

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

Date: 13 July 2021

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Application No: 21/00621/FP

Location: Bragbury Centre, Kenilworth Close, Stevenage. Hertfordshire SG2 8TB

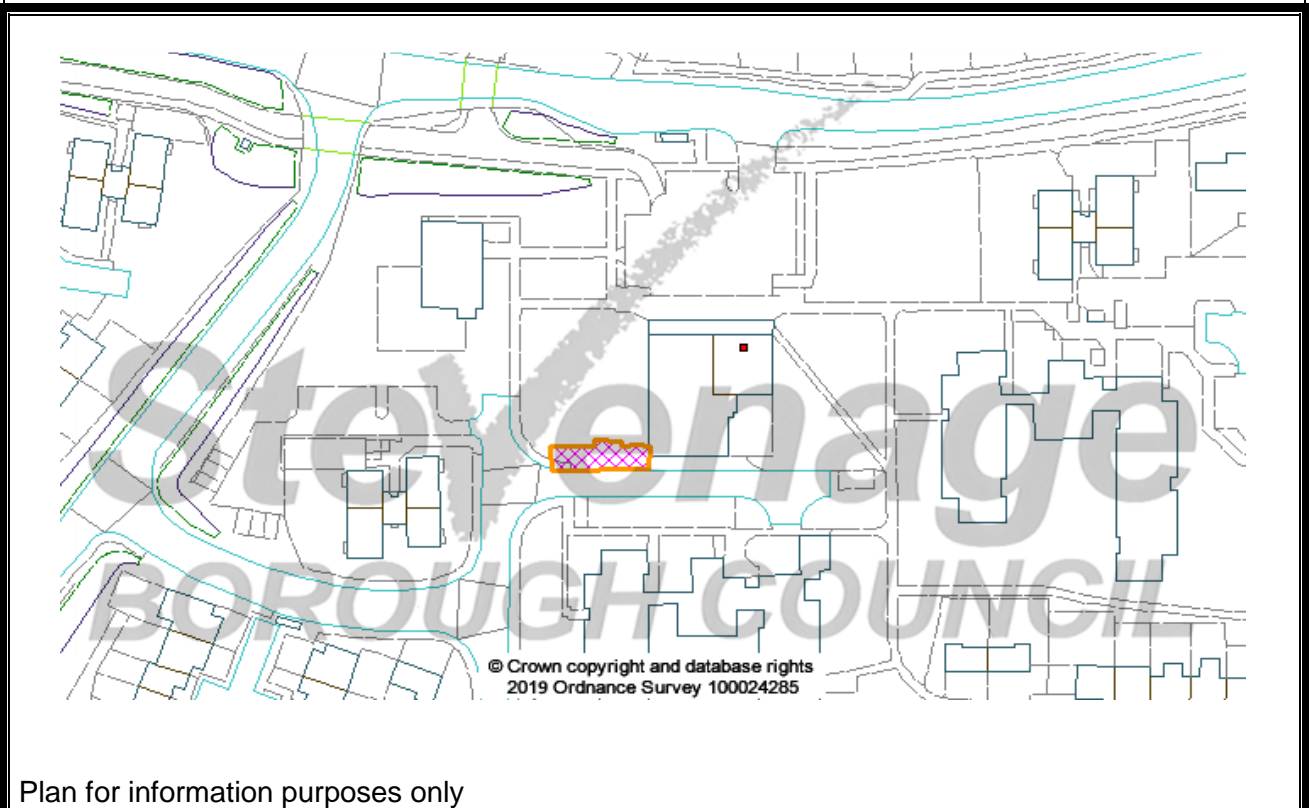
Proposal: Proposed temporary fish and chip shop retail unit adjacent to Kenilworth Close with associated services area and temporary extension to existing pavement to allow pedestrian access

Drawing Nos.: STR_ _CX4010N01B 01; STR_ _CX4010N01B 02; STR_ _CX4010N01B 03; 19063.WD2.200A; 19063.WD2.201A; 19063;WD2.202B; 19063 21.01.27.SK01

Applicant: Stevenage Borough Council

Date Valid: 1 June 2021

Recommendation: GRANT PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 The application site comprises approximately 750 sqm of land within the larger Bragbury End development site which would be used for parking and bin storage when the development is complete. The application site is immediately to the north of Kenilworth Close, at its junction with Blenheim Way. To the south of the application site, on the other side of Kenilworth Close, is a row of two storey properties while to the east is a flatted development. The application site is within the residential neighbourhood of Bragbury End.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning permission was granted on the 28 October 2019 (ref. 18/00398/FPM) for the demolition of the existing Bragbury End community centre, Asquith Court and various residential dwellings and the construction of a mixed use development with 169 no. dwellings (Including independent living) and 4 no. retail units across various blocks of land to the north of the application site. This is Phase 1.
- 2.2 Planning permission was also granted on the 28 October 2019 (ref. 18/00399/FPM) for the demolition of the existing Walpole Court sheltered housing and associated parking and the construction of 51 no. apartments and 9 no. houses along Blenheim Way adjacent to the application site. This is Phase 2.
- 2.3 An application for the erection of a temporary fish and chip shop unit with an associated services area (ref. 20/00739/FP) was withdrawn in March 2021. The application would have been refused on the grounds that the development would have an adverse impact upon highway safety in terms of servicing arrangements, insufficient off street parking, insufficient vehicular and pedestrian visibility and insufficient pedestrian footways serving the site.

3. THE CURRENT APPLICATION

- 3.1 Planning permission is sought for the temporary erection of a fish and chip shop adjacent to Kenilworth Close with an associated services area and a temporary extension to the existing pavement to allow pedestrian access to the fish and chip shop. The fish and chip shop previously operated from the Kenilworth Close shopping parade which is currently undergoing redevelopment under planning permission ref. 18/00398/FPM. The current arrangements would enable the takeaway to operate while the redevelopment of the Bragbury Centre takes place. This application has been submitted following the withdrawal of application 20/00739/FP for a similar development on a nearby site, adjacent to Walpole Court.
- 3.2 The proposed unit would be rectangular in shape with an 'L- shaped' services area addition at its eastern end. The main element of the building would measure 37.2sqm in area (12.2m length x 3.05m width) and 2.5m in height. It would be steel framed with a flat roof and uPVC doors and windows. There would be a roller shutter operated serving hatch on the western elevation facing the highway. Internally, the unit would comprise cooking facilities, food preparation worktops, ventilation and extraction equipment, servery, sink, storage cupboards and a staff

toilet. Adjacent to the unit wrapping partially around its east and north elevations would be a fenced services area for the storage of waste.

- 3.3 To the front of the unit would be a temporary paved footpath with Covid-19 social distancing markers to ensure customers stand 2m apart whilst queuing, with a designated entrance and exit one way system. The proposed hours of operation are 10:00 – 12:00 and 17:00 – 22:00 everyday. Proposed ventilation details have been submitted for approval.
- 3.4 The proposed fish and chip shop unit is to be a temporary structure for approximately 2 years until Phase 1 of the redevelopment of Bragbury End community centre (application ref. 18/00398/FPM) is complete. Once the new retail units are constructed, the fish and chip takeaway business would be able to bid for a tenancy there. The applicant has advised Stevenage Borough Council is facilitating the temporary relocation of this business for the following reasons:
 - 3.5 Consultation with members of the Housing Development Committee, local ward members and local residents as part of the early stages of the redevelopment of the Bragbury End community centre revealed that the chip shop was popular locally, with a strong desire to maintain the provision. Concerns were also raised at this point regarding access to basic grocery provisions, as the convenience store further along the parade would also be demolished as part of the redevelopment. As part of a revised lease and ancillary to the main use, the owner of the chip shop agreed to also provide a small grocery provision to enable the more vulnerable local residents without access to a car to buy staples such as bread and milk until the new retail units are built as part of the new development.
 - 3.6 Pedestrian access was preserved whilst the surrounding buildings were demolished, so that the chip shop could operate on site for as long as possible. A number of options were explored as an interim provision for residents, which included a shuttle bus to Tesco and leaving the chip shop in situ whilst demolishing the remainder of the shops and redeveloping the site around it. However, it was felt that the temporary provision adjacent to the main site would be safer for customers and also enable the new development to be delivered sooner.
- 3.7 The application comes before Committee for consideration as the applicant is Stevenage Borough Council.

4. PUBLIC REPRESENTATIONS

- 4.1 This planning application has been publicised by way of a site notice and neighbour notification letter. One letter of comment has have been received with the following points:

164 Blenheim Way

- I neither object to nor support the application
- Is a fish and chip shop an absolute need when there is no pavement along Watton Road for the health and safety of pedestrians?
- Does the expense justify the cost when other services are a great distance away?
- There must be money for better applications.

- 4.2 Please note that these are not a verbatim of the comments received. Full copies of the comments received against this application can be viewed on the Council's website.

5. CONSULTATIONS

5.1 Hertfordshire County Council as Highways Authority

- 5.1.1 The Highway Authority does not wish to restrict the grant of permission but recommends that informatives concerning obstruction of public highway land and parking and storage of materials.

5.2 Council's Environmental Health Section

- 5.2.1 No objections regarding the design or location of the unit. The business will have to register with Environmental Health 28 days before opening, and will need to consider any Covid-19 restrictions in terms of managing people and queues whilst open. Details of how the waste oil will be stored and collected should be provided.

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 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 with which Members are fully familiar, is a material consideration to be taken into account in determining this application.

6.3 Planning Practice Guidance

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)

Policy SP1: Presumption in Favour of Sustainable Development;

Policy SP2: Sustainable Development in Stevenage;

Policy SP6: Sustainable Transport;

Policy SP8: Good Design;

Policy GD1: High Quality Design;

Policy IT4: Transport Assessments and Travel Plans;

Policy IT5: Parking and access.

Policy FP7: Pollution

Policy NH6: General Protection for Open Space

6.5 Supplementary Planning Documents

Parking Provision Supplementary Planning Document (2020).

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 floor space of a development. This proposal is not CIL liable.

7. APPRAISAL

- 7.1 The determining issues relate to the acceptability of the application in land use policy terms, the impact of the development on the character and appearance of the area, the impact on the amenities of neighbouring occupiers, the provision of appropriate parking and highway safety.

7.2 Land Use Policy Considerations

- 7.2.1 The proposed fish and chip takeaway falls under a sui generis use class within the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. Hot food takeaways do not fall within the definition of main town centre uses within the NPPF Annex 2 Glossary, therefore there would be no policy requirement to carry out a sequential test to locate this use outside of the town centre, nor is there a requirement to carry out a retail impact assessment. The application site is not designated within the Local Plan; therefore there is no land use policy basis to assess this proposal. As such, it is concluded the principle of a hot food takeaway is acceptable in this location from a land use policy perspective. Environmental, highway and parking implications will now be considered in the following sections of the report below.

7.3 Impact on the Character and Appearance of the Area

- 7.3.1 The application site comprises a small section of land currently behind the hoardings surrounding the site of the Bragbury development. It comprises what would be a parking area and part of a bin store area for one of the blocks of flats in the forthcoming development. The application proposal would involve the temporary loss of this space while the development is being constructed. This would not harm the character and appearance of the site.
- 7.3.2 Once in operation and with the hoardings removed, the site and the fish and chip restaurant would be clearly visible from Kenilworth Close and Blenheim Way and could be viewed from the nearby residential dwellings and flats. The design and appearance of the structure within which the takeaway would operate would reflect its temporary nature. It would have the appearance of a temporary container or portacabin, which it would be. Whilst the design of the building would contribute nothing to the character and appearance of the area, it is acknowledged this is a temporary structure and therefore its visual impact on the area would also be temporary.
- 7.3.3 On this basis, it is considered the proposal is acceptable in this regard. Should the proposal be considered acceptable on all other points, a planning condition would be imposed requiring the removal of the takeaway unit and the application site made good no later than 2 years following the grant of planning permission.

7.4 Impact upon Neighbouring Amenities

- 7.4.1 No concerns have been raised from the occupiers of the nearby residential properties about unwanted noise, cooking odour, litter or light pollution. The proposed opening times are 17:00 – 22:00 every day and would involve late night opening seven days a week in close proximity to the properties along Kenilworth Close and Blenheim Way. It is assumed the takeaway business operated similar hours when it was part of the neighbourhood centre at Kenilworth Close currently being redeveloped.
- 7.4.2 It is noted the Council's Environmental Health Officer has approved the ventilation system and therefore there should be no issue with odour. No details have been provided regarding external lighting. Details would be sought by way of a planning condition should planning permission be granted, to ensure there would be no light pollution to the adjacent dwellings.
- 7.4.3 There are concerns however, that the close proximity of the takeaway unit to the dwellings along Kenilworth Close and Blenheim Way could lead to a loss of amenity for residents in terms of noise from customers whilst queuing and car doors slamming late at night, contrary to Local Plan Policy FP7 'Pollution'. Policy FP7 states planning permission will be granted when it can be demonstrated that the development will not have unacceptable impacts on the natural environment, general amenity and the tranquillity of the wider area, including noise and light pollution.
- 7.4.4 It is acknowledged that the grocery provision alongside the fish and chips offer would be of most benefit to the elderly and vulnerable residents of the immediate area.

- 7.4.5 It is therefore down to a balanced judgement as to whether the convenience of the grocery provision would outweigh any loss of amenity to the residents living closest to the takeaway unit. Given the takeaway unit would be for a temporary period of two years and would be providing a local grocery and hot food offer for residents without access to a car whilst the nearby neighbourhood centre is being redeveloped, it is considered the benefits of the proposal outweigh any potential loss of amenity. As such, a refusal on noise related amenity concerns could not be justified under Policy FP7. Moreover, the Council's Environmental Health Section have not raised any concerns with the application from a noise perspective due to its temporary nature.
- 7.4.6 With regards to the potential for increased littering, should planning permission be granted a planning condition would be added requiring details on the provision of litter bins and the management of waste prior to the commencement of the development.

7.5 Access and Car Parking

- 7.5.1 In terms of access and car parking, Hertfordshire County Council as Highway Authority has advised that it does not wish to restrict the grant of permission but is satisfied about the development from a highway safety point of view. As no new vehicular access to the street is proposed and vehicles in close proximity to the site would be travelling at low speed given the nature of Kenilworth Close and Blenheim Way, and most people visiting the fish and chip shop would do so on foot, the Highway Authority is satisfied that the proposal would not cause highway safety issues or inconvenience other roads users.
- 7.5.2 The Council's Parking Provision SPD (2020) requires 1 space per 3sqm of floor space of public area plus 3 spaces per 4 employees. Given the floor area of the proposed takeaway building would be 37.2sqm and the site is not located within an accessibility zone, the required number of parking spaces would be a minimum of 9 for customers (75% of the maximum), plus staff parking depending on how many employees there would be on site. In terms of cycle parking, the total floor area of the takeaway unit does not exceed the threshold set within the Parking Provision SPD for cycle parking spaces to be provided.
- 7.5.3 While only two off street parking spaces would be provided for the development which would represent a shortfall below the 9 required to achieve compliance with the Parking Provision SPD, the spaces would only be used for a short period of time by each car that visited the site due to the nature of the proposed use. Moreover, it is envisaged that the majority of people visiting the fish and chip shop would do so on foot. Therefore, the proposed level of parking provision is considered acceptable.
- 7.5.4 Accordingly, it is considered this location is suitable for the proposed takeaway unit and it would not have a harmful impact upon highway safety.

7.6 Other Considerations

- 7.6.1 The comments received from the member of the public about the application are noted. However, irrespective of the potential need for other works in the area, the

application has been submitted to the Council and it therefore must be determined in accordance with the relevant development plan policies.

Human Rights and Equalities

- 7.6.2 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.
- 7.6.3 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.
- 7.6.4 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.
- 7.6.5 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.
- 7.6.6 In terms of inclusive access, level access would be provided to the serving hatch enabling wheelchair users and those with pushchairs to queue and order without having to negotiate any changes in ground level.

8. CONCLUSIONS

- 8.1 The proposed erection of a temporary fish and chip shop unit with an associated services area is considered acceptable in land use policy terms and would not harm the character and appearance of the area or the amenities of the adjoining dwellings. The proposal would also not harm highway safety. It is therefore considered this location is suitable for the proposed takeaway unit and it is recommended planning permission is granted.
- 8.3 It is therefore concluded the proposed development accords with the Policies specified in the adopted Local Plan (2019), the Council's Car Parking Standards SPD (2020), the NPPF (2019) and the PPG (2014).

9. RECOMMENDATIONS

- 9.1 That planning permission be GRANTED subject to the following conditions:-
 - 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

19063 21.01.27 SK01; 19063.WD2.200A; .201A; .202B; STR_ _CX4010N01B 01; 02 and STR_ CX4010N01B 03

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

- 2 This permission is for a limited period only expiring on 13 July 2023 and the use hereby permitted shall be discontinued and the land restored to its former condition on or before that date.

REASON:- To enable the Local Planning Authority to reconsider the appropriateness of the use at the expiration of the limited period;

- 3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as on the approved plans, to the satisfaction of the Local Planning Authority.

REASON:- To ensure the development has an acceptable appearance.

4. Unless otherwise agreed in writing by the Local Planning Authority, the use of the premises for the purposes hereby permitted shall operate only between the hours of 10.00 and 12.00, and 17.00 and 22.00 daily.

REASON:- To protect the amenity of the occupiers of the adjoining properties.

5. Prior to the commencement of above ground development, details of the oil collection and storage for the premises shall be submitted to and approved in writing by the Local Planning Authority. The oil storage and collection shall be carried out in the approved manner, unless otherwise agreed in writing by the Local Planning Authority.

REASON:- To ensure an appropriate method of oil collection and storage, in the interests of amenity and safety.

6. No external lighting shall be installed on the building unless the details of the lighting including intensity of illumination and predicted lighting contours, have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved details, unless otherwise agreed by the Local Planning Authority.

REASON:- To satisfactorily protect the character and appearance of the area and the amenities of the nearby residential properties.

7. Prior to the commencement of above ground development, details of the provision of litter bins and the management of the waste arising from the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details, unless otherwise agreed by the Local Planning Authority.

REASON:- To ensure that suitable provision for the waste management for the site is made.

Pro-active statement

1. 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 October 2020.
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 June 2019 and the Planning Policy Guidance March 2014.