (he did not on previous application ref. 20230648 and 20230649) and advises that the proposal is generally acceptable but questions how the bins will be collected and states that subject to non-heritage requirements no adverse comments are raised. He advises that conditions will be needed to cover fire and sound separation details including floor, wall and joinery details for doors, architraves and skirting boards and joinery details for new windows and doors. The case officer asked for further clarification on why it was acceptable to condition matters such as building regulations and noise mitigation etc. given that on such matters details would normally be needed in the course of an application in order to allow a full assessment of those works on the listed building and conservation area. The Conservation Officer advised that in this case given that the interior of this building has been so severely altered that there is no historic fabric left and the interior is therefore of such low significance it is acceptable in this case to condition matters such as building regulations and noise mitigation etc. that otherwise would normally be needed up front.

In respect of the matters of how the bins will be collected, in the previous application the plans showed a proposed bin store in the rear garden but it was too small to house all the bins required, the bins would have had to be have been taken through the house on collection day which was considered highly impractical and with the internal corridor widths it appeared they too narrow for a bin to pass through. It was considered this would likely lead to bins being permanently stored on the pavement outside the building which was considered harmful to the listed building and conservation area and block the highway. In this latest proposal a bin store is again proposed in the rear garden. GBC Waste have confirmed that sacks for both waste and recycling are acceptable (rather than bins) and that the sacks will be collected fortnightly when they are put out on the day of collection with food waste collected weekly. The refuse, recycling and food waste would therefore be stored in the refuse store in the rear garden in between collections. GBC Waste advise that this set up would really be no different a situation to a terraced house and that they are therefore now happy with the proposal. The matter of refuse has therefore now been addressed and the proposed development would therefore have sufficient storage in between collections which would not cause harm to the setting of the listed building or the character or appearance of the Riverside Conservation Area.

There are other alterations proposed such as the replacement of an unsympathetic door in the rear elevation at first floor level with a window. This was originally shown to be timber double glazed but the agent was advised that double glazing was not acceptable for listed buildings and a revised elevation drawing was submitted showing the window would be timber single glazed. The opening below would be infilled with painted brickwork to match the existing adjacent wall. There would be new windows and a new door in the adapted single storey rear extension. Subject to conditioning joinery details these are considered acceptable. There are a number of new vents proposed for bathroom and kitchens, again

subject to conditioning details these are considered acceptable. The easternmost front door would be blocked internally leaving the door in place externally which is considered acceptable and as the door would remain, would not harm the special interest of this listed building.

Overall, in this case it is considered that on the basis of the comments from the Conservation Officer that he has no objections to the proposal and that on this occasion further details on works required under the building regulations and noise mitigation could be conditioned then subject to conditions (to also include joinery details and details of vents) the proposal would preserve this grade II listed building and the character and appearance Riverside Conservation Area and would be compliant with Policies CS19 and CS20 (LPCS) and saved Policies TC2 and TC3 (LPFR) and ground of refusal no. 1 of previous application refs. 20230648 & 20230649 has been resolved. The pre-commencement condition required has been agreed with the agent.

Loss of public house

This matter related to ground of refusal no. 2 of previous application ref. 20230648. This current proposal would still involve loss of the public house as the conversion of the building to an HMO is still proposed. The application is accompanied by a statement from Robinson Michael Jackson Estate Agents. This advises that the pub closed in 2015 and the owners tired to sell the pub without success and it has been empty since that time. Robinson Michael Jackson took on the instruction to sell and market the building from 10 January 2022 with marketing in local papers, their website and marketing board on front of the building. There were 17 potential interested parties and four offers with all interest being for residential use. There was no interest for commercial use with reasons given the location is in a residential area, no parking, no other businesses and limited passing business due to road set up.

Policy CS02 (LPCS) prioritises development in the urban area as a sustainable location for development. It seeks to achieve this by promoting regeneration by prioritising the redevelopment and recycling of underused, derelict and previously developed land in the urban area.

The NPPF (2021) is explicit that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses.

In this case the proposal would meet these requirements as the building is located in the urban area in close proximity to the town centre and would involve the conversion and re-use of an existing building which has been vacant for 9 years.

Saved Policy H5 (LPFR) states that the conversion of existing properties to flats will be supported provided that, amongst other things, the property is in an area suitable for such conversion. In this case the building is in an appropriate area for flats as it is in a predominantly residential area and there are a mixture of both houses and flats in the area.

Paragraph 97 of the NPPF (2023) requires planning policies and decisions to plan positively for the provision of community facilities and to guard against the loss of valued services, particularly where this would reduce the community's ability to meet its day-to-day needs. At a local level Policy CS10 (LPCS) states that support will be given to proposals and activities that protect, retain or enhance existing social infrastructure, or lead to the provision of additional infrastructure which improves community well-being. The policy also states that where there is the threat of loss of existing infrastructure, consideration will be given to viability and whether sufficient alternative provision is available.

There are no policies in the adopted Local Plan that specifically refer to the retention of public houses or community assets. However emerging Proposed Policy RE 5 (Retention of Public Houses) of the Regulation 18 (Stage 2) Development Management Policies Document (2020) states:

5.5.7. Planning permission will only be granted for development which results in the loss of an existing public house where:

- *It has been demonstrated through the submission of evidence that the public house is no longer economically viable or capable of being made economically viable at a reasonable cost; and*
- *The public house has been the subject of continuous effective marketing for a minimum period of 12 months in a lettable condition on reasonable terms, with no reasonable offer refused.*

5.5.8. In considering the acceptability or otherwise of a proposal which would result in the loss of a public house, the Council will also have regard to:

- *The role the public house plays in the provision of space for community groups to meet and whether the loss of such space would contribute toward a shortfall in local provision*
- *The design, character and heritage value of the public house and the significance of the contribution it makes to the streetscape, local distinctiveness and the historic environment of its location; and*
- *The ability and appropriateness of the building and site to accommodate an alternative use or uses without the need for demolition or alterations that may detract from the character and appearance of the building*
- *The appropriateness of the proposed alternative use in relation to the location of the site and neighbouring uses, together with the adequacy of parking and delivery arrangements to support the proposed use and potential impact on highway safety; and*
- *Whether or not the proposal provides an alternative community service or function*

No evidence or marketing has been submitted with the application to demonstrate that the public house is no longer economically viable. However, given this is only an emerging policy and not yet adopted it carries limited weight. There are therefore no policies in the adopted development plan which specifically restrict the proposed alternative use of the building as residential use. Although ideally it would be useful to have had evidence that the public house is no longer economically viable along with the marketing evidence, there is no policy requirement for such an exercise.

In respect of the other criteria, it is not known whether the public house provided a place for community groups to meet, no information has been submitted in this respect. The proposal would involve only minor alterations to the building. The building has already been heavily altered internally. With only minor external alterations, the existing remaining design, character and heritage value of the public house and the contribution it makes to the streetscape, local distinctiveness and the historic environment would be retained. The proposal is for the existing building to be re-used with no demolition or alterations which would detract from the character and appearance of the building. The site is in a predominantly residential area where there are a mixture of flats and houses and therefore the proposed use of the building as a 5 bedroom HMO is compatible with the surrounding area. The proposal would not result in an alternative community use. Matters relating to parking and highways safety will be looked at in the relevant section below.

On balance, whilst the proposal would result in the loss of a public house use there are no adopted policies in the development plan which specifically resists this loss or protects the public houses in an area. Although ideally it would be useful to have evidence that the public house is no longer economically viable or capable of being made economically viable at a reasonable cost, there is no policy requirement for such an exercise. There are several other drinking establishments in the town centre which is in close proximity, The site is located in the urban area in a highly sustainable location in respect of its location and being that it is for the re-use of an existing building. It would consist of a residential use which would be compatible with the surrounding area which is predominantly residential with a mixture of flats and houses. The proposal would result in the net addition of four residential units which would provide a small contribution to the Borough's housing supply and accordingly weighs in support of the application. Taking into account all matters, it is considered that the conversion of the public house to residential use in the form of a five bedroom HMO would, on balance, be acceptable in terms of the principle of development. In respect of principle the proposal is therefore considered compliant with Policy CS02 and CS10 (LPCS) and saved Policy H5 (LPFR) and ground of refusal no. 2 of previous application ref. 20230648 has been addressed.

Amenity of Future Occupiers

This matter related to ground of refusal no. 3 of previous application ref. 20230648.

The issues in respect of the HMO standards in application ref. 20230648 were that occupiers of the second floor would need to travel two floors to access the kitchen contrary to the HMO guidance, a shared living and kitchen was shown but no dining area and no additional space to counteract this (2 sq. m per person) and the kitchen at 8.74 sq. m was below the 9 sq. m requirement for a 6 bed HMO. Private Housing had also made comments about the kitchen having suitable lighting levels, a ventilation and extraction system in kitchen and that a secondary means of escape was needed. GBC Environmental Protection advised that a noise assessment was needed to ascertain the sound insulation of the building and appropriate mitigation; this was for internal (room to room) noise transmission and also external noise. It was noted that such alterations may be contrary to conservation stipulations. Issues were also raised by Environmental Protection on room stacking (bedrooms over living room and kitchen etc). Other issues raised by the case officer were the lack of defensible space at the front of the property and bedroom 1 receiving poor light levels in the enclosed 'lightwell' and possible odours from two bathroom windows opening into that lightwell.

In this current application in respect of these matters the following is advised.

Firstly, the number of HMO bedrooms has been reduced from six to five. All bedrooms still exceed the minimum standard for a 1 person unit (single beds are shown) which is 6.51 sq. m:

Bedroom 1 – 15.3 sq. m
Bedroom 2 – 7.6 sq. m
Bedroom 3 – 10.5 sq. m
Bedroom 4 – 14.3 sq. m
Bedroom 5 – 14.2 sq. m

As originally submitted the rooms did show a kitchen counter with sink and hobs however, the agent was asked to remove these from the proposal as HMO's should have shared facilities so kitchens, living rooms, dining rooms and bathrooms should be shared; the agent submitted a revised plan showing the sinks and hobs removed.

The proposed ground floor plan has been altered from the previous proposal. In the previous application there were to be two enclosed rooms for a living room and kitchen. As originally submitted in this current application it was proposed to have a large open plan living/kitchen/dining area. However, in the course of this application the floor plan was revised to show the kitchen as a separate room in order to meet Private Housing requirements so that the occupier of room no. 5 would have a means of escape which would not involve passing through the kitchen (a high-risk room). A rear exit door was also added so that there was a secondary means of escape from the building for all occupiers. The combined living/dining room would be 38.4 sq. m and the kitchen would be 9.3 sq. m. This is considered acceptable given that a combined living/dining area for 5 people should be 16 sq. m and that a kitchen for a minimum of 5 occupants should be 7 sq. m plus 2 sq. m additional per person for the dining area given that the second floor unit would still have a kitchen that is more than one floor away so that issue is considered resolved. The issue of the kitchen being undersized has also therefore been resolved. Private Housing have now advised they find the proposal acceptable and the revised plans address all their concerns.

With the new proposed layout it is considered all rooms would have sufficient natural light and ventilation. The previous issues of bedroom 1 having poor light levels and living conditions from two other bathroom windows opening out onto the lightwell has been removed with the amended proposed ground floor layout and it would now receive good light and no bathroom windows opening into lightwell as that has been removed. The lack of defensible space to the front is still present, the living area of the combined living/dining would be in front of the front window. The rear garden would be the same as previous – 68.1 sq. m. however, it was noted in the previous delegated report that although this falls short of what a garden should be for a property with five bedrooms (100 sq. m) and would be undersized by 31.9 sq. m there are public amenity spaces nearby such as the Riverside Leisure Area and as such on this occasion the undersized garden area is considered acceptable.

With regards GBC Environmental Protection's requirements, they advise that the submitted noise report addresses noise from external sources and that internal noise levels were compliant with the criteria in BS8233:2014 with windows partially open for ventilation and that no formal mitigation is required. GBC Environmental Protection advise that a sound insulation test has still not been undertaken. They note that there is a specification for recommended works to the floor/ceiling partition in the report which indicates that the ceiling/floor partitions will be compliant with Document E requirements however, they advise that no statement has been given as to the effectiveness of the internal wall partitions in terms of sound insulation. Although the report states that the maximum level in Document E from impact sound should be achieved with the proposed works, this was not tested/measured.

GBC Environmental Protection also advise that with regards the room stacking not all of the previous issues have been addressed. For example, bedroom 4 on the 1st floor is over the living area on the ground floor and bedroom 3 on the 1st floor is over the kitchen on the ground floor. In addition, bedroom 2 on the second floor is over the ensuite bathrooms of the rooms below. GBC Environmental Protection advise that if these poor stacking arrangements can't be altered, then it is recommended that the floor/ceiling partition between these are upgraded so that they are of a standard greater than that required under Building Regulations. They advise that as this is a listed building they need to be certain that this can be undertaken without any detrimental impact to the Listed Building and is in accordance with the Conservation Officer's requirements.

They advise that a full sound insulation test is undertaken at this stage for both airborne and impact sound and an appropriate mitigation specification (to achieve an enhancement of the minimum levels stated in the Building Regulations of 10dB) is submitted for consideration and that this takes place before any determination of the application is made to ensure that the required works can be undertaken. However, as the Conservation Officer has advised that given the interior of this listed building has been so severely altered and he is happy for matters including sound separation to be conditioned, it is considered in this case the requirements of GBC Environmental Protection for a full sound insulation test and appropriate mitigation could be conditioned in this instance.

As such given the changes which have been made to the proposed internal layout and subject to conditions it is considered that the amenity of future occupiers would be protected. In respect of the amenity of future occupiers the proposal is therefore considered compliant with Policy CS19 (LPCS) and ground of refusal no. 3 of previous application ref. 20230648 has been resolved. The pre-commencement condition as required by Environmental Protection has been agreed by the agent.

Neighbouring Amenity

This matter related to ground of refusal no. 4 of previous application ref. 20230648. This related to the distance between the bathroom and bedroom across the proposed lightwell however, as the lightwell has now been removed from the proposal this is no longer an issue.

In this proposal the existing single storey rear extension would be altered so the western wall would be brought in to create a new access doorway. There are new wc. and en-suite window proposed in the new western wall but as these are non-habitable rooms which could be conditioned to be obscure glazed there would be no undue harm to the amenity of the neighbouring building to the west no. 43 The Terrace which is in non-residential use in any case.

Due to the amended proposed ground floor layout the proposal is now considered acceptable in respect of neighbouring amenity and in this respect the proposal is compliant with Policy CS19 (LPCS) and ground of refusal no. 4 of previous application ref. 20230648 has been resolved.

Ecology and Biodiversity

The application site falls within 6km 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. 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 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 6km zone since September 2015 by accepting a Strategic Access Mitigation and Monitoring Strategy (SAMMS) (tariff) payment (£314.05 per dwelling which was the fee at the time the SAMMS tariff was paid). This approach is approved by Natural England for all new residential developments.

For every planning application for a new dwelling (including new flats) which does not require any other contributions to be secured through a s106 legal agreement or unilateral undertaking the tariff has been secured through a contribution agreement.

The tariff has been accepted effectively in lieu of an Appropriate Assessment (AA) under the Habitat Regulations and thus avoiding the need to progress into a full AA.

However, a more recent Court of Justice European Union (CJEU) ruling means that this approach is now no longer valid and although the mitigation measures (in the form of a tariff payment) will still need to be made the first stage will 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. The CJEU sees 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 AA and cannot be taken into account at the screening stage.

This proposal would result in the net addition of 4 units and the applicant has completed the SAMMS agreement and paid the required tariff. The Local Planning Authority can therefore be satisfied that the proposal has put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site. Therefore, the proposal in respect of ecology and biodiversity is compliant with Policy CS12 (LPCS) and Paragraphs 186 and 187 of the NPPF (2023).

Parking and Highway Safety

This was not an issue in the previous application and this still stands – the site has no off-street parking but given that the site is located in the town/edge of town centre it is considered this is acceptable. Cycle storage is shown in the basement as before, although impractical and unlikely to be utilised due to the need to carry bikes up and down stairs. However, as before it is considered that the proposal would be compliant with Policy CS11 (LPCS).

Any Other Material Planning Considerations

None.

Conclusion

The proposal in these re-submitted planning and listed building consent applications subject to conditions would now preserve this grade II listed building and the character and appearance Riverside Conservation Area, would be acceptable in respect of the loss of the public house use, protect occupier and neighbouring

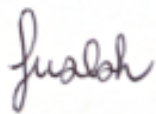
amenity and would protect ecology and biodiversity. It remains acceptable in respect of parking and highway safety. The proposal is now compliant with local and national planning policy and grounds of refusal nos. 1, 2, 3, 4 & 5 of planning application ref. 20240648 and the ground of refusal of listed building consent application ref. 20240649 have therefore been addressed.

Recommendation

20240131 – Permission

20240132 – Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Ms Rebecca Harrison	Team Leader:	Mrs Faye Walsh
Signed:	<i>Rebecca Harrison</i>	Signed:	
Dated:	21 st October 2024	Dated:	21 October 2024