

MC/22/2514

Date Received: 20 October 2022
Location: 48 Green Street, Gillingham, Medway ME7 1XA
Proposal: Change of use of the existing building including the construction of a 4th floor extension to the rear and a 5th floor roof extension to create fifty-seven self-contained flats with private terraces/balconies and associated refuse/cycle storage areas, car parking, green roof and landscaping.

Applicant Agent Mr O Kocak
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ME4 4TZ

Ward: Gillingham South Ward
Case Officer: Nick Roberts
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 17th January 2024.

Recommendation: Approval subject to:

- A) The submission of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure:
- i) £17,900.85 towards Designated Habitats Mitigation.
- B) The following conditions:
- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 15 December 2023

22-107 005 REV P6 - Proposed Ground Floor Plan and Section
22-107 006 REV P5 - Proposed First and Second Floor Plans
22-107 007 REV P5 - Proposed Third and Fourth Floor Plans
22-107 008 REV P5 - Proposed Fifth Floor Plan and Section
22-107 012 REV P3 - Proposed Elevations (Sheet 1)
22-107 013 REV P2 - Proposed Elevations (Sheet 2)
22-107 015 REV P2 - Street Scene Elevation

Received 18 December 2023

22-107 001 Rev P4 - Proposed Site Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development does not prejudice neighbouring amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 An intrusive site investigation, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination.
- (ii) an assessment of the potential risks to:
 - o human health
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.

- o adjoining land,
- o groundwaters and surface waters,
- o ecological systems,
- o archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Land Contamination Risk Management document (LCRM)'.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 5 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 6 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority prior to first occupation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 4, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 5, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 6 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with Policy BNE23 of the Medway Local Plan 2003.

- 8 No development shall take place until a scheme based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

The scheme shall include (where applicable):

- i. Details of the design of the scheme (in conjunction with the landscaping plan where applicable).
- ii. A timetable for its implementation (including phased implementation if applicable).
- iii. Operational maintenance and management plan including access requirements for each sustainable drainage component.
- iv. Proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be undertaken in accordance with the agreed scheme.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 173 of NPPF.

- 9 No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and approved in writing by the Local Planning Authority. The CSWMP shall be implemented and thereafter managed and maintained in

accordance with the details approved for the duration of construction. The approved CSWMP shall include method statements, scaled and dimensioned drawings detailing surface water management proposals to include:

- i. Temporary drainage systems.
- ii. Measures for managing pollution / water quality and protecting waters and watercourses.
- iii. Measures for managing any on or offsite flood risk.

The development shall be undertaken in accordance with the agreed details.

Reason: This condition is sought in accordance with paragraph 173 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 10 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 11 No development shall take place above ground floor slab level until details of the provision of 2 electric vehicle charging point has been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 116e of National Planning Policy Framework 2023.

- 12 Prior to first occupation (or within an implementation schedule agreed in writing by the Local Planning Authority) a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 173 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

- 13 Prior to the first occupation of the development herein approved, full details of a hard and soft landscape scheme should be submitted to and approved in writing by the Local Planning Authority. This should include the following:
- i. Plans and information providing details of existing and proposed finished ground levels, means of enclosure, parking layouts, other vehicle and pedestrian access and circulation areas, all paving and external hard surfacing, lighting, and services (including drainage), tree grilles, minor artefacts, and structures (seating, refuse receptacles and raised planters). Soft landscape works, including details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare, and maintenance); schedules of plants, noting species, plant sizes, root treatments and proposed numbers/densities where appropriate.
 - ii. Details for the design and specification of tree planting to enable healthy establishment at maturity. Information should provide details for the planting environment (including within hard landscape, and raised planters), calculated soil volume, tree support and tie specification, guards and grilles, aeration and irrigation systems, soil build-up information (avoiding the use of tree sand), tree cell systems (to street tree planting environments).
 - iii. Detailed information should be provided for the design and specification of the green roof. Including drainage and soil build up, planting plans & plant schedules, all paving and hard surfacing, minor artefacts, and structures.
 - iv. A timetable for implementation.

The development shall be implemented in accordance with the approved details and timetable and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 14 No part of the development shall be occupied until a Landscape Management Plan has been submitted to approved in writing by the Local Planning Authority. The Landscape Management Plan shall include long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas including green roofs for a minimum period of five years, with arrangements for implementation and future review. The document shall also include an appendix incorporating product specification sheets for all street

furniture, covering installation and maintenance requirements. The development shall thereafter be managed in accordance with the approved details.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 15 No part of the development shall be occupied until a plan indicating the positions, design, materials, and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. This should also include details for the construction of the proposed retaining wall to the southern boundary. The boundary treatment shall be implemented in accordance with the approved details before any part of the building is occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1, BNE13 and BNE18 of the Medway Local Plan 2003.

- 16 Prior to first occupation a scheme of sound insulation works to the floor/ceiling, party wall structures between separate flats shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter in perpetuity.

Reason: To ensure that the amenities of occupiers are protected in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 17 The flats hereby approved shall not be occupied until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities (which should include the provision of individual lockers) shall be implemented in accordance with the approved details prior to first occupation of the flats herein approved and thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown for cycle and refuse storage facilities.

Reason: All new residential development requires provision of adequate accommodation for cycle and refuse storage to accord with Policies BNE1 and T4 of the Medway Local Plan 2003.

- 18 Notwithstanding the details hereby permitted and prior to the first occupation of any flat details of the refuse storage arrangements for the flats, including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. No flat shall be occupied until the approved

refuse storage arrangements are in place and all approved refuse storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 19 No part of the development shall be occupied until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Parking Management Plan shall contain details of how the 2 on site disabled parking spaces will be managed to prevent inconsiderate parking and how residents and their visitors will be prevented from parking on street. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of the residential units and shall thereafter be retained.

Reason: To ensure satisfactory off-street parking in accordance with Policy T13 of the Medway Local Plan 2003.

- 20 The development shall be implemented in accordance with the measures to address energy efficiency and climate change as set out within the Design and Access Statement. Prior to first occupation of the development a verification report prepared by a suitably qualified professional shall be submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been undertaken and will thereafter be maintained.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 159 the National Planning Policy Framework 2023.

- 21 The development shall be designed to such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason: To ensure that the amenity of occupiers of the development site are not adversely affected by noise from transport or commercial noise sources in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 22 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of the development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16-hour daytime nor 0.26 m/s (1.75) 8-hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason: To safeguard conditions of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This application seeks planning permission for the change of use and conversion of the existing vacant building, including the construction of a roof extension to create fifty-seven self-contained flats set over six storeys with private terraces/ balconies and associated refuse/cycle storage areas, car parking, green roof and landscaping.

The height of the building as extended would measure approx. 16.9m in height, this would equate to a total height increase of approx. 1.9m when compared to the highest part of the existing building. The footprint of the building will remain as existing with the main entrance to the front of the building from Green Street. Internally the building would comprise a communal/home working space, gym, caretakers' office, 7 flats, and refuse and secure cycle storage on the ground floor, 11 flats on the first floor, 9 flats on the second floor, 11 flats on the third floor, 10 flats on the fourth floor and 9 flats on the fifth floor. The overall housing mix would comprise 1 x studio flat, 25 x 1 bed flats, 30 x 2 bed flats and 1 x 3 bed flat.

Externally the building will be extended upwards to create a recessed fifth storey, with new windows, glazed doors and glass balustrades. The front elevation will also be restored and retained with larger openings at ground floor level and new openings at second floor level. The proposed materials would consist of yellow stock facing brick, render, green copper seam cladding, aluminium windows and doors and glass balustrades. The proposal would also include a sedum green roof, a small communal garden area to the rear and 2 disabled parking spaces.

Site Area/Density

Site Area: 0.15 hectares (0.37 acres)

Site Density: 380 dph (153 dpa)

Relevant Planning History

NK3/57/121A

Change of use from cinema to cinema and bingo club (bingo club in stalls area).

Decision: Approval with conditions

Decided: 23 November 1973

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. EDF Energy, Southern Gas Networks, Southern Water Services, Natural England, Kent Police and The Environment Agency, have also been consulted.

Twelve letters of representation have been received, which includes a letter from the former ward councillor Clive Johnson raising the following concerns:

- Proposal constitutes an overdevelopment.
- Impact of proposal in respect to noise and ASB.
- Scale of the building.
- Impact on residential amenity by reason of the overbearing effect.
- Loss of privacy by way of overlooking.
- Lack of parking.
- Would generate significant HGV movements.
- Impact during construction.

The **MP for Gillingham and Rainham, Rehman Chishti**, has written supporting the proposal on the basis that it would make use of an existing brownfield site and would be a strong catalyst for ongoing regeneration. This would be on the condition that the transport strategy proposed is acceptable.

The **Environment Agency** have advised that they have no comments to make on the application.

Kent Police have welcomed further discussions with the applicant about site specific designing out crime approaches and have provided general advice with respect to lighting, boundary treatments, natural surveillance, general security and other approaches that could be implemented within the development to reduce crime, fear of crime, ASB and nuisance.

Natural England raise no objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites.

Southern Water Services have advised that their initial investigations indicate that they can provide foul sewerage and water supply to serve the proposed development and they require a formal application to be made for a connection to the public foul sewer and water supply. They have also provided general advice with respect to SuDS and their future adoption. In addition, and in the event that a sewer is found to be crossing the site, an investigation of the sewer will be required to ascertain ownership.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework December 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Background

This site was identified in the 2019 Strategic Land Availability Assessment (SLAA) as a site that may be suitable for housing. At that point in time the site was considered favourably apart from the availability and achievability criteria, however it was considered that this could be overcome by the Gillingham Town Centre Masterplan (November 2019). The masterplan identifies the potential to rejuvenate the town centre through redevelopment of existing sites and although the identified site is not situated within the high street, its proximity to the high street would make it suitable for redevelopment/reuse aligned to the aspirations of the town centre.

The Gillingham Town Centre masterplan also identifies the site as an opportunity site for intensification. The site is closely located to Gillingham rail station and bus routes and is located next to Gillingham High Street with shops and local amenities. It is identified as an opportunity area with an important frontage. Given the sites proximity to the station and the existing mixed uses within the area, this proposal would align with the ambition to improve existing assets that can be used to support the role of the town centre.

The SLAA identifies a potential for 30 units to be delivered over 4 floors as part of the redevelopment of the site which would involve the demolition of the existing building and its replacement with a new build development. A second option is shown in the masterplan with the same footprint and height, but with 94 apartments for student accommodation.

In contrast to these aspirations this proposal seeks to re-use and convert the existing building as opposed to re-developing the site through demolition. In utilising the fabric of the existing building, the proposal would be more sustainable and would help support the transition to a low carbon future. This would also help in making this site more viable for residential development.

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

The NPPF seeks to pursue sustainable development, in a positive way through a presumption in favour of sustainable development, unless the policies within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (paragraph 11). Paragraph 60 of the NPPF also seeks to significantly boost the supply of housing by bringing forward a variety of land to meet specific housing requirements. Paragraph 70 of the NPPF also recognises the contribution that small and medium sized sites can make to meeting the housing requirement. In addition, paragraph 123 of the NPPF states that planning policies and decisions should promote the effective use of land in meeting the

need for homes and other uses and strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land. Furthermore, paragraph 124c of the NPPF gives substantial weight to the value of using suitable brownfield land within settlements for homes and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing.

The site is within the urban area as defined on the proposal maps to the Local Plan. Policies S1 and S2 of the Local Plan seek to prioritise development within the existing urban fabric and then strategically sustainable development using a sequential approach to location. As a site located within the urban area, the principle of the proposed development would comply with the development strategy as set out in the Local Plan, which directs development to brownfield sites. Policy H4 of the Local Plan also states that residential development consisting of the use of vacant or derelict land will be permitted providing that a clear improvement in the local environment will result. Policy H5 of the Local Plan also supports higher density housing close to town centres, near existing public transport points or along routes capable of being well served by public transport and which are close to local facilities. This is broadly consistent with paragraph 90f of the NPPF which states that planning policies should recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites. Paragraph 157 of the NPPF also states that there should generally be a strong presumption in favour of repurposing and reusing buildings in meeting the challenge of climate change.

Although Policy L1 of the Local Plan also seeks to resist the loss of existing leisure facilities, and the building was formerly occupied by Riley's, in this case the building has been vacant for the past 6 years and has fallen into a state of disrepair. As such, and due to the internal layout of the building, and the costs associated in repurposing the building, its redevelopment for housing is considered the most appropriate approach in securing the buildings long term future.

In view of the above, and subject to a further assessment of design, amenity, contamination, noise, air quality, and highway considerations the principle of the proposal is acceptable and in accordance with Policies H4, H5, S1 and S2 of the Local Plan and Paragraphs 11, 60, 70, 90, 123, 124 and 157 of the NPPF.

Design

Policy BNE1 of the Local Plan states that the design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment by amongst other matters being satisfactory in terms of scale, mass, proportion, details, and materials. Paragraphs 131 and 135 of the NPPF also emphasises the importance of good design.

There is a mix of architectural building styles within close proximity to the application site that do have a positive contribution to the character of the street scene, including the

former Adult Education Centre, 45, 47 and 50 Green Street, as well as a collection of buildings with negligible design articulation or architectural features including 52-54 and 55 Green Street.

The application site is a large imposing brutalist building that occupies almost the full width and depth of the site. Historically the building was formerly opened as a cinema in the 1930's with a stage and a large auditorium and balcony. When the cinema ceased trading in the 1970's it became a bingo hall, but when a new bingo hall was built in Chatham (Gala bingo), Riley's pool and snooker club took over the premises until 2017 when they surrendered the unit. The building has remained vacant since this point, and in this respect does not contribute towards the vitality of the area. However, it does represent an opportunity for redevelopment.

The principal behind the proposal is to re-use the fabric of the existing building, which in turn will result in a more sustainable development and will also help in making this site more viable for residential development. The front elevation will be restored and retained, with the introduction of additional windows on the second floor, and third floor. The building which is currently staggered in height and steps down to the rear will also be extended in height, so it is level with the parapet of the front section of the building. A fifth-floor roof extension will then be added which will be set back from the principal elevation to reduce its visual prominence. The main entrance will remain to the front of the building, and services access will be to the rear.

At present the flank and rear elevations of the building comprise expansive featureless areas with negligible design articulation or architectural features. The introduction of windows, balconies and contemporary materials will serve in providing architectural articulation and passive surveillance. The openings for windows and balconies have also been arranged between the existing structural buttresses to create a strong rhythm with clean lines and contemporary detailing. Although, the proposed extensions to the existing building would increase the scale and mass, of what is already a large building, this is required to facilitate the successful conversion. Furthermore, the applicant has provided 3D visual representations from Balmoral Road / A231 and from Balmoral Gardens. These views demonstrate that the proposal would assimilate itself into the wider townscape and will act as an effective wayfinding marker for people accessing the town centre, particularly via the footbridge at Balmoral Gardens. To mitigate the visual impact of the proposed extensions the roof extension has also been set back from the principal building line on all sides.

The proposed height of the development would be 6 storeys, however as the proposal seeks to convert and extend the existing building this would equate for the majority of built form. The Building Height Policy for Medway 2006 Supplementary Planning Document states that taller buildings should contribute positively to the overall townscape and landscape, and they should not detract from their surroundings. Although the Building Height Policy does not identify this area as a location that would normally be suitable for higher buildings, the SPD focuses on the construction of new buildings as opposed to conversions. In this instance it is considered the proposal would represent an opportunity

to breathe life back into the building and dramatically improve its appearance. The main bulk of the building would also be 5 storeys with the upper storey set back to further reduce the impact of its height, particularly from street level.

Overall, and when taking into account that the proposal would secure the long-term use of the vacant building, whilst contributing to much needed housing, in a highly sustainable location, it is considered that the building would make a positive contribution to the character and appearance of the street scene and on balance its scale would be acceptable. Therefore, and subject to a condition requiring further details of the external materials, the proposed development is considered acceptable with regard to Policy BNE1 and H4 of the Local Plan and paragraphs 131 and 135 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed dwellings on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 135 of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

Due to the siting and scale of the proposed development, and its orientation in relation to adjacent residential properties, the main impact from this proposal will be on the neighbouring properties to the north and south (The Salvation Army Church and 46 Green Street). The proposal seeks to utilise the buildings existing footprint and extend upwards to the rear in line with the principal elevation, before adding a new roof extension. Whilst the building will undoubtedly appear more prominent as a result of these works, given the existing relationship between the building and the neighbouring properties, the extent of building works required, and its existing impact, cumulatively it is not considered that the proposal would result in an unacceptable impact to neighbouring properties in terms of its potential overbearing nature. Similarly, it is not considered that proposal would have an unacceptable impact in respect to a loss of light and outlook.

Although new windows, doors and balconies would be inserted within the northern and southern elevations of the buildings this would not present any detrimental impacts in respect to overlooking to the adjacent neighbours. This is on the basis that there would be no overlooking into any private spaces and no direct overlooking into any habitable rooms. It is also noted that the existing windows located within the southern elevation of The Salvation Army Church have mottled glass which further reduces any perceived overlooking. While adjacent buildings are predominantly in non-residential use and therefore less sensitive in terms of impact, the proposed conversion would not prejudice the future conversion of those commercial buildings to residential.

This assessment of neighbouring amenity has also taken into account the impact of the development proposals approved under MC/13/0674 for the redevelopment of the Adult Education Centre to provide student accommodation. In this case the MC/13/0674,

application included permission for the construction of a three-storey student block (block C) adjacent to the site's northern boundary with 48 Green Street. Although this block has not been constructed as part of the wider development proposals, the permission has been implemented (in part) as other parts of the development have been built out and therefore any potential impacts would still need to be considered.

In reviewing the plans for the adjacent development, the student rooms proposed within Block C would not have any habitable windows facing the development site, and those windows affected would be limited to landing windows only. Furthermore, and although an amenity area is also proposed on land to the south, as a community amenity area this would already be overlooked by the existing student accommodation and would not function as a private space. Moreover, and by virtue of the separation distances involved (approx. 15m) this would not be unacceptable within an urban high street location.

Due to the proximity of neighbouring properties and the potential for nuisances to be caused during the construction phase a Construction Environment Management Plan will be required as a condition of this approval.

Amenity of Future Occupiers

The proposed new dwellings have been considered against the technical housing standards - nationally described space standard dated March 2015 (the national standard). All flats would either meet or exceed the requirements of the national standard. In addition, the bedrooms would also meet the national standards area and width requirements and all habitable rooms would be provided with suitable outlook and daylight.

As guidance, the Medway Housing Standards (interim) November 2011 (MHDS) also states flats should have access to 5m² of private outdoor space in the form of a patio, terrace or balcony. Where it is not suitable to provide balconies, patios or terraces, amenity needs should be met with an internal space of the same size. With the exception of flats 17, 18, 37 and 38 all of the flats would benefit from a terrace or balcony either meeting or exceeding 5m², while the named flats would provide a surplus internal GIA of at least 8m², in addition to the floor space requirements specified in the national standard. Furthermore, the site is located in a highly accessible location and within easy walking distance to public open space, including Balmoral Gardens located immediately to the southeast.

This assessment of occupier amenity has also taken into account the impact of the development proposals approved under MC/13/0674 for the redevelopment of the Adult Education Centre as previously referenced above. In this case, and to mitigate any potential amenity concerns associated with the adjacent site, and specifically the approved Block C (which to date has not been constructed) the cycle store and plant room have been located within the ground floor adjacent to the site's northern boundary. In addition, the external elevation of flats 9 and 10 have also been designed with directional windows and doors to ensure adequate outlook and daylight provision.

Similarly, the elevation of flats 20 and 21 have also been pulled back to improve outlook and allow more light into the flats below. On balance, and when taking into account these flats would also be south facing this relationship would be considered acceptable.

In seeking to convert the existing building the habitable windows of the ground floor units on the north facing elevation would also be located in close proximity to the access road that runs to the side of the building. However, to mitigate this impact, the private terrace areas serving these units have been recessed to create a greater sense of enclosure and privacy and provide defensible space. As a result, the habitable windows would be inset approx. 2.2m from the building line. Similarly, there would be an offset of approx. 3.6m between the ground floor habitable windows on the south elevation and the boundary with 46 Green Street. In view of the above, and on balance, and when taking into account it is not uncommon within High Street and densely populated locations, to have habitable rooms with windows abutting a footpath or road where pedestrians and vehicles can pass, this is considered acceptable.

Two large secure refuse storage areas are also proposed within the building to serve the development, one to the front and one to the rear, and the applicant has demonstrated on the plans that the footpath between the rear bin store and highway is at least 2m in width to accommodate the bins and crews safely. Subject to a condition to ensure the refuse storage areas are provided as shown on the plans, and that a dropped kerb is provided to ensure safe emptying no objection would be raised.

Although the proposed outdoor amenity space is relatively small, when combined with the breakout / communal home working space and gym on the ground floor and balconies/terraces for residents, overall, it is considered that the development now provides a good mix of these threshold spaces. Furthermore, the proximity of Balmoral Gardens would mean residents would have access to open space provision only a short distance away.

In view of the above the proposal is therefore in accordance with Policies BNE2 and H4 of the Local Plan and paragraph 135 of the NPPF.

Noise

The application has been submitted with a Noise Impact Assessment (Ref; JP2909221NR, dated 31 October 2022). Environmental noise and vibration monitoring was undertaken at the site and noise affecting the development was determined to be predominantly from road and rail. Secondary sources of noise were also identified associated with deliveries to the adjacent 'Iceland' supermarket as well as from adjacent and nearby plant such as air conditioning units.

A glazing and ventilation scheme has been provided to ensure conditions in habitable rooms remain within the desired design criteria of BS8233:2014: Guidance on Sound Insulation and Noise Reduction for Buildings, with additional penalties added due to the nearby commercial sources in line with BS4142. Mechanical Ventilation with Heat

Recovery has also been proposed due to high external noise levels from the adjacent railway line, and additional guidance has also been provided within section 9 of the Noise Impact Assessment to control self-generated noise from the system. Although an assessment of the external amenity spaces found noise levels to be slightly below the guidelines set out in BS8233:2014, as the development is assumed “desirable” the slight deviance from these guidelines is considered acceptable. The vibration assessment also found all results falling below the range of ‘Low probability for adverse comment’ in accordance with BS 6472-1:2008.

Following consultation of the submitted acoustic report no objections are raised to the proposal subject to conditions to ensure acceptable noise levels within the development are maintained to protect residential amenity. This would also include a scheme of internal sound insulation between the separate flats.

Subject to the conditions as set out above no objection is raised with regards to Policy BNE2 of the Local Plan and paragraphs 180 and 191 of the NPPF.

Contamination

The application has been submitted with a Phase 1 Environmental Assessment Report (Ref; CL101, dated 4 October 2022). The report is in line with current guidance and recommends a phase 2 intrusive site investigation due to the potential for contamination from previous land use on site and the adjacent area. This is on the basis that the proposed end use is sensitive, being residential, and the proposal also includes soft landscaping. Subject to the imposition of conditions requiring a more intrusive investigation, including a remediation strategy to deal with the potential risks associated with any contamination and a subsequent verification report no objection is raised in regard to Policy BNE23 of the Local Plan and paragraphs 189 and 190 of the NPPF.

Highways

Policy T1 of the Local Plan states that when assessing the highways impact of development, proposals need to ensure that the highway network has existing capacity to cater for the increase in traffic generation and that the development will not significantly add to the risk of road traffic accidents. Policy T2 of the Local Plan states that where proposals involve the intensification of an existing access, they must not be detrimental to the safety of vehicle occupants, cyclists and pedestrians. Policy T3 of the Local Plan also requires development proposals to provide a safe and accessible pedestrian environment and Policies T4 and T13 of the Local Plan states that cycle and vehicle parking should be provided in accordance with the adopted standard.

In addition, paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Moreover, paragraph 109 of the NPPF recognises that significant development should be

focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

Although the Council would normally expect parking to be provided in accordance with its adopted standard, the standards do state that reductions will be considered if the development is within an urban area that has good links to sustainable transport and where day-to-day facilities are within easy walking distance. The application is proposed as a 'car free development' with the exception of 2 disabled parking spaces that will be provided to the rear. The site is located within the core retail area of Gillingham town centre and close to bus links and Gillingham train station. Furthermore, the surrounding streets are also subject to parking controls, between the hours of 8am – 10pm, Monday – Saturday on Green Street, with a maximum stay of 2 hours if paying for parking, and 8am - 6pm Monday – Saturday on Canterbury Street and Theodore Place which is also subject to further business permit controls.

In these circumstances, and when taking into account the highly sustainable location of the site, and the provision that has been made on site to accommodate secure cycle storage as individual lockers within the ground floor of the building, on balance a car free development is considered acceptable. However, a parking management plan would be required detailing steps that would be put in place to prevent future residents from obtaining parking permits. In addition, the management plan would also need to provide details of how the 2 disabled parking spaces would be managed for future occupants to prevent future conflict and irresponsible use of the bays.

It should be noted that the NPPF has put sustainable development as a central core and paragraph 116e of the NPPF outlines that development should provide electric charging facilities. Therefore, a suitably worded condition is recommended requiring the submission of further details of the proposed EV charging points for the two disabled bays. In view of the above, and with the aforementioned conditions with respect to EV charging points, further details of cycle storage and a parking management plan, no objection is raised under Policies T1, T2, T3, T4 and T13 of the Local Plan and paragraphs 115, 116 and 135 of the NPPF.

Flood Risk

The application has been submitted with a Sustainable Drainage Assessment (Ref; 77903R1, dated 10 May 2022). The site lies within Flood Zone 1 according to the Environment Agency mapping and therefore has a low probability of river or sea flooding. Furthermore, the site is not considered to be at risk of surface water flooding.

The proposed development is for the conversion of the existing building. Therefore, whilst there will be external changes to the building, few changes to the building footprint are proposed. Additionally, the majority of the site comprises the buildings footprint, with minimal permeable surfaces, given the use of the existing building structure as the basis for the proposed development.

SuDS features comprised of a rainwater harvesting tank, green roof and permeable surfacing are proposed to provide a betterment on the existing drainage. The SuDS features would provide some water quality benefits (interception and filtration), as well as opportunities for water re-use, amenity and biodiversity benefits and some attenuation, prior to discharging to the public combined sewer. The proposed SuDS strategy would ensure surface water runoff is stored on-Site in SuDS features for the 1 in 100-year event including a 45% allowance for climate change. The Drainage Strategy also confirms the management and maintenance of the SuDS features, will be undertaken by contractors appointed by the owners and occupiers of the new residential building, where payments for the works will form part of the property deeds and / or rental agreements.

In view of the above, and subject to conditions requiring further information with respect to sustainable drainage principles, a construction surface water management plan and a drainage verification report no objection is raised in regard to Policy CF13 of the Local Plan and paragraph 173 of the NPPF.

Climate Change and Energy Efficiency

The Planning Agent has incorporated a section on climate change within the Design and Access Statement which can be summarised as follows:

- The building will be designed in accordance with the latest building regulations and in particular Part L (Energy Use) for new dwellings ensuring high levels of thermal insulation with low energy use fixtures, fittings, and appliances.
- All new windows are to be double-glazed which will significantly reduce noise and improve heat insulation. The large windows and glazed doors to all habitable rooms will ensure greater levels of natural light reducing the need for artificial lighting and associated energy use.
- All hard standings will be self-draining and electrical car charging points will be provided.
- Water usage shall be minimised by specification of efficient taps, dual flush toilets and low water use appliances.
- All construction on site will be managed in an environmentally responsible manner in terms of resource use, storage, waste management, and potential sources of nuisance or pollution.
- The proximity of amenities including public transport, a public park, and shopping facilities from the proposed development mean the length of journey is minimal promoting walking and making it not essential to own a car. Cycle usage is encouraged by providing one secure cycle space for each flat offering the opportunity for a sustainable transport solution.
- The green sedum roof, introduction of soft landscaping wherever possible, including within the private outdoor spaces of balconies and terraces in form of growing green walls, will result in a large net gain in biodiversity whilst aiding air-quality and reducing rainwater run-off.

A condition requiring these measures to be implemented and a verification report to be submitted to confirm implementation is recommended in accordance with paragraph 159 of the NPPF.

S106 Matters and Affordable Housing

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken into account if the obligation is:

- (a) necessary to make the development acceptable in planning terms.
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Paragraph 58 of the NPPF states that it is for the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. In this case a financial viability appraisal was submitted by the applicant, which addresses the viability of development across the application site. The original viability assessment and subsequent addendums have been assessed by an independent viability consultant, and a revised cost plan and more detailed information in respect to the works required to convert the existing building have been provided by the applicant, as requested by the independent viability consultant.

In summary a scheme which contains no commuted sum payments or affordable housing leads to a residual land value of £291,464, this is equal to 63% of the benchmark land value, which would be the minimum value at which it is considered that the landowner would have received a competitive return. This would equate to a marginally viable scheme but only if the developer was prepared to take considerable additional risks in outperforming reasonable market expectations of both build prices and the sales values that could be achieved. Furthermore, if the profit rate is adjusted to 16.15% of the gross development value, which is lower than what would be generally acceptable for a refurbishment scheme, or a development of flats when considering the risk profile this presents, a residual land value of £464,322 is generated equal to 100% of the benchmark land value.

Policy H3 of the Local Plan states that on appropriate sites, affordable housing will be sought equating to a minimum of 25% of the total housing provisions. This includes sites within the urban area, where the development would include 25 or more dwellings. The policy also states that 'matters to be taken into account when affordable housing is negotiated, includes 'the economics of provision'.

In respect to affordable housing paragraph 65 of the NPPF states that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount. Footnote 31 of the NPPF defines this equivalent to the gross floorspace of the existing

buildings. However, this does not apply to vacant buildings which have been abandoned. Notwithstanding the evidence that has been submitted and verified confirming that the provision of affordable housing would not be viable, either with the provision of on-site affordable housing or an off-site contribution, and on the basis that the vacant building credit would apply, the existing vacant floor space is equivalent to 40% of the proposed development. Therefore, the maximum amount of affordable housing that could be provided, irrespective of the financial viability, would be 15% or 8 units.

Therefore, and in view of the information that has been in respect to financial viability it is on this basis that no S106 obligations or affordable housing are being pursued, other than Bird Mitigation.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £314.05 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. Further information regarding the work being undertaken is available at The Bird Wise website.

The applicants have agreed to pay this tariff should a resolution to approve be agreed. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 186 and 187 of the NPPF, on the basis that this contribution can be secured via a Unilateral Undertaking.

Local Finance Considerations

None relevant.

Conclusions and reasons for Approval

On balance it is considered that the scale, mass and design of the proposal would respect the character of the existing street scene and there would be no detrimental impact on the amenities of future occupiers, neighbouring residential amenities or highways safety.

The application is therefore in accordance with Policies S1, S2, S6, BNE1, BNE2, BNE23, BNE35, H4, H5, CF13, T1, T2, T3, T4 and T13 of the Local Plan, the advice set out in paragraphs 11, 60, 70, 90, 123, 124, 109, 115, 116, 131, 135, 157, 159, 173, 180, 186, 187, 189, 190 and 191 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee in light of the numbers of representations received contrary to the officer's recommendation.

The application was reported to Committee on 17 January but deferred to allow members to get a better understanding of viability issues and implications.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>