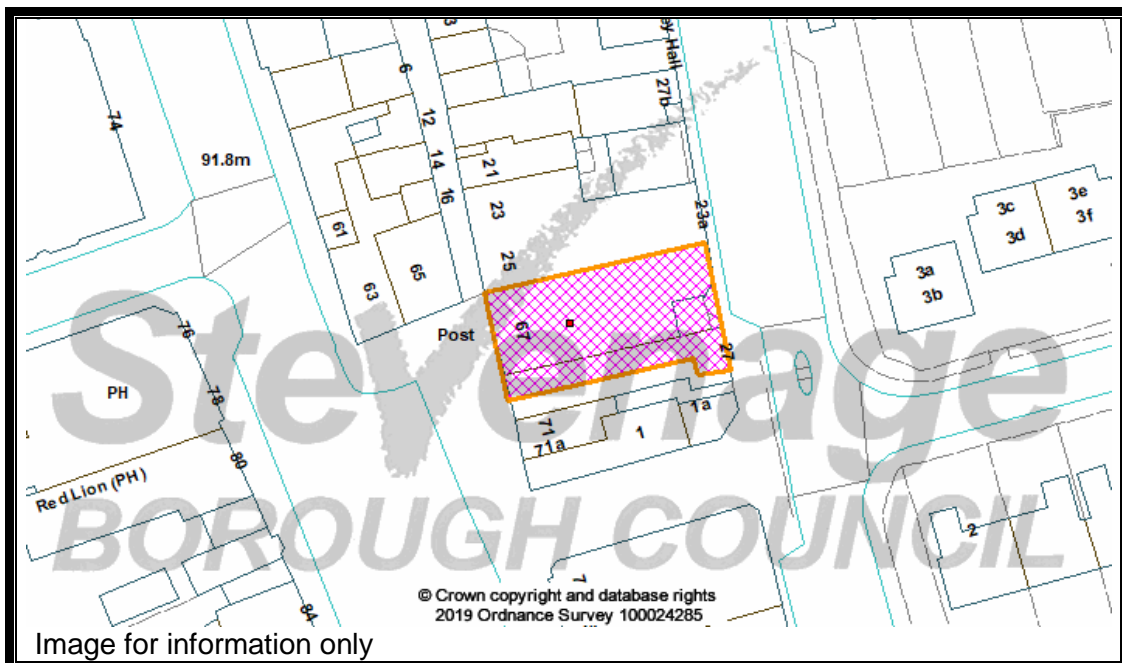


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| Meeting: | Planning and Development Committee | Agenda Item: |
| Date: | 10 January 2023 | |
| Author: | Linda Sparrow | 07931 863551 |
| Lead Officer: | Zayd Al-Jawad | 01438 245257 |
| Contact Officer: | Linda Sparrow | 07931 863551 |

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| Application No : | 22/00833/FP and 22/00835/LB |
| Location : | 67 – 69 High Street, Stevenage, Herts |
| Proposal : | <u>22/00833/FP:</u> Change of use from Use Class E (Shop) to Sui Generis (Betting Office) with repainting of brickwork, installation of new shop front, 2 no. satellite dishes and air conditioning units. |
| | <u>22/00835/LB:</u> Internal alterations to ground floor layout and external alterations including new fire escape, removal of entrance ramp, replacement shopfront, 2no. satellite dishes and 2no. air conditioning units. |
| Drawing Nos.: | Site Location Plan; FINAL-NL-170722-500; FINAL-NL-170722-502; NL-170722-101-A; NL-170722-102-A; FINAL/NL/170722/501-D; FINAL-NL-170722-503-C; |
| Applicant : | Boyle Sports (UK) Limited |
| Date Valid: | 15 September 2022 |
| Recommendation : | GRANT PLANNING PERMISSION GRANT LISTED BUILDING CONSENT |



1. SITE DESCRIPTION

- 1.1. The application site is located on the eastern side of the High Street, at the southern end and adjacent to the entrance of the pedestrianised street of Middle Row to the north. To the south are commercial units and the pedestrianised stretch of Albert Street. To the west is an area of cobbled highway with the vehicular highway of High Street beyond whilst to the rear (east) is the vehicular highway of Church Lane with residential dwellings beyond.
- 1.2. The property is a Grade II Listed Building within the Old Town Conservation Area. The property dates to the 18th century (or earlier) and is of red brick construction with a clay tile roof. There are various gabled extensions to the rear, both old and new. The ground floor shopfront is brown timber framed with large windows above a dwarf brick wall (stall riser), whilst the first floor is painted white brickwork with black timber framed windows. There is a black painted frieze and a variety of vinyl signage and one large black lantern light. The current occupier of the premises uses the large cobbled pedestrian highway area to the front of the store to display a variety of goods for sale.

2. RELEVANT PLANNING HISTORY

- 2.1 99/00379/LB Two Storey Rear Extension 26.01.2000. Granted.
- 2.2 99/00381/FP Two Storey Rear Extension 26.01.2000. Granted.
- 2.3 04/00389/FP Single storey rear extension to shop 29.11.2004 PER
- 2.4 04/00490/LB Application for listed building consent for demolition of existing rear canopy, erection of single storey rear extension to shop and internal alterations to enlarge retail area 29.11.2004. Granted.
- 2.5 10/00488/FP Conversion of first floor and part rear ground floor to form 4no. one bedroom flats. 20.12.2010. Granted.
- 2.6 10/00489/LB Listed building consent for the conversion of first floor and part rear ground floor to form 4no. one bedroom flats. 20.12.2010. Granted.
- 2.7 21/01102/LB Strip off defective roof tiles and tiling battens, replace breathable roofing membrane, supply and fix treated timber battens and re-tile using handmade clay plain tiles 26.11.2021. Granted.

3. THE CURRENT APPLICATION

- 3.1 The proposal seeks planning permission for the change of use of the existing retail shop (Use Class E) to a betting shop (Use Class Sui Generis) and the erection of 2no. air conditioning units and 2no. satellite dishes. Matters relating to the advertisement signage are under consideration under a separate application (22/00834/AD). In regard to the Listed Building Consent application, this seeks approval for the air conditioning units, satellite dishes and for works necessary to facilitate the proposed change of use. These associated works are as follows:

- Replace deteriorating timber shopfront and door with new traditional timber shopfront and door;
- Ancillary un-traditional door to be replaced with traditional brickwork;
- Sensitive paintwork (blue to match RAL 5002);
- 2 no. satellite dishes and 2 no. A/C condenser units at the rear;

- Relocation of staff room;
- Relocation of customer service desk;
- Introduction of fire escape route;
- Introduction of customer toilets;
- Introduction of internal door at foot of staircase to first floor storage;
- Removal of entrance ramp;
- 1 no. externally illuminated BoyleSports fascia sign;
- 1 no. externally illuminated BoyleSports projecting sign;
- New BoyleSports vinyl displays on the inside of the shopfront glazing.

3.2 These applications come before the planning committee as they were called in by Councillor Jim Brown.

4. PUBLIC REPRESENTATIONS

4.1 Following notification of the applications via letter, the erection of site notices and a press notice in the local newspaper, public representations have been received from the following:

- Boston House, Park Place
- Business & Technology Centre occupant
- 13 Church Lane
- 44 Grove Road
- 1 Morgan Close
- 2 Woodland Way
- Elias Topping on behalf of un-named local business
- Southend Close Community Hall users

4.2 A summary of the objections raised are set out as follows:

- Unit is ideal for outdoor seating for a restaurant
- Betting shops attract negative activity
- Need better quality places to socialise, eat and gather, not betting shops
- Will encourage gambling, likely causing more addictions and debt
- Does the High Street need another betting shop?
- Article 4 Directions should be made to restrict the numbers of each business type in the High Street and Town Centre
- Better uses would fulfil a gap in the market
- The painting of the listed building would change the character of the building and not be fitting with the area
- Would negatively impact the surrounding area
- People's lives are ruined by gambling, the Council should not allow an increase in number of betting shops
- Fails to accord with Policy TC10 of the Local Plan due to loss of retail unit and fails to satisfy criteria of non-retail uses
- Fails to accord with Policy TC9 of the Local Plan as it fails to preserve or enhance the heritage asset and is not a retail use
- Fails to accord with Policy SP8 of the Local Plan as it does not create a healthy environment and will not encourage an inclusive community due to age restrictions of patrons
- Will likely encourage crime and disorder and increase the fear of crime

4.3 The aforementioned is not a verbatim copy of the objections which have been raised. Full copies of the representations received can be viewed on the Council's website.

5. CONSULTATIONS

5.1. Historic England

5.1.1 Historic England provides advice when our engagement can add most value. In this case we are not offering advice. We suggest that you seek the views of your specialist conservation and archaeological advisers.

5.2. Herts County Council as Highways Authority

5.2.1 The site fronts a wide public footpath, changes to the site are essentially the frontage of the building and signing. Illuminance levels of the lit signs at 250 cd/m² are well within the existing standards. The projecting signs are above the 2.3m required from ground level to the bottom of the sign. Subject to the informatives, this level of development is unlikely to generate any extra movements which would ultimately lead to demonstrable harm to the highway network in terms of free flow and capacity, therefore; the highway authority would not wish to restrict the grant of planning permission. 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.

5.3. B.E.A.M.S (The Council's Conservation and Listed Building Advisor)

5.3.1 The interior at ground floor level has been extensively altered and all historic internal partitions have been removed. As such there is no objection to the minor internal alterations to the ground floor layout. The 2 new air-conditioning units are concealed behind existing gates to rear (Church Lane) elevation so will not be publicly visible - no objection. The existing timber shopfront is relatively modern and there is no issue with its replacement in principle. However, it is recommended the design is amended/enhanced. It is recommended the new glazed shopfront incorporates glazing (with suitably spaced timber mullions) above a stall riser along its length (instead of brick blocking the existing unused door opening). The existing shopfront has a simple moulded timber fascia, this should either be retained, or a new shopfront created with integral timber fascia with pilasters, consoles and other traditional shopfront detailing - the necessary signage can be applied to this. The large vinyl to the arch headed door and the internal light boxes do not really respect the character of the Old Town Conservation Area. The 2 satellite dishes to the rear are obtrusively sited upon the Church Lane elevation and detract from the character and appearance of this part of the Conservation Area. Setting them back from the Church Lane elevation so they are less visually intrusive is recommended.

Further Comments received 18 November 2022 upon receipt of amended plans:

5.3.2 The timber shopfront design is satisfactory as is the externally illuminated signage. However, BEAMS has concerns over the vinyl signs which are visually intrusive. BEAMS takes the view that these would require Listed Building consent and do not consider them an acceptable addition to the listed building and to detract from the Conservation Area street scene. The proposed internal light boxes (5 in all) are considerable in number, and we would prefer a reduction in number and / or containing their use to the main shop front and not the window to the side. If these are deemed acceptable their illumination should be controlled. Having seen these types of signs in operation within a betting shop window recently I was struck by how bright and garish they are, particularly at night hence raising concerns at this stage. Details of the shopfront door should either be provided or detailed via condition, a traditional door design is expected (the plans are not sufficiently clear). One of the satellite dishes to the rear has been relocated to a less prominent position, as such the single satellite dish to the gable end will result in less visual clutter than initially

proposed - so acceptable in principle. Recommend the vinyl signs are removed from the current application and that the other issues are dealt with via condition or as appropriate.

5.4 Environmental Health

5.4.1 No objection subject to conditions relating to noise and contamination.

6. RELEVANT PLANNING POLICIES

6.1. Background to the Development Plan

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

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

6.2 Central Government Advice

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

6.3 Planning Practice Guidance

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;
SP4 – A Vital Town Centre;
SP8 - Good Design;
SP9 - Healthy Communities;
SP11 - Climate Change, Flooding and Pollution;
SP13 – Historic Environment;
GD1 - High Quality Design;
IT5 - Parking and Access;
FP1 - Climate Change;
FP7 - Pollution

NH10 – Conservation Areas;
TC9 – High Street Shopping Area;
TC10 – High Street Primary & Secondary Frontages

6.5 Supplementary Planning Documents

Parking Provision Supplementary Planning Document October 2020
Stevenage Design Guide Supplementary Planning Document January 2009.
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 for considerations in the determination of these applications are the acceptability of the proposal in land use policy terms, the impact on the listed building, impact on the character and appearance of the conservation area, impact on neighbouring properties and car parking provision.

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 Land Use Policy Considerations

7.2.1 The property is located within the High Street Shopping Area (HSSA) and is defined to fall within the primary retail frontage. Accordingly, regard must be had to Policies TC9 and TC10.

7.2.2 Policy TC9 states that within the HSSA, permission will be granted for development which falls within Use Classes A1, A2, A3, A4, C1, C3, D1 or D2. Para. 7.63 of this policy goes on to state that the High Street forms the spine of the Major Centre, as designated within this plan's retail hierarchy. It contains a broad mix of uses but 27% of the floorspace is convenience (food) shopping (primarily Waitrose (now the Old Town Food Centre) and a Tesco Express) whilst 23% is comparison shopping. The High Street also has a larger than usual proportion of bars and restaurants, emphasising its important role in the Borough's leisure offer. It is a busy, well used and popular centre, but one that fulfils both a mixed town-wide and purely local function. The Council wishes to maintain that flexibility of uses, but also wishes to provide a clear framework of acceptable uses.

7.2.3 Since the adoption of the Local Plan, the Government has amended the Use Class Order, including creating a new Class E which includes the previous classes of A1, A2, A3, B1, some of D1, and D2. The Government's intent is to create more flexibility within Town Centres and High Streets. Notwithstanding this, betting shops operate under *Sui Generis* which are not included in Policy TC9 nor the revised Class E uses.

7.2.4 Annex 2 of the NPPF (2021) sets out uses which are acceptable in Town Centres and includes leisure uses. The applicant asserts that betting shops should be considered as a leisure use and therefore acceptable as a town centre or HSSA use. The Council disagrees with this statement because if a betting shop was a leisure use then it would be

categorised under one of the leisure use classes E(d) or F2 (previously D1 or D2). In this regard, the proposed development is contrary to Policy TC9.

7.2.5 Turning to Policy TC10, this identifies that the application site falls within the primary retail frontage of the High Street shopping area. In this regard, uses other than A1, A2, A3 and A4 (now Class E) will only be granted permission where:

- The proposal retains an active frontage
- The proposal will generate footfall equivalent to, or greater than, a normally acceptable A-Class use; and
- The unit has been unsuccessfully marketed for normally acceptable A-Class use or has remained vacant for a considerable amount of time.

7.2.6 Whilst comments from local residents about the betting shops not having active frontages as the windows are obscured and cannot be seen into, the Council does not agree with this stance and believes that the retention of the shopfront, with glass windows and a door, is an active frontage that allows patrons to pass through. A non-active frontage would be a blank brick wall. The Council is satisfied that the proposed development would have an active frontage and is acceptable in this regard.

7.2.7 With regards to footfall, the applicant has provided evidence, by way of an appeal decision (Harrow, April 2020 – APP/M5450/W/19/3241217, paragraphs 14 and 15), that states that betting shops are a strong footfall generator. The Council has been unable to find evidence to the contrary and so feel it is appropriate to include the applicant's argument below. In this regard, the Council agrees with the position that a betting shop would provide equivalent footfall to the previous A1 retail shop and is acceptable in this regard.

“The research concluded that the appellant’s premises was a strong footfall generator within Harrow Metropolitan Town Centre (HMTc), being the most visited unit amongst those that were surveyed. In addition, it found that a significant proportion of those that visit the betting shop will go on to shop at other units in HMTc creating linked trips that provide direct economic benefits to other shops and services in the area. In these respects, the appellant declares that its premises at No 320 contributes positively to the vitality and viability of HMTc and supports its retail function. I acknowledge that this research was limited in terms of its duration and extent and, as such, only provides a snapshot of the situation. However, I have no reason to question its conclusions or doubt that the same result would be found if the appellant relocated to No 322. Furthermore, the Council has not challenged the findings of the research, nor has it provided any up to date substantive evidence of its own regarding the impact of betting shops or non-retail uses on the vitality and viability of HMTc. On this basis, in my judgement, the research demonstrates that the proposed change of use would make a significant contribution to the vitality and viability of HMTc and that it would support the retail function of the Metropolitan centre.”

7.2.8 In terms of marketing, the property is still in use by Deamers. However, the applicant has been unsuccessfully marketing the site since February 2022 (10 months). Whilst some initial interest was shown, no offers have been made other than the applicant of this current application. With no other viable offers, the property would be left to stand vacant in this important primary retail area, to the detriment of the vitality and viability of the High Street.

7.2.9 Local residents have raised concerns that a betting shop would be detrimental to health and therefore contrary to Policy SP9 (healthy communities). This policy relates to improving physical health of residents and raising educational achievement and is not directly relevant to this application. It does require developments to preserve the vitality and viability of identified centres. As laid out above, it is considered that the footfall of the application site would be maintained and therefore the vitality and viability of the HSSA would be preserved.

- 7.2.10 There would be public benefits from the development in the form of employment opportunities, construction jobs and passing trade to neighbouring retail premises. The applicant has provided a statement that confirms the following:
- 3 full time employees and 3 part time employees
 - 26 temporary construction jobs
- 7.2.11 Local residents have also raised concerns about a proliferation of betting shops in the High Street. There are currently 3 betting shops on the High Street out of 143 units; this equates to just 2.1%. Should permission be granted for the change of use, this would result in an increase to 2.8% of the total premises. This is not considered to result in an over a proliferation of betting shops if the Council was minded to grant permission. Notwithstanding this, whilst Policy TC10 requires the primary retail frontage area to contain a minimum of 60% retail premises, it does not categorise the remaining 40%. A provision of 2.8% of the entire High Street is not considered to be an over concentration of betting shops which would have a cumulative adverse impact on the predominantly retail function of the HSSA or wider High Street area.
- 7.2.12 Local residents have also raised concerns over betting shops and anti-social behaviour/increased crime, however there is no conclusive evidence that this is the case. An appeal for a betting shop in London (APP/V5570/W/22/3294654, Islington, London) was allowed in which similar concerns were raised. In paragraph 17 the Inspector notes that *“although this proposal would provide an additional facility in which people can gamble, there is no conclusive evidence which directly attributes the high levels of anti-social behaviour and crime rates (within the LSA) and the wider Borough... The proposal would be strictly controlled through separate licensing and gambling legislation which seeks to prevent gambling from being a source of, or associated with, crime or disorder, ensure that gambling is conducted in a fair and open way and protect children and other vulnerable people from being harmed or exploited”*. Further in paragraph 18 he goes on to conclude that the active frontage created by the proposed betting shop would *“provide a degree of surveillance which could address any existing problems”*.
- 7.2.13 As referred to in the Inspector's comments in 7.2.12 above, it is not within the remit of planning legislation to assess the acceptability of a betting shop in terms of its operation. This is covered by the Council's Licensing team within Environmental Health, having regard to The Gambling Act 2005. The Licensing team will assess the proposed use against three main objectives:
1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 2. Ensuring that gambling is conducted in a fair and open way; and
 3. Protecting children and other vulnerable people from being harmed or exploited by gambling.
- 7.2.14 Notwithstanding the above, the Local Planning Authority are not aware of any public disturbances or other social issues arising from the existing 3 betting shops in the High Street nor other betting shops in the Town.
- 7.2.15 Given the aforementioned, whilst it has been identified that the proposal would be contrary to Policy TC9 in that a *Sui Generis* use is not an identified use for the HSSA or primary retail frontage, and a betting shop cannot be accepted as a leisure use in terms of the Use Class Orders 1987 (as amended), on balance, the use of the premises by an operator who would maintain the footfall levels of the area, and thereby likely to preserve footfall to surrounding retail premises, thus, the proposal would preserve the vitality and viability of the area. Further, there would be public economic benefits through employment opportunities in the construction and operational phases, and to surrounding retail premises from passing trade. It has also been established that betting shops do not compromise vitality and viability of an area and there is no conclusive evidence that they contribute to a

rise in anti-social behaviour or crime. Accordingly, the proposed change of use is considered, on balance, to be acceptable in this instance.

7.3 Design and Impact upon the Listed Building and Conservation Area

- 7.3.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same Act 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.
- 7.3.2 Paragraph 199 of the NPPF (2021) 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.
- 7.3.3 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.
- 7.3.4 Paragraph 201 sets out that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. In reference to paragraph 202 of the NPPF (2021), this sets out 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.
- 7.3.5 The NPPF provides a means of weighing either 'substantial harm' or 'less than substantial harm' to the significance of a designated heritage asset against the public benefits of the proposal. However, the presumption 'to preserve' is not irrebuttable and "can be outweighed by material considerations powerful enough to do so" (Forge Field (Case Nos: CO/735/2013; CO/16932/2013) and a decision maker that has followed the process set out in the NPPF, in respect to weighing harm and benefits, can reasonably be expected to have complied with the 'statutory duties' of the 1990 Act (Mordue, Case No. C1/2015/1067).
- 7.3.6 In considering public benefits, the Planning Practice Guidance (PPG) (2019) (Reference ID: 18a-020-20190723) sets out that the NPPF requires any harm to designated heritage assets to be weighed against the public benefits of the proposal. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in paragraph 8 of the NPPF. For reference, paragraph 8 of the NPPF states that "Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe

places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”

7.3.7 The planning practice guidance goes onto state that public benefits should flow from the development. They should be of a nature or scale to be of benefit to the public at large and not just private benefit. However, benefits do not always have to be accessible to the public in order to be genuine public benefits; for example, works to a listed building which secure its future as a designated heritage asset could be a public benefit. Consequently, while 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 of its setting;
- Reducing or removing risks to a heritage asset;
- Securing the optimum viable use of a heritage asset in support of its long term conservation.

7.3.8 Additional to the above, Policy SP13 of the Adopted Local Plan relates to the historic environment. This states that the council will preserve and enhance the most important area and characteristics of Stevenage. The policy goes on to state that the Council will:-

- a) Have carried out Heritage Impact Assessments for development sites within, or adjacent to, conservation areas. Site specific mitigation measures have been incorporated to minimise the impacts of development.
- b) Will use national guidance and legislation to review, designate and determine planning applications affecting heritage assets.
- c) Will protect areas of archaeological importance and other relevant heritage assets by applying the detailed policies set in this plan.

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

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as the fit in with the overall form and layout of their surroundings.

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

- 7.3.11 Policy SP8 of the adopted Local Plan (2019) requires new development to achieve the highest standards of design and sustainability which can deliver substantial improvements to the image and quality of the town's built fabric. Policy GD1 of the Local Plan generally requires all forms of development to meet a high standard of design which includes form of built development, elevational treatment and materials along with how the development would integrate with the urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design.
- 7.3.12 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.
- 7.3.13 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.
- 7.3.14 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.
- 7.3.15 Paragraph 40 of the National Design Guide states that well-designed places are:
- Based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design;
 - Integrated into their surroundings so they relate well to them;
 - Influenced by and influence their context positively; and
 - Responsive to local history, culture and heritage.
- 7.3.16 The property is a Grade II Listed Building within the Old Town Conservation Area. The property dates to the 18th century (or earlier) and is of red brick construction with a clay tile roof. There are various gabled extensions to the rear, both old and new. The ground floor shopfront is brown timber framed with large windows above a dwarf brick wall (stall riser), whilst the first floor is painted white brickwork with black timber framed windows. There is a black painted frieze and a variety of vinyl signage and one large black lantern light.

7.3.17 The High Street and Middle Row have a commercial character featuring a proliferation of modern shopfronts and synthetic signage in bright colours, which somewhat already detracts from the setting of the Listed Building.

7.3.18 The Historic England entry for the property is as follows:

C18. Red stretchers, grey headers, hipped tiled roof with corbelled cornice. 2 storeys, 4 flush sash windows with glazing bars under cambered arches. Modern shop front to centre and left. Right central doorway with fanlight under cutter red brick semi-circular arch.

Nos 67 and 69 form a group with Nos 81 to 87 (odd) which are of local interest.

The significance of the listed building, therefore, relates predominantly to its shopfront, sash windows and a doorway with fanlight and semi-circular brick arch, all of which are on the front elevation.

7.3.19 Listed Building consent is required as part of the proposed change of use of the premises involves internal alterations, the erection of air conditioning units, satellite dishes and signage. These works have been listed in detail in section 3 of this report.

7.3.20 The air conditioning units and satellite dishes are to be located on the rear elevation fronting Church Lane. The Council's heritage advisor, B.E.A.M.S, has assessed the application and raised no concerns with the air conditioning units. Initial concerns over the satellite dishes have been addressed and as such they are now satisfied with their location and are therefore acceptable.

7.3.21 Turning to the internal alterations required, the Historic England listing as stated above, does not list any internal features as being of heritage value; although as part of the listed building, they should still be preserved. The Council's Heritage Advisor, B.E.A.M.S and Historic England, have assessed the application and raised no concerns regarding the internal works. Accordingly, these works are considered to preserve the heritage asset and are acceptable in this regard.

7.3.22 In regards to the external works, the Conservation Area Management Plan (2012) states that *"alterations and extensions should not dominate an existing building's scale or alter the composition of its main elevations. Any alterations, including partial demolition, should respect an existing building and its materials. All new work should complement the old in quality, texture and colour as well as method of construction. Walls and detailing which have traditionally not been painted should remain undecorated"*.

7.3.23 The existing shopfront is in need of repair. Currently it comprises a 3 bay window, un-used glazed door, the main entrance door with a further 3 bay window and to the right of this is the glazed doorway with brick archway and a further window. Following extensive consultations with the Council's heritage advisor, the final design of the scheme involves replacing the un-used door with window glazing, replacing the main entrance door and applying vinyl signage to the inside of the glazed windows in the main shopfront.

7.3.24 Additionally, the existing timber shopfront would be replaced with a new timber shopfront and painted blue to reflect the corporate colours of the applicant. Existing pilasters would be repaired and painted in corporate colours and the existing brickwork stall riser would be retained in-situ. The right central doorway with brick archway would be replaced with a door panel, painted in corporate colours whilst retaining the fanlight and brick archway. The first-floor sash windows, which are noted in the Historic England listing, would be retained and not altered.

- 7.3.25 Historic England have assessed the proposal and have no concerns so do not wish to make any comments on the proposal. B.E.A.M.S initially raised some concerns over the original submission and subsequently plans were amended in line with their recommendations to the final scheme as described in points 7.3.23 and 7.3.24 above. In view of this, they confirmed that, subject to final details of the replacement shopfront door and its fixtures and fittings, they have no concerns about the new shopfront. They have maintained concern regarding the illuminated signage on the windows but do not recommend refusal subject to conditions relating to its illumination levels. A final plan was received which provides details of the main entrance door and its fixtures and fittings; it is considered appropriate to impose a condition should permission be granted, that the door is constructed and maintained as per this drawing.
- 7.3.26 The High Street and Middle Row are commercial in nature and contain a number of modern shopfronts and illuminated signage. In this regard, the Council do not consider that the proposed shopfront would be out of keeping with the surrounding area. It is therefore considered that the proposed development would amount to less than substantial harm to the heritage assets, at the lower end of the scale. As such, a balanced judgement is required to determine if there are any public benefits to the proposal, and, whether these would outweigh any harm identified.
- 7.3.27 In regard to the impact of the signage on the Listed Building, following on-going negotiations with the applicant and the Council's Heritage Advisor, the proposed signage would now comprise the installation of an externally illuminated projecting sign, an internally illuminated timber fascia with cut fret lettering affixed to the timber fascia, and 3no. light boxes within the main glazed area of the shopfront. Given the signage has been designed to reflect similar signage attached to historic buildings within the Old Town, it is considered that the signage would appear sympathetic with the character and appearance of the Listed Building. Notwithstanding this, it is important to note that any associated signage with the proposed premises would still require separate Advertisement Consent from the Local Planning Authority.
- 7.3.28 Turning to public benefits, there is no definition of 'public benefits' on the National Planning Policy Framework or associated Planning Practice Guidance. All the guidance states is that it "*should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large*". There is also Case Law that deals with what is a material consideration, and this pretty much whether it serves a "*proper planning purpose*" (see *latest commentary on this in Wright v Resilient Energy Severndale Ltd and Forest of Dean District Council*). Further, public benefit could be anything that delivers economic, social or environmental objectives as described in paragraph 8 of the NPPF. The test therefore is whether the benefits clearly and convincingly outweigh the considerable importance and weight given to the heritage harm.
- 7.3.29 The development would generate several construction jobs as well as support positions in the supply chain. Additionally, 3 fulltime and 3 part time jobs would be created for the operation of the premises.
- 7.3.30 The owners of the premises have unsuccessfully marketed the premises for continued retail use and as such, there is a real risk that the premises could fall vacant and into disrepair should the applicant not continue. In this regard, the proposal provides a public benefit by securing the future of the listed building.
- 7.3.31 Looking now at the impact on the Old Town Conservation Area, due to the limited number of external alterations which are being undertaken to the application property, and that the alterations would be in keeping with the surrounding commercial properties, it is considered that the proposal would not harm the character and appearance of the conservation area.

7.3.32 In summary, it is acknowledged that the development would cause less than substantial harm, which is identified as being at the lower end of the scale, to the designated heritage asset. The proposal will, however, provide economic benefits to the High Street, employment benefits, and most significantly, will secure the future of the listed building in the public interest and in the interests of preserving the Old Town Conservation Area.

7.3.33 Given the aforementioned comments, it is considered that the proposed development, subject to appropriate conditions, would not have a detrimental effect on the historic character and appearance of the Listed Building and would preserve the visual amenities of the Conservation Area.

7.4 Impact upon Neighbouring Amenities

7.4.1 The application site is within a commercial area of the High Street with no residential dwellings in the immediate surrounding area. The closest residential dwellings are located in Albert Street to the rear of the site and separated by Church Lane. It is not considered that the use of the premises would result in noise levels over and above the existing use or surrounding properties and therefore no additional harm to residential dwellings would occur in this regard.

7.4.2 With regards to potential disturbance from the air conditioning units, Environmental Health have been consulted on the application and whilst they have not raised any concerns, they have requested that a condition be imposed to ensure the operation of the air conditioning units is within acceptable noise limits. Notwithstanding this, there are no residential dwellings within close proximity of the site which would likely be impacted in this regard. There are an abundance of bars and restaurants in the area which are considered to emit higher levels of noise than the proposed air conditioning units. In this regard, whilst it is not considered that there would be undue harm as a result of the proposed development, it is considered appropriate to impose a condition relating to the air conditioning units in line with guidance from Environmental Health as a statutory consultee on applications of this nature.

7.4.3 Further, Environmental Health have also requested a condition be imposed restricting the hours within which noise generating construction and re-fitting works can be carried out to ensure that these works do not disturb nearby residential dwellings.

7.5 Car Parking and Highway Safety

7.5.1 In terms of car parking, there are no guidelines for Sui Generis in the adopted Parking Provision SPD (2020), but rather, each application is to be determined on an individual basis. The High Street is served by a number of off-street parking spaces lining either side of the vehicular highway. Very few premises have rear yards which can provide parking spaces and this application is no different. The existing retail premise is adequately served by the public parking spaces along the High Street and Church Lane, and it is not expected that the proposed use would generate an increase in visitors such that the existing arrangements would not be adequate.

7.5.2 Hertfordshire County Council as Highways Authority has assessed the application and raised no concerns with regards to highway safety or parking provision. Accordingly, the proposal is considered acceptable in this regard.

7.6 Other Matters

Signage

- 7.6.1 The Council's Heritage Advisor had raised concerns relating to the illumination of the proposed signage. The applicant has reduced the number of light boxes in the main shopfront glazing area. It is advised that any advertisement would still require separate advertisement consent from the Council. Notwithstanding this, the proposed signage is not considered to be out of keeping with the commercial nature of the High Street and Middle Row.

Article 4 Direction

- 7.6.2 An Article 4 Direction would remove the Permitted Development Rights for a particular use in a specified area. Current permitted development rights do not allow existing premises such as shops or restaurants to be converted to betting shops (Sui Generis) without the need for planning permission. As such, an Article 4 Direction is not required as betting shops require a change of use which must be secured via planning permission. .

Better use of Premises

- 7.6.3 The Council can only assess planning applications as they are received; the applicant has demonstrated that no other business under Class E retail has shown interest in taking over the premises.

Community Infrastructure Levy

- 7.6.4 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 Stevenage Extension | Zone 2: Everywhere else |
| Residential | | |
| Market housing | £40/m ² | £100/m ² |
| Sheltered housing | £100/m ² | |
| Extra care housing | £40/m ² | |
| Retail development | £60/m ² | |
| All other development | £0/m ² | |

- 7.6.5 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.
- 7.6.6 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.

Equality, Diversity and Human Rights

- 7.6.7 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.
- 7.6.8 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.
- 7.6.9 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.
- 7.6.10 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.
- 7.6.11 In terms of inclusive access, the scheme has been designed to be DDA (Disability Discrimination Act) compliant. The building will have level or ramped access throughout and the installation of a disabled toilet.

8. CONCLUSIONS

- 8.1 In summary, the proposed change of use from a retail shop (Class E) to a betting shop (Class *Sui Generis*) including the associated alteration works, subject to appropriate conditions, would be considered an acceptable use within the Primary Retail Frontage. Further the development would not have a detrimental effect on the character and appearance of the grade II (un-starred) listed building or the visual amenities of the conservation area. The development would not harm the amenities of local residents, nor prejudice the safety and operation of the adjacent highway.
- 8.2 Given the above, it is recommended that both planning permission and Listed Building Consent be granted.

9. RECOMMENDATIONS

- 9.1 That planning permission reference 22/00833/FP be GRANTED subject to the following conditions / reasons:
- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan; FINAL-NL-170722-500; FINAL-NL-170722-502; NL-170722-101-A; NL-170722-102-A; FINAL/NL/170722/501-D; FINAL-NL-170722-503-C;
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 replacement entrance door and door panel shall be installed as per the details on approved plan FINAL/NL/170722/501-D and retained in that form thereafter for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
REASON:- To ensure that the character and appearance of the listed building is preserved.
- 4 Prior to the installation of the air conditioning units hereby permitted, a noise assessment and scheme of acoustic mitigation shall be submitted to and approved in writing by the local planning authority. The units shall then be installed in accordance with the approved scheme prior to first occupation and permanently maintained as such thereafter unless otherwise agreed in writing by the local planning authority.
REASON:- In the interests of the amenities of neighbouring occupiers.
- 5 No noise generating construction/refitting works relating to this permission shall be carried out on any Sunday or Bank Holiday, nor before 07.30 hours or after 18.00 hours on any weekdays, nor on any Saturday before 08.00 hours or after 13.00 hours. These times apply to work which is audible at the site boundary.
REASON:- To ensure the development has an acceptable impact on neighbouring properties.

Pro-Active Statement

- 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 (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

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 or by contacting the Council's CIL Team at CIL@Stevenage.gov.uk .

3 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>

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 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 Hertfordshire County Council as Highways Authority

Parking and Storage of materials: The applicant is advised that all areas for parking, storage, and delivery 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 website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

6 Hertfordshire County Council as Highways Authority

Obstruction of public highway land: 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 website:

<http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

9.2 That Listed Building Consent Reference: 22/00835/LB 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; FINAL-NL-170722-500; FINAL-NL-170722-502; NL-170722-101-A; NL-170722-102-A; FINAL/NL/170722/501-D; FINAL-NL-170722-503-C;

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

2 The works for which consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON:- To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3 The replacement entrance door and door panel shall be installed as per the details on approved plan FINAL/NL/170722/501-D and retained in that form thereafter for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON:- To ensure that the character and appearance of the listed building is preserved.

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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 October 2009, Old Town Conservation Area Management Plan 2012.
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 July 2021 and Planning Policy Guidance March 2014.