



Delegated Report

Householder Planning Application

Planning Application No: 20230249

Location: 38 Windmill Street Gravesend Kent DA12 1BA

Description: Conversion of the property into 2 x 1-bed and 1 x 2-bed residential flats.

Applicant: Mr Muzafer Celik

Site Visit Date: 11 April 2023

Submitted Documents/Plans

- Application form;
- Drawing no. 001 Rev. A – Block Plan and Location Plan;
- Drawing no. 002 Rev. B – Existing Floor Plans;
- Drawing no. 002 Rev. A – Proposed Floor Plans;
- Drawing no. 003 Rev. A – Existing Elevations;
- Drawing no. 005 Rev. A – Proposed Elevations; and
- Heritage Statement.

Relevant Planning History

Reference	Description	Decision	Decision Date
19880262	Application for listed building consent for external alterations and refurbishment.	Withdrawn	20.02.1989
19840877	Erection of single storey front extension to form garage fronting Lord Street	Refused	31.01.1985
19840878	Application for Listed Building Consent for the erection of single storey front extension to form garage fronting lord street	Refused	31.01.1985
19820221	Application for Listed Building Consent for alterations in connection with the reconstruction and extension of existing covered way at the rear internal alterations and reinstatement of balustrading on the Windmill St. frontage including the provision of a brick built planter.	Permitted	17.05.1982
19820097	Reconstruction and extension of existing covered area at the rear	Permitted	17.05.1982
19490611	Alterations and additions	Permitted	29.10.1949

For completeness, there are also numerous advertisement consent applications which have not been included in the list above.

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

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

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- H5 – Increasing the Housing Stock by the Conversion of Existing Buildings
- TC2 – Listed Buildings
- TC3 – Development Affecting Conservation Areas
- TC7 – Other Archaeological Sites

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

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

Other material considerations

Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, the Council has a statutory duty in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architect or historic interest which it possesses.

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 (2021)

- 2 – Achieving Sustainable Development
- 4 – Decision-making
- 6 – Delivering a sufficient supply of homes
- 7 – Ensuring the vitality of town centres
- 8 – Promoting healthy and safe communities
- 9 – Promoting sustainable transport
- 12 – Achieving sustainable development and well-designed places
- 15 – Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic environment

Given Gravesham's current inability to demonstrate a 5 year housing land supply (a 3.27 year supply has most recently been calculated within the statement published [here](#)), and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Core Strategy Policy CS02 must be regarded to be out of date, as required by the Paragraph

11(d) of the NPPF. 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 6 (rather than those in development plans) relating to any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 176)
- 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 63); 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 123(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.

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);
- Upper Windmill Street Conservation Area Character Appraisal (2009)
- Management Plan Gravesend Town Centre Conservation Areas (2009)

Consultations, Publicity and Representations

Consultees

GBC Conservation Officer

The Heritage Statement avoids discussing the proposed internal alterations, which need to be included. There is no information or photographs of the interior, such as doors, and joinery (architraves, skirting, boards), including the stairs, or ceilings and cornices. From the plans, the proposed alterations include internal walls and doors in particular those on the ground floor and first floor as well as loss of chimney breasts throughout the building.

Based on the information submitted, which is lacking in an assessment of the proposed alterations outlined above, the proposals will result to harm to the significance of the listed building and are therefore contrary to local and national policy and cannot be supported.

No response from:

- GBC Environmental Protection

Neighbouring properties

17 surrounding properties were consulted plus site and press notice – the overall consultation expiry date was 21 April 2023 – no responses received.

Officer's Analysis

The application site consists of a three storey building plus basement situated on the eastern side of Windmill Street at the junction with Lord Street. The building is Class E (offices) on ground floor with a maisonette at upper ground, first and second floor levels with storage at basement level.

The proposal is for conversion of the property into 2 x 1-bed and 1 x 2-bed residential flats. There would be a one bed maisonette across basement and ground floors, a one bed flat at ground floor and a two bed maisonette across the upper ground, first and second floor levels.

The building is grade II listed, located in the Upper Windmill Street Conservation Area, the Gravesend A226 One Way System, the Thames Estuary And Marshes Ramsar Buffer Zone, the Gravesend Town Centre Opportunity Area and in an Area of Archaeological Potential.

The principal considerations in the assessment of this application are:

- Principle of Development;
- Whether the proposal would protect the architectural and historic interest of this grade II listed and preserve or enhance the character and appearance of the Upper Windmill Street Conservation Area;
- Whether the proposal would provide acceptable living conditions for future occupiers of the flats;
- Impact on ecology/biodiversity;
- Other matters

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 stated on the existing floor plans and Heritage Statement the existing use of the site is offices (use class E(g)(i)). It was last used as the reception and office for a funeral directors, the Cooperative Funeralcare incorporating CF Morris; there is a four bedroom maisonette on the upper ground, first and second floor level with storage at basement level. As confirmed in the Heritage Statement the building is currently vacant, it is stated that the proposal will significantly help in enhancing and bringing this listed building to use.

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.*

This proposal would result in the loss of a Class E(g)(i) office use (previously Use Class B1(a)).

In respect of the requirements of Policy CS07 (LPCS) the proposal would not deliver at least an equivalent number of new jobs on site or elsewhere within the Borough. The applicant has not demonstrated 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 through an appropriate marketing exercise carried out in accordance with Appendix 5. Lastly, the existing premises do not have an unacceptable environmental impact on the area within which it is situated.

As the proposal would result in the loss of E class employment floorspace (formally B class employment floorspace) and does not meet any of the exceptions where such a loss would be acceptable, the proposal to change the use of the whole of the building to flats would be contrary to Policy CS07 (LPCS).

In summary, in respect of principle of the proposed development the proposal would result in the loss of an existing Class E(g)(i) office use (previously Use Class B1(a)) and would not deliver at least an equivalent number of new jobs on site or elsewhere within the Borough; it has not been demonstrated 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 through an appropriate marketing exercise carried out in accordance with Appendix 5 and the existing premises do not have an unacceptable environmental impact on the area within which it is situated. As such the proposal is contrary to Policy CS07 (LPCS).

Whether the proposal would protect the architectural and historic interest of this grade II listed and preserve or enhance the character and appearance of the Upper Windmill Street Conservation Area

The application building is grade II listed and situated in the King Street Conservation Area. The plans show no external works are proposed and it is internal alterations only to enable the flat conversions. Internally it is proposed to remove a number of internal features. From a comparison of the existing and proposed floor plans it can be seen that the following alterations are proposed:

- Removal of a number of internal walls and doors at basement, ground, upper floor and first floor levels;
- Removal of the steps at basement level;
- Removal of all chimney breasts
- New internal walls are proposed at basement, ground, upper ground, first and second floor levels for the 3 proposed flats;
- New staircases at basement and ground floor levels.

A Heritage Statement has been submitted with the application but it is severely lacking in detail and does not contain what a Heritage Statement should do. A Heritage Statement should include a description of the significance of this heritage asset and a description of the contribution of its setting to that significance; provide a schedule of, and justification for the proposed works, provide an assessment of the impact of the proposals on the asset's significance and an assessment of how harm will be minimised and the significance will be preserved and enhanced.

The Heritage Statement which has been submitted with the application does not provide this information but yet states there would be no impact on the listed building or the conservation area. In respect of the actual proposal and the listed building and conservation area impact it states:

5.5 The proposed conversion has been designed in a way that no original fabric of the building has been altered. The building is currently vacant and the proposal will significantly help in enhancing and bringing this Listed Building to use. Also, there have been no changes or alterations made to the external façade of the building. The detail provided clearly shows that the site can accommodate the proposed development without having any detrimental effect on the street scene or the amenity of neighbouring properties. It will be a positive enhancement of the conservation area.

Despite the Heritage Statement stating that there would be no removal of original fabric and that the proposal would enhance the listed building and the conservation area, this is clearly not the case. From the information submitted which shows the proposed removal of a number of walls and doors, steps and all chimney breasts in the building together with the installation of a number of new walls and staircases, this would result in the loss of historic fabric and an alteration of the original plan form of the building which would be extremely harmful to the architectural and historic interest of this listed building.

Furthermore, with such proposals as this and being a flat conversion in a listed building the Council would require the proposed plans to show full details of all of the works that would be required under the Building Regulations for the flat conversion to take place at application stage in order that the full impact of the proposal could be assessed for the impact on the listed building. This detail has not been shown on the proposed plans. Works to the building in order to satisfy, for example, noise and energy requirements under the Building Regulations could cause an impact on the listed building. In the absence of the detail on what works would be required under the Building Regulations it cannot be known for sure that the proposal would not impact on the architectural or historic interest of this grade II listed building or the character or appearance of the Conservation Area.

There is also the case that due to the location of the site in an AQMA a ventilation extraction system would be required and therefore details would be needed of this at application stage to ensure the system would not cause harm to the listed building or the Conservation Area. Noise mitigation would also likely be required given the site's location in the town centre, on the one-way system and with a number of late night establishments in close proximity and details of what noise mitigation measures would be required would be needed at application stage in order to assess the full impact of the proposal on the listed building and conservation area.

In summary the proposal would result in the loss of historic fabric and an alteration to the plan form of the building all of which are part of the significance and character of this listed building. Furthermore insufficient information has been submitted in respect of the works that may be required under the Building Regulations and to mitigate poor air quality and noise impacts; such information would be needed in order to assess the impact of those works on this listed building and the Conservation Area. On the basis of the submitted information therefore the proposal it must be concluded that the proposal would be harmful to the architectural and historic interest of this grade II listed building and the character and appearance of the Upper Windmill Street Conservation Area contrary to Policies CS19 and CS20 (LPCS), saved Policies TC2 and TC3 (LPFR) and section 16 of the NPPF (2021).

Whether the proposal would provide acceptable living conditions for future occupiers of the flats

Flat sizes

The Technical housing standards – nationally described space standard (2015) states that the minimum standards for dwelling sizes depending on the number of bedrooms, bed spaces (persons) and storeys.

With regards the size of the flats they would be as follows:

Flat 1

(Across basement & ground floor – 1 bedroom, 2 storey dwelling) = 58.8 sq. m

The number of bed spaces (persons) is not shown in this flat but minimum size for a 1 bedroom, 2 person, 2 storey dwelling is 58 sq. m and flat 1 would achieve this.

Flat 2

(Across upper ground, first & second floors – 2 bedrooms, 3 persons, 3 storeys dwelling) = 71.5 sq. m

There is not a figure for a 2 bedroom, 3 persons, 3 storey dwelling and so the closest accommodation standard below this will need to be used as a gauge which is a '2 bedrooms, 4 persons, 2 storey dwelling'

and the minimum size for this type of accommodation is 79 sq. m - flat 2 would achieve this.

Flat 3

(Ground floor – 1 bedroom, 2 persons, 1 storey flat) = 71.5 sq. m

The minimum size for a 1 bedroom, 2 persons, 1 storey dwelling is 50 sq. m – flat 3 would clearly exceed this.

In respect of flat sizes the flats would therefore all comply with the minimum standards in the Technical Housing Standards (2015).

Private Amenity Space

SPG2 states that flats should provide a minimum of 10 sq. m private amenity space per flat. The site provides none but given its location in the town centre where there are public parks for future occupants to enjoy it is considered that on this occasion the lack of private amenity space would on balance be acceptable.

Air Quality & Noise Impact

The site falls within the A226 One Way System AQMA area. An Air Quality Assessment is needed in order to assess the impact on future occupiers of the flats from the poor air quality and determine what mitigation would be needed to protect future occupiers. No such assessment has been submitted. As such it cannot be confirmed that future occupiers of the flats would not be harmed by poor air quality.

The site is situated on the A226 which is on the town's one way system and at the junction with Windmill Street and Lord Street where there are traffic lights therefore, as well as the volume of traffic, vehicles are also regularly stopping and starting. A Noise Impact Assessment is needed in order to determine the noise impact from traffic and other potential noise sources such as late night establishments and associated noise and determine what mitigation would be needed to protect future occupiers. No such assessment has been submitted. Due to the potential noise that future occupiers could be exposed to it is considered that in the absence of a noise impact assessment it cannot be confirmed that occupiers would not be harmed by noise.

In respect of the amenity of future occupiers therefore, the site is situated in the A226 One Way System Air Quality Management Area and on a busy road with high levels of traffic with possible other potential noise sources. No details have been submitted to demonstrate that future occupiers would not be impacted on from poor quality and noise. As such, it is considered that the proposal would provide a poor level of amenity and living conditions for future occupiers of the flats and the proposal is therefore contrary to Policy CS19 (LPCS) and paragraph 130 (f) of the NPPF (2021).

Impact on 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 two units and the applicant has not paid the required tariff (£314.05 x2 = £628.10). 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 180 and 181 of the NPPF (2021).

Other matters

Neighbouring Amenity

No external changes are currently proposed to the building. As such it is considered there would be no impact on the amenity of neighbouring properties and in this respect the proposal is compliant with Policy CS19 (LPCS).

Parking and Highway Safety

The application site has no off-street parking and this would remain the case with the proposal. The existing use of the application building is an office use with a 4 bedroom maisonette above and it is proposed to convert this to three flats, two with 1 bedroom and one with 2 bedrooms making a total of four bedrooms. Therefore, overall it is considered that the proposal would not result in any additional demand in parking and therefore no requirement for additional parking at the property. In any case the site is located in the town centre close to a public car park and public transport links. Overall, therefore it is considered the proposal would not have any impact with regards parking and highway safety and as such the proposal is in accordance with Policy CS11 (LPCS).

Archaeology

The site is located in an Area of Archaeological Potential but there are no below groundworks therefore no impact on any archaeology and in this respect the proposal is compliant with saved Policy TC7 (LPFR).

Any Other Material Planning Considerations

None.

Balancing Exercise/Conclusion

The proposal is considered acceptable in respect of neighbouring amenity, parking and highway safety and archaeology. However, it has been found that the proposal would be unacceptable in respect of principle in terms of the loss of office use; the impact on the architectural and historic interest of this grade II listed building in respect of the removal of a historic fabric and alteration of the plan form and the potential impact on this listed building and the Conservation Area in respect of works that may be required under the Building Regulations and air quality and noise mitigation; the potential impact on the amenity of future occupiers with respect of poor air quality and noise and disturbance, and that the proposal does not put in place adequate measures to mitigate potential significant effects on the Thames Estuary and Marshes SPA/Ramsar site.

Paragraph 176 of the NPPF (2021) requires that great weight be given to conserving and enhancing designated heritage assets. Paragraph 180 (a) also states that if significant harm to biodiversity resulting from a development cannot be avoided, including being adequately mitigated, then planning permission should be refused. As stated in paragraph 181 of the NPPF (2021) SPA's and Ramsar sites should be given the same protection of habitats sites.

As set out above 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 CS12, CS19 and CS20 (LPCS) and saved Policies TC2 and TC3 (LPFR).

Recommendation: Refusal

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Miss Faye Hobbs
Signed:	<i>Rebecca Harrison</i>	Signed:	
Dated:	10th May 2023	Dated:	10 May 2023