

ITEM NO:

<u>Location:</u>	Land Between 24 And 26 Cedar Crescent And 92 Green Drift Royston Hertfordshire
<u>Applicant:</u>	
<u>Proposal:</u>	Erection one detached 2-bed chalet style dwelling and associated works.
<u>Ref. No:</u>	20/00908/FP
<u>Officer:</u>	Sam Dicocco

Date of expiry of statutory period: 24 June 2020

Submitted Plan Nos: IT-1054-E01; IT-1054-E02; IT-1054-E03; IT-1054-LP01; IT-1054-P01; IT-1054-P02; IT-1054-P03; IT-1054-P04; IT-1054-P05; IT-1054-P06.

Extension of statutory period: 20 July 2020

Reason for referral to Committee: The application is to be determined by Planning Control Committee by reason of the receipt of a valid written opinion of Royston Town Council contrary to the recommendation of the Development and Conservation Manager which has been supported by Ward Member Councillor Carol Stanier. Details of the objection from Royston Town Council are included in paragraph 3.1 of this committee report. Councillor Carol Stanier responded to the written notification of the representation with the following –

“After much deliberation and reading I have decided that I support the objection of the town council, and specifically feel that the proposal would have a negative effect on traffic in the area on Green Drift and would be in other ways detrimental to the surrounding area.”

1.0 **Relevant History**

- 1.1 14/02613/1 - Two detached 4-bedroom dwellings with detached garages following demolition of existing residential dwelling (as amplified by plan received 8 December 2014) – Conditional Permission 18/12/2014

Condition 7 – “Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended no development as set out in Classes A to E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be “permitted development” should be retained within planning control in the interests of the character and amenities of the area.”

- 1.2 15/00144/1 - Erection of three detached 4 bed dwellings following demolition of existing dwelling – Refused 25/03/2015 – Appeal Dismissed 30/09/2015

“the proximity of habitable room windows to the driveway would risk an undue adverse impact on the occupier’s living conditions through noise and disturbance, and hence the development is not of the quality of design sought in the Framework.”

- 1.3 15/01430/1NMA - Plot 1 - alteration to roof from gable roof to hipped roof; alteration of placement of utility room (as non material amendment to planning application reference 14/02613/1 granted 18/12/2014) – Agreed 13/07/2015
- 1.4 16/00877/1NMA - Addition of rear rooflights to Plots 1 & 2 and relocation of utility room of Plot 2 (as Non-Material Amendment of Planning Permission 14/02613/1 granted 18/02/2014) – Accepted 26/05/2016
- 1.5 17/00483/1PRE - Private indoor swimming pool – No objection 14/03/2017
- 1.6 18/01905/FPH - Erection of single storey detached building in rear garden to house private indoor swimming pool – Conditional Permission 12/09/2018
- 1.7 19/01836/FP - Erection of a chalet style, two-bedroom, detached dwelling, and associated works. Various alterations to 92 Green Drift – Refused 23/09/2019

“By reason of the restricted width and fixed location of the vehicular access, the proximity of living space windows of an adjoining property to the driveway and proposed increase in vehicular movements using the driveway, the proposed development would cause material harm to the living conditions of neighbouring properties by reason of noise disturbance. The economic and social benefits of the proposal are clearly and demonstrably outweighed by the environmental and social harm. As such, the development fails to accord with policy D3 of the Emerging Local Plan and the National Planning Policy Framework taken as a whole.”

2.0 **Policies**

2.1 **North Hertfordshire Local Plan No.2 with Alterations**

LP8 - Development in Towns

LP26 - Housing Proposals

LP55 - Car Parking Standards

LP57 - Residential Guidelines and Standards

2.2 **National Planning Policy Framework**

SECN5 - Delivering sufficient supply of homes

SECN8 - Promoting healthy and safe communities

SECN9 - Promoting sustainable transport

SECN11 - Making effective use of land

SECN12 - Achieving well-designed place

2.3 **Supplementary Planning Documents**

Design Supplementary Planning Document

Vehicle Parking at New Developments Supplementary Planning Document

2.4 North Hertfordshire Draft Local Plan 2011-2031

XD1 - Sustainable Design

XD3 - Protecting Living Conditions

XD4 - Air Quality

XSP1 - Sustainable Development in NH

XSP2 - Settlement Hierarchy

XSP8 - Housing

XT2 - Parking

3.0 Representations

- 3.1 **Site Notices: 07.05.2020** **Expiry: 30.05.2020**
Press Notice: N/A **Expiry: N/A**

Consultee responses

Royston Town Council - Objection. *"It is an over-development of the site. The proposed development would cause material harm to neighbouring properties by reason of noise disturbance and would create environmental and social harm."*

Hertfordshire Highways – No objection subject to informatives

NHDC Environmental Health Noise and other Nuisance – No objection subject to informatives. In regard noise - *"There is the potential for noise disturbance from vehicles using the access road. This has been assessed in the submitted" Façade noise exposure assessment", Report reference HA/AB732/V3, dated 27 April 2020, by HA Acoustics. Whilst predicted noise levels do not exceed relevant guidance levels, the Report recommends the optional installation of an acoustic fence on the western boundary of the driveway adjacent to 90 Green Drift (Section 8). Due to the existing low daytime and nighttime background noise levels (Appendix C2 and 3), I strongly recommend that the Applicant pursues this option to ensure a reduction in noise levels and safeguard the amenity of residents adjacent to the driveway (Appendix C7 and 9)."*

Waste and Recycling – No objection, comments only

Public representations

Neighbour responses have been received from the occupiers of four neighbouring premises in both Green Drift and Cedar Crescent. The responses are generally in objection to the proposed development. Key points raised follow:

Objection to possible tree removal

New path access to Cedar Crescent could cause noise disturbance

Parking availability on Cedar Crescent is limited

Noise exposure assessment was carried out some time ago (November 2019)

General damage caused by construction
Impact of noise generated by additional traffic on narrow driveway including commercial delivery drivers
Noise report records peak noise level of just under 100db, and no listening device was placed on the property at No.94 Green Drift
Acoustic fencing not feasible

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site lies within the settlement of Royston. The site encompasses both the original site for the new dwelling approved in 2014 under application referenced 14/02613/1 as well as some additional land to the south of the site. The site contains a two storey detached dwelling with detached garage. The site is accessed from Green Drift using a shared driveway between two dwellings (No.88 and No.94) which face the street.

4.2 **Proposal**

4.2.1 The application seeks planning permission for the erection of a new dwelling in a chalet bungalow style. The new dwelling would benefit from vehicular access using the existing shared driveway onto Green Drift, with additional pedestrian access provided onto Cedar Crescent. The bungalow would host a pitched roof with gabled end elevations facing east and west. With the exception of roof lights and alterations to glazing and door detailing, the chalet bungalow would match the appearance, scale and layout of the previously approved outbuilding. The previous permission represents a genuine fall-back position given substantial weight in the following planning considerations.

4.2.2 Some ancillary operations are required to No.92 Green Drift in order to accommodate the new dwelling without loss of privacy and the driveway and parking. The works to No.92 Green Drift would involve the removal of an existing canopy and post as well as the removal of ground floor side facing windows and associated 'bricking up'.

4.2.3 The proposals, as described above, are identical to that refused in application referenced 19/01836/FP (see 2.7). The key difference between the two applications is the inclusion of the document referenced HA/AB732/V3 – Facade Noise Exposure Assessment by HA Acoustics.

4.3 **Key Issues**

4.3.1 The key issues in the determination of this application remain the same as in application referenced 19/01836/FP. The policies within applicable development plan documents have not been altered since this previous determination.

4.3.2 It is well established case law that consistency in development management decision making is capable of being a material consideration. This was explored recently in Davison, R (on the application of) v Elmbridge Borough Council [2019] EWHC 1409 (Admin) (02 May 2019) ('Davison'), which summarised the principle of consistency in paragraphs 33-39.

- 4.3.3 The Davison judgement confirms that there “is no rigid rule that a decision maker must always treat a previous decision as a material consideration”. The transcript continues that “there is no exhaustive list of the matters in respect of which a previous decision may be relevant. That must inevitably depend on the circumstances”. Failure to consider a previous decision would render a decision unlawful if no reasonable decision maker would have failed to take it into account the previous decision in the circumstances of the decision making.
- 4.3.4 By reason of the lack of changes in the details of the proposed development and the policy framework, there is no reasonable justification for the Council to take an alternative view to the previous decision in respect to the character of the area; the sustainability of the location; the impact of the living conditions of the occupiers of adjoining premises in respect to dominance, light and privacy; parking provision; and quality of living conditions of future occupiers.
- 4.3.5 Consequently, the key issue in the determination of this application is whether the Façade Noise Exposure Assessment adequately overcomes the previous reason for refusal, quoted in section 2.7 of this report. The one reason for refusal was the impact of the development on the living conditions of the occupiers of adjoining premises in respect to noise disturbance, and the previous application was not supported by any substantive evidence in this regard.
- 4.3.6 At this stage, it is worth reviewing the history of this site beyond the recent previous refusal. Prior to the 2014 application (paragraph 2.1), a single dwelling existed on the site, with the access between then 88 and 94 Green Drift. Permission was granted for the dwellings demolition and replacement with two dwellings, using this same access, which is the same as which exists and is used presently.
- 4.3.7 The 2015 application (paragraph 2.2) for three dwellings on the site following the demolition of the existing building was refused by the Council for four reasons (character and context; landscape and visual amenity; living conditions of occupiers of adjoining premises (dominance of built form and intensified use of driveway); lack of refuse collection information). The refusal was appealed and dismissed. The inspector, in dismissing the appeal, agreed with only part of one of the Councils reasons for refusal, that being “*the proximity of habitable room windows to the driveway would risk an undue adverse impact on the occupier’s living conditions through noise and disturbance*”. The application and appeal were not supported by any evidence on potential noise or other disturbance.
- 4.3.8 The contents of the Façade Noise Exposure Assessment has been reviewed by Environmental Health Officers. They consider that the reports description of the development and observations are accurate, the scientific criteria used is sound, and the methodology is fair and proportionate. The conclusion of the assessment, that the impact on additional car movements resultant from the proposed development would result in no observed effect is accepted.
- 4.3.9 The evidence provided by the applicant is considered sound in all elements. The Council have no evidential basis to conclude otherwise than in accordance with the results and conclusions of the assessment provided by the applicant. This consideration is backed by the qualified and professional examination of the contents of the assessment by Environmental Health.

- 4.3.10 The Environmental Health Officer has recommended that the acoustic fence option is provided by the applicants. The agent acting on behalf of the applicant has responded, clarifying that the acoustic fence is not required to comply with the relevant standards, and that the assessment expressly does not require or recommend the acoustic fence.
- 4.3.11 In line with the previous appeal decision of application referenced 15/00144/1, the optional boundary treatment does not form part of the proposal. It would not be appropriate to condition the treatment as there are legitimate questions surrounding deliverability given the existing narrow driveway, as well as the potential of such a treatment to negatively impact the character of the area and light accessing neighbouring premises.
- 4.3.12 In addressing local residents concerns I conclude that; in terms of tree removal, this was considered previously, and the removal was not considered to have a material impact. In respect to previous damage from past constructions, this is not material to this application. The footpath onto Cedar Crescent was previously considered, and not considered to cause material harm. The proposed development, as previously concluded, would comply with applicable parking policies, subject to a condition requesting details of cycle parking provision, as such, limited weight is given, or required to be given, towards assertions of parking availability on adjacent streets.
- 4.3.13 Whilst I consider that the proposal does not cause any material harm, and thereby complies with the policy provisions of the Local Development Plan, it is prudent to consider the application in line with paragraph 11 of the National Planning Policy Framework. North Hertfordshire District Councils development plan is, in respect to applications including the provision of housing, out-of-date by reason of inability to demonstrate a five year land supply of deliverable housing sites.
- 4.3.14 The result, in this case, is that limb ii. of paragraph 11. d) is engaged. In practice, this means any adverse impacts of the proposed development would need to significantly and demonstrably outweigh the benefits of the development. The benefits of the development are the supply of an additional dwelling in a sustainable location. This benefit is tempered by the scale of the development. Further, more limited benefits, occur from employment during construction works, as well as additional use of local services. In this case, it is considered that there is no material, discernible harm resultant from the proposal by reason of the evidence supplied by the applicant. Consequently, no adverse impacts could be reasonably considered to significantly and demonstrably outweigh the benefits of the proposed development.
- 4.3.15 In respect to conditions, as noted above, a condition will be required to ensure compliance with parking standards in respect to secure cycle parking in line with the Vehicle Parking at New Developments SPD. A further condition is required to show details of a reasonable storage shed for residential paraphernalia including gardening and maintenance tools and equipment. Considering the siting of the bin store, to encourage its use and respect the living conditions of the occupiers of adjoining premises, details of a covered bin store should be supplied through a condition. The roof lights shown on the south facing roof slope are of small size and shown to be at a height at least 1.7m above the finished first floor level and serve a hallway and staircase. Consequently, they are not considered harmful. In the interest of clarity, a condition should be imposed to ensure the size of the roof lights to be installed reflect that shown on the plans and are at a height as stated on the elevations.

4.3.16 I consider it to be reasonable to condition the removal of certain classes of Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any subsequent version or replacement of this Order). A rear or side extension (Class A) could be harmful to the living conditions of the adjoining premises (specifically those to the south and east of the site). Additional dormer windows or other roof alterations (Classes B and C) could impinge on the living conditions of adjoining premises and impact the character of the area given the relative prominence of the roof from Cedar Crescent. Finally, outbuildings (Class E) permitted by the Order could be substantive, creating visual clutter.

4.4 **Conclusion**

4.4.1 Principally, the proposed development would comply with the policy provisions of the development plan. By reason of the dwellings siting, scale, appearance, access and landscaping, the proposal would, subject to conditions, maintain to the character of the area; be in a sustainability location; respect the living conditions of the occupiers of adjoining premises in respect to dominance, light and privacy; host parking provision commensurate to the size and use of the resultant building; and provide a suitable quality of living for future occupiers. The benefits of the proposed development would not be significantly or demonstrably outweighed by any adverse impacts, as no adverse impacts are demonstrable in this case.

4.5 **Alternative Options**

4.5.1 None applicable

4.6 **Climate Change Mitigation Measures**

4.6.1 Members will note that recommended condition 4 requires the implementation of cycle storage on site and recommended condition 10 requires standard EV charging point as part of this proposal.

4.7 **Pre-Commencement Conditions**

4.7.1 I can confirm that the applicant is in agreement with the pre-commencement conditions that are proposed.

5.0 **Legal Implications**

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 **Recommendation**

6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area as well as the living conditions of the occupiers of adjoining premises in line with policy 57 of the Saved Local Plan (2007), policies D1 and D3 of the Emerging Local Plan (2011-2031) and relevant parts of the National Planning Policy Framework (2019).

4. Prior to the occupation of the development hereby approved, details, including elevations or brochure extract including measurements, and a site plan, of one secure covered cycle parking space within the curtilage of the dwelling shall be submitted to and approved by the Local Planning Authority. The details approved by way of this condition must be implemented on the site prior to the occupation of the development hereby approved.

Reason: To ensure compliance with the requirements of Policy 55 of the Saved Local Plan (2007), Policy T2 of the Emerging Local Plan (2011-2031), and the Vehicle Parking at New Developments Supplementary Planning Document (2011) and Section 9 of the National Planning Policy Framework (2019) in respect to cycle parking provision.

5. Prior to the occupation of the development hereby approved, details, including elevations or brochure extract including measurements, and a site plan, of a storage shed for the use of the new dwelling for residential paraphernalia, as well as landscape maintenance equipment, shall be submitted to and approved in writing by the Local Planning Authority. The details approved through this condition shall be implemented on site prior to the occupation of the development hereby approved.

Reason: To ensure the reasonable living conditions of future occupiers of the dwelling while respecting the living conditions of the occupiers of adjoining premises in line with policy 57 of the Saved Local Plan (2007), policies D1 and D3 of the Emerging Local Plan (2011-2031) and section 12 of the National Planning Policy Framework (2012).

6. Prior to the occupation of the development hereby approved, details, including elevations or brochure details including measurements, and a site plan, of a covered store for bins required by the new dwelling shall be submitted to and approved in writing by the Local Planning Authority. The details approved through this condition shall be implemented on site prior to the occupation of the development hereby approved.

Reason: To ensure the reasonable living conditions of future occupiers of the dwelling while respecting the living conditions of the occupiers of adjoining premises in line with policy 57 of the Saved Local Plan (2007), policies D1 and D3 of the Emerging Local Plan (2011-2031) and section 12 of the National Planning Policy Framework (2012).

7. Prior to the installation of the roof lights hereby approved to be inserted into the south facing roof slope of the development hereby approved, details, including measurements, of the roof lights shall be submitted to and approved in writing by the Local Planning Authority. Those roof lights shall then be installed in the locations detailed on the plans approved by this permission, at least 1.7m above the finished first floor level.

Reason: To ensure the living conditions of the occupiers of adjoining premises is not harmed by unduly large or badly sited roof lights causing actual, or the perception of, overlooking in line with policy D3 of the Emerging Local Plan (2011-2031) and relevant parts of the National Planning Policy Framework (2019).

8. Before the occupation of any of the dwellings hereby permitted, the car parking facilities shown on the approved plan shall be marked out and made available and shall thereafter be kept available solely for the parking of motor vehicles.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development in accordance with section 9 of the National Planning Policy Framework (2019), Policy 55 of the Saved Local Plan (2007), Policy T2 of the Emerging Local Plan (2011-2031) and the Vehicle Parking at New Development SPD (2011).

9. The residential curtilage of the dwelling hereby approved, as shown in approved plans referenced IT-1054-P01 and 1054-P02, shall be provided for the exclusive use in association with the new dwelling prior to occupation, and shall be retained in exclusive use for the occupiers of the new unit unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the reasonable living conditions of the occupiers of the new dwelling in line with policy 57 of the Saved Local Plan (2007), policy D3 of the Emerging Local Plan (2011-2031) and relevant parts of the National Planning Policy Framework (2019).

10. Prior to the occupation of the development hereby permitted, the details of the siting, type and specification of an Electric Vehicle Charging Point (EVCP), the energy sources and the strategy/management plan for supply and maintenance of an EVCP shall be submitted to and approved in writing by the Local Planning Authority. The EVCP shall be installed in accordance with the approved details prior to occupation the unit and permanently maintained and retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies 5, 19 and 20 of Hertfordshire's Local Transport Plan (adopted 2018).

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.