

<b>Application Number</b>	16/01708/AS
<b>Location</b>	2 Cypress Avenue, Ashford, Kent TN23 3JP
<b>Grid Reference</b>	99358/43116
<b>Parish Council</b>	Central Ashford
<b>Ward</b>	Godinton (Ashford)
<b>Application Description</b>	Change of use from amenity land to domestic garden
<b>Applicant</b>	Mr V Patel, 2 Cypress Avenue, Ashford, Kent TN23 3JP
<b>Agent</b>	Mr G Luker, 24 Bond Road, Ashford, Kent TN23 7UG
<b>Site Area</b>	0.04ha

(a) 8/1R                      (b) N/A                      (c) KHS - X

## Introduction

1. This application is reported to the Planning Committee at the request of Councillor Feacey and Councillor Heyes. The agent was until fairly recently, an officer of the Council.

## Site and Surroundings

2. The application site comprises a grassed area of amenity land to the north and east of the domestic garden of 2 Cypress Avenue. The land is within the ownership of the applicant.
3. Cypress Avenue is accessed off Loudon Way characterised by residential properties of similar sizes and styles. The application site is a corner plot with a 1.8m brick wall currently providing the boundary detailing between the garden area and the amenity land.
4. There are large open areas of amenity land and footpaths running along the sides of Loudon Way with residential properties either side. The plan below particularly shows large expanses of amenity land to the north (on the opposite side of Loudon Way) and to the east (opposite side of Cypress Avenue) of the application site.

5. A site location plan is attached at annexe 1.



Figure 1 - Site location plan

## Proposal

6. Full planning permission is sought for the change of use of part of the amenity land to the north of the site to be incorporated into the private garden of the dwelling. A portion of the existing brick wall will be removed for the installation of gates and a 1m wooden fence is proposed to define the boundary with the footpath. Due to the L-shaped nature of the application site, whilst the new fencing will extend for the full width of the property along Cypress Avenue, there will only be a short amount of 1m picket fencing parallel with the footpath to Loudon Way where it will then dog leg back diagonally across the remaining open amenity land finishing at the existing boundary brick wall which, in turn, leads to the garage to the rear of the property.

7. It is of note that the property benefits from an extant planning permission for a part two-storey/part single storey side/rear extension to the northern side elevation of the dwelling where part of the new fence would be erected.

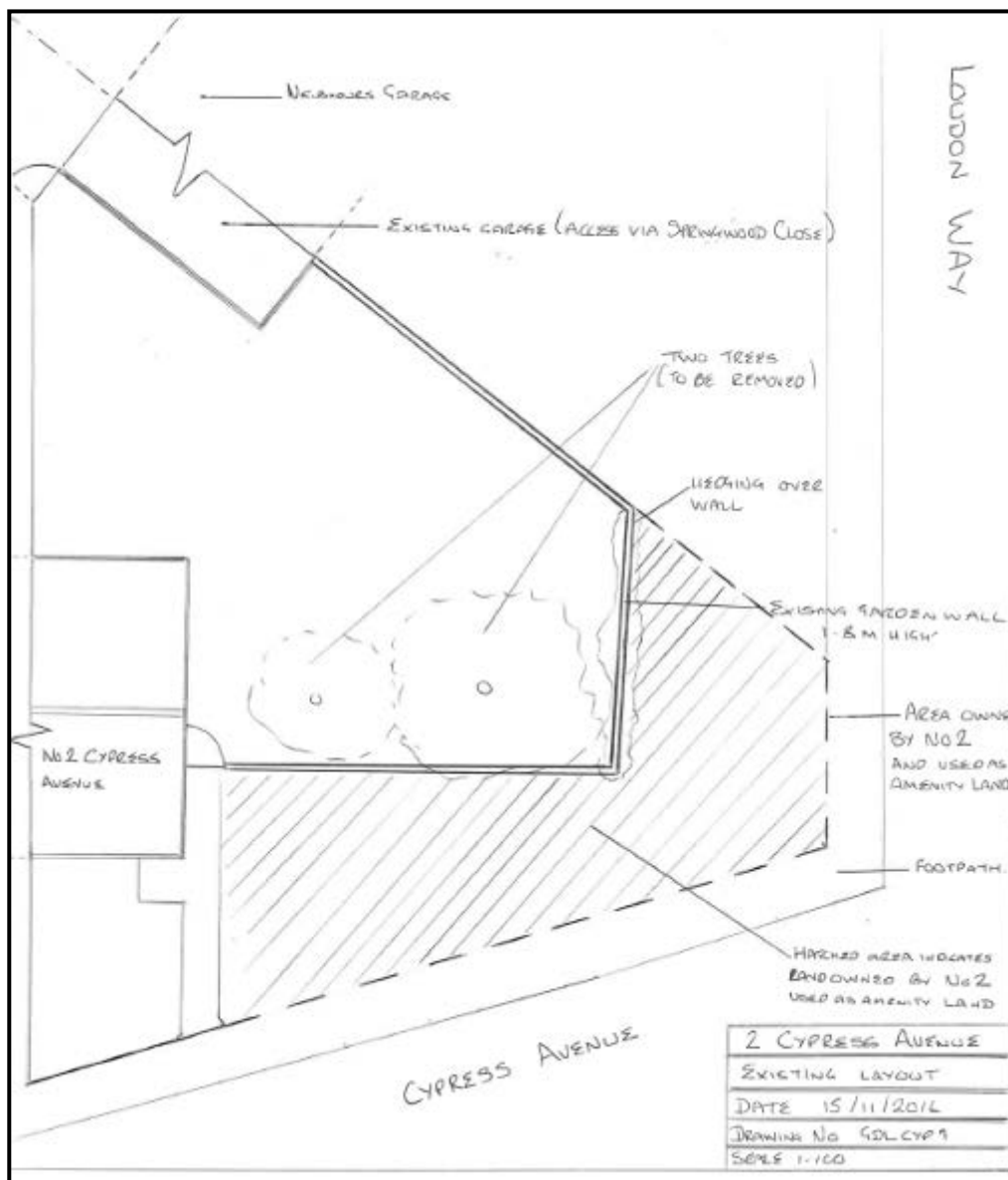


Figure 2 - Existing layout

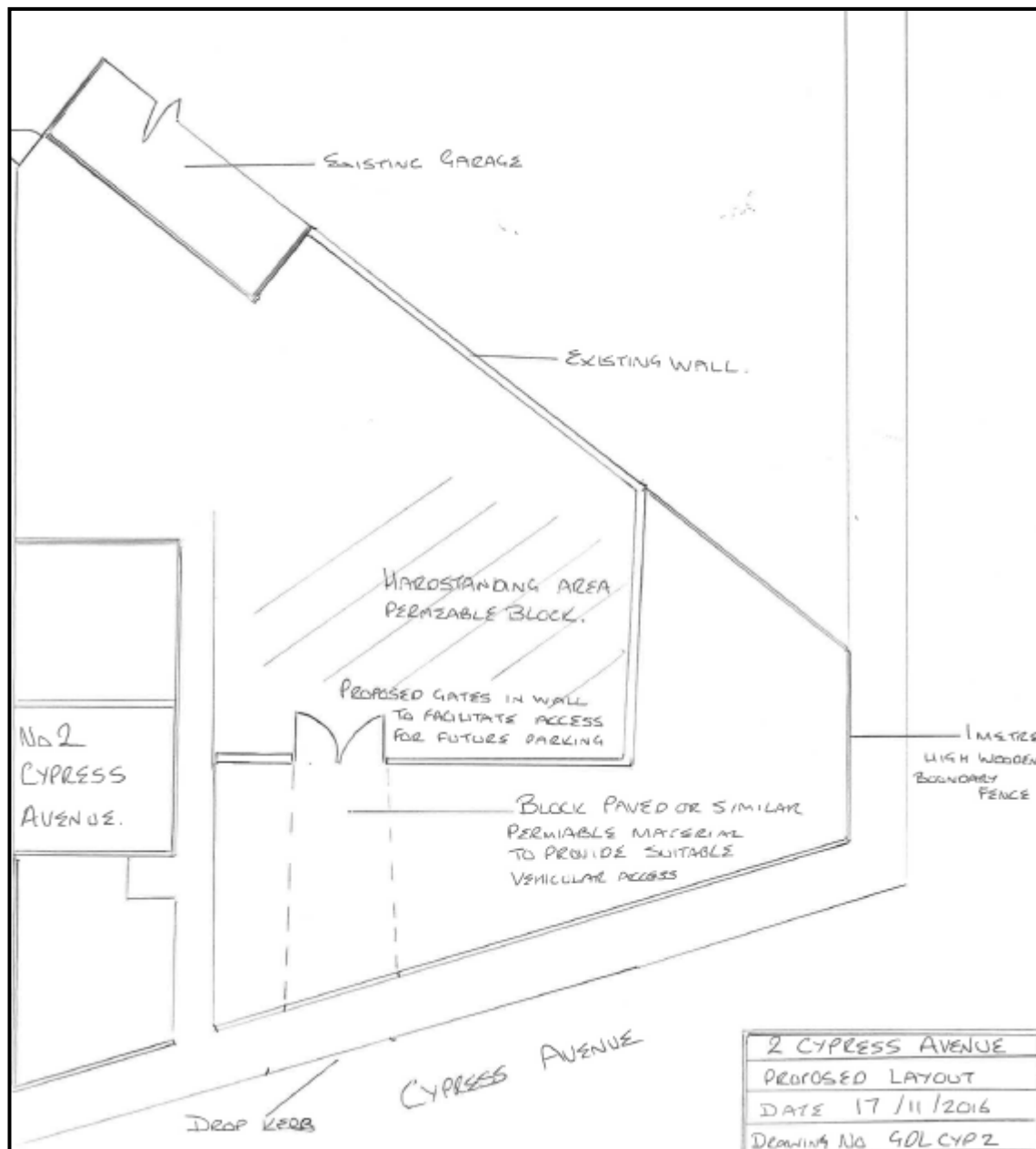


Figure 3 - Proposed layout

## Planning History

DC	FA	16/01621/AS	Part two storey/part single storey side/rear extension	PERM	16/12/2016
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## Consultations

**Ward Members: Councillor Heyes is a member of the Planning Committee**

**Neighbours – 8 neighbours consulted; one letter of objection stating:**

- “noise disruption and parking in my space blocking my car to get out. We were not notified about plans for additional building work proposed as was only told the garden area was being worked on nothing about extensions” (*JDCM comment: can only presume neighbour commenting on previous application for household extension – the consultation on that particular application was dealt with as per the Statement of Community Involvement. Any issue over noise disruption and parking of cars would not be a material planning consideration.*).

**Kent Highways** – no objection. A comment has been made, however, noting that the dropped kerb shown on the proposed layout plan for vehicular access is not suitable for vehicular access and is a pedestrian crossing point. If an extension to the crossover is required an application to Kent Highways is required.

(**JDCM comment:** whilst permission is required from the Highway Authority, there is no requirement for planning permission as Cypress Avenue is not a classified road).

## Planning Policy

8. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013 and the Wye Neighbourhood Plan 2015-30. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016, and has now closed. At present the policies in this emerging plan can be accorded little or no weight.

The relevant policies from the Development Plan relating to this application are as follows:-

### **Local Development Framework Core Strategy 2008**

CS1 – Guiding Principles for Sustainable Development and High Quality Design

CS9 – Design Quality

### **Local Plan to 2030**

SP1 - Strategic Objectives

SP6 - Promoting High Quality Design

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2012

9. 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 are relevant to this application:-
10. Paragraph 14 sets out a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking.
11. Paragraph 17: Inter alia, one of the 12 core planning principles include:  
  
*“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.*

### **Assessment**

12. The main issues for consideration are:
  - Visual amenity
  - Residential amenity
  - Highway safety

### **Impact on Visual Amenity**

13. The area of land is an L-shaped piece of land in front of, and to the side of, the residential property. The change of use will allow an extension of the garden area by 104m<sup>2</sup> with 6.8m to the front, abutting Cypress Avenue and by 5.4m from the existing wall to the side, adjacent to the footpath running along Loudon Way.

There is currently a sense of openness which is intrinsic to the character of the street scene. This is particularly noticeable on land to the east of the

application site being a large tract of open amenity land as well as from the land on the opposite side of Loudon Way giving a very open feel to the area. Whilst the proposed development will section off an area of land from what is currently open amenity land, it relates to a small area of land which will be bounded by an open and low 1m high fence, and in relation to the footpath parallel with Loudon Way, will not extend too far before it dog legs back diagonally across the amenity land. Therefore a large expanse of land will still remain. I therefore do not consider that the development will compromise the open feel of the area and result in harm to visual amenity.

### **Impact on Residential Amenity**

14. Given the nature of the development and the relationship with neighbouring properties, there would be no harm to residential amenity.

### **Impact on Highway Safety**

15. Although Cypress Avenue is not a classified road, Kent Highways were consulted in an advisory capacity. Kent Highways raised no objection to the development. A note to the applicant has been added outlining the requirement for an application to be made to Kent Highways should the crossover be extended. As a result there would be no harm to highway safety as a result of the development.

### **Human Rights Issues**

16. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

### **Working with the applicant**

17. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

### **Conclusion**

18. No objections have been raised by residents regarding the proposed development. Given the small amount of land involved, together with the

nature of the fencing and the open character of the street scene, then it is considered that there would be no harm to visual amenity. There would be no adverse residential amenity or highway issues. In light of the above assessment the proposed development would comply with the requirements of Development Plan policy and Central Government guidance. I therefore recommend that planning permission is granted.

## Recommendation

### Permit

#### on the following grounds:

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

**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.

2. The development shall be carried out in accordance with the details of external materials specified in the application which shall not be varied without the prior written permission of the Local Planning Authority.

**Reason:** In the interests of visual amenity.

3. The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

**Reason:** To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

4. The development approved shall be made available for inspection, at a reasonable time, by the local Planning authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

**Reason:** In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.



## **Note to Applicant**

### **1. Working with the Applicant**

#### **Working with the Applicant**

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance

- the application was acceptable as submitted and no further assistance was required.
  - The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.
2. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: [www.kent.gov.uk/roads\\_and\\_transport.aspx](http://www.kent.gov.uk/roads_and_transport.aspx) or telephone: 0300 333 5539) in order to obtain the necessary Application Pack
3. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents, where required, are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called "highway land".

Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of ownership, this land may have "highway rights" over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

## **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/01708/AS.

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Annex 1



# Ashford Borough Council



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