

2.3 REFERENCE NO - 16/507575/FULL			
APPLICATION PROPOSAL Conversion from B1 offices to a mixed use of A2 offices and 9 one bedroom residential apartments with external alterations			
ADDRESS Excelsior House Ufton Lane Sittingbourne Kent			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The application would not have an unacceptable impact upon residential, visual or highway amenities and would provide residential units in a sustainable location along with a limited number of additional jobs.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Truelove			
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT Wildwood Ltd AGENT Alpha Design Studio Limited	
DECISION DUE DATE 27/12/16	PUBLICITY EXPIRY DATE 30/11/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/505541/FULL	Conversion from B1 offices to a mixed use of A2 offices and 9 one bedroom residential apartments with external alterations	Refused	19.10.2016
16/501387/PNOCLA	Prior Notification for change of use of existing office building into 10 residential apartments with on site parking. For its prior approval to: Transport and Highways impacts of the development. Contamination risks on the site. Flooding risks on the site.	Planning permission required (due to restrictive condition on original permission)	03.03.2016
SW/94/0098	Renewal of planning permission SW/89/96 for redevelopment for ten flats.	Approved	28.03.1994
SW/89/0096	Redevelopment of existing site with new offices and residential units.	Approved	03.05.1989

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 Excelsior House is a two storey brick built building with an M shaped pitched roof located on a corner plot at the junction of Ufton lane and Addington Road. The footprint of the building measures 18.8m x 15.8m. Land levels rise from west to east resulting in the eaves height ranging between 5.3m and 6.6m from the ground level and the ridge height ranging between 8.3m and 9.6m.
- 1.02 The site has an existing car park to the rear and existing access which is taken from Ufton Lane.
- 1.03 The site is bounded on all sides by existing residential development.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the change of use from B1 offices to a mixed use development of 2 x A2 offices and 9 x 1 bed residential units.
- 2.02 The proposal would include 2 offices at ground floor level with associated kitchen and toilets and 3 residential units. The first floor would be comprised of a further 6 residential units.
- 2.03 Members may recall that a very similar application on this site for the same number of residential units and offices was reported to Planning Committee on 13th October 2016. Members resolved to refuse the application for the following reason:

The development would not provide sufficient parking provision for the future occupiers of the residential units or A2 offices which would lead to an increase in on street parking levels giving rise to significant harm to the amenities of local residents. Therefore the proposal would be contrary to policies E1 and T3 of the Swale Borough Local Plan 2008.

- 2.04 As a result of the above, the application has been re-submitted and now provides 6 x parking spaces for the proposed offices along with 9 x parking spaces for the residential units, with two shared private amenity spaces, a bike store and a bin store. The proposed internal alterations and the external alterations to the building would be similar to those proposed under 16/505541/FULL. However the external changes would involve additional openings at ground floor level and the obscuring of a number of windows on the first floor of the northern elevation of the building (facing Addington Road), additional openings on the southern elevation at ground and first floor level and at first floor level on the eastern elevation.

3.0 PLANNING CONSTRAINTS

- 3.01 None Relevant

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

Swale Borough Local Plan Adopted 2008

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms;
- 4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;

- 4.04 Policy B1 seeks to retain land and buildings currently in employment use unless it is inappropriately located; demonstrated by market testing that it is no longer suitable for employment use or there is insufficient demand or is allocated in the Plan for other purposes.
- 4.05 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.06 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.

The Swale Borough Local Plan Proposed Main modifications 2016

- 4.07 Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2011-2031 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes); DM14 (General development criteria).

Supplementary Planning Guidance

- 4.08 The Conversion of Buildings into Flats & Houses in Multiple Occupation

5.0 LOCAL REPRESENTATIONS

- 5.01 Objections have been received from 4 separate addresses raising the following summarised issues:

- The proposal will cause additional traffic in the surrounding area;
- The proposal will exacerbate existing parking problems in the local area;
- The residential units would overlook No.22 Nativity Close and No.2 Unity Street and cause a loss of privacy;
- The proposal will lead to an increase in noise and pollution;
- Fewer units should be proposed;
- If approval is granted then the offices should never be allowed to be changed into residential units;
- Obscure windows (facing Unity Street) should also be shown on the east elevation.

6.0 CONSULTATIONS

- 6.01 **Kent Highways & Transportation** state that *“having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.”*

I did raise some concern in relation to the accessibility of some of the parking spaces and as such felt it prudent to clarify this. In response KCC Highways & Transportation stated *“The layout is a little tight to be fair, but acceptable. Considering that the previous application was solely refused on grounds of insufficient parking and that they have addressed this, I feel that there are no real grounds to object from a highways perspective.”*

- 6.02 **Environmental Health** raise no objection subject to an hours of construction condition.

- 6.03 **Cllr Truelove** stated *“I would like it to go to committee. It is over intensive development in a built up area, it will have an impact on neighbouring properties such as Nativity Close and despite the extra parking spaces it will add to the critical parking issues which already exist in the area.”*
- 6.04 **Cllr Horton** stated *“I am of the view that the changes largely address the original reason for refusal and this looks like a speculative second bite of the cherry. I am happy for this not to be called in and for the decision to be made under 'delegated' powers.”*

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 A Planning Statement has been submitted in support of the application which sets out that the one reason for refusal in the previous application has been addressed by the inclusion of 15 parking spaces. The Statement also includes an Executive Summary; Introduction; Site Appraisal; Design Strategy and Aspirations; Parking; Private Amenity Space; Sustainable Development and Conclusion.
- 7.02 Furthermore, the Statement includes a letter from Open House Kent Ltd which sets out the marketing strategy that has been undertaken in order to lease the buildings for office use. This includes advertising the building on the internet since January 2016 (this is the same letter that was submitted in support of the previous application 16/505541/FULL). The letter states that the premises are not big enough for most large companies who tend to occupy units on industrial estate. However, there has been interest expressed by a company in taking on part of the building for A2 use. This has been brought forward in the application.

8.0 APPRAISAL

Principle of Development

- 8.01 Policy B1 of the Swale Borough Local Plan 2008 deals with the retention of land and buildings in employment use. In this case, in order to satisfy this policy a letter from a local property agent has been submitted with the application. As set out above, this states that the property has been marketed for B1 office use, in my view for a sufficient period of time, however no firm offers have been received. The policy also sets out that in cases where changes of use are proposed for residential purposes a mixed use approach will also need to be assessed. In this case, alongside the residential element the scheme also proposes two A2 offices and as such, as referred to in the policy a mixed use approach to the site has been brought forward rather than a solely residential development. Additionally, the site lies within the built up area boundary and close to local services, amenities and public transport links. Based upon the above assessment I am of the view that the principle of development is accepted in this case.

Visual Impact

- 8.02 The building on the application site will remain in situ with the external alterations being the obscuring of a number of the windows on the north elevation (discussed in more detail below relating to residential amenities), additional openings in the northern, southern and eastern elevations and the rendering of some of the external walls. There will also be some alterations to the part of the site currently occupied by the parking spaces which will involve a reconfiguration of the car park layout and the inclusion of two separate private amenity spaces, a bin store and bike store. The

entrance gates and wall will also be removed. However, the majority of these alterations to the existing layout will be largely hidden from public vantage points and would be additions typical of the surrounding residential area. Although the gates and wall are more prominent in the streetscene I do not consider the appearance of them to be of any particular significance and therefore I believe their removal is acceptable. As such, overall I do not consider that the proposal would have an unacceptable impact upon visual amenities.

- 8.03 In terms of the existing streetscene I note that the adjacent building, King Arthur Court is a development of flats. Therefore, although the majority of the remainder of the immediately surrounding area is comprised of single dwellings I do not consider that the introduction of flats into this location (along with an element of A2 use) would cause unacceptable harm to the character of the area.

Residential Amenity

- 8.04 Concern has been raised locally regarding the impact that the proposal would have upon residential amenities in terms of overlooking and a loss of privacy. The application site is bounded on all sides by residential properties and therefore careful consideration is required in this regard. To the rear, the properties in Unity Street are approximately 21m away from the rear elevation of the host property. This is compliant with the Council's requirement for a rear to rear separation distance and therefore I do not believe that unacceptable levels of overlooking or a significant loss of privacy would occur between the proposed units and these properties.
- 8.05 The northern elevation of Excelsior House fronts Addington Road. However, due to the layout of Nativity Close, also located to the north, the rear elevation and private amenity space of No.22 faces towards the application site. As a result the rear elevation of No.22 Nativity Close is 19m away from the north elevation of Excelsior House. Although this is the flank elevation of Excelsior House it is noted that due to the internal layout of the building the windows at first floor level on this elevation would serve habitable rooms. At first floor level there are 9 windows on the north elevation and the drawings show that 6 of them will be obscure glazed. Although this means that 3 of the windows will remain clear glazed I have balanced this against the impact that could potentially be caused by a B1 use operating at first floor level, which could take place without requiring the benefit of planning permission. In my view, the overlooking that would be possible from the clear glazing that would remain in 3 of the windows would not be significantly worse than if the building was to be occupied by a business at first floor level and all of the windows remained as clear glazing. Furthermore, in terms of the future occupants of the development I believe that they would still have sufficient outlook due to each habitable room having at least one clear glazed window by virtue of other non obscured glazing on the other elevations and due to the 3 windows mentioned above.
- 8.06 I have assessed the proposed floor area of the residential units and they are in compliance with the overall floorspace requirements as set out in the SPG. As such I take the view that the development would provide suitable accommodation for future occupants. Due to the increase in parking provision from the previous scheme (16/505541/FULL) the private amenity space has been split into two smaller areas. This makes it slightly less usable in my view than the arrangement proposed in the previous application however, the site is only 320m away from Albany Recreation Ground. Therefore on balance, taking into account the amenity space that is being provided, along with nearby public open space I consider that this would be acceptable for the amenities of future occupiers.

- 8.07 In relation to the proposed use of part of the ground floor for A2 use I have consulted with the Environmental Protection team who raise no objection. As such, I consider that this element of the scheme would not give rise to unacceptable harm to the amenities of the occupants of the surrounding residential units. However, to ensure the Council has control over any future changes of use and the impact this might have I have recommended a condition which requires planning permission for such changes.

Highways

- 8.08 As set out above, the previous application was refused due to a lack of parking provision. The application submitted under 16/505541/FULL included a total of 10 parking spaces (4 for the office use and 6 for the residential units). The application as now submitted includes a total of 15 parking spaces (6 for the offices and 9 for the residential units).
- 8.09 In relation to the parking spaces for the A2 use, the Kent Vehicle Parking Standards – Supplementary Planning Guidance 4 states that the *maximum* car parking standard for A2 uses is 1 space per 20sqm of floorspace. The application proposes 6 spaces for 126sqm of floorspace and in line with the comments of KCC Highways & Transportation I consider this to be an acceptable provision.
- 8.10 With regard to the residential units, I note the details contained within the *Kent Design Guide Review: Interim Guidance Note 3, 20th November 2008 – Residential Parking* which divides areas into four categories – town centre, edge of centre, suburbs and rural. There is a clear distinction that can be made between town centre / edge of town centre areas and suburbs / rural areas in that *maximum* parking standards are applied to the former. The result of this is that essentially developments within the town centre / edge of town centre, as is the case with this site, would be acceptable even if no parking was proposed. Therefore, in this case, the development proposes a level of car parking for the residential units which would be acceptable even if the site was located in the least accessible rural location as set out in the Guidance.
- 8.11 I also refer to the appeal decision at 55 William Street, Sittingbourne (PINS ref 2156674) for four flats in an edge of centre location which provided no off street parking. Here the Inspector found that due to the sustainable location of the site and that as set out above, Kent County Council do not set a minimum parking requirement for this location that nil provision would be acceptable. The proposal now being considered provides 1 space per residential unit. When this is taken into account along with the adopted Guidance, the views of Kent Highways & Transportation and the Inspector's view on a similarly sustainable site I am of the very firm opinion that the reason for refusing the previous application would now not be defensible at appeal and leave the Council open to a potential claim for an award of costs if it was to refuse the application on this basis.

Impact upon SPA and Ramsar Sites

- 8.12 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

Other Matters

- 8.13 A number of the potential grounds for objection have been discussed within the assessment above however of those that remain I respond as follows. Although the site would increase vehicle movements in the area (as the site is currently vacant) I refer to the views of Kent Highways & Transportation who consider that the impact upon highway safety or amenity would not be unacceptable. Furthermore, in this built up area I do not consider the proposal would create unacceptable levels of noise or pollution. I consider that the site is able to accommodate the number of units proposed. Finally a condition has been imposed requiring permission to change the use of the A2 element of the floorspace.

9.0 CONCLUSION

- 9.01 As set out above, the application has now been amended from the previously refused scheme to include additional parking provision for both the A2 use and the residential units. I consider that the application would provide parking provision over and above the adopted requirements in this location and would not cause harm unacceptable harm to highway safety or amenities. The majority of the remainder of the scheme remains identical to the previous application and as a result I consider the proposal to be acceptable in relation to its impact upon residential and visual amenities. I also take the view that the application would provide residential units of a suitable size for future occupants in a sustainable location and contribute, albeit in a limited way to job creation in the Borough via the proposed A2 use. I recommend that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall take place in accordance with the following drawings: 1363/P3 Rev A (received 26th October 2016) and 1363/P4 Rev B (received 7th November 2016).

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

- 3) No development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

Reason: In the interest of promoting energy efficiency and sustainable development.

- 4) No development shall take place until details of the colour and type of rendering on the external walls shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of visual amenities.

- 5) Flats 7, 8 and 9 shall not be occupied until the obscure glazing as shown on drawing 1363/P4 Rev B (received 7th November 2016) has been installed. The windows shall remain obscure glazed in perpetuity.

Reason: n the interest of residential amenity.

- 6) No development shall take place until full details of both hard and soft landscape works, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

- 8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area

- 9) The area shown on the submitted plan as vehicle parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

- 10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:- Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 11) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended), the part of the building hereby permitted for Class A2 use (as shown on drawing 1363/P4 Rev B, received 7th September 2016) shall remain in that use in perpetuity.

Reason: In the interest of local amenity.

- 12) The opening hours of the A2 use hereby permitted shall be limited to Monday to Friday 07.00 – 19.00, Saturdays 07.00 – 17.00 and Sundays and Bank Holidays 09.00 – 16.00.

Reason: In the interests of residential amenity.

- 13) No dwelling shall be occupied or the approved A2 use commenced until space has been laid out within the site in accordance with the details shown on the submitted drawing for cycles to be parked and for bins to be stored.

Reason: To promote sustainable transport methods and in the interest of visual amenities.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant.

The application site is located approximately 3.5km south-west of The Swale Special Protection Area (SPA) and Ramsar site and 5.5km south-east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird

disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.

- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion as this is a replacement dwelling, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.