

**Meeting:** PLANNING AND DEVELOPMENT COMMITTEE      **Agenda Item:**

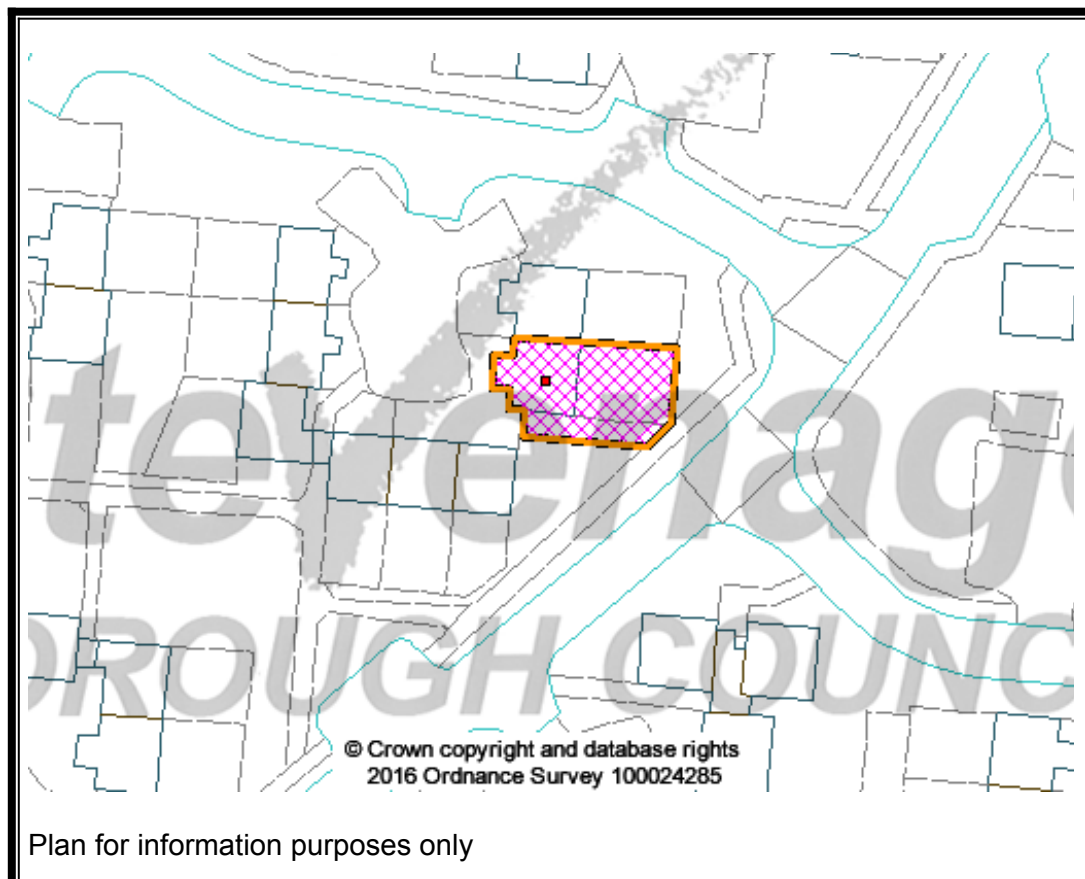
**Date:** 31 OCTOBER 2017      **4**

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Application No:	17/00568/FP
Location:	76 Hopton Road, Stevenage
Proposal:	Change of use of public amenity land to private residential land.
Drawing Nos.:	Site location plan.
Applicant:	Mr Chetan Mistry
Date Valid:	14 August 2017
Recommendation:	GRANT PLANNING PERMISSION



## **1. SITE DESCRIPTION**

- 1.1 76 Hopton Road is a semi-detached town house, located on the northern side of Hopton Road. The property forms part of a courtyard of buildings facing on to a communal parking area, and areas of landscaping. To the south the property adjoins an area of green open space, with No.74 located south west and orientated at a perpendicular angle to the application site. The existing rear garden faces on to the main arm of Hopton Road and the open space.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 74 Hopton Road applied for a change of use of amenity land to private garden land under reference 15/00684/FP. Permission was given for a strip of land measuring between 2.7m and 3m wide and a maximum of 14m in length, and 10.9m at its shortest due to the south to east direction of the road. The owner of No.74 initially consulted with the Council to purchase the majority of the area of open space, but was offered the smaller area, as above.

## **3. THE CURRENT APPLICATION**

- 3.1 The current application seeks planning permission for the change of use of an area of amenity land to residential curtilage and the erection of 1.8m high fencing, to form an area of additional rear garden space. The parcel of land seeking the change of use forms part of a larger triangle of open space between the highway and built form of No's 74 and 76 Hopton Road. The area to be enclosed extends from the western front/side boundary towards the east at a length of approximately 14m, tapering along the rear boundary to match the adjoining footpath line. The front/side boundary would adjoin the side boundary of No.74 who received permission for a similar change of use and enclosure in 2015. The land would measure a maximum of approximately 3m in width.
- 3.2 The application comes before Committee for consideration as the land in question is in the ownership of Stevenage Borough Council and an objection has been received against the proposal.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 The proposal has been publicised by way of letters to immediately adjoining premises and a site notice posted on a lamp post to the south of the site. One letter of objection has been received from 74 Hopton Road. The objection raised relates to the position and proximity of the proposed land and boundary treatment against and using the existing boundary treatment of No.74. The owner of No.74 also raised objections that they were unable to purchase the larger area of land as part of their application, and therefore No.76 shouldn't be allowed to purchase the land.

## **5. CONSULTATIONS**

- 5.1 None required

## **6. RELEVANT PLANNING POLICIES**

### **6.1 Background to the Development Plan**

6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014);
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007); and
- The Stevenage District Plan Second Review 2004.

The Council has now commenced work on the new Stevenage Borough Local Plan 2011-2031. The draft version of the Plan was published in January 2016 and will be used as a material consideration in the determination of all planning applications registered on or after Wednesday 6 January 2016. The Site Specific Policies DPD, the draft Gunnels Wood Area Action Plan (AAP), the draft Old Town AAP, the Pond Close Development SPG, Stevenage West Masterplanning Principles SPG, the Gunnels Wood Supplementary Planning Document and the Interim Planning Policy Statement for Stevenage are no longer material considerations in the determination of all planning applications registered on or after Wednesday 6 January 2016.

6.1.2 Where a Development Plan Document has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.

6.1.3 In considering the policy implications of any development proposal the Local Planning Authority will assess each case on its individual merits, however where there may be a conflict between policies in the existing Development Plan and policies in any emerging Development Plan Document, the adopted Development Plan policies currently continue to have greater weight.

### **6.2 Central Government Advice**

6.2.1 In March 2012 the National Planning Policy Framework (NPPF) was published and in doing so it replaced many documents including all Planning Policy Guidance Notes and Planning Policy Statements. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 215 of the NPPF applies which states that only due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.

6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their

degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.

- 6.2.3 In addition to the NPPF, advice in the National Planning Practice Guidance (March 2014) also needs to be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

### **6.3 Adopted District Plan**

TW2 Structural Open Space  
TW8 Environmental Safeguards  
TW9 Quality of Design

### **6.4 Emerging Local Plan**

GD1 High Quality Design  
NH6 General Protection of Open Space

## **7 APPRAISAL**

- 7.1 The main issues for consideration in the determination of this application are the impact of the loss of the amenity land on the character and appearance of the area, and impact on neighbour amenity.

### **7.2 Loss of Amenity Land and Impact upon the Character and Appearance of the Area**

- 7.2.1 The land the subject of the change of use is currently in the ownership of the Borough Council and constitutes a small informal piece of open space as defined by policy TW2 of the Local Plan. Policy TW2 states that development proposals which have an unacceptable adverse impact on structural open spaces of the town will not be permitted. The criteria used in assessing the impact that a development proposal may have are a) the size, form, function and character of the structural open space affected by the development proposal; and b) the impact of the development proposal on the structural open space.

- 7.2.2 Furthermore, the new emerging Local Plan Policy NH6 for general protection of open space states that the loss of unallocated open space should have regard to the quality and accessibility of the open space, whether the open space is serving its function and purpose, and whether alternate space(s) would remain available for community use.

- 7.2.3 The application site forms part of a larger area of open amenity space. The whole area is part of a wider characteristic of the estate, breaking up the built form of the rows of terraces, which sit perpendicular to each other. As the rows of terraces end, the open spaces provide areas of green throughout the estate. The area of land the subject of this application is laid to grass. The change of use of this strip of the open space would

have minimal impact on the form and function of the larger open space in the area, despite No.74 having carried out a similar change of use in 2015. The area of open space retained between the two properties is sufficient to fulfil its original role within the estate layout and design.

- 7.2.4 Fencing in keeping with the existing boundary treatments is proposed around all sides of the land. The proposed boundaries marked with a 'T' on the submitted location plan are proposed to be enclosed with high fencing as the land is to be used as rear garden. The proposed height of the fencing has not been stated. To remain in-keeping with the surrounding area it is considered reasonable to condition the fencing to be no higher than 1.8m. The proposal to enclose the strip of land is not considered to be harmful to the visual amenity of the street or surrounding area.

### **7.3 Impact on Neighbour Amenity**

- 7.3.1 The objector has raised concerns over the impact of the development on their boundary treatment, which has been recently erected following their own change of use application to convert a strip of the open space to rear garden. The proximity and position of the land the subject of this application would place the front/side boundary of No.76 immediately adjacent the boundary of No.74. However, the placement of a boundary up to an existing boundary is not a material consideration to prevent the issuing of an approval for planning permission. The matter associated with No.74 giving permission for No.76 to use their boundary treatment as part of their new garden boundary is a civil matter and does not impact on the consideration of this application.

## **8 CONCLUSIONS**

- 8.1 The proposed change of use of the land and its enclosure of the additional rear garden area with 1.8m high fencing is not considered to be detrimental to the form and function of the structural open space, the character and appearance of the area, nor the amenity of neighbouring properties. It is therefore recommended that planning permission be granted.

## **9 RECOMMENDATION**

- 9.1 Planning permission be GRANTED subject to the following conditions:-

- 1 The development hereby permitted shall be carried out in general accordance with the following approved plans: Site location plan.

**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 The approved area of land, shown red on the approved site location plan shall be enclosed by timber fencing no higher than 1.8m in height unless otherwise agreed in writing by the Local Planning Authority.

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

### **Pro-active Statement**

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 (paragraphs 186 and 187) 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 District Plan Second Review 1991-2011.
3. Emerging Stevenage Local Plan 2011-2031.
4. Central Government advice contained in the National Planning Policy Framework March 2012 and the National Planning Policy Guidance 2014.
5. Letters received containing representations referred to in this report.
6. Responses to consultations with statutory undertakers and other interested parties referred to in this report.