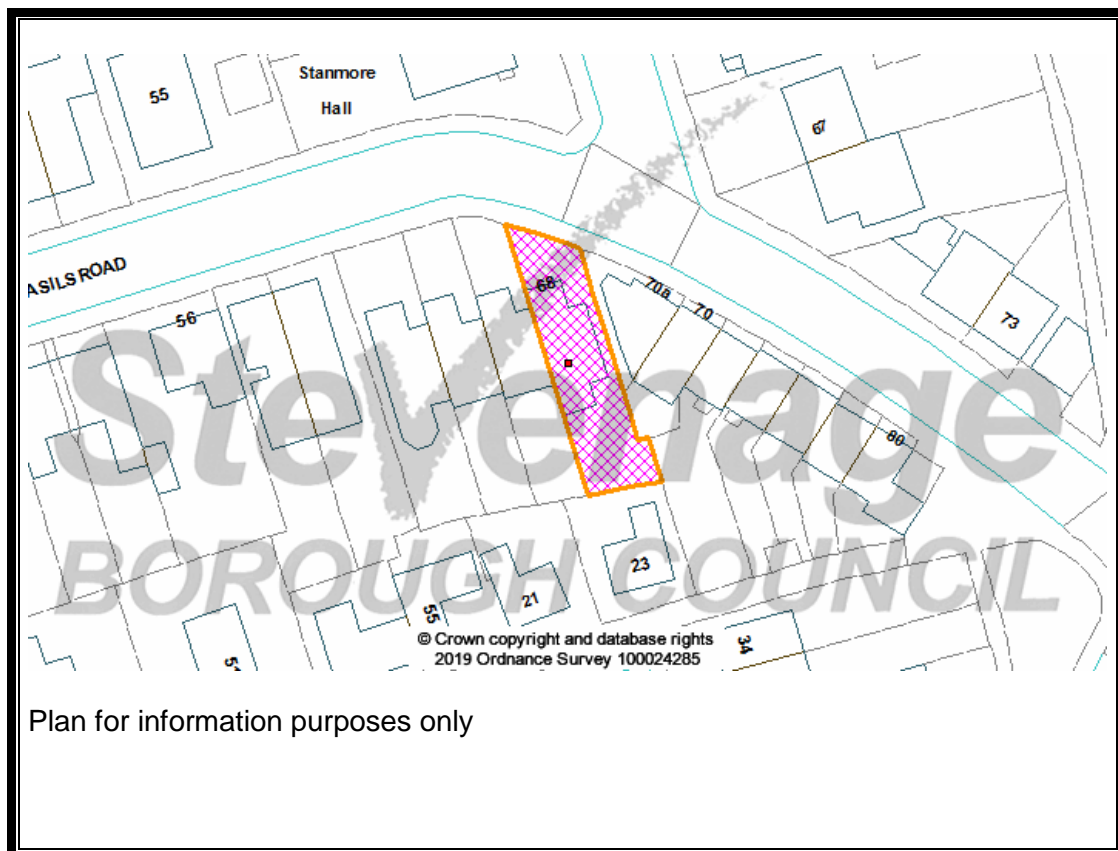


Meeting: Planning and Development Committee
Agenda Item:
Date: 10 February 2022
Author: Linda Sparrow 01438 242837
Lead Officer: Zayd Al-Jawad 01438 242257
Contact Officer: Linda Sparrow 01438 242837

Application No:	21/01256/FPH
Location:	68 Basils Road, Stevenage
Proposal:	Retrospective planning permission for the demolition of the existing conservatory and erection of part two storey, part single storey rear extension
Drawing Nos.:	Site Location Plan; 5; 4; 3; 2; 1; 6;
Applicant:	Mr Robert Hayward
Date Valid:	8 December 2021
Recommendation:	REFUSE PLANNING PERMISSION AND SERVE AN ENFORCEMENT NOTICE



1. SITE DESCRIPTION

- 1.1 The application site is an end of terrace dwelling on the southern side of Basils Road, opposite the junction with Stanmore Road. The property is constructed with red brick and dual pitched tiled roof. At the front, the first floor is clad with dark brown hanging tiles and there is a 3m deep original projection on this same front elevation which was originally an integral garage but which has been converted into habitable accommodation at the application site at some point in the past. The terrace within which the property is situated, is staggered slightly, such that the front elevation of the properties are approximately 1m behind the front elevation of the neighbour to the west.
- 1.2 The four properties in this terrace are identical in design and materials although not all of them have retained the original integral garage; some have been converted and replaced the garage door with brickwork and a window.
- 1.3 The driveway to the front of the property is approximately 6.5m long which is only long enough to accommodate one vehicle. However, the application does not seek to create any additional bedrooms so the off-street car parking provision will not be affected.
- 1.4 The properties to the east of the site are of a different style and are rendered and painted cream. No.70A Basils Road is a triangular shaped dwelling, created by the subdivision of No.70 into two dwellings in 1990s. This neighbour does not appear to have any private amenity space and its windows and doors at the rear are approximately 2m from the side elevation of the application property. This neighbour does not extend beyond the rear elevation of the application property. No.70 Basils Road is at an angle to the application property owing to the curvature of the road. In this regard, their rear elevation is more directed towards the bottom of the application site's rear garden.
- 1.5 To the rear of the site are two bungalows, Nos. 21 and 23 Victoria Close, although only No.23 is directly behind the application site. These bungalows have very small curtilages and the rear garden of No.23 is between 2m and 5.5m deep from the rear elevation of the property to the application site's rear boundary fence.

2. RELEVANT PLANNING HISTORY

- 2.1 None.

3. THE CURRENT APPLICATION

- 3.1 This application seeks retrospective planning permission to retain a part two storey, part single storey rear extension which began construction in July 2021. An enforcement investigation was opened in October 2021 after the Council became aware works were underway without the benefit of planning permission. For completeness, the applicant advises that he attempted to make contact with the Planning Department prior to commencing works to ascertain if permission was required. After receiving no response, he believed the works were permitted development and commenced building. It should be noted that the email address the applicant used to make contact with the Council was incorrect which is why it was not received or actioned and no attempts to follow up the lack of response were made. This application before the Council seeks to regularise the breach in planning control which has occurred.
- 3.2 At ground floor, the extension measures 5.2m wide, 2.4m deep, 2.7m high to the eaves and 3m high to the ridge with a mono-pitched roof. This element is set approximately 0.2m off the shared boundary with No. 66 Basils Road.

- 3.3 At first floor, the extension measures 3.5m wide, 2.4m deep, 4.5m high to the eaves and 6.3m high to the ridge with a dual pitched gable front roof. This element is set approximately 2m off the shared boundary with No.66 Basils Road.
- 3.4 The extension is approximately 0.3m from the shared boundary with Nos.70 and 70A Basils Road and approximately 9.5m from the shared boundary with No.23 Victoria Close.
- 3.5 The application comes before the Planning and Development Committee is because should the Committee be minded to agree with the officer's recommendation to refuse planning permission then in accordance with the Council's Constitution, the Planning Committee will need to consider where it is expedient to take further action in relation to the breach in planning control as outlined in Sections 10 through to 12 of this report.

4. PUBLIC REPRESENTATIONS

- 4.1 The application has been publicised by neighbour letters and a site notice. No comments have been received.

5. CONSULTATIONS

- 5.1 No consultees.

6. RELEVANT PLANNING POLICIES

6.1 Background to the development plan

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the decision on the planning application should be in accordance with the development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

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

6.2 Central Government Advice

- 6.2.1 A revised National Planning Policy Framework (NPPF) was published in July 2021. This largely reordered the policy substance of the earlier 2012 version of the NPPF albeit with some revisions to policy. The Council are content that the policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan should be considered up to date for the purpose of determining planning applications. The NPPF provides that proposals which accord with an up to date development plan should be approved without delay (para.11) and that where a planning application conflicts with an up to date development plan, permission should not usually be granted (para.12). This indicates the weight which should be given to an up to date development plan, reflecting the requirements of section 38(6) of the 2004 Act. The NPPF and the PPG, with which Members are fully familiar, are both material considerations to be taken into account in determining this application.

6.3 Planning Practice Guidance

- 6.3.1 The PPG contains guidance supplementing the NPPF and with which Members are fully familiar. The PPG is a material consideration to be taken into account together with the National Design Guide (2019) which has the same status as the PPG.

6.4 Stevenage Borough Local Plan 2011-2031 (Adopted 2019)

Policy GD1 - High Quality Design;
Policy SP8 - Good Design;

6.5 Supplementary Planning Documents

Stevenage Design Guide Supplementary Planning Document January 2009.

6.6 Community Infrastructure Levy Charging Schedule

6.6.1 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 for consideration in the determination of this application are the impact on the character and visual amenity of the area and the impact on neighbour amenity.

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

7.2 Design and Impact on Visual Amenity

7.2.1 In terms of design, Paragraph 126 of the NPPF (2021) states that “*the creation of high quality, beautiful and sustainable buildings is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development*”, whilst Paragraph 130 stipulates that planning decisions should ensure development functions well and adds to the overall quality of the area, not just in the short term but over the lifetime of the development. It also sets out that development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping is sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 134 then goes on to re-iterate that “*development that is not well design should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents*”

7.2.2 Policy SP8 of the adopted Local Plan (2019) requires new development to achieve the highest standards of design and sustainability which can deliver substantial improvements to the image and quality of the town’s built fabric. Policy GD1 of the Local Plan generally requires all forms of development to meet a high standard of design which includes form of built development, elevational treatment and materials along with how the development would integrate with the urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design. The Council’s Design Guide SPD (2009) generally reflects the aforementioned policies, whereby it seeks development to respect surrounding buildings in terms of scale, massing, height and design. As such, it encourages good design as it can enhance the appearance of places.

7.2.3 The National Design Guide (2019) which was published by National Government is a material consideration in the determination of planning applications. It sets out that Buildings are an important component of places and proposals for built development are a focus of the development management system. However, good design involves careful attention to other important components of places. These include:

- the context for places and buildings;
- hard and soft landscape;

- technical infrastructure – transport, utilities, services such as drainage; and
- social infrastructure – social, commercial, leisure uses and activities.

7.2.4 A well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. It comes about through making the right choices at all levels, including:

- the layout;
- the form and scale of buildings;
- their appearance;
- landscape;
- materials; and
- their detailing.

7.2.5 The Guide further iterates that all developments are made up of these components put together in a particular way. As such, the choices made in the design process contribute towards achieving the ten characteristics and shape the character of a place. For reference, these ten characteristics are as follows:-

- Context – enhances the surroundings;
- Identity – attractive and distinctive;
- Built form – a coherent pattern of built form;
- Movement – accessible and easy to move around;
- Nature – enhanced and optimised;
- Public spaces – safe, social and inclusive;
- Uses – mixed and integrated;
- Homes and buildings – functional, healthy and sustainable;
- Resources – efficient and resilient;
- Lifespan – made to last.

7.2.6 The rear garden is fully bounded by residential gardens, although it can be glimpsed between the two single storey dwellings at the rear of site. As the extension is already underway, and appears almost finished in terms of the external brickwork and roofing, it can be seen from this rear public vantage point.

7.2.7 The materials that have been used are similar to the materials used in the construction of the existing dwelling and the design is acceptable. This is because the extension reflects the architectural style of the application property. In addition to this, the ridge line is lower than the existing dwelling and as such, the extension does not appear over dominant or incongruous and appears as a subservient addition to the main dwelling. For these reasons, the extension is not considered to harm the visual amenities of the area and complies with Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011 - 2031 (2019), the Council's Design Guide SPD (2009), National Planning Policy Framework (2021) and the Planning Practice Guidance (2014).

7.3 Amenity of Neighbours

7.3.1 Turning to the impact on neighbouring properties, the attached neighbour, No.66, is located to the west of the application site. As such, an assessment of the impact on the daylight and sunlight levels of this neighbour is required. The properties in the terrace all appear to have the same layout; in this regard, the room to the rear of the property is a full width lounge-diner which is served by a single door on the eastern side of the room and a larger patio door on the western side of the room. The two storey element of the extension passes the 45-degree test against this single door on the elevations and the plans; the single storey element passes on the elevations but fails on the plans. However, given that this room contains another, larger patio door on this rear elevation, it is not considered that the extension will result in an overly

detrimental impact on the daylight and sunlight of this neighbouring habitable room. There are no windows in the side elevation facing this neighbour so no overlooking or loss of privacy would occur in this regard. At 2.4m deep, it is not considered that the extension will result in a harmful outlook from their rear rooms, and the two storey element is set off by the boundary by approximately 3m so that it would not appear over dominant from the rear rooms or immediate patio area.

- 7.3.2 The neighbour to the east, No.70A is triangular in shape with little to no amenity space. It is sited so that its rear elevation projects approximately 0.8m beyond the rear elevation of the original application dwelling and therefore the two storey extension as built is approximately 1.7m beyond the southern corner edge of this neighbour. There are no windows in the side elevation of the extension so no overlooking or loss of privacy would occur. Having looked at the most recent planning application at this neighbouring property in 2018 (18/00497/FPH), the rear elevation of this neighbour contains an obscure glazed toilet window closest to the extension and a living room window approximately 4.5m in from the edge of the dwelling. At first floor the windows serve a bathroom and a landing, neither of which are considered habitable rooms. The living room at ground floor is dual aspect, however the other window faces due north so will receive little natural light and very little sunlight.
- 7.3.3 The extension projects approximately 1.7m beyond the edge of this neighbouring property's rear elevation, and being two storey on this side, it is considered that it would reduce the amount of natural daylight and sunlight reaching down to the ground floor windows. The extension fails the 45-degree test on the plans.
- 7.3.4 Whilst the ground floor windows would be obscured from view by the high level timber boundary fencing, when standing in the rear habitable room, the two storey extension would obscure the skyward views and pose an oppressive view from this window, to the detriment of the outlook from this habitable room.
- 7.3.5 Further, the Council's adopted Design Guide (2009) requires a minimum separation distance of 15m for two storey extensions between the rear of one property and side of another. In this regard, the side of the extension is approximately 2.5m from the rear of this neighbour which is unacceptably below the required minimum. This would further exacerbate the over bearing and dominant appearance of this extension from the rear windows of this neighbour.
- 7.3.6 The neighbour at No.70 is angled such that they look down the application site's rear garden and with no windows in the side elevation there would be no overlooking or loss of privacy. However, as above, the side of the two storey extension will be approximately 3.5m from the rear elevation of this neighbour which is also unacceptably below the required minimum of 15m for back to side separations as laid out in the Design Guide (2009).
- 7.3.7 The property to the rear, No.23 Victoria Close is a single storey bungalow. There is a projection of 3m off the rear elevation of the main dwelling but owing to the extensive soft landscaping in both gardens, it is not visible from the windows in the rear elevation of the extension. The back to back separation distance in the Design Guide (2009) is 25m. The extension as built is approximately 12m from the rear elevation of the projection on the bungalow and approximately 15m from the rear elevation of the main dwelling. As before, this separation distance is considered unacceptably below the required minimum standard and will result in an unacceptable harmful impact on the living conditions of the occupiers of this neighbouring property in both their rear habitable room and from their rear garden. Given the very small rear garden of this neighbouring property, the two storey element of the extension appears overly dominant and imposing in views from this property's rear garden.
- 7.3.8 The impact from substandard separation distances was upheld at appeal (reference APP/K1935/D/20/3263519) at 10 Gorleston Close (20/00496/FPH) for a similar two storey rear extension. The Inspector concluded that the substandard separation distance would harm the living conditions of the neighbour to the rear, especially in regards to privacy and that the use

of obscure glazing to the bedroom windows to try to mitigate the issues would not be acceptable as the use of such glazing would then harm the outlook from these habitable rooms and would not be reasonable.

- 7.3.9 For these reasons, the two storey element of the extension as built is considered to have an unacceptable impact on the living conditions of neighbouring occupiers and is therefore contrary to Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011 - 2031 (2019), the Council's Design Guide SPD (2009), National Planning Policy Framework (2021) and the Planning Practice Guidance (2014).

7.4 Equalities Impact Statement

- 7.4.1 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.
- 7.4.2 When considering proposals placed before Members it is important that they are fully aware of and have themselves rigorously considered the equalities implications of the decision that they are taking.
- 7.4.3 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the Council's obligations under the Public Sector Equalities Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 7.4.4 The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.
- 7.4.5 It is considered that the decision has had regard to this duty. The development would not conflict with either Stevenage Borough Council's Equality Policy or the commitments set out in our Equality Objectives, and would support the Council in meeting its statutory equality responsibilities.

8. CONCLUSIONS

- 8.1 In summary, whilst it is considered that the proposed development would not harm the character and visual amenity of the area, it is considered that the two storey element of the extension harms the amenities of neighbouring properties by way of the substandard separation distances between the extension and properties at No.70 and 70A Basils Road and No.23 Victoria Close, resulting in harm to their privacy, outlook and appearing as an over dominant form of development. The application is, therefore, recommended for refusal.
- 8.2 Should the Committee be minded to refuse the application then it will be necessary to consider further action as outlined in sections 10, 11 and 12 of this report below.

9. RECOMMENDATION

- 9.1 That planning permission is REFUSED for the following reasons:-

- 1 The proposed extension, by virtue of its proximity to the rear elevation of No. 23 Victoria Close fails to meet the required minimum back to back separation distance as laid out in Chapter 6 of the Council's adopted Design Guide (2009) and would therefore likely result in an unacceptable outlook and loss of privacy for the occupiers of this neighbouring property, having a harmful impact on the habitable room windows and private rear garden which detracts from the privacy and residential amenity of this neighbouring property. The development is, therefore, contrary to Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011 - 2031 (2019), the Council's Design Guide SPD (2009), National Planning Policy Framework (2021) and the Planning Practice Guidance (2014).
- 2 The proposed extension, by virtue of its proximity to the rear elevation of Nos. 70 and 70A Basils Road fails to meet the required minimum back to side separation distance as laid out in Chapter 6 of the Council's adopted Design Guide (2009) and would therefore likely result in an unacceptable outlook and loss of privacy for the occupiers of these neighbouring properties, having a harmful impact on the habitable room windows and private rear gardens which detracts from the privacy and residential amenity of these neighbouring properties. The development is, therefore, contrary to Policies GD1 and SP8 of the Stevenage Borough Local Plan 2011 - 2031 (2019), the Council's Design Guide SPD (2009), National Planning Policy Framework (2021) and the Planning Practice Guidance (2014).

10. FURTHER CONSIDERATIONS

- 10.1 Having recommended refusal of the retrospective planning application, a decision needs to be made as to whether or not the Council should undertake enforcement action against the breach of planning control which has occurred in this instance.
- 10.2 As set out previously in this report, it is considered that the existing development, by way of the substandard separation distances results in harm to the occupiers of the neighbouring properties at Nos. 70 and 70A Basils Road and No.23 Victoria Close. The two storey element of the development results in an unacceptable level of overlooking to No.23 Victoria Close resulting in a loss of privacy and by proximity to this dwellings' rear elevation, results in an over dominant form of development which detrimentally harms the outlook from this property's rear garden and rear habitable rooms. The proximity of the two storey extension to the rear elevations of Nos. 70 and 70A Basils Road results in an unacceptable outlook from these neighbouring properties and in respect of No.70A, results in an exacerbation of the lack of natural daylight and sunlight to the windows on their rear elevation.
- 10.3 Given the aforementioned comments, should the Committee agree with the recommendations set out in section 9 of this report to refuse planning permission, authorisation is sought to take enforcement action to secure the removal of only the first floor element of the development as the single storey element of the development is considered acceptable. It is considered that a period of six months from the date of the decision is deemed reasonable in line with the Government's Planning Practice Guidance (2014).

11. FURTHER RECOMMENDATION

- 11.1 That an Enforcement Notice be issued and served by the Assistant Director of Planning and Regulation, subject to the Borough Solicitor being satisfied, requiring the removal of the first floor element of the existing rear extension. The precise terms of the Enforcement Notice, including all time periods, to be delegated to the Assistant Director of Planning and Regulation.
- 11.2 That, subject to the Borough Solicitor being satisfied with the evidence, the Assistant Director of Planning and Regulation be authorised to take all steps necessary, including prosecution or any other litigation/works in default to secure compliance with the Enforcement Notice.

11.3 That in the event of any appeal against the Enforcement Notice, the Assistant Director of Planning and Regulation be authorised to take any action required to defend the Enforcement Notice and any appeal against the refusal of planning permission.

12. REMEDY REQUIRED

12.1 Within six months of the date of refusal of planning permission, to remove the first floor element of the existing two storey rear extension.

13. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Council Supplementary Planning Documents – Stevenage Design Guide adopted October 2009.
3. Stevenage Borough Local Plan 2011 – 2031 adopted 2019.
4. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
5. Central Government advice contained in the National Planning Policy Framework July 2021 and Planning Policy Guidance March 2014.