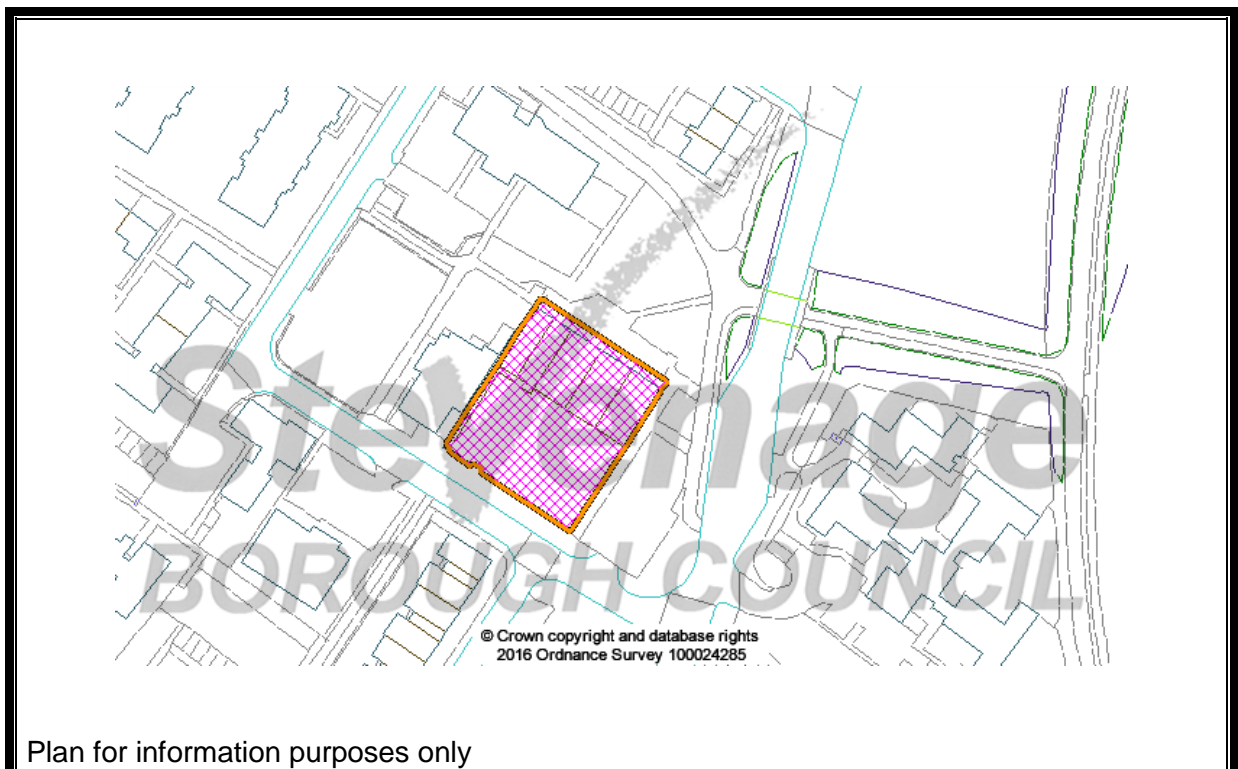


Meeting:	Planning and Development Committee	Agenda Item:
Date:	5 October 2021	
Author:	James Chettleburgh	01438 242266
Lead Officer:	Zayd Al-Jawad	01438 242257
Contact Officer:	James Chettleburgh	01438 242266

Application No:	20/00483/FPM
Location:	Symonds Green Neighbourhood Centre, Filey Close, Stevenage.
Proposal:	Variation of conditions 1 (Approved Plans), 12 (Car Parking Provision), 13 (Cycle Parking Provision), 17 (Business Retention), 18 (Restriction on Retail) and 19 (Restriction on Retail) attached to planning permission reference number 16/00395/FPM.
Drawing Nos.:	2252 BR 300 S; 2252 BR 310 J; 2252 BR 311 H.
Applicant:	Mr Nash Karbani
Date Valid:	1 September 2020
Recommendation:	GRANT PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 The application site is located off Filey Close which is a spur road off of Scarborough Avenue and is currently occupied by the Symonds Green Neighbourhood Centre. The Neighbourhood Centre, in which planning permission 16/00395/FPM is currently being implemented, comprises an extension on the upper floors comprising of 26 apartments. The external elevation of the extension is finished in grey rain screen cladding. The fenestration detailing comprises the creation of new windows and doors with grey polyester powder coated (ppc) aluminium frames. At ground floor level, parts of the building (which are still under construction) have been altered to create new retail units with associated shop frontages being installed. The building at this level has also been reclad in clay stock facing bricks. The first floor part of the building has been rendered with new stone detail banding.
- 1.2 However, on the principal (northern/front) elevation, works have not yet commenced and it is this part of the building which is the main subject of this planning application. The premises which currently occupy the ground floor level consists the following:-
- MD Chemist;
 - The Co-operative food;
 - Mandarin House; and
 - King Pizza and Kebab.
- 1.3 The shop fronts associated with the premises consist of aluminium frame glazed windows and doors with low level stall risers and simplistic signage. To the north of the application site is the Symonds Green Community Centre and to the south is the public highway (File Close) beyond which is a three-storey block of flats and the Symonds Green Doctors Surgery. To the west, attached to the building, is the Tom Tiddlers public house which lies adjacent to a surface car park. Beyond this area is a three-storey block of flats. To the east of the site is a surface car park which currently serves the neighbourhood centre and community centre. Beyond this surface car park is Scarborough Avenue and an underpass which connects to the cycle track on Gunnels Wood Road.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning application 2/0087/69 was an outline application for residential development on land to the east side of Symonds Green Lane. Permission was refused in July 1969.
- 2.2 Planning application 2/0230/70 sought permission for the creation of a residential development in Symonds Green for Stevenage Development Corporation. Permission was granted in July 1971.
- 2.3 Planning application 2/0189/78 sought permission for the change of use from shop to shop for the sale of hot food. Permission was granted in April 1979.
- 2.4 Planning application 2/0332/84 sought permission for the conversion of the ground floor shop into three separate retail shops (within Class I of the Town and Country Planning (Use Classes) Order 1972). Permission was granted in December 1984.
- 2.5 Planning application 2/0125/86 sought permission for a new shop front on the north-east corner of the building. Permission was granted in May 1986.
- 2.6 Planning application 2/0020/87 sought permission for the conversion of part of the building to provide a housing estate office with a meeting room and two small commercial units for light industrial or storage purposes. Permission was granted in February 1987.
- 2.7 Planning application 2/0209/95 sought permission for a shop front alteration. Permission was granted in August 1995.

- 2.8 Planning application 00/00472/FP sought permission for the change of use from shop (Class A1) to use for takeaway and delivery pizza sales (Class A3) and extraction and ventilation ducting on side elevation. Permission was granted in March 2001.
- 2.9 Planning application 03/00483/FP sought permission for a variation of condition 00/00472/FP to allow for the sale of kebabs, burgers and chips. Permission was granted in December 2003.
- 2.10 Planning application 04/00186/FP sought permission for the retention of a roller shutter to the main entrance of the neighbourhood centre. Permission was granted in July 2004.
- 2.11 Planning application 04/00336/FP sought permission for the installation of auto sliding doors to aid disabled and elderly access into the Co-op store. Permission was granted in September 2004.
- 2.12 Planning application 16/00146/FP sought permission for the change of use from Use Class B1, B8 (Light industrial and storage) to A1 (Hairdressers). Permission was granted in April 2016.
- 2.13 Planning application 16/00395/FPM sought permission for the demolition of 4 no. residential units and refurbishment and external alterations of neighbourhood centre, change of use of existing A1 (shop), B1/B8 (Former Council Estate Office, Business and Storage), D1 (Community Centre) and ancillary Community Cafe to create 3 no. units comprising 2no. Class A1 (shop) and 1no. Class B1 (business) at ground floor level, construction of one additional floor to create 12 no. one bedroom apartments and 10 no. two bedroom flats. Permission was granted in May 2018. This is the application which is being varied under this planning application.
- 2.14 Discharge of condition application 19/00314/COND sought to discharge conditions 3 (materials), 4 (Dust Control), 5 (Construction Method Statement), 6 (Screening of Plant), 7 (Asbestos) and 11 (Strategic Waste Management Plan) attached to planning permission 16/00395/FPM. The conditions were discharged in September 2019.
- 2.15 Discharge of condition application 19/00441/COND sought to discharge condition 8 (Drainage Scheme) attached to planning permission reference 16/00395/FPM. This condition was discharged in August 2019.
- 2.16 Discharge of condition application 19/00533/COND sought to discharge condition 9 (Thames Water) attached to planning permission reference 16/00395/FPM. This condition was discharged in October 2019.

3. THE CURRENT APPLICATION

- 3.1 This application seeks to vary conditions 1 (Approved Plans), 12 (Car Parking Provision), 13 (Cycle Parking Provision), 17 (Business Retention) as well as conditions 18 and 19 (Restriction on Retail). For reference, these conditions state the following:-

Condition 1 (Approved Plans)

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

DP100A; DP302F; DP303B; DP300H; DP301G; DP310C; DP311C; DP320A; DP321A.

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

Condition 12 (Car Parking Provision)

Prior to the first occupation of the dwellings hereby permitted the approved car parking area shall be marked, surfaced and constructed in accordance with the details identified on drawing DP 300 H and shall be permanently retained in that form thereafter.

REASON:- To ensure sufficient parking provision in accordance with the Council's adopted standards is maintained for all dwellings on site in perpetuity.

Condition 13 (Cycle Parking Provision)

Prior to the first occupation of the dwellings hereby permitted the approved secure cycle parking area shall be constructed in accordance with the details identified on drawing DP 300 H and shall be permanently retained in that form thereafter.

REASON:- To ensure that sufficient cycle parking provision in accordance with the Council's adopted standards is maintained for all dwellings on site in perpetuity.

Condition 17 (Business Retention)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises marked up as Retail Unit#1(B1 Use) as shown on drawing number DP 300 H shall only be used as Use Class B1 (Business) and for no other purpose (including any purpose in Class B on the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

REASON:- To ensure that the existing B1 (business) class development is adequately reprovided within the neighbourhood centre.

Condition 18 (Restriction on Retail)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises marked up as Retail Unit #2 as shown on drawing number DP 300 H shall only be used as Class A1 (Convenience) and for no other purpose (including any purpose in Class A on the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

REASON:- In order to protect the vitality and viability of Stevenage Town Centre.

Condition 18 (Restriction on Retail)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises marked up as Retail Unit #3 as shown on drawing number DP 300 H shall only be used as Class A1 (shop) and for no other purpose (including any purpose in Class A on the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

REASON:- To ensure that the existing class A1 (shop) use is adequately re-provided within the neighbourhood centre.

- 3.2 Following the commencement of works on the development site, the existing tenants have raised concerns that the approved shop frontages, external building treatment and replacement of the canopies when they were to be installed, would have had a detrimental impact on their ability to continue to operate. Therefore, the applicant has agreed to amend the approved scheme to allow the existing retail tenants to install their own 'individual fit-out proposals'. For reference, these would be subject to separate planning permission and

therefore, do not form part of this planning application. In addition, they will seek to retain the existing canopy above the existing shopping parade. However, the applicant would look to undertake sympathetic refurbishment works to the existing canopy.

3.3 Further to the above, in order to limit the impact on the existing businesses and to allow them the floorspace they require, the internal arrangements of the approved development at ground floor level would be amended as follows:-

- The approved 3 no. retail units on the western elevation would be subdivided into 5 no. smaller retail units;
- The internal parking area serving the development would be positioned more centrally and comprise 10 parking spaces (Increase of 2 parking spaces over the original planning permission);
- The office unit and approved cycle parking has been repositioned internally;
- The disabled parking bay has been relocated externally and positioned in close proximity to a new ramp up to the residential and retail units.

3.4 Given the above changes, the access door serving the internal parking area has been relocated centrally on the southern elevation of the building. The office unit located on the rear of the building would require the installation of windows into the southern elevation of the building. Turning to the re-configuration of the retail floorspace, this would result in changes to the approved shop frontages on the eastern elevation of the building as well. This elevation would now comprise 5 no. full height glazed store entrances

3.5 This application was originally referred to the Planning and Development Committee for its decision on 4 November 2020 (Copy of the original report attached in Appendix One). The Committee resolved to grant planning permission subject to the completion of the Deed of Variation (DoV) to the Section 106 (S.106) Legal Agreement attached to the original permission i.e. 16/00395/FPM. The DoV is designed to legally bind the applicant to the original obligations which are set out in the Section 106 Agreement. These include the following financial obligations:-

- Affordable housing;
- Open outdoor sport;
- Children's Playspace; and
- Libraries.

3.6 However, to date, there has been a lack of progress to complete the DoV to the S.106 Agreement. Furthermore, the development is approaching completion and the applicant is looking to sell their assets. Further to this, since the application was previously determined by the Council there have been a number of material changes in National Planning Policy and Guidance. At the National level, Central Government published a revised version of the National Planning Policy Framework (NPPF) which was adopted 20th July 2021. This replaced the February 2019 version of the NPPF. The main changes to the NPPF which affect this application are the new requirements to achieving well-designed places. Chapter 12 which covers design has undergone significant amount of editing with a much bigger focus on making 'beautiful' and 'sustainable' places.

3.7 In addition to the above, the Council formally adopted a Community Infrastructure Levy which came into force on 1st April 2020. The Council also adopted a number of supplementary planning documents (SPD's) which run alongside the adopted Stevenage Borough Local Plan (2019). These SPD's are as follows:-

- The impact of development on Biodiversity SPD (adopted 18 March 2021); and
- Developer Contributions SPD (adopted 18 March 2021).

- 3.8 With regards to Biodiversity, the aforementioned SPD along with the revisions in the NPPF requires major and minor developments to demonstrate a net gain in biodiversity. Given the aforementioned, this application comes back before the Planning Committee for its decision.

4. PUBLIC REPRESENTATIONS

- 4.1.1 It was not considered necessary to re-consult nearby properties, publish new site notices or issue a press notice. This is because there have been no changes to this application since the local community was originally consulted on the application.

5. CONSULTATIONS

- 5.1.1 It was not considered necessary to re-consult Hertfordshire County Council as Highways Authority or the Council's Environmental Health Department. This is because no amendments have been undertaken by the applicant to the application which was previously determined by the Planning and Development Committee on 4th November 2021.

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 July 2021, i.e. since the Planning and Development Committee's previous decision. This largely reordered the policy substance of the earlier 2012 and 2019 versions 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

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 SP8: Good Design
Policy EC7: Employment development on unallocated sites
Policy HO5: Windfall Sites
Policy HC1: District, local and neighbourhood centres
Policy HC2: Local shops
Policy IT5: Parking and Access
Policy IT8: Public parking provision
Policy GD1: High Quality Design
Policy FP7: Pollution
Policy FP8: Pollution sensitive uses
Policy NH6: General protection for open space
Policy TC11: New convenience retail provision

6.5 Supplementary Planning Documents

Parking Provision Supplementary Planning Document October 2020;
Stevenage Design Guide Supplementary Planning Document 2009;
The impact of development on Biodiversity SPD 2021;
Developer Contributions SPD 2021.

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 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 conditions are warranted.
- 7.2 In addition to the above, when the Planning and Development Committee makes its decision, it must take into account that on the 4 November 2020, the Planning and Development Committee resolved to grant planning permission subject to the completion of a DoV. This requirement has been established through Planning Case Law and failure to do so runs the risk of the Council being legally challenged through Judicial Review.
- 7.3 The main issues for consideration based on the revisions to the NPPF and the recent adoption of Supplementary Planning Documents since the application was previously determined by the Council are in respect of, affordable housing and Section 106 obligations, impact on the appearance of the area, and, impact on Biodiversity.

7.2 Affordable housing and developer contributions

7.2.1 Policy HO7 of the adopted Local Plan (2019) stipulates that planning permission will be granted for residential developments that maximise affordable housing provision. For developments on previously developed sites, 25% of the dwelling units should be affordable. In regards to the proposed development, this would equate to 5.5 units (rounded up to 6). Policy HO7 continues that “planning permission will be refused where these targets are not at least achieved unless:

a) Developers robustly demonstrate that the target cannot be achieved due to site-specific constraints resulting in higher than normal costs, which affect its viability; or

b) Meeting the requirements would demonstrably and significantly compromise other policy objectives.”

7.2.2 Taking the aforementioned into consideration, the applicant under planning permission 16/00395/FPM, through negotiations with the Council’s Housing Department, agreed a financial contribution of £310,000 towards the provision of affordable housing. This was deemed to be acceptable by the Council as Local Planning Authority when the previous planning application was determined.

7.2.3 In addition to affordable housing, financial contributions were also required under planning permission 16/00395/FPM in accordance with the Hertfordshire County Council tool kit and contributions to Stevenage Borough Council for commuted payments towards the improvement of nearby outdoor sports facilities and children’s play space. These financial contributions are set out in the table below:-

Stevenage Borough Council	Financial Obligation
Open outdoor sport	£866.88
Children’s play space	£782.64
Total	£1,649.52
Hertfordshire County Council	
Library	£1,906.00
Overall total	£3,555.52

7.2.4 The aforementioned obligations were secured under a S.106 legal agreement as part of planning permission 16/00395/FPM. Under Schedule 3 of the original S.106 Agreement, the Affordable Housing contribution was to be paid in the following instalments:-

1. £10,000 plus indexation – due on 25 May 2018
2. £50,000 plus indexation – due on or before 25 March 2019
3. £150,000 plus indexation – due at the latest by 25 September 2019
4. £100,000 plus indexation – due at the latest by 25 March 2020.

7.2.5 Following recent monitoring of the S.106 legal agreement and at the time of writing this committee report, it has been identified that a number of these financial obligations remain unpaid by the applicant.

7.2.6 Details of the outstanding obligations (including late payment interest and indexation) are detailed below:-

Contribution	Initial Amount	Indexation	Interest	Total
Children's Playspace	£782.64	£109.29	£29.26	£921.19
Open Outdoor Sport/ Open Space	£866.88	£121.06	£32.40	£1,020.34
Library	£1,906	£266.17	£71.25	£2,243.42
Affordable Housing tranche 3	£150,000	£20,947.21	£12,836.26	£183,783.47
Affordable Housing tranche 4	£100,000	£13,964.81	£5,056.60	£119,021.41
Total				£306,989.83

- 7.2.7 In order to resolve outstanding payments of the S.106, the Council issued a Demand Notice on the 26th April 2021. In addition, the Council's appointed solicitor from Hertfordshire County Council wrote to the applicants on the 24th August 2021. This letter also set out that the applicants had to pay the Council the outstanding financial obligations (including indexation and late payment interest).
- 7.2.8 In addition to the above, as referenced in paragraph 3.5, there has been no real progress in finalising the DoV with the development nearing completion and the applicant looking to sell their assets.
- 7.2.9 As such, if members were minded to grant planning permission, it is advised that the DoV does not amend the current contribution deadlines as specified in the original S.106 agreement. Furthermore, to set out a timeframe that if the DoV is not completed within 3 months from the date of planning committee, the application is refused planning permission. This is set out in more detail in Section 9 of this report.

7.3 Impact on the appearance of the area

- 7.3.1 Paragraph 126 of the NPPF (2021) states that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve". It goes on to state that "good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".
- 7.3.2 Paragraph 130 of the NPPF sets out a number of requirements for new development, including that development:
- will function well and add to the overall quality of an area;
 - is visually attractive as a result of good architecture; layout and appropriate and effective landscaping;
 - is sympathetic to local character and history;
 - establishes or maintains a strong sense of place;

- optimises the potential of the site to accommodate and sustain an appropriate amount and mix of development;
- creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

- 7.3.3 Paragraph 134 of the NPPF states that “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes”. Local Plan Policies SP8 ‘Good Design’ and GD1 ‘High Quality Design’ also seek to ensure new development achieves the highest standards of design. Policy GD1 sets out generic design requirements that will be applied to all development.
- 7.3.4 The application before the Council details retrospective external alterations to the approved development as detailed under paragraphs 3.2 to 3.4 of the report. Dealing firstly with the proposed retention of the existing shop frontages and canopy, by retaining these features this deviates from the approved details set out under the original planning permission. These changes included the creation of modern full height glazed frontages with new modern canopies over the main entrances. The approved scheme also sought to reclad the ground floor frontage in brick and stone detailing.
- 7.3.5 However, and as detailed in the November Committee Report, the existing business operators raised substantive concerns as to the impact these works could have on their ongoing operation. In addition, the Co-Operative are undertaking refurbishment works to their own premises through a separate application (Planning Permission 19/00726/FP) which sought permission for external alterations to the shop front. Therefore, the applicant had agreed that, in order to limit any further impacts on the operators, they will retain the frontage as it is and allow the operators to install their own new frontages. Furthermore, they have undertaken sympathetic repairs and minor cosmetic repairs to improve the remainder of the frontage.
- 7.3.6 Turning to the minor external changes to the rear and eastern elevations to the building, these would tie in with the overall modernised appearance of the building. Therefore, these changes do not cause any undue harm to the architectural integrity of the approved scheme.
- 7.3.7 Given the aforementioned assessment, it is considered that the proposed alterations to the approved scheme do not have a detrimental impact on the character and appearance of the development. Moreover, they do not cause harm to the visual amenities of the wider street scene. Consequently, it can be deduced that the design changes to the development would accord with the revisions set out in the revised National Planning Policy Framework (2021) along with the relevant policies in the adopted Local Plan (2021).

7.4 Biodiversity

- 7.4.1 The NPPF and accompanying Planning Practice Guidance requires the Council to achieve measurable net gains in biodiversity at development sites and across the Borough. To achieve a biodiversity net gain, a development must deliver a minimum of 10% net gain post development, when compared with the pre-development baseline. The Council’s recently adopted Biodiversity SPD (2021) requires all major and minor applications other than the following exemptions currently suggested by the Government to demonstrate a net gain in biodiversity:
- Permitted development;
 - Householder development, including extensions;

- iii. Nationally significant infrastructure, which falls within scope of the Planning Act 2008;
- iv. Some brownfield sites with marginal viability and substantial constraints. It is expected that full details to be set out in secondary legislation, but considerations are likely to include where sites contain a high proportion of derelict land and buildings and only a small percentage of the site is undeveloped, land values are significantly lower than average, and the site does not contain any protected habitats; and
- v. Developments that would not result in measurable loss or degradation of habitat, for instance change of use of or alterations to building

7.4.2 As the application site comprises buildings and hardsurfacing areas, it is considered it would meet exception criteria iv and v above as 100% of the site is previously developed and does not contain any protected habitats. On this basis, there would be no requirement to achieve a 10% biodiversity net gain on the site.

7.4.3 Further to this, the site does not lie in close proximity to for example a wildlife site or a Site of Special Scientific Interest (SSSI). Consequently, the development as it currently stands does not cause any undue harm to any protected sites.

7.5 Other matters

Local employment and apprenticeships

7.5.1 The Developer Contribution SPD (2021) sets out a requirement secure local employment and apprenticeship associated with the development. The aforementioned SPD sets out the following requirements:-

- Attempt to fill 5% to 10% of construction jobs on-site associated with their development with Stevenage residents;
- Attempt to fill one apprenticeship position per 10 construction jobs on-site with a Stevenage resident or student (with a cap requirement of 10 apprenticeships);
- Report whether or not they met these requirements, and
- Provide a financial contribution in lieu of not achieving either or both targets.

7.5.2 In order to achieve the above, the developer must provide a Local Employment Strategy which shows the following:-

- An estimate of how many construction jobs the scheme will create;
- How many jobs should therefore, be filled with Stevenage residents;
- How many apprenticeships positions should therefore be filled within Stevenage residents or students;
- How they will target local residents/students for these positions;
- How they will record the employment, and
- The potential in-lieu payments required to be paid to the Council for non-compliance with the targets.

7.5.3 Whilst it is noted that this is a new policy of the Council, the development is nearing completion. Therefore, it would not be reasonable to require the applicant to submit a Local Employment Strategy. Moreover, the Council cannot impose any additional obligations on the developer other than those which are already specified within the original legal agreement. This is due to this application merely seeking a variation to conditions attached to the original planning permission.

Human Rights and Equalities

- 7.5.4 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.
- 7.5.5 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.
- 7.5.6 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.
- 7.5.7 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.
- 7.5.8 As there are no material changes to this application since it was previously determined by the Planning and Development Committee, there will be no additional impacts to consider on persons who fall within the protected characteristics.

8. CONCLUSIONS

- 8.1 In summary, and subject to conditions, the principle of the proposed amendments sought under this Section 73 application are acceptable. In addition, these changes would not have a detrimental impact on the character and appearance of the development or the visual amenities of the wider street scene. Furthermore, they would not impact on the amenities of neighbouring properties and there would be sufficient off-street parking, cycle parking and electric vehicle parking facilities as well.
- 8.2 Given the aforementioned, the proposed development under this Section 73 application is considered to be acceptable in line with the Council adopted Local Plan, Planning and Design Guide SPD (2009), the Council's Car Parking Standards SPD (2020), the NPPF (2021) and NPPG (2014).

9. RECOMMENDATIONS

- 9.1 That Planning permission be GRANTED subject to the applicant having first entered into and completed – within three months of the date of the decision granting permission - a deed of variation to the original S106 agreement which was secured under planning permission 16/00395/FPM. This is in order to bind this planning permission to the obligations set out in the original S.106 agreement. The detail of the deed of variation of the S106 agreement to be delegated to the Assistant Director of Planning and Regulation in conjunction with the Council's appointed solicitor and subject to the following conditions/reasons:

- 1 The development hereby permitted shall be carried out in accordance with the approved plans:
2252 BR 300 S; 2252 BR 310 J; 2252 BR 311 H.

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

- 2 The external surface of the development hereby permitted shall be completed in accordance with the approved materials specified under discharge of condition application 19/00314/COND.

REASON:- To ensure the development has an acceptable appearance and to protect the visual amenities of the area.

- 3 The dust control measures as detailed as submitted in the Construction Method Statement and Management Plan combined with the Air Quality Dust Risk Assessment as detailed in the discharge of condition application 19/00314/COND shall continue to be in operation during the construction phases of development. Dust and airborne particulates from operations on site shall be minimised by spraying with water or by carrying out of other such works that may be necessary to suppress dust.

REASON:- To protect the amenities of adjoining land users.

- 4 The methods specified in the submitted Construction Method Statement and Management Plan as approved under discharge of condition application 19/00314/COND to minimise construction noise and vibration shall be strictly adhered to throughout the construction period of the development.

REASON:- To protect the amenities of adjoining land users.

- 5 The method for screening and enclosure of plant and machinery to be used during the construction period as detailed in discharge of condition application 19/00314/COND shall remain in place accordingly. The siting of plant and machinery shall be away from noise sensitive areas wherever possible. Vehicles and machines in intermittent use shall be shut down in the intervening periods between work.

REASON:- To protect the amenities of adjoining land users.

- 6 The final design details of the SuDS elements and the drainage network as specified in the layout plan (drawing number 9530/500 Rev 01) and Drainage Strategy Report (Prepared by Vale Consultancy, report reference 9530 dated July 2019) which was submitted under discharge of condition application 19/00411/COND shall be implemented in accordance with the approved details.

REASON:- To ensure that the site can effectively be drained and maintained during the lifetime of the development.

- 7 The development permitted by this planning permission shall be carried out in accordance with The SuDS statement dated July 2016 prepared by Shear Design and the following mitigation measures as detailed within the SuDS statement.

1) The surface water run-off generated by the development discharged into the ordinary watercourse must not exceed of 19 l/s during the 1 in 100 year + climate change event.

2) Attenuation volume must be provided for by permeable pavements to ensure that there is no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year event plus an allowance for climate change. An area of 150 m² will be covered by permeable pavements; as shown in the proposed drainage sketch plan 16137-SK100 included in Appendix iii of the SuDS statement.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied

within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority (LPA).

If after further detailed design and calculations the applicant proposes a reduction in the attenuation volumes to be provided in each catchment, such changes will need to be agreed with the LPA.

REASON:- To prevent flooding by ensuring the satisfactory disposal of surface water from the site.

- 8 The Site Waste Management Plan (SWMP) as detailed in the Construction Method Statement and Management Plan which was submitted under discharge of condition application 19/00314/COND which details how waste materials generated as a result of the proposed construction methods shall be disposed of, and detail the level and type of soil to be imported (if required) to site as part of the development shall be strictly adhered too throughout the construction period.
REASON:- In order to reduce the level of waste generated during the construction of the development and to recycle all waste where possible.
- 9 Prior to the first occupation of the dwellings hereby permitted the approved car parking area shall be marked, surfaced and constructed in accordance with the details identified on drawing 2252 BR 300 S and shall be permanently retained in that form thereafter.
REASON:- To ensure sufficient parking provision in accordance with the Council's adopted standards is maintained for all dwellings on site in perpetuity.
- 10 Prior to the first occupation of the dwellings hereby permitted, the approved secured cycle parking area as identified on drawing 2252 BR 300 S shall be constructed in accordance with the approved details and thereafter, permanently retained in that form.
REASON:- To ensure that sufficient cycle parking provision in accordance with the Council's adopted standards is maintained for all dwellings on site in perpetuity.
- 11 No construction work relating to this permission shall be carried out on any Sunday, Public or Bank Holiday nor at any other time except between the hours of 0730 and 1800 on Mondays to Fridays and between the hours of 0900 and 1300 on Saturdays.
REASON: - To safeguard the amenities of the occupiers of neighbouring properties.
- 12 No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted light contours, have first been submitted to, and approved in writing the Local Planning Authority prior to the first occupation of the development. Any external lighting shall be provided in accordance with the details so approved.
REASON:- In order to protect the amenities of nearby residential properties.
- 13 No waste materials generated as a result of the proposed demolition and /or construction operations shall be burned on site. All such refuse shall be disposed of by alternative methods.
REASON:- To protect the amenities of adjoining land users.
- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises marked up as Retail Unit#1(B1 Use) as shown on drawing number 2252 BR 300 S shall only be used as Use Class E (office or research and development) and for no other purpose (including any purpose in Class E on Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (As

amended) or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

REASON:- To ensure that the existing B1 (business) class development is adequately re-provided within the neighbourhood centre.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises marked up as Retail Units #1 to Unit #5 as shown on drawing number 2252 BR 300 S shall only be used as Use Class E (for the display or retail sale of goods, other than hot food) and for no other purpose (including any purpose in Class E on the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

REASON:- In order to protect the vitality and viability of Stevenage Town Centre.

- 16 Prior to the first occupation of the residential development hereby permitted details of electric vehicle charging facilities [siting, type and specification of EVCPs, the energy sources and the strategy/management plan for supply and maintenance of the EVCPs] shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of each of the units and permanently maintained and retained, unless otherwise agreed in writing with the Local Planning Authority

REASON:- To ensure the development provides sufficient electric vehicle charging facilities.

Pro-active Statement (If Planning Permission was to be granted)

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

INFORMATIVES

Police Crime Prevention

The proposed development should achieve Secured By Design (SBD) accreditation in order for it to comply with current Building Regulations. The Police Crime Prevention Design Advisor and can be contacted by telephone on 01707 355227 or email mark.montgomery@herts.pnn.police.uk

Lead Local Flood Authority

The LPA will need to satisfy itself that the proposed surface water attenuation features can be maintained for its lifetime and we recommend the LPA obtains a maintenance and adoption plan from the applicant.

- 9.2 Should the DoV to the S.106 agreement not be completed within 3 month from the date of this Planning Committee, it is recommended that the Assistant Director of Planning and Regulation be given delegated powers to refuse the planning application, if it is reasonable to do so, for the reason set out below:-

Suitable provision for affordable housing, children's playspace, open outdoor sport and libraries which arise from this development have not been secured through a Deed of Variation to the original Section 106 agreement attached to planning permission

16/00395/FPM contrary to Policy SP5, HO7 and NH7 of the Stevenage Borough Local Plan 2011 to 2031 (adopted 2019) together with the Stevenage Borough Council Developer Contributions SPD (2021), the NPPF (2021) and NPPG.

Pro-active Statement (If Planning Permission was to be refused)

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. 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 2020.
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 July 2021 and Planning Policy Guidance March 2014.
7. Copy of the original Planning and Development Committee Report attached in Appendix One.