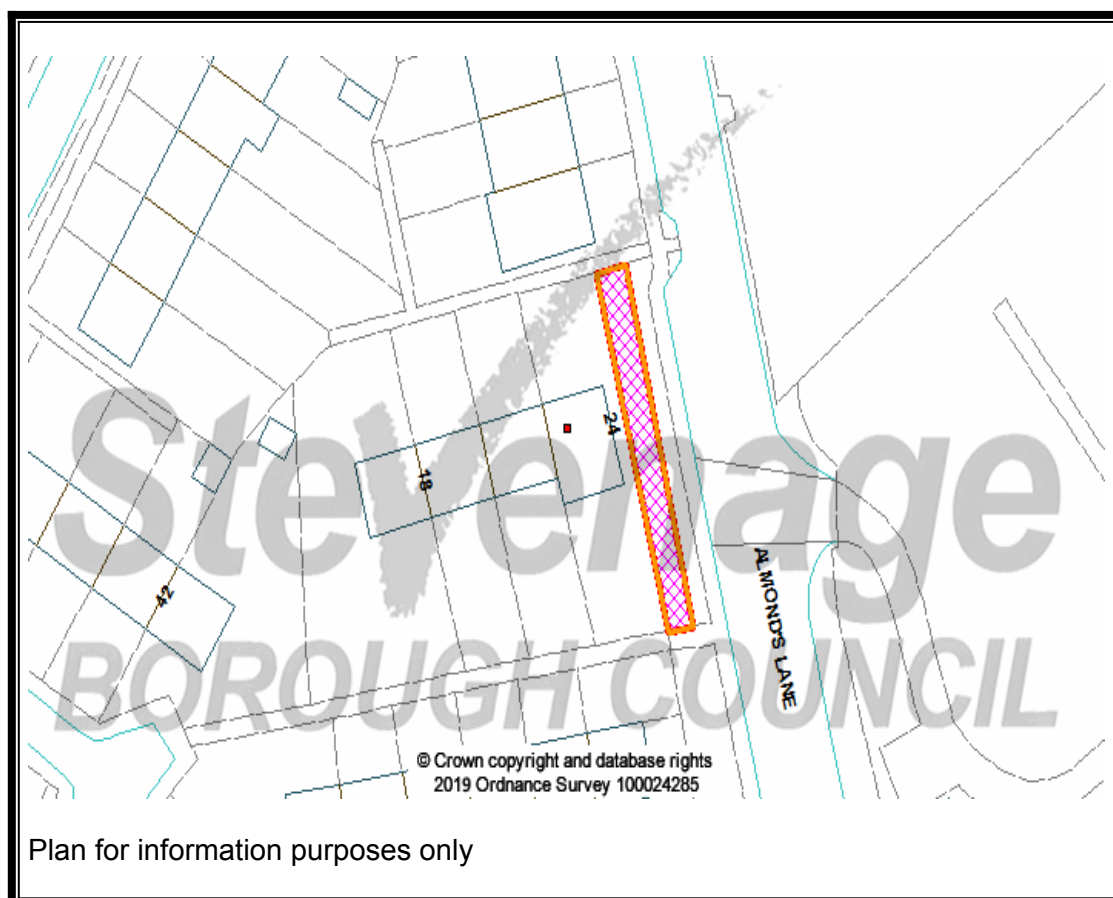


**Meeting:** Planning and Development Committee  
**Agenda Item:**  
**Date:** 16 July 2019  
**Author:** Linda Sparrow 01438 242837  
**Lead Officer:** Zayd Al-Jawad 01438 242257  
**Contact Officer:** Linda Sparrow 01438 242837

Application No:	19/00286/FP
Location:	24 Almonds Lane, Stevenage
Proposal:	Change of use from public amenity land to residential
Drawing Nos.:	SITE LOCATION PLAN; TQRQM19137225356805 (Amended Site Plan);
Applicant:	Mr Mark Roddie
Date Valid:	20 May 2019
Recommendation:	GRANT PLANNING PERMISSION



## **1. SITE DESCRIPTION**

- 1.1 24 Almonds Lane is an end of terrace dwelling located on the western side of Almonds Lane, close to the northern entrance/exit gate of Almonds Lane Cemetery. The property is bounded by residential dwellings to the north, south and west. To the east of the property is an area of public amenity land with a pedestrian footpath and parking bay beyond. The rear garden is enclosed with a 1.8m high close boarded timber fence and the front garden is enclosed with a mature hedgerow.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 Permission granted under reference number 00/00197/FP in June 2000 for a part single storey, part two storey front extension.

## **3. THE CURRENT APPLICATION**

- 3.1 The application seeks permission for the change of use of amenity land to the eastern side of the property to residential garden and enclosure with fencing. The parcel of land to which this application relates measures between 2m wide at the front of the property and 2.5m wide at the rear of the property and 32m in length. A strip of land measuring 2.5m wide would be retained between the parcel of land and the adjacent public footpath.
- 3.2 The application comes before the Planning and Development Committee as Stevenage Borough Council is the land owner and there has been an objection to the proposal.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 The application has been publicised by neighbour letters and the posting of a site notice. One representation has been received from the owner of 26 Almonds Lane raising the following concerns:-
- use of the land by members of the public for the storage of buildings materials;
  - future intentions of the owners to build a house on the land;
  - future installation of a dropped kerb in the parking bay to allow parking on the land;
  - on-street car parking issues;
  - security when exiting property as view over land will be removed;
  - width of garden is out of character for the area;
  - will affect house value;
  - use of the extended rear garden with outbuildings and trampolines;
  - will extend the alleyway which is already dark and intimidating;
  - would have to change our boundary fences to match in height and re-arrange garden to use front door instead of side door.
- 4.2 Please note that the above is not a verbatim copy of the comments which have been received. To view a full copy of the objection which has been received, it is available to view on the Council's website.

## **5. CONSULTATIONS**

### **5.1 SBC Estates Services**

- 5.1.1 Have agreed to sell the land subject to planning permission being granted.

## **5.2 Herts County Council as Highway Authority**

- 5.2.1 Have no objections to the proposal and do not wish to restrict the grant of planning permission.

## **5.3 SBC Parks and Amenities Department**

- 5.3.1 Have no objections to the change of use of the land. However, they note that the proposal will result in the loss of the boundary hedgerow around the front curtilage and would suggest that replacement planting is undertaken along this boundary.

# **6. RELEVANT PLANNING POLICIES**

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

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

- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014);
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007); and
- The Stevenage Borough Local Plan 2011-2031 (2019) (Adopted Local Plan).

- 6.1.2 The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.

- 6.1.3 In considering the policy implications of any development proposal, the Local Planning Authority will assess each case on its individual merits.

## **6.2 Central Government Advice**

- 6.2.1 A revised National Planning Policy Framework (NPPF) was published in February 2019. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 213 of the NPPF applies which states that due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.

- 6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.

- 6.2.3 In addition to the NPPF, advice in Planning Practice Guidance must also be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 11 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

## **6.3 Adopted Local Plan**

SP8 Good Design

NH6 General Protection of Open Spaces

## **7. APPRAISAL**

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

### **7.2 Loss of the Open Space**

- 7.2.1 The area of land in question is currently in the ownership of Stevenage Borough Council and is designated as an area of informal open space and is protected by Policy NH6 of the adopted Local Plan. Policy NH6 for general protection of open space states that the loss of unallocated open space should have regard to the quality and accessibility of the open space, whether the open space is serving its function and purpose, and whether alternate space(s) would remain available for community use.

- 7.2.2 The area of land in question is sited immediately adjacent the eastern boundary of the site, and runs from the front boundary to the rear boundary with a varying width of 2m at the front to 2.5m at the rear and a length of 32m. The total area would be approximately 88sqm. The land currently forms part of a larger area of informal grassed amenity area which measures between 4.5m and 6m wide and 32m in length, with a total area of approximately 153sqm. The area of land in question is fully laid to grass and contains 1no. lamp post on the northern corner and 1no. telegraph pole centrally positioned on the eastern boundary. These are not affected by the application proposal.

- 7.2.3 Whilst the land is open in nature, with no access restrictions, it is too small to be considered an area of meaningful open space, but rather, it is a small strip of grass separating the highway from the boundary of No. 24. The loss of the amenity space is not considered to detrimentally impact the form and function of the surrounding structural open space. The open space does not serve a specific function or purpose within the community, such that its loss would be unreasonable. Larger more useable areas of open space are located within reasonable proximity in the Old Town area. In Policy terms therefore, the change of use this area of amenity land is considered acceptable.

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

- 7.3.1 The proposed change of use is not considered to visually harm the character of the area. A remaining strip of land approximately 2.5m wide and 32m long would be retained between the application site and the public footpath which would still allow public views along this length of Almonds Lane.

- 7.3.2 The proposal includes the enclosure of the land with 1.8m high timber fencing to match the existing boundary treatments along the rear curtilage, a low level hedge along the side of the front curtilage and 1m high timber fencing along the front curtilage. Given the existing boundary treatment includes a 1.8m high fence along the rear curtilage, which abuts the amenity space, neighbouring properties in the vicinity have the same, and the neighbour to the north, No. 26 has 1m high timber fencing to their front curtilage, it is not considered the use of matching fencing would harm the character and visual appearance of the area.

- 7.3.3 The application in its original format included the loss of the hedgerow around the front curtilage. Following concerns raised by the Parks and Amenities Department, the applicant revised the scheme to replace some of the hedgerow along the side of the front curtilage. This will retain the visual character of the area and ensure that flora and fauna are not overly

harmful as a result of the proposal. The use of 1m high timber fencing along the front boundary is not considered to be harmful to the visual amenities of the area as other properties in the vicinity have low level timber fencing to their front curtilages.

#### **7.4 Amenity of Neighbours**

- 7.4.1 The extension of the 1.8m high fencing line along the rear boundary of the property adjacent to the front garden of the neighbour to the north, No. 26, will likely result in some shadowing of this neighbouring garden. However, there are no habitable rooms close to the proposed fence line and loss of light to front gardens is not considered to be significant such as to sustain a refusal of permission.
- 7.4.2 The neighbour at No. 26 utilises the side entrance door as their main entrance, which is set back 2.3m from the front elevation of the property. This neighbour has expressed concerns that the extension of the fencing line will negatively affect the security of their premises when exiting the property as their view over the open space will be removed. This situation would not differ from any of the properties in the terrace of dwellings who enter and exit their property through the rear garden along this alley way.
- 7.4.3 Comments relating to the use of the extended private rear garden and potential for outbuildings and play equipment to be installed are not material planning considerations and cannot be taken into account in the assessment of this application. Any structures erected in the rear garden would need to comply with the nationally set Permitted Development Rights or a planning application would be required. Further, there is no protection of, or right to, views from properties in Planning Law. Accordingly, the change of use of this land is not considered to harm the amenities of the occupiers of neighbouring properties.

#### **7.5 Other Matters**

- 7.5.1 Planning applications must be considered on the merits of the application at hand and potential future uses for the land cannot be taken into account. This application relates solely to the use of the land being changed to private residential use; the erection of a new dwelling on the land would be subject to its own planning application and cannot be taken into consideration as part of the assessment of this application. Further, any requirement for a dropped kerb would be a matter for Herts County Council as Highways Authority.
- 7.5.2 Matters raised relating to on-street car parking issues and the parking bays along Almonds Lane would fall outside of the remit of the planning legislation.

### **8. CONCLUSIONS**

- 8.1 It is considered that the change of use from amenity land to residential garden accords with adopted policy and would not harm the character and visual amenity of the area, nor the amenity of neighbouring properties. The application is, therefore, recommended for approval.

### **9. RECOMMENDATION**

- 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:  
SITE LOCATION PLAN; TQRQM19137225356805 (Amended Site Plan);  
**REASON:-** For the avoidance of doubt and in the interests of proper planning
  - 2 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**REASON:-** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 3 The approved area of land shall be enclosed by close boarded timber fencing no higher than 1.8m between markers A, B, C and D, timber post and rail fencing no higher than 1m between markers E and F, and the existing hedgerow shall be replaced between markers C and E, as shown on Plan Number TQRQM19137225356805 (Amended Site Plan) unless otherwise agreed in writing by the Local Planning Authority.

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

- 4 No removal of trees, scrub or hedges, shall be carried out on site between the 1st March and 31st August inclusive in any year, unless searched beforehand by a suitably qualified ornithologist.

**REASON:-** Nesting birds are protected from disturbance under the Wildlife & Countryside Act 1981 (as amended).

#### **Pro-active Statement**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (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. Stevenage Local Plan 2011-2031 (adopted May 2019).
3. Central Government advice contained in the National Planning Policy Framework February 2019 and the National Planning Policy Guidance 2014, as amended.
4. Responses to consultations with statutory undertakers and other interested parties referred to in this report.