

Our Ref: KS/24066

15 October 2024

Planning Department
North Herts Council
Council Offices
Gernon Road
Letchworth Garden City
SG6 3JF

Via Planning Portal, Ref: PP-13478453

Dear Sir / Madam,

Retrospective Planning Application for works undertaken at Land to the front of 55 Periwinkle Lane, Hitchin, SG5 1TZ

0.0 On behalf of our clients, Mr and Mrs Eliot ("the applicant"), we enclose a retrospective full planning application for the retention of the extended hardstanding for the vehicular crossover serving 55 Periwinkle Lane, Hitchin, SG5 1TZ. In addition to this Planning Statement, the information enclosed in support of this application is as follows:

- Application Form
- Location Plan
- Pre-Existing and Proposed Site Plans
- Requisite application fee of £293 paid via Planning Portal.

1.0 Background

1.1 The site is an area of ancillary residential hardstanding acting as a vehicular crossover to No.55 Periwinkle Lane which is located on the north side of the road. The site is not subject to any Local Plan designation. It is not within a Conservation Area and there are no listed buildings within close proximity. The site is in a residential area of semi-detached and terraced dwellings.

1.2 The Applicants received a letter on 6 August 2024 (dated 31 July 2024), from North Herts Council regarding a Compliance Investigation for 'Change of use of amenity land to facilitate extended driveway', case reference: 24/00116/1ENF. It is disputed that any such 'change of use' has taken place, as the land in question is not being used as a driveway and is a vehicular crossover. This application therefore seeks retention of the physical works undertaken to extend the hardstanding of the crossover.



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2.0 The Scheme

- 2.1 The existing crossover was composed of concrete and was a rectangular shape stretching from the pavement up to the driveway of the house, as can be seen in Figure 1. This crossover had a poor appearance due to cracks forming in the concrete; so bad in places that grass was beginning to grow through. If the crossover was left, eventually it would have ended up entirely cracked and unattractive, as can be seen elsewhere along Periwinkle Lane.



Figure 1 - Pre-existing vehicle crossover (Google Maps, Aug 2020)

- 2.2 Figure 2 shows the current appearance of the vehicular crossover, after the applicants undertook the work. The applicants removed the existing concrete and replaced it with a permeable resin.



Figure 2 - Current appearance of vehicular crossover

2.3 The previous concrete area was 21sqm and the new resin area is 33sqm. This 12sqm increase is a triangular shape section which was formerly grassed to allow easier access onto their driveway.

2.4 In investigating the potential planning breach, the LPA has sought to claim a change of use from amenity land to driveway parking. However, at no point has the crossover been used for parking and it is simply an ancillary residential vehicular means of access to No.55.

3.0 **Relevant Planning Policy**

3.1 The following policies from the North Hertfordshire Local Plan 2011-2031 are considered relevant:

- Policy D1: Sustainable design
- Policy NE8: Sustainable drainage systems

4.0 **Planning Assessment**

Ownership & Principle of Development

4.1 The Applicants undertook the works on the understanding that they owned the crossover and grass verge in front of their property. The previous narrow crossover was constructed of unattractive concrete and did not enable access to all of their driveway area. The intention was to provide a safer, higher quality, vehicle crossover.

4.2 The land in question is unregistered on the land registry. Hertfordshire County Council had previously confirmed in writing in 2019 that it does not own the land and is not considered to be land maintainable at public expense. To date, despite the Applicant's requests, North Herts Council has not provided any evidence on land ownership.

4.3 Subsequently, a former neighbour showed the Applicants the 1933 building plans for this area which indicated that each house owned the stretch of grass/land immediately in front of their property. Therefore, the Applicants proceeded with improving what they thought was their responsibility to maintain, as other neighbours had done in the past.

4.4 Regardless of ownership, the LPA consider that the grass area fronting Periwinkle Lane is 'amenity land'. Amenity land is typically defined as green, unfenced land which borders residential dwellings and is typically either:

- Land owned and maintained by the council for the purposes of enhancing the visual appearance of neighbourhoods.

- Land that has a residential use and is owned and/or can be used for the enjoyment of the attached dwelling but can't be considered 'residential curtilage'.

4.5 The amount of land utilised for the extended crossover is considered to be a *de minimis* extent of grass, when compared to the extent of verge along Periwinkle Lane and which continues to have an ancillary residential function as access to a dwelling. At regular intervals along this side of Periwinkle Lane, vehicular crossovers transect the grass verge and therefore have an ancillary residential use given their sole purpose is to provide access to the dwellings. These crossovers are not shown on the OS Map (see Figure 3), but clearly exist as part of the amenity land. As such, there is no 'change of use' as the crossover and grass would sit within the same ancillary residential function/use outside of the dwelling curtilages. The main question therefore is whether the change of 12sqm of grass to hardstanding to facilitate better and safer access to No.55's driveway has an impact on the visual amenities of the street scene.



Figure 3 – Extract of North Herts Council Local Plan Map showing no delineation between the grassed area and vehicular crossovers indicating the same function/designation.

- 4.6 It is further relevant to note that, had the access been changed in association with a permitted development right under Schedule 2, Part 1, then the works to the access would be permitted development under Schedule 2, Part 2. Class B (means of access to a highway). This means, given a dropped kerb already exists, had the access been laid to serve a driveway (within the domestic curtilage) which did not previously exist, it would have been permitted development by virtue of providing access to the highway.
- 4.7 It is also relevant to note that other properties along the road have undertaken works to their crossovers. As can be seen from Figure 4, No.53 Periwinkle Lane undertook similar work to their vehicular crossover in 2016. Their previous hardstanding was removed, and new, extended hardstanding installed resulting in a similar triangular shape to the application site.



Figure 4 - Streetview from September 2014 and July 2016 with new extended hardstanding.

- 4.8 With the above in mind, it is considered that the principle of the minor alteration should be accepted. The crossover has never been used for anything other than as a residential vehicular crossover to enable No.55 to get their cars from the driveway within their curtilage to the highway. It has not been used for the parking of vehicles and a condition can be imposed upon this permission to ensure that this cannot incur in future.
- 4.9 The loss of the small slither of the landscaping strip is not considered to materially affect the character or visual amenity of the residential area. Vehicular crossovers are a common feature within the grassed area and the limited alteration does not change the function or purpose of the remainder of the amenity land. As such, the development should be supported in principle.

Materials and Drainage

- 4.10 The works undertaken have replaced the previous concrete hardstanding that was impermeable and drained towards the highway with resin bound aggregate which is fully permeable. Therefore, whilst the hardstanding area has been extended by a further triangular 12sqm area to facilitate better access to the drive of No.55, the new material has a positive impact on drainage. The sub-base was excavated to allow for type 3 sub-base and open textured AC14 Tarmac at a depth of 250mm with a 20mm Resin bound surface laid to finish, which is fully SuDS compliant and will reduce flood risk.
- 4.11 The area of land has not been enclosed and no elevational works have been undertaken. The extended crossover is now similar in shape to the one which serve other properties on the street. As such it is not considered that the proposed works have had a material impact upon the visual amenity of the area which retains a verdant, residential character.
- 4.12 As such, the proposed scheme is considered to fully comply with Policy D1.

Biodiversity Net Gain

- 4.13 This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions by virtue of affecting a *de minimis* amount of habitat (12sqm).

5.0 **Summary**

- 5.1 The Applicants have improved the appearance and functionality of the vehicular crossover, without causing any adverse impacts on drainage or public highways or visual amenity. As such, the application for the retention of the crossover should be approved.
- 5.2 We trust that these details are clear, but if you require any further information, please do not hesitate to contact me. I look forward to the acknowledgement and registration of this application.

Yours faithfully,



Kenya Sharland

Associate

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