

Application Number	20/00277/AS
Location	23 Bridleway Lane, Kingsnorth, Ashford, Kent, TN23 3LN
Grid Reference	771904/803013
Parish Council	Kingsnorth
Ward	Park Farm South Ward
Application Description	Change of Use of Land to residential garden space and erection of fence on boundary
Applicant	Mrs Clarie Tutt, 23 Bridleway Lane, Kingsnorth, Ashford, TN23 3LN
Agent	Mr Michael West. 16 Castle Street, Dover, CT16 1PT
Site Area	0.8ha

Initial Consultation

(a) 15/2S (b) R (c) KCC BIO X

Second Consultation

(a) 15/1S (B) X (c) KCC BIO X

Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member Cllr Wedgbury.

Site and Surroundings

2. The application site comprises an area of amenity land situated alongside 23 Bridleway Lane and is adjacent to a public footpath which links neighbouring roads. The property itself is at the end of a cul-de-sac of similar style properties within the Park Farm area of the parish of Kingsnorth.
3. This area of amenity land is in private ownership, but it lies outside of the residential curtilage of No. 23 and was designed into the original layout of Park Farm as landscaped amenity land.

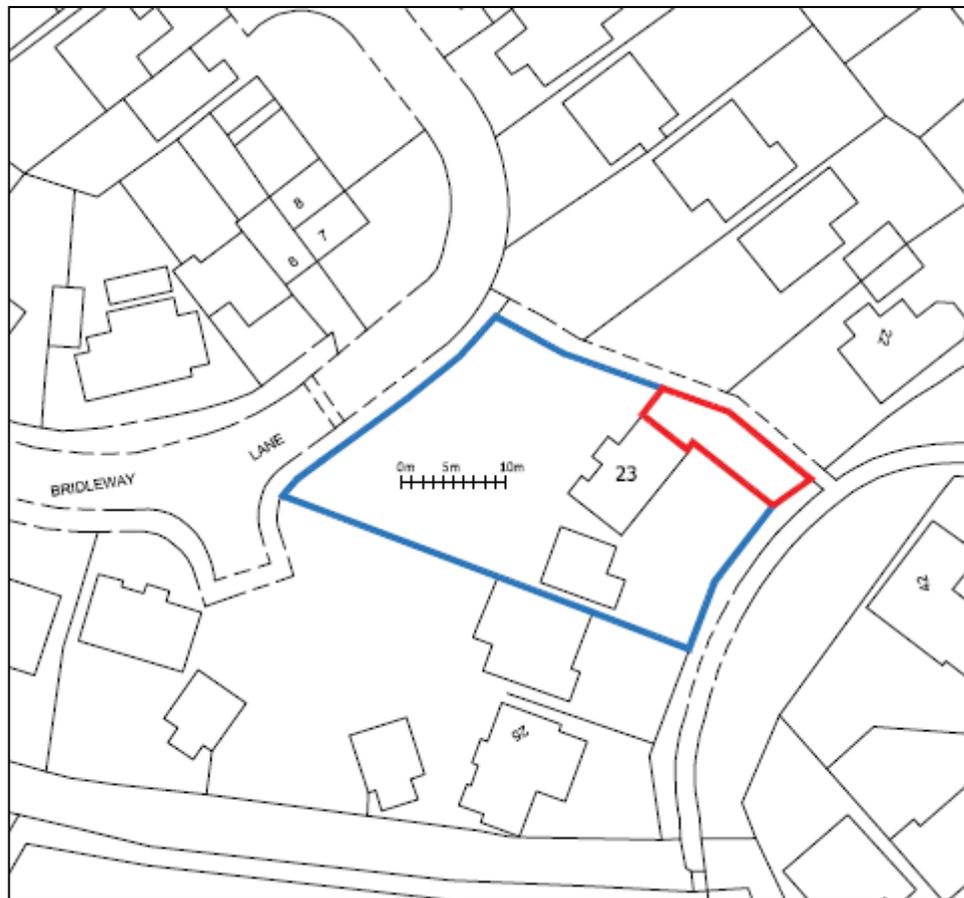


Figure 1. Location Plan

Proposal

4. Full planning permission is sought for the change of use of a strip of amenity land into residential garden and the erection of a new 1.8m close board fence.
5. During the course of the application the area of land to be subject of the change of use was decreased in size as a result of negotiations between the case officer and the applicant, this is to allow the retention and landscaping of the an area of land immediately between the land changing use and the footpath.

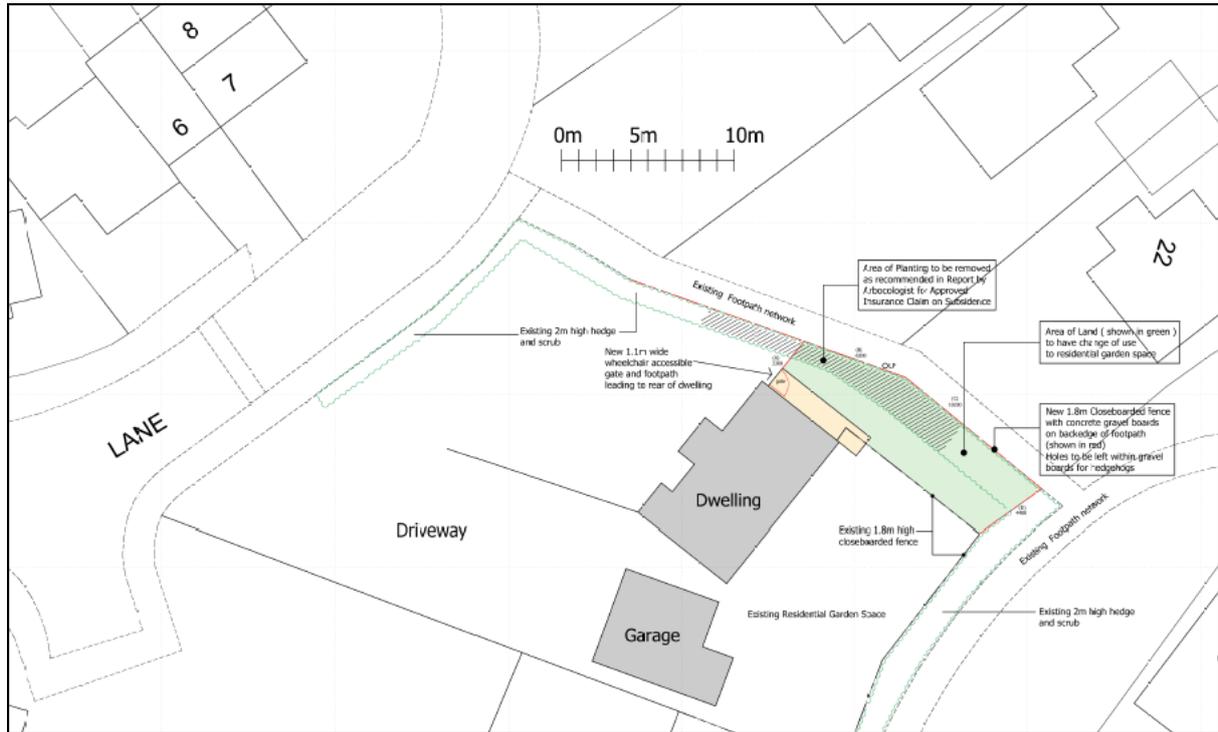


Figure 2. Originally submitted Proposed Site Plan

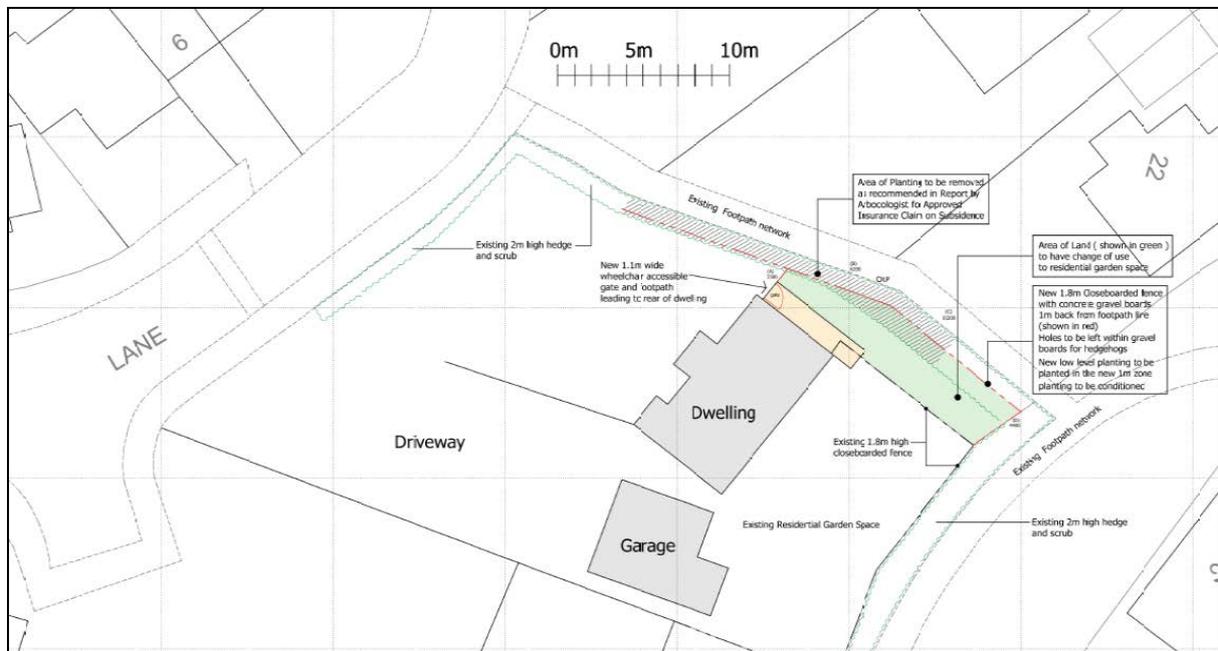


Figure 3. Amended Proposed Site Plan

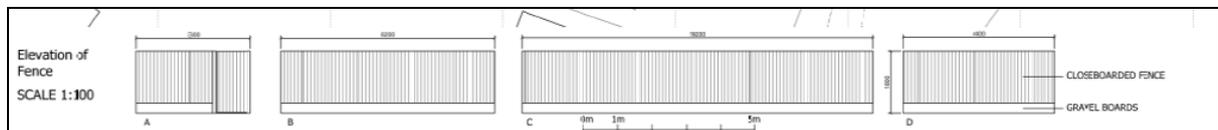


Figure 4. Elevation of Fence

Planning History

06/00603/AS – change of use of land to residential curtilage and the erection of an annexe extension to the existing dwelling house – refused 10/08/2006

The reasons for refusal were as follows:

- The proposed annexe extension would have been adjacent to the footpath and landscape buffer strip, this would have resulted in an overbearing development.
- The annex is of an appearance unsympathetic to the character of the surrounding residential area and resembles an independent dwelling where one would not normally be acceptable, due to the confined nature of the sitting.
- The proposed development would have had a detrimental effect on the users of the footpath, creating an oppressive environment and an increased perception of fear of crime.
- The removal of the landscape buffer would result in loss of visual amenity to the surrounding area.

Consultations

Ward Member: Cllr Wedgbury requests that the application be determined by the Planning Committee and makes the following comments:

- The change of use of land will affect the amenity of the locality and encourage other residents to do a similar proposal. **[DMM comment:** each application is considered on its own merits].
- The proposed change would affect the footpath and create a dark, confined alleyway and this will have a detrimental effect on the users of the footpath.
- The loss of landscaping will affect the appearance of the surrounding area and would increase a sense of feeling unsafe when walking down the footpath. As well as increase the risk of crime.

Initial Consultation

Kingsnorth Parish Council: Object for the following summarised reasons:

- It is amenity land and if the application is permitted it will make the alleyway very dark and unsafe.

- Kingsnorth Parish Council objected to this residents' previous application and object again.

KCC Biodiversity: General comment received:

- Loss of vegetation could result in potential for loss of habitat.
- The vegetation within the site is regularly managed and does not appear to provide optimum habitat for protected species, an ecological survey is not required as a result.
- Vegetation should be cleared using a precautionary mitigation approach as the site may be utilised by breeding birds, reptiles and hedgehogs and we advise that the vegetation must be cleared during the spring/summer prior to any animals going into hibernation.

Neighbours: 15 Neighbours consulted; 2 representatives received in support:

- It will allow the resident to landscape the supposed land more easily and prevent the subsidence caused by trees/shrubs that are currently growing.
- They are suffering from subsidence as we are due to trees and bushes undermining our foundations.

Second Consultation – Amended Proposal

Kingsnorth Parish Council: No Comment received.

KCC Biodiversity: No Further Comment made.

Neighbours: 15 Neighbours consulted; 1 letters of support received raising the following:

- The change of use would make a much safer and tidier footpath

Planning Policy

6. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
7. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).

8. The relevant policies from the Local Plan relating to this application are as follows:-

SP1 – Strategic Objectives

SP6 – Promoting High Quality Design

ENV1 - Biodiversity

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

Government Advice

National Planning Policy Framework (NPPF) 2019

10. 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:-
11. Chapter 8 – Promoting healthy and safe communities
12. Chapter 12 – Achieving well-designed places

National Planning Policy Guidance (NPPG)

Assessment

13. The main issues for consideration are:

- Impact on visual
- Impact upon residential amenity
- Impact on biodiversity

Visual Amenity

14. The strip of landscaping between the property's curtilage and the footpath is part of a network of paths through this modern residential estate which provides for safe and convenient pedestrian access to and from the dwellings in the area and its various local amenities.

15. Originally, the plans submitted for consideration would have resulted in the change of use of all of the amenity land into the private garden and the erection of a 1.8m high close board fence abutting the footpath. Following officer concerns that the proposed development would have a detrimental effect on the footpath, which would be harmful to the users of the footpath, amended plans were submitted that shows the 1.8m fence is set back from the footpath by 1m and low-level planting to be put in the 1m wide amenity strip retained. At present, it has to be noted that the footpath is bounded on either sides by mature planting which could be removed in any event and creates a feeling of enclosure to the footpath, which could be oppressive and increase the perception of crime.
16. The amended plans allows for the fence to be set back from the footpath and retain an acceptable extent of the amenity land as open space with more suitable landscaping which can be secured through condition. This proposed change of use would not result in a harmful erosion of openness or spaciousness within the street scene. The area of amenity land for which the change of use is sought is minimal and the visual impact of the fence would be softened by the proposed landscaping. This would also give wider sightlines for the security of pedestrians using the footpath.
17. The proposed fence would replace an existing side boundary fence to the property and whilst it would be closer to the footpath than the existing, it would not be out of character given the existence of other similar boundary treatments in the wider residential area or represent a significant visual change and therefore would not be harmful to the visual amenity of the area.

Residential Amenity

18. The proposed development would be visible from neighbouring properties; however, it is of a considerable distance from neighbouring dwellings and would not result in an overbearing form of development. As such, there would be no adverse impact caused to the residential amenity of the closest neighbouring properties.

Biodiversity

19. The proposed development would result in the removal of existing vegetation which would need to be subject to a precautionary mitigation approach in line with the comments from KCC Ecology, who raise no objection. This can be secured through planning condition. There would be no harm to biodiversity as a result.

Human Rights Issues

20. 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

21. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

22. The revised development overcomes the initial concerns raised by officers. The fencing will be set back from the footpath, retaining a feeling of openness and the landscaping proposed would soften the proposed fencing. The development would not result in harm to the visual amenity of the area. The development would not give rise to harm to residential amenity or biodiversity. There would be a reduced perception crime given the wider sightlines as a result of the removal of the vegetation which would be of benefit for pedestrians using the footpath.

Recommendation

Permit

Subject to the following Conditions and Notes:

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

1. Standard time condition
2. Landscaping scheme

3. Precautionary mitigation approach for biodiversity
4. Development carried out in accordance with the approved plans
5. Approved development available for Inspection

Working with the Applicant

In accordance with paragraph 38 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 considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (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 20/00277/AS)

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