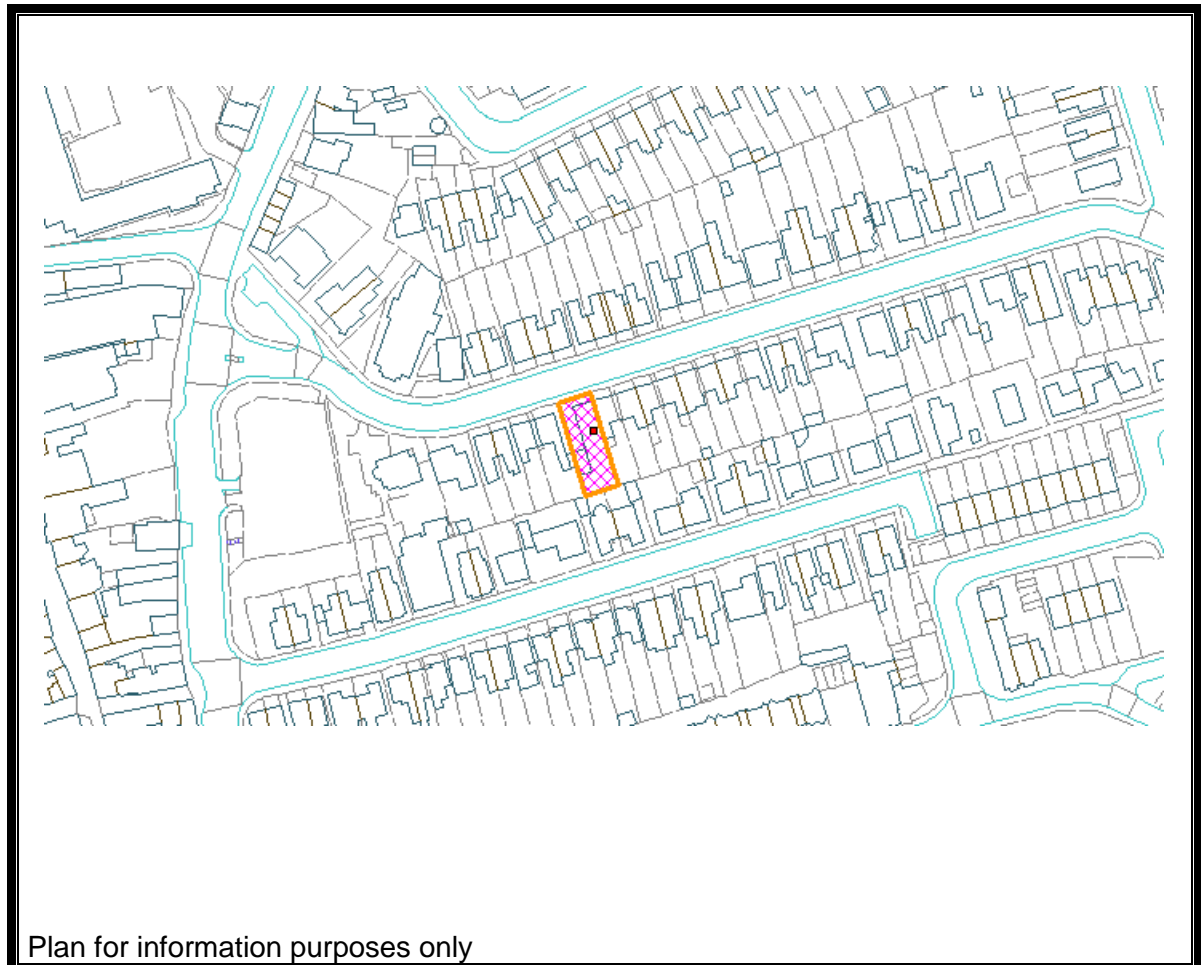


Meeting:	Planning and Development Committee	Agenda Item:
Date:	15 February 2022	
Author:	James Chettleburgh	01438 242242
Lead Officer:	Zayd Al-Jawad	01438 242242
Contact Officer:	James Chettleburgh	01438 242242

Application No:	22/00952/FP
Location:	22 Basils Road, Stevenage, SG1 3PX.
Proposal:	Variation of condition 4 (Boundary Treatments) attached to planning permission reference number 19/00287/FP.
Drawing Nos.:	22190-109; 22190-110
Applicant:	Mr Edger
Date Valid:	28 October 2022
Recommendation:	REFUSE PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 The application site which is located on the south side of Basils Road and was previously occupied by a part single storey, part two storey brick-built warehouse/office building. This building has been demolished with 2 no. dwellinghouses currently under construction via planning application 19/00287/FP.
- 1.2 The site is adjoined by No.20 to the west and No.24 to the east, both of which are residential properties. The rear of the application site forms the boundary with Nos.33 and 35 Grove Road which are also residential properties.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning application 19/00287/FP sought permission for the part demolition of existing building and erection of 2no two-bedroom dwellings. This application was granted planning permission in July 2019.
- 2.2 Discharge of condition application 22/00853/COND Discharge of condition 3 (Materials) attached to planning permission reference number 19/00287/FP. This application is pending consideration.
- 2.3 Discharge of condition application 22/00896/COND Discharge of conditions 4 (means of enclosure) and 8 (climate change) attached to planning permission reference number 19/00287/FP. This application is pending consideration.
- 2.4 Non-material amendment application 22/01009/NMA sought to amend planning permission 19/00278/FP to change materials of external doors and windows from timber to UPVC. The non-material amendment was agreed in December 2022.

3. THE CURRENT APPLICATION

- 3.1 Under planning permission 19/00287/FP the existing rear wall of the two-storey building which was to be demolished was to remain in-situ. This was in order to protect the privacy of numbers 33 and 35 Grove Road located to the rear of the site, specifically in terms of overlooking from the approved 2 no. dwellinghouse which were to be constructed at 22 Basils Road. Moreover, the wall would also act as a screen to protect the amenities of the future occupiers of the development at 22 Basils Road.
- 3.2 The applicant has since demolished the wall which was to be retained as part of planning permission 19/00287/FP. This is because the applicant's structural engineer considered the wall not to be structurally safe. Taking this into consideration, the applicant is looking to replace the two-storey wall with a 1.8m high close board timber fence.
- 3.3 Taking the aforementioned into consideration, this application before the Council seeks planning permission to vary condition 4 (Boundary Treatments) attached to planning permission reference number 19/00287/FP. For reference, this condition states the following:

Notwithstanding the details shown in this application the treatment of all boundaries including details of any walls, fences, gates or other means of enclosure to be introduced, retained or altered shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development above slab level. The approved boundary treatments shall be completed before the use hereby permitted is commenced or before the building(s) are occupied.

REASON:- To ensure a satisfactory standard of development in the interests of amenity and that it has an acceptable appearance.

4. PUBLIC REPRESENTATIONS

4.1 This planning application has been publicised by way of a site notice and neighbouring properties have been notified about the application via a letter. Two objections have been received from 35 Grove Road and 24 Basils Road.

4.2 A summary of the objections which have been raised are as follows:

- Planning permission was granted for the original external wall of the building to remain in-situ.
- All exterior walls have now been demolished in contravention of planning application 19/00287/FP.
- The brick wall should re-built for privacy purposes.
- Plans show the erection of a six-foot fence for the boundary, as the level of the plot is now 2 foot lower than the garden of 35 Grove Road, the fence will only be 4 foot in height. This is not acceptable and contrary to approved drawing RL/3663/22-11.
- It is recommended the rear boundary wall is built in line with the remaining brick work and if put in place / aligns with the roof of the garage at 35 Grove Road, no objection to the planning application.
- Consideration of an 8-foot fence could potentially overcome concerns raised.

4.3 Comments were also received in support of the application from 20 Basils Road. A summary of the comments raised are set out below:

- Concern over the period of time it is taking to replace the boundary walls, in order to not delay these works, support the application subject to appropriate support to existing brick wall on the South West corner.

4.4 This is not a verbatim copy of the comments which have been received. A full copy of these comments can be viewed on the Council's website.

5. CONSULTATIONS

5.1 No relevant consultations.

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. 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). 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.

6.3 Planning Practice Guidance

6.3.1 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 May 2019)

SP8 - Good Design;
GD1 - High Quality Design;

6.5 Supplementary Planning Documents

Stevenage Design Guide Supplementary Planning Document 2023.

7. APPRAISAL

7.1.1 The main issues for consideration in the determination of this application are the impact on the appearance of the area and impact upon residential amenities.

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 Impact on the appearance of the area

7.2.1 In terms of design, paragraph 126 of the NPPF (2021) states that achieving high quality, beautiful and sustainable buildings and places is fundamental to the planning and development process and that good design is a key aspect of sustainable development. Further, paragraph 130 of the NPPF (2021) stipulates that planning decisions should ensure developments function well and adds to the overall quality of the area, not just in the short term but over the lifetime of the development. It also sets out that developments should be visually attractive as a result of good architecture, layout, and appropriate and effective landscaping is sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 134 of the NPPF (2021) states that permission should be refused especially where it fails to reflect local design policies and government guidance on design (such as the National Design Guide), taking into account any local design guidance and supplementary planning documents. Conversely, significant weight be given to:

- a) development which reflects 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; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as the fit in with the overall form and layout of their surroundings.

7.2.2 Policy GD1 of the Local Plan (2019) generally requires all forms of development to meet a high standard of design which includes form of built development, elevational treatment and materials along with how the development would integrate with the urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design.

- 7.2.3 Policy SP8 of the adopted Local Plan (2019) requires new development to achieve the highest standards of design and sustainability which can deliver substantial improvements to the image and quality of the town's built fabric. Policy GD1 of the Local Plan generally requires all forms of development to meet a high standard of design which includes form of built development, elevational treatment and materials along with how the development would integrate with the urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design.
- 7.2.4 The National Design Guide (2019) which was published by National Government is a material consideration in the determination of planning applications. It sets out that Buildings are an important component of places and proposals for built development are a focus of the development management system. However, good design involves careful attention to other important components of places. These include:
- the context for places and buildings;
 - hard and soft landscape;
 - technical infrastructure – transport, utilities, services such as drainage; and
 - social infrastructure – social, commercial, leisure uses and activities.
- 7.2.5 A well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. It comes about through making the right choices at all levels, including:
- the layout;
 - the form and scale of buildings;
 - their appearance;
 - landscape;
 - materials; and
 - their detailing.
- 7.2.6 The Guide further iterates that all developments are made up of these components put together in a particular way. As such, the choices made in the design process contribute towards achieving the ten characteristics and shape the character of a place. For reference, these ten characteristics are as follows:-
- Context – enhances the surroundings;
 - Identity – attractive and distinctive;
 - Built form – a coherent pattern of built form;
 - Movement – accessible and easy to move around;
 - Nature – enhanced and optimised;
 - Public spaces – safe, social and inclusive;
 - Uses – mixed and integrated;
 - Homes and buildings – functional, healthy and sustainable;
 - Resources – efficient and resilient;
 - Lifespan – made to last.
- 7.2.7 Paragraph 40 of the National Design Guide states that well-designed places are:
- Based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design;
 - Integrated into their surroundings so they relate well to them;
 - Influenced by and influence their context positively; and
 - Responsive to local history, culture and heritage.
- 7.2.8 The Council's Design Guide SPD 2023 generally reflects the guidance set out in the National Design Guide with respect to good design.

7.2.9 The proposal comprised the erection of a 1.8m high close board timber fence to replace the recently demolished two-storey wall. This proposed boundary treatment is deemed to be, from a visual perspective, acceptable within a residential setting. This is because it reflects a traditional domestic boundary fence and would also replicate similar boundary treatments which have been constructed in this residential area of Stevenage. Therefore, the proposal is deemed to be acceptable in terms of its impact on the character and appearance of the area.

7.3 Impact upon residential amenities

7.3.1 Criterion L. of Policy GD1 of the adopted Local Plan (2019) stipulates that proposals have regard to the Stevenage Design Guide Supplementary Planning Document (SPD) and any other appropriate guidance. Turning to the Design Guide SPD (2023), paragraph U.22 (page 38) of the guide states and quote “The following minimum distances should be achieved...”

No of Storeys	Type of Separation	Min. distance (metres)
Between existing and new 2 storey or a mix of 1 and 2 storey dwellings	Back to Back	25m
	Back to Side	15m
Between new 2 storeys or a mix of 1 and 2 storey	Back to Back	20m
	Back to side	12m
Over 2 storeys between existing and new dwellings	Back to Back	35m
	Back to Side	25m
Between new dwellings over 2 storeys in height	Back to Back	30m
	Back to Side	20m

7.3.2 The above requirements are also set out in the adopted Local Plan (2019) and are similar to the separation distance requirements detailed under the superseded Design Guide SPD (2009). Taking these separation distance requirements into consideration, and as identified under planning permission 19/00287/FP, there would only be 18m between the properties, with the depth of the rear garden of 33 Grove Road being only 6m.

7.3.3 Given the aforementioned, and, as part of the development scheme under the 2019 permission, it was intended to retain the rear wall of the existing commercial building at its current height of 4.8m. This was to ensure there would be no worsening of the overlooking of the rear of these properties or their gardens. Equally, this would help to ensure that the rear gardens of the new properties would not be overlooked. A condition (condition 4) was imposed requiring the details of the boundary treatments to be submitted for approval. This would ensure that the rear wall is retained to an appropriate height and standard or is replaced accordingly if necessary, following a structural assessment. This would also allow the details of the treatment of the gardens of the properties either side of the new dwellings to be assessed.

7.3.4 However, as set out in paragraph 3.2 of this report, this wall was demolished due to safety concerns being raised by the applicants engineer. Whilst these concerns are noted, the applicant did not make contact with the Council as Local Planning Authority to raise this issue and negotiate a solution to ensure that appropriate measures are put in place to protect the amenities of numbers 33 and 35 Grove Road as well as the future occupiers of the development. As a consequence, due to the removal of this wall combined with the fact there is a substandard separation distance between the dwelling houses which are under construction and the aforementioned properties, this would result in an unacceptable impact on the level of privacy currently enjoyed by both the occupiers of the properties on Grove

Road. Moreover, this would also result in an unacceptable level of overlooking to the future occupiers of this development.

7.3.5 In order to compensate for the removal of the wall, the applicant is looking to erect a 1.8m high boundary fence. This fence is not deemed to be of a sufficient height to overcome the privacy issues which have been identified above. Therefore, if this application was to be approved, there would not be suitable mitigation measures in place to deal with the privacy issues identified.

7.3.6 It can, therefore, be deduced that the demolition of the two-storey wall which was to be retained under planning permission 19/00287/FP results in an unacceptable loss of privacy to the occupiers of numbers 33 and 35 Grove Road which cannot be suitably mitigated against through the erection of a 1.8m high timber fence. In addition, the future occupiers of the development would be unacceptably overlooked resulting in a poor living environment for future occupiers of the development. The proposal is therefore contrary to Policy GD1 of the Local Plan (2019), the Council's Design Guide SPD (2023), the NPPF (2021) and PPG.

8. CONCLUSIONS

8.1 In summary, the demolition of the two-storey wall which was to be retained under planning permission 19/00287/FP results in an unacceptable loss of privacy to the occupiers of numbers 33 and 35 Grove Road which cannot be suitably mitigated against through the erection of a 1.8m high timber fence. In addition, the future occupiers of the development would be unacceptably overlooked resulting in a poor living environment for future occupiers of the development. Therefore, it is recommended that planning permission be refused.

9. RECOMMENDATIONS

9.1 That Planning permission be REFUSED subject to the following reasons:

- 1 The demolition of the two-storey wall which was to be retained under planning permission 19/00287/FP results in an unacceptable loss of privacy to the occupiers of numbers 33 and 35 Grove Road which cannot be suitably mitigated against through the erection of a 1.8m high timber fence. In addition, the future occupiers of the development would be unacceptably overlooked resulting in a poor living environment for future occupiers of the development. Therefore, the development is contrary to Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011 – 2031 (adopted May 2019), the Council's Design Guide SPD (2023), the National Planning Policy Framework (2021) and Planning Practice Guidance.

Pro-active Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted pro-actively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied 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 FURTHER CONSIDERATIONS

10.1 Having recommended refusal of the planning application, a decision needs to be made as to whether the Council should undertake enforcement action against the breach of planning control which has occurred in this instance.

- 10.2 As set out previously in this report, it is considered that following the removal of the wall, this will result in an unacceptable loss to the privacy of the occupiers of 33 and 35 Grove Road. In addition, due to the substandard separation distances, the privacy of future occupiers of the development would be eroded due to the loss of the wall in question. As a consequence, the proposed boundary fence is deemed to be insufficient to overcome these privacy issues.
- 10.3 Given the aforementioned comments, should the Committee agree with the recommendations set out in section 9 of this report to refuse planning permission, authorisation is sought to take enforcement action to secure the construction of a replacement wall at a similar height to the wall which has been demolished and in the same position at land known as 22 Basils Road. It is considered that a period of six months or prior to the first occupation of the dwelling houses as approved under 19/00287/FP, whichever is the earliest, is in accordance with National Planning Policy Framework (2021) and Planning Practice Guidance. This is because at this current time, the development as constructed to date is in breach of conditions attached to planning permission 19/00287/FP.

11 FURTHER RECOMMENDATION

- 11.1 That an Enforcement Notice be issued and served by the Assistant Director of Planning and Regulation, subject to the Borough Solicitor being satisfied as to the evidence requiring the replacement of a boundary at land known as 22 Basils Road. The precise terms of the Enforcement Notice, including all time periods, to be delegated to the Assistant Director of Planning and Regulation.
- 11.2 That, subject to the Borough Solicitor being satisfied with 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.
- 11.3 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 and any appeal against the refusal of planning permission.

12 REMEDY REQUIRED

- 12.1 Within Six months of the date of refusal of planning permission or prior to first occupation of the dwellinghouses, whichever is the earliest, a replacement wall at a similar height and position to the one which has been demolished at land known as 22 Basils Road shall be erected and permanently retained so that the development is in accordance with the conditions set out under planning permission 19/00287/FP on land known as 22 Basils Road.

13. 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 – Council’s Design Guide SPD 2023.
4. Stevenage Borough Local Plan 2011-2031 adopted May 2019.
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.