

**Meeting:** Planning and Development Committee **Agenda Item: 5**

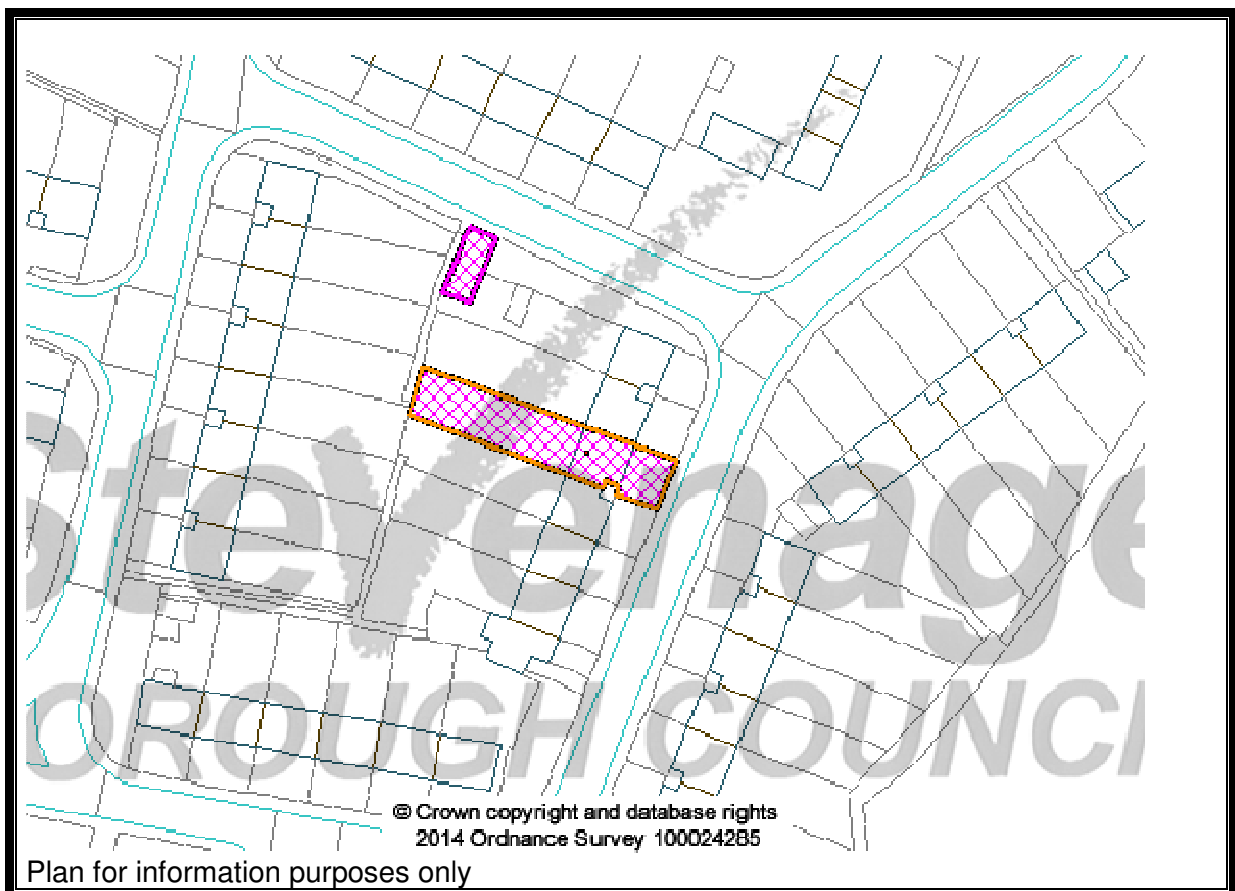
**Date:** 8 November 2016

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Application No:	16/00551/FP
Location:	Land at Tillers Link
Proposal:	Change of use from public amenity land (Use Class Sui-Generis) to residential (Use Class C3) and erection of a garage and associated hardstanding.
Drawing Nos.:	Site location plan; Proposed elevations – front view; Proposed floor plan – plan view – Amended 22.10.2016
Applicant:	Mr Alan Hartley
Date Valid:	15 August 2016
Recommendation:	REFUSE PLANNING PERMISSION



## **1. SITE DESCRIPTION**

- 1.1 The application site is a small parcel of land located to the rear of 59 Leaves Spring and 47 and 49 Long Leaves. It can be accessed from and is visible along Tillers Link, a small residential link road running perpendicular between Long Leaves and Leaves Spring. The site is bounded to the north by the highway and to the east, south and west by the rear gardens of surrounding residential development. The area of grass contains the stump from a large Oak tree removed some time ago. Pedestrian access to the rear gardens of properties on Leaves Spring and Long Leaves runs along the western side of the land.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 Under planning application 14/00511/FP planning permission was sought for the proposed change of use of public amenity land to residential and the erection of a garage and associated hardstanding. This application was refused by the Council on the 23 December 2014 on the following reason:-

*The hardstanding proposed to the front of the new garage, by virtue of its substandard depth would result in vehicles parking indiscriminately and overhanging the adjoining footpath/highway. The proposal would, therefore, result in conditions prejudicial to the safe movement of pedestrians and road users contrary to the advice contained in the National Planning Policy Framework, Roads in Hertfordshire, A Design for New Developments and Roads in Hertfordshire: Highway Design Guide 3rd Edition.*

- 2.2 Following the refusal of the aforementioned decision, the applicant appealed the decision to the Planning Inspectorate (Appeal reference: APP/K1935/W/15/3078186). This appeal was dismissed as it was considered by the Planning Inspector that the proposed development would have an adverse impact on the continued safety of pedestrians and other road users. This is because that whilst the Inspector acknowledged the appellant was prepared to install a remotely activated garage door to allow opening whilst the vehicle was approaching, there may be a time delay and as such, both the footway and carriageway would be temporarily obstructed. Furthermore, the Inspector pointed out that the continued functioning of remote activation cannot be guaranteed in perpetuity.
- 2.3 It was also noted that vehicles appear to park opposite the garage which would reduce the space available for manoeuvring and turning. Given this, the inspector stated (Paragraph 7 of the Inspectors Report) that “*whilst it is not a busy road, I find there would be some potential to cause obstruction to both footway and traffic flow*”. Further to this, the Inspector was not convinced by the appellant’s argument about a shortage of on-street parking provision that the development would free up two parking spaces.

## **3. THE CURRENT APPLICATION**

- 3.1 The current application, which seeks to overcome the aforementioned refusal and appeal decision is again for the erection of a garage and the change of use of an area of amenity land to residential curtilage and the erection of a hardstanding for the parking of one vehicle. The area of land measures between 9.35m to 9.75m in length due to the tapered northern boundary which adjoins the public highway. The land parcel which is the subject of this application spans 4.7m in width and is located predominantly to the rear of 59 Leaves Spring, with the rear garden of the property wrapping around the rear of the land in question.
- 3.2 The proposed garage would extend from the southern boundary of the site, tight along the western side boundary footpath, leaving a 0.5m wide gap between the building and the

existing garage serving the neighbouring property. The submitted plans identify the proposed garage measuring 4.2m in width and 4.95m in length with an overall maximum height of 3.2m. The garage would be constructed from pre-fabricated concrete with a metal remote activated garage door.

- 3.3 The application comes before the Planning and Development Planning committee for consideration as the land is Council owned and objections have been received.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 The application has been publicised by way of a site notice and neighbouring properties have been notified about the application via a letter. Following this consultation, objections were received from number 59 Leaves Spring and number 6 Tillers Link. A summary of the objections raised are as follows:-

- Will affect noise level of the area;
- Will cause problems with car parking;
- Would result in obstruction of existing driveways;
- Will cause problems with access;
- The development would be out of keeping with the surrounding area;
- There would be insufficient space for a vehicle to park in front of the garage;
- Why were there previous unsuccessful bids for the area of land to be bought by other neighbouring properties but the Council is selling the land to allow the applicant to build on it.

**Note:** The above is a summary of the objections which have been received and a full copy of the objections can be viewed on the Council's website.

## **5. CONSULTATIONS**

### **5.1 Hertfordshire County Council Highways**

- 5.1.1 Following consultation with Hertfordshire County Council as the Highways Authority, they have recommended that the application is refused. This is because they consider that due to the substandard depth of the hardstanding area, it would result in vehicles parking indiscriminately and overhang the adjoining highway and footpath. Given this, it would result in a condition which would prejudice the safety and operation of the highway network.

## **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 set 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 Local Plan**

Policy TW2: Structural Open Space  
 Policy TW8: Environmental Safeguards  
 Policy TW9: Quality in Design  
 Policy T15: Car Parking Strategy

#### **6.4 Stevenage Borough Local Plan 2011-2031 Publication Draft (Emerging Local Plan)**

Policy SP8: Good Design

Policy SP12: Green Infrastructure and the Natural Environment

Policy GD1: High Quality Design

Policy IT5: Parking and Access

Policy NH6: General Protection for Open Space

#### **6.5 Supplementary Planning Documents**

Parking Provision Supplementary Planning Document January 2012.

Stevenage Design Guide Supplementary Planning Document 2009.

#### **6.6 Other documents**

Department for Transport (DfT) Manual for Streets 2007

Herfordshire County Council: - Roads in Hertfordshire, A Design for New Developments and Roads in Hertfordshire: Highway Design Guide 3rd Edition

### **7. APPRAISAL**

7.1 The main issues for consideration in the determination of this application are the impact of the loss of this piece of amenity land on the character and appearance of the area and the impact on parking and highway safety.

#### **7.2 Impact upon the Character and Appearance of the Area.**

7.2.1 The application site 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 adopted Local Plan (2004) and Policy NH6 of the draft Local Plan (2016). 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 Policy NH6 stipulates that for development of any existing, unallocated open spaces, development would be permitted where:

A) the loss of the open space is justified having regard to:

- i) the quality and accessibility of the open space;
- ii) the existence, or otherwise, or any interventions to improve the quality or access;
- iii) whether the open space is serving its function and purpose; and
- iv) whether alternative space(s) remain available for community use, and

B) Reasonable compensatory provision is made.

7.2.3 The application site forms an area of grassed amenity space between the rear gardens of 59 Leaves Spring and 47 and 49 Long Leaves. The area of land is not characteristic of the area, such that there are no other examples of such pockets of space located between rear gardens like this site. The land extends off a strip of land which separates the footpath edge and the side boundaries of both ends of terrace properties. These strips of grass do not form part of the application site and therefore preserve an area of green space along the southern side of Tillers Link. The loss of this area of land is not considered to detrimentally impact the structural open space of the town, nor the immediate area. The change of use

from amenity land to residential curtilage would not adversely impact the character and appearance of the area.

- 7.2.4 In terms of its appearance, the land is considered to be of poor quality and is generally an informal area of space which is not generally utilised by the local community. Furthermore, the open space does not form a function and there is a large amount of open space within the estate which is accessible for the wider community. Turning to compensatory provision, given the limited quality of the structural open space and the lack of purpose it serves to the wider community, it would be unreasonable to require the applicant to provide compensatory open space elsewhere in the estate.
- 7.2.5 With regard to the proposed size of the garage, this has been reduced in size since the previously application with a reduced length from 6.4m to 4.95m with a width of 4.2m (similar width to the refused scheme). The proposal, in terms of its height, would be approximately 3.2m to the top of the ridge as measured from finished ground floor level (a similar height to the refused scheme). The design of the garage would be similar to the existing garage at the western end of No.59s rear garden. The vehicular access of which would be off Tillers Link.
- 7.2.6 The proposed size of the garage which has been reduced since the refusal would not be too dissimilar in size to the existing garage on Tillers Link which serves 59 Leaves Spring. Therefore, its impact on the visual amenity of the area is not considered to warrant the refusal of permission. However, if members were minded to grant planning permission, a condition could be attached to any permission issued requiring samples of the materials which would be used in the construction of the garage to be submitted for approval. This would ensure that the development would have an acceptable appearance and ensure the visual amenities of the area are not detrimentally affected by the development.
- 7.2.7 In terms of spacing and setting, the rear garden of 49 Long Leaves extends closer to the highway of Tillers Link than 59 Leaves Spring, leaving a strip of grass approximately 1.8m in width as opposed to approximately 4m beside No.59. As such, the garage will be partially screened when entering Tillers Link from Long Leaves to the west. The garage would be set back from the garden boundary of No.49 by approximately 1.5m. When viewed from the east the proposed garage would protrude beyond the existing garage and side boundary line of No.59, however, the further protrusion of the boundary fence at 49 Long Leaves helps reduce the visual impact of the garage.
- 7.2.8 Turning to the proposed hardstand, this would be located in front of the proposed garage and would allow for access across the grass verge to the garage. The hardstanding would measure the width of the piece of land and would cover the remaining area of land to the front of the garage measuring between 4.35m (4.4m according to the applicant) to 4.75m (4.85m according to the applicant). It is noted the existing garage at 59 Leaves Spring is accessed off Tillers Link and has an area of hardstanding to accommodate this. The introduction of a further hardstanding along this area of grass is not considered to detrimentally impact the visual amenity of the area.
- 7.2.9 However, if members were minded to grant planning permission, it would be recommended that a condition be imposed to any permission issued. This condition would require samples of materials, including details of a suitable drainage system if the surface was to be non-porous. This would ensure that the hardstanding area has an acceptable appearance and if necessary, a suitable drainage system to ensure that any surface water run-off, given gradient of the land which gently slopes down from the site towards the highway (Tillers Link) is captured before draining out onto the public highway.

### **7.3 Impact on Highway Safety and Parking**

- 7.3.1 The proposed garage, as set out in paragraph 3.2 of this report, would measure 4.2m in width and 4.95m in length. Given the overall length of the garage, this would fail to comply with the 6m length standard which is set out in paragraph 2.3 of the Council's Car Parking Standards SPD (2012) and paragraph 8.3.41 of the Department for Transport (DfT) Manual for Streets (2007). Consequently, the proposed garage cannot be classed as an off-street parking space. Therefore, in order to create a large enough garage to meet the aforementioned length requirements, the area of hardstand to the front of the garage would have to be reduced in length.
- 7.3.2 Notwithstanding the above, as set out on the submitted plans and as confirmed by Hertfordshire County Council as the Highways Authority, the proposed new hardstand would be well below the minimum depth of 5.5m to allow a vehicle to park safely to the front of the garage whilst waiting to enter the garage especially given the fact that there is no guarantee that the remotely activated garage door would be retained, including whether or not it would continue to function in perpetuity as well.
- 7.3.3 Given the above, any vehicle which would wait on the hardstanding area to the front of the garage in order to gain access, would overhang the pedestrian footpath. Consequently, this would force pedestrian off the footpath out on to the trafficked highway which in this instance would prejudice both pedestrian and vehicle safety. In view of this, it is considered that the proposed development does not overcome the previous refusal or the decision of the Planning Inspectorate, a fact that this is supported by the Highways Authority.
- 7.3.4 Further to the above, it is noted that there is a parking problem in the area as there are a number of vehicles which park along the highway. However, this does not outweigh the issues raised about the substandard garage and hardstanding area and, as such, would not free up the parking on the highway. This is reflected in the Planning Inspectors previous decision.

### **7.4 Other third party comments**

- 7.4.1 Other concerns raised by neighbouring properties relate to noise (undertaking works to cars at the garage) and the past attempts by other neighbouring properties to buy the piece of land in question, which were unsuccessful. In regards to noise, any noise which creates a statutory nuisance would be enforced by the Council's Environmental Health Department through powers under the Environmental Protection Act (1990). In regards to previous unsuccessful attempts to buy the area of land this is not relevant to the application currently being considered. The right to sell land lies with the Council and is considered by the Estates Department.

## **8. CONCLUSIONS**

- 8.1 The proposed change of use of this area of land and the erection of a garage and laying out of a hardstanding is not considered to be detrimental to the character and appearance of the area. However, the length of hardstanding and size of the garage does not comply with the requirements of the local highway authority and would lead to an unacceptable impact on highway safety to pedestrians and road users along Tillers Link. The application is therefore recommended for refusal.

## **9. RECOMMENDATIONS**

- 9.1 Planning permission be REFUSED for the following reason: -

- 1 The proposed garage by virtue of its substandard size would mean vehicles would have to park on the hardstanding to the front of the new garage. However, the hardstanding area, by virtue of its substandard depth would result in vehicles parking indiscriminately and overhanging the adjoining footpath/highway. The proposal would, therefore, result in conditions prejudicial to the safe movement of pedestrians and road users contrary to the advice contained in the National Planning Policy Framework, Roads in Hertfordshire, A Design for New Developments and Roads in Hertfordshire: Highway Design Guide 3rd Edition, the Council's Car Parking Standards SPD (2012) and the Department for Transport (Manual for Streets) (2007).

### **Pro-active Statement**

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 (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI no. 595).

### **Informative**

This application was determined based on the following submitted plans:-

- Site location plan;
- Proposed elevations – front view;
- Proposed floor plan – plan view – Amended 22.10.2016

## **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. Stevenage Borough Council Supplementary Planning Documents – Parking Provision adopted January 2012.
4. Stevenage Borough Local Plan 2011-2031 Publication Draft.
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 March 2012 and National Planning Policy Guidance March 2014.