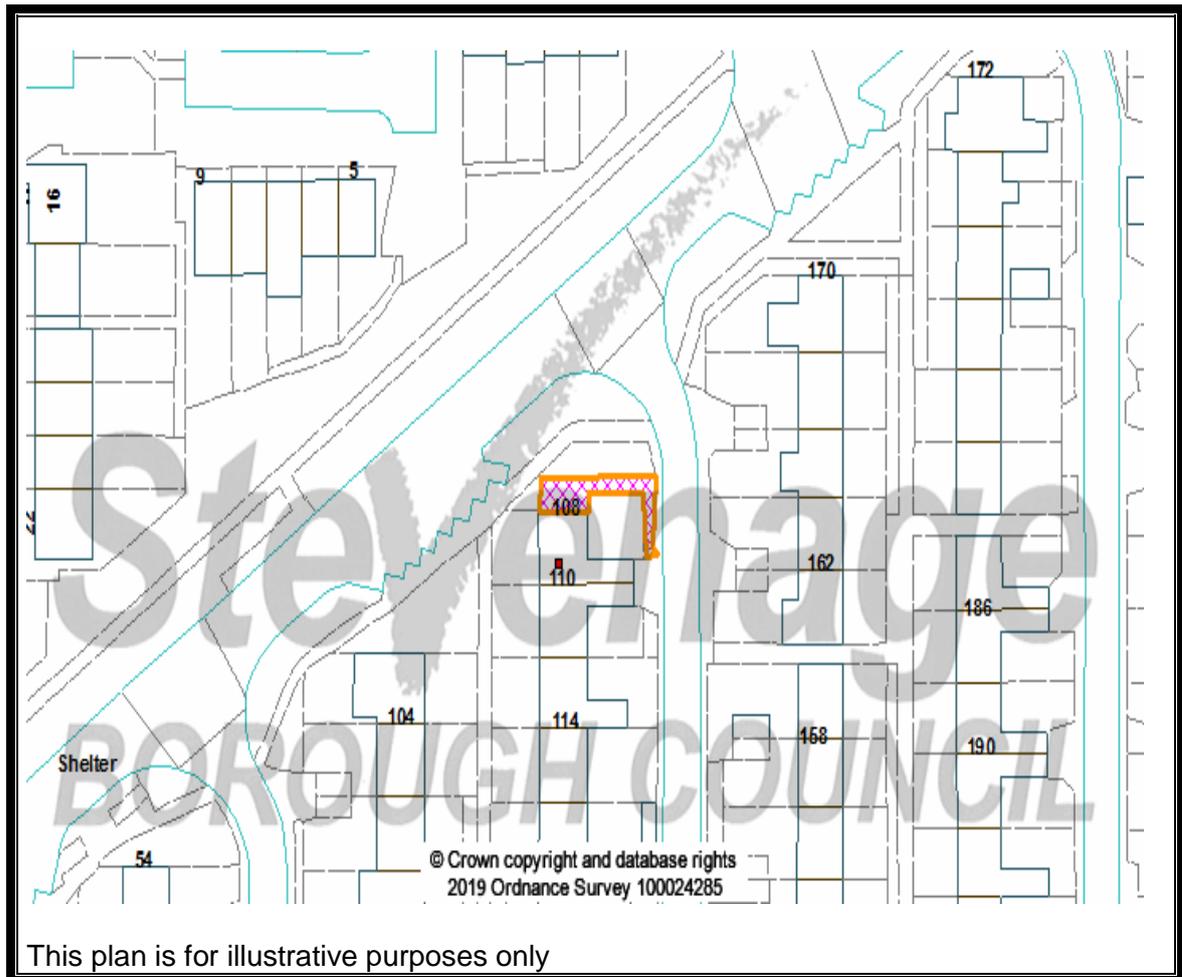


<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>1 November 2022</b>	
<b>Author:</b>	<b>Lewis McGann</b>	07936 349276
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Application No :	22/00521/FP
Location :	108 Canterbury Way, Stevenage
Proposal :	Change of use from public amenity land to residential use
Drawing Nos.:	Site Location Plan;
Applicant :	Mr Daniel Warren
Date Valid:	12 July 2022
Recommendation :	GRANT PLANNING PERMISSION



## **1. SITE DESCRIPTION**

- 1.1 The application site is an end-terrace dwelling located on the southern side of the main highway and is the first house on the western side of the cul-de-sac. The application property is designed in a classic Radburn style with a fairly small front garden overlooking a public footpath which runs in front of its front elevation before connecting with a network of footpaths to the south which provide pedestrian access to the surrounding branch roads of Canterbury Way and York Road. Vehicular access to the property meanwhile is provided from the roadside to the rear of the application site. The land already owned by No.108 Canterbury Way is enclosed to the rear by wooden fencing up to 2m high and around the front garden by a tall hedgerow. Adjacent to the south lies the attached neighbouring property of No.110 Canterbury Way whilst to the east on the opposite side of the branch road lies the neighbouring property of No.164 Canterbury Way.
- 1.2 The application property itself is constructed of a buff brick course with a gable-end dual-pitched roof clad in grey concrete roof tiles and a white fascia trim. A single storey garage element constructed of buff brick with a flat roof attaches to the rear elevation of the main dwelling and is shared with the neighbouring property to the south at No.110 to provide each property with a single door garage and a hard surfaced driveway which together provides both properties with two off-street parking spaces each. The fenestration to the property is finished with white uPVC.
- 1.3 The surrounding area is characterised by dwellings of a similar age and style to the application property, typically laid out as rows of two storey terraces. These dwellings are typically set within regimented building lines that face the roadside in standard sized, regular shaped plots.

## **2. RELEVANT PLANNING HISTORY**

- 2.1. No relevant planning history

## **3. THE CURRENT APPLICATION**

- 3.1. The application seeks planning permission for the change of use from public amenity land to private residential of the land immediately to the north and east of the application site.
- 3.2. This application has been referred to the Planning and Development Committee, in line with its constitution, as the applicant is related to members of staff currently employed at the Council.

## **4. PUBLIC REPRESENTATIONS**

- 4.1. The application was publicised by way of neighbour letters. No comments were received.

## **5. CONSULTATIONS**

### **5.1. Hertfordshire County Council as Highways Authority**

- 5.1.1 HCC Highways has no comment to make as section 24 of the application form declares the ownership of the land to be Stevenage Borough Council

## **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 (adopted 2019)
- 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. 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).

6.2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.2.3 In addition to the NPPF, advice in Planning Practice Guidance must also be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 11 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 Stevenage Borough Local Plan 2011-2031 (Adopted 2019)**

Policy SP8: Good Design;  
Policy GD1: High Quality Design;  
Policy NH6: General Protection for Open Space;

## **7. APPRAISAL**

7.1.1 The main issues for consideration in the determination of this application are the acceptability of the change of use from public amenity land to residential garden and its impact on the character and appearance of the area.

7.1.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### **7.2 Change of Use of Amenity Land**

7.2.1 The area of land in question is currently in the ownership of Stevenage Borough Council and is designated as an area of informal open space and is protected by Policy NH6 of the Stevenage Local Plan. Policy NH6 for general protection of open space states that planning

permission for development of any existing, unallocated open space will be permitted where the loss of the open space is justified having regard to the quality and accessibility of the open space, the existence of any interventions to improve quality or access, whether the open space is serving its function or purpose and whether alternate spaces would remain available for community use.

- 7.2.2 The plot of amenity land subject to this change of use application is sited immediately to the north and east of the application site and forms part of a slightly larger area of grassed open space which wraps around the north eastern corner of the existing curtilage of No.108 and across much of its rear elevation. This area of grassed open space is one of many running along both sides of the main road of Canterbury Way and is bordered to the north by a public footpath that also runs along Canterbury Way, with another area of grassed open space beyond this followed by the main road. A row of off-street communal parking bays is located along Canterbury Way immediately to the west.
- 7.2.3 The plot itself is shaped in an inverted L-shape and has a maximum length of approximately 15m, a maximum width of approximately 8m and a total area of approximately of 42sqm. To the north of the plot, a row of tall shrubs runs just beyond the fenced boundary of No.108 and wraps around all the way to the front garden of the application site which is bordered by a tall hedgerow that screens it from view from the public realm. It is expected that the plot of land subject to this application would be enclosed with wooden fencing to increase the overall size of the garden belonging to No.108, and the existing shrubbery either removed or cut back to enable the plots enclosing.
- 7.2.4 It is accepted that the area of grassed open space containing the plot of amenity land in question could be used as an informal play space for children but given its relatively small size, extensive shrubbery coverage and location adjacent to the main road it would not be considered the safest or most appropriate place for children to play. Notwithstanding this, whilst the proposal would leave only a small strip of the original area of grassed open space remaining, a larger area of grassed open space to the north between this area and the main road would be left untouched and this is still sufficient to provide some amenity value to the surrounding properties and those travelling along the main road, not to mention the many other areas of grassed open space running along both side of the main road. As a result, enclosing the plot in question with wooden fencing would not have a detrimental impact on the overall openness of the street scene. Given the aforementioned factors, the change of use is considered acceptable in policy terms as it would not undermine the Council's policy to protect open spaces.
- 7.2.5 With regard to the impact of the character and appearance of the area, the changes to the boundary treatment will be of a height and style similar to other properties in the wider area and will be of a similar appearance to that which already encloses the application site. The change of use is therefore not considered to detrimentally impact the character and visual appearance of the area.

### 7.3 Equality, Diversity and Human Rights

- 7.3.1 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.
- 7.3.2 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.
- 7.3.3 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.

- 7.3.4 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.
- 7.3.5 It is considered that the decision has had regard to this duty. The development would not conflict with either Stevenage Borough Council's Equality Policy or the commitments set out in our Equality Objectives, and would support the Council in meeting its statutory equality responsibilities.

## 8. CONCLUSIONS

- 8.1 In conclusion, it is considered that the change of use of the land from public amenity to residential use will not harm the character and appearance of the area and the loss of the open space has been demonstrated to be acceptable.

## 9. RECOMMENDATIONS

- 9.1 That planning permission be GRANTED subject to the conditions below.
- 9.2 The detail of which would be delegated to the Assistant Director of Planning and Regulation in liaison with the Council's appointed solicitor, as well as the imposition of suitable safeguarding conditions, with authority given to the Assistant Director of Planning and Regulation in consultation with the Chair of Planning Committee, to amend or add to the suggested draft conditions set out in this report, prior to the decision notice being issued, where such amendments or additions would be legally sound and most effectively deliver the development that the Planning Committee has resolved to approve. These suggested conditions are as follows:-
1. The development hereby permitted shall be carried out in 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 area of land shown in red on the approved 'Location Plan' located to the north and east of the curtilage of No.108 Canterbury Way, shall be enclosed with timber fencing no higher than 2m high, unless otherwise agreed in writing by the Local Planning Authority.  
**REASON:-** In the interests of highway safety and to protect the visual amenity of the area.

## **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 – Stevenage Design Guide adopted October 2009.
3. Stevenage Borough Local Plan 2011 – 2031 adopted 2019.
4. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
5. Central Government advice contained in the National Planning Policy Framework (2021) and Planning Policy Guidance (2014).