



# Delegated Report

## Planning Application

**Planning Application No:** 20251280

**Location:** 73 - 75 West Street Gravesend Kent DA11 0BS

**Description:** Erection of a second-floor extension above existing offices to provide; 2 single occupancy, 1 bedroom flats.

**Applicant:** Rajuinder Dayal

**Site Visit Date:** Desktop Assessment as per 20240549

### Submitted Documents/Plans

- Application form;
- Drawing no. 2023/37/05D – Floor Plans - Proposed;
- Drawing no. 2023/37/02B – Floor Plans - Existing;
- Drawing no. 2023/37/03A – Elevations - Existing;
- Drawing no. 2023/37/06C – Elevations – Proposed;
- Drawing no. 2023/37/01B – Site Location Plan and Block Plan – Existing;
- Drawing no. 2023/37/07B – Street View – Existing and Proposed;
- Daylight, Sunlight and Overshadowing Assessment for Surrounding Properties and Proposed Development by EEABS, Issue 1;
- Bat Scoping Survey – Preliminary Roost Appraisal by KB Ecology, 12 March 2025, Ref No 2025/03/02
- Noise Impact Assessment by MRL Acoustics, Report No. MRL/100/2162.1v1, April 2025; and
- Pre-App response.

### Relevant Planning History

| Reference | Description                                                                                                                                                                                                         | Decision  | Decision Date |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|---------------|
| 20240549  | Erection of a second-floor extension above existing offices to provide; 1 single occupancy, 1 bedroom flat and 1 double occupancy, 1 bedroom flat. Additional works to include erection of a cycle and bin store.   | Refused   | 24.09.2024    |
| 20080618  | Change of use from a ship's chandlers to a live/work unit with sculpture studio on ground floor and residential above involving replacement of two rear windows at first floor level with french doors and balcony. | Withdrawn | 09.09.2010    |

Following refusal of ref. 20240549, the applicant submitted a pre-application enquiry for erection of a second-floor extension above existing offices to provide; 1 single occupancy, 1 bedroom flat and 1 double occupancy, 1 bedroom flat. Additional works to include erection of a cycle and bin store. This had two options for the proposed elevations.

### Development Plan

Gravesham Local Plan Core Strategy (2014)

- Policy CS01 – Sustainable Development
- Policy CS02 – Scale & Distribution of Development
- Policy CS05 – Gravesend Town Centre Opportunity Area
- Policy CS07 – Economy, Employment and Skills
- Policy CS10 – Physical and Social Infrastructure.
- Policy CS11 – Transport
- Policy CS12 – Green Infrastructure
- Policy CS14 – Housing Type and Size
- Policy CS15 – Housing Density.
- Policy CS18 – Climate Change.
- Policy CS19 – Design & Development Principles
- Policy CS20 – Heritage and the Historic Environment

#### Gravesham Local Plan: First Review (1994)

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

Paragraph 34 of the NPPF (2024) 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 (2024), the Council will also seek to replace these.

#### National Planning Policy Framework (2024)

- Section 2 – Achieving sustainable development
- Section 5 – Delivering a sufficient supply of homes
- Section 7 – Ensuring the vitality of town centres
- Section 9 – Promoting sustainable transport
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 16 – Conserving and enhancing the historical environment

#### Supplementary Planning Guidance

- SPG4 – KCC Parking Standards (2006)
- Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020
- Technical Housing Standards – nationally described space standard (2015)
- Design for Gravesham (2024).
- High Street & Queen Street Conservation Area Character Appraisal (2009)

### **Emerging Local Plan as a Material Consideration**

Paragraph 48 of the Framework makes it clear that planning applications can only be determined in accordance with the development plan, unless material considerations indicate otherwise. An emerging Local Plan, does not form part of the Development. The Framework, at Paragraph 49 allows local planning authorities to give weight to relevant policies in emerging Local Plans, according to:

- The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the Framework, the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given to those policies.

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West Oxfordshire District Council v Secretary of State for Housing, Communities and Local Government & Rosconn Strategic Land Ltd [2018] EWHC 3065 (Admin) is a High Court judgement that deals with the weight to be given to a Regulation 19 Local Plan. In this judgement the Court found that the weight to be given to an emerging Local Plan, was a matter of planning judgement, which had to be reached having fully considered the relevant part (Paragraph 49) of the Framework.

The Council's emerging Local Plan, is in the process of being consulted upon (it has reached Regulation 19 stage), the Council is not yet aware of whether third parties will support or object to specific policies within the Plan, or whether they will consider the policies with the emerging Local Plan to be broadly sound and consistent with the NPPF (2024). Taking this into consideration, one can only conclude that at this stage of the process, limited (i.e. minimal) weight should be afforded to the emerging Regulation 19 Local Plan. This position would only change once the emerging Local Plan has progressed towards submission and examination, with the Council being fully aware of policies that are subject to unresolved objections and with knowledge of policies that have had their soundness and conformity against the Framework challenged.

This approach accords with the approach taken in a separate High Court case, Gladman Developments Ltd v SSHCLG & Corby Borough Council; & Uttlesford DC [2020] EWHC 518 (Admin) and Court of Appeal [2021] EWCA Civ 104, which was also the subject of a Court of Appeal Ruling [2021] EWCA Civ 104.

## **Consultations, Publicity and Representations**

### Consultees

#### GBC Environmental Protection

##### *Noise*

A Noise impact Assessment dated April 2025 by MRL Acoustics (Ref: MRL/100/2162.1v1) has been submitted and reviewed. The report assesses traffic and commercial noise in the area and appropriate background noise measurements have been undertaken. Relevant guidance and standards have been referred to in the report and with the recommended noise mitigation measures, internal noise levels in accordance with BS823:2014 can be achieved. The mitigation measures include double glazing and acoustically treated ventilation (as an alternative to opening windows). As alternative ventilation is needed, overheating must be considered in accordance with Building Regulations. Any mechanical ventilation must not result in internal noise levels being increased such that the levels in BS8233:2014 are exceeded.

Providing the build is carried out in accordance with the specifications given in section 5, the proposal is acceptable in terms of noise.

##### *Code of Practice on Construction and Demolition*

Please apply as appropriate to minimise noise to neighbouring premises during the construction

### GBC Licensing

No comments.

### GBC Waste & Recycling

I have reviewed this planning application and I am happy with the proposed refuse & recycling storage details.

However, I would expect to see a set of bins for each flat, so the development would require the following.

- 2 x 180ltr bin for residual
- 2 x 240ltr bin for recycling
- 2 x 23ltr food caddies for food waste.

The residual and recycling bins will be collected on a fortnightly basis with the food waste collected weekly.

#### Historic England

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

#### KCC Biodiversity

#### **SIMPLIFIED RESPONSE**

In providing the following comments, all relevant information has been considered including ecological information (where submitted) and site plans. In addition, other documents when considered useful have been reviewed. When provided, this will include (but not limited to) the design and access statement and arboricultural reports.

Suggested condition wording can be found at the end of the report. The conditions have been referred to in the below text.

**Sufficient information has been provided.**

| <b>Ecological Element</b>        | <b>Present on site</b>                                                                                                                                   | <b>Additional Info Required</b> | <b>Comments</b>                                                                                                                                                                 |
|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Protected/<br>notable<br>species | We are satisfied with the results of the preliminary ecological appraisal which has concluded that bats are unlikely to be roosting within the building. | No                              | We are satisfied that no further surveys are required.<br><br>The presence of breeding birds can not be ruled out and we advise that a breeding bird informative is included if |

| Ecological Element          | Present on site                                              | Additional Info Required | Comments                        |
|-----------------------------|--------------------------------------------------------------|--------------------------|---------------------------------|
|                             |                                                              |                          | planning permission is granted. |
| Biodiversity Net Gain (BNG) | Application is exempt from BNG due the de-minimis exemption. | No                       |                                 |

### **Breeding Bird Informative**

The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (1st March to 31st August inclusive) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented. This includes examination by a suitably qualified and experienced ecologist immediately prior to starting work. If any nesting birds are found, works must cease until after the birds have finished nesting.

### **KCC Flood & Water Management**

As Lead Local Flood Authority, Kent County Council are required to provide technical advice and guidance on the surface water drainage strategies, designs and maintenance arrangement put forward by developers to any new major development.

According to the Town and Country Planning (Development Management Procedure) (England) Order 2010, major development is defined in planning as any development involving any one or more of the following:

- a) The winning and working of minerals or the use of land for mineral-working deposits; b) Waste development;
- c) The provision of dwelling houses where:
  - i. The number of dwelling houses to be provided is ten or more; or
  - ii. The development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c) (i);
- d) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- e) Development carried out on a site having an area of one hectare or more.

The application under the above reference number therefore falls outside the definition of major development and also falls outside of KCC's remit as statutory consultee.

### **KCC Highways**

The proposed development is located in a highly sustainable location with nearby facilities and local transport links. As such, I consider the nil provision of vehicle parking for the proposed flats to be acceptable. I am pleased to note that secure, covered cycle storage is to be provided for 6 cycles.

Consequently, provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

### Marine Licencing

Please be aware that any works within the Marine area require a licence from the Marine Management Organisation. It is down to the applicant themselves to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark.

### Response to your consultation

The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are; marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.

### Marine Licensing

Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.

Applicants should be directed to the MMO's online portal to register for an application for marine licence

<https://www.gov.uk/guidance/make-a-marine-licence-application>

You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in English waters.

The MMO is also the authority responsible for processing and determining Harbour Orders in England, together with granting consent under various local Acts and orders regarding harbours.

A wildlife licence is also required for activities that that would affect a UK or European protected marine species.

The MMO is a signatory to the coastal concordat and operates in accordance with its principles. Should the activities subject to planning permission meet the above criteria then the applicant should be directed to the follow pages: check if you need a marine licence and asked to quote the following information on any resultant marine licence application:

- local planning authority name,
- planning officer name and contact details,
- planning application reference.

Following submission of a marine licence application a case team will be in touch with the relevant planning officer to discuss next steps.

### Environmental Impact Assessment

With respect to projects that require a marine licence the EIA Directive (codified in Directive 2011/92/EU) is transposed into UK law by the Marine Works (Environmental Impact Assessment) Regulations 2007 (the MWR), as amended. Before a marine licence can be granted for projects that require EIA, MMO must ensure that applications for a marine licence are compliant with the MWR.

In cases where a project requires both a marine licence and terrestrial planning permission, both the MWR

and The Town and Country Planning (Environmental Impact Assessment) Regulations  
<http://www.legislation.gov.uk/ukxi/2017/571/contents/made> may be applicable.

If this consultation request relates to a project capable of falling within either set of EIA regulations, then it is advised that the applicant submit a request directly to the MMO to ensure any requirements under the MWR are considered adequately at the following link

<https://www.gov.uk/guidance/make-a-marine-licence-application>

## Marine Planning

Under the Marine and Coastal Access Act 2009 ch.4, 58, public authorities must make decisions in accordance with marine policy documents and if it takes a decision that is against these policies it must state its reasons. MMO as such are responsible for implementing the relevant Marine Plans for their area, through existing regulatory and decision-making processes.

Marine plans will inform and guide decision makers on development in marine and coastal areas. Proposals should conform with all relevant policies, taking account of economic, environmental and social considerations. Marine plans are a statutory consideration for public authorities with decision making functions.

At its landward extent, a marine plan will apply up to the mean high water springs mark, which includes the tidal extent of any rivers. As marine plan boundaries extend up to the level of the mean high water spring tides mark, there will be an overlap with terrestrial plans which generally extend to the mean low water springs mark.

A map showing how England's waters have been split into 6 marine plan areas is available on our website. For further information on how to apply the marine plans please visit our Explore Marine Plans service.

Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary regulations are adhered to. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine and Coastal Access Act and the UK Marine Policy Statement unless relevant considerations indicate otherwise. Local authorities may also wish to refer to our online guidance and the Planning Advisory Service soundness self-assessment checklist. If you wish to contact your local marine planning officer you can find their details on our gov.uk page.

## Minerals and waste plans and local aggregate assessments

If you are consulting on a mineral/waste plan or local aggregate assessment, the MMO recommend reference to marine aggregates is included and reference to be made to the documents below;

- The Marine Policy Statement (MPS), section 3.5 which highlights the importance of marine aggregates and its supply to England's (and the UK) construction industry.
- The National Planning Policy Framework (NPPF) which sets out policies for national (England) construction minerals supply.
- The Managed Aggregate Supply System (MASS) which includes specific references to the role of marine aggregates in the wider portfolio of supply.
- The National and regional guidelines for aggregates provision in England 2005-2020 predict likely aggregate demand over this period including marine supply.

The NPPF informed MASS guidance requires local mineral planning authorities to prepare Local Aggregate Assessments, these assessments have to consider the opportunities and constraints of all mineral supplies into their planning regions -including marine. This means that even land-locked counties, may have to consider the role that marine sourced supplies (delivered by rail or river) play -particularly where land based resources are becoming increasingly constrained.

If you require further guidance on the Marine Licencing process, please follow the link

<https://www.gov.uk/topic/planning-development/marine-licences>

#### Port of London Authority

Thank you for your consulting the Port of London Authority (PLA) on the above-mentioned application, for the erection of a second-floor extension above existing offices to provide 2 single occupancy, 1 bedroom flats at 73-75 West Street, Gravesend. I have now had the opportunity to review the submitted documents and can confirm the PLA have no comments to make.

#### Southern Water

#### **Existing Gravity Sewer - tree, buildings, assets within stand-off distance**

The 160 mm diameter gravity sewer requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future maintenance access.

No development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water. All existing infrastructure should be protected during the course of construction works. Please refer to: <https://www.southernwater.co.uk/media/st5orjvm/stand-off-distances.pdf>

#### **Condition**

In order to protect public sewers, Southern Water requests that if consent is granted, the following condition is attached to the planning permission; The developer must agree with Southern Water, prior to commencement of the development, the measures to be taken to protect the public sewers

#### **S106 Connection application**

Any new connections to the public sewerage system will require a Section 106 connection application to be submitted and approved by Southern Water Services. Please note that, where there are separate systems available Southern Water will not allow surface water to connect into the public foul sewer. If this is not possible, please provide evidence that all other options have been explored.

#### Neighbouring properties

163 surrounding properties were consulted plus site notice – overall consultation expiry date was 23.01.2026 – no responses received.

#### **Officer's Analysis**

The application site consists of a two storey building which is situated on the northern side of West Street. To the north and west are Crawley Court and Marriotts Wharf, opposite to the south is West Street Car Park and to the east is Regent's Court.

The site is located in the urban area of Gravesend, the Gravesend Town Centre Opportunity Area, Flood Zone 3, Gravesend A226 One Way System Air Quality Management Area (AQMA) and the Thames Estuary and Marshes Ramsar Buffer Zone.

A previous application ref. 20240549 which was for 'Erection of a second-floor extension above existing offices to provide; 1 single occupancy, 1 bedroom flat and 1 double occupancy, 1 bedroom flat. Additional works to include erection of a cycle and bin store' was refused on 24.09.2024 on the following grounds:

*1. The proposal would result in harm to the living environments of occupants of neighbouring properties. Specifically, it would result in significant overshadowing of habitable windows serving 1-15 and 16-47 Marriotts Wharf and direct overlooking of the south elevation of 16-47 Marriotts Wharf, with window to window distances below the required minimum privacy distance of habitable windows. The scale, proximity*

*and design of the scheme would as whole, be an unneighbourly form of development which would result in overbearing bulk, severely limiting the allowance of light to south facing windows of 16-47 Marriotts Wharf. The proposal would therefore fail to provide a high standard of amenity for neighbouring's sites which conflicts with the requirements of Policy CS19 of the Gravesham Local Plan Core Strategy 2014, SPG2 Residential Layout Guidelines (2020) and paragraphs 131 and 135 of the National Planning Policy Framework 2023.*

*2. The development would result in undersized bedroom space, and undersized privacy distance from 16-47 Marriotts Wharf to the hallway of flat 2 of the proposed development which would result in direct and harmful overlooking from the neighbouring site. The proposal fails to provide high quality amenity space and will result in poor living standards for future occupants and as such would be contrary to Policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy 2014 which states that new development shall be designed and constructed to safeguard the amenity of its occupants and paragraph 130 of the National Planning Policy Framework (2023) and SPG2 Residential Layout Guidelines (2020).*

*3. 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 185 and 188) of the National Planning Policy Framework (2023) and Policy CS12 of Gravesham's Local Plan Core Strategy (2014).*

*4. Insufficient detail has been submitted to allow the full impacts of the proposed development to be accurately assessed in terms of Noise Impact, given the location of the proposed flats on a busy road and fronting a car park in close proximity. The documents provided with the application do not include a Noise Impact Assessment. As such, it is not possible to make a determination as to the impacts of the proposal on residential amenity. The proposal is contrary to Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 and Section 12 of the Nation Planning Policy Framework (2024).*

*5. Insufficient detail has been submitted to allow the full impacts of the proposed development to be accurately assessed in terms of Ecological Impact. The documents provided with the application do not include an Ecological Impact Assessment or a Bat Survey. As such, it is not possible to make a determination as to the impacts of the proposal on ecology and biodiversity. The proposal is contrary to Section 16 of the Nation Planning Policy Framework (2024).*

The applicant subsequently submitted a pre-application enquiry for erection of a second-floor extension above existing offices to provide; 1 single occupancy, 1 bedroom flat and 1 double occupancy, 1 bedroom flat. Additional works to include erection of a cycle and bin store.

The current proposal is for 'Erection of a second-floor extension above existing offices to provide; 2 single occupancy, 1 bedroom flats'. It needs to be seen whether this current proposal addresses all of the above grounds of refusal.

The principle considerations in the assessment of the application are as follows:

#### Housing Need

In Hopkins Homes Ltd v Secretary of State for Communities and Local Government [2017] 1 W.L.R. 1865, Lord Carnwath reemphasised that the National Planning Policy Framework is only a material consideration in planning decisions and that that planning applications should be determined in accordance with the development plan. Paragraph 12 of the NPPF expressly states that the starting point for decision-making is the development plan. Lord Carnwath as part of the Supreme Court decision stated,

*"It is important, however, in assessing the effect of the Framework, not to overstate the scope of this policy-making role. The Framework itself makes clear that as respects the determination of planning applications*

*(by contrast with plan-making in which it has statutory recognition), it is no more than "guidance" and as such a "material consideration" for the purposes of section 70(2) of the 1990 Act... It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme."*

It is a matter of law that all planning applications need to be considered in accordance with the legislation and relevant policy that applies at the point a decision is taken. The Council published a revised 5 year housing land supply statement in February 2025, it demonstrates that based on data up for the period 2024-2029, the Council can only demonstrate a land supply of 3 years.

Given the Council's current inability to demonstrate a 5-year housing land supply, and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Gravesham's Local Plan Core Strategy (LPCS) (2014) Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the National Planning Policy Framework (NPPF) (2024). This requires that in regard to housing development, planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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

- Habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest;
- Land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75);
- 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 129(c)) in context, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

The proposed development for a net increase of '2' residential units would offer a minimal 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 Development Plan and NPPF (2024) which requires new development to be high quality, beautiful and create acceptable living conditions for future occupiers.

Notwithstanding the Council's shortages in housing delivery and the consequent weight to be given in favour of the proposed development it is necessary to assess the proposals against the policies in the National Planning Policy Framework (NPPF) and established local planning policy taken as a whole.

### Principle of Development

This matter was considered acceptable in previous application ref. 20240549.

In regard to the principle of development, Policy CS02 (LPCS) prioritises development in the urban area as a sustainable location for development. It seeks to achieve this by promoting regeneration by prioritising



redevelopment and recycling of previously developed land. The application site consists of an existing building. The site meets the definition of Previously Developed Land as stated in Annex 2 of the NPPF (2024).

The site lies within Gravesend Town Centre Opportunity Area (sub-area 3.4 East of Town Centre and Riverside). Policy CS05 (LPCS) states that within the Opportunity Area, the Council will support the provision of new residential development where a satisfactory living environment can be achieved and support the redevelopment of under-used sites where this makes more efficient use of the sites and improves townscape character.

Redevelopment would be subject to addressing the requirements of the Development Plan and material considerations such as the NPPF (2024) and in particular whether the proposal would improve townscape character and protect the amenity of existing and future users which are key considerations which would be assessed in an application.

### Design, Character and Appearance

This matter was considered acceptable in previous application ref. 20240549.

The below Google Maps Image taken in 2021 shows the site from the street.



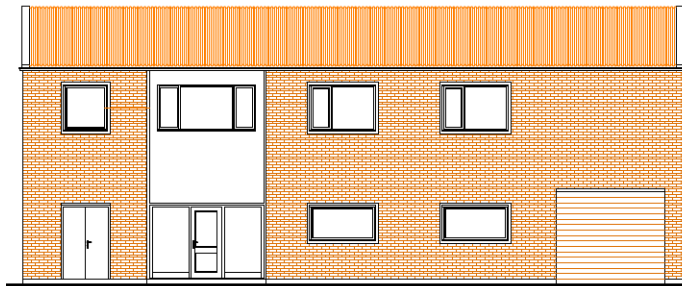
It is now proposed to add a second storey onto the building with a mansard roof.

The proposed design has changed from that proposed in previous application ref. 20240549 and the pre-application enquiry.

For ease of reference the existing, refused, pre-application and current proposals are as follows:

## Elevations

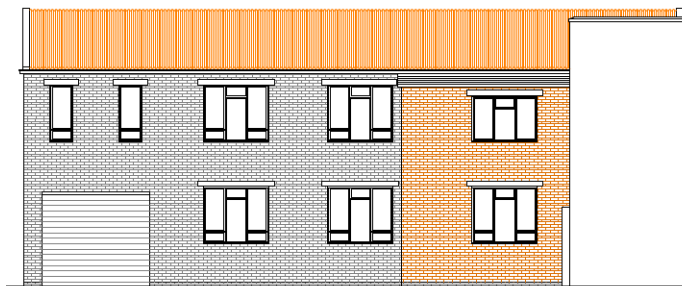
### Existing



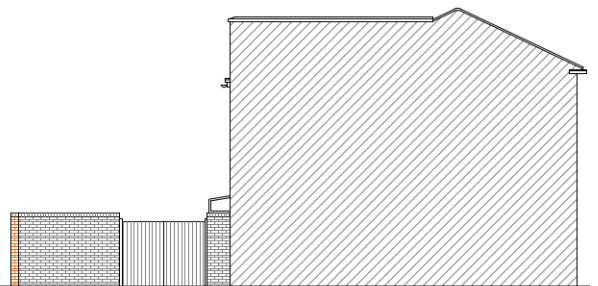
Existing Front Elevation - Scale 1:100



Existing Side Elevation - Scale 1:100



Existing Rear Elevation - Scale 1:100



Existing Sectional Side Elevation - Scale 1:100

### Previous application ref. 20240549



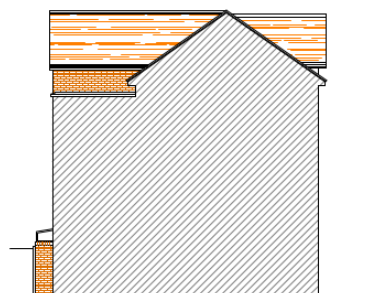
Proposed Front Elevation - Scale 1:100



Proposed Side Elevation - Scale 1:100



Proposed Rear Elevation - Scale 1:100



Proposed Sectional Side Elevation - Scale 1:100

**PRE20250105 (same as 20240549)**

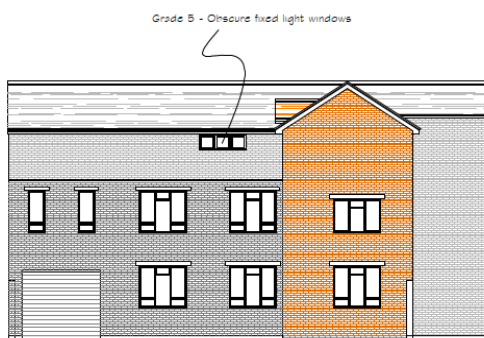
**Proposed Elevations Option 1**



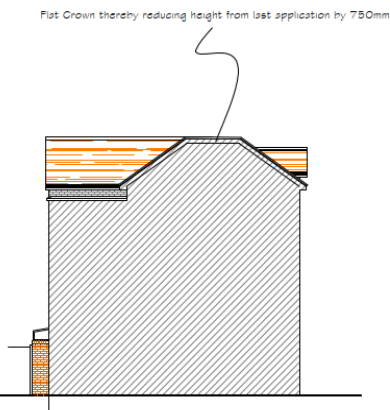
Proposed Front Elevation - Scale 1:100



Proposed Side Elevation - Scale 1:100



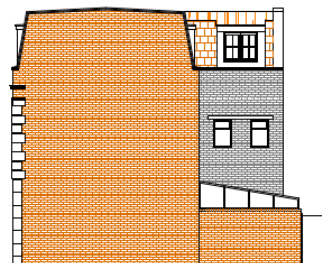
Proposed Rear Elevation - Scale 1:100



**Proposed Elevations Option 2**



Proposed Front Elevation - Scale 1:100

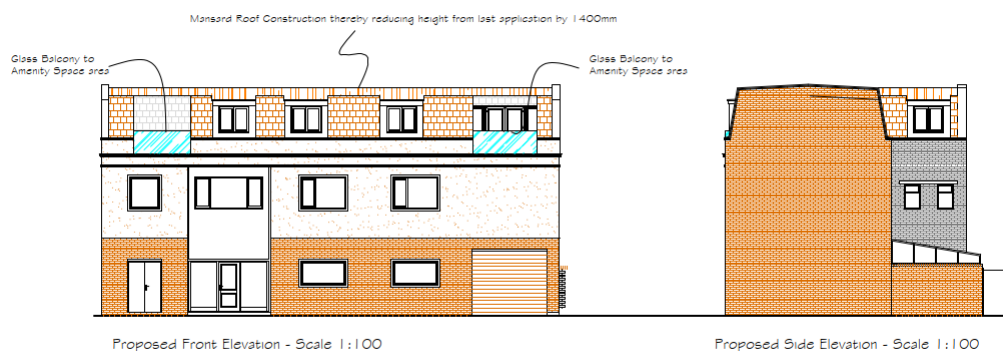


Proposed Side Elevation - Scale 1:100



Proposed Rear Elevation - Scale 1:100

## Current application ref. 20251280



In the delegated report for previous application ref. 20240549 it was set out that:

“As can be seen the building to the West has three floors and the building to the east has four floors. The proposed elevation below shows that the additional floor, would take this building to three floors in height, and it would be a similar height to the neighbouring property. It is likely that it will be partially higher than the building to the west given the existing high window placement on the first floor of the subject building, but it will be lesser in height than the four-storey building to the east. The proposed build and height would therefore be sensitive to the existing streetscene.



The design of the roof and fenestration would also be similar to the property to the east, as shown in the below 2021 Google Maps image. It would use a mix of gable fronts and pitched roof. The second floor windows would also incorporate Juliette balconies”.



The proposal in respect of design was therefore considered acceptable.

In PRE20250105 it was noted that there were two different options in terms of the proposed elevations of the building and that option 1 was very similar to the scheme considered under application ref. 20240549 and that option 2 proposed a mansard style design solution. It was stated in the pre-application decision letter that:

“Both design options are considered acceptable and would be in-keeping with the appearance of the existing building and character of the wider area. They would not have a detrimental impact on the setting of the High Street Conservation Area. It will be important to ensure that good quality materials are proposed for the construction of the extension.”

However in this current application, the building design has changed again. The proposal would have a flat mansard roof and notwithstanding the pre-application advice given, a mansard roof is not considered to be in keeping with the character and appearance of the existing building or the wider area.

The existing building has a pitched roof with a simple elevational treatment which is a classic example of 1950s architecture where buildings typically had simple, boxy designs with low pitched or flat roofs, large windows etc; the design was simple reflecting the minimalist aesthetic popular at the time. In the surrounding area the buildings all have standard pitched roofs, there are no mansard roofs.

Furthermore, all the elements which are proposed in the front roof slope are completely unacceptable. This is in respect of the three dormer windows, the two recessed balcony areas either side of these with the glazed privacy screens along their front and that the eastern most balcony area would have a set of large glazed double doors with glazed panels either side. Due to the amount and design of these elements in the front roof slope, they would not respect the existing fenestration in the building which is to be retained as it is at the ground and first floor levels. The proposed dormers, recessed balcony areas, double doors with adjacent glazed panels and glazed privacy screens across the recessed balconies would be completely incongruous design elements.

Overall, therefore it is considered that the proposed second floor extension would not be in keeping with either the host building or the streetscene and is considered to represent poor design. Given the distance of the application building from the nearest part of the High Street Conservation Area to the site with the Regents Court development which is in between (59m), it is considered that the proposal would not impact

on the setting of the High Street Conservation Area.

To the rear there would be no windows in the new second storey but there would be three rooflights in the rear roof slope; given that these appear to be set down from the ridge, up from the eaves and in from the sides and of a fairly modest size they are considered acceptable in design terms.

In summary, the proposed second floor extension above the existing building due to its design and detailing would be an incongruous feature which would not be in keeping with the character and appearance of the host building or the streetscene, representing poor design. As such the proposal is contrary to Policy CS19 (LPCS).

This is therefore a new ground of refusal as design was not an issue in previous application ref. 20240549.

#### Amenity of Future Occupiers

This matter concerned grounds of refusal nos. 2 and 4 of previous application ref. 20240549.

The NPPF (2024) states that planning decisions should aim to secure a high standard of amenity for all existing and future users. The impact on amenity is also considered with regard to the criteria with Policy CS19 of the Core Strategy, which states that new development should be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants, and those of neighbouring properties and land. The impact on neighbours will be assessed in the next section of the report.

#### *Internal Space Standards*

\*This was one of the issues in respect of the amenity of occupiers in previous application ref. 20240549. The minimum space required for a kitchen/diner and living room combined would be 25.2 sq. m and in flat 1 the kitchen/diner and living room was 23.3 sq. m and so was undersized.

#### Flat 1

Flat 1 (1b, 1p, 1 storey with bath) – 40.03 sq. m and the minimum standard for this type of accommodation as set out in the Technical Housing Standards (2015) is 39 sq. m therefore, the minimum standard is met.

In terms of the individual rooms:

| Room Type             | Proposed Internal Floor Area (sq. m) | Minimum Space Standard (sq. m) as set out in SPG2: Residential Layout Guidelines (2020) |
|-----------------------|--------------------------------------|-----------------------------------------------------------------------------------------|
| Living/Dining/Kitchen | 25.8                                 | 25.2                                                                                    |
| Single Bedroom        | 8.2                                  | 6.5                                                                                     |
| Bathroom              | 3.6                                  | 3.5                                                                                     |

As can be seen, all rooms including the living/dining/kitchen (which was previously undersized) would now meet the minimum standards as set out in SPG2: Residential Layout Guidelines (2020).

#### Flat 2

Flat 2 (1b, 1p, 1 storey with shower) – 45.2 sq. m and the minimum standard for this type of accommodation as set out in the Technical Housing Standards (2015) is 37 sq. m therefore the minimum standard is met).

| Room Type             | Proposed Internal Floor Area (sq. m) | Minimum Space Standard (sq. m) as set out in SPG2: Residential Layout Guidelines (2020) |
|-----------------------|--------------------------------------|-----------------------------------------------------------------------------------------|
| Living/Dining/Kitchen | 27.4                                 | 25.2                                                                                    |
| Single Bedroom        | 7.7                                  | 6.5                                                                                     |
| Shower room           | 3.5                                  | 3.5                                                                                     |

In terms of the individual rooms:

As can be seen, all rooms including the living/dining/kitchen would now meet the minimum standards as set out in SPG2: Residential Layout Guidelines (2020).

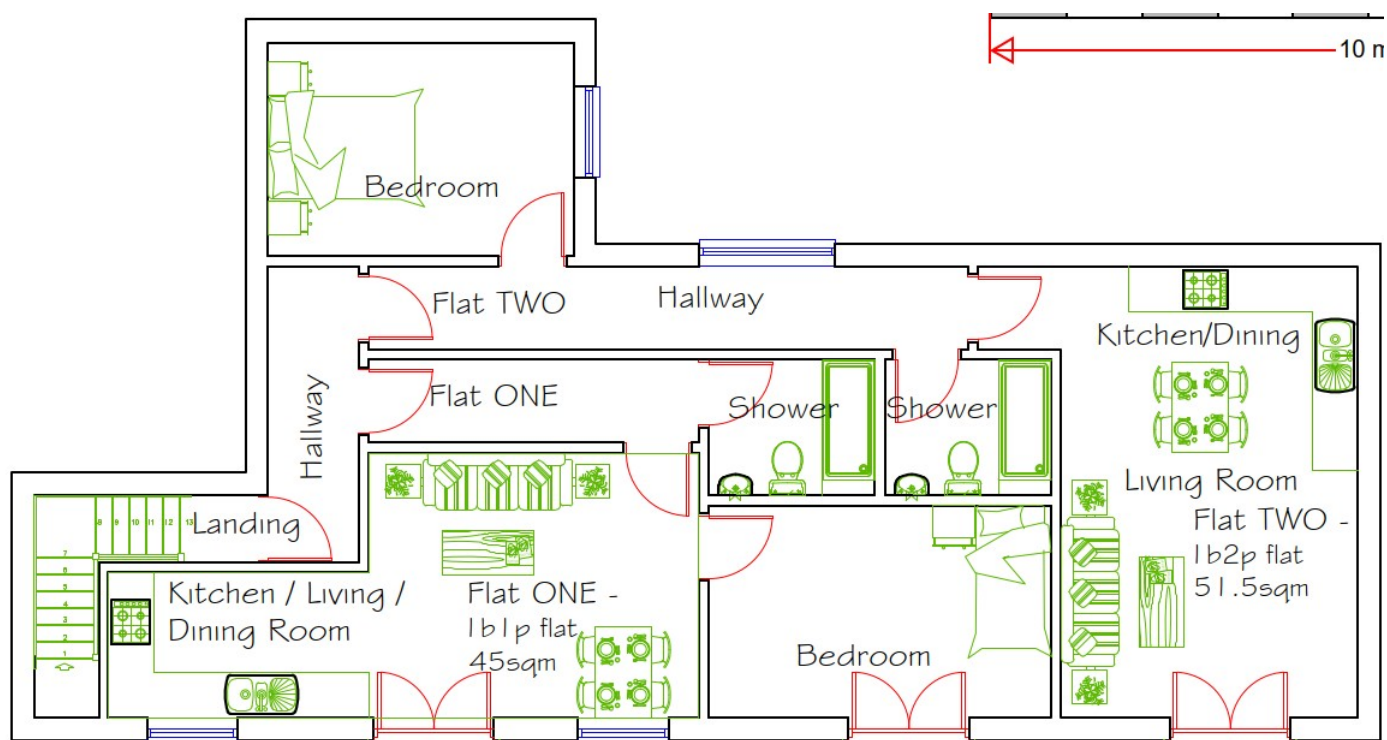
### *Amenity space*

Flat 1 & Flat 2 would have 5 sq. m each at second floor level with a glass balcony to the amenity space area. SPG2 (2020) states a minimum of 10 sq. m but with the 5 sq. m and that the site is situated in the town centre where there are a number of open spaces nearby including the Riverside Area, this is considered acceptable.

### *Privacy Distances*

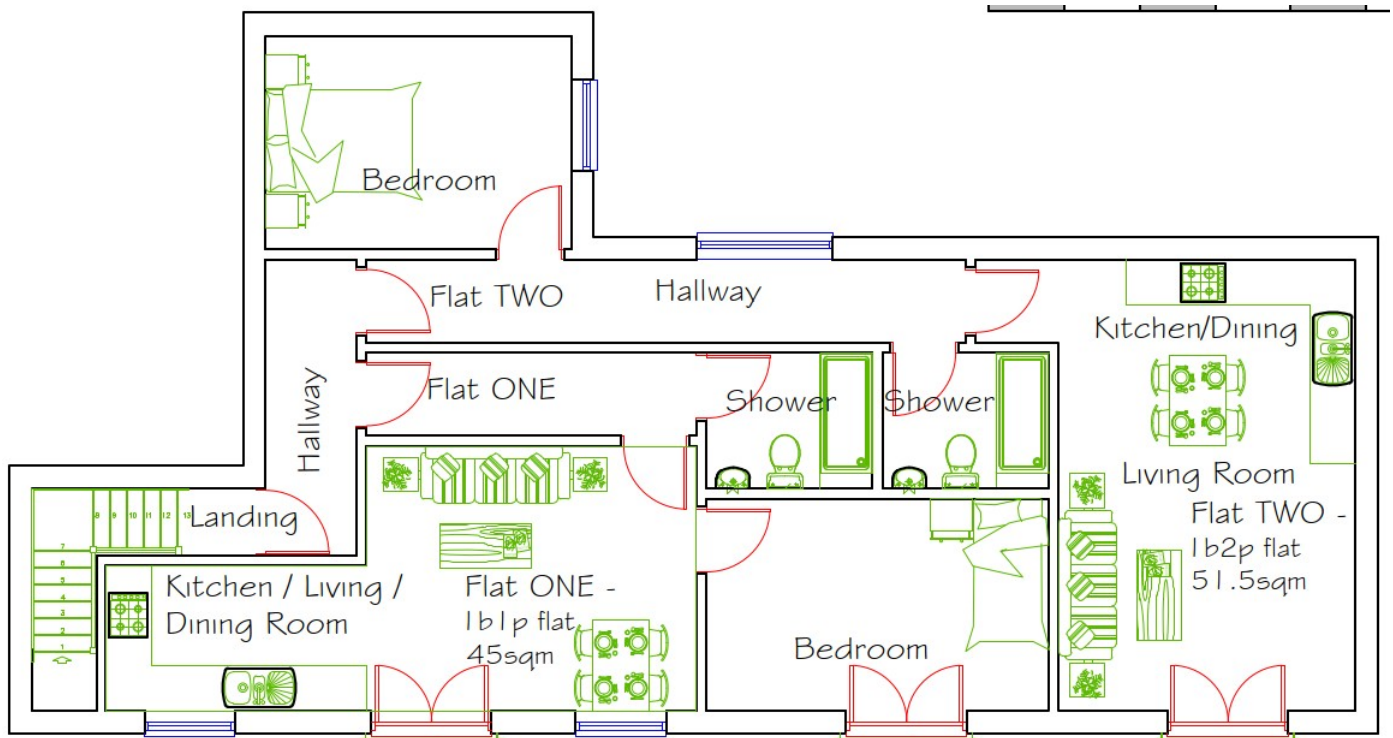
\*This was one of the issues in respect of the amenity of occupiers in previous application ref. 20240549.

### **Previous application ref. 20240549**

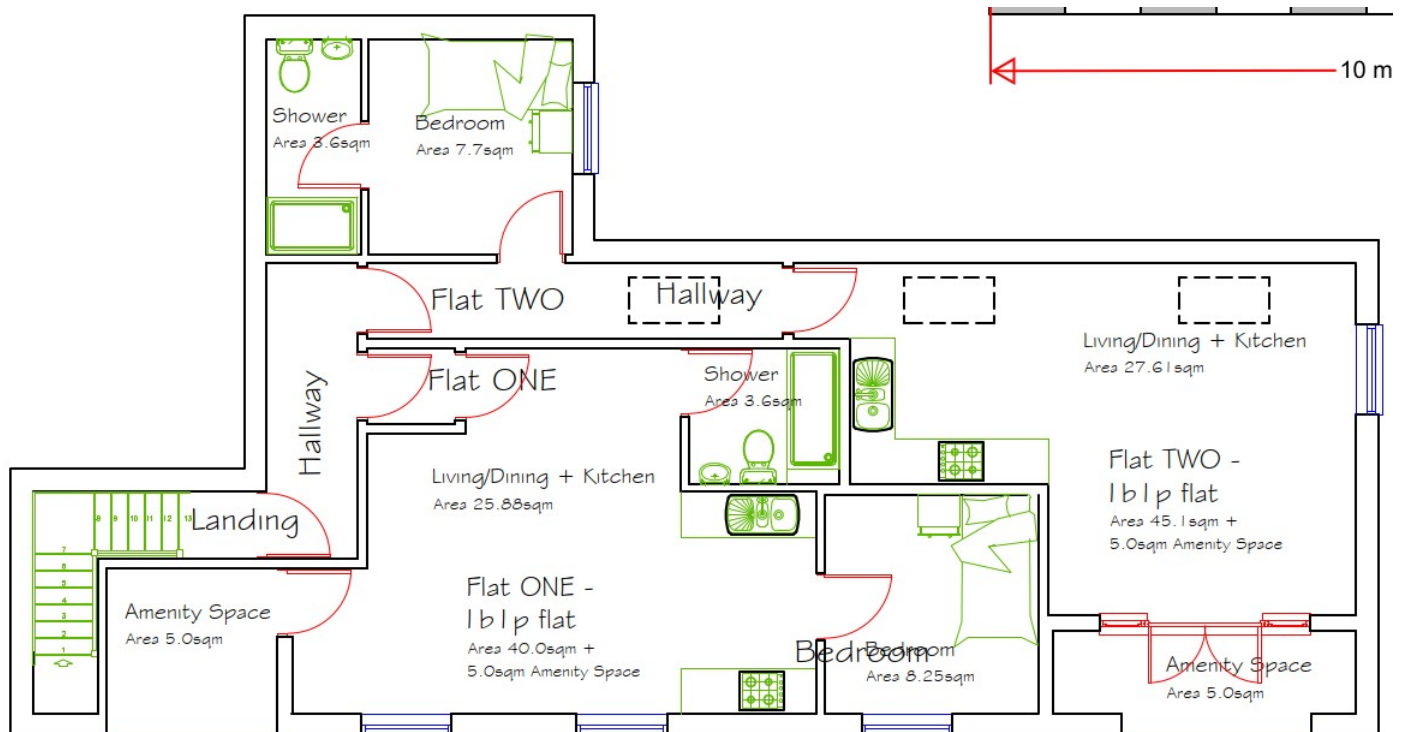




**PRE20250105**



**Current application ref. 20251280**



In the delegated report for previous application ref. 20240549 it was stated:

“Flat one is a single aspect flat with front facing windows only. Flat 2 has both front, side and rear windows. The entire rear elevation on this additional floor would serve flat 2 and would have a distance of between

7.7m and 10.3m from the south wall of these 146—6-47 Marriotts Wharf. This would fail to meet minimum distance requirements of 11m (according the residential layout guidelines) and would result in overbearing impact to the window serving the hallway of flat 2, and the flats served by the South elevation of Marriotts Wharf, given the close proximity. The rear window of flat 2 would therefore be subject to direct overlooking. The garden area would also be directly overlooked by the same windows on 16-47 Marriotts Wharf resulting in a proposal which fails to satisfactorily safeguard neighbour amenity.”

In this new application flat 1 is still single aspect only with front facing windows as before.

Flat 2 has changed and would now only have side and rear facing windows with no front windows. With the window to the hallway removed, there would therefore be no overbearing impact on flat 2 from the south elevation of Marriotts Wharf. The amenity space for the two flats would be 5 sq. m balconies and not at the rear anymore therefore there would be no overlooking to a garden area.

### *Noise*

\*This was one of the issues in respect of amenity of occupiers. In the delegated report for application ref. 20240549 it was stated:

“The Environmental Protection Team commented on the application and advised that further detail is required in the form of a Noise Assessment particularly given the location of the flats fronting a busy road and car park. This would ensure that any noise mitigation measures as required are able to be achieved.

They require that the assessment address the impact of the following on the residential amenity of any future residents of the proposed flats.

The Noise Impact Assessment provided should demonstrate that:

- The internal ambient noise levels in all habitable rooms of the proposed residential dwellings shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014.
- The maximum internal noise levels in all habitable rooms should not exceed 45dB LAmax more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.

Insufficient detail has been submitted to allow the full impacts of the proposed development to be accurately assessed in terms of Noise Impact. The documents provided with the application do not include a Noise Impact Assessment. As such, it is not possible to make a determination as to the impacts of the proposal on residential amenity. The proposal is contrary to Policy CS19 of the Gravesham Local Plan Core Strategy September 2014 and Section 12 of the Nation Planning Policy Framework (2024)”.

In this current application a Noise Impact Assessment has been submitted and GBC Environmental Protection advise that the report assesses traffic and commercial noise in the area and appropriate background noise measurements have been undertaken. They advise that relevant guidance and standards have been referred to in the report and with the recommended noise mitigation measures, internal noise levels in accordance with BS823:2014 can be achieved. They state how the mitigation measures include double glazing and acoustically treated ventilation (as an alternative to opening windows). They advise that as alternative ventilation is needed, overheating must be considered in accordance with Building Regulations and that any mechanical ventilation must not result in internal noise levels being increased such that the levels in BS8233:2014 are exceeded. GBC Environmental Protection conclude that providing the build is carried out in accordance with the specifications given in section 5, the proposal is acceptable in terms of noise. GBC Environmental Protection also advise that the Code of Practice on Construction and Demolition should be applied as appropriate to minimise noise to neighbouring premises during the construction.

As such, it is considered that sufficient detail has now been submitted to allow the full impacts of the proposed development to be accurately assessed in terms of noise impact. Subject to the development

being carried out in accordance with the specifications given in section 5 of the Noise Impact Assessment and a Code of Practice on Construction and Demolition being applied, then the amenity of future occupiers would be protected from noise impact.

In summary, in respect of occupier amenity the proposal has addressed the issues in the previous application of undersized living/dining/kitchen in flat 1, the overbearing and overlooking impact on flat 2 and the rear garden area and that insufficient information had been submitted in respect of noise impact. With this current proposal it is now acceptable in respect of the amenity of future occupiers and therefore compliant with Policy CS19 (LPCS). Grounds of refusal no. 2 (occupier amenity) and no. 4 (noise impact) of previous application ref. 20240549 have therefore both been resolved.

### Neighbouring Amenity

This matter concerned ground of refusal no. 1 of previous application ref. 20240549.

An in-depth assessment of the impact on neighbouring amenity was carried out in the delegated report for application ref. 20240549, the issues these were:

- overshadowing of habitable windows serving 1-15 and 16-47 Marriotts Wharf.
- direct overlooking of the south elevation of 16-47 Marriotts Wharf.
- the development would result in overbearing bulk, severely limiting the allowance of light to south facing windows of 16-47 Marriotts Wharf.

In this application, the overall height of the proposed development has been reduced in height by 1.4m. The existing overall height of the building in terms of existing, refused and proposed is 7.6m, 10.4m and 9m respectively. A Daylight and Sunlight Report has been submitted.

The photos which the agent submitted with the previous application show the neighbouring buildings at the rear.

**Photo 1: shows a partial view of the rear elevation of the application building and also shows part of the rear of 1-15 Marriotts Wharf:**



**Photo 2: shows the view west from the rear yard of the application site showing 1-15 Marriot's Wharf and a partial view of 16 - 47 Marriot's Wharf:**

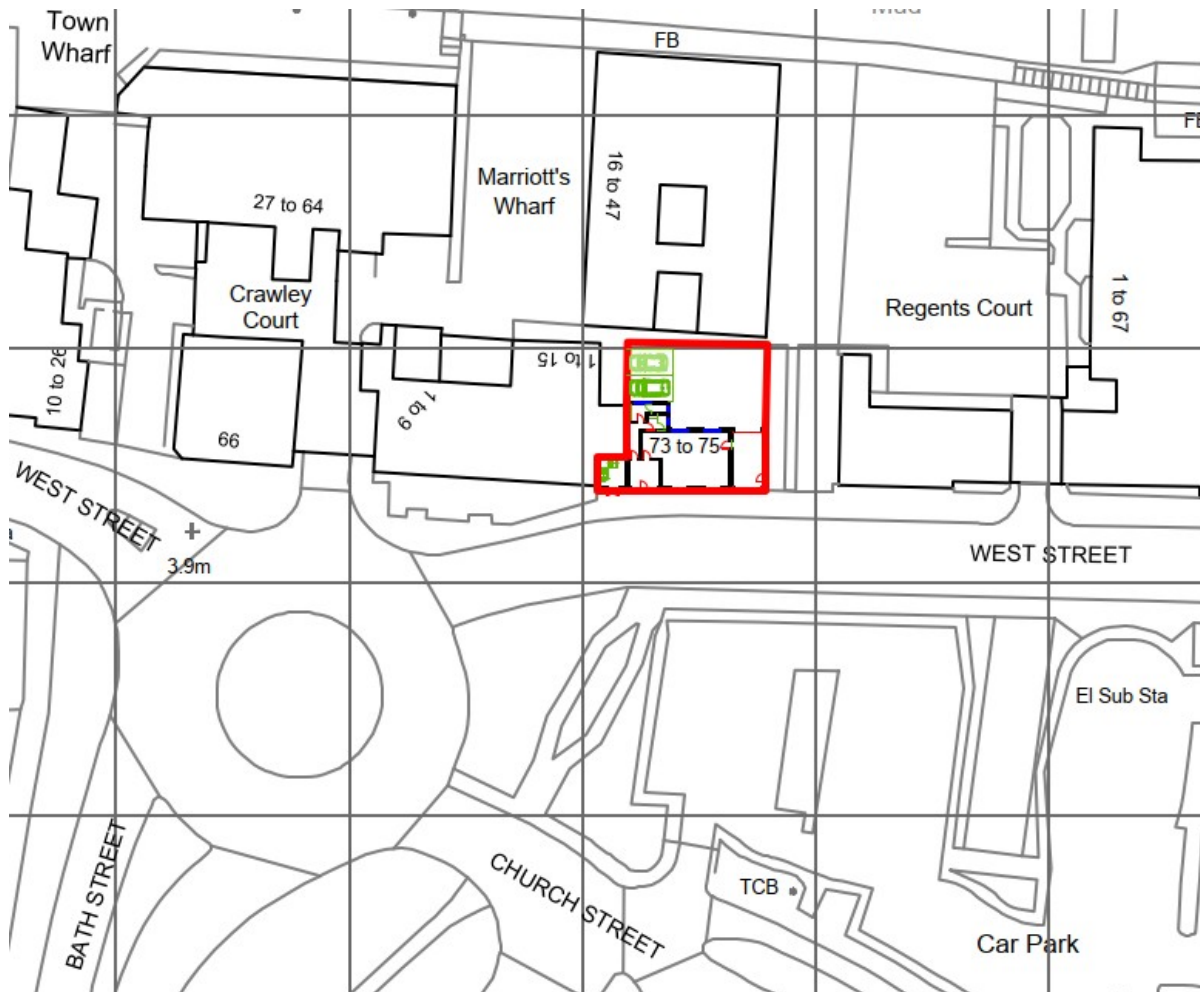




**Photo 3: shows a full view of the rear elevation of the application site and a partial view of 1-15 Marriot's Wharf:**



The below map shows the neighbouring buildings surrounding the application site:



As can be seen there is nos. 1 to 15 Marriott's Wharf to the west, nos. 16 to 47 Marriott's Wharf to the north and Regents Court to the east.

Nos. 1-15 Marriott's Wharf is a building three storeys in height (including roof accommodation). The application building is attached to nos. 1-15 Marriott's Wharf and a brick wall boundary wall divides the two sites to the rear. The rear elevation of this neighbouring property is 6.25m deeper than the application site building.

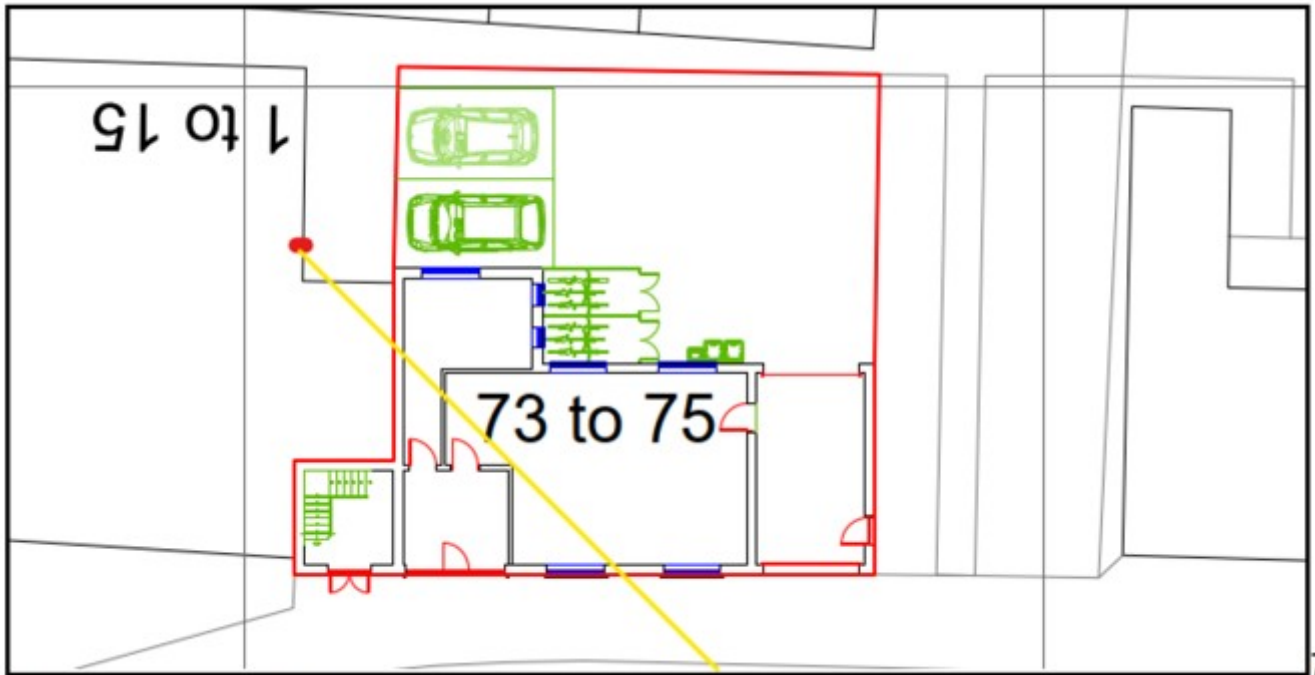
Nos. 16-47 Marriott's Wharf is a building of five storeys in height plus rooms in the roof space and undercroft parking. The approved plans show that in the south elevation of nos. 16-47 Marriott's Wharf there are windows serving kitchen and living spaces which would face the proposed development. The application building has a 'stepped' rear elevation and as a result, the distance between these buildings is 7.7m to 10.3m.

A Daylight, Sunlight, and Overshadowing Assessment for Surrounding Properties and Proposed Development by EEABS has been submitted with this application. This does not actually relate to the proposal in this application as the proposal which the assessment has been carried out against is the one that was refused in application ref. 20240549.

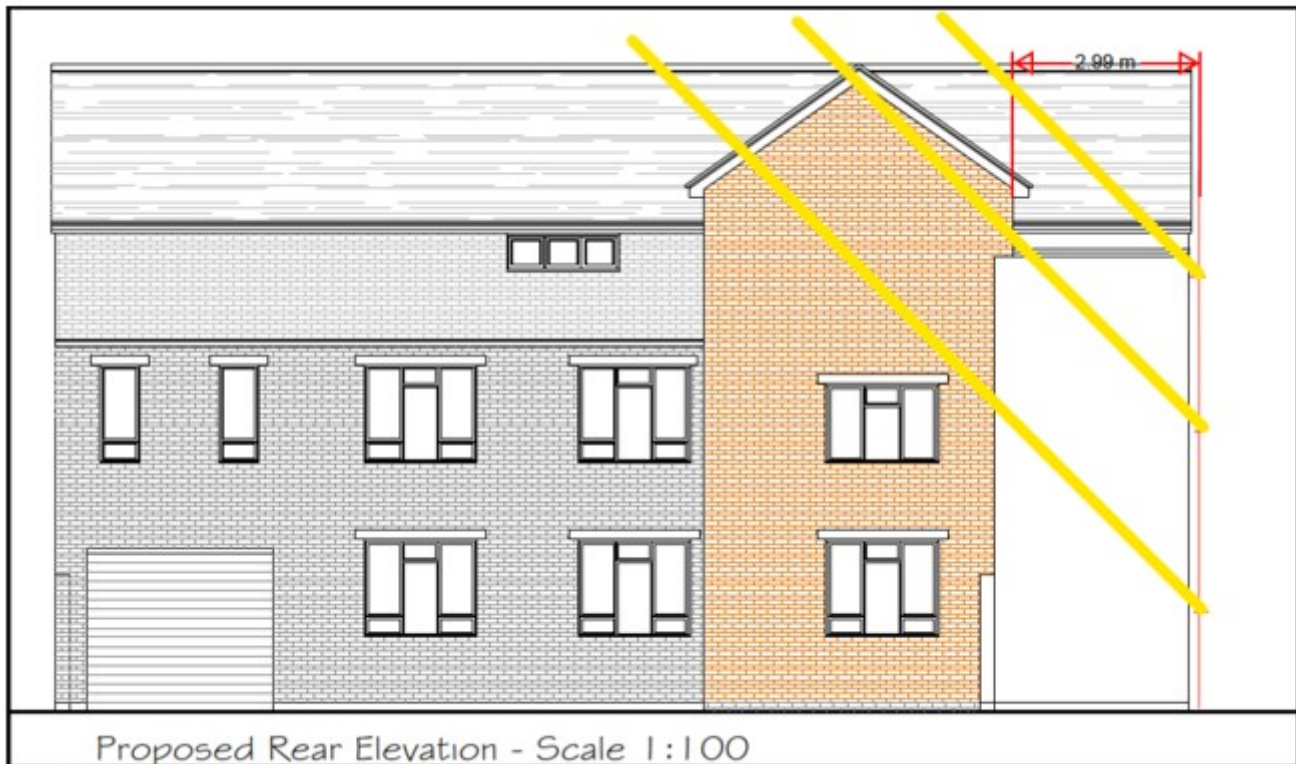
In previous application ref. 20240549, there were 25 and 45 degree tests carried out to assess the impact on nos. 1-15 Marriott's Wharf and nos. 16-47 Marriott's Wharf. It was considered that the tests showed that the first and second floor windows of 1-15 Marriott's Wharf would likely be overshadowed as a result of the increased new second storey. It was deemed that the ground floor windows would likely already be overshadowed by the existing building.



Nos. 1-15 Marriotts Wharf

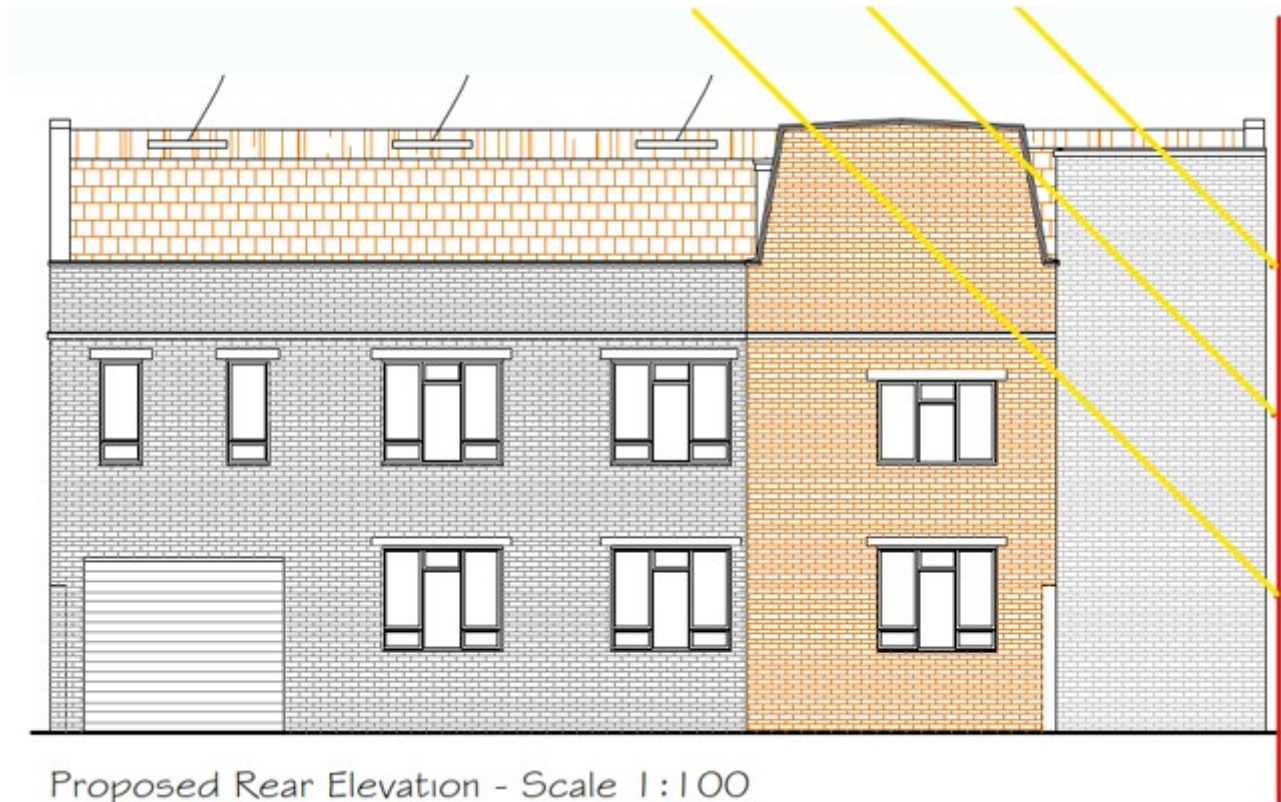


45 degree test (building to the west)



45 degree test (building to the west)

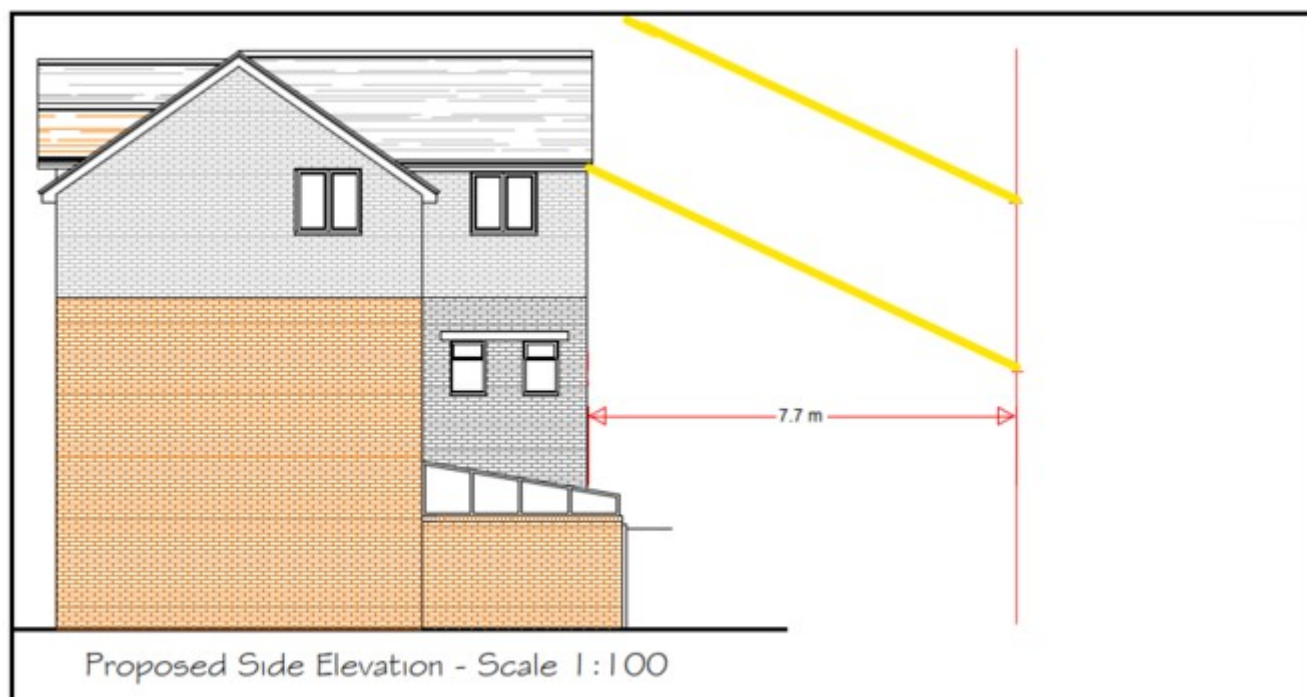
In this current application, the 45 degree test has been carried out on both plan and elevation and the results are as follows:



This shows that the first and second floor windows of 1-15 Marriotts Wharf would likely be overshadowed as a result of the increased new second storey.

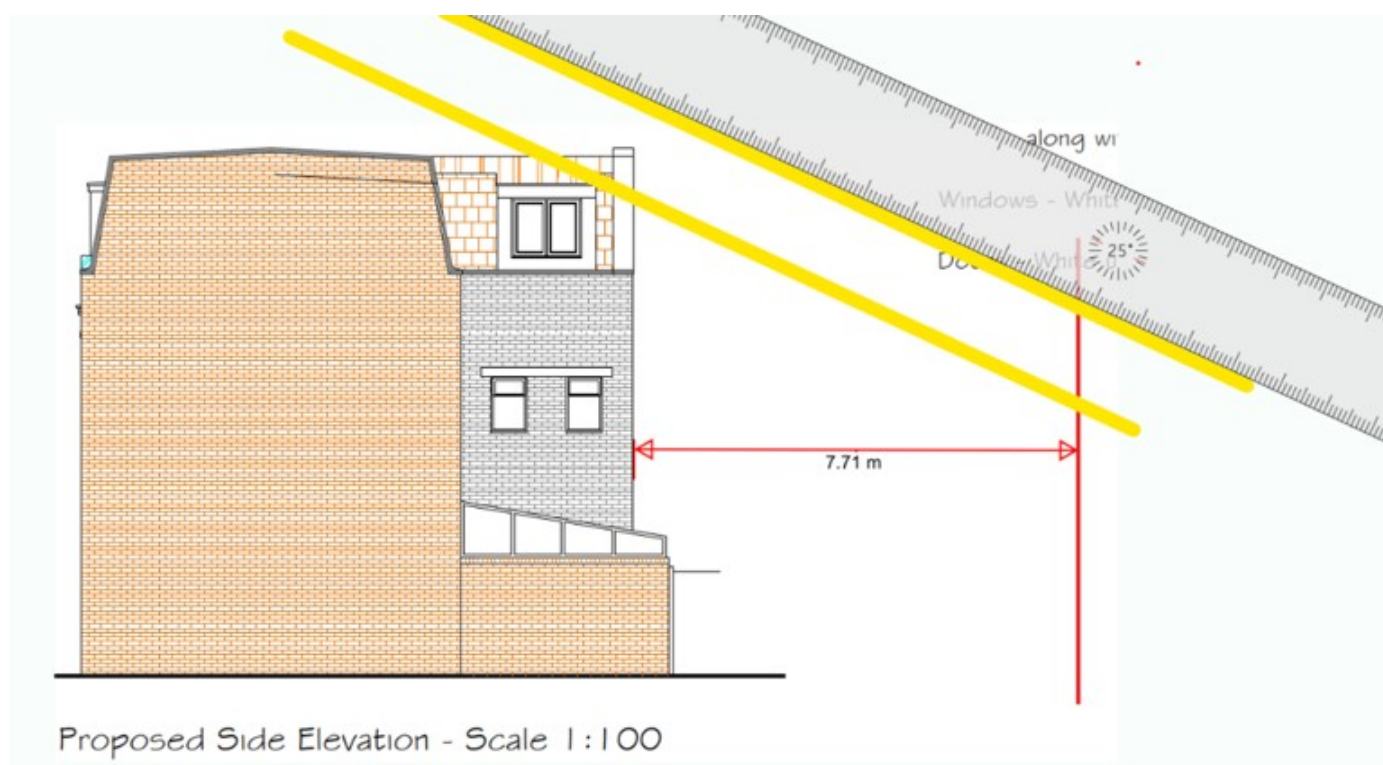
16-47 Marriotts Wharf

The 25-degree test was carried out in previous application ref. 20240549 and it showed that the first and second floor windows in the south elevation of nos. 16 to 47 Marriott's Wharf would have been overshadowed by the second-floor addition. The 25 degree test which was carried out in application ref. 20240549 was as follows:



25 Degree test (rear building)

The 25 degree test has been carried out for this new proposal, subject of this application and the results are as follows:



As can be seen, the first floor windows in the south elevation of 16 to 47 Marriott's Wharf would still be

overshadowed by the second-floor addition but the second-floor windows would not.

However, the findings of the Daylight, Sunlight, and Overshadowing Assessment for Surrounding Properties and Proposed Development must also be considered.

The report states that a daylight, sunlight and overshadowing assessment was carried out in the form of Vertical Sky Component (VSC), Annual and Winter Probable Sunlight Hours and an Overshadowing Assessment. This was in relation to the windows in both the east elevation of nos. 1-15 Marriotts Wharf and the windows in the south elevation of nos. 16-47 Marriotts Wharf.

The findings of the Daylight, Sunlight, and Overshadowing Assessment for Surrounding Properties and Proposed Development were:

- VSC – found that the nearby surrounding windows would all only receive a negligible impact because their VSC values under the proposed scheme are either greater than 27% or greater than 0.80 times their former values, satisfying the BRE Guidelines in regard to daylight.
- Annual and Winter Probable Sunlight Hours – found that the surrounding windows would either still be receive at least 25% annual and 5% winter sunlight hours under the proposed scheme, their values under the proposed scheme would be within 0.80 times their former values, or their reduction in sunlight received over the whole year would not be greater than 4%. The overall impact on these windows would therefore be negligible and the BRE Guidelines regarding sunlight would be satisfied.
- Overshadowing – found that there were no external garden amenity areas, that needed to be assessed for overshadowing.

The report therefore concludes that for these reasons the proposed development should be considered as acceptable overall in regard to its neighbourly impact on daylight, sunlight, and overshadowing in relation to the windows in both the east elevation of nos. 1-15 Marriotts Wharf and the windows in the south elevation of nos. 16-47 Marriotts Wharf.

As stated, the proposed scheme used in the report is the refused one not the current one, which is unfortunate. However, the refused scheme had an overall height of the building of 10.3m and in the proposed scheme the overall height of the building with the new second floor storey and roof would be 9.1m, albeit there would be a mansard roof design instead of the pitched roof design in the refused scheme. Overall, however, with the proposal being of less height it is considered that the findings of the report can be used as an indicative view that the proposed new second storey would not cause any material harm in relation to actual sunlight and daylight to the properties at nos. 1-15 Marriotts Wharf and nos. 16-47 Marriotts Wharf. The tests carried out in terms of sunlight and daylight are much more detailed than the 25 and 45 degree tests carried out here and so the findings of the report are considered hold great weight.

Therefore the matter of 'overshadowing of habitable windows serving 1-15 and 16-47 Marriotts Wharf' is therefore considered to have been resolved.

In previous application ref. 20240549 there was an issue that the proposed window in the north elevation to serve the hallway of flat 2 would have overlooked the habitable windows in the south elevation of nos. 16-47 Marriotts Wharf as the distance between them would be 10.3m which would not achieve the minimum privacy distance required of 21m as set out in SPG2 (2020). This window is now not proposed and so there would be no overlooking of the windows in nos. 16-47 Marriotts Wharf now; therefore, the matter of 'direct overlooking of the south elevation of 16-47 Marriotts Wharf' is therefore considered to have been resolved.

The last issue from the previous application and pre-application in respect of neighbouring amenity is that of the new second storey being overbearing and unneighbourly to nos. 16-47.



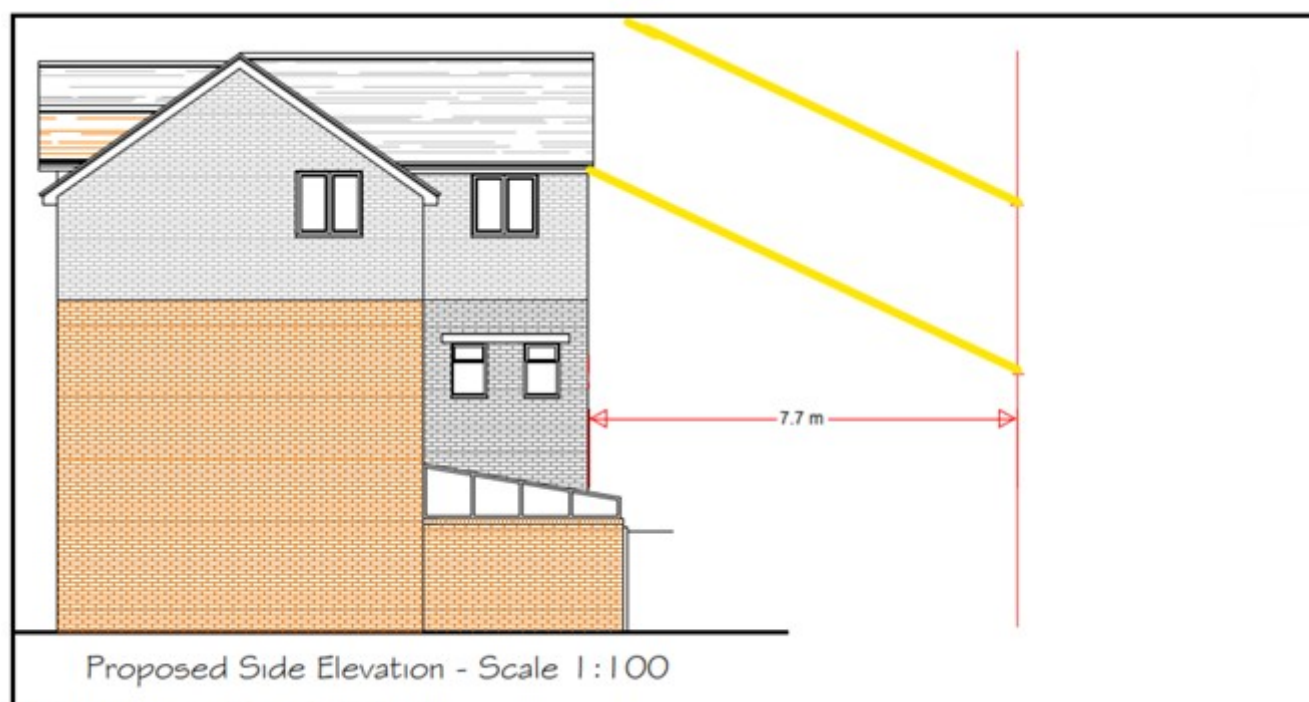
In application ref. 20250549 it was stated:

“It is also noted that the proposal would result in increased height, at close proximity to these south facing habitable windows. The distance would be between of 7.7m-10.3m. Whilst this will have impacts in terms of overshadowing, it would also result in significant harm to the amenity of these residential properties as a result of the scale and proximity of the development, leading to overbearing bulk which would be an unneighbourly form of development.”

In the pre-application response, it was stated that this remained a concern that the proposal would have an overbearing impact on the windows in the south elevation of nos. 16-47 Marriotts Wharf and this concern would need to be addressed in any future planning application.

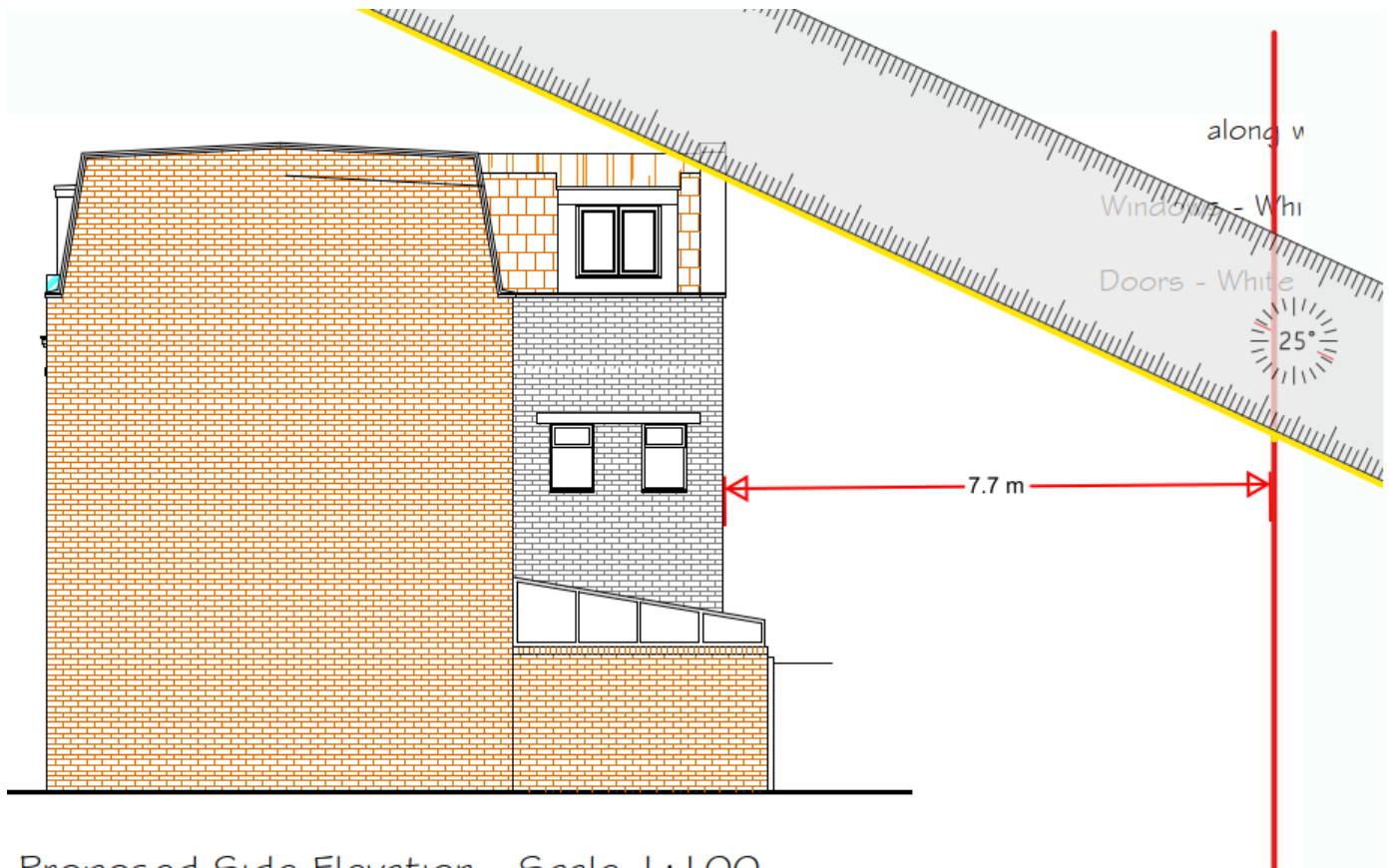
It can be seen from the 25 degree test carried out on nos. 16-47 Marriotts Wharf in application ref. 20240549 that the proposed new storey obstructed the 25 degree line from the first floor level windows of nos. 16-47 Marriotts Wharf.

The 25 degree test in application ref. 20240549 is shown below:



**25 Degree test (rear building)**

The 25 degree test has been carried out again for the current proposal (from the lowest level of residential accommodation at first floor level as the ground floor is undercroft parking) and this is as follows:



*Proposed Side Elevation - Scale 1:100*

This shows that the current proposal for the new second storey would still obstruct the 25 degree line from the first floor level windows of nos. 16-47 Marriotts Wharf. It is therefore considered that although the proposal would not impact with regards overshadowing or loss of light (as discussed above with the findings of the submitted Daylight, Sunlight, and Overshadowing Assessment), due to its height and close proximity to the south elevation of nos. 16-47 Marriotts Wharf it would still be overbearing on the habitable kitchen and living space windows in the south elevation of nos. 16-47 Marriotts Wharf and would generally be an unneighbourly form of development. The application building when the Marriotts Wharf development was permitted was a ships chandler and was two storeys which the building still is. The five storey 16-47 Marriotts Wharf was therefore permitted with that this two storey commercial building there but this proposal would be adding a new storey and introducing new residential development which would be overbearing to nos. 16-47 Marriotts Wharf and generally would be an unneighbourly form of development to it.

In summary, in respect of neighbouring amenity the proposal has addressed the matters of overshadowing of habitable windows serving 1-15 and 16-47 Marriotts Wharf and overlooking of the south elevation of 16-47 Marriotts Wharf. However, it is still considered that the development would be overbearing on the habitable windows in the south elevation of nos. 16-47 Marriotts Wharf and would generally be an unneighbourly form of development on 16-47 Marriotts Wharf and so this issue has not been resolved. This current proposal is therefore still not acceptable in respect of neighbouring amenity and would not be compliant with Policy CS19 (LPCS). Ground of refusal no. 1 of previous application ref. 20240549 has therefore not been resolved.

### Ecology and Biodiversity

This matter related to grounds of refusal nos. 3 (SAMMS) & 5 (Ecology).

### *Biodiversity Net Gain*

Under the Environment Act 2021 and supporting Statutory Instruments Biodiversity Net Gain (BNG) is now mandatory for most development. The legislation requires a minimum 10% gain in biodiversity from

applicable development either onsite, offsite or a combination of both.

BNG provided under the mandatory requirements offsite and significant BNG onsite must be secured by a legal agreement for 30 years under an approved Habitat Management and Monitoring Plan (HMMP)

There are strict legal requirements in terms of what an application must contain in relation to BNG before it can be accepted as valid. This is set out in Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990 and requires the completed metric calculation tool showing the calculations of the pre-development biodiversity value of the onsite habitat on the date of application and other information.

However, certain applications are exempt from the BNG regulations (the Biodiversity Gain Requirements Exemptions) Regulations 2024) including householder applications and include:

- Householder development as defined within article 2(1) of the Town and Country Planning Development Management Procedure) (England) Order 2015.
- Development granted planning permission by a development order under section 59. This includes permitted development rights.
- Development subject to the de minimis exemption - development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of habitat, or 5 metres of linear habitats such as hedgerows.
- Self-build and custom build development - development which:
  - consists of no more than 9 dwellings, and
  - is carried out on a site which has an area no larger than 0.5 hectares, and
  - consists exclusively of dwellings which are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015

In this instance, the application form indicates that the application is subject to the de minimis exemption, as in application ref. 20240549, and therefore exempt from the requirement for 10% Biodiversity Net Gain. As such no Biodiversity information has been submitted with the application, nor a completed BNG Metric. As in application ref. 20240549 this matter is considered acceptable.

### *Ecological Impact*

\*This was one of the issues in respect of ecology and biodiversity.

In previous application ref. 20240549 no assessment could be made on this matter as no documents had been provided such as an Ecological Impact Assessment or a Bat Survey.

In this current application a Bat Scoping Survey- Preliminary Roost Appraisal has been submitted. This found that no bats or signs of bats were found during the internal/external inspection of the building. It states that the building has tight corrugated fibre cement roofing sheets with insulation panels below (with metal strips) and it is a tight flat felted roof to the back. It concluded there were no Potential Roosting Features and thus the building is judged as offering no suitability for roosting bats.

KCC Biodiversity have been consulted on the application and they advise that sufficient information has been submitted and that they are satisfied with the results of the preliminary ecological appraisal and no further surveys are required.

They do advise that the presence of breeding birds cannot be ruled out and that a breeding bird informative should be attached if permission is forthcoming.

As such, given the submission of the Bat Scoping Survey- Preliminary Roost Appraisal, that no bats were found, the building is judged to offer no suitability for roosting bats, and that KCC Biodiversity are satisfied

with this this, it is considered that the matter of ecological impact has been resolved.

Thames Estuary and Marshes Special Protection Area (SPA)

\*This was one of the issues in respect of ecology and biodiversity.

The application site falls within 6km of the Thames Estuary and Marshes Special Protection Area (SPA) classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and/or vulnerable in a European context, and also sites that form a critically important network for birds on migration. It is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity. Research conducted in 2011 found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within 6 km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European Sites.

The Borough Council has mitigated out the impacts of this on each and every planning application for a new residential development of one or more units within the 6km zone since September 2015 by accepting a Strategic Access Mitigation and Monitoring Strategy (SAMMS) (tariff) payment (currently £314.05 per dwelling). This approach is approved by Natural England for all new residential developments.

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

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

However a more recent Court of Justice European Union (CJEU) ruling means that this approach is now no longer valid and although the mitigation measures (in the form of a tariff payment) will still need to be made the first stage will be a screening assessment as to whether the development either alone or in combination, is likely to have significant effects on a designated site without mitigation. The CJEU sees a distinction between “the plan or project” itself and “measures intended to avoid or reduce the harmful effects of a plan or project on a European site”. This means that mitigation measures, which are intended to avoid or reduce effects, should be assessed within the framework of an AA and cannot be taken into account at the screening stage.

This proposal would result in the net addition of 2 units and the applicant has not paid the required tariff (£350.16 x 2 = £700.32). The Local Planning Authority cannot therefore be satisfied that the proposal has put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site.

In summary therefore, the proposal in respect of ecology and biodiversity is contrary to Policies CS12 & CS19 (LPCS) and paragraphs 193 and 194 of the NPPF (2024).

It is therefore considered that the proposal would continue to be acceptable in respect of BNG as it is not applicable. It would now be acceptable in respect of ecological information as sufficient information has been submitted and it has been found there are no bats or potential for any bat roosting; an informative for breeding birds is just required if permission is to be forthcoming. It is therefore considered that ground of refusal no. 5 (Ecological Impact) of previous application ref. 20240549 has therefore not been resolved.

However, the proposal is still unacceptable in respect of SAMMS as the tariff has not been paid and therefore the Local Planning Authority cannot therefore be satisfied that the proposal would put in place

adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site. As such the proposal is contrary to Policies CS12 & CS19 (LPCS) and paragraphs 193 and 194 of the NPPF (2024). Ground of refusal no. 3 (SAMMS) of previous application ref. 20240549 has therefore not been resolved.

### Parking and Highways

This matter was acceptable in previous application ref. 20240549. In the delegated report for previous application ref. 20240549 it was stated:

“The proposed development does not provide any car parking facilities or cycle facilities. The site is in a highly sustainable location, in the Town Centre and so provision of vehicle parking spaces would not be necessary in this instance. This is further justified given close proximity to the train station, with high-speed services to London. It is also close to the newly refurbished transport hub. Although vehicle parking provision would not be necessary, cycle parking provision for 2 additional rooms, would be required. The position of this is shown on the plans. Further details could be provided by condition.

Subject to conditions, adequate vehicle and cycle parking provision would be available in accordance with paragraphs 114 to 117 of the National Planning Policy Framework (2023), Saved Policies T1 and P3 of the Local Plan First Review (1994) and Policies CS11 and CS19 of the Core Strategy 2014 subject to further details of cycle parking provision.”

In this current application there are now two parking spaces and 6 cycle spaces in two stores. There is a vehicular access through to the rear on the front of the building which is to be retained under the proposals. As such, with two parking spaces and 6 cycle spaces the proposal provides sufficient off-street vehicle and cycle storage and in any case the site is in the town centre with excellent public transport links. Subject to conditions for the surfacing etc. of the parking spaces and design of the cycle parking it is considered that as before the proposal is acceptable in respect of parking and highways and the proposal is compliant with saved Policy P3 (LPCS).

### Refuse

This matter was acceptable in previous application ref. 20240549. In the delegated report for previous application ref. 20240549 it was stated:

“The position of the bin storage is shown on the plans. Therefore, if approved, details relating to the final position, number of bins, size and appearance of the bin storage would be reserved by condition”.

Again, this is the case as bins are shown on the proposed block plan and if permission is forthcoming then a condition would be required to request details of the position, number of bins, size and appearance of the bin storage.

Subject to this condition, the proposal is considered to be acceptable on respect of refuse and therefore compliant with Policy CS19 (LPCS).

### Any Other Material Planning Considerations

None.

### **Conclusion**

The proposal as before in application ref. 20240549 would be acceptable in respect of principle of development, parking and highways and refuse.

In respect of the previous grounds of refusal:

Ground of refusal no. 1 (Neighbouring Amenity) – Not resolved

Although the proposal has addressed the matters of overshadowing of habitable windows serving 1-15 and 16-47 Marriotts Wharf and overlooking of the south elevation of 16-47 Marriotts Wharf, it is considered that the development would still be overbearing on the habitable windows in the south elevation of nos. 16-47 Marriotts Wharf and would generally be an unneighbourly form of development on 16-47 Marriotts Wharf and so this issue has not been resolved. This current proposal is therefore still not acceptable in respect of neighbouring amenity and ground of refusal no. 1 of previous application ref. 20240549 has not been resolved.

Grounds of refusal no. 2 (Occupier Amenity) & no. 4 (Noise Impact for occupiers) – Resolved

The proposal would now be acceptable in respect of occupier amenity and noise impact for occupiers and grounds of refusal no. 2 (occupier amenity) and no. 4 (noise impact) of previous application ref. 20240549 have therefore both been resolved.

Ground of refusal no. 3 (SAMMS) – Not resolved

The proposal would still be unacceptable in respect of SAMMS as the tariff has not been paid and therefore the Local Planning Authority cannot therefore be satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site. Ground of refusal no. 3 of previous application ref. 20240549 has therefore not been resolved.

Ground of refusal no. 5 (Ecological Impact) – Resolved

The proposal would now be acceptable in respect of ecological impact and ground of refusal no. 5 of previous application ref. 20240549 has therefore been resolved.

Therefore, the matters of occupier amenity and ecological impact have been resolved but the matters of neighbouring amenity and SAMMS have not.

The proposal is also considered to now be unacceptable in terms of a new issue, that of design, character and appearance which was not a ground of refusal in previous application ref. 20240549.

The proposal would provide a net increase of 2 residential units on the site, but this is not considered to outweigh the harm that would be caused from the development.

In summary, therefore the proposal would be acceptable in respect of principle of development, parking and highways, refuse, occupier amenity including noise impact and ecological impact and grounds of refusal nos. 2, 4 and 5 of application ref. 20250549 have been resolved. However, it would not be acceptable in respect of design, character and appearance, neighbouring amenity and SAMMS and grounds of refusal nos. 1 and 3 of application ref. 20250549 have therefore not been resolved. As such the proposal is contrary to local and national planning policy.

**Recommendation**

Refusal

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

|                      |                         |                     |                |
|----------------------|-------------------------|---------------------|----------------|
| <b>Case Officer:</b> | Ms Rebecca Harrison     | <b>Team Leader:</b> | Mrs Faye Walsh |
| <b>Signed:</b>       | <i>Rebecca Harrison</i> | <b>Signed:</b>      | <i>F Walsh</i> |
| <b>Dated:</b>        | 21st May 2026           | <b>Dated:</b>       | 21 May 2026    |