

Delegated Report

Planning Application

Planning Application No: 20240978

Location: St James House 6 - 8 Overcliffe Gravesend Kent

Description: Change of use from office building (E Class) to 13x one bedroom self-contained flats with associated landscaping, boundary treatments, 13 x car parking spaces and refuse and cycle stores.

Applicant: Mr Q Javed, Tower Group Developments Ltd

Site Visit Date: 23 January 2024

Submitted Documents/Plans

- Application form;
- Drawing no. 0200 Rev. P01 – Landscape Plan;
- Drawing no. PL-01/6-8OC/SD101 – Existing Elevations;
- Drawing no. PL-01/6-8OC/SD102 – Proposed Plans;
- Drawing no. PL-01/6-8OC/SD100 – Existing Plans;
- Drawing no. PL-01/6-8OC/SD103 – Proposed Elevations;
- Drawing no. PL-01/6-8OC/SD104 – Existing and Proposed Parking/Garden Plan;
- OS Plan;
- Transport Statement Note; and
- Planning Statement.

Relevant Planning History

Reference	Description	Decision	Decision Date
19800705	Use of premises as offices and formation of car park at rear.	Permitted	30.10.1980
19800462	Use of former teachers centre as intermediate treatment centre.	No objection.	01.08.1980

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS07 – Economy, Employment and Skills
- CS11 - Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS16 – Affordable Housing
- CS18 – Climate Change

- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

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

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.

Other material considerations

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

National Planning Policy Framework (2024)

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision-making
- Section 5 – Delivering a sufficient supply of homes
- Section 8 – Promoting healthy and safe communities
- Section 12 – Achieving Well-Designed Places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

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)
- Gravesham Householder Extensions/Alterations Design Guide (2021)
- Design for Gravesham – Design Code (2024)
- Overcliffe Conservation Area Character Appraisal (2009)
- Management Plan Northfleet Conservation Areas (2009)

Other

- KCC Developer Contributions Guide (2023)

Consultations, Publicity and Representations

Consultees

GBC Environmental Protection

There is no objection to this application. The site is close to the boundary of the A226 AQMA. The

submitted transport statement has been reviewed and the level of traffic from the development is unlikely to have any impact on the AQMA and is below the threshold requiring an air quality assessment

The following to be considered:

Code of Practice on Construction and Demolition

Please apply as appropriate to minimise the impact of the demolition and conversion works.

Lighting

Artificial lighting can cause a statutory nuisance under the Environmental Protection Act 1990. It is important that the applicants are not permitted to install external lighting that illuminate anything other than the ground within the curtilage of the new properties in order to assist in preventing a nuisance from occurring (which would be most likely if the bedrooms on neighbouring properties are illuminated).

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 Waste

I have reviewed this planning application and I am happy with the location of the bin store.

The development will require the following number of bins;

- **Refuse** - 2 x 1100ltr bins
- **Recycling** - 2 x 1100ltr bins
- **Food Waste** - 1 x 140ltr bin and an individual 5ltr caddy per flat

Gravesham Borough Council operates a fortnightly collection of refuse and recycling and a weekly collection of food waste.

Developers are required to pay for the provision of all bins required for a development, quotes for bins can be obtained by emailing waste.management@gravesham.gov.uk.

Collections from sites will not occur until containers are in place.

It is the responsibility of the developer to collect and remove any waste at their cost until the Council is satisfied that all waste requirements have been met. ***All complaints in regard to non-collection due to the fault of the developer will be passed onto to the developer for response.***

The Council should be informed at least two weeks prior to the waste collections by the council commencing so that collections can be scheduled.

KCC Highways

The application proposes the change of use from office building to 13 x 1 bedroom flats with 13 car parking spaces and 13 cycle parking spaces for the residents and 4 visitor cycle parking spaces. There are 2 existing accesses that serve the site from Overcliffe and these will continue to be used for the new development. It is recommended 2 visitor parking spaces are marked out on the front court yard to ensure parking is controlled at the front of the building.

The access to the parking area is gated and to prevent congestion on the site it is recommended a one way system be implemented with the eastern access being used to enter and the western access to exit. This would allow vehicle to wait off the highway to enter the parking area and for delivery vehicles to enter and park on the forecourt.

The submitted plans demonstrate a bin store will be located close to the eastern access which could impeded the accessibility. Tracking should be provided for a large van entering the site or the bin store relocated.

Electric vehicle charging facilities should be provided, if the parking provision is unallocated, a minimum provision of 10% of the parking spaces shall be provided and retained with active EV charging points plus a minimum of a further 10% of the parking spaces should be provided with passive (ducting / cabling only) provision.

Kent Police

1. Perimeter, boundary and divisional treatments must be a minimum of 1.8m high. Any alleyways to have secure side gates, which are lockable from both sides, located flush to the front building line.
2. Parking - To help address vehicle crime, security should be provided for Motorbikes, Mopeds, Electric bikes and similar. SBD or sold secure ground or wall anchors can help provide this. We advise against the use of parking courts as they can create an opportunity for crime. Where unavoidable, the areas must be covered by natural surveillance from an "active" window e.g. lounge or kitchen and sufficient lighting – the same recommendations apply to on plot parking bays. In addition, we request appropriate signage for visitor bays to avoid conflict and misuse. If car ports are unavoidable, we recommend they be lit and painted in a light colour to optimize surveillance opportunities. For car parks, we recommend the Safer Parking Scheme, which follows CPTED guidance from both the police and the British Parking Association.
3. New trees should help protect and enhance security without reducing the opportunity for surveillance or the effectiveness of lighting. Tall slender trees with a crown of above 2m rather than low crowned species are more suitable than "round shaped" trees with a low crown. New trees should not be planted within parking areas or too close to street lighting. Any hedges should be no higher than 1m, so that they do not obscure vulnerable areas.
4. Lighting - Please note, whilst we are not qualified lighting engineers, any lighting plan should be approved by a professional lighting engineer (e.g. a Member of the ILP), particularly where a lighting condition is imposed, to help avoid conflict and light pollution. Bollard lighting should be avoided, SBD Homes 2019 states: "18.3 Bollard lighting is purely for wayfinding and can be easily obscured. It does not project sufficient light at the right height making it difficult to recognise facial features and as a result causes an increase in the fear of crime. It should be avoided." Lighting of all roads including main, side roads, cul de sacs and car parking areas should be to BS5489-1:2020 in accordance with SBD and the British Parking Association (BPA) Park Mark Safer Parking Scheme specifications and standards.
5. All external doorsets (a doorset is the door, fabrication, hinges, frame, installation and locks) including folding, sliding or patio doors and individual flat entrance doors to meet PAS 24: 2022 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+. Please note PAS 24 is a minimum-security standard, and communal doors may require a higher standard, such as STS or LPS.
6. Windows on the ground floor or potentially vulnerable e.g. from flat roofs or balconies to meet PAS 24: 2022 UKAS certified standard, STS 204 Issue 6:2016, LPS 1175 Issue 8:2018 Security Rating 1/A1, STS 202 Issue 7:2016 Burglary Rating 1 or LPS 2081 Issue 1.1:2016 Security Rating

- A. Glazing to be laminated. Toughened glass alone is not suitable for security purposes.
7. For cycle storage, we advise on the use of ground/ wall SBD or sold secure anchors within a lockable shed or storage area. Bin storage must also be secure with access control.
8. Mail delivery to meet SBD TS009 are strongly recommended for buildings with multiple occupants along with a freestanding post box of SBD/Sold Secure approved Gold standard. If mail is to be delivered within the lobby, there must be an access-controlled door leading from the lobby to the apartments/ stairs on the ground floor to prevent access to all areas.
9. CCTV is advised for all communal entry points and to cover the mail delivery area.
10. Bedroom windows on the ground floor require a defensive treatment to deflect loitering, especially second bedrooms often used by children.
11. We recommend "A GUIDE FOR SELECTING FLAT ENTRANCE DOORSETS 2019" for buildings featuring multiple units, any covered access must deflect loitering that can stop residents and their visitors from using it without fearing crime. Entrance doors must be lit and designed to provide no hiding place.
12. For the main communal doors audio/visual door entry systems are required. We strongly advise against trade buttons and timed-release mechanisms, as they permit unlawful access and have previously resulted in issues with Crime and ASB.

Neighbouring properties

30 surrounding properties were consulted plus press and site notices – overall consultation expiry date was 4 February 2025 – no comments received.

Officer's Analysis

Procedural Note

The agent submitted amended plans in response to the comments by Kent Highways which are available on Public Access however, these plans were not requested by the Local Planning Authority and have not been accepted due to the late stage they were submitted and that re-consultation with Kent Highways would be required on the plans.

The application site consists of a three storey building plus basement, which is situated on the southern side of the Overcliffe. The site is located in the Overcliffe Conservation Area, in an Area of Archaeological Potential, in the Thames Estuary And Marshes Ramsar Buffer Zone and in a Historic Landfill Site Buffer Zone.

The principal considerations in the assessment of this application are:

- Housing Need
- Principle of Development/Loss of office use
- Design & Heritage
- Future Occupiers;
- Neighbouring Amenity;
- Parking and Highway Safety;
- Impact on Ecology/Biodiversity;
- Planning Obligations

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 March 2023, it demonstrates that based on data up for the period 2022-2027, the Council can only demonstrate a land supply of 2.9 years.

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

1. 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
2. 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 '13' residential units would offer a minimum 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/Loss of office use

The site is within the urban boundary of Gravesend which is covered by Policy CS02 (LPCS) which prioritises development in the urban area.

The existing use of the building is offices as stated on the application form, existing floor plans and Planning Statement. On the application form it is stated that the use ended on 04/08/2024 and the site is currently vacant.

Although vacant the lawful use of the building is offices (Class E) (previously Class B1(a)).

Policy CS07 (LPCS) states:

Development resulting in the loss of B class employment floorspace will not be supported unless otherwise allowed for by policies set out in the Core Strategy or where:

- *the proposal will deliver at least an equivalent number of new jobs on- site or elsewhere within the Borough and the proposed use is consistent with other policies set out in this plan; or*
- *the existing premises are no longer suited for employment purposes or are incapable of being made suitable at reasonable cost and it has been shown that there is no demand for them through an appropriate marketing exercise carried out in accordance with Council guidance (Appendix 5);*
- *the existing premises have an unacceptable environmental impact on the area within which they are situated and this is incapable of reasonable mitigation or the environmental benefit that would arise from the existing use stopping would outweigh the potential loss in employment.*

In respect of the above criteria of Policy CS07 (LPCS) the following assessment is made.

With regards the first criteria, the proposal would not deliver at least an equivalent number of new jobs on site or elsewhere within the Borough.

With regards the second criteria, the applicant has not submitted any marketing exercise in accordance with Appendix 5 (LPCS) (Marketing Requirements in relation to loss of existing B Class employment premises, sites or commercial wharves) to demonstrate that the existing premises are no longer suited for employment purposes or are incapable of being made suitable at reasonable cost and that there is no demand for them. Without this information it has to be concluded that at this stage the principle of residential development is not acceptable in this location due to the loss of the Class E office use (previously Use Class B1(a)).

With regards the third criteria it cannot be said that the existing premises has an unacceptable environmental impact on the area.

The proposal would result in the loss of Class E office use (previously Use Class B1(a)) and the applicant has failed to undertake a marketing exercise in accordance with Appendix 5 (Marketing Requirements in relation to loss of existing B Class employment premises, sites or commercial wharves) (LPCS). Therefore, without this information the principle of the loss of the Class E office use of the site cannot be justified. The development is therefore contrary to Policy CS07 (LPCS).

Design & Heritage

The application building is situated in the Overcliffe Conservation Area. The changes proposed are:

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- Windows - Replacement windows to two in the front and five in the rear in the form of timber sliding sash windows and installation of a new window in each of the two storey side elements;
 - Front garden - Railings on top of existing front boundary wall, bin store, four visitor Sheffield cycle stands and landscaping;
 - Rear – Landscaping, thirteen parking spaces, new boundary treatments.
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There are a number of windows in the front of the building all of which are uPVC casements. The proposal to replace just two of the windows with timber sliding sash windows is welcome, although it would be

preferable to have all of the existing uPVC casements in the front replaced with timber sliding sashes. However, subject to details (which could be conditioned if permission were forthcoming) the proposal to replace two windows in the front (and five in the rear elevation) is acceptable.

The proposal to add railings to the front boundary wall is considered acceptable, again subject to detail which could be conditioned were permission forthcoming.

The soft landscaping to the front of the building would be an enhancement to the Conservation Area given that the existing situation is that it is all hard paved.

Cycle storage and boundary treatments would be acceptable subject to details which again could be conditioned were permission forthcoming.

Overall, therefore it is considered the proposal would be an enhancement to the Overcliffe Conservation Area and in respect of this matter the proposal is compliant with Policy CS20 (LPCS) and saved Policy TC3 (LPFR).

Future occupiers

Nine of the units would be 1 bed, 1 person and four would be 1 bed, 2 person units.

The Nationally Described Space Standards (2015) set out the minimum internal floor area for units. The minimum standard for a 1 bed, 1 person, 1 storey unit is 39 sq. m (37 sq. m if a shower room). The minimum standard for a 1 bed, 2 person, 1 storey unit is 50 sq. m.

In respect of bedrooms the minimum internal floor area for a single bedroom is 7.5 sq. m and for a double is 11.5 sq. m.

The following table shows the internal floor area of each unit and the bedroom in that unit:

	Unit size (sq. m)	Bedroom (sq. m)
Flat 1 – 1 bed,1 person, 1 storey	51.6	12.6
Flat 2 - 1 bed, 2 person, 1 storey	63.0	13.7
Flat 3 - 1 bed,1 person, 1 storey	51.5	11.8
Flat 4 - 1 bed, 2 person, 1 storey	82.2	15.5
Flat 5 - 1 bed,1 person, 1 storey	50.3	7.7
Flat 6 - 1 bed,2 person, 1 storey	60.7	13.5
Flat 7 - 1 bed,1 person, 1 storey	55.5	10.4
Flat 8 - 1 bed, 2 person, 1 storey	61.6	11.5
Flat 9 - 1 bed,1 person, 1 storey	58.7	8.2
Flat 10 - 1 bed,1 person, 1 storey	46.5	8.4
Flat 11 - 1 bed,1 person, 1 storey	53.6	7.7
Flat 12 - 1 bed,1 person, 1 storey	58	8.7
Flat 13 - 1 bed,1 person, 1 storey	62.6	8.4

As can be seen, each unit would exceed the minimum standard as set out in the Nationally Described Space Standards (2015) and each bedroom would exceed the minimum standard for single/double bedrooms also

Each habitable room would be served by a window so would receive sufficient natural light.

The site is close to the boundary with the A226 One Way System Air Quality Management Area but is not within it. GBC Environmental Protection advise that the submitted transport statement has been reviewed and the level of traffic from the development is unlikely to have any impact on the AQMA and is below the threshold requiring an air quality assessment.

There is private garden area proposed at the rear of the building for three flats (nos. 2, 9 and 11). This would be 56.1 sq. m for flat 2, 32.3 sq. m for flat 9 and 14.5 sq. m for flat 11. There is also a communal garden/amenity space proposed in the rear garden of 313 sq. m. As such the units would have sufficient amenity space.

Overall therefore in respect of the amenity of future occupiers the proposal is considered compliant with Policy CS19 (LPCS).

Neighbouring Amenity

There are no extensions proposed to the building, just internal conversion, with the external alterations relating to new boundary treatments, soft and hard landscaping etc. and these would not cause any impact on neighbouring amenity. In respect of neighbouring amenity the proposal is considered compliant with Policy CS19 (LPCS).

Parking and Highway Safety

The proposal is for conversion of the existing office building to 13 one bedroom flats and proposes 13 car parking spaces, 13 cycle spaces for residents and 4 visitor cycle spaces; the two existing accesses onto the Overcliffe would be retained.

The proposal would therefore provide sufficient off-street parking provision in accordance with SPG4 (2006) at one space per unit.

Kent Highways requested:

- 2 visitor parking spaces be marked out on the front courtyard to ensure parking is controlled at the front of the building;
- The access to the parking area is gated;
- A one way system is implemented with the eastern access used to enter the site and the western access to exit to allow vehicles to wait off the highway to enter the parking area and for delivery vehicles to enter and park on the forecourt;
- Bin store could impede accessibility – either tracking should be shown for a large van entering the site or the bin store relocated;
- Provision of electric charging facilities – if the parking is to be unallocated there should be a minimum provision of 10% of the parking spaces provided and retained with active EV charging points plus a minimum of a further 10% of the parking spaces should be provided with passive (ducting/cabling only) provision.

The agent submitted amended plans in response to the comments by Kent Highways however, these were not requested by the Local Planning Authority and have not been accepted due to the late stage they were submitted and that re-consultation with Kent Highways would be required on the plans. The matters raised by Kent Highways are down to detail rather than fundamental issues. The plans that have been submitted do appear to have addressed the issues raised by Kent Highways as they show two visitor parking spaces at the front, gates to the parking area, a one way system, tracking for a large van and provision of 7 electric charging points. It appears that the matters raised by Kent Highways have therefore been addressed (albeit the amended plans submitted have not been accepted).

However, overall as stated the proposal would provide sufficient parking provision for the development and in respect of parking and highway safety the proposal is considered compliant with Policy CS11 (LPCS) and saved Policy P3 (LPFR).

Ecology & 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 13 units and the applicant has not paid the required tariff (£328.27 x 13 = £4,267.51). 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. Therefore, the proposal in respect of ecology and biodiversity is contrary to Policy CS12 (LPCS) and Paragraphs 193 and 194 of the NPPF (2024).

Planning Obligations

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism that the Council often use to secure financial contributions or other forms of mitigation such as affordable housing from developers in order to make a development proposal acceptable in planning terms.

In order for the Local Planning Authority to request financial contributions on behalf of third parties any contributions will need to meet all of the tests relating to paragraph 58 of the NPPF (2024) which are as follows:

- (A) necessary to make the development acceptable in planning terms;
- (B) directly related to the development;
- (C) fairly and reasonably related in scale and kind to the development.

Affordable Housing & Viability

Policy CS16 (LPCS) states that the provision of affordable housing will be required on all new housing developments of 15 dwellings or more or on sites of 0.5 hectares or more in the urban area at 30% in the urban area. In this case 13 dwellings (flats) are proposed therefore no affordable housing is required as this is under the threshold of 15 dwellings.

Kent County Council

As the proposal is for over 10 units, had permission been forthcoming KCC would have had to be asked for their response on what contributions would be required and secured by a s106 agreement. From looking at the KCC Developer Contributions Guide (2023) it can be seen that contributions would likely be required for matters such as adult social care, community learning and skills, education – primary and secondary new build and expansion, special education needs and disabilities, special educational needs and disabilities, education land, integrated children's services, libraries and waste disposal.

Sports & Leisure (GBC)

Similarly had permission been forthcoming, GBC Sports & Leisure would have had to be asked for their response on what financial contribution towards upgrading and improving existing leisure provision in the Borough would be required.

SAMMS Contribution

The tariff required has been discussed in the 'Ecology & Biodiversity' section of this report above.

Any Other Material Planning Considerations

None.

Balancing exercise/Conclusion

The proposal is acceptable in respect of design and heritage, future occupier amenity, neighbouring amenity and parking and highway safety and would have the benefit of providing a net addition of 13 dwellings (flats).

However, the proposal is not considered acceptable as it would result in the loss of the Class E office use (previously Use Class B1(a)) and the applicant has failed to undertake a marketing exercise in accordance with Appendix 5 (Marketing Requirements in relation to loss of existing B Class employment premises, sites or commercial wharves) (LPCS). Therefore, without this information the principle of the loss of the Class E office use of the site cannot be justified and the development is contrary to Policy CS07 (LPCS).

Furthermore, the proposal has not put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar site. Therefore, the proposal is contrary to Policy CS12 (LPCS) and Paragraphs 193 and 194 of the NPPF (2024).

The NPPF (2024) states that if significant harm to biodiversity resulting from a development cannot be avoided, including being adequately mitigated, then planning permission should be refused (paragraph 193 of the NPPF (2024)) and advises that SPA's and Ramsar sites should be given the same protection of habitats sites (paragraph 194 of the NPPF (2024)).

On balance it is considered that the weight of all the other considerations does not outweigh the harm identified and provides a clear reason for refusing permission. The proposed development is therefore contrary to Policies CS07 and CS12 (LPCS) and Paragraphs 193 and 194 of the NPPF (2024).

Recommendation:

Refusal

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Richard Hart
Signed:	<i>Rebecca Harrison</i>	Signed:	<i>R Hart</i>
Dated:	12th February 2025	Dated:	13th February 2025