

Meeting: Planning and Development Committee **Agenda Item:**

Date: 16 December 2019

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Application No:	19/00620/FP
Location:	8A and 8B Magellan Close, Stevenage
Proposal:	Variation of condition 1 (approved plans) and removal of condition 11 (no new windows and doors) attached to planning permission 16/00791/FP.
Drawing Nos.:	1; 2 and 3.
Applicant:	Stevenage Borough Council
Date Valid:	29 October 2019
Recommendation:	REFUSE PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 The application site was previously an area of open space located between the residential developments of Magellan Close and Ferrier Road. The area of land is directly adjacent to 8 Magellan Close to the south west and to the south is a public footpath that extends from Magellan Close to Ferrier Road fronting Nos. 9 and 10 Magellan Close. The site now comprises 2 no. two-storey semi-detached properties with gable-end roofs. The properties are constructed in western cedar cladding at first floor level with the ground floor (once completed) finished in brick. The roofs of the properties are finished in tolled zinc titanium with the rain water goods comprising box metal guttering finished in grey.
- 1.2 The properties on Ferrier Road are located to the north of the site, although a small area of grassed open space is located to the immediate north of the site. A horse and pony riding route borders the site running from the south west and the rear of Magellan Close and Ferrier Road to the north of the site and then south east along Sheafgreen Lane.
- 1.3 The surrounding area is residential in character with Magellan Close comprising a mixture of cluster homes, semi-detached and detached dwellings and bungalows. The site is located within a corner of Magellan Close with access off an existing turning head in the highway of Magellan Close. Ferrier Road is predominantly terraced properties within regular shaped and generally uniform in design. The northern (rear/side) boundary of the site is currently denoted by a timber post and rail fence. There are three matures trees located within the application site, two of which are in the north-eastern part of the site and a single tree to the west of the site.

2. RELEVANT PLANNING HISTORY

- 2.1 Outline application 14/00004/REG3 sought permission for the erection of 1no. three bed dwelling – grant outline planning permission. Outline planning permission was granted in April 2014.
- 2.2 Planning application 16/00791/FP sought permission for the erection of 2no. two storey three bedroom dwellings. This application was granted planning permission in February 2017.
- 2.3 Discharge of condition application 17/00753/COND sought to discharge conditions 3 (materials); 6 (boundary treatments); and 7 (landscaping) attached to planning permission reference number 16/00791/FP. The conditions were discharged in December 2017.
- 2.4 Non-material amendment application 17/00780/NMA sought to amend previously approved planning permission reference number 16/00791/FP to amend fenestration details and internal layouts. The application was approved in December 2017.
- 2.5 Discharge of condition application 18/00245/COND sought to discharge condition 3 (materials) attached to planning permission 16/00791/FP. This condition was discharged in May 2018.
- 2.6 Discharge of condition application 19/00296/COND sought to discharge condition 12 (works to trees) attached to planning permission 16/00791/FP. A response to the discharge of conditions had been issued in June 2019.

3. THE CURRENT APPLICATION

- 3.1 This application seeks to vary condition 1 attached to planning permission 16/00791/FP to amend the approved plans. For reference, this condition states the following:-

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

MAG P 004A; MAG P 005A; MAG P 006A; MAG P 007A; MAG P 001B; MAG P 002B;
MAG P 003B;

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

- 3.2 In addition, this application also seeks the removal of condition 11 attached to the aforementioned permission. This condition removed permitted development rights to allow for the installation of new windows, doors or other openings. For reference, this condition states the following:-

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revising, revoking and re-enacting that Order with or without modification), no windows, doors or other openings associated with the dwellinghouses other than those expressly authorised by this permission shall be constructed.

REASON:- To satisfactorily protect the residential amenities of nearby occupiers at numbers 8, 9 and 10 Magellan Close and numbers 52 to 58 Ferrier Road.

- 3.3 The applicant is seeking to amend conditions 1 (plans) and 11 (no new windows, doors or other openings) in order install 2 no. roof lights (1 on each property) on the northern roof slopes of both dwellinghouses. The applicant states that the roof lights are required in order to create office and storage space.
- 3.4 This application has been referred to the Planning and Development Committee as the application was called-in by Councillor Tom Wren. The reason for the call-in is due to concerns of impact on neighbouring properties and car parking issues.

4. PUBLIC REPRESENTATIONS

- 4.1 The proposal has been publicised by way of letters to neighbouring properties and a site notice was displayed on a nearby lamp post. Four representations have been received from numbers 58 and 60 Ferrier Road; 1 and 6 Magellan Close. A summary of the representations which have been made are as follows:-

- Loss of privacy and overlooking;
- The room would ultimately be used as a bedroom so will require additional parking;
- The proposal fails to accord with the Council's Design Guidance on separation distances;
- Parking will be an issue with the development;
- Will have a detrimental impact on residents wellbeing;
- Appear overbearing on local residents;
- The Council has failed to monitor the development during its construction;
- The proposal would result in a three-storey house;
- Why has the emergency vehicle access route been allowed to be closed off by the Council;
- There would be insufficient access to the upper parts of the estate for emergency vehicles due to the development;
- The Council has not properly consulted local residents;
- The developer is deliberately trying to override the conditions;
- This application needs to be determined by planning committee as officers have failed to hold the developer to account.

- 4.2 Please note that the aforementioned is a summary and not a verbatim copy of the comments which have been received. A full copy of the comments raised can be viewed on the Council's website.

5. CONSULTATIONS

5.1.1 There are no relevant consultees associated with this application.

6. RELEVANT PLANNING POLICIES

6.1 Background to the Development Plan

6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014);
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007); and
- The Stevenage Borough Local Plan 2011-2031 (2019) (Adopted Local Plan).

6.1.2 The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.

6.1.3 In considering the policy implications of any development proposal, the Local Planning Authority will assess each case on its individual merits.

6.2 Central Government Advice

6.2.1 A revised National Planning Policy Framework (NPPF) was published in February 2019. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 213 of the NPPF applies which states that due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.

6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.

6.2.3 In addition to the NPPF, advice in Planning Practice Guidance must also be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 11 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

6.3 Adopted Local Plan

- GD1 High Quality Design.
- SP8 Good Design
- IT5 Parking and Access

6.4 Supplementary Planning Documents

Parking Provision Supplementary Planning Document January 2012.
Stevenage Design Guide 2009.

7 APPRAISAL

7.1 The main issues for consideration in the determination of this application are the impact on the character and appearance of the area, the impact on neighbour amenity and car parking provision.

7.2 Impact upon the Character and Appearance of the Area

7.2.1 Paragraph 127 of the NPPF 2019 stipulates that planning decisions should ensure developments function well and add to the overall quality of the area, not just in short term but over the lifetime of the development. It also sets out that development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping is sympathetic to local character and history, including the surrounding built environment and landscape setting. In addition, the NPPF sets out that developments should establish or maintain a strong sense of place, using arrangements of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. It also stipulates that development should optimise the potential of the site to accommodate and sustain an appropriate mix of development and finally, create places that are safe, inclusive and accessible.

7.2.3 Paragraph 130 of the NPPF states that “permission should be refused for development of poor design that fail to make available opportunities available for improving the character and quality of an area and the way it functions”. Policy SP8 of the adopted Local Plan (2019) requires new development to achieve the highest standards of design and sustainability which can deliver substantial improvements to the image and quality of the town’s built fabric. Policy GD1 of the Local Plan generally requires all forms of development to meet a high standard of design which includes form of built development, elevational treatment and materials along with how the development would integrate with the urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design.

7.2.4 The proposed roof lights would measure approximately 1.2m by 1.2m with limited protrusion beyond the roof face. Therefore, in terms of design, the proposed roof lights would appear proportionate within their respective roof face. In terms of visual impact, whilst the roof lights would be visible from the public realm, they are not an uncommon domestic feature in a residential environment and therefore, would not be out of character in this instance. Consequently, it is not considered that the proposed roof lights would harm the architectural composition of the application property. In addition, they would not harm the visual amenities of the wider street scene.

7.3 Impact on Amenity

7.3.1 In terms of impact on amenity, the Council’s Design Guide SPD (2009) stipulates that privacy is an important aspect of residential environments and it is necessary to ensure that a reasonable degree of privacy for residents is provided, both within their habitable rooms and garden areas. In addition, the position of dwellings, and the arrangement of their rooms and windows should not create significant overlooking of other dwelling’s windows or private garden areas. In this regard, the Design Guide specifies a set of minimum separation distances.

7.3.2 Taking the Council’s Design Guide into consideration, the proposal would create usable space in the loft resulting in a development which is over 2 storeys. As such, as the rear elevation of the existing dwellings in Magellan Close face onto the rear elevations of the properties in

Ferrier Road, the Council's Design Guide SPD (2009) stipulates that the back-to-back separation distance should be 35m as a minimum.

- 7.3.3 Given the aforementioned assessment, the separation distance between the roof lights and the properties in Ferrier Road would be between approximately 33m (56 Ferrier Road) to 36m (62 Ferrier Road). Whilst it is noted that there is a slight shortfall in separation distance, the existing dwellings at Magellan Close (8A and 8B) are orientated away at a slight angle from the rearward facing windows of numbers 56 to 62 Ferrier Road. This means that there is no direct overlooking of the rearward facing elevations of the aforementioned properties. Furthermore, due to the positioning of the windows which would be set 1.6m above finished floor level, it would mean that when one stands to look out of the roof light, you would only see the roof areas and partially the windows at first floor level serving habitable rooms.
- 7.3.4 In terms of the impact on numbers 48 to 54 Ferrier Road, these properties do not sit directly opposite to the rear elevation of the existing properties in Magellan Close. This is because the application properties are set at an obtuse angle which is over 90 degrees from the properties in Ferrier Road. However, when standing at the roof light windows, you may catch glimpses of the private garden areas. Notwithstanding this, as these garden areas are positioned approximately 20m to 25m away; it is not considered that the level of overlooking would be such to result in a significant loss of privacy. Moreover, these garden areas are already overlooked by the existing properties in Ferrier Road such as number 56. In addition, the level of overlooking is greater at first floor level of the application properties than would be the case with the proposed roof lights at second floor level.
- 7.3.5 Given the aforementioned assessment, whilst there is a slight shortfall in separation distances, it is considered that due to the positioning of the windows in the roof combined with the orientation of the dwellinghouses, any loss in privacy would be very limited. Therefore, it would be difficult to substantiate a reason for refusal in terms of loss of privacy to neighbouring properties in this instance.

7.4 Car parking

- 7.4.1 Policy IT5 of the Local Plan (2019) states that planning permission will be granted where proposals comply with the parking standards set out in the plan. The Council's Car Parking Standards SPD (2012) stipulates the maximum number of parking spaces based on the number of bedrooms.
- 7.4.2 The dwellinghouses, as detailed under planning permission 16/00791/FP would both be three bedrooms, which under the Council's adopted parking standards requires 4 off-street parking spaces. Given the site is not in a residential accessibility zone, the maximum level of parking is required to serve the development in this instance. The properties as detailed on the approved drawings, would be served by 4 parking spaces, 2 spaces per property in accordance with the Council's Standards.
- 7.4.3 The proposed development seeks to install roof lights in order to serve the roof space of each property. This is in order to create suitable space as either a home office or storage. The applicant argues that as the roof height is 2.1m in height (internally) which is below the 2.3m requirement under the Nationally Described Space Standards (2015) set by National Government, it cannot be used as a bedroom. Notwithstanding this, the area in the roof space is of a sufficient size to accommodate a double bed and associated furniture. This is because in accordance with the Nationally Described Space Standards set by National Government, the room in the roof space of each property would be approximately 22sq.m (greater than the minimum of 11.5sq.m) in area and span 4.24m in width (greater than the minimum 2.75m wide).
- 7.4.4 Further to the above, the Council cannot restrict any future occupiers to convert the loft space, even if it is below standard in terms of head height, into a bedroom. This is because there is sufficient space internally to create for example a space saving staircase up to the roof space

for fire access, in accordance with Building Regulation Requirements. As these works would be internal, the Council would not have any control in this instance. Moreover, even if the applicant argues the room would only be used as a “home office”, the Building Regulations do not differentiate between “bedrooms” and “home offices” as it merely covers “liveable space” where it is intended to use a loft space as a normal part of a house.

- 7.4.5 Given the aforementioned, it is considered that the loft space could be converted into a bedroom in the future. Therefore, in accordance with the Council’s Car Parking Standards SPD (2012), for 4 bedroom properties, there would be a requirement to provide 2.5 parking spaces per property. In this instance, there would be a requirement, as a minimum, to provide 1 additional parking space.
- 7.4.6 As there is insufficient space within the application site to accommodate an additional vehicle, the proposal is likely to result in vehicles parking on-street. However, there is already a high level of on-street parking occurring in the vicinity of the application site. As such, this could result in a situation which is prejudicial to the safety and operation of the highway network. It is noted that the Highways Authority has not been consulted on this application; however, it is for the Council as Local Planning Authority to consider whether or not a development has sufficient off-street parking in line with its adopted standards. In this regard, due to the shortfall in parking, it is considered by the Council that this shortfall could result in on-street parking which could affect highway safety, especially given the significant level of on-street parking which already occurs in the area.
- 7.4.7 In summary, the proposed development would likely to result in the creation of a bedroom in the loft space which would require additional parking provision which cannot be adequately provided on-site in accordance with the Council’s adopted standards. The proposal would, therefore, be likely to result in an increase in on-street parking that would be prejudicial to highway safety and the free flow of traffic.

7.5 Other matters

Emergency vehicle access

- 7.5.1 In regards to the concerns raised about emergency vehicle access, this was previously considered under planning application 14/00004/REG3 where it was confirmed by Hertfordshire Fire and Rescue that the area is not known to be an emergency access and that sufficient access can be gained by the existing highway network off each estate.

Consultation process

- 7.5.2 The Council as Local Planning Authority has undertaken the necessary level of consultation in accordance with Government Regulations. This is because local residents have been notified by letter, a site notice has been erected in close proximity to the site and the application has been published on the Council’s website.

8 CONCLUSIONS

- 8.1 In conclusion, the proposed development would likely to result in the creation of a bedroom in the loft space which would require additional parking provision which cannot be adequately provided on-site in accordance with the Council’s adopted standards. The proposal would, therefore, be likely to result in an increase in on-street parking that would be prejudicial to highway safety and the free flow of traffic.

9 RECOMMENDATIONS

9.1 Planning permission be REFUSED subject to the following reasons:-

1. The proposed development could result in the creation of a bedroom in the loft space which would require additional parking provision which cannot be adequately provided on-site in accordance with the Council's adopted standards. The proposal would, therefore, be likely to result in an increase in on-street parking that would be prejudicial to highway safety and the free flow of traffic and is contrary to Policy IT5 of the Stevenage Borough Local Plan 2011 – 2031 (adopted 2019), the Council's Car Parking Standards SPD (2012), the National Planning Policy Framework (2019) and the Planning Practice Guidance (2014).

Pro-active Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted pro-actively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

10. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Council Supplementary Planning Documents – Parking Provision adopted January 2012 and Stevenage Design Guide adopted October 2009.
3. Stevenage Borough Local Plan 2011-2031 adopted 2019.
4. Hertfordshire County Council's Local Transport Plan 4 adopted May 2018.
5. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
6. Central Government advice contained in the National Planning Policy Framework February 2019 and Planning Policy Guidance March 2014.