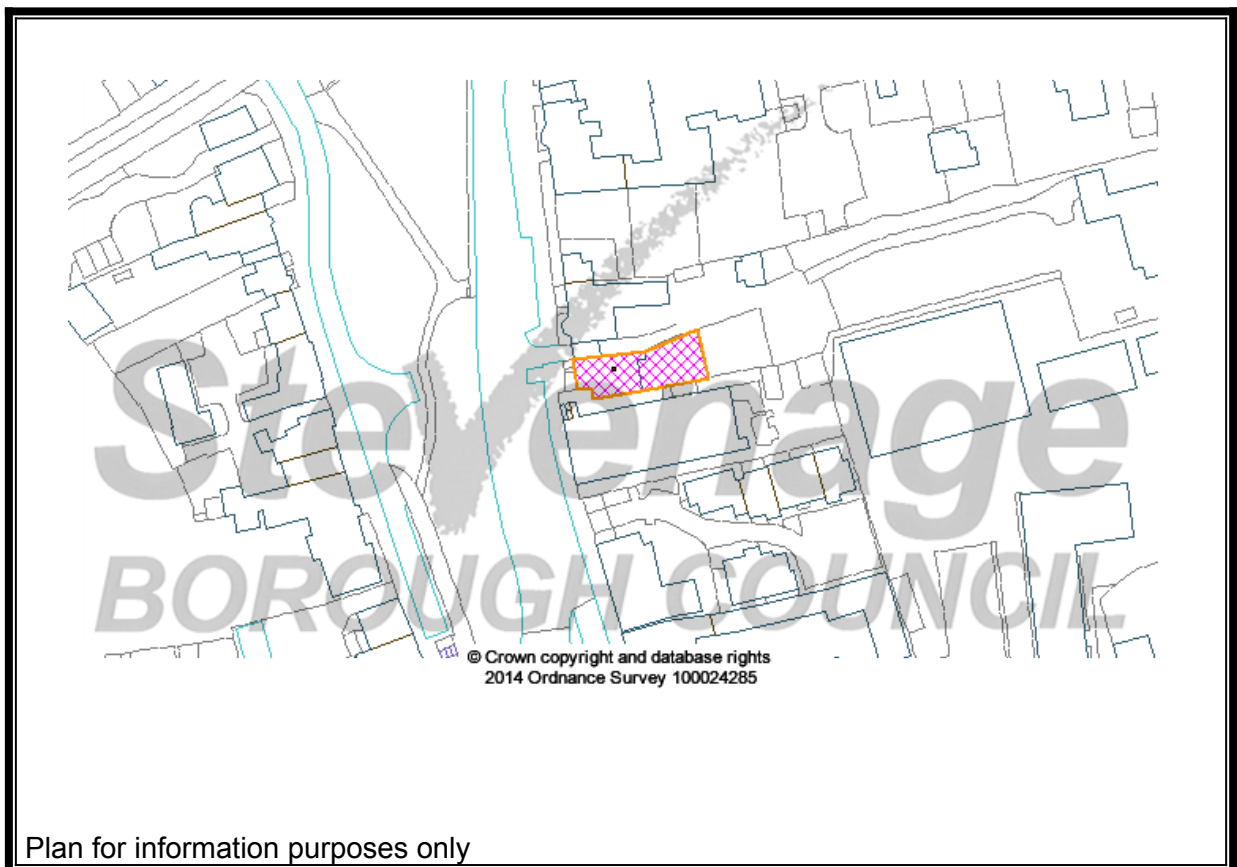


Meeting:	Planning and Development Committee	Agenda Item:
Date:	04 February 2020	
Author:	James Chettleburgh	01438 242266
Lead Officer:	Zayd Al-Jawad	01438 242257
Contact Officer:	James Chettleburgh	01438 242266

Application No:	19/00389/FP
Location:	On The Green, 11 High Street, Stevenage.
Proposals:	Variation of condition 1 (approved drawings) attached to planning permission reference 14/00095/FP.
Drawing Nos.:	996:02F; 996:01B
Applicant:	Mrs Marie-Claire Clinton
Date Valid:	28 June 2019.
Recommendation:	GRANT PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 The application site is located on the eastern side of the High Street (A602) opposite the Bowling Green. The site comprises a Grade II (un-starred) two-storey restaurant (known as On The Green) which comprises a traditional gable-end roof. The existing front elevation of the application property is constructed from a red-brick with a Flemish bond and buff brick quoin detailing. The principal elevation comprises timber lattice casement windows with stone headers and brick detailing. The front door of the property comprises an arched stone header with brick detailing. The pitched roof of the property is clad in clay tiles with brick chimney stacks with clay pots. To the left hand side of the property is a brick archway with timber doors. There is also a projecting hanging sign advertising the wine bar.
- 1.2 To the front of the application property is a gravel area with a timber planter and 2 metal plant troughs. To the rear of the property is a two-storey rear addition with a double gable-end roof. Projecting off the rear addition is a single storey element with a gable-roof. The rear service area comprises of paving and gravel which is enclosed by a brick wall with Victorian style wrought iron metal gates. There is also a mature Cypress tree which is located in close proximity to the rear elevation of the application property.
- 1.3 The surrounding area, which forms part of the Old Town Conservation Area, is characterised by a mixture of residential and commercial properties. The majority of development which form the northern-end of the Old Town High Street centre on the 'Bowling Green' and War Memorial. There is a wide variety in the architecture within this part of the High Street incorporating red brick, Mock Tudor or white render.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning application 2/0226/82 sought permission for the change of use from a surgery to offices. Permission was granted in September 1982.
- 2.2 Planning application 2/0452/83 and Listed Building application 2/0451/83/LB sought permission for a two storey rear office extension to 11 High Street. These applications were refused at appeal in February 1984.
- 2.3 Planning application 2/0062/84 and Listed Building application 2/0065/84/LB sought permission for a two-storey rear extension to form garage with office over and car parking facilities. These applications were approved in April 1984.
- 2.4 Planning application 2/0063/84 and Listed Building application 2/0064/84/LB sought permission for a two storey rear extension and car parking facilities. These applications were refused in May 1984.
- 2.5 Planning application 2/0087/85 sought permission for the erection of a two-storey rear extension to provide a garage with office at first floor level to 11 High Street. This application was approved in April 1985.
- 2.6 Planning application 2/0118/93 sought permission for the change of use of part ground floor and first floor to residential. The application was approved in May 1993.
- 2.7 Planning application 2/0117/93 sought permission for internal alteration to facilitate the change of use of part ground floor and first floor to residential accommodation. This application was approved in May 1993.
- 2.8 Planning application 2/0176/93 sought permission for the insertion of a door on the northern elevation of the property. This application was approved in August 1993.

- 2.9 Planning application 2/0376/94 and Listed Building application 2/0377/94 sought permission for the erection of a 1.5m wall and gate to the rear of the property, a new door in the rear elevation and the installation of a satellite dish. This application was approved in March 1995.
- 2.10 Planning application 2/0120/95 and Listed Building application 2/0121/95 sought permission for the change of use of ground floor from offices to residential, demolition of the brick pier, installation of a satellite dish and installation of double gates on northern boundary. The application was approved in May 1995.
- 2.11 Planning application 14/00095/FP and Listed Building application 14/00096/LB sought permission for the conversion of the existing dwelling into restaurant (A3). The applications were approved in July 2014
- 2.12 Listed Building consent application 14/00444/LB sought consent for proposed Internal alterations. This application was approved in October 2014
- 2.13 Discharge of condition application 14/00470/COND sought partial discharge of condition 11 (archaeological investigation) attached to planning permission reference number 14/00095/FP. This application was granted in October 2014
- 2.14 Discharge of condition application 14/00471/COND sought partial discharge of condition 3 (archaeological investigation) attached to planning permission reference number 14/00096/LB. This application was granted in October 2014.
- 2.15 Discharge of condition application 14/00528/COND sought to discharge conditions 6 (fireplaces and fire doors); 7 (bat protection); and 10 (bat boxes) attached to listed building consent 14/00096/LB. This application was granted in December 2014.
- 2.16 Discharge of condition application 14/00529/COND sought to discharge conditions 7 (refuse & recycling); 10 (fire places & fire doors); 14 (bats); and 18 (bat boxes) attached to planning permission reference number 14/00095/FP. This application was granted in December 2014.
- 2.17 Discharge of condition application 15/00014/COND sought to discharge Condition 6 (extraction system) attached to planning permission reference number 14/00095/FP. This application was granted In February 2015
- 2.18 Discharge of condition application 15/00062/COND sought to discharge conditions 3 (windows and doors) and 5 & 6 (archaeology) attached to listed building consent 14/00661/LB. This application was granted in March 2015
- 2.19 Planning application 15/00028/AD sought advertisement consent for the erection of 1no. non-illuminated letter sign; 1no. internally illuminated menu box sign and 1no. wall mounted sign and 1 no advertisement A-board. This application was granted advertisement consent in June 2015.
- 2.20 Works to a tree in Conservation Area application 16/00135/TPCA sought consent for the removal of 1no Thuja. This application was granted consent in April 2016.
- 2.21 Planning application 17/00328/FP sought permission for the erection of timber storage shed in rear yard. This application was granted planning permission in July 2017.
- 2.22 Planning application 17/00329/FP sought permission for the change of use from highway land to land associated with restaurant (Use Class A3) and erection of 4no mobile timber planters. This application was granted permission in November 2017.

3. THE CURRENT APPLICATION

- 3.1 Under planning application 14/00095/FP, permission was sought for the Conversion of existing dwelling into restaurant (Use Class A3). The application before the Council seeks a variation of condition 1 (approved drawings) attached to planning permission reference 14/00095/FP. This is in order to create a seating area within the rear walled service area of the restaurant. With regards to the listed building, as the proposed development does not seek to physically alter the building either internally or externally, therefore, listed building consent is not required for the proposal in this instance.
- 3.2 When considering applications of this type, local planning authorities are entitled to consider only the question of the conditions to which planning permission should be granted and must leave the original permission intact. In this instance, the other conditions imposed on the originally granted planning permission for this development remain relevant, so that the only issue for consideration in the determination of this application is how the variation of the condition referred to above would impact on the approved scheme and whether any additional or amended conditions are warranted.
- 3.3 The reason for this application being referred to the Planning and Development Committee for its decision is because the application has been called in by Councillor Loraine Rossati. The reason relates to concerns as to the impact the proposal would have on local residents.

4. PUBLIC REPRESENTATIONS

- 4.1 The proposal has been publicised by way of letters to adjoining premises and site notices have been erected. At the date of drafting this report, objections have been received from numbers 7, 9B and the Old Coach House, High Street. A summary of the objections raised are as follows:-
- The proposed development would affect a number of conditions imposed to the original permission;
 - The original conditions sought to mitigate the impact of the development on local residents;
 - The Council would have originally refused the previous application if it had outdoor seating;
 - The applicant never appealed the condition regarding outdoor seating;
 - There were a number of objections on the previous applications regarding inadequate parking, significant noise and disturbance, impact on the highway, increased traffic, smells and odour issues, impact on wildlife;
 - Outdoor seating would affect the quality of life of local residents;
 - The proposal would generate unacceptable noise levels which would detrimentally effect local residents;
 - The development proposal would generate additional parking issues;
 - The development would likely generate unacceptable light issues which would detrimentally effect the amenities of local;
 - There would be issues with access associated with the development;
 - There would be insufficient parking to serve the development, including existing and additional staff;
 - The development would impact on the safe operation of the highway;
 - The condition regarding no outdoor seating must be upheld by the Council;
 - Any external lighting would have a detrimental impact on wildlife;
 - The external character of the listed building must be retained as a courtyard or garden not as an outdoor seating area;
 - The development would generate additional waste;
 - If permission was granted, it should only be for the current owners of the restaurant and not to any future owners of the premises;

- The Council's Environmental Health Officer also supported the concerns of residents in terms of noise and smoking outside.

4.2 Please note that the above is not a verbatim copy of the representations which have been received. A full copy of the representations received by the Council can be viewed on the Council's website.

5. CONSULTATIONS

5.1 Council's Environmental Health Section

5.1.1 It is confirmed that neither Environmental Health nor Licensing have received any complaints regarding the existing operations of On The Green, 11 High Street. It is noted from the paperwork associated with the planning application that the immediate neighbours stated they were disturbed by the current use of the outside of the building by staff and customers smoking. Environmental Health sent these immediate neighbours details of the noise App for recording noise complaints and a dairy sheet to complete and return. It is confirmed that nothing has been returned.

5.1.2 Environmental Health therefore have no objection to temporary permission being granted for 1 year, provided the Hours of operation 11:30 to 22:00 Monday to Thursday, 11:30 to 23:00 Friday and Saturday, and 11:30 to 22:00 Sundays and Bank Holidays relate to the hours of operation of the premises and not the hours of use of the outside seating area. The hours of use of the outdoor seating area to be restricted to the following:-

- No customers shall be permitted to use the external seating area hereby permitted before 0830 hours or after 2100 hours on any day.

5.2 Council Conservation and Historic Advisor

5.2.1 11 High Street, Stevenage is a grade II listed property (along with 9 High Street) and lies towards the northern end of the Stevenage Old Town Conservation Area facing on to the Bowling Green. 11 High Street is statutory listed because of its mid-19th century architectural design and detailing, it is of red brick construction with brown brick dressings and a patterned clay tile roof. There are a series of lattice casement windows under painted lintels and an arched carriageway to the side of no. 11 with flint / brick wall forming part of the side elevation. No 11 was extended to the rear with a well matched gabled extension in the latter part of the 20th century.

5.2.2 It is understood the application proposes an outside seating area only, with no works to the Listed Building, so a Listed Building Consent application is not actually required for this. The free standing tables / seating will be within the existing rear courtyard area and this is not considered to have a detrimental impact upon the character / appearance or significance of this grade II listed building or the Stevenage Old Town Conservation Area. The proposals accord with the relevant conservation based policies within the NPPF, no objection.

5.3 Hertfordshire County Council as Highways Authority

5.3.1 The variation of condition to planning permission reference 14/00095/FP would not have substantial effects on the highways.

6 RELEVANT PLANNING POLICIES

6.1 Background to the development plan

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the decision on the planning application should be in accordance with the development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

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

6.2 Central Government Advice

6.2.1 A revised National Planning Policy Framework (NPPF) was published in February 2019. This largely reordered the policy substance of the earlier 2012 version of the NPPF albeit with some revisions to policy. At the time the revised NPPF was published, the Stevenage Local Plan was subject to a Holding Direction by the Secretary of State following an Examination in Public in 2017. On 25 March 2019 the Secretary of State withdrew the Holding Direction on the understanding that the Council would adopt it as part of the Development Plan. The Council are content that the policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan be considered up to date for the purpose of determining planning applications.

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 Stevenage Borough Local Plan 2011-2031 (2019)

Policy SP1: Presumption in favour of sustainable development;
Policy SP2: Sustainable Development in Stevenage;
Policy SP8: Good Design;
Policy SP13: The historic environment;
Policy IT5: Parking and Access;
Policy GD1: High Quality Design;
Policy FP7: Pollution; and
Policy NH10: Conservation areas.

6.4 Supplementary Planning Documents

Parking Provision Supplementary Planning Document January 2012.
Stevenage Design Guide Supplementary Planning Document January 2009
Old Town Conservation Area Management Plan July 2012.

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 and the setting of the conservation area, impact upon neighbouring amenity, impact on the highway network and parking provision.

7.2 Impact on the Character and Appearance of the Area and the setting of the conservation area.

7.2.1 This application, as detailed on drawing number 996:02F seeks to create an outdoor seating area with seven table covers. The outdoor seating area tables and chairs would, as detailed on the submitted plans, be free standing so they would not be affixed to the floor or attached to the building. Given this, as the tables and chairs are removable, the proposed development would not have a detrimental impact on the setting of the Grade II listed building. In addition, the proposal would not harm the character and appearance of the conservation area. This is supported by the Council's Conservation and Historic Advisor.

7.3 Impact upon Neighbouring Amenity

7.3.1 Due to the proximity of nearby residential properties, there is the potential that the proposed development could have a detrimental impact on the amenities of neighbouring properties in terms of noise or disturbance. This concern is also supported by the Council's Environmental Health Officer. Notwithstanding this, as the outdoor seating area is not in operation, it is difficult to gauge whether the outdoor seating would be detrimental or whether certain mitigation measures could safeguard residential amenity.

7.3.2 Given the above, and following the advice of the Council's Environmental Health Officer, it is recommended that if permission be granted, it should only be for a temporary period of one year. This will allow the Council's Environmental Health Officer and the Council as Local Planning Authority to monitor the outdoor seating area to determine whether or not it causes a statutory nuisance to nearby residents. Furthermore, and in order to help protect residents during this temporary period, it is recommended a condition is imposed restricting the hours of usage of the seating to between the hours of 08:30AM and 09:00PM on any day. In addition, it is recommended a condition be imposed restricting the playing of music outside of the premises. It is also recommended a condition requiring the tables and chairs to have rubber stops on their feet to ensure that noise when moving the furniture is reduced to an acceptable level.

7.3.3 Further to the above, it is also recommended the applicant submits an Operational Management Plan which is to be submitted to the Council for its approval in writing. This Operational Management Plan will need to set out how the applicant seeks to control noise levels in the outdoor seating area. This is again in order to help to mitigate the impact of the outdoor seating on the amenities of neighbouring residential properties. It is also recommended the original conditions regarding hours of operation of the restaurant, when deliveries take place and to restrict any outdoor seating areas on land outside of the applicant's ownership would be imposed. This again is to ensure the development as a whole does not have a detrimental impact on the amenities of neighbouring properties.

7.3.4 With the aforementioned mitigation measures in place and combined with the outdoor seating area to be temporary (in order for the Council to assess its impact on residents during its operation), it is considered that the proposed development should not have a detrimental impact on the amenities of neighbouring residential properties.

7.4 Impact on the Highway Network

- 7.4.1 The development site is currently served by the existing access road which comes off the A602. The A602 is a two-lane gyratory system which is classified as a Main Distributor road which is subject to a speed limit of 30 mph. It is identified in the submitted documentation that the proposal does not entail any alterations to the existing access road. In regards to the use of the access road, there would be no parking available for staff or customers.
- 7.4.2 With regards to traffic generation from the use, the proposal represents a small scale change of use which is considered unlikely to generate a significant increase in vehicles movements. In addition, there is no evidence to show that the change of use at this location would result in short term on-street parking that would cause congestion close to the site.
- 7.4.3 In regards to delivery vehicles, there is a small layby off the A602 which is located to the front of number 9 High Street. There is also a parking area to the front of number 13 High Street. These areas are currently used by delivery vehicles serving the application site. However, if these areas are being used by parked vehicles, delivery vehicles can park on the High Street and unload the goods. This because there are no restrictions in the Traffic Regulation Order which apply to the lengths of the road within the restricted area for so long as is reasonably necessary to enable goods to be loaded or unloaded from the vehicle or the premises. Notwithstanding this, as previously agreed by Hertfordshire County Council as Highways Authority, it is recommended that a condition be re-imposed to any permission issued restricting the hours of deliveries to fall outside the hours of 09:30 and 15:30. This would ensure that deliveries take place outside of peak hours.
- 7.4.4 In summary, it is considered that subject to appropriate conditions, the proposed development would not prejudice the safety and operation of the adjoining highway.

7.5 Parking provision

- 7.5.1 Policy IT5 of the Local Plan (2019) states that planning permission will be granted where proposals comply with the parking standards as set out in the Council's Car Parking Standards SPD (2012). The Council's Parking Standards SPD (2012) sets out the maximum level of parking requirements for Class A3 (Restaurants and Cafes) developments. The car parking standards which are required for such development is 1 space per 5m² of dining area plus 3 spaces per 4 employees.
- 7.5.2 The proposed development seeks to create an additional 55 sq.m. of dining area. In regards to staff, the proposal is not seeking to generate additional staff. Taking this into consideration, a total of 11 off-street parking spaces would be required. However, given the site is located in non-residential accessibility zone 2 the car parking provision required for this development is between 25% to 50% the maximum. This equates to a car parking requirement of between 3 and 6 spaces.
- 7.5.3 Whilst the rear parking area could accommodate 3 parking spaces (albeit all staff parking), the parking area is to be used for the proposed outdoor seating area. In addition, despite what is detailed on the plan, it is highly unlikely the garden area would be used for parking of vehicles if the outdoor seating area is being used.
- 7.5.4 Given the above, the proposal would not only lead in a reduction of parking for the existing restaurant (between 4 and 7 spaces), there would be no parking available to serve the additional dining area. Consequently, there would be a shortfall of between 7 and 13 parking spaces. Notwithstanding this shortfall, the application site is located in close proximity to the short stay on-street parking which runs along the High Street. Further, there is a surface car park on Church Lane which is located 240m south-east of the application site. There are also surface car parks on Primett Road to the south behind Waitrose. There is also a Bus Stop on the High Street which is located 214m south of the site.

- 7.5.5 Taking into account the above, despite the limited shortfall in parking, the site is within walking distance to public surface parking and in a sustainable location due to the bus stop which is within walking distance to the site. Having regards to these factors it is considered that the development would not have an unacceptable impact with regard to parking provision.

8. CONCLUSIONS

- 8.1 In summary, subject to conditions, it is considered that the proposed outdoor seating would not have a detrimental impact on the setting of the grade II listed building or the character and appearance of the conservation area. In addition, the proposed development would not harm the amenities of nearby residential properties or prejudice the safety and operation of the highway network.
- 8.2 Given the above, the proposed development approved with the Policies contained within the adopted Local Plan (2019), the Council's Supplementary Planning Documents, the NPPF (2019) and NPPG (2014). Therefore, it is recommended that planning permission is granted.

9. RECOMMENDATIONS

- 9.1 That planning permission is GRANTED subject to the following conditions:

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

996:02F; 996:01B

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

- 2 The premises shall be used for Use Class A3 (Restaurant) and for no other purposes (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON:- To prevent the introduction of inappropriate uses which may affect the vitality and viability of the Primary Retail Frontage along the High Street.

- 3 The use of the restaurant hereby permitted shall only operate between the following times:

1130 to 2200 Mondays to Thursdays
1130 to 2300 Fridays and Saturdays
1130 to 2200 Sundays and Bank Holidays

REASON:- To protect the character and amenities of neighbouring areas by ensuring that measures are implemented to avoid any noise nuisance.

- 4 Deliveries to or from the premises shall only take place between the hours of 09:30 and 15:30.

REASON:- So that vehicles delivering to the site have a minimum interference to the free flow and safety of other traffic on the highway.

- 5 All equipment and ducting installed which controls the emissions of fumes and smells as approved by the Local Planning Authority shall be operated and maintained in accordance with the manufacturer's instructions.

REASON:- To satisfactorily protect the residential amenities of nearby occupiers.

- 6 The storage of refuse and recycling as approved by the local planning authority shall be made permanently available for the occupants of the building(s).
REASON:- To ensure that sufficient provision of refuse and recycle facilities are provided and to ensure these facilities do not visually harm the setting of the Listed Building.
- 7 Prior to the first use of the outdoor seating area hereby permitted, a written notice shall be submitted to the local planning authority confirming the date in which the outdoor seating area will be in operation. The outdoor seating area shall thereafter only be operated for a period of 1 year from the date specified in the written notice.
REASON:- In order to allow the Council to assess the impact the outdoor seating has in terms of noise on the amenities of nearby residential properties.
- 8 No external lighting shall be installed or affixed to the building unless the local planning authority has first approved in writing details of position, height, design and intensity. Any that needs to be installed should be downward facing and directed away from any sensitive areas, including woodland edges, trees and hedgerows, potential or known bat access points and any installed artificial roosts. The design of the lighting scheme should follow the recommendations given in the Bat Conservation Trust's advice note on bats and lighting in the UK (BCT, 2008).
REASON:- To ensure the site continues to be suitable for use by bats. Bats can be adversely affected by light pollution in sensitive areas. The NPPF states that by encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on nature conservation.
- 9 The premises shall not be used for the sale of food for consumption off the premises.
REASON:- To satisfactorily protect the character and appearance of the area and the residential amenities of nearby occupiers.
- 10 Prior to the first use of the external seating area, an Operational Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Operational Management Plan shall thereafter be implemented in accordance with the approved details.
REASON:- To safeguard the amenities of occupiers of neighbouring properties.
- 11 No amplified music shall be played in the outdoor seating areas at any time.
REASON:- To safeguard the amenities of occupiers of neighbouring properties.
- 12 No outdoor seating associated with the use hereby permitted shall be placed on the public highway or on land outside the premises at any time.
REASON:- To ensure that the development does not prejudice the general safety of pedestrians including people with disabilities and protects the residential amenities of nearby occupiers.
- 13 No customers shall be permitted to use the external seating area hereby permitted before 0830 hours or after 2100 hours on any day. Any part of any furniture that is in contact with the ground shall be fitted with rubber stoppers to minimise noise.
REASON:- To safeguard the amenities of occupiers of neighbouring properties.

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line 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.
3. Stevenage Borough Local Plan 2011-2031 adopted May 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.