

**Tonbridge**  
Judd

**22 MAY 2025**

**TM/25/00424/PA**

**Location:** 100 HIGH STREET TONBRIDGE TN9 1AN

**Proposal:** Proposed roof extension to accommodate one residential unit and external alteration to ground floor window to provide access to the flats previously approved under Prior Approval 24/01856/PA and the proposed additional flat on the roof

**Go to:** [Recommendation](#)

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## **1. Description of Proposal:**

- 1.1 Planning permission is sought to construct a single storey roof extension. The proposal would create an additional two-bedroom rooftop dwelling set back behind the existing parapet. In addition, a new residential entrance is proposed off River Walk (in place of an existing window). This will provide access to occupants of this proposed flat, and those flats on the first and second floors which were approved under prior approval application 24/01856/PA. These previously approved flats on the middle floors do not form part of this application.
- 1.2 The description of development has been amended during the course of its consideration to more accurately describe what is being proposed. Revised plans were submitted which more accurately illustrated existing window openings. Re-consultation was not considered necessary.
- 1.3 The applicant has confirmed that there are no changes to the existing windows (externally) other than the rear ground floor window to a doorway for access to the flats.

## **2. Reason for reporting to Committee:**

- 2.1 Councillor Hood has requested that the application be heard at Planning Committee due to concern about the materials used for the roof extension and its suitability for the Conservation Area. Also concerned that the windows appear to have been blocked up looking at the elevations supplied.

## **3. The Site:**

- 3.1 The site lies in the confines of Tonbridge town centre, within a Conservation Area, Flood Zones 2 & 3, and within a Primary Shopping Area as defined under policy TCA3 of the TCAAP.

- 3.2 The site is situated on the corner of High Street and River Walk (PROW MU30) with the River Midway beyond. The building is not listed but is an attractive addition to the street scene, in brick with Georgian style proportioned windows.
- 3.3 Views of this part of the High Street are afforded from the mound at Tonbridge Castle, which is a Grade 1 Listed Building and Ancient Monument.

**4. Planning History (relevant):**

24/01856/PA

Prior Approval Required and Granted - 17 February 2025

Prior Notification under Schedule 2, Part 3, Class MA: Change of use from Commercial to Dwellings with retention of ground floor commercial use

24/01199/PA

Prior Approval Required and Refused - 11 October 2024

Prior Notification under Schedule 2, Part 3, Class MA: Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) to form 4x 1 bedroom flats

23/01951/FL

Approved - 08 January 2024

New Fire Exit door to rear elevation

23/01638/FL

Approved - 20 September 2023

Reinstate window to original height following ATM removal

23/00573/FL

Approved - 09 May 2023

Vacation of premises and removal of external ATMs with apertures infilled with stonework to match existing. Removal of all CCTV, signage and marketing from building

23/00120/FL

Refuse - 09 March 2023

Vacation of premises and removal of external ATMs and cover exposed apertures with steel plates. Removal of all CCTV, signage and marketing from building

09/02136/ORM

Approved - 13 October 2009

Minor amendment to entrance ramp approved under planning permission TM/07/03914/FL (modification of existing entrance including new entrance door, lowering existing door threshold and the construction of an internal ramp all to provide DDA access)

07/03914/FL

Approved - 16 January 2008

Modification of existing entrance including new entrance door, lowering existing door threshold and the construction of an internal ramp all to provide DDA access

05/00905/FL

Grant With Conditions - 28 April 2005

Provide ramp to main entrance, glass infill to entrance doors and power door control

## **5. Consultees:**

### **5.1 TMBC Environmental Health Protection:**

Concerns were raised previously over noise and odour issues associated with past applications as follows:

These premises are adjacent to a restaurant/takeaway. The plant and equipment serving those premises will not have been designed to take into account this residential development and so it is likely that noise and odour from the restaurant/takeaway will be an issue here. In line with the agent of change principles, it will therefore be necessary for the applicant to provide suitable reports covering

1. Noise from nearby plant and equipment to ensure levels do not cause detriment to the amenity of future residents in this location
2. Odour from nearby ventilation equipment demonstrating that its design meets the recommendations of the EMAQ+ document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.

#### Noise

The applicant provided a noise assessment produced by imAcoustics Ltd reference A3410/N/002 dated 20 January 2025 which considers the noise environment of the site and makes acoustic design recommendations. The report's contents were assessed and it is noted nearby plant noise is not assessed as requiring noise mitigation measures to be incorporated into the development.

The current application encloses the same noise assessment with no consideration of whether an impact will be caused to occupiers of the additional floor on the roof extension. The report therefore needs to be updated to reflect the changes to the application and consider whether/what further works are needed.

It is understood that traffic/people noise cannot be considered for this type of application however the report makes it clear that, due to environmental noise in this location, the habitable rooms on the front, rear and side façades of the building would not achieve target internal noise levels with open windows for ventilation. The report goes on to say, 'To ensure adequate ventilation and cooling without the need to open windows to the front facade, a mechanical ventilation system will be required.'

It is advised an informative be placed requiring noise mitigation measures to be incorporated into the development prior to first habitation that are no worse acoustically than that laid out in the imAcoustics Ltd report.

#### Noise Insulation

The requirements of the Building Regulations can be inadequate where commercial use adjoins residential use. Therefore dwellings adjoining other uses that generate noise levels greater than normal domestic activities may require constructions offering better performance than those described in the documents that support the Building Regulations. The following comments are therefore made:

*Prior to first occupation the applicant shall supply to the LPA a suitable sound insulation assessment providing suitable details of the substantially enhanced sound*

*insulation performance of sound reduction achieved by the floor/ceiling boundary between the commercial/residential use that shall aim to resist the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) shall not be less than 53 decibels (i.e. an enhancement of the minimum levels stated in the Building Regulations of 10dB). Any works as approved by the LPA shall be put into place prior to first residential occupation.*

#### Odour

It is understood the previous application was made under class MA which is one where odour impacts cannot be considered. Were this application to fall under a class where odour can be considered the following comment is made:

Prior to any approval being given the applicant to provide a suitable report covering odour from nearby ventilation equipment demonstrating that its design meets the recommendations of the EMAQ+ document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and if it does not then the report shall include suitable details of the measures to be put in place to meet the above guidance.

*Officer Note: Subsequent to the comments above, the applicant submitted an additional plan showing the adjoining plant and confirming that the proposal will be mechanically ventilated.*

#### 5.2 TMBC Environmental Health Protection further comments:

Although it was initially recommended that the odour assessment be carried out prior to approval (and in accord with the Agent of Change principle), I think this may be able to be required by way of a pre-commencement Condition.

The photo (*of the roof*) showed me the juxtaposition of the KFC air extract outlet and the location of the proposed new dwelling are quite far apart, are at considerably different levels, and the outlet faces away from the proposal. I understand that the closest window in the proposal (for a bedroom) is to be sealed shut with no slot ventilator and that fresh air is to be supplied by mechanical means – I'd recommend that the inlet for this be facing the river. I'd suggest that these matters be Conditioned. These would then all tend to mitigate against the odour being potentially problematic to future occupiers, but would still be an EP concern particularly in light of the type of food being cooked (fried) hence the need for the EMAQ+ assessment.

#### 5.3 Environment Agency

No objection, subject to planning conditions being included in any permission granted.

The 'Phase 1 Environmental Report' (Contaminated Land Solutions, ref 2756-P1E1, June 2024) indicates that no groundworks, ground clearance or piling is proposed. It

is acknowledged that should this change, then amendments to the risk assessment will be required. We agree. However, the conclusions of the report recommend some intrusive works are undertaken to determine whether vapours are present. It is unclear where such intrusive works would be targeted, or their extent. Based on this, the sensitive nature of this site and the known groundwater contamination beneath the site, we request the following land contamination conditions.

#### Land Contamination

**Condition 1:** *No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:*

*1. A preliminary risk assessment which has identified:*

*a) all previous uses;*

*b) potential contaminants associated with those uses;*

*c) a conceptual model of the site indicating sources, pathways and receptors; and*

*d) potentially unacceptable risks arising from contamination at the site.*

*2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.*

*3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.*

*4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

*Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.*

*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 paragraph 187 of the National Planning Policy Framework.*

**Condition 2:** *Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include*

*results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.*

*Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 187 of the National Planning Policy Framework.*

**Condition 3:** *If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.*

*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 from previously unidentified contamination sources at the development site in line with paragraph 187 of the National Planning Policy Framework.*

#### Drainage

It is assumed that all drainage will discharge to the mains sewer. If this is not the case we would request to be re-consulted.

*Officer note: The applicant has confirmed that drainage will be disposed of by existing mains sewer.*

*(Further advice is given in the EA comments on the hierarchy of drainage options and advice on further permits that will be required which is included in an informative).*

#### 5.4 Conservation Officer

##### *Significance*

The early 20th century Bank building was purpose built and designed to be imposing. It occupies a prominent corner location and has a commanding presence in the conservation area streetscene. Due to close proximity, the former bank building also features in views to and from Tonbridge Castle, a Grade I Listed Building/Scheduled Ancient Monument.

- Tonbridge Castle compound includes the remains of a Norman Motte and Bailey, and parts of a 13th century curtain wall surrounding a Keep and a twin-tower Gatehouse of Sandstone Ashlar. To the east of the Gate-house is an L-shaped Mansion of 1793.

- Tonbridge Conservation Area includes many features representing the town's ancient origins (i.e. the motte, castle and fosse), its waterways and associated elements, and its industrial heritage. The medieval road layout and remaining medieval structures centered around the High Street are of notable historic interest, while Georgian and Victorian influences demonstrate the town's past as a transport hub. The historic core has evolved over seven centuries and there is a marked contrast between it and the more homogeneous outer areas. Many landmark buildings are included in the designated area and the historic built form is typically two to three storeys, in a range of materials reflecting the age and status of the building. These include sandstone, timber framing, weatherboarding, ashlar, red brick and stucco.

The sloping topography, curving road alignment and varying forms of enclosure create a series of changing vistas and streetscene views, with open green spaces and mature trees making an important contribution.

#### *Impact on Significance*

- Tonbridge conservation area

The proposed roof addition is set well back from the parapets of the host building, thereby minimizing its visual presence in the immediate streetscene, as well as in longer views. The new built form is of neutral design and relatively inconspicuous materials, and the austere architectural treatment does not compete with the formal, classical detailing of the building frontages below.

The increase in the overall height of the host building achieves a reasonably balanced relationship with the assertive, three storey form of the building immediately opposite, and it is compatible with the height of neighbouring buildings fronting both sides of High Street a little to the south.

Due to the corner location, the bank building also features in views along River Walk, where a sense of gentle enclosure and spaciousness prevails. While the additional built form would feature to some extent in riverside views at the junction of River Walk and High Street, the former bank building is clearly part of the intensive development which typifies High Street. River Walk has an entirely different character, and its distinctive qualities would be little affected by the alterations to the bank building.

As a result of careful design and a generous setback, the proposed additional storey has a reasonably discrete visual presence. The altered bank building would continue to sit comfortably in the richly textured High Street setting, and the special qualities typifying River Walk would be little changed. While allowing carefully managed change, the significance of the Tonbridge conservation area would remain unharmed.

- Tonbridge Castle

The new built form would feature to some extent in views to and from the adjacent Grade I listed building/Scheduled Ancient Monument. However, the additional storey will blend into the existing, richly textured townscape, and due to intervening mature trees and the topography resulting from ancient earthworks, it would not have an unduly intrusive presence in any key views. While allowing carefully managed change, harm to the significance of the designated heritage asset would be avoided.

#### *Policy Context*

The importance of sustaining and enhancing the significance of designated heritage assets is emphasised throughout Section 16 of the NPPF, and paragraphs 212 & 213 note that significance can be harmed or lost through unsympathetic development.

Due to careful design, the proposed additional storey will have a reasonably discrete visual presence in the surrounding context. The rooftop structure will blend into the richly textured townscape setting and while allowing carefully managed change to occur, harm to the potentially affected designated heritage assets will be avoided.

*Subject to a Condition requiring submission and approval of a fully detailed and illustrated exterior materials specification, the proposal could be supported in terms of TMBC Historic Environment Conservation Policies.*

#### 5.5 Third Party/Other representations

None received.

### **6. Determining Issues:**

#### Policy Guidance

6.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.

6.2 The Development Plan currently in force for this area comprises:

- Saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP);
- The Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007;
- Development Land Allocations DPD (DLA DPD) adopted in April 2008;

- Managing Development and the Environment DPD (MDE DPD) adopted April 2010;
- Tonbridge Character Areas Supplementary Planning Document (TCA SPD);
- The National Planning Policy Framework (NPPF 2024);
- National Planning Practice Guidance (NPPG) and National Design Guide.

#### Principle of Development

- 6.3 The Council cannot currently demonstrate an up-to-date five-year housing land supply. In January 2025, the Council issued an 'Updated Housing Land Supply Position Briefing Note'. The briefing note was prepared to provide an update of the current housing land supply position as a result of the publication of the new National Planning Policy Framework (NPPF) on 12 December 2024. As part of the review the supply position at Land at Aylesford Quarry was updated. Whilst still remaining in the 5 year housing supply for TMBC, the delivery phase for this site was pushed back by one year to 2026/27. Using the new NPPF housing requirement including the 20% buffer with the Aylesford Quarry phase pushed back until 2026/27 the current position indicates the 5 year Housing Land Supply as 2.89 years. This means that the Council has a shortfall and is not able to demonstrate the five year housing land supply requirement.
- 6.4 A shortfall in housing land supply means that when applications for housing come forward the 'presumption in favour of sustainable development' as set out in paragraph 11 of the NPPF (2024) must be applied, which in this context means that less weight is given to development plan policies to help resolve supply issues moving forward.
- 6.5 Paragraph 11 d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.6 The site lies within the built confines of Tonbridge, a designated urban area in Tonbridge and Malling Borough Core Strategy (TMBCS). In accordance with the principles of sustainability, as set out in Policies CP1 and CP2, development should be concentrated at the urban areas. Development at the urban areas can also minimise the need to travel, by being close to existing services, jobs and public transport. Policy CP11 of the TMBCS states, inter alia, that development will be concentrated within the confines of the urban areas of, among other areas, Tonbridge.
- 6.7 In relation to the presumption in favour of sustainable development, regard must first be had as to whether any restrictive policies within the Framework as stated under

paragraph 11 d) (i) (footnote 7), provide a strong reason to refuse the proposed development. In this case the site falls within the urban area of Tonbridge. However, the site lies within a Conservation Area and within Flood Zones 2 and 3 and therefore it needs to be established whether the proposed residential unit and alterations are acceptable in terms of potential impact on the heritage asset and flood risk.

#### Assessment on Character and Appearance of the Conservation Area

- 6.8 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that with respect to any 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.
- 6.9 Chapter 16 of the NPPF relates specifically to conserving and enhancing the historic environment. It requires applicants to describe the significance of any heritage assets affected, and LPAs to identify and assess the particular significance of any heritage asset that may be affected by a proposal. The section clearly sets out what LPAs should take account of in decision making and that any potential impact is considered in relation to the significance of the heritage asset potentially affected. Paragraphs 212 and 213 of the NPPF note that 'significance' can be harmed or lost through unsympathetic development.
- 6.10 Paragraph 139 of the NPPF states, inter alia, that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- 6.11 Policy CP1 of the TMBCS states that all proposals for new development must result in a high quality sustainable environment. This is expanded upon in sub paragraph 6.1.5 and includes matters such as making efficient use of land and making a positive contribution to local distinctiveness, character, townscape and the setting of settlements. Furthermore, conserving or enhancing the historic environment.
- 6.12 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. In addition, Policy SQ1 of the MDE DPD requires development to reflect local distinctiveness, condition and sensitivity to change of the local character areas. These policies are broadly in conformity with those contained in the Framework which relate to the quality of new developments.
- 6.13 As noted above, the Conservation Officer considers that as a result of careful design and generous setback, the proposed additional storey has a reasonable discrete visual appearance. In addition, that the increase in overall height of the host building achieves a reasonable balanced relationship with the three storey building immediately opposite and is comparable with the height of neighbouring buildings fronting both sides of the High Street. It is considered that the altered former bank building would continue to sit comfortably in the High Street setting and that the significance of the Tonbridge conservation area would remain unharmed as a result of the development.

- 6.14 Whilst the proposed development would be of a contemporary modern design, it is considered that it would add to the eclectic mix of styles and designs in the locality and make a positive contribution to the townscape.
- 6.15 It should be noted that there is an example of a similar development in the immediate locality which was granted planning permission under 09/02270/FL (No. 111 High Street). The development has been implemented and now forms part of the townscape. That site is also very visible from the castle grounds and is within the conservation area. The officer report states, inter alia, “...*that the change in appearance arising from the extension (on the roof) would not be harmful in any way instead providing an interesting element*”, Furthermore, the officer report commented that “*I consider that it would create a well designed contemporary aesthetic to the roof.*” Materials were subsequently approved under 12/02997/RD, which included horizontal cladding and zinc roof.
- 6.16 The removal of part of an existing wall and the change of a window opening in the rear elevation to a doorway to serve the apartments would not result in any adverse impact on the visual amenities of the conservation area.
- 6.17 It is noted that there was concern regarding the blocking up of windows. The plans show one existing second floor window to be blocked up internally to allow for the creation of a bathroom in what is currently a stairwell. This bathroom is part of one of the flats previously approved under the prior approval application and does not affect the consideration of this application for a new dwelling to be added to the roof of the building. For information however, the appearance of the window to this previously approved flat would remain as exists in the rear elevation, other than no longer being transparent, and the bathroom would not require a traditional window opening due to not being a habitable room.
- 6.18 The only other change would be the replacement of a ground floor window with a door to provide access to the flats on all levels as discussed above.

#### Flood Risk

- 6.19 The site lies within Flood Zones 2 and 3. Paragraph 181 of the NPPF states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. The proposal is for a roof top apartment and on this basis, the application is acceptable in this regard. It is noted that the Environment Agency have not raised any objection to the proposal in relation to flood risk.

#### Further considerations

- 6.20 After carrying out the Paragraph 11(d)(i) exercise and subsequently concluding that there are no policies in relation to the identified assets of particular importance (conservation area) and protected areas (flood risk), which provide a strong reason for refusal, it remains necessary however, to assess the proposal against the requirements of paragraph 11(d)(ii) of the NPPF. This states that planning permission should

be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, which are discussed below.

#### Residential Amenity

- 6.21 Paragraph 135 f) of the NPPF states that planning policies and decisions should ensure that developments 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.
- 6.22 Policy CP1 of the TMBCS requires all new development to result in a high quality sustainable environment and (inter alia) in determining planning applications residential amenity will be preserved and where possible enhanced.
- 6.23 The proposed development would be sited some distance away from any other existing residential properties and, as such, there would be no harm to neighbouring amenity in terms of overshadowing, loss of outlook or loss of privacy as a result of the development.

#### Highway Safety and Parking provision

- 6.24 Policy CP1 of the TMBCS seeks the location of development which will reduce the need to travel, highlighting the benefits of this town centre location for new residential development.
- 6.25 Policy SQ8 of the MDE DPD states, inter alia, that development proposals will only be permitted where they would not significant harm highway safety. Furthermore, that development proposals should comply with parking standards. It is noted in the recent prior approval application (TM/24/01856/PA) for a change of use from commercial to dwellings on the upper floors that the site lies in the town centre, close to public transport links and services. The absence of car parking in that instance was considered acceptable and that the proposals would not have an adverse impact on wider highway safety. It is considered that the same applies for the current proposal. The site occupies a highly sustainable location and therefore the absence of any specific on-site parking provision is acceptable. Notwithstanding, the Kent County Council Parking Standards also require the provision of cycle parking provision. In this instance, a two bedroom flat would require 2 cycle spaces. There would be adequate area in the service yard to accommodate this, which can be dealt with by a suitable condition.

#### Quality of Accommodation

- 6.26 The Nationally Described Space Standards (NDSS) state that a 2-bed dwelling of 1 storey should be a minimum of 70 sqm. The proposed dwelling has a floor area of 72 sqm so it complies with the NDSS.

6.27 All of the habitable rooms would have sufficient light levels as they are all served by existing windows. The window in the rear elevation serving a bedroom would be fixed shut due to potential odour and noise from the neighbouring extraction equipment. However, to ensure adequate ventilation and cooling without the need to open the window a mechanical ventilation system will be used. In addition, Environmental Health have recommended a condition for a suitable sound insulation assessment and also a condition for a suitable report covering odour from the nearby extraction equipment.

#### Potential Contamination

6.28 As noted above, the Environment Agency raise no objections to the proposal subject to conditions regarding potential contamination of the site. The applicant has agreed to the pre-commencement condition recommended by the Environment Agency.

#### Biodiversity

6.29 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, the development is exempt from BNG as the development does not impact a priority habitat and impacts less than 25 sqm of on site habitat.

#### Noise

6.30 The application is accompanied by the same Noise Report submitted as part of the recently approved prior approval application for the Change of Use from Commercial to Dwellings with retention of ground floor commercial use (24/01856/Prior Approval); produced by imAcoustics Ltd reference A3410/N/002 dated 20 January 2025.

6.31 The window in the rear elevation serving a bedroom would be non-openable due to its proximity to the KFC extraction equipment and the apartment will have mechanical ventilation. Whilst the window in the rear elevation would not be openable, the bi-fold doors to the north east elevation facing River Walk would be openable, but this would be at the discretion of the occupants. It is considered that as the bi-fold doors would be located a sufficient distance from the extraction equipment to avoid harmful impacts from odour, it is appropriate to allow them to be opened at the occupants discretion, in terms of potential noise related impacts.

6.32 As noted above, the Council's Environmental Health Protection officer comments that the premises are adjacent to a restaurant/takeaway and that the plant equipment serving those premises will not have been designed to take into account this residential development. A condition is recommended to provide a suitable report covering noise from nearby plant and equipment to ensure levels do not cause detriment to the amenity of future residents in this location.

### Odour

- 6.33 Subsequent to the Environmental Health comments, the applicant submitted an additional plan showing the adjoining plant and confirming that the proposed dwelling will be mechanically ventilated.
- 6.34 It was initially recommended that details be submitted prior to any planning approval to provide a suitable report covering odour from nearby ventilation equipment demonstrating that its design meets the recommendations of the EMAQ+document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.
- 6.35 However, following this initial recommendation for the odour assessment be carried out prior to approval (and to accord with the Agent of Change principle), Environmental Health reconsidered the matter following further submissions by the applicant. A pre-commencement condition is now recommended to require the submission of a report on the potential odour impacts upon future residents.

### Conclusion

- 6.36 Having regard to the above, in applying paragraph 11 of the NPPF, it is considered that no unacceptable impacts arising from the proposal have been identified that would significantly and demonstrably outweigh the potential benefits of the scheme. Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval.

## **7. Recommendation:**

**Approve** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site location plan,  
Existing and proposed ground floor plan PL 01,  
Existing and proposed first floor plan PL 02 Rev D,  
Existing and proposed second floor plan PL 03 Rev D,  
Existing and proposed roof plan PL 04,  
Proposed elevations 1 PL 07 Rev C,  
Proposed elevations 2 PL 08 Rev C,  
Flood risk assessment,  
Land contamination assessment- Part 1,

Land contamination assessment- Part 2,  
Noise impact assessment,  
Planning and Heritage statement,  
Sound mat brochure.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3. No development shall take place until details of a fully detailed and illustrated exterior materials specification have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

4. Prior to first occupation the applicant shall supply to the LPA a suitable sound insulation assessment providing suitable details of the substantially enhanced sound insulation performance of sound reduction achieved by the floor/ceiling boundary between the commercial/residential use that shall aim to resist the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) shall not be less than 53 decibels (i.e. an enhancement of the minimum levels stated in the Building Regulations of 10dB). Any works as approved by the LPA shall be put into place prior to first residential occupation.

Reason: In the interests of residential amenity.

5. No development shall take place until a suitable report covering odour from nearby ventilation equipment has been submitted to and approved by the Local Planning Authority. This report must demonstrate that its design meets the recommendations of the EMAQ+document 'Guidance on Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and if it does not then the report shall include suitable details of the measures to be put in place to meet the above guidance.

Reason: In the interests of residential amenity for future occupiers.

6. Prior to the occupation of the proposed dwelling hereby approved details in regard to the provision of bicycle parking storage for two bicycles shall be submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and must be kept available for this purpose at all times.

Reason: To accord with the Kent County Council Parking Standards.

7. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - a) all previous uses;
  - b) potential contaminants associated with those uses;
  - c) a conceptual model of the site indicating sources, pathways and receptors; and
  - d) potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

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 paragraph 187 of the National Planning Policy Framework.

8. Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 187 of the National Planning Policy Framework.

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

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 from previously unidentified contamination sources at the development site in line with paragraph 187 of the National Planning Policy Framework.

**Informatives:**

1. Noise mitigation measures to be incorporated into the development prior to first habitation should be no worse acoustically than that laid out in the imAcoustics Ltd report dated 20 January 2025.
2. Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:
  - Connection to the public sewer
  - Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
  - Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2016 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, additional to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before the Environment Agency are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24-hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before the Environment Agency decide whether to vary a permit.

Further advice is available at: [Septic tanks and treatment plants: permits and general binding rules.](#)