

# Public Document Pack



## PLANNING AND DEVELOPMENT COMMITTEE

Date: Tuesday, 31 October 2023

Time: 6.30pm,

Location: Council Chamber, Daneshill House, Danestrete, Stevenage

Contact: Lisa Jerome (01438) 242203

committees@stevenage.gov.uk

Members: Councillors: M Downing (Chair), C Parris (Vice-Chair), J Ashley-Wren, R Broom, F Chowdhury, N Chowdhury, C Howells, G Lawrence CC, M McKay, A Mitchell CC, E Plater, G Snell, C Veres and A Wells

---

## AGENDA

### PART 1

#### 1. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

#### 2. MINUTES - 3 OCTOBER 2023

To approve as a correct record the Minutes of the previous meeting held on 3 October 2023.

Pages 3 – 26

#### 3. 23/00482/FP - CINNABAR, HIGH STREET, STEVENAGE

To consider the change of use of parking bays to facilitate construction of outdoor seating area associated with 56-58 High street.

Pages 27 – 42

#### 4. 23/00477/OP - LAND BETWEEN 146 & 225 HOPTON ROAD, STEVENAGE

To consider the grant of outline planning permission with all matters reserved for the erection of 1no. detached three bedroom dwelling with associated car parking.

Pages 43 – 62

#### 5. 23/00631/CLEU - 127 RIPON ROAD, STEVENAGE

To consider a Certificate of Lawfulness for (Existing Use) for the use of the property as 6-bed House of Multiple Occupation (Use Class C4).

Pages 63 – 66

**6. 23/00618/CLEU - 45 YORK ROAD, STEVENAGE**

To consider the grant of a certificate of lawfulness for use as a 7 bedroom HMO (Use Class Sui-Generis).

Pages 67 – 72

**7. INFORMATION REPORT - DELEGATED DECISIONS**

To note a report on decisions taken by the Assistant Director Planning and Regulatory in accordance with his delegated authority.

Pages 73 – 88

**8. INFORMATION REPORT - APPEALS/CALLED IN APPLICATIONS**

To note a report on decisions taken by the Assistant Director Planning and Regulatory in accordance with his delegated authority.

Pages 89 – 92

**9. URGENT PART I BUSINESS**

To consider any Part I Business accepted by the Chair as urgent.

**10. EXCLUSION OF THE PRESS AND PUBLIC**

To consider the following motions that:

1. Under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as described in paragraphs 1-7 of Part 1 of Schedule 12A of the Act as amended by Local Government (Access to information) (Variation) Order 2006.
2. That Members consider the reasons for the following reports (if any) being in Part II and determine whether or not maintaining the exemption from disclosure of the information contained therein outweighs the public interest in disclosure.

**11. URGENT PART II BUSINESS**

To consider any Part II Business accepted by the Chair as urgent.

STEVENAGE BOROUGH COUNCIL

## PLANNING AND DEVELOPMENT COMMITTEE MINUTES

Date: Tuesday, 3 October 2023

Time: 6.30pm

Place: Council Chamber, Daneshill House, Danestrete, Stevenage

**Present:** Councillors: Michael Downing (Chair), Claire Parris (Vice Chair), Julie Ashley-Wren, Rob Broom, Forhad Chowdhury, Nazmin Chowdhury, Chris Howells, Graham Lawrence CC, Maureen McKay, Adam Mitchell CC, Graham Snell, Carolina Veres and Anne Wells

**Start / End Time:** Start Time: 6.30pm  
End Time: 8.49pm

### 1 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillor Ellie Plater.

Councillor Claire Parris declared an interest in relation to Item 9 and 10 due to her being a Ward Councillor in St Nicholas.

### 2 **MINUTES - 18 JULY 2023 AND 8 AUGUST 2023**

It was **RESOLVED:** That the Minutes of the Meeting of the Committee held on 18 July 2023 and 8 August 2023 be approved as a true record of the proceedings and be signed by the Chair.

The Assistant Director (Planning & Regulatory) gave an update on a question raised at the recent Council meeting in relation to consultation on small land sales. He noted that the Portfolio Holder for Environment and Performance, Councillor Simon Speller was also in attendance. He confirmed with Members whether they had concerns surrounding the amount of people being consulted or the time at which Councillors were engaged with. Councillors agreed that it was important to engage with local Members and residents as Ward Councillors were not always aware when pieces of land were being sold, and residents or neighbours weren't aware until it happened.

### 3 **23/00066/FP - LAND TO THE REAR OF 48, 49, AND 50 CONIFER WALK, STEVENAGE**

The Committee considered a report in respect of application 23/00066/FP seeking the erection of one 1-bed and one 2-bed dwelling houses and provision of publicly accessible open space.

The Senior Planning Officer presented photos of the site location and site layout.

The application sought to build two houses with the open space being retained a publicly accessible privately owned open space. There would be a one-bed house at the top of the site and a two-bed house at the bottom. The trees displaced would be replanted as part of the landscape strategy. There would also be hedgerow replaced and extended to enclose the site but would allow site access.

The Chair introduced Mr Paul Raymond, an objector, to address the Committee.

Mr Raymond, a resident of Conifer Walk, expressed issues with the application. Firstly, it was his view that the development would have a negative effect on the wildlife and residents. The small area of land was used regularly with children playing and people walking their dogs. Established conifer trees were also being removed. Secondly, as a neighbour to the proposed development, the boundary of his home was 1m away from the new house. He believed there would be a significant loss of light into his home.

The Chair thanked Mr Raymond for his contribution to the meeting.

The Senior Planning Officer informed Members that the application did not meet policy H05 as it was not previously developed or an urban site, however, it met policy H09 as it was supplying smaller dwellings. The development would contribute to the housing supply and would have an economic benefit during construction. She reminded Members that the land was privately owned and was publicly accessible private land, not public open space. Conditions could be imposed in terms of the access to the open space, that it must still be publicly accessible and who would conduct landscaping and maintenance, but they could not force the developer to do this.

Conifer Walk had no uniformity in terms of size, design, or materials, so the properties would be constructed in line with the elevation of the other properties. The one-bed would have a steep garden, but this was similar to other properties in the area due to the topography. She noted there would be some overlooking but this would not be different to semi-detached or terraced buildings. The separation distances all meet or exceed the minimum requirements set out in the design guide, and there would be no side windows. The Hertfordshire Highways Authority had agreed the proposal was acceptable.

There would be new trees planted and the applicant had agreed a financial contribution for a 3-for-1 tree planting and a 10% biodiversity net gain contribution. There had been suggestions for the trees to be planted in Chells Park. A more detailed design strategy had been asked for and this was determined under condition 17.

The Chair asked a question in relation to comments made by Hertfordshire Police. The Senior Planning Officer advised that the comments were regarding a blank gable wall that would potentially reduce opportunities for surveillance but was deemed acceptable as to install windows in the side elevations would result in overlooking and loss of privacy to neighbouring properties. The boundary treatments would be done via conditions, such as a recessed rear gate which created a small alleyway.

A Member asked whether the financial contribution in relation to the trees would be done before the development. It was advised that the financial contributions were done through the Section 106 legal agreement.

A Member raised concerns around the shape of roads and car parking situations. The Senior Planning Officer advised that the car parking provision was policy compliant, and the Committee could not refuse the application on parking grounds when it complied with the policies. In relation to the impact on highway safety, the Planning Officers had to take the advice of the statutory consultee which were the Herts Highways Authority who deemed it acceptable.

Another Member asked questions in relation to the loss of space and the owner of the land. It was advised that the land was owned by Moody Homes who built that area of Chells Manor. It was then sold at auction last year. The Assistant Director (Planning & Regulatory) stated that it was common to have private estates like this that were passed onto developers. Mr Raymond also added that the land didn't sell at auction the first time and was sold for cheaper a second time. He also added that the parking would make a difference and there would be off road parking lost in a very busy area.

A Member raised concerns surrounding the construction and the impacts on traffic and parking in the area. There were also questions around the loss of lighting. The Senior Planning Officer advised that there was a condition for a construction management plan which would be submitted to Hertfordshire County Council (HCC) which detailed when and how many construction vehicles there would be, the hours they work, etc. In terms of the lighting, the daylight and sunlight were all deemed to be acceptable and because the new properties were in line with current properties there wouldn't be any significant overshadowing.

A Member asked whether it could be specified that the properties could not be multiple occupancy. It was advised that properties could not be converted into multiple occupancy HMOs without planning permission. The Assistant Director (Planning & Regulatory) added that there was a planning library with all the planning policies that could be sent out to Members.

A Member asked a question about the 10% biodiversity contribution, and the conditions for maintenance. It was advised that the 10% biodiversity contribution was not on site, instead there would be a financial contribution to Chells Park. There were conditions in the report for a landscaping and maintenance strategy to be submitted.

A Member asked who would maintain the public access. It was advised that there was no legal mechanism to impose on private land owners, but there was a condition that it needed to be maintained as publicly accessible. The Assistant Director (Planning & Regulatory) advised that because the land wasn't required by this development there was nothing Stevenage Borough Council (SBC) could do if the developer wanted to withdraw access.

Another Member asked whether there were lots of drainage issues in the area. It

was also asked whether the design of the houses could be flipped so the garages were next to each other, and the garden moved so the open space would be wider. The Assistant Director (Planning & Regulatory) reminded Members that they had to consider what was before them. Officers challenge applicants and ask a lot of questions and this was the application that had been put forward. The developer was offering to keep the open space publicly accessible but did not have to do so and did not affect planning policy. Any issues with drainage were considered in the application.

It was **RESOLVED**: That the application 23/0006/FP be **GRANTED** planning permission subject to the applicant having first entered into a S106 legal agreement and the conditions and reasons set out in the report.

**Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 2021/72/03; 2021/72/01/A; 2021/72/02/A;
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
3. No development shall take place above slab level until a schedule and samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the local planning authority.
5. No demolition or construction work which is audible at the site boundary relating to this permission shall be carried out on any Sunday, Public or Bank Holiday nor at any other time, except between the hours of 07:30 and 18:00 on Mondays to Fridays and between the hours of 08:00 and 13:00 on Saturdays.
6. Prior to the first occupation of the dwellings hereby permitted the parking provision, access and visibility splays as shown on approved plan 2021/72/02/A, shall be constructed, hardsurfaced and made ready for use. Any new areas of hardstanding created, or existing areas which are replaced, shall be constructed in a porous material or provision shall be made for a sustainable urban drainage system (SuDS) to be built into the hardsurfaced areas. Once provided the parking facilities shall be retained in that form and thereafter be used for the parking of vehicles only.
7. Prior to the occupation of the dwellings hereby permitted, the parking spaces shown on approved plan 2021/72/02/A shall be provided with the underlying infrastructure for connection to the electricity network to enable them to be served by an electric vehicle charging point.

8. No development shall take place above slab level until details of measures to address adaptation to climate change have been submitted to and approved in writing by the Local Planning Authority. These measures shall then be implemented and permanently maintained in accordance with the approved details.
9. Prior to the first occupation of the dwellings hereby permitted, the cycle storage as shown on plan 2021/72/02/A shall be implemented accordingly. The cycle storage shall be retained and maintained accordingly during the lifetime of the development.
10. Prior to the first occupation of the dwellings hereby permitted, the general waste and recycling storage associated with the development shall be implemented in accordance with the details as specified on plan number 2021/72/02/A.
11. All planting, seeding and turfing shall be carried out in the first planting and seeding seasons following the first use of the site or the completion of the development whichever is the sooner.
12. Any trees or plants comprised within the approved plans which within a period of five years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.
13. All areas of hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird nesting season cannot be reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest
14. No development shall take place above slab level until there has been submitted to and approved by the Local Planning Authority a scheme of soft and hard landscaping and details of the treatment of all hard surfaces. The scheme shall include details of all existing trees and hedgerows on the land and details showing all trees to be removed, or retained, together with details of all new planting to take place including species, size and method of planting.
15. No development shall take place above slab level until a detailed scheme of the open space provision, management and maintenance of, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location, dimensions/size and layout of the open space, its regular maintenance of, and how the space will be managed to ensure its continued availability to the public. The open space shall thereafter be provided and maintained in full accordance with the approved details.
16. The area of open space as identified on the approved Site Location Plan and 2021/72/02/A and in accordance with condition 15 shall be used only for the provision of publicly available open space and for no other means, at any time.
17. Prior to first occupation of the development hereby permitted, a landscape management plan, including long term design objectives, management

responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

18. Notwithstanding the details shown in this application the treatment of all boundaries including details of any walls, fences, gates or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved boundary treatments shall be completed before the use hereby permitted is commenced or before the building(s) is occupied.
19. No development shall take place (including demolition and site clearance) until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority, including elements of the CLOCS standards as set out in the Highway Authority's Construction Management template. Thereafter, the construction of the development shall only be carried out in accordance with the approved plan. The Construction Management Plan shall include details of:
  - a) Construction vehicle numbers, type, routing;
  - b) Access arrangements to the site;
  - c) Traffic management requirements;
  - d) Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
  - e) Siting and details of wheel washing facilities;
  - f) Cleaning of site entrances, site tracks and the adjacent public highway;
  - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
  - h) Provision of sufficient on-site parking prior to commencement of construction activities;
  - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
  - j) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
  - k) Demolition and construction works between the hours of 0730 and 1800 on Mondays to Fridays and between the hours of 0800 and 1300 on Saturdays only (These times relate to works which are audible at the boundary)
  - l) hours of construction operations including times of deliveries and removal of waste;
20. Notwithstanding the provisions of Classes A and B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting this Order) no extensions or loft conversions including dormer windows / roof extensions shall be constructed on the dwelling hereby approved unless permission is granted on an application made to the Local Planning Authority.
21. The parking and garaging facilities shown on drawings 2021/72/01-A and 2021/72-02A shall be retained in that form and kept available for those purposes for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

4      **22/00838/FPM - LAND TO THE WEST OF NORTH ROAD**

The Committee considered a report in respect of application 22/00838/FPM seeking



a Section 73 application to permission reference: 21/00529/FPM – amendments to condition 1 (approved plans), condition 2 (timing), condition 3 (construction management plan), condition 5 (drainage strategy), condition 6 (drainage management and maintenance), condition 7 (travel planning), condition 8 (hydrants), condition 9 (acoustic fence), condition 12 (materials), condition 14 (external lighting), condition 15 (access), condition 16 (service yards and car park), condition 17 (bin storage), condition 18 (electric vehicle charging), condition 20 (landscaping drawings), condition 22 (hard surfacing) and conditions 27 & 28 (unexpected contamination).

The Principal Planning Officer informed Members that the original application for three warehouse buildings with access, parking, and landscaping was granted planning permission in 2022 and construction was currently underway. Due to the site proximity to the Cygnet Hospital, it was established through the original planning permission that an acoustic fence along the boundary was needed.

The approved layout could not be built as the original flood risk assessment did not consider the acoustic fence would have on floodwater as an impermeable barrier across the flood plain. The established ground conditions were also not suitable for ground infiltration and so changes needed to be made to the scheme to reduce the flood risk. There were also some other minor changes. These amendments included:

- Maintain the 3-metre easement between the brook and the development site.
- Change the design of the acoustic fence to have 1m gaps at the base to allow flood water through.
- Some minor amendments to the site levels but the buildings remained unchanged.
- Unit C being moved slightly to allow for the easement.
- Remove the trees under the pylon.
- 1.2m high acoustic fence along the spine road

The Committee was informed that there were also temporary changes to the approved access. Some parking had to be relocated and there was a reduction in the width of the cycleway. The approved shared signalised access with the housing site opposite was not ready to be built as the housing is coming forward at a slower timescale than the employment site. This had impacted the application site, so they submitted a temporary access proposal for 18 months to 2 years where the southern access was widened as a priority T junction with the provision of a pedestrian refuge.

The Chair asked a question in relation to the approved access. The Principal Planning Officer advised that the approved access was linked with the permanent access with the housing development to the north. This had planning permission but was currently going through the Section 278 process.

Some Members asked why the flood risk was reassessed and the issue was only discovered after building started. The Principal Planning Officer advised that the original assessment took into account the acoustic fence but didn't assess what a

continuous permanent barrier would do and where the water would go. The initial flood risk was agreed as recommended. The original drainage strategy relied on the site being able to infiltrate water, however following permission testing was carried out and this was not viable.

Members noted that there had been amendments to 18 separate conditions, and they did not want to set a precedence that applications could come back to be amended after approval, decisions should be final. However, they acknowledged that there were exceptional circumstances in this case.

Some Members raised concerns that there was a lot of pressure on the Brook with surface run off and whether there was a permanent lagoon to collect drainage water. The Principal Planning Officer advised that some of the water would be captured in the swale, some would be infiltrated, and some would be runoff into the Brook. The applicant seeking to discharge the original drainage condition triggered the need for the S73 application, and the developer had submitted up-to-date modelling to show it would work.

A Member asked whether a roundabout could be put on the junction rather than traffic lights. The Assistant Director (Planning & Regulatory) advised that the new junction would allow traffic to flow north/south but would also allow for the new traffic from the development site and the application. They would most likely be automated or responsive traffic signals. There was a delay in the approved junction as they were designing the road north of the site and the current HCC active travel works on North Road.

Another Member asked whether there was adequate drainage on the development site across the road. It was advised that the housing development application came to the Committee after this application, so this was considered. The drainage plan for this application would be coming back to the Committee at a later date.

A Member asked whether the trees under the pylon were being removed and was advised that they were being replanted.

It was **RESOLVED**: That the application 22/00838/FPM be **GRANTED** planning permission subject to the conditions and reasons set out in the report, with any amendments to the conditions listed in this report be delegated to the Assistant Director of Planning and Regulation.

### **Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 4594-CA-00-00-DR-A-00060; 4594-CA-00-00-DR-A-00001; M1548-BWM-ZA-01-DR-L-100020-REV K; M1548-BWM-ZA-01-DR-L-100021-REV K; M1548-BWM-ZA-01-DR-L-100022-REV K; M1548-BWM-ZA-01-DR-L-100023-REV K; M1548-BWM-ZA-01-DR-L-100024-REV K; 20-024-SK-EX-099 P1; 4594-CA-00-00-DR-A-00061\_PL6; M1548-CWA-ZAXX-DR-A-200015\_PL1; M1548-CWA-ZB-XX-DR-A-200025\_PL1; M1548-CWA-ZC-XX-DR-A-200035\_PL1; 4594-CA-00-00-DR-A-00066\_PL2; M1548-CWA-ZB-00-DR-A-200020\_PL1; M1548-CWA-ZC-00-DR-A-200030\_PL1; M1548-CWA-ZA-00-DR-A-200010\_PL1; M1548-CWA-ZA-RF-DR-A-270010\_PL1; M1548-CWA-ZB-RF-DR-A-270020\_PL1; M1548-CWA-

ZCRF-DR-A-270030\_PL1; M1548-CWA-ZA-ZZ-DR-A-220010\_PL1; M1548-CWA-ZA-ZZ-DR-A220020\_PL1; M1548-CWA-ZC-ZZ-DR-A-220030\_PL1; 4594-CA-00-XX-DR-A-00350\_PL3; M1548-CWA-XX-XX-DR-A-900002\_PL3; M1548-CWA-ZA-ZZ-DR-A-200011\_PL1; M1548-CWA-ZB-ZZ-DR-A-200021\_PL1; M1548-CWA-ZC-ZZ-DR-A-200031\_PL1; M1548-CWA-ZAZZ-DR-A-210011\_PL1; 4594-CA-00-ZZ-DR-A-00151\_PL2; M1548-CWA-ZB-ZZ-DR-A-210021\_PL1; 4594-CA-00-ZZ-DR-A-00156\_PL2; M1548-CWA-ZC-ZZ-DR-A-210031\_PL1; M1548-HYD-XX-XX-DR-C-900001\_C08; M1548-HYD-XX-XX-DR-C-920002\_C05; M1548-HYD-XX-XX-DR-C-900003\_C07; M1548-HYD-XX-XX-DR-C-900004\_C05; M1548-HYD-XXXX-DR-C-900005\_C04

2. The development hereby approved shall be constructed in accordance with the Construction Management Plan (CMP) approved under condition discharge application reference 22/00292/COND.
3. The development permitted by this planning permission shall be carried out in accordance with the approved Site Specific Flood Risk Assessment prepared by Sweco Consulting Engineers Ltd reference 66202061-SWE-ZZ\_XX-RP-C-0001 Revision 3, dated 28 July 2021, the Surface Water Drainage Strategy and Water Quality Treatment drawing number 66202061-SWE-ZZXX-DR-C-9020 Revision P02 dated 09 September 2021 prepared by Sweco Consulting Engineers Ltd, and the following mitigation measures detailed within the FRA:
  - a) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off during the 1 in 100 year event plus 40% for climate change event.
  - b) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event in a minimum of 2914.80 m<sup>3</sup> (or such storage volume agreed with the LLFA) of total storage volume impermeable paving, infiltration basins, pond, swales and geocellular tanks.
  - c) Discharge of surface water from the private drain to ground via infiltration.The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing /phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.
4. No above ground works shall take place until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including 1 in 100 year+ climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
  - a) Provision of infiltration tests to BRE Digest 365 standards at the exact locations and depths of all proposed infiltration features.
  - b) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
  - c) Full, detailed drawings of all works proposed to the ordinary watercourse Ash Brook including any realignment, reprofiling and regrading, etc.
  - d) Provision of robust SuDS management and treatment.
  - e) Relocation of surface water pipes from under buildings.
  - f) Final detailed post-development network calculations for all storm events up

to and including the 1 in 100 year + 40% climate change storm with half drain down times no greater than 24 hours. The calculation should consider the worst case infiltration rates.

- g) Exceedance flow routes for storm events greater than the 1 in 100 year + 40% climate change storm.
- h) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 5. Upon completion of the drainage works for each unit in accordance with the timing, phasing arrangements, a management and maintenance plan for SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Provision of complete set of as built drawings for site drainage.
  - b) Maintenance and operational activities.
  - c) Arrangements for adoption and any other measures to secure the operations of the scheme throughout its lifetime.

Details of the complete site wide as built drawings for site drainage shall be provided and approved prior to the first occupation of the final unit.

- 6. Prior to occupation of Units A and C, an updated Travel Plan(s) shall be submitted to and approved in writing by the Local Planning Authority to take account of individual occupiers of the units as necessary. No part of Units A and C shall be occupied until implementation of the approved Travel Plan. Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied. The measures within the Travel Plan for Unit B approved under application reference: 23/00203/COND shall be permanently maintained in accordance with the approved details.
- 7. Prior to the first occupation of the development hereby permitted, the details of water supplies and fire hydrants as shown on drawing DS0039972-01 Rev C1 shall be installed and retained in accordance with said drawing.
- 8. The acoustic fencing to be installed will be as shown in the Sharps Redmore Technical Note 2 (Revision A) (dated 11 May 2023) and architectural layout 4594-CA-00-00-DR-A-00061\_PL6. The fence must be effectively installed, to perform as stated within the Sharps Redmore Technical Note 2 (Revision A) (dated 11 May 2023) and shall be retained in accordance with those details thereafter.
- 9. Prior to first use of each static plant or machinery, a scheme shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate that the cumulative sound rating level of all fixed plant within the Development shall not exceed the current typical background sound levels at any time at the nearby noise sensitive receptors as specified in Table 14 Target Sound Criteria, of Report reference 66202764-SWE-ZZ-XX-RP-YA-0001 Revision C02. All plant, machinery and equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that noise resulting from its operation shall not exceed the existing background level inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics when measured or calculated according to the provisions of BS4142:2014+A 2019.
- 10. Prior to the first occupation / use of individual units within the development a plan

agreeing the appropriate Servicing and Delivery arrangements for the each unit shall be submitted to and approved in writing by the Local Planning Authority. Subsequent occupiers of the building are required to also update the Servicing and Delivery Plan for their unit.

11. The buildings hereby approved shall be constructed in accordance with the materials and finishes as set out in Drawing numbers: M1548-CWA-ZC-ZZ-DR-A-220030 Rev PL1, M1548-CWA-ZA-ZZ-DR-A-220010 Rev PL1 and M1548-CWA-ZB-ZZ-DR-A-220020 Rev PL1 to the satisfaction of and unless otherwise agreed in writing by the Local Planning Authority.
12. No site clearance or construction work relating to this permission shall be carried out on any Sunday, Public or Bank Holiday nor at any other time, except between the hours of 0730 and 1800 on Mondays to Fridays and between the hours of 0800 and 1300 on Saturdays, unless otherwise agreed in writing by the Local Planning Authority. These times apply to work which is audible at the site boundary.
13. The development hereby approved shall be carried out in accordance with the External LED Lighting Assessment Report July 2021 Revision P4 and associated drawing number 20-024-SK-EX-099 P1 External Lighting Layout, unless otherwise agreed in writing by the Local Planning Authority. No alterations or changes to the approved lighting shall be made without written agreement from the Local Planning Authority, following submission of further details.
14. Prior to the first occupation of the development hereby permitted the vehicular access from North Road shall be provided as shown on drawing 21-T020-15 Rev D in Appendix A1 of the Icení Projects Technical Note dated 11 September 2023. The access on Drawing number 4594-CA-00-00-DR-A-00061 PL6 shall be fully implemented within two years of the first occupation of the development. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
15. Prior to the first occupation of each unit hereby permitted the service yards and car parking areas for each unit as detailed on Drawing number 4594-CA-00-00-DR-A-00061\_PL6 shall be surfaced and marked out or completed as applicable, in accordance with the approved plan and thereafter retained for the sole use of servicing and parking for the development hereby permitted.
16. Prior to the first occupation of each unit hereby permitted the secure and covered cycle parking stores and bin storage areas as detailed on Drawing numbers 4594-CA-00-00-DR-A-00061\_PL6; M1548-CWA-ZA-XX-DR-A-200015\_PL1; M1548-CWA-ZB-XX-DR-A-200025\_PL1; M1548-CWA-ZC-XX-DR-A-200035\_PL1 and 4594-CA-00-XX-DR-A-00350\_PL3 shall be fully completed for that unit and ready for use in accordance with the approved plan and thereafter retained for the sole use of cycle parking and bin storage for the development hereby permitted.
17. Prior to the first occupation of each unit hereby permitted the passive infrastructure and active Electric Vehicle Charging Points (EVCP) shall be installed and ready for use, in accordance with the approved plan Drawing Number 4594-CA-00-00-DR-A-00061\_PL6 and thereafter retained for the sole use of electric car charging for the development hereby permitted.
18. The development hereby approved shall be constructed in accordance with the

measures to address adaptation to climate change as laid out in the Design and Access Statement to include the following:

Passive design measures –

- a) Efficient building envelope with enhanced U-values;
- b) Enhanced air permeability to reduce heating demand;
- c) Glazed facades to provide natural daylighting and reduce reliance on artificial lighting;
- d) Balanced g-value for translucent elements to ensure optimised internal conditions.

Active design measures –

- e) High efficiency mechanical ventilation heat recovery (MVHR) systems to serve office areas;
- f) High efficiency LED lighting;
- g) Passive infrared (PIR) presence detection and daylight dimming control for lighting;
- h) Solar Voltaic Roof Panels

These measures shall then be permanently maintained in accordance with the approved details.

19. The development shall be carried out in accordance with the scheme of soft and hard landscaping, including all hard surfacing, rain garden features, retained, felled and new trees and shrubs as detailed on Drawing numbers:  
M1548-BWM-ZA-01-DR-L-100020-REV K, M1548-BWM-ZA-01-DR-L-100021-REV K, M1548-BWM-ZA-01-DR-L-100022-REV K, M1548-BWM-ZA-01-DR-L-100023-REV K, M1548-BWM-ZA-01-DR-L-100024-REV K.
20. All planting, seeding and turfing comprised in the approved landscaping details as specified in condition 19 of this approval shall be carried out in the first planting and seeding seasons following the first occupation of the development hereby permitted or, the completion of the approved development whichever is the sooner.
21. All hard surfacing for each unit comprised in the approved landscaping details as specified in condition 19 of this approval shall be carried out prior to the first occupation of each unit hereby permitted. All hard landscaping across the Site as shown in the approved landscaping details in condition 19 shall be fully complete prior to the first occupation of the final unit.
22. Any trees or plants comprised within the scheme of landscaping, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.
23. No tree shown retained on the approved plans, or subsequently approved landscaping scheme, shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped within five years of the completion of development without the written approval of the Local Planning Authority.
24. All areas of hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March – August inclusive) or if clearance during the bird nesting season cannot be reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that

may disturb active nests shall proceed until all young have fledged the nest.

25. Following removal of the identified trees in the Arboricultural Impact Assessment (AIA) and from the date of this permission, including any site clearance, all retained trees identified in the AIA shall be protected in accordance with the details as approved in the AIA and detailed on the Tree Protection Plan 10918 TPP 01 Rev C contained therein. The protection measures shall be maintained until the conclusion of all site and building operations remain in place, unless otherwise agreed by the Local Planning Authority
26. In the event that contamination is found at any time when carrying out the approved development that was not previously identified in the original submission (21/00529/FPM) and the condition discharge application (22/00380/COND) must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 27 which is subject to the approval of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 27.
27. In the event that contamination is found at any time when carrying out the approved development that was not previously identified in the original submission (21/00529/FPM) and the condition discharge application (22/00380/COND), a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
28. In the event that contamination is found at any time when carrying out the approved development that was not previously identified in the original submission (21/00529/FPM) and the condition discharge application (22/00380/COND), as required under condition 26 the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.
29. Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987 (as amended), and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Orders revoking or re-enacting these Orders) this permission shall only permit the use of the premises as Class E(g)(iii), B2 and B8 and for no other uses or purposes whatsoever, including any uses or purposes within the same use Class.

The Committee considered a report in respect of application 23/00655/FPM seeking a variation of condition number 2 (approved plans) attaching to planning permission reference number 23/00239/FPM to alter the position of the stair and lift cores to ensure maximum travel distance for means of escape are improved.

The Principal Planning Officer informed the Committee that this application was an amendment for an approved scheme to comply with new fire safety regulations and was similar to a previous application for the same site that came to the Committee. The new regulations stated that buildings over 18m in height needed to have two stair and lift cores, which affected blocks 2, 5, and 7 in this development. There were no other changes other than the additional stair and lift cores.

The additional stair and lift cores couldn't be within the original space to keep the size of the flats the same so the blocks had to be extended and altered slightly but were similar to what had already been approved. Blocks 2 and 5 remained the same in length and height, but the depth of the buildings had increased but over 1m. Block 7 remained the same in depth and height, but the length had increase to 240m.

A Member asked whether the size of the flats would increase. It was advised that the stair and lift cores were just being added, there were no changes to the flat sizes.

Another Member asked why it was only three blocks and whether this could be done to all the blocks. It was advised that because they were over 18m high they were required by the new safety laws to include this. There was a similar amendment in May which added the stair and lift cores into the other blocks.

A Member asked whether there were solar panels and what solar gains meant. The Assistant Director (Planning & Regulatory) advised that they were unsure if solar panels were being added, but it was not a requirement if they didn't have it in their application before. Passive solar gain was the heat of the building from the sun or outside temperatures.

It was **RESOLVED**: That the application 23/00655/FPM be **GRANTED** planning permission subject to the conditions and reasons set out in the report.

**Conditions:**

1. The development hereby permitted shall begin not later than 3 years from the date of the appeal decision APP/K1935/W/20/3255692 whereby planning permission was granted on 15<sup>th</sup> July 2022.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 16-019 D – 050 C01; ICON-2-PS-200 – Site Plan; 502686-IWD-XX-XX-DR-A-2320\_P1 A3 - Proposed Site Elevations ICON-PS-1-100 - Proposed GA Plan - Level 00 – RevB; ICON-PS- 1-101 - Proposed GA Plan - Level 01, 03,05 – RevB; ICON-PS-1-102 - Proposed GA Plan - Level 02,04 – RevB; ICON-PS-1-103 - Proposed GA Plan - Level 06,08,10 – RevB; ICONPS- 1-104 - Proposed GA Plan - Level 07,09 – RevB; ICON-PS-1-105 - Proposed GA Plan - Level 11 – RevB; ICON-PS-1-106 - Proposed GA Plan - Level 12,14 – RevB; ICON-PS-1- 107 - Proposed GA Plans - Level 13,15 – RevB; 502686-IWD-B1-XX-DR-A-2310\_P2 A3 Elevations Sheet 1; 502686-IWD-



B1-XX-DR-A-2311\_P2 A3 Elevations Sheet 2; 502686-IWD-B1-XX-DR-A-2312\_P2 A3 Elevations Sheet 3; ICON-PS-2-100 - Proposed GA Plan - Level 00 – RevB; ICON-PS-2-101 - Proposed GA Plan - Level 01,03,05,07 – RevB; ICONPS- 2-102 - Proposed GA Plan - Level 02,04,06 – RevB; ICON-2-PS-2-103 – Proposed Elevations; ICON-PS-3-100 - Proposed GA Plan - Level 00 – RevB; ICON-PS-3-101 - Proposed GA Plan - Level 01,03,05,07,09 – RevB; ICON-PS-3-102 - Proposed GA Plan - Level 02,04,06,08,10 – RevB; ICON-PS-3-103 - Proposed GA Plan - Level 11 – RevB; ICON-PS-3-104 - Proposed GA Plan - Level 12 – RevB; 502686-IWD-B3-XX-DR-A-2310\_P2 A3 Block 3 - Elevations Sheet 1; 502686-IWD-B3-XX-DR-A-2311\_P2 A3 Block 3 – Elevations Sheet 2; 502686-IWD-B3-XX-DR-A-2312\_P2 A3 Block 3 - Elevations Sheet 3; ICON-PS-4-100 - Proposed GA Plan - Level 00 – RevB; ICON-PS-4-101 - Proposed GA Plan – Level 01,03,05,07,09 – RevB; ICON-PS-4-102 - Proposed GA Plan - Level 02,04,06,08,10 – RevB; ICON-PS-4-103 - Proposed GA Plan - Level 11 – RevB; ICON-PS-4-104 - Proposed GA Plan - Level 12 – RevB; 502686-IWD-B4-XX-DR-A-2310\_P3 A3 Elevations Sheet 1; 502686-IWD-B4-XX-DR-A-2311\_P3 A3 Elevations Sheet 2; 502686-IWD-B4-XX-DR-A-2312\_P3 A3 Elevations Sheet 3; ICON-2-PS-5-100 - Proposed GA Plan - Level 00; ICON-2-PS-5-101 - Proposed GA Plan - Level 01,03,05,07; ICON-2-PS-5-102 - Proposed GA Plan – Level 02,04,06,08; ICON-2-PS-5-103 - Proposed Elevations; ICON-PS-6-100 - Proposed GA Plan - Level 00 – RevB; ICON-PS-6-101 - Proposed GA Plan - Level 01,03,05 – RevB; ICON-PS-6- 102 - Proposed GA Plan - Level 02,04 – RevB; ICON-PS-6-103 - Proposed GA Plan – Level 06,08,10 – RevB; ICON-PS-6-104 - Proposed GA Plan - Level 07,09 – RevB; ICON-PS-6- 105 - Proposed GA Plan - Level 11 – RevB; ICON-PS-6-106 - Proposed GA Plan – Level 12,14 – RevB; ICON-PS-6-107 - Proposed GA Plans - Level 13,15 – RevB; 502686-IWD-B6- XX-DR-A-2310\_P3 A3 Elevations Sheet 1; 502686-IWD-B6-XX-DR-A-2311\_P3 A3 Elevations Sheet 2; 502686-IWD-B6-XX-DR-A-2312\_P3 A3 Elevations Sheet 3; ICON-2-PS- 7-100 - Proposed GA Plan - Level 00; ICON-2-PS-7-101 - Proposed GA Plan – Level 01,03,05; ICON-2-PS-7-102 - Proposed GA Plan - Level 02, 04; ICON-2-PS-7-103 - Proposed GA Plan - Level 06; ICON-2-PS-7-104 - Proposed GA Plan - Level 07; ICON-2- PS-7-105 - Proposed GA Plans - Level 08; ICON-2-PS-7-106 - Proposed Elevations.

3. Upon commencement of construction works the methods of construction and all associated mitigation measures as detailed in the approved Construction Method Statement (CMS) as submitted and approved under planning reference 23/00054/COND shall be strictly adhered too until conclusion of all site and building operations unless otherwise agreed in writing by the Local Planning Authority.
4. No development, excluding demolition and site clearance, shall commence until all trees within the development which are to be retained as identified in the Tree Protection Plan (Plan 67135-02, Appendix 4 of the Arboricultural Impact Assessment (AIA) dated 31/10/2018 reference 67135 (V2)) have been protected by fencing or other means of enclosure in accordance with Appendix 4 and 8 of the AIA. Tree protection measures shall be retained until conclusion of all site and building operations. Within the tree protection areas, there shall be no alterations to the ground level and they shall be kept clear of vehicles, materials, surplus soil, temporary buildings, plant and machinery
5. The surface water drainage strategy shall be carried out in accordance with drawing numbers 10336\_1602C2 and 10336\_1601C2 which shall be retained thereafter with the drainage strategy maintained in accordance with Appendix F of the Drainage Statement prepared by gta civil and transport (document

reference: 10336 dated 8 February 2023).

6. Prior to commencement of works above slab level, a scheme for protecting the proposed dwellings from noise from road, rail and air transport sources shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained thereafter.
7. Prior to commencement of works above slab level, samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
8. Prior to commencement of work above slab level, details of any external lighting, including the intensity of illumination and predicted light contours, shall be submitted to and approved in writing by the Local Planning Authority. Any external lighting shall accord with the approved details and be retained thereafter.
9. Prior to commencement of works above slab level, an energy strategy to achieve 65% carbon reduction against Part L of the Building Regulations 2013 when assessed using SAP10 emission factors shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and retained thereafter in accordance with the approved details of the energy strategy and in accordance with the water consumption targets contained within the Whitecode Design Associated Energy Strategy 10293-S-ENER-0001 Revision 5 dated 30 July 2019.
10. Prior to the commencement of works above slab level, details of the ramped access into the amenity garden to the south of block 7 shall be submitted to and approved in writing by the Local Planning Authority. The ramped access shall be carried out in accordance with the approved details prior to the first use of the amenity garden and be retained thereafter.
11. Prior to commencement of works above slab level, a detailed scheme of Secured by Design Section 2: Physical Security of the Home measure for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme prior to occupation of each block and be retained thereafter.
12. Notwithstanding condition 2 and the details of car and cycle parking shown on the submitted plans, no works shall take place until revised plans, including the details of any external cycle stores, showing the provision of 948 cycle parking spaces together with the details of their type and design have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be fully completed for each block or place and in accordance with the approved details before first occupation of that particular block or phase of the development and be retained thereafter.
13. Notwithstanding condition 2, details of the treatment of all boundaries, including details of any walls, fences, gates or other means of enclosure and timing of their delivery shall be submitted to and approved in writing by the Local Planning Authority prior to any landscaping works take place. The approved boundary treatments shall be completed in accordance with the approved details and be

retained thereafter. No part of the development shall be occupied until an Armco or similar barrier has been installed in positions where vehicles may be in a position to drive or roll onto the railway.

14. Prior to the first occupation of any dwelling within the development, written confirmation shall be provided to the Local Planning Authority that either:-
  - a) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
  - b) A housing and infrastructure phased plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place than in accordance with the agreed housing and infrastructure phasing plan.

15. Prior to first occupation of any dwelling within the development, details of a scheme to provide at least 20 bird and 30 bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the timing of provision. The development shall be carried out in accordance with the approved scheme and be retained thereafter.

16. Prior to first occupation of any dwelling within a block, the refuse and recycling stores for that block as shown on the approved plans shall be carried out in accordance with the approved details and be retained thereafter.

17. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme, including a programme for implementation, must be submitted to the Local Planning Authority and approved in writing. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted to the Local Planning Authority for approval.

6 **23/00393/FPM AND 23/00350/S106 - UNIT 7B, ROARING MEG RETAIL PARK**

The Committee considered a report in respect of application 23/00393/FPM and 23/00350/S106 seeking external alterations and insertion of a mezzanine floorspace and the variation of S106 agreement dated 4 December 2014.

The Principal Planning Officer informed Members that Sports Direct was looking to locate their main store and their fashion store USC from the town centre. As Sports Direct sells bulky goods and sports items, they could occupy the space without planning permission, however as they also want to include USC, this was not in line with the original bulky goods restriction for the retail park, so it came to Committee for permission. They were also seeking planning permission to increase the sales area with a new mezzanine floor which included minor changes to the glazing and cladding. These were separate applications that they were taking together but voting on separately. The applicant had also submitted a retail impact assessment which deemed that there was no impact on the vitality and viability of the town centre, there were no other suitable sites in the town centre, and it complied with the relevant retail policies.

A Member expressed concerns that this was a loss of trade for the town centre. It was advised that Sports Direct could occupy the unit without needing to vary the terms of the retail park. They had also completed a retail impact assessment and it wouldn't lead to an adverse impact on the town centre.

It was **RESOLVED**: That the applications 23/00393/FPM and 23/00350/S106 be **GRANTED** planning permission subject to the conditions and reasons set out in the report and the amended wording of Condition 3 set out in the Addendum Report, and that the modification of Obligation 5 of the Third Schedule of Section 106 Agreement dated 4 December 2014, as set out in Paragraph 9.1 of the report, be agreed.

**Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 2264-U7B-L01; 2264-U7B-X01; 2264-U7B-P01-A; 2264-U7B-P02-A; 2264-U7B-P03-A; 2264-U7B-X02-A
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
3. The range of goods to be sold from the development shall be confined to retail warehousing of comparison goods to exclude expressly the sale of all foodstuffs for consumption off the premises, clothes and footwear (other than specifically for the playing of sport), or other fashion goods. Notwithstanding, Unit 7B hereby permitted may also be used for the same of clothing and footwear from up to a maximum sales area of 446m<sup>2</sup> (net) and the sale of athleisure, and other clothing and footwear typically associated with a sports retailer. The extended range of goods may only be sold on the basis the floorspace is operated as a single unit.
4. Unit 7B hereby permitted, including any mezzanine floor, shall only operate as one unit with internal connections maintained, as indicated on drawing no. 2264-U7B-P01-A Proposed Ground Floor Plan.
5. The mezzanine floorspace hereby permitted shall at no time be utilised as an independent retail unit.

7 **23/00528/FPH - 115 HAYCROFT ROAD. STEVENAGE**

The Committee considered a report in respect of application 23/00528/FPH seeking a single storey front extension and construction of a driveway with associated dropped kerb.

The Senior Planning Officer informed Members that the applicant was related to a member of staff, so the application had to come to the Committee. There was a small hardstand to the front, which was similar to other properties in the area. The size was within acceptable limits and the materials would be a match to the property. The application would alleviate on street parking. HCC raised no concerns.

It was **RESOLVED**: That the application 23/00528/FPH be **GRANTED** planning permission subject to the conditions and reasons set out in the report.

### **Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 2333-P001; 2333-P002A;
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
3. The materials to be used in the construction of the external surfaces of the front extension hereby permitted shall match the materials used in the construction of the original dwelling to the satisfaction of the Local Planning Authority.
4. The proposed hardstanding shall be made of a porous material, or provision shall be made to direct surface water run-off water from the hardstanding to a permeable or porous area or surface within the curtilage of the dwellinghouse.

### **8 23/00621/CLED - 7 DOVE ROAD, STEVENAGE**

The Committee considered a report in respect of application 23/00621/CLED seeking a Certificate of Lawfulness for (existing development) for the enlargement and conversion of a garage into an annexe.

The Assistant Director (Planning & Regulatory) informed Members that Items 8, 9 and 10 were different to normal planning applications as they were not assessed on planning policies but were certificates of lawfulness and looked at whether they were within the criteria of the Town and Country Planning Act General Permitted Development Order (2015), (as amended).

The Senior Planning Officer informed Members that the application was a garage conversion which was slightly extended to the front. The applicant was also an employee of the Council. A bay window replaced the garage which had been turned into a bedroom. This was done in 2009.

Under Class A they had a right to undertake certain conversions, which garage conversions fell under, so they could convert it without planning permission. However, they needed planning permission for the extension. In accordance with planning legislation, after 4 years of no action a development could be deemed as acceptable and lawful due to the passage of time.

Some Members asked whether there would be more developments like this and why they don't just seek retrospective planning permission. It was advised that SBC didn't have the capacity to look at whether people have completed developments without planning permission, it was only looked at when people inform SBC. Building control issued a certificate, which are separate to the Council, and SBC were not notified. As it had been over 4 years a Certificate of Lawfulness was the equivalent to retrospective planning permission.

Another Member asked why it came to the Committee now. It was advised that the applicant was selling their house and the solicitors wanted proof of the conversion. Due to the passage of time SBC could issue a Certificate of Lawfulness.

It was **RESOLVED**: That the application 23/00621/CLED be **GRANTED** a certificate of lawfulness subject to the conditions set out in the report.

**Conditions:**

1. On the balance of probabilities, the evidence that has been provided has demonstrated that the enlargement and conversion of the garage at No. 7 Dove Road occurred more than 4 years ago. Therefore, for the purposes of S.171B of the Town and Country Planning Act 1990 it is considered that the enlargement and conversion of the garage is now lawful and exempt from enforcement action.

9 **23/00631/CLEU - 127 RIPON ROAD, STEVENAGE**

The Committee considered a report in respect of application 23/00631/CLEU seeking a Certificate of Lawfulness for (existing use) for the use of the property as a 6-bed House of Multiple Occupation (Use Class C4).

The Chair took Item 9 and Item 10 together, but Members voted separately.

The Senior Planning Officer informed Members that in 2015 the owner converted the house into a house of multiple occupancy (HMO) for up to 6 people. Permitted development rights allowed C3 developments to be converted into HMOs so at the time the owner did not need planning permission.

In 2020 an Article 4 direction was created to cover Stevenage Borough and removed permitted development rights to turn C3 properties into HMOs without planning permission. The applicant was seeking a Lawful Development Certificate to confirm that at the time of the creation of the HMO, planning permission was not required. They have submitted evidence to show they converted the property into an HMO before 2020. The Senior Planning Officer advised that Members could not be shown the evidence as it would breach GDPR laws.

There was a similar application which was taken to appeal, and SBC lost. If the conversion was done before the Article 4 then the Council must issue a lawful development certificate.

The Chair introduced Councillor Sandra Barr, Ward Councillor for St Nicholas, to address the Committee and speak in objection to both Item 9 and Item 10.

Cllr Barr acknowledged this was a formal decision on whether the existing properties proposed uses were lawful. These applications were unlike other planning applications as there were no consultations. A property must have a license to rent out a large HMO which was to 5 or more people who form one or more household and where some or all tenants share one bathroom and kitchen. These properties were once 4-bed homes and now had 7 bedrooms and a property of that size needed a lot of parking spaces in an already overcrowded cul-de-sac. If original planning permission was sought there would have been consultations and the concerns would have been met. She raised concerns of the rise of HMOs in St Nicholas and the shortage of larger, 4-bedroom family homes. She believed there should be further investigation into these properties.

The Chair thanked Cllr Barr for her contribution to the meeting.

The Senior Planning Officer reminded Members that at the time the property was converted, the owner didn't need planning permission so there was nothing the Council could do at the time. If they changed from C3 to C4 after 2020 they would need planning permission and it would have to be assessed. In terms of parking the requirement was 0.5 spaces per bedroom, not people. Ripon Road would require 3 spaces and York Road would require 4 spaces. Environmental Health would look at the number of occupants, not planners.

A Member asked why planning law couldn't be applied retrospectively. It was advised that when the properties were converted there was nothing that could stop it from happening. That's why the Article 4 was created so we could apply it now but not before.

Members asked questions in terms of the licenses for the properties and why they weren't investigated before. It was advised that in terms of Item 9 it was unclear whether they had a license as this wasn't necessary evidence. Item 10 had a license, but these were issued by Environmental Health. When the HMO licenses were first introduced in 2018, they were inundated with applications, but HMOs didn't need licenses before this. He advised that HMO licenses did not have anything to do with planning.

Members raised concerns around not being able to view the evidence. The Assistant Director (Planning & Regulatory) suggested that advice could be sought from the Monitoring Officer regarding this. It was advised that the evidence had been shared with a minimal amount of people and if it went to appeal would only be shown to a single inspector who would make a decision.

A Member asked why the applications had come to Committee and it was advised that both applications were called in by Cllr Barr.

Some Members asked what would happen if they refused and what the costs would be. It was advised that they could appeal, and SBC would lose as SBC had been directed by the planning inspectorate from a previous refusal. The Assistant Director (Planning & Regulatory) advised that any appellant could issue costs against SBC.

A Member suggested that when legal applications came to the Committee it would be useful to have a Monitoring Officer present.

It was **RESOLVED**: That the application 23/00631/CLEU be **DEFERRED** for the following reasons:

- To seek legal advice regarding the evidence submitted in relation to GDPR laws.
- To investigate whether the property had an HMO licence.

The Committee considered a report in respect of application 23/00618/CLEU seeking a Certificate of Lawfulness for (existing use) for the use of a property as a 7-bed House of Multiple Occupation (Use Class Sui-Generis).

The Principal Planning Officer informed Members that this application was for a large HMO and was slightly different from Item 9 as it was for more than 6 people and therefore was in a planning use class of its own. This application did not benefit from permitted rights and needed planning permission originally to become a large HMO. The applicant was seeking a lawful development certificate to determine if it had been operating as a large HMO for at least 10 or more consecutive years. Evidence had been submitted to prove it had been in use for more than 10 years which included:

- A statement of truth from the owner.
- A statement of truth from the builder who also handled the maintenance.
- Tenancy agreements which dated back to 2011.
- An HMO licence obtained in 2018.

The property was currently being used as a large house of multiple occupancy with 7 bedrooms. It was deemed that the evidence successfully demonstrated continuity in excess of 10 years and met the relevant tests. The Principal Planning Officer added that a certificate application for this property was refused earlier in the year due to a lack of evidence. The applicant had provided further evidence and on the basis of this additional evidence, it was considered to meet the test on the balance of probability.

The debate on this Item was considered with Item 9 above.

It was **RESOLVED**: That the application 23/00618/CLEU be **DEFERRED** for the following reasons:

- To seek a formal opinion from the Borough Solicitor regarding the evidence submitted in relation to GDPR laws.
- To investigate the evidence further, including in relation to the length of time the property had been used as an HMO.

## 11 **INFORMATION REPORT - DELEGATED DECISIONS**

It was **RESOLVED**: That the Committee note the information report.

## 12 **INFORMATION REPORT - APPEALS/CALLED IN APPLICATIONS**

A Member asked for more information on an appeal lost due to an enforcement document being written incorrectly. The Assistant Director (Planning & Regulatory) advised that this application would have to come back but the enforcement document would have to be more specific. The Senior Planning Officer advised that the application was brought to the Committee asking for permission for an enforcement notice for a car port and it was insisted to replace the trees. The enforcement wasn't correct for this, and the Committee could not ask for mitigation measure for things outside of the specific site. The wording of the enforcement



notice was too ambiguous, and the appellant could not be legally sure what was being asked from him and so was deemed null and void.

Another Member asked for an update on 134 Marymead Drive. The Senior Planning Officer advised that this was an enforcement that the Development Manager was dealing with. A site visit had been completed on the 15<sup>th</sup> August 2023 and they were waiting for the planning inspectorate to come back as to whether the enforcement notice was valid. The Assistant Director (Planning & Regulatory) advised that the legal challenge was successful in terms of the signage and environmental health legislation. There was also an injunction against him.

It was **RESOLVED**: That the Committee note the information report.

13 **URGENT PART I BUSINESS**

There was none.

14 **EXCLUSION OF THE PRESS AND PUBLIC**

Not required.

15 **URGENT PART II BUSINESS**

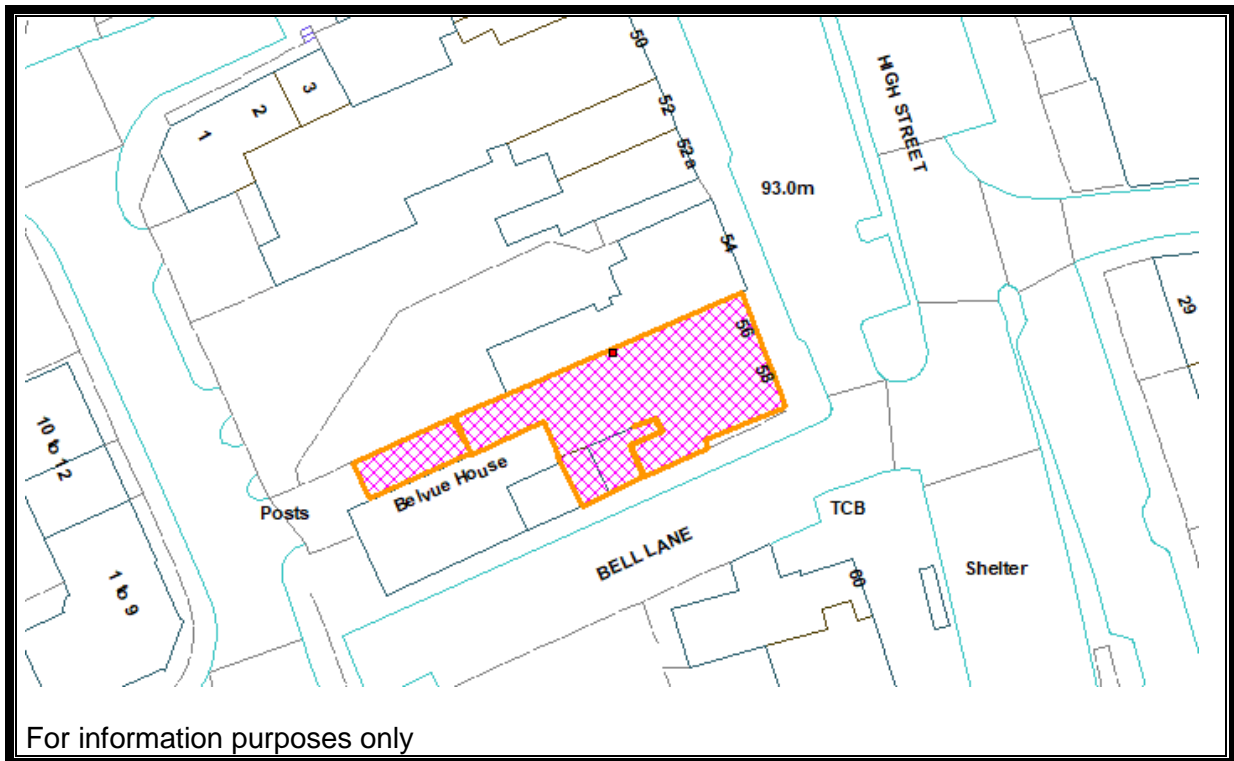
There was none.

**CHAIR**

This page is intentionally left blank

<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>31 October 2023</b>	
<b>Author:</b>	<b>Linda Sparrow</b>	07931 863551
<b>Lead Officer:</b>	<b>Zayd Al-Jawad</b>	01438 245257
<b>Contact Officer:</b>	<b>Linda Sparrow</b>	07931 863551

Application No :	23/00482/FP
Location :	Cinnabar, 56-58 High Street, Stevenage
Proposal :	Change of use of parking bays to facilitate construction of outdoor seating area associated with 56-58 High street
Drawing Nos.:	RL3883-02; 457-09-Rev B;
Applicant :	Russell Linard
Date Valid:	14 July 2023
Recommendation :	GRANT PLANNING PERMISSION



## 1. SITE DESCRIPTION

- 1.1 The site comprises an unlisted building, in use as a bar/restaurant known as Cinnabar, on the western side of the Old Town High Street within the Old Town High Street Conservation Area. This area of the High Street is characterised by public houses, restaurants, bars and retail uses. There is likely some residential use above some of the High Street premises and there are some residential blocks of flats to the rear of the High Street along Primett Road. Adjacent to the southern flank elevation of the building is the small no-through road of Bell Lane.

- 1.2 To the eastern frontage of the site is a small parking area which serves the retail premises of Nos. 44-58. This area is separated from the High Street by a narrow footpath/kerb on the eastern side.
- 1.3 The High Street in general is served by parking bays along both sides of the highway. The bays allow for parking of vehicles perpendicular to the footpath and in places slope upwards from the carriageway to the footway. In the case of the application site, the parking bays in question run along the southern side elevation of the application property.
- 1.4 The Old Town High Street Conservation Area has a distinctive historic character and contains many Listed Buildings. Pavements and kerbs are typically finished with traditional materials, including small conservation kerb stones (tegular blocks). Bell Lane is a narrow road which allows for parking on both sides and traffic to pass through the centre and has the rear access yard for The Mulberry Tree public house on the southern side. This road also provides the access to the parking area to the front of the application site.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 99/00117/AD Externally Illuminated Shop Sign and Awning Sign. Withdrawn 24.06.2003.
- 2.2 05/00235/FP Change of use from A1 to A3. Approved 08.07.2005.
- 2.3 05/00501/FP Internal and external alterations including new shopfront to facilitate change of use from A1(Retail) to A3 (Restaurant). New 2.5m rear boundary fence. Approved 15.12.2005.
- 2.4 05/00615/FP Change of use of ground floor from A1 (Retail) to A4 (Drinking Establishment). Approved 08.02.2006.
- 2.5 09/00196/AD Display of 1no. non-illuminated canopy sign. Approved 14.08.2009.
- 2.6 14/00467/FP Change of use of Belvue House from B1 (Offices) to C1 (Hotel) and new extension to link with Cinnabar Café. Approved 24.10.2014.
- 2.7 19/00741/FP Proposed replacement external door sets. Approved 16.03.2020.
- 2.8 22/00552/FP Change of use of parking bays on Bell Lane frontage to use as ancillary seating area and construction of associated seating area structure, together with the installation of 3no. awnings. Withdrawn 18.07.2022.

## **3. THE CURRENT APPLICATION**

- 3.1 The proposed works would see the parking bays immediately adjacent to the southern flank elevation of Cinnabar being closed, and the road level being raised up to meet the existing footway level. The extent of the closure would be 22m in length and 2.4m in width, which when taken with the existing footpath (2.1m wide) would provide a new widened footpath area of 4.5m wide. The area is to be used for informal seating comprising tables and chairs. The boundary of the area adjacent to the vehicular highway would be bounded by removable bollards which would also hold low level fabric banner signs no more than 0.6m in height.
- 3.2 Additionally, a small area of highway to the front of the premises would be filled in to widen the existing footpath by approximately 0.67m for a length of approximately 6m.
- 3.3 The applicant engaged in separate pre-application discussions with Herts County Council (HCC) as Highways Authority prior to the submission of the planning application. HCC advised at that stage that the built up area of footpath along the south of the application site should be

constructed in tarmac whilst the smaller built up area to the eastern frontage of the site should be constructed in Tegula blocks to match existing.

- 3.4 It is emphasised that the application is only seeking permission for the change of use of the parking spaces to highway forecourt for the use of outside seating. The provision of the outside seating itself is assessed and controlled by the Local Highway Authority under the relevant Pavement Licence. The following assessment does not therefore take account of the actual proposed seating arrangements but only the use of the land for this purpose more generally.
- 3.1 The application comes before the Planning and Development Committee as it has been called-in by Councillor Rossati. The Councillor called in the application due to the potential impact on neighbouring properties, car parking and highway safety.

## **4. PUBLIC REPRESENTATIONS**

4.1 Following publicity of the application via letters, a site notice and press notice, public representations were received as follows:

4.1.1 There were 53 letters received in support of the application. A summary of their key points follows below:

- This is necessary and needed;
- Will provide a safe and enhanced experience for customers;
- More effective use of the area;
- Excellent idea and long overdue;
- Great for socialising and community spirit to engage with others within and outside the seating area;
- Will be very popular;
- Look forward to using it;
- Most people working or socialising in the High Street do not come via car so no impact on majority of users;
- Will improve service provided by Cinnabar and increase their customer base therefore increasing people into the High Street generally;
- The outside areas at the southern end of High Street have greatly improved that area so I think this application will improve the northern end's offerings;
- Great for entertaining clients for work;
- Will look good and improve the visual appearance of the area;
- Staff and food are excellent, this will encourage more people to visit;
- Will calm traffic in the area;
- Great for warmer evenings to enjoy a coffee and take in the ambience of the High Street;
- Will bring attractive café culture to the High Street.

4.1.2 There were 73 letters received objecting to the application. A summary of their points follows below:

- Will worsen parking issues;
- Not enough parking outside Tesco as it is;
- Longer free parking in Primett Road would help;
- Access to shops will be harder for disabled people as won't be able to park outside of the shops;
- How will this affect traffic flows?
- Will they pay additional business rates for enlarged area and will they pay rent on it?
- Yet more parking spaces being removed;
- People will be forced to park on double yellow lines as nowhere else to park;
- Pedestrians will struggle to navigate around tables;

- Takes valuable public space for what will be occasional and seasonal use;
- The parking spaces are public property and should not be taken over by a private business;
- You cannot favour hospitality uses over retail, office, services etc
- British weather is not conducive to outdoor eating and drinking;
- Have SBC asked any other business if they have been impacted by the temporary use?
- Businesses will collapse if there is no parking, just look at Hoddesden High Street;
- Will not preserve the conservation area;
- Only one disabled parking space in the vicinity;
- Primett Road is not an alternative for elderly, disabled or wheelchair user as its too far away;
- Canopies are not in keeping with the area;
- Less revenue for Traffic wardens;
- Permit parking in surrounding roads and removal of spaces on High Street makes it hard for staff of shops to be able to park without paying large daily car park fees;
- Will infringe on the Charter Fair unless it is fully dismantlable;
- Why favour one company to the detriment of all other businesses;
- HCC have a scheme proposed that will drastically harm the High Street and this application will not help the situation;
- Will set a precedence for more parking to be lost to outdoor seating areas;
- This area is used by the Charter Fair to house their generating equipment, and this must not be impeded;
- They've managed this long without outdoor seating so they can continue to go without;
- Nobody in Stevenage wants this;
- Eating outside next to parking spaces will be terrible for health from the pollution and exhaust fumes;
- How does a business just acquire land they don't own and put seating on it?
- Prioritising pedestrians and cyclists over cars will be disastrous to the High Street;
- Put in more electric vehicle charging points;

4.2 Full copies of the representations received can be viewed on the Council's website.

## 5. CONSULTATIONS

### 5.1 SBC Engineering Department

5.1.1 As local parking authority, we have supported the applicant for the last two summer seasons by providing temporary barriers on Bell Lane for an outside seating area. The loss of parking during these periods has not cause problems in the area and we remain supportive of permanently extending the footway width in this area. The change of use would not remove the highway status of the land and it would therefore remain highways land, maintainable at public expense and any tables and chairs would need a licence. New parking restrictions would be required along the seating area and the applicant will be required to cover the Council's costs in making the Traffic Regulation Order.

5.1.2 Following comments sent to Herts County Council by the Eastern Counties Section of the Charter Fair, the engineering department confirmed that the Showman's Guild does not have any rights to specifically occupy the parking bays in question, only a general right to hold a fair in the High Street. As there are to be no permanent structures on the land then there should be no issues caused to the Charter Fair.

### 5.2 Herts County Council as Highways Authority

- 5.2.1 Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.
- 5.2.2 A plan was first submitted in June 2023 which did not quite match up with the pre-app discussions the applicant had with us a few months earlier. The Highway Authority queried this with the applicant, and they have now submitted a revised plan which shows tapered edges either side of the proposed footway build-out. Removable bollards are proposed along the new footway edge (set 0.5m back from the kerb, with reflective bandings). Canvas sheets are shown to be attached between these bollards, with a maximum height of 600mm. This ensures that pedestrians crossing over Bell Lane will have a clear view of approaching vehicles and vice versa. The proposed tables at the two ends of the build out have been reduced down from double tables to single to ensure the new footway along here provides a continuous usable width of 2 metres.
- 5.2.3 Overall, the broad principle of removing the small number of roadside parking bays here is acceptable to the Highway Authority, recognising a shift away from private motorcar use and the need to embrace more sustainable modes of travel to tackle the urgent climate crisis. The County Council is also supportive of the High Street recovery.
- 5.2.4 The latest plan has been reviewed by our Safety team. The comments raised have been largely addressed in the revised plan, although vehicle tracking information was suggested. It has now been confirmed by Stevenage's refuse & recycling service that they do not route a refuse vehicle along Bell Lane. It is also noted that the Mulberry Tree pub, which has a vehicle access onto Bell lane, has another main vehicle access onto Primett Road, and that overall, the other properties which front onto Bell Lane seem to have full vehicle access from other parts of the network. With this in mind, and given the footway build-out largely replicates the location of the existing parking bays, it is not considered that existing routine vehicle movements along Bell Lane will be adversely affected by this proposal.
- 5.2.5 There is an existing vehicle crossover at the western end of the proposed build-out and this will be closed off (with the raised kerb reinstated) as shown on the plan. The applicant says this crossover leads to now redundant storeroom used by Cinnabar - however the storeroom / building that the access leads to sits outside the applicant's red line. The LPA may want to double check that the removal of this crossover will not have consequences in the future for other occupiers.
- 5.2.6 Additionally, there will be a small footway build-out to the front of the site onto the High Street service road. Extension of the double yellow lines is proposed here, as well as along the Bell Lane footway build-out - as shown on the submitted plan.
- 5.3 B.E.A.M.S
- 5.3.1 If the seating area can be justified then BEAMS can, in principle support the change of use. The use of tarmac is not sufficiently sympathetic to the Conservation Area and enhancements should be sought through the use of tegula blocks to match the existing High Street footpaths. Are 13 bollards needed as this seems excessive? The proposal could result in visual clutter which will result in less in substantial harm to the significance of the conservation area.
- 5.4 SBC Environmental Health
- 5.4.1 No comments received.

## **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 September 2023. 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 Adopted Local Plan (2019)**

6.4.1 The policies set out below are relevant in the determination of this application:

SP1 - Presumption for Sustainable Development;  
SP2 - Sustainable Development in Stevenage;  
SP8 - Good Design;  
TC9 – High Street Shopping Area;  
IT5 - Parking and Access;  
IT8 – Public Parking Provision;  
NH10 – Conservation Areas;

### **6.5 Supplementary Planning Documents**

Parking Provision Supplementary Planning Document October 2020  
Old Town Conservation Area management Plan 2012

### **6.6 Community Infrastructure Levy**

Stevenage Borough Council adopted a Community Infrastructure Levy Charging Schedule in 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location and floorspace of a development.



## **7. APPRAISAL**

7.1.1 The main issues to consider in the determination of this application are the impact of the loss of the parking spaces and the impact of the works on the character and appearance of the conservation 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 consideration indicate otherwise.

### **7.2 Land Use Policy Considerations**

7.2.1 The proposal will see the loss of 4 public parking spaces. These spaces are all short-term parking spaces. The proposed works would see the area levelled and finished with tarmac, as per HCC Highways recommendations and finished with kerbing stones to match existing. The smaller area to the front of the premises would not result in the loss of any parking spaces and would be levelled and finished in matching tegula blocks and kerbing stones as existing. The proposed materials would be conditioned to ensure they are similar to existing and preserve the character and appearance of the Conservation Area.

7.2.2 There has been several letters of objection to the proposal based on the loss of parking and the impact this has on shoppers having to walk further from other nearby parking, and the impact on local businesses. Letters of support have identified a need for outdoor seating associated with such uses that keep the area alive outside normal shop trading hours over the need for the retention of the parking bays.

7.2.3 Looking firstly at the loss of the parking bays in terms of parking, the Council adopted its Parking Provision and Sustainable Transport SPD in October 2020 which outlines the Council's prescribed standards for parking based on development type for new proposals. The SPD also summarises the Council's aims to reduce private car use and work towards a modal shift to promote non-car modes of transport. This is in line with the aspirations of the NPPF, Hertfordshire County Council's Local Transport Plan 4 and the adopted Local Plan (2019) to promote sustainable development and to locate new development where it is highly accessible by passenger transport, walking and cycling.

7.2.4 The High Street is served by parking bays along both the eastern and western sides of the highway, with vehicles parking perpendicular, at a 90-degree angle to the footpath. The parking bays extend from the south close to the roundabout junction with Letchmore Road northwards to Middle Row and then further parking is provided north of Middle Row on the western side to the front of the application site and nearby shops. Parking is then also available off Church Lane, with two surface level car parks in close proximity of the High Street to the west, and also two large car parks off Primett Road, referred to as the old Waitrose car park and one further south which is often used for parking of vehicles when the State Fair (also known as Charter Fair) is held in Stevenage each year.

7.2.5 The Council's adopted Policies IT5 and IT8 refer to parking provision and mention specifically public parking provision, the loss of which should be justified or replaced elsewhere. The proposal clearly does not allow for the lost parking to be re-provided as part of the development, as Policy IT8 requires, and this refers more to larger scale development where provision can be re-sited.

7.2.6 In this case, whilst a robust argument has not been made about the parking loss or demand, the sustainable location of the parking bays and the limited number of spaces being lost (4 spaces), weighs heavily in favour of the proposal. Objections highly emphasise the loss of parking and likely inability for people to park closely to existing shops. Given the level of parking available along the rest of the High Street and the close proximity of the surface level car parks

both to the east and west of the site it is argued that the loss of these spaces is negligible in this location.

- 7.2.7 The loss of the parking spaces is not considered to prevent elderly and disabled drivers from accessing facilities in the High Street. The bays are located in a small side street between a public house and a bar/restaurant with only one side served by a pedestrian footpath. As such, given the physical attributes of these spaces, they may be difficult to use for those who are disabled or who have poor mobility due to age. Additionally, it is important to note that these bays are not designated disabled bays and so their loss would not result in the loss of specially designated disabled parking.
- 7.2.8 The temporary measures in place to allow businesses to operate during restrictions of lockdown and COVID measures has been working well, despite mixed reviews from the public. It is noted nearby restaurant businesses have undertaken similar temporary measures. It is noted that the applicant has a temporary license for the closure of the parking spaces and the placement of tables and chairs, which runs 1 January 2023 to 1 January 2024. This temporary licence is actively being used at present and the land is currently closed off to vehicular parking by large red and white temporary barriers.
- 7.2.9 Herts County Council (HCC) as Highways Authority have advised that they do not wish to restrict the proposal, nor have they raised any concerns or objections. The Council's Engineering department, which includes overseeing parking and enforcement in the Town, have advised that they support the proposal. They feel the widening of the footpath adjacent to the application site would improve pedestrian amenity. They have further advised that they would be willing to work with the applicant, at the applicants' expense, to design and build the footway extensions.
- 7.2.10 Given the proposal would only result in the loss of four bays, the location is highly sustainable and there is a good level of alternative parking in close proximity of the site, it is considered the loss of the parking spaces is acceptable in this instance in this location.
- 7.2.11 The second area of objections raised in respect of the loss of the spaces is the knock-on effect for local businesses. This issue stems from the people not being able to park so closely to their destination and businesses being affected as a result. There would still be sufficient parking bays available in close proximity to surrounding businesses than those the subject of this application. Furthermore, the future impact on businesses is not surmountable to this specific application, given the retail industry as it is at present, and also following the COVID pandemic.
- 7.2.12 Whilst, the retention of businesses is an important factor in ensuring the vitality of the Old Town, this also stems to the continued use of non-retail premises including uses that provide night time and entertainment within a mixed use area. It is not considered therefore that the loss of four parking spaces can be accounted for any future impact on local businesses when adequate parking provision is still available in the locality.

### **7.3 Impact on the Character and Appearance of the Conservation Area**

- 7.3.1 The High Street is located within the Old Town Conservation Area, of which there is a Management Plan (CAMP) highlighting the key buildings and areas that have historic and architectural value as Heritage Assets. Both the CAMP and the Local Plan make note of the significance of the High Street as the former A1/Roman road linking London to the North of England. This includes the provision of the parking bays on both sides of the road adding to the character and visual appearance of the High Street but does not refer to the additional parking areas in small side streets, such as Bell Lane.
- 7.3.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in the exercise of planning functions with respect to any buildings or other land in a

conservation area, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area.

- 7.3.3 The NPPF (2023) outlines the need to assess the impact of development on a Heritage Asset and to 'take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. Furthermore, Paragraph 197 of the NPPF goes on to suggest LPA's 'take account of the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality'.
- 7.3.4 Paragraph 199 of the NPPF (2023) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 7.3.5 Paragraph 200 goes on to state that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 7.3.6 Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 7.3.7 Policy NH10 of the Local Plan (2019) states that development proposals affecting a conservation area should have regard to the relevant Conservation Area Management Plan SPD.
- 7.3.8 In this case there are two factors, the loss of an area of parking that forms part of the Conservation Area as a Heritage Asset against the contribution of the area being available as a forecourt area to allow the provision of outside seating for a local business, in a sustainable location. The Council's Listed Building and Conservation Area consultants BEAMS have provided comment and have not raised concerns over the loss of the parking bays. They advised they would support the build out of the footpath with matching materials, but they have raised concerns over the use of tarmac surfacing on the southern side. They also advise that any bollard or protection barriers should be of good design and appearance.
- 7.3.9 Notwithstanding their concerns over the use of tarmac, they have advised that the harm from its use would be less than substantial. Their concern over the tarmac stems from its appearance not being in keeping with the remainder of the Conservation Area, which contains the use of traditional paving slabs and tegula blocks. However, it is worth noting here that the footpaths along the High Street are the responsibility of Herts County Council and they would not require any form of planning permission from the Local Planning Authority to replace them either fully or partially, with tarmac. As such, the use of tarmac as a material choice, whilst not generally in keeping with the Conservation Area, is the material of choice stipulated by HCC as the owner and responsible authority for the footpath.
- 7.3.10 It is the opinion of officers, on balance, that the works to remove the parking bays and create the forecourt area, as well as level out a small area of highway to the front of the premises, would be at the lower end of 'less than substantial harm' to the historic character and appearance of the Conservation Area and the historic importance of this Heritage Asset given the majority of the parking bays along the High Street are retained and still available for use.
- 7.3.11 BEAMS have not raised any objections or concerns relating to the appearance of the bollards or canvas banners. They have however, raised a question as to the number of bollards and whether 13 are required as they result in visual clutter. It is Officer's opinion that the number

of bollards is acceptable. They are evenly spaced to provide a clear barrier between the users of the seating area and passing vehicles. To have a lower number of bollards would potentially result in gaps to the safety barrier, thus increasing the potential for conflict between the two areas.

7.3.12 Whilst it's noted that there is harm, the consideration of the public benefits have to be taken account of. The PPG states that – In considering the public benefits that may be derived from the proposed development, the Planning Practice Guide (PPG) advises that they should be of a nature and scale that will be of benefit to the public at large and not just be a private benefit. Whilst a range of benefits that help deliver sustainable communities could be relevant, the PPG provides examples of heritage based public benefits, as follows:

- Sustaining or enhancing the significance of a heritage asset and the contribution to its setting;
- Reducing or removing risks to a heritage asset;
- Securing the optimum viable use of a heritage asset in support of its long terms conservation.

7.3.13 The existing business operates from 56-58 High Street, which, whilst this is not a Listed Building, it is noted as a building of local importance in the Old Town CAMP, and, whilst it is a private business, the proposal would help protect the viability of this business and therefore the locally important building also. The use of the proposed highway forecourt area would reduce the risk of the heritage asset becoming vacant which could potentially impact its long-term preservation.

7.3.14 Furthermore, if any future applications are submitted for further reduction in parking areas they would be considered on their own merits and in respect of their impact on the historic character and possible erosion of the Conservation Area.

#### 7.4 Residential Amenity

7.4.1 Policies SP8 and GD1 of the Local Plan 2019 require development proposals to have regard to the guidance contained within the Design Guide SPD (2023). Policy GD1 also requires that development does not adversely impact the amenities of neighbouring occupiers. Appendix C of the Design Guide SPD states that the Council will assess proposals for residential development in terms of their impacts on privacy, outlook, and natural light.

7.4.2 There are residential dwellings to the rear of the premises along Primett Road and likely to be others above neighbouring premises. In this regard, whilst Environmental Health were consulted as part of this application, they have not provided any comments. Notwithstanding this, they were consulted at the pre-application stage and raised no concerns or objections although they did recommend that a condition be imposed to restrict the use of the area to be closed by 23:00hours.

#### 7.5 Other Matters

##### Community Infrastructure Levy

7.5.1 The Council adopted CIL on 1 April 2020 and the CIL Charging Schedule specifies a payment for new floorspace in line with the following rates (plus appropriate indexation):

Development Type	CIL Rate (£ per square meter)	
	Zone 1: Stevenage Central, Stevenage West Urban Extension and North of	Zone 2: Everywhere else

	Stevenage Extension		
Residential			
Market housing	£40/m <sup>2</sup>	£100/m <sup>2</sup>	
Sheltered housing	£100/m <sup>2</sup>		
Extra care housing	£40/m <sup>2</sup>		
Retail development	£60/m <sup>2</sup>		
All other development	£0/m <sup>2</sup>		

- 7.5.2 CIL is a non-negotiable charge. The exact charge will be determined by the Council's CIL officer after an application has been granted in accordance with the CIL Charging Schedule and the Community Infrastructure Levy Regulations 2010 (as amended). Opportunities for relief or exemption from the CIL charge exist and will be taken into account in the calculation of the final CIL charge.
- 7.5.3 CIL replaces the need for S106 agreements to specify financial and/or land contributions for non-site-specific infrastructure projects. This allows infrastructure to be planned on a borough-wide scale rather than on a site-by-site basis as mitigation against the impacts of individual proposals. A CIL Form 1: Additional Information has been submitted along with the application.
- 7.5.4 With regards to how the CIL monies are spent, the ultimate decision lies with Stevenage Borough Council and the allocation of funding amount of £75,000 or over will rest with the Planning and Development Committee. Service providers who would not receive contributions through the Section 106 agreement for this development, including but not limited to those at Hertfordshire County Council and Stevenage Borough Council, will be able to bid for funding in due course.

#### Equality, Diversity and Human Rights

- 7.5.5 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.
- 7.5.6 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.
- 7.5.7 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.
- 7.5.8 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.
- 7.5.9 It is not considered the proposed development would impact upon the protected characteristics under the Equality Act. This is because the proposal does not comprise the removal of disabled parking spaces and there would be sufficient space on the public footpath for person(s) who are disabled to safely pass the outdoor seating area without hindrance.

## 7.6 Other Matters Raised in Representations

- 7.6.1 A number of concerns were received relating to the Charter Fair and whether this proposal would interfere with or prevent the set up and operation of the fair. The Council's Engineering department, who are the Council's main point of contact for the fair, have advised that the Showman's Guild does not have any rights to occupy specific areas, but rather it simply entitles them to hold the fair in the High Street. The loss of these 4 parking spaces is not considered to interfere with or harm the Charter nor will it prevent it from being held.

## 8. CONCLUSIONS

- 8.1 The proposal to remove areas of existing parking along the northern side of Bell Lane, to the south of 56-58 High Street to allow for the creation of a highway forecourt to allow for ancillary seating for Cinnabar is considered acceptable. The loss of four parking spaces would not adversely impact the current parking provision along the High Street and within the Old Town generally, and the impact on the Conservation Area is not considered to be harmful to its character of historic significance.

## 9. RECOMMENDATIONS

- 9.1 That planning permission be GRANTED subject to the following conditions:-
- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:  
RL3883-02; 457-09-Rev B  
**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 Prior to the first use of the seating area hereby approved, the removable bollards and removable banners shall be installed, the existing crossover to the west of the site shall be closed and double yellow lines shall be implemented as shown on approved plan 457-09-Rev B. No other furniture other than that shown on the approved plan shall be installed or erected unless an application for planning permission is first sought from the Local Planning Authority.  
**REASON:-** In the interests of highway safety and to ensure the development has an acceptable appearance and preserves the character and appearance of the Conservation Area.
  - 4 The materials to be used in the construction of the built out seating area and the built out area to the eastern frontage of the application site shall be as per approved plan 457-09-Rev B to the satisfaction of the Local Planning Authority.  
**REASON:-** To ensure the development has an acceptable appearance.
  - 5 Unless otherwise agreed in writing by the Local Planning Authority, the outdoor seating area hereby approved shall not be in operation before 08:00 hours or after 23:00 hours on any day. Outside of these times, all tables and chairs shall be removed to leave a clear and unobstructed area to the front and side of the building.  
**REASON:-** in the interests of pedestrian and highway safety and to protect the amenities of the occupiers of neighbouring properties.

**For the Following Reason(s):-**

- 1 Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line 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.

## INFORMATIVE

### 1 **Public Information on Planning Applications**

Warning: all information provided on your planning application is now publicly available. Individuals and organisations offering their services may contact you. The Council does not endorse or approve any builders, surveyors, trades persons or other supplier, and advises householders to obtain quotes/references, and check the legitimacy of any contractor who contacts them before making payment.

### 2 **Community Infrastructure Levy**

Stevenage Borough Council adopted a Community Infrastructure Levy (CIL) Charging Schedule at Full Council on 27 January 2020 and started implementing CIL on 01 April 2020.

This application may be liable for CIL payments and you are advised to contact the CIL Team for clarification with regard to this. If your development is CIL liable, even if you are granted an exemption from the levy, please be advised that it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (as amended) that CIL Form 6 (Commencement Notice) must be completed, returned and acknowledged by Stevenage Borough Council before building works start. Failure to do so will mean you risk losing the right to payment by instalments and a surcharge will be imposed. NB, please note that a Commencement Notice is not required for residential extensions if relief has been granted.

Stevenage's adopted CIL Charging Schedule and further details of CIL can be found on the Council's webpages at [www.stevenage.gov.uk/CIL](http://www.stevenage.gov.uk/CIL) or by contacting the Council's CIL Team at [CIL@Stevenage.gov.uk](mailto:CIL@Stevenage.gov.uk).

### 3 **Building Regulations**

To obtain advice regarding current Building Regulations please contact Hertfordshire Building Control Ltd. by emailing us at [building.control@hertfordshirebc.co.uk](mailto:building.control@hertfordshirebc.co.uk) or phoning us on 01438 879990.

To make a building regulations application please apply through our website portal at <https://www.hertfordshirebc.co.uk/contact-us/> payment can be made online or by phoning the above number after the application has been uploaded. Please phone Hertfordshire Building Control for fees guidance on 01438 879990.

Hertfordshire Building Control can also be contacted by post at Hertfordshire Building Control Ltd, 4th Floor, Campus West, Welwyn Garden City, Hertfordshire, AL8 6BX.

Once a building regulations application has been deposited with relevant drawings and fee building work may commence. You will be advised in their acknowledgement letter of the work stages we need to inspect but in most instances these are usually:

- Excavation for foundations
- Damp proof course
- Concrete oversite
- Insulation
- Drains (when laid or tested)
- Floor and Roof construction

Work relating to fire safety  
Work affecting access and facilities for disabled people  
Completion

Please phone Hertfordshire Building Control on 01438 879990 before 10.00am to ensure a same day inspection (Mon - Fri).

4 **Party Wall etc. Act 1996**

Any work that affects a party wall, including foundations dug within 3.0m of a neighbouring building, may be controllable under the Act and may require approval from the adjoining owner(s). Party Wall Act matters are always civil matters and it is neither Stevenage Borough Council's nor Hertfordshire Building Control Ltd's remit to control or enforce Party Wall act matters. Please refer to the Government's explanatory booklet The Party Wall etc. Act 1996, a copy of which is available online at

<https://www.gov.uk/government/publications/the-party-wall-etc-act-1996-revised-explanatory-booklet>

5 **Hertfordshire County Council as Highways Authority**

Licence for tables and chairs in the highway: before proceeding with the installation, the applicant must apply for, and be granted, a licence agreement under the Highways Act 1980 in order to legally place tables and chairs on public highway land. Further information is available via the website at <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

6 **Hertfordshire County Council as Highways Authority**

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/businessanddeveloper-information/development-management/highways-developmentmanagement.aspx> or by telephoning 0300 1234047.

## 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 – Parking Provision adopted October 2020, Stevenage Design Guide adopted January 2023, The Impact of



Development on Biodiversity adopted March 2021, Stevenage Borough Council Developer Contributions adopted March 2021.

3. Stevenage Borough Local Plan 2011 – 2031 adopted 2019.
4. Hertfordshire County Council's Local Transport Plan 4 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 September 2023 and Planning Practice Guidance.

This page is intentionally left blank

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

**Date:** 31 October 2023

**Author:** Thomas Frankland-Wells

**Lead Officer:** Zayd Al-Jawad

**Contact Officer:** Thomas Frankland-Wells

Application No:	23/00477/OP
Location:	Land between 146 & 225 Hopton Road, Stevenage, Herts, SG1 2LF
Proposal:	Outline planning permission with all matters reserved for the erection of 1no. detached three bedroom dwelling with associated car parking
Drawing Nos.:	01 Rev A; 02; 03 Rev A;
Applicant:	Stevenage Borough Council
Date Valid:	21 June 2023
Recommendation:	GRANT OUTLINE PLANNING PERMISSION



The above plan is for illustrative purposes only.

## **1 SITE DESCRIPTION**

- 1.1 The site extends to 250m<sup>2</sup> and comprises a roughly rectangular plot of land located between 146 and 225 Hopton Road in the Symonds Green area of Stevenage. The land is undeveloped and mostly laid to lawn, rising gently from east to west.
- 1.2 The site is not subject to any Local Plan designations or notable environmental constraints. There are no heritage assets or protected trees in its vicinity. The Filey Close Neighbourhood Centre lies approximately 150m to the south-east.

## **2 RELEVANT PLANNING HISTORY**

- 2.1 20/00571/FP - Change of use from public amenity land to residential (225 Hopton Road) – Application Permitted 12 November 2020

## **3 THE CURRENT APPLICATION**

- 3.1 The application seeks outline planning permission for the erection of a detached, two storey, three-bedroom dwellinghouse with two car parking spaces. Since all matters are reserved, the application is principally concerned with the principle of the development, whereas access, appearance, landscaping, layout and scale would be considered in detail at a later date.
- 3.2 The application comes before the Planning and Development Committee because the Council is the applicant.

## **4 PUBLIC REPRESENTATIONS**

- 4.1 The application was publicised by neighbour letters.
- 4.2 Three letters of objection were received. The material issues raised are summarised as follows:
- Inadequate car parking provision
  - Loss of existing car parking
  - Insufficient space for proposal / cramped appearance
  - Disruption to garden access and bin storage
  - Loss of privacy
  - Loss of trees and hedges
  - Loss of play space
  - Disruption during construction
- 4.3 Full copies of all representations are available on the Council's website.

## **5 CONSULTATIONS**

- 5.1 The following section contains summaries of consultation responses. Full copies of the responses are available on the Council's website.
- 5.2 SBC Arboriculture and Conservation Manager
- 5.2.1 No objection, subject to replacement planting of three trees.
- 5.3 SBC Environmental Health Officer
- 5.3.1 No objection.

#### 5.4 HCC Highways

5.4.1 No objection, subject to conditions relating to construction management, electric vehicle charging, and the provision of parking spaces.

#### 5.5 Herts and Middlesex Wildlife Trust

5.5.1 No objection subject to off-site habitat provision and a condition to secure bat and swift boxes.

## **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 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For Stevenage, the statutory development plan comprises the following documents:

- The Stevenage Borough Council Local Plan 2011-2031 (adopted 2019)
- The Hertfordshire Waste Core Strategy & Development Management Policies Development Plan Document 2011-2026 (adopted 2012)
- The Hertfordshire Waste Site Allocations Development Plan Document 2011-2026 (adopted 2014)
- The Hertfordshire Minerals Local Plan Review 2002-2016 (adopted 2007)

### 6.2 National Planning Policy Framework

6.2.1 A revised National Planning Policy Framework (NPPF) was published in September 2023. This largely made minor corrections to the earlier July 2021 version and revised policy with respect to onshore windfarms. 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.

6.2.2 Since November 2018, housing delivery has been measured against the Housing Delivery Test (HDT) as set out by the Government planning policy and guidance. The results of the HDT dictate whether a local planning authority should be subject to consequences to help increase their housing delivery. Where an authority's HDT score is less than 85% of its housing requirement, the Council must incorporate a 20% buffer into its housing supply calculations in line with paragraph 73 of the NPPF. Where an authority's score is below 75%, the Council will be subject to the HDT's most severe penalty and must apply the presumption in favour of sustainable development. The latest HDT results, published by the Ministry of Housing Communities and Local Government (MHCLG) (now the Department for Levelling Up, Housing and Communities (DLUHC)) in January 2022 (DLUHC have not yet published the latest HDT results), identifies that Stevenage delivered 79% of its housing requirement. This exceeds the 75% target and renders the adopted Local Plan housing policies as being in-date. However, this is still well below the 95% target which is set out in the NPPF (2021). Consequently, the Council has to apply a 20% buffer in its 5-year housing supply calculations. In addition, the Council also has to produce an Action Plan in order to boost housing delivery.

6.2.3 The Council prepared an Action Plan in July 2022 to show how it is responding to the challenge of ensuring more homes are delivered in the Borough. This has been prepared in accordance

with Planning Practice Guidance and analyses the reasons for under-delivery of new homes against the Government's requirements. It also sets out clear actions on how to improve housing delivery. A copy of the Stevenage Borough Council published Action Plan is set out in the link below:

<https://www.stevenage.gov.uk/documents/planning-policy/monitoring/housing-delivery-test-action-plan-2022.pdf>

6.2.4 Turning to 5-year housing land supply, the Council recently published an Addendum Report in May 2022. The report set out that the Borough Council could demonstrate a housing supply of 5.91 years (including 20% buffer) for the period 1 April 2022 to 31 March 2027. However, since the Land West of Lytton Way appeal was allowed by the Planning Inspectorate for a development of 576 residential units (Appeal Reference: APP/K1935/W/20/3255692), the Council's Policy Department has confirmed the Council can currently demonstrate a housing supply of 6.68 years (including 20% buffer).

6.2.5 The Council, based on its HDT score and 5-year housing land supply calculations, the Council is not currently subject to the most severe penalty under paragraph 11(d) of the NPPF (2021). For reference, if this policy was to be engaged, it would mean the Local Plan policies would be classed as out-of-date.

6.2.6 The Council is now commencing preliminary work into a review of its Local Plan, last adopted in May 2019. This is to ensure the policies within the Local Plan are up to date in accordance with the NPPF as well as ensuring the Council is delivering a sufficient supply of housing and employment.

### 6.3 Planning Practice Guidance

6.3.1 The Planning Practice Guidance ("PPG"), with which Members are fully familiar, is an online resource containing guidance supplementing the NPPF. The PPG is a material consideration which should be taken into account in determining planning applications.

### 6.4 National Design Guide

6.4.1 The National Design Guide 2021 is Government guidance on the characteristics of well-designed places and demonstrates what good design means in practice. It has the same status as the PPG and should similarly be taken into account when determining planning applications.

### 6.5 Stevenage Borough Local Plan

6.5.1 The Local Plan policies most relevant to determining the application are as follows:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Sustainable Development in Stevenage
- SP5 Infrastructure
- SP6 Sustainable Transport
- SP7 High Quality Homes
- SP8 Good Design
- SP11 Climate Change, Flooding and Pollution
- SP12 Green Infrastructure and the Natural Environment
- IT4 Transport Assessments and Travel Plans
- IT5 Parking and Access
- IT6 Sustainable Transport
- HO5 Windfall Sites
- HO9 Housing Types and Sizes
- GD1 High Quality Design
- FP1 Climate Change

FP2 Flood Risk in Flood Zone 1  
FP7 Pollution  
FP8 Pollution Sensitive Uses  
NH5 Trees and Woodland  
NH6 General Protection for Open Space

## 6.6 Supplementary Planning Documents

6.6.1 The following supplementary planning documents are relevant to determining the application:

Parking Provision and Sustainable Transport SPD 2020  
The impact of Development on Biodiversity SPD 2020  
Developer Contributions SPD 2021  
Design Guide SPD 2023

## 6.7 Community Infrastructure Levy

6.7.1 Stevenage Borough Council adopted a Community Infrastructure Levy (“CIL”) Charging Schedule in 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location, and floor space of a development. The proposal would be liable for CIL at a rate of £100/m<sup>2</sup>.

# 7 APPRAISAL

7.1 The main issues in the assessment of the application are as follows:

- The principle of the development
- Standard of accommodation
- Character and appearance
- Impact on neighbouring amenities
- Parking
- Highway safety
- Ecology, arboriculture and biodiversity
- Flood risk and drainage
- Climate change and sustainability
- Developer obligations and CIL

## 7.2 Principle of Development

### 7.2.1 *Provision of Housing*

7.2.1.1 The application proposes the provision of one new dwelling. The application site is a “windfall” site, since it is not allocated for any specific purpose in the Local Plan.

7.2.1.2 Policy SP7 of the Local Plan sets out the strategic objective of providing at least 7,600 new homes within Stevenage Borough between 2011 and 2031. Some of these homes are expected to be delivered on windfall sites.

7.2.1.3 Policy HO5 sets out the criteria for housing development on windfall sites. It states that planning permission will be granted where:

- a) The site is on previously developed land or is a small, underused urban site;
- b) There is good access to local facilities;
- c) There will be no detrimental impact on the environment and the surrounding properties;
- d) Proposals will not prejudice our ability to deliver residential development on allocated sites; and,

e) The proposed development would not overburden existing infrastructure.

- 7.2.1.4 The land between 146 and 225 Hopton Road was historically used as play space but the play equipment was removed many years ago and part of the land was incorporated into the garden of n° 225 following the grant of planning permission under application reference 20/00571/FP. Consequently, the land no longer serves any formal purpose other than as a gap in surrounding built form.
- 7.2.1.5 Informally, the land is still used by local children for play. However, its quality is significantly diminished by the aforementioned removal of play equipment and reduction in size, which has been further reduced by informal parking and storage of bins. The remaining area is relatively small and the ground is uneven. With a much larger and more suitable open area just 100m to the north-east, it is expected that the site is used infrequently for this purpose.
- 7.2.1.6 In light of the above, the site is considered to be a small, underused urban site. In this respect, the proposal accords with criterion (a) of Policy HO5.
- 7.2.1.7 The site benefits from reasonably good access to local facilities, with the Filey Close Neighbourhood Centre approximately 150m or a five minute walk to the south-east. The proposal would not prejudice the delivery of residential development on allocated sites, given the scale of the proposal and the fact that there are no allocated housing sites in the immediate vicinity. It would also not overburden existing infrastructure, given that it would be CIL liable and the purpose of the CIL payment is to mitigate infrastructure impacts. In these respects, the proposal accords with criteria (b), (d) and (e) of Policy HO5.
- 7.2.1.8 It is possible that the development would have a detrimental impact on neighbouring properties but if this is the case, these impacts would arise from the detailed design of the development rather than being an inevitable consequence of the use of the land for residential purposes. Surrounding land is predominantly in residential use and the proposed development would be consistent with this. Therefore, strictly from a land use perspective, it is considered that developing the site for housing would not have a detrimental impact on the environment or surrounding properties. The potential impacts arising from the detailed design of the development are considered later in this report.
- 7.2.1.9 Policy HO9 of the Local Plan requires new residential developments to provide an appropriate range of market and affordable housing types and sizes. In doing so, regard should be had to the Borough's objectively assessed needs, the location and accessibility of the site, and existing imbalances in the Borough's housing stock.
- 7.2.1.10 The Borough's existing stock is weighted heavily towards dwellings with three bedrooms and as a consequence, the greatest need is for dwellings with fewer bedrooms or larger "aspirational" homes. The development would not address this imbalance since it is also for a three-bedroom dwelling.
- 7.2.1.11 However, despite the imbalance, there remains a need for further three-bedroom properties in the Borough. The development would help to meet this need, albeit one dwelling would not make a significant contribution on its own. A three-bedroom dwelling is also considered to be appropriate given that it would be surrounded by other units of a similar size. Providing this as a market unit is acceptable since there is no requirement for developments of fewer than 10 dwellings to offer affordable housing. For these reasons, the proposal is considered to accord with Policy HO9.

## 7.2.2 *Loss of Open Space*

- 7.2.2.1 The site constitutes an undesignated area of open space. It serves a structural purpose, providing a gap in surrounding built form to give the area a slightly more open character.



- 7.2.2.2 Policy SP12 of the Local Plan seeks to protect the green infrastructure, natural environment and landscape of Stevenage. It states the Council's intention to preserve and enhance locally important linear features, including structural open space along major routes through the town.
- 7.2.2.3 Accordingly, Policy NH6 states that planning permission for development of any existing, unallocated open space will be granted where the loss of open space is justified having regard to: the quality and accessibility of the open space; the existence, or otherwise, of any interventions to improve quality or access; whether the open space is serving its function or purpose; and whether alternate space(s) would remain available for community use.
- 7.2.2.4 As noted above, the quality and accessibility of the application land is limited by reductions to its size, the removal of play equipment, its topography, and informal use for parking and storage of bins. There are no known interventions to improve its quality or accessibility and there is a much larger and higher quality alternative space a short distance away, which would remain available for community use.
- 7.2.2.5 The land does still serve a purpose in providing a gap in surrounding development, thereby giving the area a more open feel. However, the gap is relatively small compared to other similar gaps on Hopton Road and if the development were to go ahead, a gap would remain on the opposite, eastern side.

### 7.2.3 *Conclusions on Principle of Development*

- 7.2.3.1 Overall, the site is considered to be suitable for the provision of housing. It is a small, underused urban site surrounded by existing residential development within a predominantly residential area. Developing the site for residential purposes would not have any fundamentally unacceptable impacts on the environment or surrounding properties, nor would it overburden existing infrastructure or compromise the delivery of housing on allocated sites.
- 7.2.3.2 In providing one new market dwelling, the development would make a small but nonetheless positive contribution towards meeting the Borough's housing needs. No additional benefits would result from the size or tenure of the dwelling but this is a neutral matter. The construction activity would provide a small boost to the local economy.
- 7.2.3.3 The benefits of retaining the site as structural open space are considered to be limited considering its size, suitability for other uses (e.g. recreation), and the presence of other much larger and higher quality open space in the immediate vicinity. The informal use of the site for parking and the storage of bins reinforces this view.
- 7.2.3.4 Having regard to the above, it is considered that the loss of the open space is justified, even by the relatively modest benefits of providing one market dwelling. It follows that the development is acceptable in principle.

### 7.3 Standard of Accommodation

- 7.3.1 Policy GD1 of the Local Plan requires new residential developments to meet the nationally described space standard and to provide for the amenities of future occupants. Policy FP8 of the Local Plan states that planning permission for pollution sensitive uses, such as dwellings, will be granted where they will not be subjected to unacceptably high levels of pollution exposure from either existing or proposed pollution generating uses.
- 7.3.2 Layout, appearance and scale are reserved matters and therefore, the final standard of accommodation cannot be determined at this stage. It is nonetheless necessary to determine whether an acceptable standard of accommodation could be provided should outline permission be granted.

- 7.3.3 The submitted plans show a dwelling with a footprint of 54m<sup>2</sup> and the application form states that the dwelling would have two storeys. Assuming that the entire footprint minus the front section (which appears to be a porch) would be two storey, the dwelling would have a gross internal area (“GIA”) of approximately 103m<sup>2</sup>.
- 7.3.4 The highest standard for a two storey dwelling with three bedrooms is a GIA of 102m<sup>2</sup>. The development is therefore capable of meeting the standards.
- 7.3.5 In terms of natural light, outlook and ventilation, it is expected that the dwelling would be dual aspect and would therefore benefit from ample daylight and sunlight, views beyond the site boundaries to the east and west, and opportunities for passive ventilation. This would make a positive contribution to future occupants’ quality of life.
- 7.3.6 As for privacy, it is clear that the occupants of 146 and 225 Hopton Road would be able to look out over the rear garden of the proposed dwelling. However, it is not unusual for neighbours to have a degree of aspect over one another in a medium density residential setting where houses are arranged side-by-side.
- 7.3.7 According to the plans, the rear garden would measure approximately 95m<sup>2</sup>. This exceeds the 50m<sup>2</sup> recommended by the Design Guide SPD and would be acceptable.
- 7.3.8 Overall, it is considered that the proposed development would be capable of providing a very good standard of accommodation for future occupants. In this respect, the proposal accords with Policy GD1. Since there are no significant sources of pollution nearby, the proposal also accords with Policy FP8.

#### 7.4 Character and Appearance

- 7.4.1 Policy SP8 of the Local Plan requires new development to achieve the highest standards of design and sustainability. Policy GD1 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 surrounding urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design.
- 7.4.2 The National Design Guide 2019, which was published by the Government, is a material consideration in the determination of planning applications. It states 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.
- 7.4.3 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.

- 7.4.4 The Guide goes on to state 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.
- 7.4.5 The Council's Design Guide SPD (2009) sets out that a high-quality environment is essential for providing a good quality of life. A well-designed and managed space not only provides a visually attractive environment but can also help to ensure that a place is easy to move around and within, is safe and secure, and is useful for all members of the community.
- 7.4.6 Layout, appearance and scale are reserved matters and it is therefore not possible to determine the final impact on the character and appearance of the area cannot be determined at this stage. It is nonetheless necessary to assess whether the development could be designed in such a way as to have an acceptable impact.
- 7.4.7 The plans show the dwelling as having a simple rectangular footprint save for a small front projection, with a width of 8.4m and a depth of 7.8m. In these respects, it would be very similar to its neighbours, which all have a similar layout and dimensions. It is also shown sited slightly back from n° 146 and slightly forward of n° 225, which would avoid any disruption to the established building line.
- 7.4.8 The only significant respect in which the proposed dwelling would necessarily differ from surrounding development is that it would be detached, whereas its neighbours are all laid out as terraces. Although unusual for the area, the dwelling would not appear so out of place as to warrant refusal of the application, given that it would appear to be entirely in keeping with its surroundings in all other respects.
- 7.4.9 Objections to the application have been made on the grounds that the dwelling would have a cramped appearance. Officers disagree with this view since the dwelling is shown as separated from its neighbours by 2.7m on the northern side and 2m on the southern side on the plans. This is not especially generous but is more than sufficient to prevent the dwelling from appearing cramped.
- 7.4.10 Having regard to the above, it is considered that the proposed development could be designed in such a way as to be sympathetic to surrounding development and have an acceptable impact on the character and appearance of the area. In this respect, the proposal accords with Policies SP8 and GD1 of the Local Plan.
- 7.5 Impact on the Environment and Neighbouring Occupiers
- 7.5.1 Policy FP5 of the Local Plan requires development proposals to consider contamination and be supported by an appropriate preliminary risk assessment (PRA), demonstrating that any necessary remediation and subsequent development poses no risk to the population, environment or groundwater bodies.

- 7.5.2 Policy FP7 requires all development proposals to minimise, and where possible, reduce air, water, light, and noise pollution. Planning permission will be granted when it can be demonstrated that the development will not have unacceptable impacts on general amenity and the tranquillity of the wider area.
- 7.5.3 Policy GD1 also requires that developments do not have an adverse impact on neighbouring uses or the surrounding area.
- 7.5.4 *Contamination*
- 7.5.4.1 The site is not known to be or suspected to be contaminated, nor is its historic use one which is likely to have caused contamination. Accordingly, a preliminary risk assessment is considered to be unnecessary and the contamination risks associated with the proposal are considered to be negligible. Nevertheless, a condition is recommended to ensure that any unexpected contamination is dealt with properly if discovered during the construction phase.
- 7.5.5 *Noise Pollution*
- 7.5.5.1 The introduction of an additional residents to the road would undoubtedly lead to some increase in noise. However, there is nothing to suggest that the character or intensity of noise would amount to anything over and above what would ordinarily be expected from a single family dwellinghouse. Within an area predominantly made up of single family dwellings, this is considered to be appropriate.
- 7.5.6 *Light Pollution*
- 7.5.6.1 No external lighting is proposed and any spillage from internal lighting would be within the bounds of what would ordinarily be expected from a single family dwelling. This is considered to be acceptable. A condition is recommended to control any external lighting which might be installed at the site in future.
- 7.5.7 *Privacy*
- 7.5.7.1 The proposed dwelling would be likely to provide views very similar to those afforded by neighbouring properties i.e. occupants would be able to look out over neighbouring gardens. It is recognised that n° 146 and n° 225 currently only have one directly adjoining neighbour each and as such, the development would result in greater overlooking of their properties.
- 7.5.7.2 However, as set out above, the resultant relationship is considered to be typical for dwellings laid out side-by-side at medium densities. Consequently, it is considered that the overlooking would not in any way result in intolerable living conditions for neighbouring occupiers.
- 7.5.8 *Natural Light*
- 7.5.8.1 As shown on the submitted plans, the development would comfortably pass the 45 degree test in respect of the nearest habitable room windows at each neighbouring property. Some overshadowing of 146 Hopton Road would occur but this would be limited to the morning hours and is considered acceptable.
- 7.5.9 *Overbearing Appearance*
- 7.5.9.1 According to the submitted plans, the proposed dwelling would be separated from its neighbours by 2.7m to the north and 2m to the south. Its rear building line would also be roughly in line with that of its neighbours, projecting only slightly beyond that of n° 146. Given this, the development would be highly unlikely to appear overbearing when viewed from neighbouring properties.

#### 7.5.10 *Demolition and Construction Impacts*

7.5.10.1 The disruptive effect of demolition and construction work is a material consideration and has been raised in the objections to the application. Some disruption is inevitable, insofar as vehicle movements and noisy work will be necessary to complete the development. However, the impacts can be mitigated, for example by employing dust suppression techniques, limiting the hours when deliveries can be made, and limiting the hours when work can be carried out.

7.5.10.2 To this end, it is recommended that a construction management plan be secured by condition. Subject to this condition, it is considered that the impacts of demolition and construction could be mitigated to an acceptable degree.

#### 7.5.11 *Conclusions on Environment and Neighbouring Occupiers*

7.5.11.1 Having regard to the above, it is concluded that the proposed development would not result in any fundamentally unacceptable impacts on the environment and could be designed in such a way as to ensure acceptable living conditions for neighbouring occupiers. In these respects, the proposal is considered to accord with Policies HO5, FP5, FP7 and GD1 of the Local Plan.

#### 7.6 Parking

7.6.1 Policy IT5 of the Local Plan requires development proposals to comply with the parking standards set out in the Stevenage Borough Council Parking Provision and Sustainable Transport SPD 2020. According to the standard, a three bedroom house should be provided with two car parking spaces. The site is not located within a residential accessibility zone, so no discount is applied.

7.6.2 The proposed development would provide two car parking spaces, in accordance with the standard. These would be provided on land in front of the proposed dwelling which currently acts as a grass verge.

7.6.3 This land was originally not included within the application site boundary, which led HCC as Highway Authority to object to the proposal on the grounds that the parking spaces could not be secured. The Council's Estates Team have since confirmed that the land is within SBC ownership and updated the application site boundary accordingly.

7.6.4 HCC as Highway Authority also objected on the grounds that the three existing spaces to the front of the site would be lost. Members of the public objected to the application on the same grounds. However, the two new parking spaces were submitted as "additional" and the Estates Team have since confirmed that it was always the intention to retain the existing three spaces.

7.6.5 HCC have since updated their advice and confirmed that they have no objection to the application, subject to conditions to ensure that the parking spaces would be provided prior to occupation and to secure electric vehicle charging. On this latter point, a condition is considered to be unreasonable because the spaces would be unallocated, on-street spaces. However, provision of the spaces prior to occupation is considered to be reasonable and a condition to this effect is recommended. Subject to this condition, it is considered that the proposed level of car parking would be in accordance with the published standards. It is therefore considered to be acceptable.

7.6.6 In terms of cycle parking, the standard requires three spaces to be provided. Cycle parking is not shown on the submitted plans but based on the layout, it is clear there would be sufficient space to provide the required number of spaces.

7.6.7 Having regard to the above, the proposed parking arrangements are considered to be acceptable. In this respect, the proposal accords with Policy IT5 of the Local Plan.

## 7.7 Highway Safety

- 7.7.1 Policy IT4 of the Local Plan 2019 states that planning permission will be granted where development will not have an adverse impact on highway safety.
- 7.7.2 HCC as Highway Authority originally objected to the scheme on the grounds that satisfactory site access could not be demonstrated since the land to the front of the proposed dwelling (which would connect the site to the public highway) was not included within the application site boundary. They have since updated their advice and confirmed that they have no objection to the application on highway safety grounds, subject to a condition to secure a construction management plan.
- 7.7.3 Subject to the above condition, it is considered that the proposed development would not have any unacceptable impacts on highway safety or any severe residual cumulative impacts on the highway network.

## 7.8 Ecology, Arboriculture and Biodiversity

- 7.8.1 Policy SP12 of the Local Plan requires the protection of assets of ecological and biodiversity value. Policy NH5 states that development proposals will be expected to protect and retain individual trees within development sites and should include new planting where appropriate.
- 7.8.2 The NPPF and accompanying PPG require the Council to achieve measurable net gains in biodiversity at development sites across the Borough. To achieve a biodiversity net gain, a development must deliver a minimum of 10% net gain post development, when compared with the pre-development baseline. The Council's recently adopted Biodiversity SPD (2021) requires all major and minor applications other than the following exemptions currently suggested by the Government to demonstrate a net gain in biodiversity.
- 7.8.3 The application is supported by a preliminary ecological appraisal, which assesses the site as having limited habitats and low suitability for notable species. A typical range of precautionary measures are recommended, for example carrying out site clearance outside of the bird nesting season, along with enhancements such as the provision of bat and bird boxes. Subject to these recommendations being implemented, it is considered that the development would have an acceptable impact on ecology.
- 7.8.4 The site contains a mature silver birch tree which would be felled to accommodate the development. The Council's Arboriculture and Conservation Manager has confirmed that the felling is acceptable subject to replacement planting on a three-for-one basis, which would be secured when landscaping is put forward for consideration as a reserved matter. Two other nearby off-site trees would also require protection during the construction phase.
- 7.8.5 A biodiversity net gain assessment has also been submitted alongside the application, which shows that the development would result in an on-site area habitat net loss of 94.54%. This would be mitigated by off-site habitat creation equating to 0.55 units, resulting in an overall net gain of 10%. Since the Council is the applicant, this would be secured by a memorandum of understanding between the relevant heads of department rather than a S106 agreement.
- 7.8.6 Having regard to the above, it is considered that the proposed development would have an acceptable impact on ecology, biodiversity, and trees. In this respect, the proposal accords with Policies SP12 and NH5 of the Local Plan.

## 7.9 Flood Risk and Drainage

- 7.9.1 The application is for minor development and the site is located wholly within Flood Zone 1, outside of any critical drainage area. As such, there is no policy requirement for a site-specific

flood risk assessment to be carried out or for the scheme to incorporate SuDS. The flood risk associated with the development is considered to be negligible.

7.10 Climate Change and Sustainability

7.10.1 Policy FP1 of the Local Plan states that planning permission will be granted for developments that can incorporate measures to address adaptation to climate change. New development, including building extensions, refurbishments and conversions will be encouraged to include measures such as:

- Ways to ensure development is resilient to likely future variations in temperature;
- Reducing water consumption to no more than 110 litres per person per day including external water use;
- Improving energy performance of buildings;
- Reducing energy consumption through efficiency measures; and
- Using or producing renewable or low carbon energy from a local source.

7.10.2 The application is not supported by an energy strategy and no detailed measures have been put forward in terms of adaptation to climate change. It is therefore recommended that a condition be imposed on any grant of permission to secure details of sustainability measures for the scheme.

7.10.3 Subject to the above condition, the proposal would accord with Policy FP1 of the Local Plan 2019.

7.11 Developer Obligations and CIL

7.11.1 *CIL*

7.11.1.1 Stevenage Borough Council adopted a Community Infrastructure Levy Charging Schedule on 1 April 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location and floor space of a development, in line with the rates shown in the table below.

Development Type	CIL Rate (£ per square metre)	
	Zone 1: Stevenage Central, Stevenage West Urban Extension and North of Stevenage Extension	Zone 2: Everywhere else
Residential		
Market housing	£40/m <sup>2</sup>	£100/m <sup>2</sup>
Sheltered housing	£100/m <sup>2</sup>	
Extra care housing	£40/m <sup>2</sup>	
Retail development	£60/m <sup>2</sup>	
All other development	£0/m <sup>2</sup>	

7.11.1.2 The proposed development would be liable for CIL at a rate of £100/m<sup>2</sup>.

7.11.2 *Biodiversity Obligations*

7.11.2.1 The development would be required to provide 0.55 off-site habitat units in order to achieve an overall 10% net gain in biodiversity. This would be secured by way of a memorandum of understanding between the relevant heads of department. The typical mechanism for securing such a contribution, a S106 agreement, is not available in this instance because the Council is the applicant.

## 7.12 Human Rights and Equalities

- 7.12.1 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.
- 7.12.2 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. 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.
- 7.12.3 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.
- 7.12.4 The proposed development would not have any material impact on persons with any of the protected characteristics listed under the Equalities Act.

## **8 CONCLUSIONS**

- 8.1 The policies considered to be most relevant for determining this application are listed above in Section 6.5.1 and mentioned throughout this report. These are all considered to be consistent with the most recent revision of the NPPF and are therefore considered to be up-to-date. The Council is not required to apply the tilted balance by reason of its housing land supply or housing delivery positions. Accordingly, Paragraph 11(d) of the NPPF is not engaged and the application falls to be determined against a straightforward planning balance.
- 8.2 The proposed development would result in the delivery of one three-bedroom dwelling, which would make a small but nonetheless positive contribution towards meeting the Borough's housing needs. The application has demonstrated that the scheme would be capable of providing a good standard of accommodation. The provision of good quality housing carries significant weight in favour of the proposal.
- 8.3 Noting that access, appearance, landscaping, layout and scale are reserved matters and would be considered in detail at a later date, the proposed development is considered to be acceptable in all other respects. These are neutral matters.
- 8.4 Having regard to the above, the proposal is considered to accord with the development plan when read as a whole. In the absence of any other material considerations which indicate that permission should be refused, it is recommended that planning permission be granted.

## **9 RECOMMENDATION**

- 9.1 That planning permission be GRANTED subject to the following conditions and the completion of a memorandum of understanding to provide:
- Off-site habitat creation equal to 0.55 units



- 9.2 With delegated powers be given to the Assistant Director of Planning and Regulation in consultation with the Chair of Planning Committee to negotiate and secure the obligation detailed above (including triggers where appropriate), and 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.

### **Conditions**

#### *General Conditions*

1. The development to which this permission relates shall be carried out in accordance with the following approved plans unless otherwise agreed in writing by the local planning authority:

01 Rev A  
02  
03 Rev A

**REASON:** For the avoidance of doubt and in the interests of proper planning.

2. Approval of the details of the layout, scale and appearance of the building, the means of access thereto and the landscaping of the site (hereinafter “the reserved matters”) shall be obtained in writing from the local planning authority before any development is commenced.

**REASON:** To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

3. In the case of any reserved matter, application for approval must be made to the local planning authority not later than the expiration of three years from the date of this permission.

**REASON:** To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

4. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

**REASON:** To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

5. Unless otherwise agreed in writing by the Local Planning Authority, no demolition or construction activities audible at the site boundary shall be carried out except between the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. For the avoidance of doubt, no such work shall be carried out on Sundays or Bank Holidays.

**REASON:** In the interests of the living conditions of neighbouring occupiers.

6. Any external lighting installed at the site shall be angled so as to avoid any spillage beyond the site boundaries unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** In the interests of the living conditions of neighbouring occupiers and highway safety.

7. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted to and approved in writing by the local planning authority.

**REASON:** To prevent unacceptable risks to human health as a result of contamination

8. The development to which this permission relates shall be carried out in accordance with the mitigation measures as specified in Section 5 of "Preliminary Ecological Appraisal" authored by CSA Environmental and dated June 2023 unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** To prevent unacceptable harm to habitats and species.

*Prior to Commencement*

9. No development shall take place (including site clearance or demolition) until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved construction management plan. The construction management plan shall include details of the following:

- a) Construction vehicle numbers, type, routing;
- b) Access arrangements to site;
- c) Traffic and pedestrian management requirements;
- d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e) Siting and details of wheel washing facilities;
- f) Cleaning of site entrances, site tracks and the adjacent public highway;
- g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- h) Provision of sufficient on-site parking prior to commencement of construction activities;
- i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- j) Where works cannot be contained wholly within the site, a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;
- k) Measures to deal with environmental impacts such as vehicle emissions, dust, noise, vibration, light, and odour.

**REASON:** In the interests of the living conditions of neighbouring occupiers and highway safety.

10. No development shall take place (including site clearance or demolition) until a tree protection plan has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved plan.

**REASON:** In the interests of the health and longevity of trees worthy of retention.

*Prior to Occupation*

11. Prior to the beneficial occupation of the development to which this permission relates, the car parking shall be provided as shown on the approved plans. It shall be permanently kept free from obstruction and maintained for its intended purpose thereafter unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** In the interests of the living conditions of neighbouring occupiers and highway safety.

12. Prior to beneficial occupation of the development to which this permission relates, details of cycle parking shall be submitted to and approved in writing by the local planning authority. The approved cycle parking shall be provided prior to beneficial occupation and shall thereafter be permanently kept free from obstruction and maintained for its intended purpose unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** To ensure that sustainable modes of transport are adequately promoted.

13. Prior to beneficial occupation of the development to which this permission relates, details of refuse stores, including drawings of the elevations of any enclosures and the number, type, size and siting of bins, shall be submitted to and approved in writing by the Local Planning Authority. The refuse stores shall then be provided in accordance with the approved details prior to beneficial occupation and permanently retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** To ensure the proper storage and disposal of waste.

14. Prior to beneficial occupation of the development to which this permission relates, a scheme for low and zero carbon technologies, detailing the savings in regulated carbon dioxide emissions to be achieved versus Part L of the Building Regulations, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to beneficial occupation and permanently retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** To ensure that the development is adaptable to climate change and to ensure a satisfactory appearance on completion of the development.

**INFORMATIVES**

1. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx>

or by telephoning 0300 1234047.

2. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx>

or by telephoning 0300 1234047.

3. It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible.

Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

4. Building Regulations

To obtain advice regarding current Building Regulations please contact Hertfordshire Building Control Ltd. by emailing us at [building.control@hertfordshirebc.co.uk](mailto:building.control@hertfordshirebc.co.uk) or phoning us on 01438 879990.

To make a building regulations application please apply through our website portal at <https://www.hertfordshirebc.co.uk/contact-us/> payment can be made online or by phoning the above number after the application has been uploaded. Please phone Hertfordshire Building Control for fees guidance on 01438 879990.

Hertfordshire Building Control can also be contacted by post at Hertfordshire Building Control Ltd, 4th Floor, Campus West, Welwyn Garden City, Hertfordshire, AL8 6BX.

Once a building regulations application has been deposited with relevant drawings and fee building work may commence. You will be advised in their acknowledgement letter of the work stages we need to inspect but in most instances these are usually:

- Excavation for foundations
- Damp proof course
- Concrete oversite
- Insulation
- Drains (when laid or tested)
- Floor and Roof construction
- Work relating to fire safety
- Work affecting access and facilities for disabled people
- Completion

Please phone Hertfordshire Building Control on 01438 879990 before 10.00am to ensure a same day inspection (Mon - Fri).

5. Community Infrastructure Levy

Stevenage Borough Council adopted a Community Infrastructure Levy (CIL) Charging Schedule at Full Council on 27 January 2020 and started implementing CIL on 01 April 2020.

This application may be liable for CIL payments and you are advised to contact the CIL Team for clarification with regard to this. If your development is CIL liable, even if you are granted an exemption from the levy, please be advised that it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (as amended) that CIL Form 6 (Commencement Notice) must be completed, returned and acknowledged by Stevenage Borough Council before building works start. Failure to do so will mean you risk losing the right

to payment by instalments and a surcharge will be imposed. NB, please note that a Commencement Notice is not required for residential extensions if relief has been granted.

Stevenage's adopted CIL Charging Schedule and further details of CIL can be found on the Council's webpages at [www.stevenage.gov.uk/CIL](http://www.stevenage.gov.uk/CIL) or by contacting the Council's CIL Team at [CIL@Stevenage.gov.uk](mailto:CIL@Stevenage.gov.uk).

### **Pro-active Statement**

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line 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.

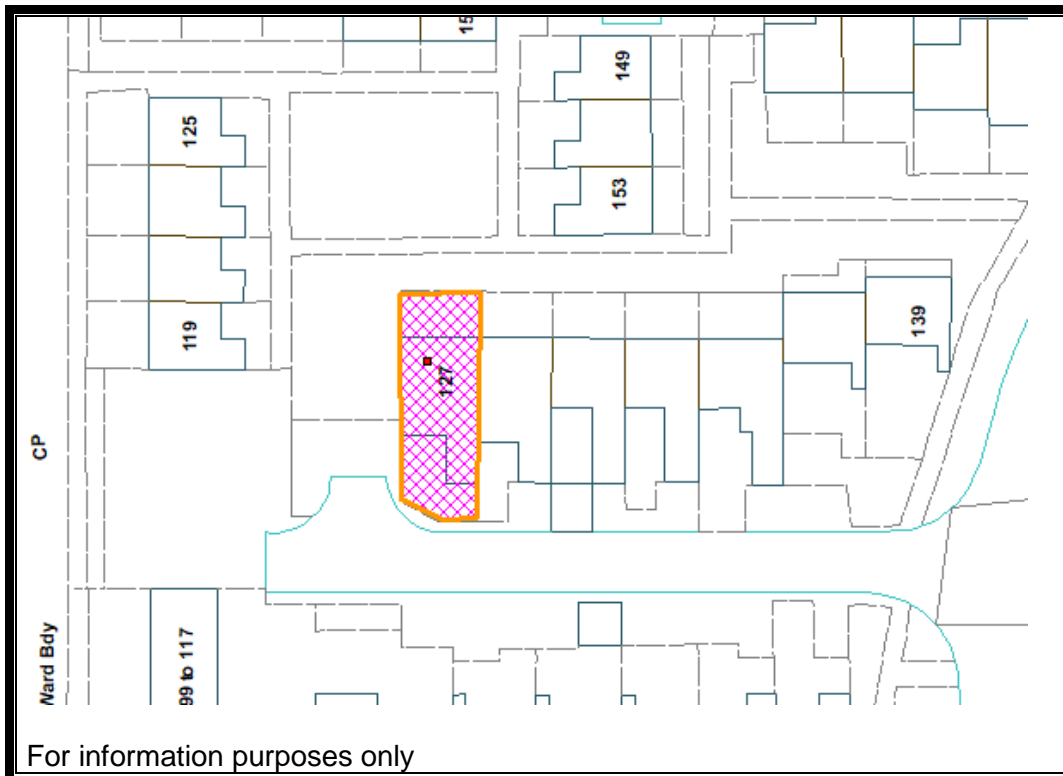
## **10. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. The Stevenage Local Plan 2011-2031.
4. Stevenage Borough Council Supplementary Planning Documents – Parking Provision and Sustainable Transport SPD (2020); Developer Contributions SPD (2021); The impact of Development on Biodiversity SPD (2020); Design Guide SPD (2023).
5. Hertfordshire County Council Local Transport Plan LTP4 2018-2031
6. Central Government advice contained in the National Planning Policy Framework 2023 and the National Planning Practice Guidance.
7. Responses to consultations with statutory undertakers and other interested parties referred to in this report.

This page is intentionally left blank

<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>31 October 2023</b>	
<b>Author:</b>	<b>Linda Sparrow</b>	07931 863551
<b>Lead Officer:</b>	<b>Zayd Al-Jawad</b>	01438 245257
<b>Contact Officer:</b>	<b>Linda Sparrow</b>	07931 863551

Application No :	23/00631/CLEU
Location :	127 Ripon Road, Stevenage
Proposal :	Certificate of Lawfulness for (Existing Use) for the use of the property as 6-bed House of Multiple Occupation (Use Class C4)
Drawing Nos.:	Site Location Plan;
Applicant :	Mr E Fletcher
Date Valid:	15 August 2023
Recommendation :	CERTIFICATE OF LAWFULNESS APPROVED



## 1. SITE DESCRIPTION

- 1.1 The application site comprises an end of terrace Radburn style property within a residential area of Stevenage.

## **2. RELEVANT PLANNING HISORY**

- 2.1 2/0198/65, St Nicholas Area. Development including residential, shopping, schools and road. Granted.
- 2.2 2/0104/68, St Nicholas Area. Residential development of 435 dwellings and 170 garages under St Nicholas Phase 5. Granted.
- 2.3 2/0202/68, St Nicholas Area. Residential development of 405 dwellings, 30 old people's flats and 196 garages. Granted

## **3. THE CURRENT APPLICATION**

- 3.1 This application is a Lawful Development Certificate (Existing) for the use of the property as a 6-bed House of Multiple Occupancy (HMO) under Use Class C4. The property is not served by any off-street car parking.
- 3.2 The application site is not located in a Conservation Area or any other Article 2(3) land and it is not a listed building. The permitted development rights for the change of use from a Class C3 dwellinghouse to a C4 HMO were removed on 20 September 2017 by way of an Article 4 Direction (see points 3.3 and 3.4 below). Prior to this date, such a change of use would have been permitted development under the General Permitted Development Order 2015 (as amended) (GPDO) that was in force at the time.
- 3.3 The Council adopted an Article 4 Direction on 20 September 2017. This Direction covers development comprising the change of use of a building from a use class within Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning Act (Use Classes) Order 1987 (as amended), to a use falling within Class C4 (HMO) of that Schedule, being development comprised within Class L(b) of Part 3 (Changes of Use) of Schedule 2 of the Order and not being development comprised within any other Class. The Direction covers the whole of Stevenage Borough Council.
- 3.4 The Article 4 Direction has the effect that any development described above in point 3.3 should not be carried out on land within the district of Stevenage Borough unless planning permission is granted by the Local Planning Authority.
- 3.5 This application comes before the Planning and Development Committee because it has been called-in by Local Ward Councillor Sandra Barr.
- 3.6 This application was originally put before the Committee on 3<sup>rd</sup> October 2023. Following a debate by members of the Committee, it was determined to defer the application to enable a selection of redacted evidence documents to be shared with the Committee.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 Planning Practice Guidance paragraph 008 Reference ID 17c-008-20140306 states that there is no statutory requirement to consult third parties, including neighbours. It goes on to state that views expressed by third parties on the planning merits of the case are irrelevant when determining the application.

## **5. CONSULTATIONS**

- 5.1. Planning Practice Guidance paragraph 008 Reference ID 17c-008-20140306 states that there is no statutory requirement to consult third parties. It goes on to state that views



expressed by third parties on the planning merits of the case are irrelevant when determining the application.

## **6. RELEVANT PLANNING POLICIES**

- 6.1 Section 191 of the Town and Country Planning Act 1990 (as amended) provides that any person who wishes to ascertain whether any existing use or operation/development is lawful may make an application to the Local Planning Authority for a Lawful Development Certificate (LDC).
- 6.2 Section 191(4) states that *“if on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application”*.
- 6.3 Section 171B(3) relates to enforcement of breaches in planning control and states that *“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach”*.
- 6.4 National Planning Practice Guidance summarises the position in paragraph 003 (17c-003-20140306) in the following terms, *“lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.”*

## **7. APPRAISAL**

- 7.1 The application seeks a Lawful Development Certificate to confirm that that the property has been operating as a HMO since 2015, prior to the introduction of the town-wide Article 4 Direction in 2017 which requires all HMO's to now apply for planning permission (see point 3.3 above).
- 7.2 The applicant has submitted evidence of rental agreements, bank statements and property management invoices and inspections which corroborate the application and prove that on the balance of probabilities, the property has been in continuous use as an HMO since 2015.
- 7.3 Section 171B(3) relates to time limits for enforcement action against changes of use that have occurred without the benefit of planning permission when said planning permission was required at the time the change of use occurred, and that this enforcement period lasts for 10 years from the time of the breach in planning control.
- 7.4 However, an appeal decision in 2019 (Appeal Ref. APP/K1935/X/18/3218192) at 80 Kymswell Road, Stevenage, against refusal of a Lawful Development Certificate reference 18/00600/CLED, established that Section 171(B) Time Limits, of the Town and Country Planning Act 1990 (as amended), relating to the 10-year rule for uses of premises do not apply to Lawful Development Certificates of this type when the use was established to be permitted development prior to the Article 4 Direction.
- 7.5 The Inspector noted: *“At the time the change of use occurred the GPDO that was then in force included an amendment that had introduced provisions under Class I of Part 3 to Schedule 2 which granted permission for development consisting of the change of use of a building to a use falling within Class C4 of the Schedule to the Use Classes Order from a use falling within Class C3, and vice versa. It follows that at the time the change of use*

*occurred the development was lawful. The Article 4 Direction cannot be retrospective, the lawful use must still exist and there has not been a breach of planning control”.*

- 7.6 Taking the aforementioned into account, it is therefore considered that the applicant has provided sufficient evidence to show that the property has been in operation as an HMO since 2015. Further, the commencement of the use of the premises as an HMO in 2015 was permitted development under the GPDO at the time and as such the use was established as permitted development prior to the enactment of the Article 4 Direction.
- 7.7 The Council is therefore satisfied that under Section 191(4) of the Town and Country Planning Act, a Lawful Development Certificate can be issued for this element of the development.
- 7.8 List of evidence provided to members of the Committee:
- Statutory declaration from applicant dated 14 September 2023;
  - Rent Statement from management company for October/November 2015;
  - Rent Statement from management company for March 2023;
  - Letter from SBC Environmental Health regarding HMO Licence dated May 2017;
  - Property Inspection Report dated November 2016;
  - Property Inspection Report dated January 2017;
  - HM Court paperwork regarding S.21 eviction of Room 3 tenant in 2017.

## **8. CONCLUSIONS**

- 8.1 It is considered that on the balance of probabilities, the use of the property as a HMO is lawful as it came into use in 2015 when such changes of use were permitted development. Therefore, for the purposes of s.171B(3) of the Town and Country Planning Act 1990 (as amended) it is considered that the use of the property known as 127 Ripon Road as a HMO to be lawful.

## **9. RECOMMENDATIONS**

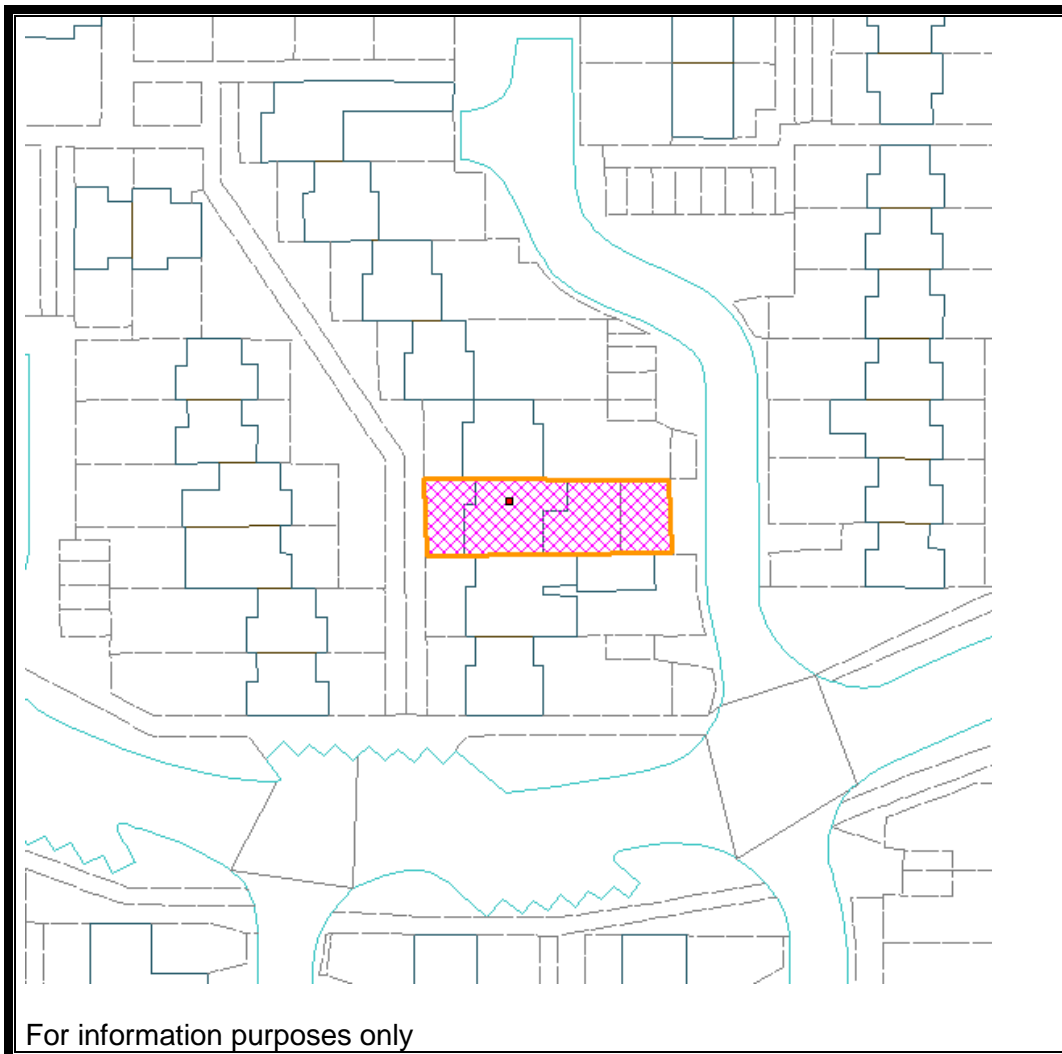
- 9.1 That the Certificate of Lawfulness is approved, subject to the following condition:
- 1 On the balance of probabilities the evidence that has been provided has demonstrated that No. 127 Ripon Road was operating as a C4 House of Multiple Occupation prior to 20 September 2017 when the Council's Article 4 Direction came into force, and is, therefore, a lawful use that is exempt from enforcement action.

## **10. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Local Plan 2011 – 2031 adopted 2019.
3. Central Government advice contained in the National Planning Policy Framework September 2023 and Planning Practice Guidance.

<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>31 October 2023</b>	
<b>Author:</b>	<b>Ailsa Davis</b>	07702 874529
<b>Lead Officer:</b>	<b>Zayd Al-Jawad</b>	01438 245257
<b>Contact Officer:</b>	<b>Ailsa Davis</b>	07702 874529

Application No :	23/00618/CLEU
Location :	45 York Road, Stevenage
Proposal :	Certificate of lawfulness for use as a 7 bedroom HMO (Use Class Sui-Generis)
Drawing Nos.:	Site Location Plan;
Applicant :	Mr Brassington
Date Valid:	10 August 2023
Recommendation :	CERTIFICATE OF LAWFULNESS APPROVED



## **1. SITE DESCRIPTION**

- 1.1 The application site comprises a mid-terrace property within a residential area of Stevenage.

## **2. RELEVANT PLANNING HISORY**

- 2.1 99/00345/FP, St Nicholas Area. Detached Single Garage. Granted.
- 2.2 11/00085/FP, St Nicholas Area. Part two storey, part single storey rear extension and first floor front extension. Granted.
- 2.3 23/00165/CLED, St Nicholas Area. Certificate of lawfulness (Existing) use as a 7 bedroom HMO (Use Class Sui-Generis). Refused.

## **3. THE CURRENT APPLICATION**

- 3.1 This application is a Lawful Development Certificate (Existing) for the use of the property as a 7-bed House of Multiple Occupancy (HMO) under use class *sui generis*. The application site is not located in a Conservation Area or any other Article 2(3) land and is not a listed building.
- 3.2 This application comes before the Planning and Development Committee because it has been called-in by Local Ward Councillor Sandra Barr.
- 3.3 This application was originally put before the Committee on 3rd October 2023. Following a debate by members of the Committee, it was determined to defer the application to enable a selection of redacted evidence documents to be shared with the Committee.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 Planning Practice Guidance paragraph 008 Reference ID 17c-008-20140306 states that there is no statutory requirement to consult third parties, including neighbours. It goes on to state that views expressed by third parties on the planning merits of the case are irrelevant when determining the application.

## **5. CONSULTATIONS**

- 5.1. Planning Practice Guidance paragraph 008 Reference ID 17c-008-20140306 states that there is no statutory requirement to consult third parties. It goes on to state that views expressed by third parties on the planning merits of the case are irrelevant when determining the application.

## **6. RELEVANT PLANNING POLICIES**

- 6.1 Section 191 of the Town and Country Planning Act 1990 (as amended) provides that any person who wishes to ascertain whether any existing use or operation/development is lawful may make an application to the Local Planning Authority for a Lawful Development Certificate (LDC).
- 6.2 Section 191(4) states that *“if on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that*

*description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application”.*

- 6.3 Section 171B(3) relates to enforcement of breaches in planning control and states that *“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach”.*
- 6.4 National Planning Practice Guidance summarises the position in paragraph 003 (17c-003-20140306) in the following terms, *“lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.”*

## **7. APPRAISAL**

- 7.1 Large HMO’s (those for more than 6 persons) are unclassified by the Use Classes Order and are therefore deemed to fall within the class of *Sui Generis*. Any change of use to or from *Sui Generis* requires planning permission. The application which has come forward under s191 of the Act is to determine firstly, whether the site has been functioning as a Large HMO and secondly, whether the Large HMO has operated for a period of 10 years or more, unaffected.
- 7.2 Government guidance and planning case law sets out that the onus of proof is placed firmly on the applicant and a certificate of lawfulness may be refused on the basis of proven or present evidence. Critically, the relevant test of evidence is the ‘balance of probability’ and not the more onerous burden of proof ‘beyond reasonable doubt’. The applicant’s evidence should be sufficiently precise and unambiguous to justify a grant of this certificate. The planning merits of the use cannot be considered.
- 7.3 A Certificate of Lawfulness application was refused in April 2023 under ref. 23/00165/CLED on the basis it had not been sufficiently demonstrated beyond the balance of probability that the property had been in continuous use as a Large 7 bedroom HMO for a period of at least 10 years. Whilst the evidence submitted was considered sufficient to prove the property was indeed an HMO in 2011/2012, no evidence was provided other than a “statement of truth” that it was in operation for the required 10 years to allow a Lawful Certificate of Existing Use to be issued. The Statements submitted, without evidence to prove their content, were not considered sufficient evidence to prove on the balance of probabilities that the property had been operating continuously as a Large HMO (*Sui Generis*) for at least 10 years.
- 7.4 The evidence submitted under this application to demonstrate the existing use has been continuous over at least the last 10 year period (and since 2011) is as follows:
- Statement of Truth by David Brassington (owner and first managing agent)
  - Statement of Truth by David Savage (managing agent of the property since 2012)
  - Statement of Truth by Richard Seaman - the builder who carried out the initial building works and has handled maintenance in the property ever since
  - List of tenancy start dates
  - Tenancy Agreements from first tenants in 2011
  - Deposit Protection account information
  - HMO Licence with commenced date of 1st October 2018 - current licence for the HMO property for up to 8 persons, as 7 households.
- 7.5 Two elements should be demonstrated as part of this application. Firstly, can the current use of the property be considered to function as a large HMO and secondly has the use

been continuous since at least 31<sup>st</sup> July 2013? This date being 10 years before the submission of this application in August 2023.

Does the building provide a large House of Multiple Occupation?

- 7.6 The building provides 7 bedrooms for a maximum number of 8 occupiers, with shared facilities of kitchen and living area, set over two full storeys. To the front of the property there is a small garden off the public footpath. At the rear, off the access road there is a gravelled area for car parking and a fenced, paved garden area with a garden shed for storage. The ground floor of the property has an entrance porch containing a tumble dryer leading to a hallway. From the hallway are doors to the kitchen / living area, a bathroom with shower, wash basin and wc, a bedroom with ensuite shower, wash basin and wc, a further bedroom and a cupboard containing a washing machine.
- 7.7 The kitchen contains a large hob, microwave, sink, dishwasher, 2 large fridge freezers, worktop and cupboards. The living area contains a dining table and chairs and lounge seating. Stairs from the hallway lead to the first floor which has doors to 2 bedrooms with ensuite shower, wash basin and wc, 3 further bedrooms, a bathroom with shower, wash basin and wc. It is agreed therefore the property provides a large House of Multiple Occupation, being for over 6 occupiers.

Has the use been continuous since July 2013?

*Statements of Truth*

- 7.8 In regard to this evidence, three Statements of Truth are provided. These are from the owner as applicant - Mr David Brassington, then from Mr David Savage who has managed the property on behalf of the owner since 2012. Thirdly, is one from Mr Richard Seaman, the builder who carried out the initial building works of extension and alterations, and who has carried out various maintenance work at the property ever since. The applicant's Statement of Truth makes reference to the fact that the commercial arrangement for David Savage to lease the property is a fixed monthly fee, which obviously provides him with the financial incentive to let the maximum number of rooms permissible under the HMO licence. He has done so ever since taking over management of the property in 2012.

*Tenancy Agreements from first tenants in 2011*

- 7.9 This evidence is a collation of the principal pages of each Assured Shorthold Tenancy Agreement, for the first set of 7 tenants of the 7 rooms of the HMO, from the first occupation and start of the large HMO use in July 2011. The evidence demonstrates continuous occupation as a large HMO for in excess of the required 10-year period, being the last 12 complete years, since July 2011.

*List of tenancy start dates*

- 7.10 This evidence is information collated from the applicant's deposit managing service of My Deposits Protection Scheme. This shows the dates on which new tenancies were started and protected for each respective tenant of the HMO throughout at least the last 10-year period. This demonstrates that there have been multiple tenancies in each year across the 7 rooms of the HMO. The current tenants residing in the property started their tenancies in 2018, 2019, 2020, 2022 and 2023. Furthermore, screen shots have been provided from the logged in account of the My Deposits scheme. This provides evidence of the continuity of the use which was lacking in the previous application.

## *HMO Licence*

- 7.11 Also submitted in evidence is the current HMO licence issued by the Council, which commenced in October 2018. This confirms the property has 7 rooms or 'households' for letting, for a maximum number of 8 persons. There was no requirement for a licence previous to this, so this is the sole licence on record.

## **8. CONCLUSIONS**

- 8.1 For the purposes of Section 171(B) Time Limits, of the Town and Country Planning Act 1990 (as amended), the 10-year rule must apply for Large HMOs of 7 bedrooms or more. It is considered the evidence submitted with this application demonstrates the continuity of the existing use in excess of this time period and the evidence is sufficiently precise and unambiguous to justify the grant of a Certificate of Lawfulness. The applicant has discharged the statutory tests and meets the burden of proof. The evidence meets the relevant required test of 'on the balance of probability' from the Statutory Declarations and other documents provided.
- 8.2 The use of the property known as 45 York Road as a Large 7 bedroom HMO is considered to be lawful under Section 171B(3) of the Town and Country Planning Act 1990 (as amended).

## **RECOMMENDATION**

- 9.1 That the Certificate of Lawfulness is approved for the following reason:
- 1 On the balance of probabilities, the evidence that has been provided has demonstrated that No. 45 York Road has been continuously operating as a Large House of Multiple Occupation for a period of at least 10 years from the date of the application, and is, therefore, a lawful use that is exempt from enforcement action.

## **9. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.

This page is intentionally left blank



**Meeting:** Planning and Development  
Committee

**Agenda Item:**

**Date:**

## **IMPORTANT INFORMATION - DELEGATED DECISIONS**

Author – Technical Support 01438 242838

Lead Officer – Zayd Al-Jawad 01438 242257

Contact Officer – James Chettleburgh 01438 242266

The Assistant Director of Planning and Regulation has issued decisions in respect of the following applications in accordance with his delegated authority:-

1. Application No : 23/00130/COND  
Date Received : 10.02.23  
Location : ARRIVA Bus Depot Babbage Road Stevenage Herts  
Proposal : Discharge of Conditions 4 (Drainage) and 7 (Boundary Treatments) attached to planning permission reference number 21/00431/FP  
Date of Decision : 03.10.23  
Decision : **The discharge of Condition(s)/Obligation(s) is APPROVED**
  
2. Application No : 23/00361/COND  
Date Received : 10.05.23  
Location : Roebuck Retail Park London Road Stevenage Hertfordshire  
Proposal : Discharge of conditions 15 (Surface Water Drainage), 17 (Local Employment Strategy) and 21 (Construction Traffic Management Plan) attached to planning permission reference number 21/00754/FPM  
Date of Decision : 27.09.23  
Decision : **The discharge of Condition(s)/Obligation(s) is APPROVED**

3. Application No : 23/00427/COND  
Date Received : 02.06.23  
Location : 14 North Road Stevenage Herts SG1 4AL  
Proposal : Discharge of conditions 3 (Construction Management Plan), 7 (Samples of Materials), 8 (Soft & Hard Landscaping), 9 (Bird and Bat Boxes ), 10 (Boundary Treatments) and 11 (Climate Change) attached to planning permission reference number 23/00465/FP  
Date of Decision : 27.09.23  
Decision : **The discharge of Condition(s)/Obligation(s) is APPROVED**
4. Application No : 23/00490/FP  
Date Received : 25.06.23  
Location : 1B, 1C And 1D Albert Street Stevenage Herts SG1 3NX  
Proposal : Replacement of existing crittal windows and metal door with UPVC windows and door.  
Date of Decision : 03.10.23  
Decision : **Planning Permission is GRANTED**
5. Application No : 23/00511/FP  
Date Received : 30.06.23  
Location : Wickes Building Supplies Ltd Monkswood Way Stevenage Herts  
Proposal : External alteration of existing building comprising installation on 2 no. windows, alterations to existing car park and ancillary works.  
Date of Decision : 25.09.23  
Decision : **Planning Permission is GRANTED**
6. Application No : 23/00516/FP  
Date Received : 03.07.23  
Location : 1 Claymores Stevenage Herts SG1 3TP  
Proposal : Change of use of public amenity land to private residential land and erection of garage with associated hardstand and access  
Date of Decision : 27.09.23  
Decision : **Planning Permission is GRANTED**

7. Application No : 23/00534/LB  
Date Received : 09.07.23  
Location : 61 High Street Stevenage Herts SG1 3AQ  
Proposal : Listed Building Consent for external ground floor works, including re-painting of window trims and the front door  
Date of Decision : 26.09.23  
Decision : **Listed Building Consent is GRANTED**
8. Application No : 23/00558/FP  
Date Received : 18.07.23  
Location : 136 Bude Crescent Stevenage Herts SG1 2QZ  
Proposal : Change of use from public amenity land to residential land.  
Date of Decision : 21.09.23  
Decision : **Planning Permission is GRANTED**
9. Application No : 23/00573/FP  
Date Received : 26.07.23  
Location : 5 Gunnels Wood Park Gunnels Wood Road Stevenage Herts  
Proposal : Change of use from Use Class B2 (General Industry) to Use class E(g)(ii) & (iii) to provide biotechnology R&D and manufacturing space, installation of external louvers, plant and equipment with associated enclosure, enclosed substation, enclosure to service yard and extraction flue.  
Date of Decision : 25.09.23  
Decision : **Planning Permission is GRANTED**
10. Application No : 23/00575/AD  
Date Received : 26.07.23  
Location : 61 High Street Stevenage Herts SG1 3AQ  
Proposal : Advertisement consent for removal of existing fascia sign and installation of 1 no. wooden fascia sign and 1 no. swing sign  
Date of Decision : 26.09.23  
Decision : **Advertisement Consent is GRANTED**

11. Application No : 23/00582/FPH  
Date Received : 29.07.23  
Location : 28 Weston Road Stevenage Herts SG1 3RW  
Proposal : Proposed single storey front extension  
Date of Decision : 21.09.23  
Decision : **Planning Permission is GRANTED**
12. Application No : 23/00596/FPH  
Date Received : 03.08.23  
Location : 4 Boxfield Green Stevenage Herts SG2 7DR  
Proposal : Single storey rear extension  
Date of Decision : 25.09.23  
Decision : **Planning Permission is GRANTED**
13. Application No : 23/00599/FPH  
Date Received : 03.08.23  
Location : 27 Buckthorn Avenue Stevenage Herts SG1 1TU  
Proposal : Installation of external ramp for wheelchair access to property  
Date of Decision : 21.09.23  
Decision : **Planning Permission is GRANTED**
14. Application No : 23/00601/FPH  
Date Received : 04.08.23  
Location : 64 Dryden Crescent Stevenage Herts SG2 0JQ  
Proposal : Part two storey, single storey front and rear extensions and internal alterations.  
Date of Decision : 03.10.23  
Decision : **Planning Permission is GRANTED**

15. Application No : 23/00604/FPH  
Date Received : 08.08.23  
Location : 8 Albert Street Stevenage Herts SG1 3NZ  
Proposal : Part two storey, part first floor front extension and single storey rear extension  
Date of Decision : 29.09.23  
Decision : **Planning Permission is GRANTED**
16. Application No : 23/00606/FPH  
Date Received : 08.08.23  
Location : 35 Burydale Stevenage Herts SG2 8AU  
Proposal : Part two storey, part single storey side extension and porch extension.  
Date of Decision : 02.10.23  
Decision : **Planning Permission is GRANTED**
17. Application No : 23/00610/FP  
Date Received : 08.08.23  
Location : The Marquis Of Granby North Road Stevenage Herts  
Proposal : Construct covered pergola and decorative arch to beer garden  
Date of Decision : 25.09.23  
Decision : **Planning Permission is GRANTED**
18. Application No : 23/00615/FP  
Date Received : 10.08.23  
Location : Land Adjacent To 68 Stirling Close Stevenage Herts SG2 8TQ  
Proposal : Erection of 1 no. four bedroom dwelling.  
Date of Decision : 27.09.23  
Decision : **Planning Permission is GRANTED**

19. Application No : 23/00624/FPH  
Date Received : 14.08.23  
Location : 20 East Close Stevenage Herts SG1 1PP  
Proposal : Single storey front and side extension.  
Date of Decision : 05.10.23  
Decision : **Planning Permission is GRANTED**
20. Application No : 23/00626/FPH  
Date Received : 14.08.23  
Location : Squirrels Drey Woodfield Road Stevenage Herts  
Proposal : Removal of existing rear roof and solar panels and replacement with a flat roof to be used as a balcony with associated balustrading.  
Date of Decision : 02.10.23  
Decision : **Planning Permission is GRANTED**
21. Application No : 23/00627/FP  
Date Received : 14.08.23  
Location : Shephalbury Sports Academy Broadhall Way Stevenage Herts  
Proposal : Erection of 1no. single storey classroom building.  
Date of Decision : 09.10.23  
Decision : **Planning Permission is GRANTED**
22. Application No : 23/00630/FPH  
Date Received : 15.08.23  
Location : 42 Brunel Road Stevenage Herts SG2 0AB  
Proposal : Part single-storey, part two-storey rear extension and single storey front extension.  
Date of Decision : 05.10.23  
Decision : **Planning Permission is GRANTED**

23. Application No : 23/00632/FP  
Date Received : 15.08.23  
Location : 42 Brunel Road Stevenage Herts SG2 0AB  
Proposal : Conversion of detached garage to 1no. one bed dwelling, external alterations and erection of gable-end roof.  
Date of Decision : 06.10.23  
Decision : **Planning Permission is REFUSED**

For the following reason(s);

The existing dwellinghouse of No.42 Brunel Road would overshadow the proposed rear garden of the dwellinghouse for the majority of the year. This would result in a poor living environment for future occupiers of the development. Therefore, the proposed development fails to accord with Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011-2031 (2019), the Council's Design Guide SPD (2023), the National Planning Policy Framework (2023) and the Planning Practice Guidance.

The close proximity of the adjacent woodland to the north and west of the application site, in conjunction with the existing dwellinghouse of No.42 Brunel Road, would result in an unacceptable outlook for the future occupiers of the proposed development, having a harmful and overbearing impact on the proposed rear garden. Therefore, the proposed development fails to accord with Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011-2031 (2019), the Council's Design Guide SPD (2023), the National Planning Policy Framework (2023) and the Planning Practice Guidance.

24. Application No : 23/00634/AD  
Date Received : 15.08.23  
Location : Wickes Building Supplies Ltd Monkswood Way Stevenage Herts  
Proposal : Erection of 3no. internally illuminated fascia signs, 4no. non-illuminated fascia signs, 1no. illuminated totem sign, 1no. vinyl sign and set of 2no. non illuminated post signs.  
Date of Decision : 02.10.23  
Decision : **Advertisement Consent is GRANTED**

25. Application No : 23/00639/FP  
Date Received : 18.08.23  
Location : 222 Grace Way Stevenage Herts SG1 5AQ  
Proposal : Retrospective planning application for a change of use from amenity land to residential land  
Date of Decision : 21.09.23  
Decision : **Planning Permission is GRANTED**
26. Application No : 23/00640/FPH  
Date Received : 18.08.23  
Location : 102 Pankhurst Crescent Stevenage Herts SG2 0QN  
Proposal : Single storey front extension  
Date of Decision : 10.10.23  
Decision : **Planning Permission is GRANTED**
27. Application No : 23/00641/TPCA  
Date Received : 21.08.23  
Location : 9C High Street Stevenage Herts SG1 3BG  
Proposal : Prune 1no. Yew tree and 1no. Magnolia tree to 0.5 metres clear of boundary wall  
Date of Decision : 27.09.23  
Decision : **CONSENT TO CARRY OUT WORKS TO A TREE IN A CONSERVATION AREA**
28. Application No : 23/00643/FPH  
Date Received : 21.08.23  
Location : 63 Longfields Stevenage Herts SG2 8QB  
Proposal : Replacement of existing fence adjacent to A602 (Broadhall Way) with 2.4m high fence.  
Date of Decision : 26.09.23  
Decision : **Planning Permission is GRANTED**



29. Application No : 23/00647/CLPD  
Date Received : 22.08.23  
Location : 2 Swale Close Stevenage Herts SG1 6DF  
Proposal : Lawful Development Certificate (Proposed) for a single-storey rear extension and garage conversion  
Date of Decision : 12.10.23  
Decision : **Certificate of Lawfulness is APPROVED**
30. Application No : 23/00648/AD  
Date Received : 22.08.23  
Location : Ken Brown Motors Shephall Way Stevenage Herts  
Proposal : Erection of 1no. internally illuminated totem sign, 4no. internally illuminated fascia signs and 2no. non illuminated signs  
Date of Decision : 12.10.23  
Decision : **Advertisement Consent is GRANTED**
31. Application No : 23/00651/TPTPO  
Date Received : 23.08.23  
Location : 22A Julians Road Stevenage Herts SG1 3EU  
Proposal : Crown reduction to T1 copper beech tree - 1m from branch tips on south/south west of tree only to re-balance and re-shape the tree.  
Date of Decision : 11.10.23  
Decision : **CONSENT TO CARRY OUT WORKS TO A TREE, THE SUBJECT OF A TREE PRESERVATION ORDER**
32. Application No : 23/00653/FPH  
Date Received : 23.08.23  
Location : 5 Bronte Paths Stevenage Herts SG2 0PQ  
Proposal : Demolition of existing porch and erection of single-storey front extension.  
Date of Decision : 16.10.23  
Decision : **Planning Permission is GRANTED**

33. Application No : 23/00654/FPH  
Date Received : 24.08.23  
Location : 68 Whitney Drive Stevenage Herts SG1 4BJ  
Proposal : Conversion of outbuilding to habitable accommodation  
Date of Decision : 05.10.23  
Decision : **Planning Permission is GRANTED**
34. Application No : 23/00657/CLPD  
Date Received : 25.08.23  
Location : 81 Peartree Way Stevenage Herts SG2 9EA  
Proposal : Certificate of Lawfulness (Proposed) for the demolition of the existing extension and conservatory and erection of a single storey rear extension.  
Date of Decision : 21.09.23  
Decision : **Certificate of Lawfulness is APPROVED**
35. Application No : 23/00658/COND  
Date Received : 26.08.23  
Location : Sanders Building Gunnels Wood Road Stevenage Herts  
Proposal : Discharge of condition 14 (Energy Efficiency Measures) attached to planning permission reference number 21/01362/FPM  
Date of Decision : 26.09.23  
Decision : **The discharge of Condition(s)/Obligation(s) is APPROVED**
36. Application No : 23/00663/CLPD  
Date Received : 29.08.23  
Location : 2 Hazelmere Road Stevenage Herts SG2 8RT  
Proposal : Lawful Development Certificate (Proposed) for a garage conversion.  
Date of Decision : 16.10.23  
Decision : **Certificate of Lawfulness is APPROVED**
37. Application No : 23/00666/FP

- Date Received : 30.08.23
- Location : Glaxo SmithKline Gunnels Wood Road Stevenage Herts
- Proposal : Installation of new Data Centre security fence, external lighting, CCTV columns and associated works.
- Date of Decision : 17.10.23
- Decision : **Planning Permission is GRANTED**
38. Application No : 23/00676/CLPD
- Date Received : 02.09.23
- Location : 2 Greydells Road Stevenage Herts SG1 3NL
- Proposal : Lawful Development Certificate (Proposed) for rear dormer window and 3 no. rooflights.
- Date of Decision : 05.10.23
- Decision : **Certificate of Lawfulness is APPROVED**
39. Application No : 23/00677/FPH
- Date Received : 02.09.23
- Location : 2 Greydells Road Stevenage Herts SG1 3NL
- Proposal : Demolition of existing garage and side extension and erection of single storey side and rear extension, construction of front porch.
- Date of Decision : 05.10.23
- Decision : **Planning Permission is GRANTED**
40. Application No : 23/00678/TPTPO
- Date Received : 04.09.23
- Location : St. Pauls Court Stevenage Herts SG2 8DN
- Proposal : Remove deadwood in crown to 4 no. Norway Maple trees (T10, T7, T5 and T11), pollard to previous points 5 no. Norway Maple trees (T13, T4, T1, T3 and T6) all protected by TPO 25.
- Date of Decision : 10.10.23
- Decision : **CONSENT TO CARRY OUT WORKS TO A TREE, THE SUBJECT OF A TREE PRESERVATION ORDER**

41. Application No : 23/00682/CLPD  
Date Received : 06.09.23  
Location : 15 Cotney Croft Stevenage Herts SG2 9PT  
Proposal : Lawful Development Certificate (Proposed) to remove existing extension and replace with single storey rear extension adding an additional skylight and full width bifold doors  
Date of Decision : 28.09.23  
Decision : **Certificate of Lawfulness is APPROVED**
42. Application No : 23/00683/COND  
Date Received : 06.09.23  
Location : Land To Rear Of 1 Aspen Close Stevenage Herts SG2 8SJ  
Proposal : Discharge of condition 3 (Samples of Materials) attached to planning permission reference number 20/00753/FP  
Date of Decision : 27.09.23  
Decision : **The Condition(s)/Obligation(s) cannot be discharged but are deemed Acceptable**
- Please note that the condition(s) cannot be discharged given that a breach of planning control has occurred in this instance. However, the Local Planning Authority would not seek any enforcement action against the breach at this time. Notwithstanding this, the Local Planning Authority still reserves the right to undertake enforcement action if a further breach of the condition(s) occurs at a later date.
- The case officer's letter is attached providing further information.
43. Application No : 23/00689/CLPD  
Date Received : 11.09.23  
Location : 69 Barham Road Stevenage Herts SG2 9HY  
Proposal : Certificate of Lawfulness for (Proposed) single storey rear extension  
Date of Decision : 28.09.23  
Decision : **Certificate of Lawfulness is APPROVED**

44. Application No : 23/00696/NMA  
Date Received : 14.09.23  
Location : 54 St. Margarets Stevenage Herts SG2 8RF  
Proposal : Non material amendment to planning permission reference number 23/00421/FPH to add window and door to front facade to allow additional access to front of property  
Date of Decision : 10.10.23  
Decision : **Non Material Amendment AGREED**
45. Application No : 23/00697/COND  
Date Received : 14.09.23  
Location : 14 North Road Stevenage Herts SG1 4AL  
Proposal : Discharge of condition 4 (Bat Licence) attached to planning permission reference number 23/00465/FP  
Date of Decision : 27.09.23  
Decision : **The discharge of Condition(s)/Obligation(s) is APPROVED**
46. Application No : 23/00700/FP  
Date Received : 18.09.23  
Location : Shephall Dental Surgery 246 Shephall Way Stevenage Herts  
Proposal : Two storey rear extension  
Date of Decision : 17.10.23  
Decision : **Planning Permission is GRANTED**
47. Application No : 23/00707/NMA  
Date Received : 21.09.23  
Location : 7 Wetherby Close Stevenage Herts SG1 5RX  
Proposal : Non material amendment to planning permission reference number 22/00216/FPH to replace the pitched roof with a flat roof  
Date of Decision : 02.10.23  
Decision : **Non Material Amendment AGREED**

48. Application No : 23/00714/COND  
Date Received : 25.09.23  
Location : Land To Rear Of 1 Aspen Close Stevenage Herts SG2 8SJ  
Proposal : Discharge of condition 10 (Climate Change) attached to planning permission reference number 20/00753/FP  
Date of Decision : 09.10.23  
Decision : **The Condition(s)/Obligation(s) cannot be discharged but are deemed Acceptable**

Please note that the condition(s) cannot be discharged given that a breach of planning control has occurred in this instance. However, the Local Planning Authority would not seek any enforcement action against the breach at this time. Notwithstanding this, the Local Planning Authority still reserves the right to undertake enforcement action if a further breach of the condition(s) occurs at a later date.

The case officer's letter is attached providing further information.

49. Application No : 23/00744/NMA  
Date Received : 09.10.23  
Location : 12 Hollyshaws Stevenage Herts SG2 8NZ  
Proposal : Non material amendment to planning permission reference number 21/00957/FP to amend proposed roof angle and finishing roof height  
Date of Decision : 17.10.23  
Decision : **Non Material Amendment AGREED**

## **BACKGROUND PAPERS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Council Supplementary Planning Documents – Parking Provision adopted January 2020.
3. Stevenage Borough Local Plan 2011-2031 adopted May 2019.
4. Hertfordshire County Council's Local Transport Plan 4 adopted May 2018.
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 September 2023 and Planning Policy Guidance.



This page is intentionally left blank



**Meeting:** Planning and Development  
Committee

**Agenda Item:**

**Date:** Tuesday 31<sup>st</sup> October 2023

## **INFORMATION REPORT - APPEALS / CALLED IN APPLICATIONS**

Author – Linda Sparrow 01438 242242

Lead Officer – Zayd Al-Jawad 01438 242257

Contact Officer – Zayd Al-Jawad 01438 242257

### **1. APPEALS RECEIVED**

1.1 None.

### **2. DECISIONS AWAITED**

2.1 21/01152/ENF. 68 Basils Road. Appeal against the serving of an enforcement notice to remove the first floor of the two-storey rear extension which was refused under planning permission reference number 21/01256/FPH.

2.2 21/01256/FPH. 68 Basils Road. Appeal against the refusal of planning permission for the retention of a part two storey, part single storey rear extension.

2.3 21/01025/ENFAPL, 7 Boxfield Green. Appeal against the serving of an Enforcement Notice relating to the development not in accordance with approved plans under planning permission reference number 17/00734/FPH.

### **3. DECISIONS RECEIVED**

3.1 **22/00717/ENFAPL, 134 Marymead Drive.** Appeal against the serving of an Enforcement Notice relating to the unauthorised erection of an outbuilding and front extension.

#### Decision

3.1.1 The enforcement notice is upheld, and the appeal dismissed subject to amendments as follows:

- Deletion of Section 5(ii), and its substitution with the following  
(ii) Remove the from the land all building materials arising from compliance with requirement (i) above, and restore the land / dwellinghouse to its condition before the breach took place by repairing the front elevation of the dwellinghouse and making good following the removal of the extension.

#### The Notice

3.1.2 The appellant stated it was not clear which buildings are the subject of the notice, however, the Inspector found that the 1:500 scale plan that accompanied the notice was sufficiently accurate and clear.

3.1.3 The appellant stated that it was not clear what is required by section 5(ii), however, the Inspector found that the requirements were sufficiently clear.

#### Appeal on Ground (c)

- 3.1.4 These are appeals made on the basis that the matters alleged do not amount to a breach of planning control.
- 3.1.5 The appellants case is that the alleged breaches are immune from action through the passage of time and the Inspector considered those matters under ground (d) below. No evidence was found for planning permission or a Lawful Development Certificate for the front extension or outbuildings and the Council's case is that they fail to be permitted development due to their size and proximity to the boundary.
- 3.1.6 The Inspector concluded that on the balance of probabilities, the development alleged is a breach of planning control and therefore the appeal fails on ground (c).

#### Appeal on Ground (d)

- 3.1.7 These are appeals that are made on the basis that at the time the notice was issued, no action could be taken in respect of the alleged breaches of planning control.
- 3.1.8 The appellant considered that if the matters alleged to be breaches in planning control are, at least in part, immune from action through the passage of time. That would require the appellant to provide evidence that the front extension and outbuilding had been completed four or more years ago.
- 3.1.9 The appellant admitted he thought the last structure built was within 2018 but he couldn't be sure and failed to provide sufficient evidence. The Council evidenced the alleged breach with details of a formal complaint being received in June 2020 regarding the construction of the front extension. The Council also referred to previous enforcement investigations in 2019 relating to outbuildings in the rear garden.
- 3.1.10 Considering all the evidence available, the Inspector concluded that there is insufficient evidence from the appellant to demonstrate, on the balance of probabilities, that the extension and outbuildings are immune from action and the appeal fails on ground (d).

#### Appeal on Ground (f)

- 3.1.11 These are appeals that are made on the basis that the steps required by the notice exceed what is necessary to remedy any breach.
- 3.1.12 The Council considers that the requirements of the notice were the minimum needed to remedy the alleged breaches. The Inspector stated that a requirement to return the land to its previous condition would be sufficient but that to request anything further, such as levelling the ground and re-seeding, would not be necessary.
- 3.1.13 The Inspector concluded that, in so far as the notice requires the levelling of the ground and re-seeding the grass, the steps required by the notice exceed what is necessary to remedy the breach. He concluded that he would vary the enforcement notice prior to upholding it and as such, the appeal succeeds to that extent in regards to ground (f).

#### Appeal on Ground (g)

- 3.1.14 These are appeals that are made on the basis that the time for compliance with the requirements of the notice is too short. The notice in question sought compliance within 12 weeks.
- 3.1.15 The Inspector found on his site visit that the front extension and outbuildings were of a simple construction and restoration works would not be extensive. The appellant did not argue that they could not be removed, nor that restoration works could not be achieved in 12 weeks.

- 3.1.16 nevertheless, the appellant argued that he has a passion for tractors and the site is used for their storage, repair and maintenance and that he needs the buildings for shelter and tool/equipment storage. Alternative storage would take approximately 12 months to find.
- 3.1.17 The Inspector found no compelling evidence of the appellants need for either the extension or the outbuildings, or of the consequences of their removal. He stated that there was a need to balance the appellants case for additional storage against the harm to the conservation area and great weight must be applied to the conservation of the designated heritage asset. He concluded that the appellants case for more time would not outweigh the harm caused to the character and appearance of the conservation area and therefore 12 weeks is a reasonable timeframe and the appeal fails ground (g).

- 3.2 **23/00323/FPH, 23 Park View.** Appeal against the refusal of planning permission for a two storey side extension.

Decision

- 3.2.1 The appeal is allowed and planning permission is granted for the two storey side extension subject to conditions relating to 3 year time limit for implementation, to be carried out in accordance with the now approved plans, and subject to materials being submitted and approved prior to the commencement of development.

Reasons

- 3.2.2 The Inspector judged that the marginal difference between the remaining space at the side (4.3m) compared to No.11's remaining space (5m) would not cause harm to the character and appearance of the area. He went on to say that the proximity to the boundary was also not harmful and there is no consistent building line which it would breach. Within that context, he found no harm to arise from the proximity to the boundary.
- 3.2.3. The Inspector also found that the crown roof proposed would be very similar to an extant permission at the appeal site (21/00607/FPH) and therefore the proposed roof would be so similar to that of the approved scheme that its effects on the surrounding area would be the same.
- 3.2.4 Overall, he concluded that the proposal would not unacceptably reduce the space around the extension and would not be too close to the boundary within its local context. The impact on the character and appearance of the area would be very similar to that of the previously approved 2021 permission.

Conclusion

- 3.2.5 For the above reasons, the Inspector concluded that he found no harm to arise from the proposed extension and therefore, subject to conditions, the appeal is allowed and planning permission granted.

This page is intentionally left blank