

Delegated Report

Planning Application

Planning Application No: 20231036

Location: Flat A 129B Milton Road Gravesend Kent

Description: Conversion of basement area to a 1 bedroom self contained residential flat.

Applicant: Mr Hardesh Singh

Submitted Documents/Plans

Application form;
Heritage Statement;
Design & Access Statement;
Block Plan;
Floor Plans and Section;
Drawing No.383-2 - Rear Elevation and Detail A Drawing - Existing and Proposed; and
Drawing No.383-1B - Floor Plans and Section - Existing and Proposed.

Relevant Planning History

Reference	Description	Decision	Decision Date
20030122	Conversion of basement into a self-contained flat; formation of a lightwell with bridge across to the main front entrance door and erection of railings and gate at the front.	Refused	11.04.2003
19830923	Conversion of premises into 4 self contained flats	Permitted	12.03.1984

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- P3 – Vehicle Parking Standards
- T1 – Impact of Development on Highway Network
- AP7 – Milton Road Area Policy

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 5 – Delivering a sufficient supply of homes
- Section 9 – Promoting sustainable transport
- Section 12 – Achieving well-designed and beautiful places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- 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);
- Gravesham Landscape Character Assessment (2009)
- Milton Place Conservation Area Character Appraisal (2009); and
- Management Plan Gravesend Town Centre Conservation Areas (2009)

Consultations, Publicity and Representations

GBC Licensing Team

No comments

GBC Highways Officer

No objection

Neighbouring properties

15 surrounding properties were consulted along with a press and site notice which expired on 13.12.2023. No comments were received.

Officer's Analysis

Housing Need (As of October 2023)

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 188)
- 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 unit 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 a high standard of amenity for existing and future occupiers.

Principle of Development

The site is within the urban boundary of Gravesend which is covered by Policy CS02 (LPCS) which prioritises development in the urban area as a sustainable location for development. In summary therefore, it is considered that there is support for the principle of the development but all of the principle considerations will need to be looked at to assess whether it is acceptable in regard to them too.

Design & Heritage

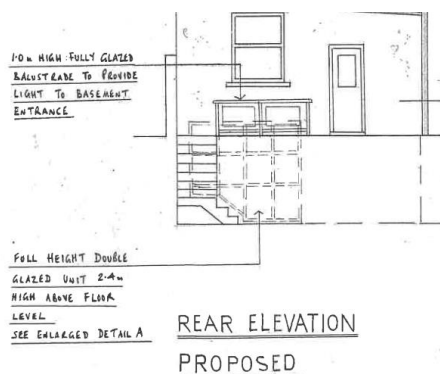
Policy CS19 (LPCS) sets out that new development will be visually attractive, fit for purpose and locally distinctive. It should conserve and enhance the character of the built environment and take account of the scale, height, building lines and other architectural features of buildings. Account should also be taken of strategic views, site topography, the significance of heritage assets and features of townscape and landscape value which contribute to local character and sense of place.

Policy CS14 (LPCS) seeks to ensure that new housing development provides a range of dwelling types and sizes and Policy CS15 sets out minimum densities for new housing, with the provision that the density should be consistent with achieving good design and does not compromise the distinctive character of the local area.

The application site is located in the Milton Place Conservation Area and as such, the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) which 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.

Policy CS20 (LPCS) places a high priority on the preservation, protection and enhancement of its heritage and historic environment. Saved Policy TC3 (GLPFR) sets out that development within or affecting conservation areas will be carefully judged for its impact and will be expected to make a positive contribution to the conservation area.

The property has been in residential use since its conservation in the 1980's (ref: 19840367) and under this proposal the only change is the rear elevation at basement level where a full height double glazed window is proposed with a fully glazed balustrade. See below.



Due to limited nature of the works to the building at the rear would not detract from the character or appearance of the existing building or the surrounding Milton Place Conservation Area. As such, the proposal would be in line with Policies CS14, CS15, CS19 and CS20 (LPCS).

Future Residential Occupiers

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

The proposed basement flat is essentially a studio flat consisting of bed area/kitchen/living room and separate bathroom with a floor area of 63.5m² which meets both the local and national space standards.

However, whilst the floor space of the unit is acceptable the living conditions for future occupiers is utterly unacceptable. The unit essentially lacks any natural light and the only light which is provided is via a lightwell to the rear of the property. The lightwell is extremely small and the use of full height glazing does not provide sufficient light to future occupiers.

Notwithstanding the lack of natural light future occupiers would have absolutely no outlook or private amenity space which further compounds the unacceptable living conditions for future occupiers.

In order to address noise, a noise assessment should have been submitted with the application and taken into account the following:

- Traffic noise
- Noise from fixed building services/mechanical plant/equipment etc noise associated with the nearby commercial uses
- People noise associated with the use of the late-night town centre uses at night (including the use on the ground floor).
- Early morning delivery noise to commercial uses
- Internal noise/sound insulation
- Noise from any mechanical ventilation systems if required as a mitigation measure for air quality (see below)

Due to the location the site is exposed to high levels of external environmental noise during both the daytime and night-time periods but that environmental noise and odour can be adequately controlled by suitably sealed, acoustically treated non-ventilated and non-opening windows and the inclusion of a suitable mechanical air system. However, as there are no windows to the flat this somewhat mitigates noise to a degree. However, being a basement property future occupiers of this 19th century property would have the issues of vibrations from the vehicles using Milton Road

This area is also 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 proposed conversion from a restaurant to residential flats, 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.

The applicant has failed to provide any information on how this will be addressed. In order for conditions to 'acceptable' windows are needed, However, windows cannot be installed and if they were they would need to be sealed.

The proposed development would therefore provide an unacceptable standard of living for future occupiers and would be contrary to Policy CS19 (LPCS) and Section 12 of the NPPF (2023).

Neighbouring Amenity

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

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

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

Parking and Highways

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

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

Refuse

Policy CS19 (LPCS) requires new development to incorporate appropriate facilities. The proposal shows refuse arrangements and there is no conflict with Policy CS19 (LPCS).

Ecology and Biodiversity (Bird Mitigation)

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

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 new dwelling unit.

The applicant has not completed the SAMMS Mitigation Contribution Agreement and therefore fails to comply with the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 186 and 187) of the NPPF and Policy CS12 (LPCS).

Conclusion

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

The proposed development would provide substandard and poor quality living environment for future occupiers and is contrary to Policy CS19 (LPCS).

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 186 and 187) of the NPPF (2023) and Policy CS12 (LPCS).

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

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

Case Officer:	Ms Lisa Williams	Team Leader:	Mr Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	28 th December 2023	Dated:	28 th December 2023