

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

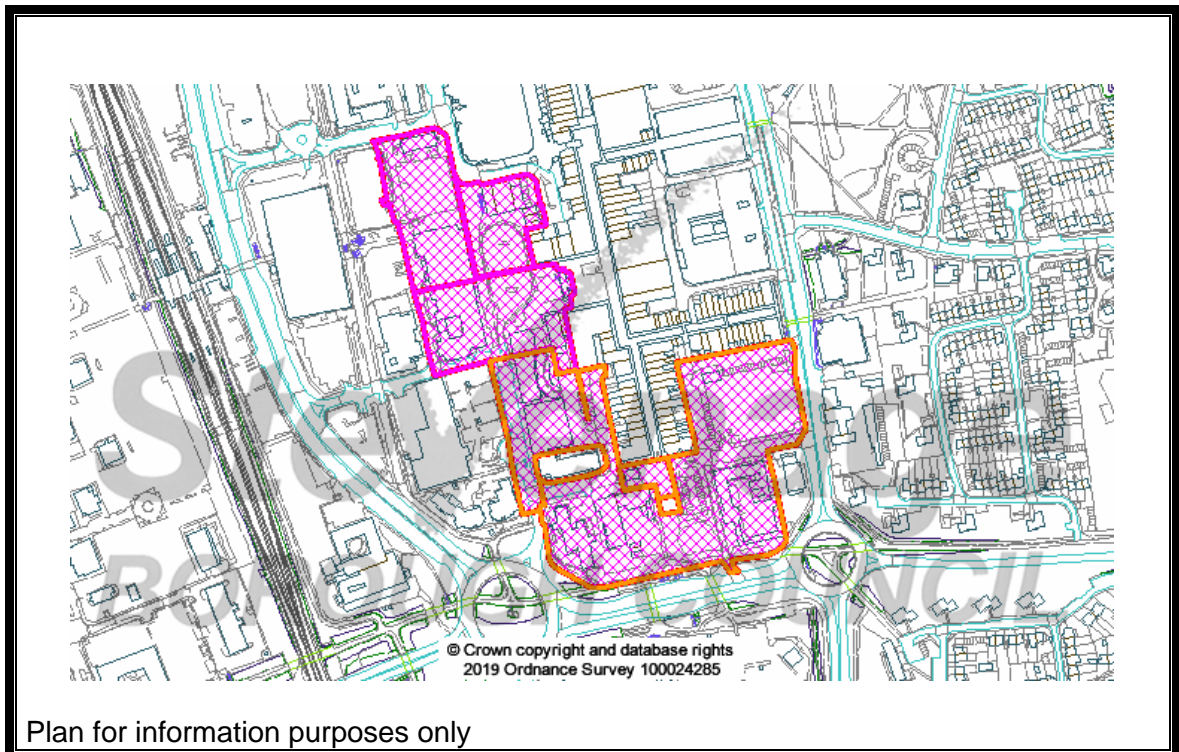
**Date:** 2 April 2024

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Application Nos:	24/00089/S106
Location:	Stevenage Town Centre (SG1), Stevenage
Proposal:	Modification of the S106 agreement; paragraph 3.1 of Schedule 5 (Traffic Management and Parking) and paragraphs 1.1 and 1.2 of Schedule 9 (Highways Works) attached to planning permission reference number 19/00743/FPM.
Drawing Nos.	Draft Deed of Variation.
Applicant:	Mace Developments (Stevenage) Ltd
Date Valid:	21.02.2024
Recommendation:	Agree variation to S106 Agreement



## 1. SITE DESCRIPTION

- 1.1 The application site (known as SG1) extends to approximately 6 hectares of land within Stevenage Town Centre and is located west and south of Queensway which is the main pedestrianised area of the town centre. The site itself is occupied by Swingate House the Council's Offices, Mecca Bingo, The Plaza, Danestrete Health Centre, Stevenage Central Library, Bus Station, former Police Station and Hertfordshire County Council

Offices, retail, commercial and residential properties. There are also a number of surface car parks which are currently operated by Stevenage Borough Council.

- 1.2 To the north and north-east of the application site lies Westgate Shopping Centre and Brickdale House and Skyline which comprises of residential apartments. To the west of the site lies the Gordon Craig Theatre, Stevenage Magistrates and Matalan store. To the east lies the Town Square which is also designated a Conservation Area and comprises the platform with grade II listed statute (The Joyride) and the grade II listed clock tower and surrounding pool. There is also Queensway itself and Vista Towers positioned to the south-east along with the Towers which borders the southern boundary of the site. To the south, beyond the A602 (Six Hills Way) is Asda Superstore.
- 1.3 Looking at the surrounding area, Stevenage Town Centre comprises a mixture of retail, commercial and residential premises combined with a number of surface car parks and St George's multi-storey car park. The town centre, including the application site, is enclosed by a ring road which comprises Lytton Way, St George's Way, Fairlands Way and Six Hills Way. Beyond the ring road to the west (Lytton Way) is Stevenage Police Station and Train Station and to the east (St George's Way) is the Fire Station, hotel, church, museum, Town Centre Gardens, Bowes Lyon and Stevenage Swimming Centre. To the north beyond Fairlands Way is King George V Playing Fields.

## **2 RELEVANT PLANNING HISTORY**

- 2.1 Planning application 02/00070/FP sought permission for the demolition of existing building and construction of public car park with 84 spaces, and temporary use of car park for outdoor market on Wednesdays and Saturdays. This application was granted in June 2002.
- 2.2 Planning application 07/00810/OP sought outline planning permission for a comprehensive redevelopment for a mix of uses to include the full range of retail uses (Class A1, A2, A3, A4 and A5), housing (Class C3), hotel (Class C1), leisure (Class D2), offices (Class B1), voluntary services (Class D1), magistrates court, replacement bus station, together with ancillary and associated developments, pedestrian and cycle circulation and open space, car parking, vehicular access, servicing facilities, highway works, plant and machinery, landscaping and enabling works. Demolition of existing buildings and structures, the closure and alteration of highways and cycleways and the internal and external alteration and change of use of buildings to be retained, engineering works and construction of new buildings and structures. This application has a resolution to grant permission subject to the completion of a S106 agreement. However, this was never completed and is unlikely to come forward.
- 2.3 Planning application 07/00807/FP sought permission for the demolition and reconstruction of the platform beneath the joyride structure and associated works and change of use of public toilets to Class A3 (café). This application was approved in March 2012.
- 2.4 Planning application 11/00262/FP sought permission for the change of use of part of second floor from Class B1 (Office) to Class D1 (Non-residential education, community and worship uses). This application was granted in June 2011.
- 2.5 Planning application 15/00106/FP sought permission for the reinstatement of A1 use to rear ground floor and basement and erection of three storeys to create 6 no. two bedroom apartments. This application was refused in May 2015.
- 2.6 Planning application 15/00407/FP sought permission for a change of Use Class A4 (Drinking Establishment) to Use Class D1 (Place of Worship). This application was approved in August 2015.

- 2.7 Planning application 15/00481/FP sought permission for the reinstatement of A1 use to rear ground floor and basement and erection of two storey extension to create 4 no. two bedroom apartments. This application was approved in December 2015.
- 2.8 Prior approval application 19/00692/PADEMO sought to determine whether or not Prior Approval from the Council was required for the method of demolition. This application related to the demolition of the former police station, social services building and garage block. It was determined that Prior Approval was not required in December 2019.
- 2.9 Planning application 19/00743/FPM sought outline planning permission for the demolition of existing buildings on the site and the mixed use redevelopment of Plots A-K including new retail and food and beverage uses (A1-A5), leisure (D2), office (B1), community (D1) and residential (C3). New buildings to comprise residential accommodation (Class C3), retail floorspace Class (A1/A2/A3/A4/A5 floorspace), leisure floorspace (D2), office floorspace (Class B1), Public Services Hub (Class D1/B1/A1/A3), primary school (D1), plant and storage, servicing, new vehicle and pedestrian accesses and circulation, new public amenity space, new and amended car parking, new landscaping and public realm and associated works. Full details (access, appearance, landscaping, layout and scale) are submitted for Plots A and K and all matters reserved for Plots B to J. This application was granted planning permission in May 2023.
- 2.10 Prior approval application 20/00531/PADEMO seeks Prior Approval from the Council for the demolition of Swingate House. Prior Approval Was Not Required and the decision was issued in October 2020.
- 2.11 Discharge of condition application 24/00041/COND sought partial discharge of conditions 21 (Archaeology 1) and 22 (Archaeology 2) attached to planning permission reference number 19/00743/FPM (Phase 1A - Swingate House). These conditions were partially discharged in February 2024.
- 2.12 Discharge of condition application 24/00054/COND seeks partial discharge of condition 15 - Piling and penetrative methods of construction attached to planning permission reference number 19/00743/FPM (Phase 1A - Swingate House). This condition was partially discharged in March 2024.
- 2.13 Discharge of condition application 24/00057/COND seeks partial discharge of Condition 38 - Sound Insulation and Noise Mitigation Details attached to planning permission reference number 19/00743/FPM (Phase 1A Swingate House). This application is pending consideration.
- 2.14 Discharge of condition application 24/00063/COND sought partial discharge of Condition 53 (Public Highway) attached to planning permission reference number 19/00743/FPM (Phase 1A - Swingate House). This condition was partially discharged in February 2024.
- 2.15 Discharge of condition application 24/00082/COND seeks partial discharge of Condition 72 (Whole Site Condition SUDS) and Condition 74 (Phase 1A drainage pre commencement) attached to Planning Permission reference number 19/00743/FPM. This application is pending consideration.
- 2.16 Discharge of condition application 24/00097/COND seeks partial discharge of Condition 25 (Construction Environmental Management Plan) attached to planning permission reference number 19/00743/FPM (Phase 1A - Swingate House). This application is pending consideration.

- 2.17 Discharge of condition application 24/00098/COND seeks partial discharge of Condition 19 (Construction Management Plan) attached to planning permission reference number 19/00743/FPM (Phase 1A - Swingate House). This application is pending consideration.
- 2.18 Discharge of condition application 24/00124/COND seeks partial discharge of Condition 16 (Management of Boreholes) attached to planning permission reference number 19/00743/FPM (Phase 1A - Swingate House). This condition was partially discharged in March 2024.

### 3 THE CURRENT APPLICATION

- 3.1 This application has been made under S106A part 6(b) of the Town and Country Planning Act 1990 (As amended) to seek permission to vary the wording of the S106 agreement which was attached to planning permission reference: 19/00743/FPM to modify paragraph 3.1 of Schedule 5 (Traffic Management and Parking) and paragraphs 1.1 and 1.2 of Schedule 9 (Highways Works). Paragraph 3.1 of Schedule 5 states:

*“3.1 Prior to Commencement of the first Phase of the Development to enter into a contract with the Borough Council for the provision the Season Tickets”.*

- 3.2 The proposed modification would seek to delete paragraph 3.1 of Schedule 5 to the Original Agreement and replaced with the following:

*“3.1 Prior to Occupation of Phase 1A (as defined in drawing number 2015 D under Appendix 1) of the Development to enter into a contract with the Borough Council for the provision the Season Tickets”.*

- 3.3 Paragraph 1.1 and 1.2 of Schedule 9 states:

*“1.1 To enter into the Street Development Agreement with the Borough Council’s Engineering Services Section for a Phase that contains Highway Works on streets maintained by the Borough Council prior to the commencement of the development of that Phase.*

*1.2 Not to carry out or permit the carrying out of Borough Highway Works on streets maintained by the Borough Council until the Owner has entered into the Street Development Agreement with the Borough Council”.*

- 3.4 The proposed modification would seek to delete paragraphs 1.1 and 1.2 of Schedule 9 to the Original Agreement and replaced with the following:

*“1.1 To enter into the Street Development Agreement and **delivery timetable** with the Borough Council’s Engineering Services Section for Phase that contained Borough Highways Works on streets maintained by the Borough Council prior to the relevant Borough Highway Works being carried out or permitted to be carried out **and in any instance the Street Development Agreement is entered into prior to any Occupation of that Phase.***

*1.2 Not to carry out or permit the carrying out the Borough Highway Works on streets maintained by the Borough Council until the Owner has entered into the Street Development Agreement with the Borough Council relating to the relevant Borough Highways Works”.*

- 3.5 The wording highlighted in **bold and underlined** in paragraph 1.1 are suggested amendments to the wording of this paragraph by Officers. The reason for these amendments is to ensure the highway and public realm improvement works which form

part of the development known as SG1 are delivered. This is because they form an essential part of the planning permission.

- 3.6 Following negotiations with the applicant, whilst the principle of these changes to this paragraph are generally agreed, they still need to be reviewed by the applicant and their solicitors in detail to ensure they do not affect the delivery of the development. Therefore, if the Committee resolves to approve this application subject to the completion of a Deed of Variation to the original S.106 agreement, the precise wording of the variations to the original S.106 Agreement (including suggested amendments to paragraph 1.1) be delegated to the Assistant Director of Planning and Regulation in conjunction with the Council's appointed solicitor. This will ensure that these fundamental highway and public realm improvement works are delivered in line with planning permission 19/00743/FPM and in line with any future Reserved Matters approval for Phases 2 to 4 of this development.
- 3.7 The proposal before the Council does not consist of or include any alterations to the development in terms of design and visual appearance, including the number of flats, as approved under planning permission 19/00743/FPM.

## **4 PUBLIC REPRESENTATIONS**

- 4.1 A site notice has been erected in accordance with Section 5(1) of the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulation 1992. At the time of drafting this report, no comments or representations have been received.

## **5. CONSULTATIONS**

### **5.1 Council's Engineering Services Section**

- 5.1.1 There are no concerns in terms of any agreement on season tickets to be deferred until prior to occupation. The proposed wording is therefore deemed to be acceptable.
- 5.1.2 Following detailed negotiations on the wording to paragraphs 1.1 and 1.2 of Schedule 9 with the application, there are no longer any objections to the wording of these paragraphs.

**Note:** These are a summary of the comments received and not verbatim. Copies of the consultee comments can be viewed on the Council's website.

## **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 December 2023. This made significant changes to the September 2023 version and revised policy with respect to the following:

- maintaining supply and delivery of housing.
- making effective use of land with the allowance of mansard roof extensions to suitable properties.
- significant uplift in the average density of residential development can be seen as being inappropriate if the built form is out of character.
- strengthening policies around achieving well-designed and beautiful places.
- requirement for councils to prepare Local Design Codes.
- no longer a requirement to review or change Green Belt boundaries when plans are being prepared or updated.
- local planning authorities should now give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic.
- change to policies on Biodiversity.

6.2.2 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 Supplementary Planning Documents**

Developer Contributions Supplementary Planning Document 2021.

## **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. The main issues for consideration in the determination of this application is whether the proposed variation as set out in section 3 above is acceptable to the Local Planning Authority.

## **7.2 Land Use Policy Considerations**

7.2.1 Through Section 106a part 6(b) of the Town and Country Planning Act 1990 (as amended), an application can be made to the Local Planning Authority to seek to vary the terms of a Section 106 agreement. This application has therefore been submitted, in

accordance with the Town and Country Planning (Modifications and Discharge of Planning Obligations) Regulation 1992, to seek the amendment to the original S106 agreement to planning permission reference 19/00743/FPM as described in Section 3 of this report.

- 7.2.2 Dealing firstly with the proposed modification to paragraph 3.1 of Schedule 5 as set out in section 3 of this report, this amendment is required because the construction of Phase 1A Swingate House will take approximately 2 years to complete. Therefore, a contract to secure a number of season tickets for the future occupiers of this phase of the development will not ideally be required until the development of this particular phase has been completed and ready for occupation. In addition, by amending this obligation, it allows the applicant to start undertaking piling works for Phase 1A in week commencing 18<sup>th</sup> March 2024 with the ramping up of construction of this phase from May 2024. As such, whilst it pushes the timeframe back as to when a contract needs to be in place to secure the necessary number of Season Tickets, the original intention of this obligation has not changed in that a sufficient number of Season Tickets will be secured before first occupation of Phase 1A Swingate House.
- 7.2.3 Turning to the proposed modification to paragraphs 1.1 and 1.2 of Schedule 9 as set out in section 3 of this report, the proposed modifications to these paragraphs are required to enable the commencement of development works associated with Phase 1A Swingate House without delay. Moreover, it will also allow future phases of the development to come forward without the need to first enter into a Street Development Agreement (SDA) with the Council's Engineering Section prior to the commencement of development works. However, the applicant would still be required to enter into SDA with the Council's Engineering Services Section before undertaking any works in any given phase of the development on streets which are maintained by the Borough Council. In this regard, the applicant cannot undertake any public realm improvement works which can include, but limited to, the laying out of new paving, installation of street furniture or soft landscaping works within the development area known as SG1 until they have entered into an SDA with the Borough Council's Engineering Services Section. This will ensure that these public realm works are delivered and maintained in accordance with the Borough Council's policies and procedures with respect to public realm improvement works.
- 7.2.4 The Council's Engineering Services Section has been fully engaged with this application process in relation to the proposed modifications to the original Section 106 agreement. Through detailed negotiations with this section of the Borough Council and the applicant, the proposed modifications set out in Section 3 of this report are deemed to be acceptable. This is especially given the fact that they do not weaken the Council's position with respect to oversight of this development.

## **8. CONCLUSIONS**

- 8.1 The proposed change to the S106 agreement as described above is minor and is not considered to weaken the Council's position in any way. As such, the proposed modification to paragraph 3.1 of Schedule 5 with regards to season tickets and paragraphs 1.1 and 1.2 of Schedule 9 in relation to Street Development Agreements is considered to be acceptable. It is therefore recommended that this deed of variation can be agreed.

## **9. RECOMMENDATIONS**

- 9.1 That the committee agree to the modification of paragraph 3.1 of Schedule 5 and paragraphs 1.1 and 1.2 of Schedule 9 of the original S106 agreement dated 30 May 2023 and delegate authority to the Assistant Director of Planning and Regulation in

conjunction with the appointed solicitor on behalf of the Council to agree the precise wording of the variations to the original S106 agreement.

## **10. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Local Plan 2011-2031 adopted 2019.
3. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
4. Central Government advice contained in the National Planning Policy Framework December 2023 and Planning Policy Guidance.
5. Community Infrastructure Levy 2010 (as amended).