



Appeal Decision

Site visit made on 20 February 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal Ref: APP/A2280/W/24/3350824

23 Railway Street and Paddock House, Chatham ME4 4HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jay Lall, Visionary Builds Ltd against the decision of Medway Council.
 - The application Ref is MC/24/1048.
 - The development proposed is Change of use from office to seven flats together with construction of a second and third floor extension with associated refuse and cycle stores (re-submission of application MC/23/0737 dated 28 July 2024).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from office to seven flats together with construction of a second and third floor extension with associated refuse and cycle stores (re-submission of application MC/23/0737 dated 28 July 2024) at 23 Railway Street and Paddock House, Chatham, Kent ME4 4HU in accordance with the terms of the application, Ref MC/24/1048, subject to the conditions set out in the schedule below.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.

Main Issue

3. The main issue in this appeal is whether the proposal would provide future occupiers with adequate living conditions having regard to the size and layout of Flat 1 located at ground and basement level.

Reasons

4. The appeal site relates to 23 Railway Street, a three storey nineteenth century building and Paddock House, which forms a subordinate part of the original building at two storeys in height
5. The Technical housing standards – nationally described space standards (2015) (NDSS) does not include a standard for a 1-person, 2-storey dwelling. In its absence, the Council suggest that Flat 1 should meet the 58 square metre Gross Internal Area (GIA) NDSS standard for a 2-person, 2-storey dwelling. This standard relates to a 2 person dwelling which has 1 double bedroom which is separate to the main living spaces.

6. However, Flat 1 would not be a 2 person dwelling, and it would not have a bedroom separated from the living area. It would be laid out as a 1 bedspace studio, without a separate bedroom, albeit with a bathroom located within a lower storey. Whilst this configuration of accommodation does not fit any dwelling type within Table 1 of the NDSS, it seems to me that it would be more closely aligned to a 1-person, 1-bedspace dwelling. The NDSS requires such a dwelling to have a GIA of 37 square metres, when provided over a single storey.
7. The appellant's evidence indicates that Flat 1 would have a GIA of 43.1 square metres. The Council suggest that when the area of the stairway and hallway leading to the bathroom on the basement floor are removed from the internal floor area calculations, Flat 1 would have a GIA of 33 square metres. I have no further evidence to demonstrate this point, and I note that the NDSS does not preclude the inclusion of hallways in GIA calculations. In contrast, the appellant's submitted evidence includes floor plan drawings with dimensions. These demonstrate that the ground floor area of Flat 1 would be 31.3 square metres, and that the basement area which includes the bathroom would be 11.8 square metres. Whilst the stairwell does result in a reduction in usable space, the appellant indicates that when the under stair storage is factored in, this area is approximately 1 square metre. Overall, Flat 1's floor area would exceed 37 square metres, even with the stair area deducted from calculations.
8. Flat 1's ground floor area would be reasonably sized at 31 square metres, and its regular layout would be well proportioned, ensuring functional and useable habitable space. The bathroom and hallway provided within the basement would provide sufficient additional space, including areas which could be used for storage. Whilst spread across two storeys, I am not persuaded that a person living within Flat 1 would find the home unduly cramped.
9. For the above reasons, I conclude that the proposal would provide satisfactory living conditions for its occupants. Therefore, in this respect, it would comply with Policy BNE2 of the Medway Local Plan (2003) which states that all development should secure the amenities of future occupiers. It would also comply with the aims of the Framework which, at paragraph 135 f) states that proposals should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

10. It has been highlighted within the Council's report that the appeal site is within 6km of the North Kent Special Protection Areas (SPAs) and Ramsar Sites. The coastline of North Kent encompasses three SPAs: the Thames Estuary and Marshes SPA, the Medway Estuary and Marshes SPA and the Swale SPA. They are important for bird species, which are rare and/or vulnerable in a European context, and also sites that form a critically important network for birds on migration. All three sites are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).
11. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPAs and Ramsar sites. The effects arising from the proposal need to be considered in

combination with other development in the area, adopting a precautionary approach.

12. The development as a whole would result in seven dwellings with a consequent increase in local residents living within 6km of the SPA and Ramsar sites. This would be likely to result in additional recreational activity in these areas, causing disturbance to protected bird species that over-winter or breed on the forementioned SPA and Ramsar sites. Therefore, the proposed development is likely to have a significant effect on these European Sites. As the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the SPAs and Ramsar sites.
13. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as the North Kent SPAs and Ramsar sites. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the SPA and Ramsar sites. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds on the North Kent Marshes, focusing on the European Protected Sites and Ramsar Sites and their internationally important bird interest features. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England (NE), I am satisfied that the measures would adequately overcome any adverse effects of the proposal on these European Sites.
14. The Council have confirmed a per dwelling contribution payment to fund the SAMMS has been made by the appellant. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
15. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the North Kent SPAs and Ramsar Sites. The development would therefore comply with the Habitats Regulations.

Conditions

16. I have had regard to the various planning conditions that have been suggested. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
17. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty. In the interests of character and appearance I have imposed the suggested condition related to the use of external materials.

18. I have imposed a condition requiring the submission of details of a clean air ventilation system and air quality mitigation measures in the interests of the living conditions of future occupiers. I have modified the wording of the conditions as the details are not necessary prior to the commencement of the development. I have also imposed the suggested conditions related to the transmission of internal noise in the interests of future occupiers' living conditions.
19. A Noise Impact Assessment (NIA) was submitted with the planning application. The Council's Officer Report outlines that a number of noise mitigation measures are identified within the NIA. For this reason, I have not imposed the Council's suggested conditions requiring the submission of an additional acoustic assessment. However, I have imposed a condition requiring the provision of the acoustic mitigation measures outlined within the NIA.
20. Conditions related to a car parking management plan and cycle parking are necessary in the interests of highways safety and encouraging sustainable modes of transport. As the proposed cycle parking is shown on the submitted drawings, I do not consider that the submission of additional details are necessary, and have modified the condition to reflect this.

Conclusion

21. For the reasons above, and having regard to all other matters raised, I conclude the proposal would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: Location & Block Plan 2026_PL_01; Existing Ground Floor / Site Plan 2026_PL_02; Existing Floor Plans 2026_PL_03; Existing Elevations 2026_PL_04 March 2023; Proposed Floor Plans 2026_PL_05; Proposed Elevations 2026_PL_06.
- 3) All materials used externally shall match those set out in the application form received 21 May 2024.
- 4) The development shall not be occupied until the details of a clean air ventilation system (which provides both passive and rapid ventilation) necessary to ensure an appropriate level of air quality within the development have been submitted to and approved in writing by the Local Planning Authority. All works, which form part of the approved system, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.
- 5) The development shall not be occupied until full details of the following air quality mitigation measure have been submitted to and approved in writing by the Local Planning Authority: All gas-fired boilers installed to residential units to have NOx emissions of less than 40mgNOx/kWh. All works, which form part of the approved details, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.
- 6) The separating ceiling and floor between the ground floor retail unit and the first floor shall resist the transmission of airborne sound such that the weighted standardised level difference (DnT,W +Ctr) shall not be less than 60 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.
- 7) The separating ceiling and floor between the ground floor retail unit and the first floor shall resist the transmission of airborne sound such that the weighted standardised level difference (DnT,W +Ctr) shall not be less than 60 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.
- 8) The development shall not be occupied until acoustic mitigation measures have been installed in accordance with the details contained within the Noise Impact Assessment (MRL Acoustics, September 2023 - MRL/100/2036.1v1). The mitigation measures shall be installed prior to first occupation of the unit and operated and retained thereafter.
- 9) The development shall not 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 residents and their visitors will be deterred from parking on street. The Parking Management Plan

shall be implemented in accordance with the approved details prior to the occupation of the first residential unit and shall thereafter be retained.

- 10) The development shall not be occupied until the cycle storage facility, as shown in drawing ref: 2026/PL/05 has been installed in accordance with the approved drawings.

END OF SCHEDULE