



Delegated Report

Full Planning Application

Application No:	20230976
Location:	Black Eagle Security Systems, 8 Darnley Road, Gravesend, Kent, DA11 0RU
Description:	Conversion and extension of the property to provide space for a commercial unit on the ground floor and 1xbed flat on the upper floor.
Applicant:	Mr Murhan
Site Visit:	7 th August 2023

Submitted Documents/Plans

- Application Form - dated 18/09/2023;
- Drawing no. 001 - Rev. A - Site Location Plan, with Existing and Proposed Block Plans;
- Drawing no. 002 - Rev. A - Existing Floor Plans and Elevations;
- Drawing no. 003 - Rev. C - Proposed Floor Plans and Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20230641	Conversion and extension of the property to provide space for a commercial unit on the ground floor and 1xbed flat on the upper floor.	REFUSED	05.09.2023
19890364	Erection of single storey rear extension to form toilet accommodation and utility area.	PERMITTED	21.08.1989

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS12 - Green Infrastructure
- CS14 - Housing Type and Size
- CS15 - Housing Density
- CS18 - Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 - Vehicle Parking Standards

Paragraph 33 of the NPPF (2023) 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 (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 - Achieving Sustainable Development
- Section 12 - Achieving Well-Designed Places

Supplementary Planning Guidance

- SPG 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 - amended June 2020
- Technical Housing Standards - Nationally Described Space Standard (2015)
- SPG 4 - KCC Parking Standards (2006)
- Householder Extensions/Alterations Design Guide (2021)

Consultations, Publicity and Representations

External Consultees

Kent Police Designing Out Crime - No comment received.

Internal Consultees

GBC Environmental Protection (Regulatory Services) - I would re-iterate the comments and recommendations made for conditions and informatives that were made with regards to the earlier (refused) application ref no 20230641. In addition, I note that the proposed plans now show a kitchen extract flue serving the property next door and immediately adjacent to the windows of the proposed flat. The impact of this in terms of odour and noise on future occupants also needs to be assessed.

Comments, condition and informatives re-iterated:

The premises is adjacent to a heavily traffic road and also falls within the boundary of the Gravesham A226 one way system Air Quality Management Area (AQMA) declared for exceedance of nitrogen dioxide. As such, the introduction of a residential flat will bring sensitive receptors into an area known for its poor air quality and also has the potential to be noisy. It's noted that a commercial use is to remain on the ground floor and a pub is adjacent. This could give rise to internal noise transmission. In view of this, the following needs to be considered:

Noise from traffic - The property is in a town centre location adjacent to the A226 one-way system which is heavily trafficked. No consideration has been given by the applicant to traffic noise with habitable rooms being located at the road frontage of the building on all floors. A noise assessment will be needed to assess the impact of traffic noise on future occupants and mitigation (as appropriate) will be required to ensure that internal noise levels are in accordance with BS8223. In addition, noise from the adjacent kitchen extract system will also need to be assessed

Internal noise - Being an older property, the sound insulation quality of the internal floor/ceiling and also the party walls may not be that robust. The adjoining pub advertises that it hosts televised sporting events and also has DJ nights – these events can be noisy.

The quality and the standard of the sound insulation properties of the building should be assessed to ensure that future residents of the flat are not impacted by internal noise from the commercial premises

below or the adjacent pub. A noise assessment should be undertaken to assess this. The assessment should include details of the assessment methodology and any enhanced sound insulation performance of the construction that separates the residential and ground floor commercial use and party walls. This should resist the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) is not less than 53 decibels (i.e. an enhancement of the minimum levels stated in the Building Regulations of 10dB).

The assessment should look at any required mitigation measures to ensure that internal noise levels are appropriate. Overheating and ventilation must be considered in the design of any mitigation and noise from any mechanical ventilation systems (if required as a mitigation measure for air quality - see below), should be included.

Air Quality - This area is within the A226 One Way System Air Quality Management Area (AQMA) declared for exceedances of the annual Air Quality Objective (AQO) for nitrogen dioxide (from traffic). With the proposal for residential on the 1st and 2nd floors, new sensitive receptors will be introduced into an area recognised as having poor air quality. In this respect, air quality is considered to be a material planning concern and measures need to be investigated and put into place to ensure that there is no detrimental impact on future occupiers of the flats. Bearing this in mind, it is appropriate that a condition be applied to any planning permission that requires the applicant to propose suitable mitigation measures to address this.

It is advised that all habitable rooms (bedrooms and living rooms) of the flat fronting the A226, have upgraded and sealed windows so as to prevent pollution from entering the residential units and a Mechanical Ventilation and Heat Recovery (MVHR) system be installed to all habitable rooms fronting the A226 as a means of alternative ventilation and cooling. A MVHR system will provide a means of alternative ventilation and cooling to having windows open. This will also provide the occupants with choice i.e. to close windows to shut out noise from traffic

To deal with the external/internal noise, air quality and other matters, the following conditions are recommended:

External Noise:

- a) A noise impact assessment shall be carried out and submitted to the LPA for approval demonstrating that:
 1. The internal ambient noise levels in all habitable rooms, including the roadside rooms of the proposed residential dwelling shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014
 2. The maximum internal noise levels in all habitable rooms should not exceed 45dB L_{Amax} more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.
 3. The rating noise from fixed building services/mechanical plant/equipment, including any air systems, associated with the development shall be at least 10dB below the existing LA90 background level at the nearest noise sensitive receptors (i.e. dwellings) when measured and assessed in accordance with BS4142:2014

The noise impact assessment must take into account traffic noise, noise from any air systems that are required and entertainment noise from the adjoining pub.

Where compliance with these criteria will rely on closed windows, the development must include sufficient and suitable ventilation to affected residential dwellings by means other than opening windows to ensure that the internal noise levels required by the above conditions can be retained all year round.

- b) Prior to first occupation of the flats, a suitable post-completion demonstrating compliance with a) shall be submitted to and approved, in writing, by the Local Planning Authority

The approved details shall be maintained for the lifetime of the development.

Internal noise

Prior to the first occupation of the flats, a sound insulation assessment shall be carried out, submitted to and approved in writing by the Local Planning Authority. The Assessment shall include details of the assessment methodology and the sound insulation performance of the internal wall partitions, internal floor/ceiling partitions and also adjacent party wall partitions. The sound insulation performance of these shall resist the transmission of airborne sound and impact sound to demonstrate that the minimum levels stated in the Building Regulations are capable of being complied with. The assessment will also include details of any proposed works to achieve these levels.

Any works identified being required in order to achieve these minimum levels shall be implemented and evidence provided (if necessary, by way of a further sound insulation assessment report) for approval by the Local Authority prior to first occupation.

Air Quality:

- a) The applicant must submit a scheme of air quality mitigation for approval which should include the installation of an air system (or air systems) which positively pressurises all relevant residential units i.e. brings in more air than it extracts so that no air seeps into the residential unit through the fabric of the building or doors when people are entering and leaving etc. This requirement applies to the rooms on the first and second floor roadside. The scheme must include the following:
- a heat exchange unit,
 - noise attenuation
 - must bring in air from the upper most and furthest point away from the source of pollution i.e. the traffic on Darnley Road and
 - must be sited away from other pollution sources e.g. flues, soil and vent pipes and must not bring in odour from any commercial extraction system.
 - Windows to the affected rooms on the 1st and 2nd floors shall not have trickle vents and shall be fixed shut.

The applicant will be provided with the checklist of points that must be considered and included in the scheme and which must be adequately demonstrated to the LPA by the submission of required information, plans, commitments etc. in order for the scheme to be approved.

- b) The approved scheme must be installed, before occupation. The installed scheme must be commissioned, before occupation, by an independent ventilation engineer to ascertain if the flow rates are correct and that it is fit for purpose i.e. that it fulfils its purpose of positively pressurising the residential units so that pollution cannot enter from the roadside and is not drawn into the property through the air system. The commissioning report must be submitted to the LPA including a signed declaration from the engineer that they are satisfied that it is fit for purpose it has been required for i.e. prevention of air pollution entering the building.

The LPA will visit the site following commissioning to ensure the approved systems are installed, seen working and are in the correct residential units etc.

Code of Practice on Construction and Demolition - Please apply to prevent nuisance from noise and dust during the conversion and construction occurring to nearby premises.

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.

Asbestos informative - Owing to the likelihood of the existing building containing asbestos products, the applicant should be informed to contact the Health and Safety Executive (HSE) for advice on the submission of a suitable method statement for removal. Any asbestos found on site must be removed in a controlled manner by an appropriately qualified operator. This is in the interests of safeguarding the amenities of the surrounding area and safety.

GBC Licensing - No comments from Licensing.

GBC Waste and Recycling Manager - No comment received.

GBC Highways - This is a town centre location, I have no objections, although ideally a secure cycle parking space should be provided for the flat.

Local Ward Councillors - No comment received.

Neighbouring properties

A notice was displayed on site 4th October 2023.

In addition, fourteen surrounding properties were consulted and no representations were received.

The consultation period expired 27th October 2023.

Preliminary Matters

This application follows a similar proposal seeking to convert and extend the property to provide space for a commercial unit on the ground floor and a 1xbed flat on the upper floor, which was refused by the Local Planning Authority. The application was refused on the following grounds:

- 1. The proposed development fails to provide a safe, inclusive or accessible access to the residential property creating an increased fear of crime which undermines the quality of life and amenity of future occupiers contrary to Designing Out Crime principles, Sections 8 and 12 (specifically paragraphs 92 and 130) of the National Planning Policy Framework (2021) and Policy CS19 of Gravesham's Local Plan Core Strategy (2014).*
- 2. Moreover, 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 and fails to offset biodiversity loss contrary to Section 15 (specifically paragraphs 180 and 181) of the National Planning Policy Framework (2021) and Policy CS12 of Gravesham's Local Plan Core Strategy (2014).*

In order to receive an approval, this application must overcome the previous reasons for refusal.

Officer's Analysis

Site Description

The application site forms a three storey property which forms part of a 19th century terrace.



The property fronts the A226, part of the Gravesend One Way system. It adjoins no.9 Darnley Rd to the south. This is a similar three storey property which was converted to form an extension to the adjoining public house (Somerset Arms 9 - 10 Darnley Rd). To the north the application site adjoins no. 7 Darnley Rd. This is a two storey property with permission to be used as a restaurant at ground floor and residential above.

Proposed Development

This application proposes the erection of a first floor rear extension and an extension to the roof with a dormer. The upper floors would be converted into a maisonette and the ground floor retained in commercial use.

The first floor extension would have a flat roof at a height of 5.35m, a depth of 4.1m and a width of 4.25m. The dormer would be flat roof with the depth of 1.65m, width of 3.85m and a height of 1.3m. The roof extension will increase the ceiling height and usable floorspace on the second floor, adding an overall depth of 1.45m.

Existing Elevations



Proposed Elevations



The existing ground floor projection would be altered to create an opening to form an integral bin store, shared by the commercial and residential uses. The new maisonette would be accessed through the front of the building, through a new opening onto Darnley Road.

Principle of Development

The application site lies within the Gravesend Town Centre Opportunity Area, as identified in the adopted Local Plan Core Strategy (LPCS) (2014). Policy CS05 identifies the town centre to be the principal focus for town centre related economic and social activity in the Borough, to be partly achieved by encouraging a mix of employment and residential uses.

This proposal accords with that broad principle, although it is important to ensure that satisfactory living conditions can be achieved, particularly as it fronts onto the town centre one-way road system and lies in close proximity to late night licensed premises.

The principle considerations in the assessment of this application are:

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

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) (2023). 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 NPPF paragraph 182)
- Sites of Special Scientific Interest
- Green Belt
- Local Green Space
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 68)
- Areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land (paragraph 125(c)) in context, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

The proposed development for a net increase of '1' residential units would offer a minimal 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 (2023) which requires new development to contribute positively to the overall quality of the area, be visually attractive, sympathetic to local character and create acceptable amenity for future occupiers.

Suitability for Conversion

The application site is E class employment floorspace [formally Class B], and as such Policy CS07 (Economy, Employment and Skills) (LPCS) is relevant. Within the Town Centre Opportunity Area (Policy CS05), the Council will:

- Support the provision of new residential development where a satisfactory living environment

- can be achieved;
- Support the redevelopment of under-used sites where this makes more efficient use of the sites and improves townscape character; and
- Support existing retail, commercial and service functions on the ground floors and the provision of offices and residential uses on upper floors subject to achieving a satisfactory living environment.

Subject to the assessment of living conditions, a proposed office space on ground and residential development on the upper floors, would comply with this policy.

In regards to the conversion of the upper floors into residential use, Policy H5 (i) states that buildings shall be in an appropriate area for conversion to flats, maisonettes, bedsits and multiple occupancy. It also notes that unless there are special or overriding circumstances, conversion will not normally be permitted in an area comprised for the most part of single-family dwellings. Policy H5 (ii) requires that the building shall be of such a size and arrangement to be generally unsuitable for single-family occupancy.

The site is located in the town centre. The properties on this section of Darnley Rd are predominantly commercial business uses, some with residential on the upper levels. This application seeks permission for extensions to and conversion of the upper floors as residential use. The neighbouring property (no.7 Darnley Rd) was granted permission for a similar development in 2015, however this was a much larger space and benefitted from an existing front entrance.

Therefore, in principle this building is considered to be appropriate for conversion, located in an area which is accessible and sustainable, and is considered appropriate for conversion into a residential unit in accordance with saved policy H5 (LPFR) and Policy CS14 (LPCS), subject to meeting amenity standards.

Design, Character and Appearance

When considering the design of this proposal, it needs to be considered against the relevant local and national planning policy. Policy CS15 (LPCS) states that sites will be developed at a variety of densities depending on the sites location and accessibility to public transport. Furthermore, development needs to be delivered at a density that achieves good design and does not compromise the character of the area.

Policy CS19 (LPCS) states that the design, layout and form of new development will be derived from a robust analysis of local context and character and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. The NPPF (2023) sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

In addition, Gravesham's Design Guidance SPD (2021) set out key principles for developments. Generally, the SPD highlights the importance of new development complimenting and corresponding to existing character and the wider context. The SPD goes on to address first floor rear extensions, stating that they should not dominate the original property, extension to extensions are generally not acceptable and have roof designs the reflect the main properties roof. According to the SPD, roof extensions should achieve a high standard of design and should be set away from the gables, hips, eaves and ridge.

The proposed dormer and roof alterations are considered to be proportionate and well designed. The roof extension reflects the original character of the terrace, with a gambrel roof design. The dormer is not excessive in size or bulk and will be set in from the edges. As such, there is no objection to this part of the development.

However, the first floor extension above the rear projection would introduce a flat roof at first floor level and is a bulky incongruous addition. Generally flat roof extensions above single storey level are not supported by the Local Planning Authority, by virtue of their appearance and bulk. While the flat roof would be out of character with the property and wider terrace, there are a number of large flat roof projections in the surrounding context, some of which are at first floor level or above. Therefore, given this context and the

extension being somewhat screened from public vantage point this is not sufficient grounds to refuse the application.



Therefore, on balance the extensions to the property are considered to be acceptable in terms of design and is in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Amenity of Future Occupiers

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

The NDSS (2015) sets out minimum gross floor areas for a 2 storey, 1 bedroom dwelling. These figures vary depending on the number of persons occupying the dwelling. In this case the flat has a double bedroom, with a maximum capacity of 2 persons. Therefore, the flats should be assessed against the 58m² minimum floor area for 2 storey, 1 bedroom, 2 person unit.

National Housing Standard Guidance	Unit Floor space
58m ²	66.1m ²

The table demonstrates that the flat fails to comply with the minimum floor space in the NDSS (2015) and would therefore provide poor quality living conditions for future occupiers. However, Gravesham’s RLG (2020) breaks down the measurements further, recommending minimum floor areas for specific rooms. These recommended floor areas have been compared to the proposed room sizes within the flat unit, as shown in the table below.

	RLG (minimum floor area)	B01 Room Size(s)
Kitchen/Living/Diner	25.2m ²	35m ²
Double Bedroom	11.5m ²	19.1m ²
Bathroom	3.6m ²	3.6m ²

Table 2 has been colour coded to show which rooms within the flat meet the guidance within the RLG. The table demonstrates that all rooms within the flat comply with the minimum standard set out in the RLG. The flat will not be overlooked or overshadowed and the habitable rooms will receive adequate levels of natural light.

The previous application (ref. 20230641) was refused for providing an unsafe and unsecure access to the flat, however this proposal has relocated the access onto the front elevation from Darnley Road. This change overcomes concerns with the safety of future occupiers and is in accordance with Designing Out Crime Principles. As such, the proposal is considered to have addressed ground of refusal 1 and provides an acceptable access for future occupiers.

Overall, the proposed development provides acceptable living conditions that safeguard the amenity of existing and future occupiers in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Neighbouring Amenity

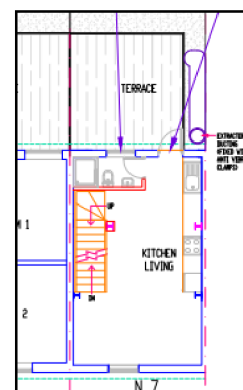
Policy CS19 (LPCS) seeks to protect amenity and ensure acceptable future living conditions. Section 12 of the NPPF (2023) also assists and seeks to ensure developments will function well, do not undermine quality of life and create attractive and comfortable places to live, work and visit and seeks to “secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

The development hereby proposed will have no impact on the amenity of surrounding properties in terms of privacy.

The proposed extension would be constructed close to the boundary with no.7 Darnley Rd, which has permission for conversion of the upper floors into residential flats. According to the plans, there would be a flat adjacent to the new first floor extension. The flat at no.7 would have a door adjacent to the extension out onto a terrace. There is a flue in place on the boundary serving the restaurant at ground floor level.

The image to the right shows the approved floor plan for this unit.

Given that the rear door serves a kitchen and there is a roof terrace, the extension is not considered to have any detrimental impact on the amenity of the neighbour in terms of loss of light, sense of enclosure or loss of outlook.



Therefore, the proposed development is considered to safeguard the amenity of future occupiers in accordance with Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Parking and Highways

The site is in a central location in the town where public transport links are good and there are sufficient parking restrictions in the locality and public car parks available nearby. There are no parking spaces available on site, which is considered acceptable given the central location of the property.

Gravesham's adopted parking standards (SPG 4) (2006) seeks to ensure that adequate secure cycle storage is provided in developments, with a recommendation of 1 space per bedroom/flat unit. In this case the plans do not show any secure storage and due to the site being constrained the provision of cycle parking cannot be conditioned and details would be required prior to determination. However, given the town centre location there are available bicycle storage facilities at the train station and other public bike locking areas in the vicinity of the site. Therefore, although a secure cycle store would be preferred with this development to accord with SPG4, it is not sufficient grounds to refuse the application.

Any Other Material Planning Considerations

Waste Management

Policy CS19 (LPCS) requires new development to incorporate facilities for the storage and recycling of waste generated. In order to ensure this proposal complies with Policy CS19 (LPCS) a refuse strategy should have been submitted.

As part of this development an integral bin store would be created in the existing rear projection, this will serve both the residential and commercial units. The collection strategy would be for the bins to be dragged out into the service yard on collection day. This was the same layout as proposed in the refused application (ref. 20230641) and Gravesham's Waste and Recycling Manager had no objection to the proposed strategy.

Therefore, the proposed store and collection strategy would be appropriate, however if permission were forthcoming a condition would be attached to ensure that the quantity of bins is submitted and approved in writing by the Local Planning Authority.

Air Quality

The application site is located within the A226 one way system Air Quality Management Area (AQMA). This area is declared for exceedances of nitrogen dioxide from traffic above annual air quality objectives, and the development would introduce a residential unit into an area with poor air quality. As such, Gravesham's Environmental Protection Team have requested that conditions be attached to the decision notice if permission were forthcoming. The conditions would read as follows:

- a. The applicant must submit a scheme of air quality mitigation for approval which should include the installation of an air system (or air systems) which positively pressurises all relevant residential units i.e. brings in more air than it extracts so that no air seeps into the residential unit through the fabric of the building or doors when people are entering and leaving etc. This requirement applies to the rooms on the first and second floor roadside. The scheme must include the following:
 - a heat exchange unit,
 - noise attenuation
 - must bring in air from the upper most and furthest point away from the source of pollution i.e. the traffic on Darnley Road and
 - must be sited away from other pollution sources e.g. flues, soil and vent pipes and must not bring in odour from any commercial extraction system.
 - Windows to the affected rooms on the 1st and 2nd floors shall not have trickle vents and shall be fixed shut.

The applicant will be provided with the checklist of points that must be considered and included in the scheme and which must be adequately demonstrated to the Local Planning Authority by the submission of required information, plans, commitments etc. in order for the scheme to be approved.

- b. In relation to the above condition, the air quality scheme approved scheme must be installed, before occupation. The installed scheme must be commissioned, before occupation, by an independent ventilation engineer to ascertain if the flow rates are correct and that it is fit for purpose i.e. that it fulfils its purpose of positively pressurising the residential units so that pollution cannot enter from the roadside and is not drawn into the property through the air system. The commissioning report must be submitted to the Local Planning Authority including a signed declaration from the engineer that they are satisfied that it is fit for purpose it has been required for i.e. prevention of air pollution entering the building.

Noise

The property is in a town centre location adjacent to the A226 one-way system which is heavily trafficked. Moreover, the application property is old and unlikely to have good internal sound insulation, which is likely to cause issues with the neighbouring public house and approved takeaway uses.

No consideration has been given by the applicant to noise and Gravesham's Environmental Protection Team have concerns with the levels of noise for future residents. However, these matters could be dealt with by way of condition if permission were forthcoming. The conditions would be separated into external noise and internal noise levels, and would read as follows:

External Noise

- a. A noise impact assessment shall be carried out and submitted to the Local Planning Authority for approval demonstrating that:
 1. The internal ambient noise levels in all habitable rooms, including the roadside rooms of the proposed residential dwelling shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014
 2. 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.
 3. The rating noise from fixed building services/mechanical plant/equipment, including any air systems, associated with the development shall be at least 10dB below the existing LA90 background level at the nearest noise sensitive receptors (i.e. dwellings) when measured and assessed in accordance with BS4142:2014

The noise impact assessment must take into account traffic noise, noise from any air systems that are required and entertainment noise from the adjoining pub.

Where compliance with these criteria will rely on closed windows, the development must include sufficient and suitable ventilation to affected residential dwellings by means other than opening windows to ensure that the internal noise levels required by the above conditions can be retained all year round.

- b. Prior to first occupation of the flats, a suitable post-completion demonstrating compliance with condition (X) shall be submitted to and approved, in writing, by the Local Planning Authority

The approved details shall be maintained for the lifetime of the development.

Internal noise

Prior to the first occupation of the flats, a sound insulation assessment shall be carried out, submitted to and approved in writing by the Local Planning Authority. The Assessment shall include details of the assessment methodology and the sound insulation performance of the internal wall partitions, internal floor/ceiling partitions and also adjacent party wall partitions. The sound insulation performance of these shall resist the transmission of airborne sound and impact sound to demonstrate that the minimum levels stated in the Building Regulations are capable of being complied with. The assessment will also include details of any proposed works to achieve these levels.

Any works identified being required in order to achieve these minimum levels shall be implemented and evidence provided (if necessary, by way of a further sound insulation assessment report) for approval by the Local Authority prior to first occupation.

Ecology and Biodiversity (Bird Mitigation)

The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) are internationally

important for nature conservation as the area is a wetland and supports important numbers of wintering waterbirds and migrating birds. There has been a decline in the number of birds using these sites in recent years. Studies show that this could be due to people using the estuary and marshes for recreation purposes. The North Kent Bird Disturbance Report concludes that all new housing development within 6km of the North Kent Ramsar Sites or Special Protection Areas (including the Thames Estuary and Marshes) and larger housing development beyond 6km from the sites could have an adverse impact on them. This is because new housing development is likely to lead to further increases in recreational use of the sites which means that further declines in the bird population cannot be ruled out. Possible mitigation measures are set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. Having considered a number of options, the Council have decided to impose a tariff on new housing development. Developers will need to pay £314.05 for every new dwelling provided within 6km of the Ramsar site and SPA and for larger housing developments beyond 6km from them. The money raised will be used to pay for schemes to avoid the adverse impacts of new housing development on the birds.

The Heritage Statement sets out that “it is understood that the upper floors have been used for offices and/or residential use ancillary to the ground floor although have been vacant for some time”. This is a vague statement and lacks evidence. Following the previous refusal the agent was informed that Council Tax records were searched during a Street Naming and Numbering application, and no charges were made for this address. The agent was encouraged to confirm the residential use through an existing lawful development certificate, which has not been submitted.

Therefore, in this instance the proposed development would result in the creation of an additional residential property and as such, additional recreational activity would result. Therefore, it is considered that there would be an adverse impact to the Thames Estuary and Marshes Ramsar Buffer Zone, which should be mitigated in line with Policy CS12 (LPCS). In such cases the Borough Council has adopted a tariff that is payable for each new dwelling unit within 6km of the SPA/Ramsar site of £314.05 per net gain in bedrooms within the property.

The applicant has paid the SAMMS Mitigation Contribution Agreement and therefore fails to meet the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 180 and 181) of the NPPF (2023) and Policy CS12 (LPCS) (2014).

Conclusion

The application has been fully considered and is in accordance with local and national planning policy.

The proposed development would have no adverse impacts on residential amenity, highway safety or on the character/appearance of the area and it would be appropriate in terms of design.

Therefore it is recommended that planning permission is granted, subject to conditions.

Recommendation

Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	10 th November 2023	Dated:	13 November 2023