

**Application No:** 23/0048/FH

**Location of Site:** 1 Gibson Close, Hawkinge, Folkestone, CT18 7SX

**Development:** Retrospective application for incorporation of landscape buffer zone into the residential garden of 1 Gibson Close.

**Applicant:** Mr Timothy Burrows

**Agent:** N/A

**Officer Contact:** Robert Allan

## SUMMARY

This report considers whether planning permission should be granted for the incorporation of land into the residential curtilage of 1 Gibson Close. The report reviews the history of the site, as well as the visual impact, amenity concerns, ecological impact and drainage concerns that may be associated with the proposal, finding that it would be considered acceptable, in accordance with adopted policy.

## RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report.**

## 1. INTRODUCTION

1.1. The application is reported to Committee at the request of Councillor James Butcher.

## 2. SITE AND SURROUNDINGS

2.1. The application site is within the defined settlement boundary of Hawkinge, within the Kent Downs Area of Outstanding Natural Beauty (AONB) and North Downs Special Landscape Area (SLA). To the east is residential development, in the form of the wider settlement of Hawkinge and, more immediately, the residential development fronting onto Gibson Close and Lancaster Drive. To the west is a field given over to horse grazing with open countryside, given over to arable farming, beyond that. The field for horse grazing has well-established boundaries to the eastern and western boundaries, made up of hedging and mature trees.

2.2. The area of land the subject of the application is a piece of land that would, originally, have fallen outside of the residential curtilage of the properties fronting Gibson Close to the east. The applicant has asserted that the incorporation of the land took place on 31/12/2013.

2.3. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

3.1 This application seeks planning permission for the incorporation of the land into the residential curtilage of the dwelling, which has already been carried out. There are no changes proposed to the building. Aerial photos show that it occurred at some point between 2015 and 2018.

3.2 The layout can be seen in image 1 below.



Image 1: site plan

## 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

Y10/0531/SH	Erection of 50 dwellings together with associated access roads, car parking, woodland open space and landscaped buffer strips.	Approved with conditions
Y12/0011/NMC	Non-material change to application Y10/0531/SH - Erection of 50 dwellings together with associated access roads, car parking, woodland open space and landscaped buffer strips.	Approved
23/0170/FH*	Incorporate landscape buffer zone into residential garden	Under consideration

\*relates to 2 Gibson Close, the neighbouring property

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Hawkinge Town Council:** No objection.

**KCC Ecological Advice Service:** No comments made.

### Local Residents Comments

5.2 Eight neighbours have been notified of the development. Eleven representations have been received, ten objecting on grounds of:

- Buffer strip protects rural area from Hawkinge
- Encroachment has taken away screen
- Never the intended purpose of the land
- Sanctuary for nature
- Should be reinstated to avoid others following suit
- Buffer zone requirement of conditions
- Essential visual and sound buffer
- Company for upkeep has been dissolved\*
- Applicant does not own the land\*\*
- Land is not jointly owned
- Applicant's comments on own application are incorrect

- Land is owned by company

\*Companies House website has been checked and it appears that the company still exists.

\*\*following communication from the planning officer the applicant has advised that they have served notice on all interested parties, being the members of the Lancaster Drive Management Company.

One representation supporting the proposal:

- Buffer strip is jointly owned under Lancaster Drive West Limited
- Planning application will enable residents to use the land at the end of their gardens
- Change of use is from communal garden to individual garden
- Character of area would remain the same
- Residents would be unaffected

5.3 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## 6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review 2022.

6.2 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

HB1	Quality Places Through Design
NE3	Protecting the District's Landscapes and Countryside

### Core Strategy Review 2022

SS1	District Spatial Strategy
CSD4	Green Infrastructure of Natural Networks, Open Spaces and Recreation

6.3 The following are also material considerations to the determination of this application.

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2021

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF

says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF 2021 are relevant to this application: -

11	Presumption in favour of sustainable development
47	Applications for planning permission be determined in accordance with the development plan
130	Achieving well-designed places
176	Conserving and enhancing the natural environment

## 7. APPRAISAL

7.1 The report will set out the background for the site with the main issues for consideration following this, considered to be:

- a) Background
- b) Visual impact
- c) Residential amenity
- d) Ecology
- e) Drainage

### a) Background

7.2 The site is within the defined settlement boundary of Hawkinge and was part of a larger area of buffer strip granted alongside an application for fifty dwellings under planning permission (Y10/0531/SH). This development was built, and the landscape buffer provided, which ran down the western edge of the development before turning east to follow the line of Paddlesworth Lane along the southern boundary of the development.

7.3 The planning permission was accompanied by a planning obligation (s.106) which whilst identifying the location of the buffer strip on the approved plans, did not require the buffer strip to be provided or maintained or retained.

7.4 The permission was also subject to conditions – the relevant conditions to the determination of this application are 13 of the planning permission which required details of surface water drainage at the site to be submitted including a maintenance plan for the lifetime of the permission, and condition 22 which required a schedule of landscape maintenance and management for the communal/buffer areas for a minimum period of 10 years.

7.5 The details submitted for condition 22 in relation to landscape maintenance identified a period of 120 months management (10 years) and these were approved on 27 April 2012. This requirement to comply with this condition and maintenance has now expired. The approved details also set out that a management company would be set up. The management company was set up and named the Lancaster Drive Management Company (LDMC).

- 7.6 The details that were submitted for condition 13 set out that surface water drainage would be handled via deep bore soakaways and an existing ditch for the roofs and adoptable areas, with the details approved following consultation with the Environment Agency. The ditch falls within the landscape buffer area and consequently, the scope of the LDMC. This condition required that the details submitted included a maintenance plan for the lifetime of the permission.
- 7.7 As such, there are no planning controls on the original permission requiring the retention of the buffer strip. However, any decision must ensure that the drainage details as approved can continue to be complied with. A condition is recommended to ensure that no building works can take place within the application site.

## **b) Visual impact**

- 7.8 The incorporation of the land into the residential curtilage has resulted in an un-screened boundary to the west, which faces into the horse field. This is not readily visible from the surrounding area, either from Lancaster Drive/Gibson Close, or from Paddlesworth Lane, and in the context of the designated landscape (AONB and SLA), the application site sits among a larger housing development, with vegetation running along roadways and the adjacent field boundaries. The loss of the landscaping buffer strip has not had any significant detrimental impact upon the visual character of the area and would conserve the landscape and scenic beauty of the AONB even when considered cumulatively with the application at 2 Gibson Close, (23/0170/FH) this would remain the case.
- 7.9 It must be noted that this proposal does not indicate a precedent being set for the wider area, as the loss of further areas of vegetation, with differing makeup etc. may be considered more harmful in their own context. The application is being considered on its own merits.
- 7.10 Overall, although the proposal occupies space originally intended for landscaping that resulted in a buffer between the open countryside and the (then) emerging housing development, it is considered that the existing boundaries to fields and the vegetation therein provides a significant and effective screen, which together with the location of this site well away from public vantage points, means that the landscape and scenic beauty of the AONB and SLA are preserved.
- 7.11 Overall, it is considered that the proposal would result in an acceptable standard of amenity for existing and future occupiers in accordance with Places and Policies Local Plan policies HB1 and HB3.

## **c) Residential amenity**

- 7.12 The use of this area of land as domestic curtilage would not introduce any detrimental overbearing or overshadowing presence, loss of privacy or additional noise and disturbance, so there would be no detrimental impact upon residential amenity and there would be an acceptable standard of amenity in accordance with Places and Policies Local Plan policy HB1.

## **d) Ecology**

7.13 The retained records associated with the original planning permission indicate that the buffer strip was not secured initially for its ecological value and as it has been lost, it is not possible to assess the value it may have had. As such, it is considered that there is no impact in this regard.

## **e) Drainage**

7.14 The surface water drainage of the site from roofs relies partially upon a ditch in the western portion of the landscape buffer, based upon the details in historic records. The relevant planning condition, number 13 of Y10/0531/SH, secured the implementation of the surface water drainage scheme and the arrangements to secure its operation for the lifetime of the development, which falls to the owner of the land and is not a planning matter. It is therefore considered to be a civil matter to be resolved. However, a condition is recommended to ensure that no building works can take place within the application site to ensure that the drainage details as approved can continue to be complied with.

## **Environmental Impact Assessment**

7.15 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

7.16 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.17 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This proposal is not CIL liable.

## **Human Rights**

7.18 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

7.19 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

7.20 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. CONCLUSION**

8.1 The proposal would result in the incorporation of a former landscape buffer zone into the residential curtilage of 1 Gibson Close. Because of the location and existing landscaping in the surrounding area, there is considered to be no significant detrimental visual impact, or any identified harm upon residential amenity, ecological value, or drainage as a consequence of the proposal, with due consideration given to the cumulative effects of the adjacent application at 2 Gibson Close. The acceptance of this proposal would not indicate a precedent being set for the wider area, with each case considered on its own merits.

8.2 Overall, it is considered that the proposal would result in a sustainable development, in line with adopted policy and is recommended for approval.

## **9. BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **10. RECOMMENDATIONS**

**That planning permission is granted subject to the following conditions:**

1. No further development permitted by Class E or F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out.



# **DCL/23/13**

Reason: In the interests of the visual amenities of the area and to ensure existing drainage arrangements can continue to operate.

## **Appendix 1 – Site Location Plan**