



Delegated Report

Full Planning Application

Application No:	20220983
Location:	77 Wrotham Road, Gravesend, Kent, DA11 0QB
Description:	Change of use of the basement and ground floor from shop to a self-contained one bedroom maisonette.
Applicant:	Mr Andrew Harvey
Site Visit:	2 nd November 2022

Submitted Documents/Plans

Application Form - dated 06/09/2022;
Drawing no. Y1119/2022/00 - General Notes;
Drawing no. Y1119/2022/02 - Rev. 01 - Site Location Plan and 3D Visualisations;
Drawing no. Y1119/2022/03 - Rev. 01 - Proposed Block Plan;
Drawing no. Y1119/2022/04 - Rev. 01 - Existing and Proposed Floor Plans;
Drawing no. Y1119/2022/05 - Existing and Proposed Front and Rear Elevations;
Drawing no. Y1119/2022/06 - Existing and Proposed Elevations (Right);
Drawing no. Y1119/2022/07 - Existing and Proposed Elevations (Left);
Drawing no. Y1119/2022/08 - Rev. 01 - Existing and Proposed Sections.

Relevant Planning History

Reference	Description	Decision	Decision Date
20211489	Change of use of the basement and ground floor from shop to a self-contained one bedroom maisonette.	REFUSED	10.03.2022
20080216	Change of use of the basement and ground floor from shop to a self-contained one bedroom maisonette.	PERMITTED	27.08.2008

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS05 - Gravesend Town Centre Opportunity Area
- CS07 - Economy, Employment and Skills
- CS08 - Retail, Leisure and the Hierarchy of Centres
- CS14 - Housing Type and Size
- CS15 - Housing Density
- CS18 - Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- AP1 - Area Policies (Wrotham Road)
- P3 - Vehicle Parking Standards

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 - Achieving sustainable development
- Section 5 - Delivering a sufficient supply of homes
- Section 6 - Building a strong, competitive economy
- Section 7 - Ensuring the viability of town centres
- Section 9 - Promoting sustainable transport
- Section 11 - Making effective use of land
- Section 12 - Achieving well-designed places

Supplementary Planning Guidance

- SPG 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)
- Householder Extensions/Alterations Design Guide (2021)

Consultations, Publicity and Representations

External Consultees

Natural England - Natural England considers that this advice may be used for all applications that fall within the parameters detailed below.

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

Your authority has measures in place to manage these potential impacts through a strategic solution which we have advised will in our view be reliable and effective in preventing adverse effects on the integrity of the relevant European Site(s) from such impacts associated with such development. The strategic solution may or may not have been adopted within the local plan but must be agreed to by Natural England.

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

However, the application of these measures to avoid adverse effects on site integrity from recreational impacts associated with development proposed within the relevant ZOI should be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended). In this regard, Natural England notes the People Over Wind Ruling by the Court of Justice of the European Union that mitigation may not be taken into account at screening stage when considering 'likely significant effects', but can be considered at appropriate assessment.

Providing that the appropriate assessment concludes that the measures are secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other likely significant effects identified (on this or other protected sites) as requiring to be considered by your authority's appropriate assessment, Natural England indicates that it is likely to be satisfied that your appropriate assessments will be able to ascertain that there will be no adverse effect on the integrity of the European Site (from recreational pressure in view of its conservation objectives). Natural England will likely have no further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications where the outline permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Internal Consultees

GBC - Commercial Health (Regulatory Services) - In order to comply with Health and Safety regulations there needs to be suitable and sufficient sanitary conveniences provided at readily accessible places. A single WC and WHB would suffice in this case but where between 6 and 25 persons are employed a minimum of 2 water closets must be provided.

If the "shop" is going to be selling food any WC must not lead directly into rooms in which food is handled, stored or prepared. There should be an intervening ventilated space between the toilet and food room. I would also expect to see at least 1 sink for cleaning purposes and if open food was being handled they would need to install an additional wash hand basin designed for washing hand only.

GBC - Environmental Protection (Regulatory Services) - Environmental Protection has no objection to the application. There are already flats above the proposed residential use, so this is in keeping with this part of the building. Appropriate sound insulation of the floor/ceiling partition between the existing flat on the 1st floor and the proposed maisonette will be addressed by the Building Control Regulations.

In respect of other matters, it is recommended that the following be considered and conditioned as necessary:

Code of Practice on Construction and Demolition: Please apply to prevent nuisance from noise and dust during demolition and construction occurring to nearby existing residential premises. This is particularly important as there are flats above, in in very close proximity to the proposed site.

Smoke Control Informative: The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991 shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and

stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions and they can only be used for the fuel for which they are designed. When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk

Drainage/sewerage informative: The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable.

GBC - Private Housing - No comments to relay in relation to our housing legislations and regulations. We believe the proposed scheme is currently out of our remit with Planning requirements and Building Regulations taking precedence.

GBC - Highways Officer - This property is in an edge of centre location so no car parking is necessary, however secure parking should be provided for one cycle.

Local Ward Councillors - No comment received.

Neighbouring properties

A notice was displayed on site 23rd September 2022.

In addition, nine surrounding properties were consulted and one representation was received. The comment registered support for the application by virtue of the development bringing a vacant property into use and removing rubbish and vermin from the site as a result.

The consultation period expired 14th October 2022.

Preliminary Matters

This application follows a refusal (ref. 20211489) for a similar development proposal. The previous application was refused by the Local Planning Authority for the following reasons:

1. *The proposed conversion of the property fails to provide acceptable living conditions for future occupiers. The units are all undersized with substandard rooms, which are contrary to both the nationally described space standards (2016) and Gravesham's Residential Layout Guidelines (2020). As such the proposal is overdevelopment of the property, which provides cramped, poor quality accommodation contrary to Policy CS19 of Gravesham's Local Plan Core Strategy (2014) and Section 12 of the National Planning Policy Framework (2021).*
2. *In addition, the proposal fails to secure a contribution towards strategic mitigation measures within Special Protection Areas, and in the absence of this contribution or adequate information to inform an Appropriate Assessment, the development fails to comply with the requirements of the Habitat Regulations and Section 14 (specifically paragraphs 180 and 181) of the National Planning Policy Framework 2021 and Policy CS12 of the Gravesham Local Plan Core Strategy (2014).*

In order to receive a favourable decision, this proposal must be considered to overcome the reasons for refusal attached to the previous application.

Officer's Analysis

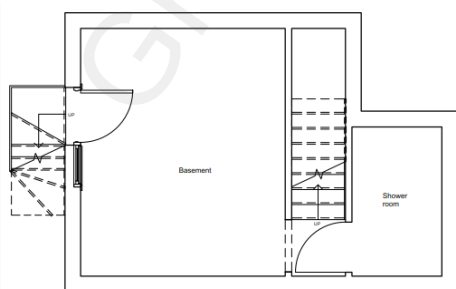
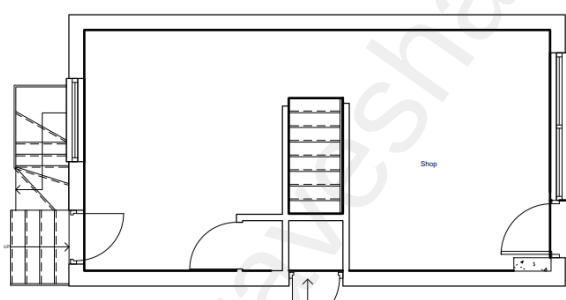
The application site is situated on the western side of Wrotham Road, Gravesend, within an area of mixed commercial and residential use, in close proximity to Gravesend Town Centre. There is a mix of property types and sizes in the area, including a number of smaller dwellings.



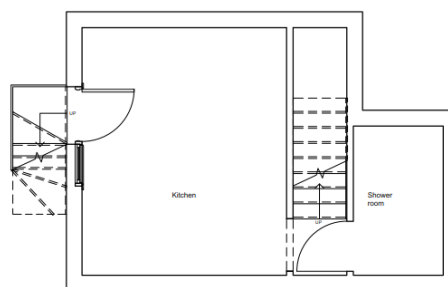
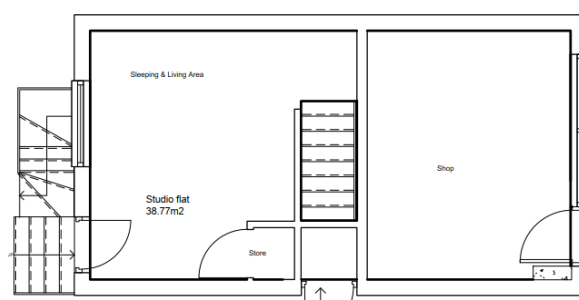
Proposed Development

This application proposes the change of use of the basement and part of the ground floor from a commercial shop unit into a residential maisonette. The shop unit will be retained at the front of the building, with the ground floor rear to be used as a living/bedroom and the basement to be used as a kitchen and shower room/w.c.

Existing Floor Plans



Proposed Floor Plans



Room	Floor Area
Living/Bedroom	11.7m ²
Kitchen	10.7m ²
Shower room / w.c.	2.85m ²
Shop	10.5m ²

It is important to highlight that this application has been amended since the previous refusal, with the shop unit being retained as part of the development.

Principle of Development

The principle of converting a commercial property into residential at this location is not restricted as the site is not located within a local centre or town centre, however saved policy AP1 is relevant. This saved area policy seeks to maintain the broad mix of housing and commercial uses, safeguard residential amenity, traffic flow and highway safety. The proposed development will retain a mix of housing and commercial use and therefore complies with saved policy AP1, furthermore, planning permission has previously been granted for the change of use in 2008. Nevertheless, a key consideration for this application is the provision of services for the commercial unit that will be retained. The proposal seeks to change the use of the rear ground floor and basement, which will remove access from the shop to the shower room within the basement.

The application is in accordance with Policy CS14 (LPCS). However, notwithstanding that the principle of conversion is acceptable, it is important to assess the quality of accommodation and the amenity of future occupiers as set out below. The development meets the requirement of Policy CS15 of the Local Plan Core Strategy (LPCS) which states that new residential development will be expected to achieve a minimum density of 40 dwellings per hectare.

- Housing Need
- Design, Character and Appearance
- Amenity of Future Occupiers
- Neighbouring Amenity
- Parking and Highways
- Any Other Material Planning Considerations

Housing Need

Given Gravesham's current inability to demonstrate a 5 year housing land supply (a 3.27 year supply has most recently been calculated within the statement published here), 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) (2021). This requires that in regard to housing development, planning permission should be granted unless:

- 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
- 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 182)
- Sites of Special Scientific Interest;

- Green Belt,
- Local Green Space,
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats;
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 68); and
- Areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land (paragraph 125(c)) 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 '1' residential units would offer a minimal but important contribution towards meeting this local need and, accordingly, officers considers that this should be accorded appropriate weight in support of the application. However, this has to be balanced against other requirements of the NPPF (2021) which requires new development to contribute positively to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

Policy CS02 (Scale and Distribution of Development) (LPCS) prioritises development in the urban area as a sustainable location for development by bringing forward a range of suitable sites on other parts of the urban area for residential. The application site lies within the urban area of Gravesend and is not subject to any specific local planning policies or constraints that restrict the principle of development, other than general policies that seek to protect the character of the area and the amenity of existing and future residents.

Design, Character and Appearance

Policy CS19 (LPCS) states that the design, layout and form of new development will be derived from a robust analysis of local context and character and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. The National Planning Policy Framework (NPPF) sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

This application does not involve any external alterations to the property and will therefore have no impact on its appearance or the character of the street scene. Therefore, the proposal is acceptable in design terms and in accordance with Policy CS19 (LPCS) and Section 12 (NPPF).

Amenity of Future Occupiers

The assessment of amenity of future occupiers will be assessed in terms of future occupiers of the new residential maisonette and the retained commercial shop. These assessments have been separated below:

Future Residential Occupiers

Policy CS19 (LPCS) requires that all development should be 'fit for purpose' and be 'adaptable to allow changes to meet the need of users' and that 'the design and layout of new residential development, including conversion, will accord with the adopted Residential Layout Guidelines' (RLG) (2020). Moreover, on 25 March 2015 the Government issued a written ministerial statement, which introduced new technical housing standards in England and set out how these would be applied through planning policy. These standards came into effect on 1 October 2015.

The flat within the proposed development is a duplex unit, with a living/bedroom at ground floor and a kitchen and shower room/w.c. at basement level. The national housing standard guidance provides minimum gross floor areas for two storey dwellings, breaking down the number of bedrooms and bed spaces (persons). The supporting documents do not specify the number of persons occupying the flat, however provide a figure of 38.77m² which suggests that the unit would be in single occupancy. However this is not relevant as the unit is duplex and split across two floors, and the national space standards does not provide a figure for a one bedroom, one person, two storey dwelling, and therefore an assessment must be made against the maximum figure for a one bedroom, two person, two storey dwelling (see Table below):

Flat no.	Bedroom(s) /Person(s)	National Housing Standard Guidance	Unit Floor space
1	1 (2 person)	58m ²	38.77m ²

Table 1 - Unit Floor Area Breakdown (GIA)

As shown in Table 1, the flat fails to comply with the recommendations within the National Space Standards for a two-storey dwelling. As such, it is suggested that the unit would not provide acceptable accommodation and fails to safeguard the amenity of future occupiers.

Notwithstanding the National Space Standards, Gravesham's RLG breaks down the Council's individual requirements for certain rooms, these have been formulated into a table to compare with the floor area of rooms within the proposed flat with the RLG recommendations. The RLG does not provide a minimum floor area for a living/bedroom or shower room/w.c. and as such the minimum areas will be a combined living/bedroom and a bathroom & w.c. respectively.

	Gravesham RLG (2020)	Flat
Living/Bedroom	24.4m ²	11.7m ²
Kitchen	7.2m ²	10.7m ²
Bathroom & w.c.	3.5m ²	2.85m ²

Table 2 - Flat Floor Area Breakdown

Table 2 has been colour coded (green complies, red fails) to show which rooms within each flat meet the guidance within the RLG. The table demonstrates that the living/bedroom fails to meet the combined floor area recommendation for a bedroom/living space and that the bathroom/w.c. is undersized. The RLG does not provide a figure for a shower room/w.c. and due to the reduced area required for a shower basin, the undersized shower room is not considered sufficient to refuse the application.

However, the living/bedroom space is significantly below the combined figure for a living room and bedroom, only slightly exceeding the minimum area of a bedroom (11.2m²) and falling below the minimum area for a living room (13.2m²). Therefore, the proposed maisonette provides a cramped living environment to the detriment of the amenity of future occupiers.

There are also some concerns with the natural light and ventilation into the basement which would harm future occupiers amenity.

Future Commercial Occupiers

The proposed development will retain the commercial use at the front of the property on ground floor level, albeit at a significantly reduced floorspace. The application fails to highlight the intended use of the shop unit and does not seek a change of use. Therefore, it must be assumed that the current use of the shop will continue and although currently vacant, is advertised on Google as a Class E shop – 'North Kent Colours Paint Shop'. Nevertheless, the application fails to demonstrate any services provided for the occupants of the shop. The development hereby proposed will remove access to the toilet facilities in the basement and

the plans fail to demonstrate any provision for drinking water. As such, GBC Commercial Health have expressed concern with the proposal against Health and Safety Requirements.

Although health and safety guidance is not a material planning consideration, the issues around required services for the function and viability of the commercial use are material considerations. Policy CS08 seeks to ensure that the vitality and viability of retail uses will be safeguarded by resisting developments that affect their function. The proposed development will remove access to a toilet and running water from the retail unit, which is detrimental to the viability and function on the shop unit and is therefore contrary to Policy CS08 (LPCS).

The agent was contacted by telephone to discuss the provision of facilities for the commercial unit, however due to other issues with the living conditions in the residential flat this was not followed up by the Local Planning Authority.

Summary of Future Occupier Amenity

The proposed development fails to safeguard the amenity of future residential and retail occupiers of the building. The maisonette is undersized and provides undersized rooms which represent a poor quality living environment to the detriment of amenity. Similarly, the development will remove access to toilet and water facilities for the shop unit which is harmful to the amenity of occupiers of the unit and detrimental to the long-term viability of its retail function. Therefore, the proposed development is contrary to Policies CS08 and CS19 (LPCS) as well as Section 12 (NPPF).

Neighbouring Amenity

Policy CS19 (LPCS) requires new development to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land. The development is not considered to impact on the amenity of any adjoining property in terms of loss of light, overlooking, sense of enclosure or outlook.

In terms of noise resulting from the change of use to residential, given the previous use and surrounding properties also in residential use this is not considered to be a material impact that harms amenity.

The development proposed does not safeguard the amenity of future occupiers in accordance with Policy CS19 (LPCS) and Section 12 (NPPF).

Parking and Highways

Policy CS11 (LPCS) requires new development to mitigate their impact on the highway and parking standards will reflect the availability of alternative means of transport and accessibility to services and facilities.

There are no parking or highway issues related to this proposal. The property is located within the Gravesham urban area and is in close proximity to the town centre, which provides strong public transport links, as such, no vehicular parking is required within this location. However, Gravesham's adopted parking standards require secure cycle storage to be provided, with one cycle space per unit. The plans do not show any secure cycle parking provision and as such the proposal is contrary to SPG4 (2006).

Any Other Material Planning Considerations

Refuse

Policy CS19 (LPCS) requires new development to incorporate appropriate facilities for the storage and recycling of waste. The submitted plans do not provide any details regarding the storage of waste

Drainage/sewerage

Gravesham's Environmental Protection Team (Regulatory Services) have stated that any foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable. If the Local Planning Authority were minded to permit the application a condition would be attached to ensure that a drainage plan is submitted and approved in writing.

Ecology and Biodiversity (Bird Mitigation)

The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) are internationally important for nature conservation as the area is a wetland and supports important numbers of wintering water birds and migrating birds. There has been a decline in the number of birds using these sites in recent years. Studies show that this could be due to people using the estuary and marshes for recreation purposes. The North Kent Bird Disturbance Report concludes that all new housing development within 6km of the North Kent Ramsar Sites or Special Protection Areas (including the Thames Estuary and Marshes) and larger housing development beyond 6km from the sites could have an adverse impact on them. This is because new housing development is likely to lead to further increases in recreational use of the sites, which means that further declines in the bird population cannot be ruled out. Possible mitigation measures are set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. Having considered a number of options, the Council have decided to impose a tariff on new housing development. Developers will need to pay £ 275.88 for every new dwelling provided within 6km of the Ramsar site and SPA and for larger housing developments beyond 6km from them. The money raised will be used to pay for schemes to avoid the adverse impacts of new housing development on the birds.

In this instance, the proposed development would result in the creation of an additional residential property and as such, additional recreational activity would result. Therefore, it is considered that there would be an adverse impact to the Thames Estuary and Marshes Ramsar Buffer Zone, which should be mitigated in line with Policy CS12 (LPCS). In such cases the Borough Council has adopted a tariff that is payable for each new dwelling unit within 6km of the SPA/Ramsar site of £275.88 per new dwelling unit.

The applicant has not completed the SAMMS Mitigation Contribution Agreement and therefore fails to comply with the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 180 and 181) of the NPPF and Policy CS12 (LPCS).

Conclusion

The application has been fully considered and is contrary to local and national planning policy.

The proposed development has failed to overcome reason for refusal 1 attached to ref. 2020211489 and provides substandard and poor quality living environment for future occupiers. Therefore, this reason for refusal remains relevant and will also include the lack of secure cycle storage provisions which is contrary to Gravesham's adopted parking standards (SPG 4) (2006).

In addition, the proposal provides inadequate and substandard facilities for the function and viability of the shop unit. Therefore, it fails to safeguard the amenity of future commercial occupiers and is detrimental to the viability of its use contrary to Policies CS08 and CS19 of the Gravesham Local Plan Core Strategy (2014) and Section 12 of the National Planning Policy Framework (2021).

The proposal fails to safeguard biodiversity and fails to secure a contribution towards strategic mitigation measures within Special Protection Areas, and in the absence of this contribution or adequate information to inform an Appropriate Assessment. Therefore, the development fails to comply with the requirements of the Habitat Regulations, but fails to offset biodiversity loss contrary to Section 15 (specifically paragraphs 180 and 181) of the National Planning Policy Framework (2021) and Policy CS12 of Gravesham's Local Plan Core Strategy (2014).

As such, it is recommended that planning permission is refused.

Recommendation

Refusal

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

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	3 rd November 2022	Dated:	03 November 2022