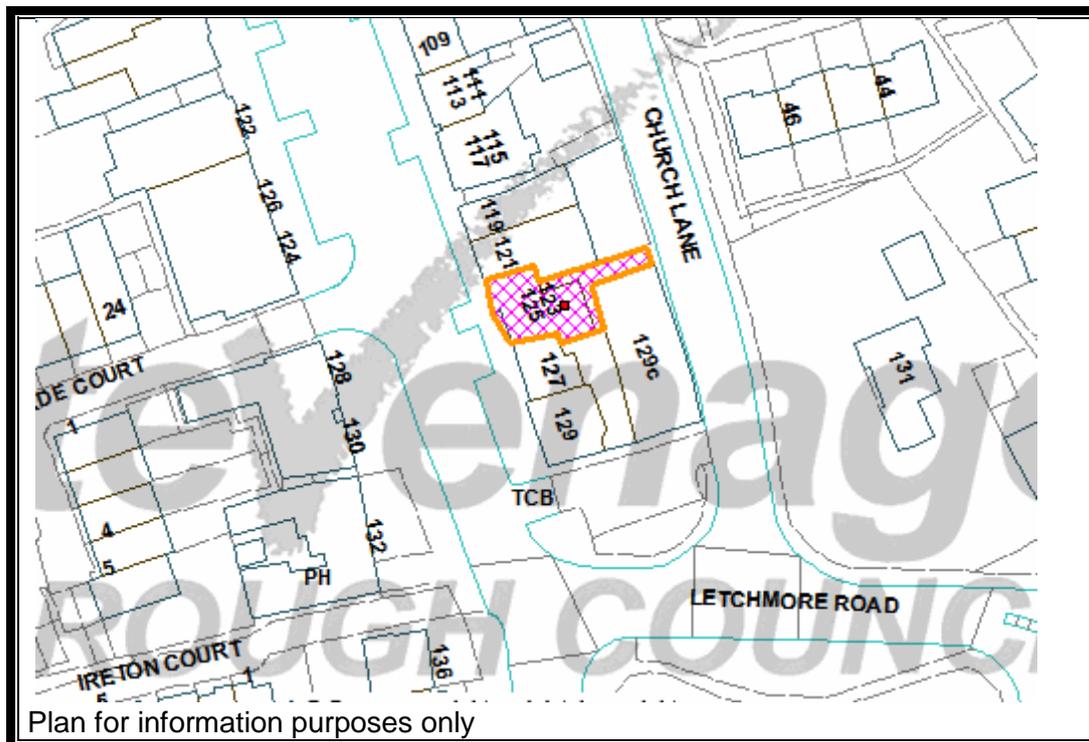


Meeting: Planning and Development Committee
Agenda Item:
Date: 27 May 2021
Author: Rebecca Elliott 01438 242836
Lead Officer: Zayd Al-Jawad 01438 242257
Contact Officer: Rebecca Elliott 01438 242836

Application No:	21/00148/FP
Location:	Misya Meze and Grill, 123-125 High Street Stevenage
Proposal:	Change of use from parking bays to highway forecourt and use for ancillary seating area associated with Misya Restaurant.
Drawing Nos.:	Site Location Plan; 26121/01A.
Applicant:	Misya Restaurant
Date Valid:	23 February 2021
Recommendation:	GRANT PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 123-125 High Street is a Grade II Listed Building located on the eastern side of the High Street, which falls within the Old Town Conservation Area, and is occupied by Misya Meze and Grill. The southern end of the High Street, close to the roundabout junction with

Letchmore Road is characterised by restaurants and retails uses, with the Marquis of Lorne pub to the south west of the site. Residential properties are located to the east off Church Lane, and to the west/south west within Ireton and Howarde Court. There are also residential properties above some of the High Street properties.

- 1.2 The High Street is served by parking bays along both sides of the highway. The bays allow for parking of vehicles perpendicular to the footpath and in places include sloping upwards from the vehicular highway to the footpath. The area is contained within the High Street Conservation Area and there are many of the towns Listed Buildings located along the High Street. Pavements and kerbing include more traditional materials, including small conservation kerb stones. Parking areas are broken up by small island areas some of which contain trees, or by vehicular entrances to rear land development.
- 1.3 The bays have been temporarily closed and decking put in place to allow for tables and chairs to be provided in line with the temporary relaxations for COVID.

2. RELEVANT PLANNING HISTORY

- 2.1 16/00479/AD - Installation of 2no. externally illuminated individual letter signs. Application granted consent on 8 September 2016.
- 2.2 16/00619/FP and 16/00620/LB - Retrospective planning permission and listed building consent for the erection of extraction flue. Planning permission and Listed Building consent granted on 1 November 2016.

3. THE CURRENT APPLICATION

- 3.1 The current application seeks the change of use of the parking bays located immediately in front of Misya Meze and Grill for use as highway forecourt to facilitate ancillary seating associated with Misya restaurant.
- 3.2 The works would see the removal of some of the parking bays to the front of the business for a maximum width of 8.1m, with 2.6m wide amount located north of the island division projection and 5.5m located to the south of this island projection. The bays measure 2.6m in depth and have a visible gradient change sloping upwards towards the footpath. The area would be finished with new kerbs and block paved with Marshall Tegula or similar to match the existing footpath and area.
- 3.3 The application comes before committee following a call-in from Councillor Hanafin in respect of the impact on car parking and given the level of public comment.

4. PUBLIC REPRESENTATIONS

- 4.1 Notification of the application was undertaken via letter to 53 properties within the immediate area of the site. A site notice was also erected and the application was also advertised in the local press. At the time of drafting this report, there have been 43 third party observations to date, 9 in support, 1 representation and 33 objections. Below is a brief summary of the points raised. This is not a defacto list and full comments are available on the Council's website for view.

Support –

- Outside seating would be a nice addition to the Old Town;
- The benefits for pedestrians and Old Town users of local shops should be a priority of the loss of parking spaces for collection of nearby takeaways;
- Existing seating areas are well used in this area of the High Street;

- Support for hospitality businesses in the High Street is needed;
- The loss of local businesses is more worrying than the loss of a few parking spaces;
- The High Street will be greatly enhanced by more outside seating;
- Support of the retail mix in the High Street;
- The spaces in question are not well presented for parking being at angles where cars scrape their bumpers;
- Rather a pedestrianised High Street than a car park, use of the car parks off Primett Road should be encouraged.

Representation –

- The bays are too short to allow for parking but the creation of pedestrian space should be in the public realm;

Objection –

- Historic importance of the bays and siting in the Conservation Area. Removal of the bays would harm the conservation area and historic High Street;
- Old Town historic importance and heritage being lost following various developments over the years and the Council's agreement to loss of historic fabric is affecting the High Street;
- Expecting older people to park in Primett Road and walk to and from the shops with shopping is unreasonable and could contravene the Disability Discrimination Act;
- A means to attract government funding to the detriment of the character and ambience of the High Street;
- The Independent retailers who are unique in what they offer will not attract custom - particularly amongst the older and disabled members of the community who are not able to park close by;
- Re-Opening of High Streets Safely Fund - Throughout, this document states, 'The action plan must be focused on activities that help to ensure that Small and Medium size enterprises are able to build their resilience and adaptability in the context of economic impact' It does not only apply to Hospitality but independent retailers as well;
- It is to be applauded, in the short term, that these businesses can apply for licences to put removable tables, chairs, heaters, barriers etc on the highway and existing free parking areas in order to comply with existing Government Covid regulations. However, safe passage for passing pedestrians and pushchairs, wheelchairs must be maintained with safe distancing;
- Loss of the parking spaces will have a greater impact on non-hospitality independent businesses in the High Street;
- The character and historic importance of the High Street has already been harmed by the introduction of garish cycle parking solutions and street furniture, with little public consultation;
- The loss of the parking spaces takes away 'freedom of choice' for the disabled and elderly to park close to a shop;
- The proposals do not meet the requirements of the relevant licenses;
- People will shop elsewhere when they are unable to park in close proximity of High Street businesses;
- Insufficient parking in the High Street currently;
- The proposal will affect the economy of the High Street and many struggling businesses after 3 lockdowns;
- The loss of free parking proposed by the Council has not been properly consulted on;
- Pavement in this area is too narrow leading to significant highway safety issues;
- Will lead to the displacement of parking to surrounding streets to the detriment of local residents;
- Lack of a thorough inspection at a time when the High Street has been severely affected by lockdown restrictions;
- People won't walk from the Primett Road car parks just for a paper or coffee;
- Will set a precedent for other businesses;

- Kerb height needed will be too high contravening Health and Safety;
- Operation of the business, with hot food and drinks being transported across a public footpath has not been given due consideration;
- As a temporary measure the use of these spaces to help with the pandemic is supported, but permanent loss of these spaces will greatly impact the High Street businesses and its users;
- Outside seating will be wasted most of the year;
- Changes are being made or proposed to the Old Town without right and proper consultation with businesses or residents;
- The Local Plan says that the history of Stevenage goes back to prehistoric times and that it grew around what is now the Old Town High Street. It follows on to say under "Conservation Areas - Old Town High Street" that the objective is to preserve the core of the Old Town along the route of the former Great North Road;
- At 8.47 The Local Plan says that the rear of the Old Town High Street provide opportunities for more development suggesting the overall parking for the Old Town is under threat if the High Street parking is removed.

Objection made on behalf of Stevenage Old Town Business & Community Partnership (SOTBCP) -

This objection is submitted by the current chair of the Stevenage Old Town Business & Community Partnership (SOTBCP) on behalf of the members of that group in respect of planning application reference 21/00148/FP.

First and foremost, we would like to clarify that this objection is made on the principle that granting this application will set a precedent in favour of the change of use from public parking public realm space to a commercial use benefitting a business, rather than against this application in particular. As a group, we have sympathy with assisting the hospitality offering on our High Street through the current restrictions with temporary access to outdoor seating, but this will not be necessary in the long term as a permanent provision removing areas for the exclusive use of one businesses to the detriment of others.

Whilst we are aware that the Use Classes were amended on 01.09.20, for convenience we will use the old terminology when making reference to the planning policies where appropriate.

Turning to specific objections:-

Policy TC10 c. of the adopted local plan

This says that planning applications will be granted provided that any additional use class A3 or A4 will not adversely affect the character of the centre or otherwise result in a detrimental over-concentration of such uses in the vicinity of the applicant site. We would argue that the change of use would adversely affect the character of the High Street by removing an area out of public use to one auxiliary to a business.

In addition, prior to the temporary provisions of "safe spaces" and the temporary provisions within the Business and Planning Act 2020 as a response to the Covid-19 pandemic, there has historically not been any outdoor seating save within a premises' own curtilage or on the pavement. To now change parking to outdoor seating for a business is unprecedented and, therefore, necessarily affects the character of the High Street. Whilst it is arguable whether this change is detrimental or not is, of course, subjective but as a group our view is that it would be.

We would also argue that there is already a concentration of A3 use within the vicinity of the site and to allow an additional one would indeed be an over-concentration.

There is provision for exceptions to these policies, but one of the requirements is that the unit has been unsuccessfully marketed for a normally acceptable A-class use or has remained vacant for a considerable amount of time, neither of which applies here.

In passing, we note that the general reasoning behind Policy TC10 is to ensure that at least

60% of 70-92a High Street, 35 -75 High Street, and Middle Row should remain A1 use. It is not known by the group the percentage splits between the uses, but to grant a new A3 use will inevitably impact on them.

Policy IT5 c. and d. of the adopted local plan

This says that planning permission for development which results in the loss of formally defined on-street bays will be granted where the lost parking is replaced as near as possible to the existing provision in an accessible location or it can be demonstrated that the provision is not suitable or required.

The supporting text at 8.33 states that existing parking provision in the town is a valuable asset, that even small schemes can have a big impact, but that where it can be demonstrated that the existing provision is simply no longer able to accommodate modern vehicles, the loss of spaces will be allowed.

We note from the details on the planning application that there is no provision for displacement parking spaces so will assume that the exception relating to the parking spaces not being suitable or required is being relied upon here. However, we reserve the right to make further representations on that point if that assumption is incorrect.

Turning to the argument that the spaces are not suitable or required because they cannot accommodate modern vehicles, whilst it is true that some of the larger modern vehicles overhang the pavement and road when parked in these spaces, that is not to say that they are unsuitable for the majority of modern vehicles. A notice saying that only vehicles of a certain size can park there, or making those parking bays for parallel parking only, would remedy the situation.

Alternatively, reserving those spaces for motorbikes, moped, push bikes would also address any perceived problems whilst retaining the current use and keeping them within the public realm.

In passing, we note that it is within the Highways Authority's own gift to re-purpose this area if it is felt to be a safety concern, in the same way as the area outside Costa Coffee has been.

Policy IT8 of the adopted local plan

This states that planning permission which results in the loss of existing public car or cycle parking provision will be granted where there is displacement parking either within the new development or nearby, or where it can be robustly evidenced that the parking is no longer required.

The supporting text at 8.45 states that there will be a general presumption against the loss of existing spaces unless the criteria of IT8 are satisfied.

As stated above, we have seen nothing within the planning application for provision of displacement parking spaces so will assume that it is the exception relating to the parking spaces not being required that is being relied upon. However, we reserve the right to make further representations on that point if that assumption is incorrect.

We have seen no evidence at all, let alone robust evidence, that these parking spaces are no longer required. We would therefore argue that the applicant has not met the criteria of IT8 and the presumption against the loss of spaces must be applied.

In passing, we note that pre-pandemic, all on-street parking spaces would be in use. During the pandemic, even given the limitations of these spaces and the fact that there are longer spaces available nearby, they are regularly being used.

Old Town High Street Conservation Area Management Plan Supplementary Planning

Document adopted 19.07.12

At point 8.6 of the above, it says that clusters of food and drink uses undermine the primary retail function of the historic centre, and that this would be addressed through the local plan. At that end of the High Street there is already a cluster of food and drink uses, adding another would further add to the cluster and tip the balance further away from the primary retail function.

It may be that, since publication of this document and the now adopted local plan, the vision for High Streets has moved on away from a primary retail function towards experience offerings, but the policies applicable for our High Street state that it is still to be primarily retail unless and until these are revised.

Point 9.6 of the above states that parking is a key issue within the conservation area, and that the width of the High Street means that it can accommodate parking on both sides of the carriageway. We agree that parking is a key issue on our High Street, and that historically parking has been on both sides of the carriageway. This therefore supports our contention above in relation to TC10 c. that to allow the change of use would change the character of the High Street.

Point 9.7 of the above says that the (then) new parking regime was to enhance the vibrancy of the Old Town and to ensure the economic wellbeing of the retail area. This acknowledges the importance of having easily accessible, free, and available parking on the High Street for the viability of the High Street. Given the importance attributed to parking on the High Street, and in the wider Old Town, it would be contrary to this management plan to permit the loss of these parking spaces.

In addition to specific planning policies, wider safety concerns are:-

- a. having people seated for protracted periods of time so close to vehicles on the highway where there is no permanent safety barrier, especially where alcohol is being served; and
- b. in a period where so high a percentage of women are victims of assault, abuse, and harassment (let alone other vulnerable people) it is less safe to have people walking from car parks either side of the High Street through routes which are badly lit, secluded, and poorly visible.

We have endeavoured to limit our objections to planning grounds, but to speak to the wider feelings of our members for a moment, there is real concern and disquiet that this is metered parking and/or pedestrianisation by stealth. It has been well evidenced in other towns which introduced such measures that it was the death-knell to their High Street. We would welcome a wider discussion on how we want our High Street and Old Town to look going forward.

5. CONSULTATIONS

5.1 Hertfordshire County Council Highways

- 5.1.1 The outdoor seating area is proposed to be located adjacent to a section of public highway currently used as parking bays which are offset at ninety degrees from the High Street which is a local access road and subject to a speed limit restricted to 30 mph.
- 5.1.2 It should be noted that regardless of any consent that may be issued under the Town and Country Planning Act the placement of any tables, chairs or other apparatus on or within the public highway cannot occur until such time as a licence under the provisions of Section 115E of the Highways Act 1980 has been secured with the highway authority or its Agents.
- 5.1.3 In order that Planning Permission is considered, the closure of the Parking Bays is a matter for an Extinguishment of Vehicular Rights Order under Section 249 Town and Country Planning Act 1990 this is subject to the above recommended planning condition and highway informative.

- 5.1.4 Hertfordshire County Council as highway authority has considered that, subject to the above highway informative and recommended planning condition, the proposal would not have an unreasonable impact on the safety and free flow of highway users passing the site.

5.2 Environmental Health

- 5.2.1 If planning permission is granted it is recommended that the following conditions are attached:

Noise Impacts

Noise is a material planning consideration that can have a significant impact not only on the amenity of residential occupiers, but can also have commercial implications for businesses if not suitably considered and controlled at the planning and development stage. It is therefore essential to ensure that any significant noise sources that could have an adverse noise impact on the amenity of residential occupiers or potentially restrict commercial operations are robustly considered and assessed as appropriate. In considering the potential impacts of noise on the proposed development, the Environmental Health Service will have due regard to relevant policy, standards and guidance, which include:

- The National Planning Policy Framework (NPPF);
- The Noise Policy Statement for England (NPSE);
- Planning Policy Guidance - Noise.
- Pro-PPG Guidance 2017
- BS4142:2014
- BS8233:2014

Please note that this is not an exclusive list and other standards and guidance may be appropriate in given situations. As part of the planning process you will be required to provide a Noise Impact Assessment report.

5.3 BEAMS

- 5.3.1 Misya Meze and Grill occupies a grade II listed property on the east side of Stevenage's historic High Street, near its southern end. The site lies within the Stevenage Old Town Conservation Area - conservation areas are defined as being 'areas that are of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance.' Both statutory listed buildings and Conservation Areas are considered to be 'designated heritage assets' under the NPPF.
- 5.3.2 The application proposes removing the existing area of parking bay to the front of the restaurant and its replacement with hard surfacing (to match existing to pavement). The purpose of this is to provide an enlarged external seating area to the front of the restaurant. A similar scheme has already occurred further up the High Street, in front of Costa Coffee.
- 5.3.3 The existing parking bays (which provide free parking for a period of time) are a characteristic of the southern end of the High Street and are subdivided by trees set in raised hard surfaced areas. BEAMS is concerned that the incremental loss of the parking bays on a permanent basis, along with the introduction of new hard surfacing / block paving and kerbs added on an ad hoc basis etc will detract from the character and appearance of the Conservation Area.
- 5.3.4 The applicants wish for increasing the amount of outside seating possible for the restaurant during the Covid-19 pandemic is understood. However, it is recommended a less permanent solution, for example timber decking for a seating area set within a parking bay, granted consent on a more temporary basis (ie 6 months to 1 year) would help the restaurant in the short term but without permanent loss of parking areas and without changing the existing

character of the High Street. BEAMS recommend a more reversible / temporary solution is explored.

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. The Council are content that the policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan should be considered up to date for the purpose of determining planning applications. The NPPF provides that proposals which accord with an up to date development plan should be approved without delay (para.11) and that where a planning application conflicts with an up to date development plan, permission should not usually be granted (para.12). This indicates the weight which should be given to an up to date development plan, reflecting the requirements of section 38(6) of the 2004 Act. The NPPF and the PPG, with which Members are fully familiar, are both material considerations to be taken into account in determining this application.

6.3 Planning Practice Guidance

6.3.1 The PPG contains guidance supplementing the NPPF and with which Members are fully familiar. The PPG is a material consideration to be taken into account together with the National Design Guide (2019) which has the same status as the PPG.

6.4 Stevenage Borough Local Plan 2011-2031 (Adopted 2019)

SP1 Presumption in Favour of Sustainable Development
SP2 Sustainable Development in Stevenage
SP8 Good Design
TC9 High Street Shopping Area
IT5 Parking and Access
IT8 Public Parking Provision
NH10 Conservation Areas

6.5 Supplementary Planning Documents

Parking Provision Supplementary Planning Document January 2020.
Old Town Conservation Area Management Plan 2012

6.6 Community Infrastructure Levy Charging Schedule

- 6.6.1 Stevenage Borough Council adopted a Community Infrastructure Levy Charging Schedule in 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location and floorspace of a development.

7 APPRAISAL

- 7.1 The main issues to consider in the determination of this application are the impact of the loss of the parking spaces and the impact of the works on the character and appearance of the conservation area.
- 7.2 It is emphasised that the application is only seeking permission for the change of use of the parking spaces to highway forecourt for the use of outside seating. The provision of the outside seating itself is assessed and controlled by the Local Highways Authority under the relevant Pavement Licence. The following assessment does not therefore take account of the actual proposed seating/table and chairs, just to the proposal to allow for seating within the proposed highway forecourt area.

7.3 Loss of Parking Spaces

- 7.3.1 The proposed site plan shows two areas of parking bays affected by the proposal, one area north and one area south of an existing projecting island which has a single tree planted in it. The northern area measures 2.6m in width by 2.6m in depth. The southern area measures 5.5m in width and 2.6m in depth. This would include the area directly in front of and the full width of the premises 123-125 High Street, Misya Meze and Grill.
- 7.3.2 Given the measurements above, the proposed change of use of the parking bay area would see the loss of approximately three parking bays only, and short term spaces at that, with only a depth of 2.6m measured before meeting the main carriageway. The spaces also have a change in gradient from the carriageway sloping up to the footpath edge.
- 7.3.3 The proposed works would see the area levelled and finished with kerbing stones, similar to that carried out to the front of Costa Coffee further north along the High Street. Details of levels and the finished works have not been provided and could be reasonably sought through the imposition of a condition on any approval. The proposed materials would also be conditioned to ensure they are appropriate to the Conservation Area setting and the setting of the listed building.
- 7.3.4 There has been several letters of objection to the proposal based on the loss of parking and the impact this has on shoppers having to walk further from other nearby parking, and the impact on local businesses. Letters of support have identified a need for outdoor seating associated with such uses that keep the area alive outside normal shop trading hours over the need for the retention of the parking bays.
- 7.3.5 Looking firstly at the loss of the parking bays in terms of parking, the Council adopted its new Parking Provision and Sustainable Transport SPD in October 2020 which outlines the Council's prescribed standards for parking based on development type for new proposals. The SPD also summarises the Council's aims to reduce private car use and work towards a modal shift to promote non-car modes of transport. This is in line with the aspirations of the NPPF, Hertfordshire County Council's Local Transport Plan 4 and the adopted Local Plan (2019) to promote sustainable development and to locate new development where it is highly accessible by passenger transport, walking and cycling.
- 7.3.6 The High Street is served by parking bays along both the eastern and western sides of the highway, with vehicles parking perpendicular, at a 90 degree angle to the footpath. The parking bays extend from the south close to the roundabout junction with Letchmore Road northwards to Middle Row and then further parking is provided north of Middle Row on the

western side to the front of Tesco and nearby shops. Parking is then also available off Church Lane, with two surface level car parks in close proximity of the High Street to the west, and also two large car parks off Primett Road, referred to as the old Waitrose car park and one further south which is currently being partially used for a COVID testing site and is often used for parking of vehicles when the State Fair is held in Stevenage each year.

- 7.3.7 The Council's adopted Policies IT5 and IT8 refer to parking provision and mention specifically public parking provision, the loss of which should be justified or displaced elsewhere. The proposal clearly does not allow for the lost parking to be provided as part of the development, as Policy IT8 requires, and this refers more to larger scale development where provision can be re-sited.
- 7.3.8 In this case, whilst a robust argument has not been made about the parking loss or demand, the sustainable location of the parking bays and the limited number of spaces (three) being lost is heavily in favour of the proposal. Objections highly emphasise the loss of parking and likely inability for people to park closely to existing shops. However, given the level of parking available along the rest of the High Street and the close proximity of the surface level car parks both to the east and west of the site it is argued that with the prominence of shops being to the north of the High Street and thereby unaffected by this proposal, the loss of three spaces is negligible in this location.
- 7.3.9 The loss of the parking spaces is not considered to prevent elderly and disabled drivers from accessing facilities in the High Street. The bays in question are below standard in size and given their physical attributes may be difficult to use for those who are disabled or who have poor mobility due to age. These bays are not designated disabled bays, of which there are some further north of the site along the High Street. Furthermore, they are sited to the south of the High Street away from those businesses mentioned in objections and are therefore unlikely to be parked in by the demographic groups mentioned in the objections.
- 7.3.10 The temporary measures in place to allow the business to operate during restrictions of lockdown and COVID measures has been working well, despite mixed reviews from the public. It is noted nearby restaurant businesses have undertaken similar temporary measures and these may also result in applications for permanent closing off of bays on the western side of the road. However, no such application have currently been made and we can only consider the proposals put towards us in this application.
- 7.3.11 The Local Highway authority has assessed the application in respect of the impact on highway safety and has no objections subject to the imposition of conditions and informatives.
- 7.3.12 Given the proposal would only result in the loss of three bays, the location is highly sustainable and there is a good level of alternative parking in close proximity of the site, it is considered the loss of three parking spaces is acceptable in this case.
- 7.3.13 The second area of objections raised in respect of the loss of the spaces is the knock on affect for local businesses. This issue stems from the people not being able to park so closely to their destination and businesses being affected as a result. As mentioned previously, the businesses noted in this regard are located further north along the High Street and with parking bays still available in closer proximity than those the subject of this application. Furthermore, the future impact on businesses is not surmountable to this specific application, given the retail industry as it is at present, and also following the COVID pandemic.
- 7.3.14 Whilst, the retention of businesses is an important factor in ensuring the vitality of the Old Town, this also stems to the continued use of non-retail premises including uses that provide night time and entertainment within a mixed use area. It is not considered therefore that the loss of three parking spaces can be accounted for any future impact on local businesses when adequate parking provision is still available in the locality.

7.4 Impact on the Character and Appearance of the Conservation Area

- 7.4.1 The High Street is located within the Old Town Conservation Area, of which there is a Management Plan (MP) highlighting the key buildings and areas that have historic and architectural value as Heritage Assets. Both the MP and the Local Plan make note of the significance of the High Street as the former A1/Roman road linking London to the North of England. This includes the provision of these parking bays on both sides of the road adding to the character and visual appearance of the High Street.
- 7.4.2 The NPPF outlines the need to assess the impact of development on a Heritage Asset and to 'take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. Furthermore, Paragraph 192 of the NPPF goes on to suggest LPA's 'take account of the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality'.
- 7.4.3 In this case there are two factors, the loss of an area of parking that forms part of the Conservation Area as a Heritage Asset against the contribution of the area being available as a forecourt area to allow the provision of outside seating for a local business, in a sustainable location. The Council's Listed Building and Conservation Area consultants BEAMS have provided comment and have raised concerns over the loss of the parking bays permanently. A temporary measure is considered acceptable with re-instatement after the temporary period. The incremental loss of the parking bays on a permanent basis, along with the introduction of new hard surfacing / block paving and kerbs added on an ad hoc basis etc will in BEAMS opinion detract from the character and appearance of the Conservation Area.
- 7.4.4 It is the opinion of officer's, on balance, that the works to remove the three parking bays and create the forecourt area, to be completed with agreed and sympathetic materials would be at the lower end of 'less than substantial harm' to the historic character and appearance of the Conservation Area or the historic importance of this Heritage Asset given the majority of the parking bays along the High Street being retained and still available for use, such that a refusal is warranted.
- 7.4.5 Whilst it is noted that there is harm the consideration of the public benefits have to be taken account of. The PPG states that –
In considering the public benefits that may be derived from the proposed development, the Planning Practice Guide (PPG) advises that they should be of a nature and scale that will be of benefit to the public at large and not just be a private benefit. Whilst a range of benefits that help deliver sustainable communities could be relevant, the PPG provides examples of heritage based public benefits, as follows:
- Sustaining or enhancing the significance of a heritage asset and the contribution to its setting;
 - Reducing or removing risks to a heritage asset;
 - Securing the optimum viable use of a heritage asset in support of its long terms conservation.
- The existing business operates from a Grade II Listed building and whilst it is a private business, the proposal would help protect the viability of this business and therefore the listed building also. This is especially given the impact of the COVID pandemic. The use of the proposed highway forecourt area would reduce the risk of the heritage asset becoming vacant which could potentially impact its long term preservation.
- 7.4.6 Furthermore, if any future applications are submitted for further reduction in parking areas they would be considered on their own merits and in respect of their impact on the historic character and possible erosion of the Conservation Area.

- 7.4.7 Further commentary has been provided as part of objections around the overconcentration of restaurant uses in this southern part of the High Street and that the additional seating would present a further unacceptable former A3 use class. However, this approach is considered to be a mis-interpretation of this policy in the Local Plan as the proposed seating area use would not be providing a whole new A3 (former) use but would allow an existing business to provide outdoor seating.
- 7.4.8 Additionally, it is important to recognise the recent changes made by Central Government to the use classes order which affects retail and other former A Use Classes, The newly adopted E Use Class allows for greater flexibility between mixed uses in High Street and Town Centre areas to promote occupation of vacant units, and to diversify these retail areas for future use. As such, the arguments relating to the business itself and the additional seating failing to accord with Town Centre Policies are not held by Officers.

7.5 Human Rights and Equalities

- 7.5.1 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.
- 7.5.2 When considering proposals placed before Members it is important that they are fully aware of and have themselves rigorously considered the equalities implications of the decision that they are taking. Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the Council's obligations under the Public Sector Equalities Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers
- 7.5.3 The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.
- 7.5.4 It is not considered the proposed development would impact upon the protected characteristics under the Equality Act. This is because the proposal does not comprise the removal of disabled parking spaces and there would be sufficient space on the public footpath for person(s) who are disabled to safely pass the outdoor seating area without hindrance.

7.6 Other Matters

- 7.6.1 The proposal has been looked at by Environmental Health and due to the proposed use of tables and chairs it has been advised a Noise Report be provided. However, as prescribed at the beginning of this report, the proposal is not in determining the impact of the seating itself on the locality, but assessing the change of use to allow for seating to be placed on the proposed highway forecourt. The impact of the seating areas is controlled through separate licence by Environmental Health or Hertfordshire County Council Highways. It is not therefore considered reasonable to impose a condition seeking this information.
- 7.6.2 It has been suggested in the objections raised that the proposal has not adequately consulted with local businesses on the proposals to allow for an informed view. The application has undergone the relevant consultation process in accordance with the Town and Country planning (General Management Procedure) Order having sent letters to neighbouring properties, a site notice being posted at the site and an advert being placed in the local newspaper.

- 7.6.3 In respect of the CIL charging scheme the proposed development would fall within the criteria for CIL but would not be a liable scheme.

8 CONCLUSIONS

- 8.1 The proposal to remove areas of existing parking along the eastern side of the High Street to the front of 123-125 High Street to allow for the creation of a highway forecourt to allow for ancillary seating for Misya meze and Grill is considered acceptable. The loss of three parking spaces approximately would not adversely impact the current parking provision along the High Street and within the Old Town generally, and the impact on the Conservation Area is not considered to be harmful to its character of historic significance.

9 RECOMMENDATION

- 9.1 That permission is granted subject to the conditions listed in section 9.2, and, any minor changes to the conditions listed in 9.2 to be delegated to the Assistant Director of Planning and Regulation and the Chairman of the Planning and Development Committee
- 9.2 The proposal be subject to the following conditions:-
1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 26121/01A.
REASON:- For the avoidance of doubt and in the interests of proper planning.
 2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON:- To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
 3. No development shall take place until details have been submitted to and approved by the Local Planning Authority of the existing and proposed levels of the parking bay areas and the proposed western elevation finish of the forecourt as seen from the highway edge. Details should also include all proposed materials, including kerbing and block paving finishes. The development shall thereafter be carried out in accordance with the approved details.
REASON:- To ensure the development has an acceptable appearance and preserves the character and appearance of the Conservation Area.
 4. The development hereby approved shall not commence until such a time as the applicant has secured the written authorisation of the Extinguishment of Vehicular Rights Order under Section 249 of the Town and Country Planning Act 1990 and to obtain a licence under the provisions of Section 115E of the Highways Act 1980 for the public highway on which the development is proposed as shown on the submitted drawing in conjunction with the Local Planning Authority and the Highway Authority.
REASON:- To ensure construction of a satisfactory development, in the interests of highway safety.

INFORMATIVES

Notwithstanding the consent issued under the Town and Country Planning Act 1990, a licence issued under the provisions of Section 115E of the Highways Act 1980 is required prior to the placement of any tables, chairs or other apparatus in the public highway. Before proceeding with the proposed development, the applicant is advised to contact Street Café Licences StreetCafeLicences@hertfordshire.gov.uk or call 0300 1234 to obtain the requirements on the procedure to enter into the necessary licence agreement with the highway authority, Hertfordshire County Council. The applicant is further advised that the licence may or may not be issued with or without amendment to the scheme granted planning permission.

Notwithstanding the consent issued under the Town and Country Planning Act 1990, the applicant is advised that further public consultation will be carried out which may deem the above order/licence being unsuccessful and may not be granted due to the highway authority requiring the land for its own use.

The Council has acted Pro-Actively for the following reason:-

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.

BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Local Plan 2011-2031.
3. Stevenage Borough Council Supplementary Planning Documents – Parking Provision and Sustainable Transport adopted October 2020; Stevenage Design Guide 2009.
4. Hertfordshire County Council Local Transport Plan LTP4 2018-2031
5. Central Government advice contained in the National Planning Policy Framework February 2019 and the National Planning Practice Guidance 2014, as amended.
6. Responses to consultations with statutory undertakers referred to in this report.
7. Responses to third party consultations referred to in this report.