

# PLANNING STATEMENT

Prior Approval Application

Class AA, Part 20, Schedule 2 General Permitted Development Order 2015  
(as amended)

Construction of two additional storeys above the existing commercial building to provide 24 flats, with associated works.

(Resubmission of Application Ref 2022799).

at

**Joynes House, New Road, Gravesend, Kent DA11 0AJ**

## 1.0 Introduction

- 1.1 This statement has been prepared to support a Prior Approval application under Class AA, Part 20, Schedule 2 of the GPDO 2015 (as amended) for the construction of two additional storeys to provide 24 flats on top of the existing detached office building at Joynes House, New Road, Gravesend. It follows an earlier application ref 2022799 which was refused on the basis of the failure to meet fire regulations and to provide a full assessment of existing external materials.

### Reason for Refusal:

*"The application fails to meet fire regulations and has failed to provide a full assessment of the existing external materials as required under Schedule 2, Part 20, Class AA.2 (k) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. The Health and Safety Executive for Fire and Planning have highlighted issues with the proposed development regarding; means of escape, external walls and fire service access, and as such the application has not met the requirement of condition (k) of AA.2 and prior approval is required and refused".*

- 1.2 This application seeks to address the reason for refusal and the substantive response of the HSE. However this statement also seeks to highlight that planning applications/prior approvals should not be required to meet building regulations. This is made clear in the NPPG guidance at Paragraph: 008 Reference ID: 71-008-20210624 which states:- *"The fire safety matters contained in a fire statement are relevant only to the extent they are relevant to land use planning. The level of detail*

*and focus of information should not contain the breadth and depth of information on fire safety which will be submitted at building control application stage. Requirements of the fire statement at planning stage will not duplicate or require compliance with the building regulations or the Fire Safety Order, and local planning authorities will not be responsible for any building regulation matters or the enforcement of building control requirements". (Paragraph: 008 Reference ID: 71-008-20210624)*

- 1.3 The full text from the NPPG guidance is provided in Paragraph 1.24 below.
- 1.4 Notwithstanding the above, and in seeking to fully address the HSE response, this amended application clarifies i) that the central staircase core will serve residential uses only; ii) any proposed materials in the external walls will meet the minimum fire performance classification termed class A2-S1, d0 or better and iii) existing cladding material achieves the A2-s1,d0 or better fire rating; and iv) amendments to the internal layout plan also demonstrate that the requirements regarding the firefighting corridor distances will be met.
- 1.5 The application is accompanied by the following plans and documents. The normal validation requirements relevant to a planning application do not apply – only the specific requirements as set out in Paragraph B of Part 20 of the GPDO 2015 are necessary. The only mandatory technical report is a Fire Statement. The other documents seek to assist the assessment of other prior approval issues.
  - Site layout plan (including location plan)
  - Existing floor plans
  - Proposed floor plans
  - Existing elevations
  - Proposed elevations
  - Cross section plan
  - Planning Statement (Gemini Planning Services Ltd)
  - Fire Statement (Fire Safety South East Ltd)
  - Transport Statement (Velocity Transport)
  - Townscape and Visual Assessment (Pegasus)
  - Design Code
  - Residential Space Standards Statement
  - Noise Impact Assessment (Venta Acoustics)
  - Daylight and Sunlight Assessment (T16 Design)
  - CGIs
- 1.6 The General Permitted Development (England) (Amendment) (No.2) Order 2020 (SI 2020/755), made amendments to Part 20 of Schedule 2 of the GPDO by introducing a new permitted development right to construct new dwellinghouses (flats) on the top of detached buildings in commercial or mixed use. This new Class AA came into being on 31<sup>st</sup> August 2020. These amendments to the Order were in response to the consultation, "*Planning Reform: Supporting the high street and increasing the delivery of new homes (October 2018)*", and were seen as a measure to support economic recovery from the Covid-19 outbreak by encouraging development.

- 1.7 Class AA of Part 20 permits works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building together with any or all—
- (a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
  - (b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;
  - (c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases;
  - (d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.
- 1.8 This new PD right applies to a building which is—
- (a) *used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order the 1987 Order, or as a betting office, pay day loan shop or launderette;*
  - (b) *in a mixed use combining—*
    - (i) *two or more uses within paragraph (a); or*
    - (ii) *a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order the 1987 Order, together with one or more uses within paragraph (a).*
- 1.9 Class AA is subject to various qualifications and limitations (see below). These include the requirement to make a prior approval application to the LPA in respect of certain matters that can be assessed.
- 1.10 In essence, the GPDO grants a national deemed planning permission under Article 3 of the Order (ie not an exception under S55 of the TCPA), subject to limitations and conditions stated in Class AA (1) (b).

#### Qualifications

- 1.11 Under Class AA, development is not permitted if any of the following apply:-

- 1.12

- (a) above ground level, the building is less than three storeys in height;
- (b) the building was constructed before 1st July 1948 or after 5th March 2018;
- (c) on 5th March 2018 the building was in a use other than—
  - (i) a use or mixed use within paragraph AA(2)(a) or (b); or
  - (ii) a use falling within Class C3 of the Schedule to the Use Classes Order;
- (d) the additional storeys are constructed other than on the principal part of the building;
- (e) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—

- (i) 3 metres; or
- (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;
- (f) the new dwellinghouses are not flats;
- (g) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building by more than 7 metres (not including plant, in each case);
- (h) the height of the highest part of the roof of the extended building (not including plant) would be greater than 30 metres;
- (i) development under Class AA(1)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;
- (j) development under Class AA(1)(a) would consist of engineering operations other than works within the existing curtilage of the building to—
  - (i) strengthen existing walls;
  - (ii) strengthen existing foundations; or
  - (iii) install or replace water, drainage, electricity, gas or other services;
- (k) in the case of Class AA(1)(b) development there is no existing plant on the building;
- (l) in the case of Class AA(1)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;
- (m) development under Class AA(1)(c) would extend beyond the curtilage of the existing building;
- (n) development under Class AA(1)(d) would—
  - (i) extend beyond the curtilage of the existing building;
  - (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or
  - (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building; or
- (o) the land or site on which the building is located, is or forms part of—
  - (i) article 2(3) land;
  - (ii) a site of special scientific interest;
  - (iii) a listed building or land within its curtilage;
  - (iv) a scheduled monument or land within its curtilage;
  - (v) a safety hazard area;
  - (vi) a military explosives storage area; or
  - (vii) land within 3 kilometres of the perimeter of an aerodrome.

### Conditions

- 1.13 Development under Class AA is permitted subject to a condition that before development begins, the developer must apply to the local planning authority for prior approval of the authority as to:-
- (a) transport and highways impacts of the development;
  - (b) air traffic and defence asset impacts of the development;
  - (c) contamination risks in relation to the building;
  - (d) flooding risks in relation to the building;
  - (e) the external appearance of the building, including—
    - (i) the design and architectural features of—
      - (aa) the principal elevation; and
      - (bb) any side elevation that fronts a highway; and
    - (ii) the impact of any works under sub-paragraph (1)(c) or (d) of Class AA;

- (f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
  - (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
  - (h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
  - (i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
  - (j) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012(11) issued by the Secretary of State
  - (k) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building; and
  - (l) where the development meets the fire risk condition (see paragraph C(3) of this Part), the fire safety impacts on the intended occupants of the building.
- 1.14 Any development under Class AA is also subject to a condition that it must be completed within a period of 3 years starting with the date prior approval is granted and a further condition that before beginning the development a construction management report is submitted which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.
- 1.15 The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.
- 1.16 Following the development, every flat in the building must remain in use as a flat within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

#### Procedural Requirements

- 1.17 The procedural requirements for Class AA, Part 20 prior approval applications are set out in Paragraph B of Part 20 of the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations. Only the specific requirements of Paragraph B can be insisted upon.
- 1.18 The requirements are set out below:-

**Procedure for applications for prior approval under Part 20**

B.—(1) The following provisions apply where under this Part, a developer is required to make an application to a local planning authority for prior approval.

(2) The application must be accompanied by—

- (a) a written description of the proposed development, which, in relation to development proposed under Class A, must include details of any dwellinghouse and other works proposed under paragraphs A.(a) to (d);
  - (b) a plan which is drawn to an identified scale and shows the direction of North indicating the site and showing the proposed development;
  - (c) floor plans which are drawn to an identified scale and show the direction of North indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the existing and proposed elevations of the building;
  - (d) a written statement specifying the number of new dwellinghouses proposed by the development that is additional to the number of dwellinghouses in the building immediately prior to development;
  - (e) a list of all addresses of the flats within the existing block of flats;
  - (f) the developer's contact address;
  - (g) the developer's email address if the developer is content to receive communications electronically; and
  - (h) where sub-paragraph (6) requires the Environment Agency(a) to be consulted, a site-specific flood risk assessment,
- together with any fee required to be paid.

- 1.19 Paragraph B.15 of the procedure, goes on to clarify that the local planning authority must when determining an application “*have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval as if the application were a planning application*”.
- 1.20 For the avoidance of doubt, this means that the NPPF is relevant but only in the context of the narrow confines of the issues specifically identified.
- 1.21 It should also be noted that Paragraph C of Part 20 was inserted by the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2021 (SI 2021 No. 814) which introduces the requirement for a Fire Statement for developments meeting the fire risk condition.
- 1.22 Paragraph C states as follows:

(3) In Part 20, development meets the fire risk condition if the development relates to a building which will—

- (a) contain two or more dwellinghouses; and
- (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 1.23 New Article 9A of the T&C Planning (Development Management Procedure) (England) Order 2015 states as follows:-

**“Fire Statements”**

**9A—**(1) Paragraph (4) applies to an application for planning permission for—

- (a) development which involves the provision of one or more buildings<sup>(1)</sup> to which paragraph (2) applies (“a relevant building”);
- (b) development of an existing relevant building; or
- (c) development within the curtilage of a relevant building.

(2) This paragraph applies to a building which satisfies the height condition in paragraph (3) and contains—

- (a) two or more dwellings; or
- (b) educational accommodation.

(3) The height condition is that—

- (a) the building is 18 metres or more in height; or
- (b) the building contains 7 or more storeys.

(4) An application for planning permission to which this paragraph applies, must, except where paragraph (6) applies, be accompanied by a statement (“a fire statement”) about the fire safety design principles, concepts and standards that have been applied to the development.

(5) A fire statement must—

- (a) be on a form published by the Secretary of State (or a form substantially to the same effect); and
- (b) include the particulars specified or referred to in the form.

(6) This paragraph applies—

- (a) where—
  - (i) the application is for a material change in use of a relevant building; and
  - (ii) the material change of use would result in the building no longer being a relevant building;
- (b) where the application is—
  - (i) for a material change in use of land or buildings within the curtilage of a relevant building; and
  - (ii) the material change of use would not result in the provision of one or more relevant buildings;
- (c) to an application for outline planning permission<sup>(2)</sup>;
- (d) to an application for permission to develop land without compliance with conditions previously attached made pursuant to section 73 of the 1990 Act.

(7) For the purpose of paragraph (3)—

- (a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms);
- (b) when determining the number of storeys a building has—
  - (i) any storey which is below ground level is to be ignored; and
  - (ii) any mezzanine floor is a storey if its internal floor area is at least 50% of the internal floor area of the largest storey in the building which is not below ground level.

(8) For the purpose of this article a storey is treated as below ground level if any part of the finished surface of the ceiling of the storey is below the ground level immediately adjacent to that part of the building.

- 1.24 The NPPG makes clear that Fire Statements submitted at the planning stage should relate to land-use planning matters only. It should not duplicate building regulations. See below Extracts from NPPG guidance “Fire safety and high-rise residential buildings (from 1 August 2021)” <https://www.gov.uk/guidance/fire-safety-and-high-rise-residential-buildings-from-1-august-2021>

**What is the purpose of a fire statement?**

Fire statements will support the consideration of information on fire safety matters as they relate to land use planning matters (e.g. site layout, water supplies for firefighting purposes and access for fire appliances). It is the intention that the information provided within a fire statement is focussed and concise, specific and relevant to the development, and proportionate to the scale, type and complexity of the proposal. A fire statement will evidence that thinking on fire safety matters, as they relate to planning, has been incorporated into the planning application.

Paragraph: 005 Reference ID: 71-005-20210624

**How are fire statements different from the requirements of building regulations or the Fire Safety Order?**

The fire safety matters contained in a fire statement are relevant only to the extent they are relevant to land use planning. The level of detail and focus of information should not contain the breadth and depth of information on fire safety which will be submitted at building control application stage.

Requirements of the fire statement at planning stage will not duplicate or require compliance with the building regulations or the Fire Safety Order, and local planning authorities will not be responsible for any building regulation matters or the enforcement of building control requirements.

Paragraph: 008 Reference ID: 71-008-20210624

## 2.0 Site and Surroundings

- 2.1 The application site is located in Gravesend Town Centre on the southern side of New Road, at its corner with Darnley Road.



- 2.2 The site is occupied by a purpose-built five storey office building constructed in the early 1970s. The principal elevation fronts onto New Road with pedestrian access via steps from New Road. The existing building is constructed in red brick with a flat roof. There are glazed fire escape staircases on both sides of the building which are painted in a dark grey colour. The building is currently “in-use” as offices.



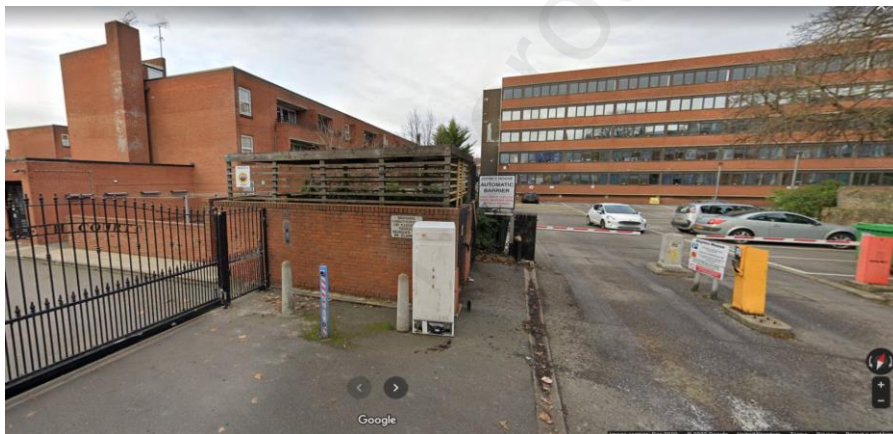
- 2.3 The site has a private car park to the rear, accessed from St James's Road. This also provides access down to the basement/undercroft car park via a ramp.



- 2.4 The site is bounded to the west by a large red brick building known as the Victoria Centre and currently home to the Gravesend Adult Education Centre.



- 2.5 To the west and lying at right angles to Joynes House at the rear is a block of residential properties (part of Elizabeth Court).



- 2.6 To the west and north of the site on the opposite side of New Road and Darnley Road are 2/3 storey buildings in commercial (retail) use at ground floor level with some residential uses above.



- 2.7 With regard to accessibility, the site lies less than 180m from Gravesend Train Station, with its high speed link to London St Pancras (journey time 24 minutes). The A2/M2 lies 2.6 miles to the west.
- 2.8 Gravesend town centre is located to the north and west of the site with its extensive facilities and amenities. As well as the railway station, there are bus stops along New Road and Darnley Road with bus services to Sevenoaks, Chatham, Rochester, Dartford, Ebbsfleet and Blue Water (Shopping Centre). The site also has good accessibility for pedestrians and cyclists.

### **3.0 Planning History**

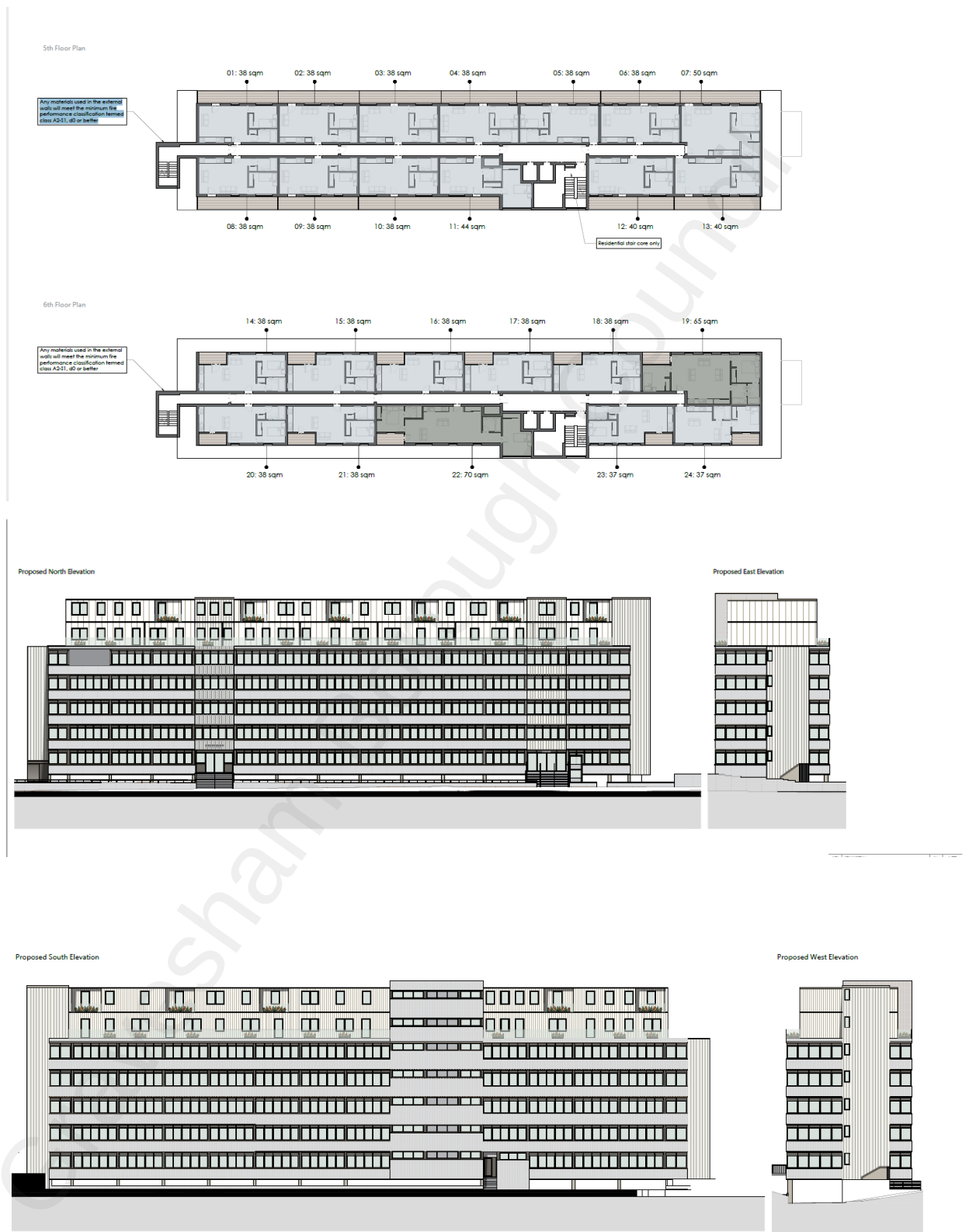
- 3.1 1971082 – Joynes House – Permission 1972.
- 3.2 20010103 - Installation of new pedestrian entrance and access ramp on front (New Road) elevation; alterations to existing entrance; installation of new shopfront at rear; installation of plastic coated cladding on existing glazed fire escape stairs and new upvc windows. Permission 2001.
- 3.3 20020749 - Construction of new pedestrian access ramp at the side/rear to first floor level and installation of air conditioning condensing units at lower ground floor level. Permission 2002.
- 3.4 20050780 - Joint application under Regulation 3 of the Town and Country Planning General Regulations 1992 for the construction of a rain screen canopy above the main entrance door. KCC GRANTED PERMISSION 6.10.2005
- 3.5 20210974 - Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use of Part Ground, First and Second Floors from Class E (previously Class B1(a)) (offices) to 26 residential units (Class C3 (dwellinghouses)). Prior Approval required and granted 16 September 2021.
- 3.6 20210962 - Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use third floor from Class E (previously Class B1(a)) (offices) to 13 residential units (Class C3 (dwellinghouses)). Prior Approval required and granted 16 September 2021.
- 3.7 20210973 - Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use of Part First, Second and Fourth Floors from Class E (previously Class B1(a)) (offices) to 22 residential units (Class C3 (dwellinghouses)). Prior Approval required and granted 16 September 2021.
- 3.8 20210958 - Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development)

(England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use of Part Ground Floor from Class E (previously Class B1(a)) (offices) to 4 residential units (Class C3 (dwellinghouses)). Prior Approval required and granted 16 September 2021.

- 3.9 20220390 – Application for non-material amendment to planning permission reference 20210974 to allow minor amendments to internal layout. Granted 20 April 2022.
- 3.10 20220391 - Application for non-material amendment to planning permission reference number 20210958 to allow minor amendments to the internal layout. Granted 20 April 2022.
- 3.10 20220392 - Application for non-material amendment to planning permission reference number 20210962 to allow minor amendments to the internal layout. Granted 20 April 2022.
- 3.11 20220393 - Application for non-material amendment to planning permission reference number 20210973 to allow minor amendments to the internal layout. Granted 20 April 2022.
- 3.12 20220799 – Application for prior approval under Part 20 Class AA of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for upward extension of existing commercial building through the construction of 2 additional storeys to provide 24no. flats along with necessary ancillary works. Refused 23<sup>rd</sup> September 2022.

#### **4.0 The Proposals**

- 4.1 The proposals are to construct two storeys of residential accommodation above the existing office building to provide a total of 24 flats, comprising 13 flats on the new fifth floor and 11 flats on the new sixth floor. The mix will comprise 22 x 1-beds and 2x 2-beds. The proposals include an extension to the existing fire escape staircase on the western elevation, linking into the new internal corridor serving the new flats. These works will not extend beyond the existing building line and comprise “*works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises in the building*” which falls within the operational development allowed under Class AA.
- 4.2 Internally the flats will comprise an open plan kitchen/lounge/dining space with separate bedroom(s). The 1 bed units will have shower rooms and the 2 bed units will have bathrooms. Each flat will measure at least 37sqm and will comply with the nationally described space standards in terms of floorspace, storage, bedroom dimensions and headroom. (See separate Residential Space Standards Statement).



- 4.3 As shown on the proposed elevation drawings, the additional two storeys of accommodation will sit above the existing building but set back from the building line in order to ensure the extension appears recessive and subservient. Timber-effect cladding has been chosen for the external cladding material. This will be fire-

resistant to class A2-s1, d0 or better (See Design Code).

- 4.4 Each flat will have its own private outdoor space (balcony/terrace). At 5<sup>th</sup> floor level these will utilise the set-back and will be separated by privacy screens. At 6<sup>th</sup> floor (top) level, the balconies will be recessed/in-set into the façade, creating shade, privacy as well as visual interest and articulation. (See Design Code).
- 4.5 14 Parking spaces will be made available for the proposed flats. (See Transport Statement).

## 5.0 Assessment against Class AA (Part 20) Qualifications

- 5.1 The following table assesses the proposals against the qualifying requirements set out in Class AA (Part 20) of the GPDO 2015 (as amended in 2020).

| Development permitted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Comment                                                                     | Complies?        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|------------------|
| (2) This sub-paragraph applies to a building which is—<br>(a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order, or as a betting office, pay day loan shop or launderette;<br>(b) in a mixed use combining—<br>(i) two or more uses within paragraph (a);<br>or<br>(ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with one or more uses within paragraph (a). | Existing building is in use as an office (formally within Use Class B1(a)). | Yes              |
| <b>Development is not permitted if:-</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Comment</b>                                                              | <b>Complies?</b> |
| (a) above ground level, the building is less than three storeys in height;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Existing building is 5 storeys in height                                    | Yes              |
| b) the building was constructed before 1st July 1948 or after 5th March 2018;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | The building was constructed in the early 1970s.                            | Yes              |
| (c) on 5th March 2018 the building was in a use other than—<br>(i) a use or mixed use within paragraph AA(2)(a) or (b); or<br>(ii) a use falling within Class C3 of Use Classes Order;                                                                                                                                                                                                                                                                                                                                                                               | On 5 <sup>th</sup> March 2018, the building was in-use as an office.        | Yes              |

(d) the additional storeys are constructed other than on the principal part of the building

Existing building is at a single height (no lower parts). Extension is on the principal part.

Yes

(e) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—

(i) 3 metres; or

(ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;

The proposed floor to ceiling heights are lower than those on the existing building and do not exceed 3m. (See section drawing). NB the basement car park level does not count as a storey as defined in the GPDO.

Yes

(f) the new dwellinghouses are not flats;

The proposed units will be flats.

Yes

(g) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building by more than 7 metres (not including plant, in each case);

The highest part of the proposed roof is 4.8m higher than the existing roof height (ie less than 7m higher). See also section drawing.  
Existing = 17.5m high  
Proposed = 22.3m high

Yes

(h) the height of the highest part of the roof of the extended building (not including plant) would be greater than 30m

The height of the building as extended, will be 22.3m (ie less than 30m).

Yes

(i) development under Class AA(1)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;

There will be no visible support structures.

Yes

j) development under Class AA(1)(a) would consist of engineering operations other than works within the existing curtilage of the building to—

(i) strengthen existing walls;

(ii) strengthen existing foundations; or

(iii) install or replace water, drainage, electricity, gas or other services;

No other engineering operations are proposed.

Yes

(k) in the case of Class AA(1)(b) development there is no existing plant on the building;

(l) in the case of Class AA(1)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;

(m) development under Class AA(1)(c) would extend beyond the curtilage of the existing building;

(n) development under Class AA(1)(d) would—

(i) extend beyond the curtilage of the existing building;

(ii) be situated on land forward of a wall forming the principal elevation of the existing building; or

(iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building;

(o) the land or site on which the building is located, is or forms part of—

(i) article 2(3) land;

(ii) a site of special scientific interest;

(iii) a listed building or land within its curtilage;

(iv) a scheduled monument or land within its curtilage;

(v) a safety hazard area;

(vi) a military explosives storage area; or

(vii) land within 3 km of the perimeter of an aerodrome.

|                                                                                            |     |
|--------------------------------------------------------------------------------------------|-----|
| No existing plant on the building                                                          | Yes |
| N/A                                                                                        | Yes |
| All works are within the curtilage                                                         | Yes |
| N/A – no ancillary development proposed.                                                   | Yes |
| The building is not listed, nor an SAM, nor does it lie within any of the designated areas | Yes |

## **6.0 Assessment of Prior Approval matters**

### Transport impacts

- 6.1 The NPPF (2021) requires in Paragraph 110 that proposals take up opportunities to promote sustainable transport modes and that safe and suitable access to the site can be achieved for all users.
- 6.2 Paragraph 111 goes on to state that “*development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”.
- 6.3 The previous Class O prior approval applications were assessed and considered to be acceptable in terms of transport impacts, including highway safety. Similarly the recent Class AA Prior Approval application was not refused on highway and transport grounds.
- 6.4 The accompanying Transport Statement concludes that this particular proposal creates additional residential accommodation in an accessible location, thus reducing the need to travel and encouraging pedestrian priority and non-car modes of transport. The proposed 14 parking spaces to be made available for this development is over-and above the level justified in terms of car ownership data (ie 10 spaces). The statement concludes that NPPF tests will be met in that there will be no adverse impacts on highway safety, nor will there be a severe residual impact on the highway network and opportunities to promote non-car modes of transport are provided. There are therefore no reasons to withhold prior approval on highway and transport grounds.

### Contamination risks in relation to the building

- 6.5 Contaminated land as described in Part 2A of the Environmental Protection Act 1990 is any land where it appears that substances in, on or under it is likely to cause significant harm or where there is a significant possibility of such harm being caused; or where pollution of controlled waters is being or is likely to be caused. No objections have been raised in the original Class O prior approval applications in 2021, nor in the recent Class AA application in respect of contamination risks. There is therefore no reason relating to contamination for approval to be withheld.

### Assessment of flooding risks

- 6.6 The site falls within Flood Zone 1 where it has been assessed that there is a low risk of flooding (less than 1 in 1,000 annual probability of flooding from rivers or the sea). The application site does not lie within a critical drainage area as notified by the Environment Agency. The development therefore meets the national guidance relating to flood risk within the NPPF. The previous Class O and Class AA Prior Approval applications were assessed to be acceptable in terms of flood risk. There has been no change in circumstances and there is therefore no reason on flood risk grounds to require details of flood risk nor to withhold Prior Approval in respect of risks of flooding.

*Extract from Environment Agency Flood Map*



Impact on the external appearance of the building

- 6.7 Class AA makes it clear that the assessment of the design of the building is limited to “the external appearance of the building”, which includes the following:-
- the design and architectural features of the principal elevation;
  - the design and architectural features of any side elevation fronting a highway;
  - the visual impact of any means of safe access and egress (including any additional external doors or external staircases);
  - the visual impact of any storage, waste or other ancillary facilities (reasonably necessary).
- 6.8 In terms of the impact of the proposed extension on the host building, the Design Code accompanying this application explains the rationale behind the design, including the set-backs, balcony design and the material palette (timber-effect cladding, fire resistant to class A2-s1, d0 or better). The CGIs demonstrate that the proposed extension will have a positive impact on the external appearance of the existing building.
- 6.9 In terms of assessing any potential impacts of the proposed extension on the wider context, the application is supported by a Townscape Visual Assessment (TVA) report. This assessment concludes in respect of the impact on the local townscape in para 5.47, *“the two storey extension would be inconsequential in townscape character terms, and would bring about negligible magnitude of change. The contemporary approach to the roofline, materials and colours would be attractive and can be described as bringing some positive change, but due to the very modest scale of the proposal it would have inconsequential negligible neutral effects upon the townscape of New Road, Bath Street, and Darnley Road”*.
- 6.11 The TVA assesses the potential impact on Gravesend’s skyline, concluding in paragraph 5.52 that: *“the proposed extension to Joynes House will be inconsequential in visual terms and negligible neutral, when judged against the existing and predicted complexity of the townscape”*.

- 6.12 The TVA goes onto assess the potential impact on the designated conservation areas and designated townscape. Paragraph 6.7 of the report concludes that *“these designated areas would be subject to inconsequential and negligible neutral effects”*.
- 6.13 Overall, the Assessment concludes *“... taking into account the existing townscape context and its character, and very modest changes proposed to Joynes House, the proposed scheme has the ability to be absorbed into the local townscape without any adverse townscape character or visual effects”*.
- 6.14 No objections were raised to the previous Class AA application on the grounds of external appearance. Given the proposals are identical, there should be no justifiable reason to refuse prior approval on the grounds that the extension will have an unacceptable impact on the external appearance of the host building nor on its wider context, including the adjacent heritage assets (Conservation Areas).

Noise impacts from commercial premises

- 6.15 The GPDO 2015 (as amended) spells out that the assessment of noise is restricted to those impacts from commercial premises. The application site lies within a mixed residential and commercial area. The previous Class O Prior Approval applications were supported by an acoustic report which concluded that the primary source of noise was from road traffic. The Council agreed with this analysis, commenting in the Officer's Report as follows:-

*“As the primary source is noise from roads and not commercial premises prior approval is not required for noise”*

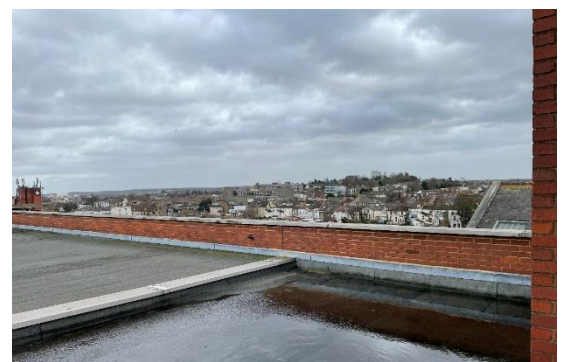
- 6.16 The noise environment for this Class AA application is identical to that assessed previously however, for the avoidance of any doubt, a noise impact assessment accompanies this application and demonstrates that there would be no justifiable reason to refuse the application on noise impact grounds.

Impact on the amenity of the existing building and neighbouring premises including overlooking, privacy, and loss of light.

- 6.17 The adjacent 3-storey building at Elizabeth Court comprises residential flats. The relationship between the two buildings is therefore already established. The proposed extension will be set in and back from the building edge. There will be no windows in the west-facing side elevation facing towards Elizabeth Court. Proposed balconies will be either recessed into the façade or provided with privacy screens to prevent overlooking. It should also be acknowledged that there is a material height difference between the new 5<sup>th</sup> and 6<sup>th</sup> floors and the adjacent flats, so that any views from windows/balconies in the new extension will significantly over sail the flats in Elizabeth Court so as to avoid overlooking issues.



- 6.18 In terms of the impact on other adjacent properties, due to the separation distances and existing height differences views from the new flats will oversail existing buildings, and therefore will avoid any direct privacy issues. (See photos taken from existing roof level below).



- 6.19 The application is accompanied by a Daylight and Sunlight Assessment which assesses daylight and sunlight impacts from the proposed extension on the neighbouring properties at Elizabeth Court, as well as on nos 54-60 New Road.
- 6.20 The report demonstrates that all 69 windows assessed meet the Vertical Sky Component test (ie retains at least 80% of their current daylight values). In terms of the sunlight test, all of the assessed windows retain in excess of 80% of their existing values both annually and over the winter months or retain over 25% of annual hours and over 5% of winter hours and as such complies with the BRE standards.
- 6.21 In conclusion, the report demonstrates that the scheme will meet the relevant BRE standards in all respects and therefore will not have an adverse impact on the neighbours in terms of overshadowing/loss of light.
- 6.22 The scheme will provide a good quality living environment for all residents including through meeting the internal space standards and providing private amenity space (balconies).

Provision of adequate natural light in all habitable rooms

- 6.23 The definition of habitable rooms is all rooms used for sleeping and eating but excludes bathrooms and toilets. In this scheme, the habitable rooms comprise the open plan kitchen/lounge/diner spaces and the bedrooms. The layout of the proposed flats has been carefully considered to ensure that natural light is maximised. All habitable rooms will have at least 1 window. Sitting areas within the open plan kitchen/dining/lounge areas will have significant levels of natural light by virtue of the size of the proposed windows. Furthermore, the limited floor plate/depth of the building will mean that light from the main elevation windows will penetrate through the lounge/diner area to the kitchen area.
- 6.24 The accompanying Daylight and Sunlight Assessment demonstrates that the levels of natural daylight for each habitable room in each new flat will meet the updated BRE standards (Daylight Factor). Given this and the fact that the previous identical Class AA application was found to be acceptable on this issue, there is therefore no reason to refuse the application on the grounds of inadequate natural light for the new flats.

Impacts on trade, business or other uses of land

- 6.25 This is already a mixed-use area on the edge of the town centre where residential and commercial uses already successfully co-exist alongside each other. There are no nearby businesses that will be impacted as a result of this prior approval application in terms of complaints from prospective residential occupiers that could affect the existing businesses.

Impacts on protected views

- 6.26 There are no protected views identified in the "*Directions Relating to Protected Vistas dated 15th March 2012(11)*" issued by the Secretary of State that would be impacted by the proposed development.

Impacts on fire safety

6.27 As set out above, in 2021, new provisions for Fire Statements were introduced into the GPDO, via the Development Management Procedure. A Fire Statement is required in this case because the building meets the fire risk condition.

6.28 The HSE's Substantive Response set out 3 main concerns:-

**Means of escape**

*"1.2 Section 14 of the fire statement states 'The central core stair will also serve as the firefighting shaft serving all floors'. The adopted fire safety standard, BS9991, states that any staircase serving a dwelling within a mixed-use development should not communicate with any other occupancy. Design changes necessary to provide separated staircases serving the proposed dwellings, and commercial uses, will affect land use planning considerations such as layout and appearance of the development, and potentially the space available for and number of dwellings".*

Application Response:- See plans, Fire Statement and explanation above – the central stair core will serve residential uses only.

**6.28 External walls**

*"1.3 Section 6 of the fire statement states in relation to fire performance classifications of external wall systems: 'class A2-s1, d0 or better This applies to the EW systems of the proposed floors and is reported to refer to the existing external wall systems of Joynes House'. This is noted, however, drawings appear to show cladding systems of unknown material installed on the existing exterior walls of staircases. Any material used in the external walls of a relevant building must meet the minimum fire performance classification termed class A2-s1, d0. Any design changes necessary to ensure that only suitable materials are used in external walls may affect land use planning considerations such as the appearance of the development".*

6.29 Application Response:- The Fire Statement and amended plans make clear that external materials on the existing exterior wall of the staircases meets the necessary fire safety standards. A planning condition can be imposed to ensure compliance.

**6.30 Fire service access**

*"1.4 The proposed fifth and sixth floor plan drawings indicate distances of approximately 40m from the firefighting staircase door to the door of the remote flat. Fire safety guidance on control smoke in flats states:*

*1.5 'Whilst 30m might seem like an arbitrary figure to some, firefighting from long corridors can present exceptionally onerous conditions for firefighters. Essentially, the corridor itself can become the fire compartment once the flat front door is either breached by the fire, opened by escaping residents or by firefighters'; and*

*1.6 '...designers should be aware that single direction travel distances over 30m in length (measured from the staircase door to the furthest flat entrance door) in common escape routes are considered to present onerous conditions for fire fighters even if the flats are fitted with suppression systems'.*

*1.7 Design changes necessary to provide suitable firefighter travel distances will affect land use planning considerations such as the layout and appearance of the development”.*

- 6.31 Application response:- The Fire Statement and floor plans make clear that the issues raised regarding corridor lengths and firefighter travel distances have been satisfactorily addressed. (Notwithstanding this and given the NPPG guidance, it is respectfully suggested that matters relating to the internal corridor lengths are beyond the remit of Fire Statements at the planning stage. Reference in the NPPG guidance to layout is more related to layout of sites as a whole, not detailed internal floor layouts).

#### Planning Conditions

- 6.32 When considering whether planning conditions can be imposed to secure the fire safety impact measures, it is suggested that the following should be noted:-
- 6.33 In the GPDO Part 3, Paragraph W(13), at the end it says:
- “(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval”.*
- 6.34 In this case as long as any conditions properly relate to the subject matter of fire safety and meet the condition tests (ie necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects), they would comply with Part W. In this case it is suggested that a condition could be applied to require the implementation of the Class O schemes before the Class AA units are occupied.
- 6.35 Suggested wording could be as follows:-

*“The new residential units hereby approved shall not be occupied unless and until the residential use of the lower floors, as consented by application refs xxxx (or as otherwise formally amended) have been implemented and the staircores shown on the layout plan hereby approved are used solely for residential purposes. Reason:- In the interests of fire safety, as it relates to land use planning”.*

- 6.36 With regard to suggested condition above, exactly the same logic was applied by Richard Harwood, Kings Counsel (then QC) in a similar circumstance relating to a Class O application at Gateway Guildford, Power Close, Guildford. In that case, Prior Approval was reliant upon other development being carried out (in that case alterations to window openings to achieve adequate light) before the prior approval change of use could occur. Richard Harwood KC made it clear in his Opinion that ....

*“22. In the present context, the proposed change of use relies on the external alterations which are approved and the installation of several other windows. To the extent that any of these works are essential to enable the proposed flats to have adequate natural light, a condition on a prior approval can prevent the occupation of particular units until those works have been carried out”.*

*[Counsel’s Opinion – Prior Approval 2, Gateway Guildford, 7<sup>th</sup> April 2021].*

A full copy of the above Opinion can be made available on request.

- 6.37 The Council could also potentially impose a planning condition to secure the fire safety performance of external materials such as *“Any material used in the external walls of the building must meet the minimum fire performance classification termed class A2-s1, d0 or better”*.
- 6.38 Based on the above and bearing in mind the guidance in the NPPG making clear the limited scope and purpose of fire statements in the planning process, there is no reason to withhold prior approval on the basis of fire risk impacts.

## **7.0 Other Matters**

- 7.1 It is acknowledged that Habitat Regulations mitigation is relevant to this application. The Applicant will make all necessary provision to ensure that any statutory requirements are met.
- 7.2 Whilst not for consideration as part of this Prior Approval application, the Applicant is aware of the need to deliver much-needed housing in this area given the Council's significant five-year housing supply shortfall and housing delivery test challenges. The Applicant has an exemplar track record in delivering high quality, entry-level homes to first-time buyers and for the rental market. In addition, they have worked in partnership with various Councils in the south-east to deliver high quality local homes for local people. It is considered that this scheme will make a modest but nevertheless valuable contribution to the housing supply.

## **8.0 Conclusion**

- 8.1 Through recent changes to Permitted Development Rights, the Government have granted a national planning permission for upward extensions to existing commercial buildings to provide flats via Class AA, Part 20 of the GPDO. The principle of adding the additional two storeys of residential accommodation to this building is therefore already established, subject to compliance with the various qualifications and conditions set out in the GPDO. The application clearly demonstrates compliance with those qualifications as set out in the table above and then goes on to discharge conditions relating to the specific matters set out in Class AA. The submission demonstrates full compliance with those specific matters, including fire safety impacts as relevant to planning, and for this reason there is considered to be no reason for prior approval to be withheld.

Report prepared by:-

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Date: November 2022.

Gravesham Borough Council