



Delegated Report

Full Planning Application

Planning Application No: 20240152

Location: 2 Windmill Street Gravesend Kent DA12 1AD

Description: Change of use of ground floor from retail shop to sui generis takeaway, erection of first floor rear extension, change of use of first floor from shop storage to 1x1 bed flat and alteration of shopfront to provide access to flat.

Applicant: Mr Ali Rana

Site Visit Date: Desktop Assessment

Submitted Documents/Plans

Planning Application Form;
Drawing No. 001 Rev. B – Existing Block Plan Proposed Block Plan;
Drawing No. 002 Rev. A – Existing Elevations Existing Floor Plans;
Drawing No. 003 Rev C – Proposed Elevations Proposed Floor Plans;
Odour Impact Assessment;
Noise Report; and
Heritage Statement Rev B.

~~Drawing No. 001 Rev. A – Existing Block Plan Proposed Block Plan;~~
~~Drawing No. 003 Rev A – Proposed Elevations Proposed Floor Plans; and~~
~~Heritage Statement.~~

Relevant Planning History

Reference	Description	Decision	Decision Date
20090656	Application for Listed Building Consent for internal and external alterations in connection with the redevelopment and refurbishment of Gravesend Library Carnegie Building, including further knock throughs to connect the Listed Building with 1a and 2a Windmill Street.	Permission	29.01.2010
20090668	Application for Conservation Area Consent for the demolition of 1a and 2a Windmill Street.	Permission	29.01.2010
20090680	Application under Regulation 3 for proposed Gravesend Library redevelopment incorporating conservation and refurbishment of existing 'Carnegie' Library building; reconstruction of the front elevation of existing 1a and 2a Windmill Street (the former Zodiac Toyshop) with a new shopfront and demolition and replacement of existing 1a and 2a Windmill Street with a new two and three storey extension. KCC GRANTED PERMISSION 21.12.09 (CONDITIONS)	No Objections	21.12.2009

20070530	Change of use of Class A1 shop to Class A2 Financial and Professional Services.	Permission	07.08.2007
19820857	Application under Regulation 4 of the Town and Country Planning General Regulations 1976 for change of use to provide additional library accommodation	Permission	02.03.1983
19810327	Display of illuminated transom sign on the inside of shop window	Consent	18.05.1981
19810232	Installation of new shop front	Permission	18.05.1981

Development Plan

Gravesham Local Plan Core Strategy (2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS05 – Gravesend Town Centre Opportunity Area
- CS07 – Economy, Employment and Skills
- CS08 – Retail, Leisure and the Hierarchy
- CS10 – Physical and Social Infrastructure
- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS18 – Climate Change
- CS19 – Design & Development Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- TC3 - Development Affecting Conservation Areas

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 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.

National Planning Policy Framework (2024)

- Section 2 - Achieving sustainable development
- Section 5 - Delivering a sufficient supply of homes
- 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

- SPG2 - 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)
- SPG 3 - Advertisement Control Policy Guidance (1996)
- SPG 4 - Shopfront and Commercial Premises (2020)
- King Steet Conservation Area Appraisal (2009)
- Gravesham Town Centre Conservation Areas Management Plan (2009)

Consultations, Publicity and Representations

Consultees

GBC – Environmental Protection

The change of use from a retail shop to a takeaway and the change of use of the first floor from storage to a residential property, has the potential to cause noise and odour nuisance to neighbours and especially to future residents of the new flat directly above the premises.

A noise and odour impact assessment have been provided by the applicant. It is noted that whilst the noise assessment takes into consideration that the nearest sensitive receptor will be the new flat above the takeaway, the odour impact assessment does not appear to do so, stating the nearest residential property is 20metres away.

No details have been provided of the extract system. Either way, the applicant will need to ensure that the equipment does not cause a noise or odour problem.

Opening hours have been given on the application form as 11:00 to 23:00, 7 days a week, and these are acceptable for this location.

Any external lighting or illuminated signs must comply with the relevant ILP guidance.

To address the above, the following is recommended.

Restaurant/Takeaway Odour

Prior to any works commencing on site, the applicant shall:

- 1) Submit a scheme in writing to the Local Planning Authority for approval in relation to cooking odour/fume control. The extraction system must be designed and installed in accordance with the "EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)". Full details of proposed extraction system to deal with grease and odour control should include:
 - a) Plans and details of all duct work (internal and external) and equipment.
 - b) Plans showing the location/position of the external flue/discharge stack, including its position in relation to neighbouring properties and window openings.
 - c) Details of all grease filtration and odour control including the manufacturer's specification/data sheets. This includes the canopy.
 - d) Details, including manufacturer's specification/data sheets of the fan.
 - e) Details of proposed routine cleaning and maintenance of the system, and the service requirements

of the installed odour control system, including details of system access panels and confirmation that they will be grease tight.

- f) Details of the type of food to be cooked, the cooking time per day; and the type of cooking appliances to be used.

Where the end user is not yet known, the extraction system shall be designed for a 'very high' grease content, a 'very high' level of odour potential and a 'very high' smoke content (EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)).

- 2) Install and commission the extract system using a competent ventilation engineer in accordance with approved details. Provide a commissioning report to the LPA to verify the installation, ensuring minimum discharge rates are included. The extraction and odour/fume control equipment shall be maintained and operated in compliance with the approved scheme. After installation of the approved plant, no new plant or ducting system shall be used without the written consent of the Local Planning Authority.

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

Restaurant/Takeaway Noise

Prior to any works commencing on site, the applicant shall:

- 1) The extraction system must be designed and installed in accordance with the "EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)".
- 2) Install and commission the extract system using a competent ventilation engineer in accordance with approved details. Provide a commissioning report to the Local Planning Authority to verify the installation, including post completion noise levels. The equipment shall be maintained and operated in a condition such that the requirements of BS4142:2014 continue to be met. After installation of the approved plant, no new plant or ducting system shall be used without the written consent of the Local Planning Authority.
- 3.) Should the LPA grant planning permission we advise that recommendation 17.4 and 17.8 within the Noise Impact Assessment (ref: NALPRO040424.1a) provided by the applicant, is conditioned and the applicant is required to provide suitable evidence that the recommended sound proofing has been installed between the food premises and the residential flat above it prior to the opening of their business.

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

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 or illuminated signs without first submitting a scheme to the LPA for approval. This is to ensure that the lighting does not cause a nuisance to other premises in the area (particularly the residential flats above).

GBC – Waste Services

Internal storage is fine where there is no space to put in external storage. We generally give a 2 hours window 6am to 8am for waste to be presented so we can clear before the shops open. Where possible we like to try to design out the need for more regular collections than weekly but for some properties in the town, this is not possible.

For the commercial waste, the applicants will have to work with their provider.

Neighbouring properties

Consultation was by way of the displaying of a site notice and press notice, together with individual letters sent to 8 surrounding properties were consulted with an overall expiry date of 26th July 2024. No comments have been received.

Officer's Analysis

The application site consists of No. 2 Windmill Street which is a two storey building on the eastern side of the street. The premises has a lawful use as a retail shop (Chinese Medical Centre) with the first floor being ancillary to the shop and storage.

The proposal is for change of use from retail (Use Class E (previously A1)) to sui generis takeaway and the erection of first floor rear extension, change of use of first floor from shop storage to 1x1 bed flat and alteration of shopfront to provide access to flat.

The principle considerations in the assessment of this application are:

- Principle of development
- Housing Need
- Design, Character and Appearance
- Amenity of Future Occupiers
- Neighbouring Amenity
- Refuse
- Any Other Material Planning Considerations

Principle of Development

The application site is located within the Gravesend Town Centre Opportunity Area and the Primary Shopping Area. Policy CS05 (LPCS) states that the Opportunity Area will be the principal focus for town centre related economic and social activity in the Borough and that this will be achieved by consolidating the existing retail area, encouraging a mix of employment and residential uses, improving its role as a transport hub by the creation of a public transport interchange, promoting an evening economy through giving support to the provision of leisure uses and taking full advantage of its heritage and riverside setting.

Policy CS08 (LPCS) states that the Council will seek to reinforce a sustainable network and hierarchy of centres which includes maintaining the sub-regional role of Gravesend Town Centre. It states that Gravesend Town Centre will be maintained as the highest order centre within the Borough and the Primary Shopping Area will be the sequentially preferred location for new retail development.

The part of Windmill Street that is relevant to this application runs between Railway Place and New Road/King Street. Within this section of Windmill Street, out of the 32 units (excluding the application site):

- 12 Use Class E(a) (Display or retail sale of goods, other than hot food);
- 5 Use Class E(b) (Sale of food and drink for consumption (mostly) on the premises);
- 2 Use Class E(c)(i) (Financial services);
- 3 Use Class E(c)(ii) (Professional services other than health or medical services);
- 3 Use Class E(c)(iii) (Other appropriate services in a commercial, business or service locality);
- 1 Use Class E(e) (Provision of medical or health services);
- 1 Sui generis (public house);
- 2 Sui generis (betting shop);
- 1 Sui generis (tattoo parlour); and
- 1 Use Class F1(d) (Public libraries or public reading rooms).

In this case there is considered to be a healthy amount of retail uses and other appropriate services in a

commercial, business or service locality in the units in this portion of Windmill Street. There are no other solely hot food takeaways and the proposal would be the first in this part of Windmill Street therefore there would be no over-predominance of takeaways.

It is considered the change of use of the application unit from a retail to sui generis takeaway would not harm the overall retail function of the town centre.

Policy CS05 (LPCS) does encourage a mix of employment uses and it would still be a commercial use at ground floor which would support the economic activity of the town centre including the night time economy.

The proposed development would bring an empty unit back into use and would provide employment for staff when operating although no details of specific numbers have been provided on the application form.

It is considered that on balance after considering all the issues the proposal would not lead to a predominance of hot food takeaways in Windmill Street and would not harm the retail function or sub-regional role of Gravesend town centre or its economic activity and that the change of use from a public house to a takeaway is an acceptable development in principle. As such in respect of principle of development the proposal is considered compliant with Policies CS05 and CS08 (LPCS).

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:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

In the Gravesham context, the policies referred to in paragraph 11(d)(i) above are those set out in the NPPF at footnotes 7 and 9 (rather than those in development plans) relating to any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 189)
- 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 71)
- 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 130(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 (2024) 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.

Design, Character and Appearance including Heritage

The proposed development would comprise of a change of use, erection of first floor rear extension, extraction flue and alteration of shopfront to provide access to flat. The current shopfront is modern frontage with single glass panel door and large display window, which does not have a positive impact on the streetscene or the conservation area. The proposed shop front has incorporated more traditional design and materials which would be an improvement over the existing and enhance both the streetscene and conservation as a whole.

Existing Shopfront



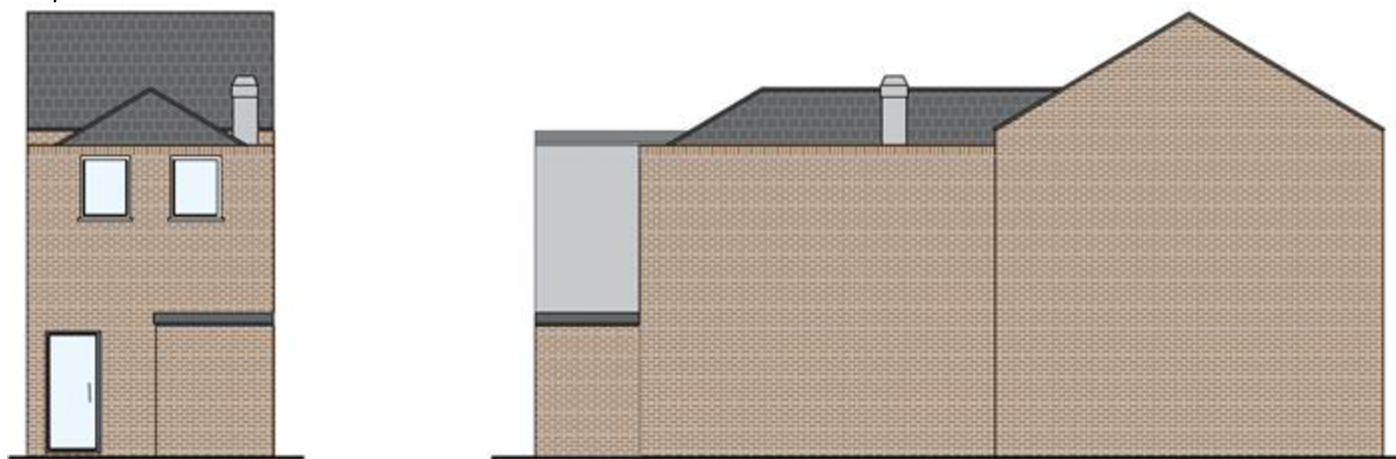
Proposed Shopfront





The rear elevation of the building is not highly visible from Milton Road (A226) and is largely obscured by the surrounding buildings. The proposed first floor rear extension has been designed to have a hip roof with parapet which would have a lower ridge height than the main building, which would be respectful and subservient to the host building. The proposed flue would not extend higher than the existing ridge of the main roof and would not be highly visible.

Proposed Rear/Side Elevations



It is considered that the proposal would not cause harm to the character of the building or the streetscene and would preserve the character and appearance of the King Street Conservation Area. In respect of design, character and appearance including heritage the proposal is considered compliant with Policies CS19 and CS20 (LPCS) and saved Policy TC3 (LPFR).

Amenity of Future Occupiers

Policy CS19 (LPCS) states that new development will be fit for purpose and will be located, designed and constructed to safeguard the amenity of its occupants and those of neighbouring properties and land. Harm to users of the adjacent properties due to roof terrace.

The proposed 1 bed flat would have a gross internal floor area of 50.05m² (not including the ground floor entrance) which accords with the minimum GIA of 50m² for a 1 bed 2 person dwelling, and the bedroom would have an area of 13.3m² which would exceed the minimum of 11.5m² for a double bedroom. Therefore the proposed residential unit would meet the minimum standards with habitable rooms having access to sufficient natural light and outlook.

As such, the application accords with Policy CS19 of the Core Strategy and paragraph 135(f) of the NPPF (2024).

Neighbouring Amenity

The upper floor of the application site is currently used ancillary to the shop and for storage. There is residential use on the upper floors of the application site and on the upper floors of nearby neighbouring buildings. The introduction of a takeaway at the application site has the potential to cause adverse odour and noise/disturbance impacts to the occupiers of any surrounding residential properties from cooking/odour extraction activities and customer visits/activities. An extraction flue is shown on the proposed rear elevation drawing but no further details are given on the proposed extraction system. A noise and odour impact assessment have been provided and it is noted that whilst the noise assessment takes into consideration that the nearest sensitive receptor will be the new flat above the takeaway, the odour impact assessment does not appear to do so, stating the nearest residential property is 20metres away. No details have been provided of the extract system.

GBC Environmental Protection raise no objections to the proposal but advise that an appropriate kitchen ventilation system will need to be installed to ensure that odour and noise are dealt with, which they advise can be conditioned with a timeframe of prior to works commencing. These pre-commencement conditions have been agreed with agent, should permission be forthcoming. It is stated on the application form that the opening hours would be 11:00 – 23:00 7 days a week. GBC Environmental Protection raise no objections to these as the hours are in line with other such uses in the town centre; they are therefore considered acceptable and would need to be conditioned. GBC Environmental Protection advise that in order to protect the residential use on the upper floors it should be conditioned that details of any lighting shall be submitted. Any illuminated signage would require Advertisement Consent which can be added as an informative.

Overall, it is considered that subject to conditions the proposed development would have no significant adverse impacts on the residential amenity of any surrounding neighbouring premises and in respect of neighbouring amenity the proposal would be compliant with Policy CS19 (LPCS).

Parking and Highways

The proposal is for a takeaway however, the site is located in a section of Windmill Street which is a pedestrianised street and closed to all traffic between the hours of 10:00 – 20:00. There are no objections to the proposed change of use to a takeaway as it is situated in the town centre with other similar units nearby. The proposed residential unit does not have any parking, however it is in a sustainable location close to shops and public transport. As such in respect of parking and highway safety the proposal is considered acceptable and compliant with Policy CS11 (LPCS) and saved Policy P3 (LPFR).

Refuse

There is no provision for external refuse storage for the proposed flat, however internal storage has been provided as shown on the proposed floor plans and these are considered acceptable. The existing shop already has provision for refuse storage.

This allows for refuse to be presented between so it can be cleared before the shops open.

These provisions are acceptable and in line with the rest of Windmill Street.

Any Other Material Planning Considerations

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 £328.27 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 one 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 £328.27.

The applicant has paid the SAMMS Mitigation Contribution Agreement and therefore meets the requirements of the Habitat Regulations and Section 15 (specifically paragraphs 192 and 194) of the NPPF (2024) and Policy CS12 (LPCS) (2014).

Conclusion

Subject to conditions (the applicant has agreed the pre-commencement conditions) the proposal is considered acceptable in respect of the principle of development, design, character and appearance including heritage, occupier and neighbouring amenity, parking and highway safety and refuse.

Recommendation: Permission subject to conditions.

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Ms Amanda Cue	Team Leader:	Richard Hart
Signed:		Signed:	
Dated:	17 th December 2024	Dated:	20 th December 2024