



Appeal Decision

Site visit made on 9 September 2025

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2025

Appeal Ref: APP/K2230/W/25/3362506

7 King Street, Gravesend, Kent DA12 2EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Bashir Ali against the decision of Gravesend Borough Council.
 - The application Ref is 20241031.
 - The development proposed is conversion of upper floors into three flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the reasons for refusal state that no Ecological Impact Assessment (EclA) or Bat Survey were provided, an EclA and Bat Survey Report is listed on the decision notice, along with a Preliminary Roost Assessment (PRA). Both documents have been provided with the appeal. The EclA was prepared by Dream Design Develop Ltd and is dated 11 November 2024. The PRA was undertaken by Arbtech Consulting Ltd and gives a survey date of 2 December 2024. The Council's Officer Report refers only to the EclA and does not mention the Arbtech PRA. However, the Council has confirmed that they also had sight of the PRA, and I have taken both documents into account.

Main Issues

3. The main issues are:
 - whether the proposal would provide suitable living conditions for future occupiers, with particular regard to the effect of noise from nearby commercial premises,
 - the effect of the proposal on the supply of employment land, and
 - whether there would be any adverse effect on protected species, with particular regard to bats.

Reasons

Living Conditions

4. The appeal site is in Gravesend town centre and contains a four-storey building with a retail unit on the ground floor and vacant rooms above. It is one half of a double-fronted Victorian building with elaborately detailed upper floors, including

distinctive curved and mullioned bay windows with leaded top lights on the first and second floors and sash windows above.

5. King Street is pedestrianised during the day and early evening, with only limited vehicular access at other times. It includes a variety of evening economy uses, including the Goose Public House, a short distance from the appeal site, and various other takeaway, drinking and eating establishments, notably including a Sports Bar in the adjacent half of the appeal building.
6. A Noise Impact Assessment¹ (NIA) has been undertaken which describes the primary noise sources as noise from The Goose PH and pedestrians passing the site, with secondary noise from people visiting shops, air traffic and birdsong. Its findings are based on noise monitoring over a three day period, which encompassed busy weekday and weekend periods, including overnight.
7. The Council's Environmental Protection Team did not raise any objection to the methodology in the NIA but highlighted that the Sports Bar was temporarily closed when noise monitoring was undertaken. According to their advice, this premises has a late-night licence and has been the source of noise problems in the past, with potential noise sources including amplified music and loud voices continuing until late at night. The NIA acknowledges that the Sports Bar was closed only temporarily, and it was open for business at the time of my site visit. Although the NIA includes adjustments to the target internal noise levels, to account for the likely characteristics of the night-time noise climate, the level of noise likely to originate from the Sports Bar has been neither measured nor modelled.
8. The Sports Bar is considerably closer to the proposed flats than the Goose PH. Since it is in the attached building, there is potential for internal noise transmission, particularly as the two adjacent premises appear originally to have been a single building. Customers may also congregate outside the Sports Bar or converse loudly when arriving and departing. Noise from that source would be significantly closer to the proposed flats than similar activity outside other evening uses further along the street.
9. Although the NIA includes recommendations for internal sound insulation, they focus on insulation of floor and ceiling fabric, and do not consider noise transmitted horizontally. The figures in Appendix F indicate that the recommended secondary glazing and passive ventilation would bring the internal noise environment only just within the acceptable target level. In the absence of any measurement or modelling of noise emissions from the Sports Bar, that does not convincingly demonstrate that a suitable internal environment could be achieved. While there are other residential uses nearby, there is no clear evidence that any have a comparable relationship with this particular use, or whether other residential occupiers already experience harmfully intrusive noise and disturbance.
10. Furthermore, since studio flats are proposed, effective sound insulation of the large front windows would be particularly important to ensure a suitable sleeping environment. Although the NIA provides a recommended technical specification for secondary glazing, there are no details of how it would be implemented on this particular building, with its large, curved bay window openings. In the absence of such details, the NIA does not convincingly demonstrate that the required level of noise mitigation can be achieved. Furthermore, there is sufficient uncertainty that

¹ Peak Acoustics Noise Impact Assessment 23 October 2024

leaving these details to be secured by condition would not be an appropriate approach in this case.

11. For the reasons given above, based on the evidence before me, it has not been satisfactorily demonstrated that the proposal would provide suitable living conditions for future occupiers, with particular regard to the effect of noise from nearby commercial premises. That conflicts with Policy CS19 of the Core Strategy² which requires amongst other things that new development will be designed and constructed to safeguard the amenity of its occupants and avoid adverse environmental impacts from noise pollution.
12. The proposal would also conflict with relevant paragraphs in the National Planning Policy Framework (the Framework), notably paragraphs 198 and 200 which require that new developments adequately take into account the likely effects of pollution, including noise, on living conditions and that suitable mitigation is provided so as to integrate new uses with existing businesses including those generating noise. It would also be contrary to the more general requirement in paragraph 135 of the Framework that development provides a high standard of amenity for future users.

Employment land

13. According to the Council, the most recent authorised use of the upper floors was for offices, under a planning permission granted in 1989. While the appellant reports that the upper floors have not been used for many years, no specific date is given for their last occupation. Nor is it disputed that they were used as offices when last occupied. While the application form alludes to the use having been abandoned, the supporting evidence does not go on to address the criteria by which a use may be judged to have been abandoned in planning terms. I have therefore considered the appeal on the basis that it is for change of use from office to residential purposes.
14. In the Core Strategy, Policy CS07 does not support the loss of existing office floorspace unless otherwise allowed for by other policies, or where the existing premises are no longer suited to employment purposes, or are incapable of being made suitable at reasonable cost, and it has been shown that there is no demand for them through an appropriate marketing exercise, according with guidance in Appendix 5 of the Core Strategy.
15. Apart from the retail unit, the building is vacant, and the upper floors are in a dilapidated state. Any previous office services, fittings and décor have been removed, exposing the brickwork, internal studwork, floorboards and ceiling joists. Apart from a few small items of office furniture, which are themselves in a dusty and apparently disused state, there are few visible indicators that the premises have been occupied as offices, or indeed for any other purpose, in the recent past.
16. It is self-evident that the premises does not meet the needs of office occupiers in its current, dilapidated condition. It is also clear that capital investment would be necessary to bring the floorspace back into use. However, that would also be the case for the proposed residential use.

² Gravesham Local Plan Core Strategy 2014

17. The marketing report points to a lack of demand for older, traditional office spaces and states that the property does not meet the needs of businesses seeking office space locally. However, little supporting evidence is provided to back up that statement. The report alludes to discussions with local agents over a 12-month period but does not include any clear confirmation that the premises have actually been marketed during that time, let alone whether such marketing met the Council's guidance in Appendix 5 of the Core Strategy. While the estate agents consulted may well have advised that residential use is the most viable option, that is not the same as demonstrating that it is the only viable option. The assertion that the costs of renovation would be prohibitively high for office use is not backed up by any objective evidence, such as the projected cost of refurbishment or achievable rents for small office premises above shops.
18. That being the case, the marketing report does not adequately demonstrate that the premises are incapable of being made suitable for employment purposes at reasonable cost, or that there is no demand for them, as required in Policy CS07.
19. Chapter 6 of the Framework includes that planning policies should help create the conditions in which businesses can invest, expand and adapt. Planning policies should set out a clear economic vision and strategy and be flexible to accommodate needs not anticipated in the plan. In this case, Policy CS07 includes a strategy for delivering a significant net increase in employment floorspace over the plan period and protection of existing employment floorspace, along with creation and expansion of office-based employment in the town centre, are aspects of that strategy.
20. At the same time, the Framework is supportive of the use of underutilised buildings, including conversion of space above shops, especially where it would help to meet identified needs for housing. Furthermore, the appeal site is within the Gravesend Town Centre Opportunity Area, where Core Strategy Policy CS05 is supportive of the provision of both offices and residential uses on upper floors, subject to achieving a satisfactory living environment. There are residential uses above some other nearby ground floor units, including some purpose-built flats. As such, in principle, a change of use to residential could accord with Policy CS05, in which case it would also accord with Policy CS07. However, since I cannot be confident that a satisfactory living environment can be provided, on the basis of the evidence with this appeal, Policy CS05 also favours ongoing office use of the upper floors.
21. Consequently, based on the evidence before me, I conclude that the proposal would undermine the supply of employment land. The level of harm is mitigated by the fact that the office space is not currently in use and has apparently not been for some time. Nevertheless, the proposed change of use would conflict with relevant requirements in Core Strategy Policy CS07 and does not gain support from Policy CS05. While the proposal would gain some support from the provisions in the Framework for making use of under-utilised buildings for housing, that is a consideration which should be weighed in the planning balance below.

Protected species

22. The EclA and Bat Survey report does not include any evidence that the author is a suitably qualified ecologist. However, the PRA was prepared and reviewed by named ecologists, who are identified as holding Natural England survey licences

for bats and other protected species. The PRA focusses mainly on whether the appeal site provides suitable habitat for bats and nesting birds. Since the proposal is for change of use of an existing building, without any external changes, there is no substantive evidence that any other habitats or species would be affected. Based on the Officer Report, the Council's key concern also appears to relate to bats and whether adequate surveys have been undertaken.

23. The PRA concludes that the building in its current condition has negligible value for roosting bats. It describes the interior as light and exposed, providing sub-optimal thermal conditions for void-dwelling bats. The presence of feral pigeons further reduces the likelihood of bats utilising the building. Limited commuting and foraging habitat is identified in the vicinity of the site, given the built-up nature of the town centre location. No further bat surveys are recommended, and measures are recommended to avoid disturbance of nesting birds, if necessary.
24. The PRA was conducted outside the optimal season for bat emergence surveys, but it focusses on the characteristics of the building and its surroundings, which can be assessed at other times. The description of the building corresponds with the conditions I observed during my site visit and there is no substantive evidence contradicting the finding that bats are very unlikely to be present. Against that background, the sub-optimal timing of other surveys alluded to in the EclA is of little consequence. When the EclA and PRA are read together, a proportionate level of ecological evidence has been provided to enable the available habitats and potential ecological risks to be understood.
25. I therefore conclude, based on the evidence before me, that the proposal would not have any adverse effect on protected species, subject to the measures for nesting birds recommended in the PRA. There is no conflict with any relevant requirements in Core Strategy Policy CS12, which include that any negative impact on protected species is avoided or compensated for as appropriate. Nor would the proposal conflict with the approach in Chapter 15 of the Framework to conserving and enhancing the natural environment.
26. The effect of the proposal on qualifying features of nearby European sites is a separate consideration, to which I return below.

Other Considerations

27. At the time of determining the application, the Officer Report acknowledged that the Council was unable to demonstrate a five year housing land supply and no updated evidence has been provided to the contrary. As such, paragraph 11d of the Framework is applicable.
28. The proposal would deliver three small housing units meeting space standards for single occupation, and the occupiers would have easy access to a wide range of shops and facilities in the town centre, as well as public transport services. Vacant and underutilised floorspace above a shop would be brought back into use. The Framework is generally supportive of housing in town centres, although that is in the context of a suitable mix of main town centre uses, which also include offices.
29. The appeal site is within the King Street Conservation Area, the significance of which derives from the commercial expansion of Gravesend in the 18th and 19th centuries. The remaining Victorian buildings, including the appeal building, continue to point to that period of development. Indeed, the former King's Head

Public House, which occupied the appeal building and its neighbour, is identified as a key unlisted building within the Conservation Area³.

30. No external alterations are proposed. The retail unit would continue to contribute to the ground floor commercial frontage and introduction of a residential use above that would have no adverse effect on the character and appearance of the Conservation Area. Nor would there be any harm to the setting of the nearby listed buildings mentioned in the Officer Report, on the basis that the appearance of the appeal building would not change and residential uses are an established element of the mixed commercial street scene in which the listed buildings are located.
31. Re-occupation of the upper floors would help to secure repair and maintenance of the King Street elevation, supporting the positive contribution which the building makes to the streetscape and the significance of the Conservation Area. The refurbished floorspace would also meet modern safety and energy efficiency standards. However, those positive consequences of bringing the accommodation back into use carry limited weight, since it has not been clearly established that residential use is the only viable means of securing them.
32. Although the flats would be small, market housing is specified on the application form and there is no indication that they would provide affordable housing as defined in the Framework. There were no objections from interested parties but that does not, of itself, indicate that the proposal is acceptable.

Planning Balance

33. Although I have not identified any conflict with relevant policies regarding protected species, the proposal conflicts with the development plan as a whole as a result of the lack of convincing evidence that suitable living conditions would be provided and inadequately justified loss of employment land.
34. When Core Strategy Policies CS07 and CS05 are read together and applied to this proposal, they are aligned with the Framework's approach to building a strong, competitive economy while also making effective use of land and providing housing in town centres. However, neither the development plan nor the Framework supports the residential use of underutilised buildings where the effect of noise pollution on future occupiers would not be adequately mitigated. Indeed, paragraph 200 of the Framework places a clear onus on the developer to provide suitable noise mitigation to ensure that existing businesses, such as the Sports Bar, are not unreasonably restricted as a result of development permitted after they were established (the 'agent of change' principle).
35. Against that background, although the harm arising from the loss of employment land is mitigated by the extended period of vacancy, when that is considered in combination with the effect on living conditions for future occupiers, the adverse impacts of the proposal carry significant weight.
36. While any new housing would help to address the shortfall in housing land supply, and the flats would be well located in relation to town centre service and facilities, the overall benefits remain inherently modest, since only three small units are proposed. It has also not been clearly established that any benefits to the fabric of

³ Gravesham BC King Street Conservation Area Character Appraisal 2009

the building are contingent on a residential use being approved. Taken together, the factors in favour of the development carry no more than moderate weight.

37. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land and securing well-designed places. Therefore, the proposal does not benefit from the presumption in favour of sustainable development, as expressed in paragraph 11d of the Framework.

Habitats Regulations Assessment

38. The appeal site is within a defined Zone of Influence (Zoi) of the Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA), which is designated for its value as wetland habitat supporting important numbers of overwintering and migratory birds. Within the Zoi, Natural England advise that any net increase in residential units will have a likely significant effect on the qualifying features of the European site, through increased recreational pressure, either alone or in combination with other development.
39. A cross-boundary strategy is in place⁴, under which financial contributions are sought from developers to deliver management and monitoring of recreational pressure. The required contribution can be secured by means of a Strategic Access Management and Monitoring Strategy (SAMMS) Agreement between the developer and the Council. However, while the appellant has acknowledged that the SAMMS contribution is required and stated that payment will be made prior to determination of the appeal, no documentary evidence has been provided that the payment has been made. Had I been minded to allow the appeal, this is a matter on which I could have sought clarification before proceeding with an appropriate assessment of the effect on the integrity of the European Site. However, since I am dismissing the appeal for other reasons, there is no need for me to consider the matter further.

Conclusion

40. The proposed development conflicts with the development plan as a whole and no material considerations, including the provisions of the Framework, indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

Jane Smith

INSPECTOR

⁴ Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy 2014