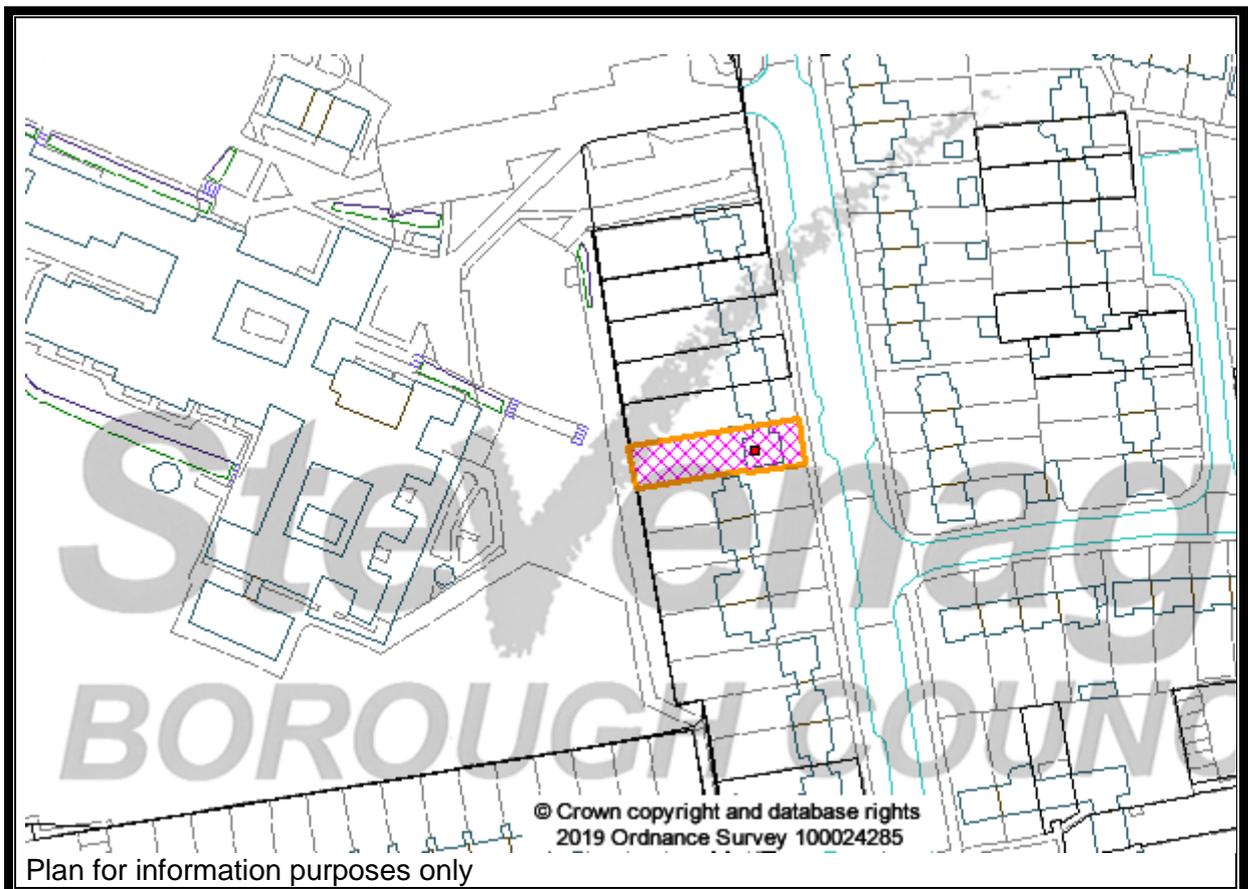


<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>5 October 2021</b>	
<b>Author:</b>	<b>Ailsa Davis</b>	01438 242747
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Application No:	21/00724/ENF
Location:	113 Oaks Cross, Stevenage
Proposal:	Authorisation to serve an Enforcement Notice
Drawing Nos.:	
Applicant:	
Date Valid:	
Recommendation:	SERVE AN ENFORCEMENT NOTICE



# 1. BACKGROUND

- 1.1 An area of hardstanding has been constructed at the front of the property between the principal elevation and the highway, which is being used as a parking space with reports that the occupier is driving over the pavement to access the space. The front part of the land occupied by the parking space closest to the highway is public amenity land owned by Stevenage Borough Council (see ownership plan below).



- 1.2 Following enquiries with the owner of the property, it has been confirmed that the paving is porous. Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse. Development is permitted by Class F subject to the condition that where (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.
- 1.3 The area of hard surfacing is greater than 5sq.m, however the paving is porous and therefore benefits from permitted development rights under Class F above. However, due to the fact the front section of the parking space has been constructed on land owned by the Council, planning permission is required for a change of use from public amenity land to residential in respect of that section.



- 1.4 Agreement is also required from Hertfordshire County Council as Highway Authority for the creation of a vehicle crossover to access the space from the highway. The above photograph shows there is a public parking layby immediately in front of the property, part of which would be lost to create the necessary access. It is understood that the owner is currently accessing the space by driving over the pavement, which is illegal.

## **2. DISCUSSION**

- 2.1 Following consultation with the Council's Land Sales officer, it has been established that the Council would not authorise the sale of the strip of land to the owner on the basis that (i) the parking area is not sufficient to park a car on and would not meet parking requirements, due to insufficient depth and (ii) they would have to drive through a communal parking bay. Please note that the minimum size requirements for a parking space are 6m depth x 3m width. The depth of the area of hardstanding is 3.1m. On the basis that the parking space does not meet the minimum size requirement and any vehicle crossover would involve the partial loss of a public parking layby, it is considered the Highway Authority would not agree to a vehicle crossover in this location.
- 2.2 For the above reasons, the Local Planning Authority would be unlikely therefore to grant planning permission for the change of use of the public amenity land to residential on which part of the parking space is built. The current use of the parking space whereby the owner is driving over the pavement to access it raises

pedestrian safety issues. Accordingly, it is in the public interest for the Local Planning Authority to instigate formal enforcement action to seek the removal of the section of hardstanding that encroaches onto Council owned land and for the use of the remaining hardstanding as a parking space to cease.

### **3. RECOMMENDATION**

- 3.1 That an Enforcement Notice be issued and served by the Assistant Director of Planning and Regulation and subject to an appointed solicitor by the Council being satisfied as to the evidence requiring the removal of the unauthorised hardstanding and its use as a parking space. The precise terms of the Enforcement Notice, including all time periods, to be delegated to the Assistant Director of Planning and Regulation.
- 3.2 That, subject to an appointed solicitor by the Council being satisfied as to the evidence, the Assistant Director of Planning and Regulation be authorised to take all steps necessary, including prosecution or any other litigation/works in default to secure compliance with the Enforcement Notice.
- 3.3 That in the event of any appeal against the Enforcement Notice, the Assistant Director of Planning and Regulation be authorised to take any action required to defend the Enforcement Notice.

### **4. REMEDY REQUIRED**

- 4.1 Within three months of the date of any Enforcement Notice served, the area of hardstanding on land owned by Stevenage Borough Council shall be removed and the land made good and the use of the remaining area of hardstanding as a parking space shall cease.

## **10. BACKGROUND DOCUMENTS**

1. Stevenage Borough Council Supplementary Planning Documents – Parking Provision and Sustainable Transport (2020)
2. Stevenage Borough Local Plan 2011-2031 adopted 2019.
3. Hertfordshire County Council's Local Transport Plan 4 adopted May 2018.
4. Central Government advice contained in the National Planning Policy Framework July 2021 and Planning Policy Guidance March 2014.