

**4/01134/13/FUL - CHANGE OF USE OF AMENITY LAND TO RESIDENTIAL GARDEN, FRONT HARDSTANDING, CREATION OF VEHICLE CROSSOVER AND CONSTRUCTION OF 1.8M HIGH FENCE.**

**4 LANCASTER DRIVE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0RX.**

**APPLICANT: MR C ARRIS.**

[Case Officer - Intan Keen]

[Grid Ref - TL 01085 03873]

## **Summary**

This application is recommended for approval.

The proposed boundary fence, front hardstanding and vehicle crossover are considered to be acceptable and would not detract from the character and appearance of the original dwelling or the street scene. There would not be an adverse impact on the amenity of neighbouring properties. The proposed car parking arrangements are sufficient and the proposal would not have an adverse impact on highway safety. The proposal is therefore in accordance with the National Planning Policy Framework and Policies CS4 (The Towns and Large Villages) and CS12 (Quality of Site Design) of the Dacorum Borough Core Strategy September 2013.

## **Site Description**

The application site is currently occupied by a two storey semi-detached dwelling and adjacent amenity green located on the western corner of Lancaster Drive. The application site shares visual similarities with dwellings in the immediate area in terms of design and external materials. On street car parking exists and parking inlets are provided on the street, one of which is located directly south of the application site. At the time of the site visit, the fencing enclosing the amenity green had been erected, including it within the rear garden of No. 4 Lancaster Drive.

## **Proposal**

Planning permission is sought for the creation of an area of hardstanding to the side of the dwelling and associated 5.3m wide vehicle crossover to the south-western side of Lancaster Drive. The area of hardstanding would have approximate dimensions of 5.3m wide by 5.2m deep.

It is also proposed to construct a 1.8m high timber fence that would follow the boundaries of the application site and set in approximately 0.75m from the road.

Amended plans were received on 24 July 2013 showing amendments to the boundary fence to incorporate splays to both corners where it directly fronts Lancaster Drive.

The application was amended on 29 August 2013 to include the change of use of the land from amenity green to residential garden.

## **Referral to Committee**

This application has been referred to the Development Control Committee due to the contrary views of Bovington Parish Council.

## **Planning History**

Application 4/01358/85 for construction of 'Category C' prison, ancillary buildings and structures; playing fields; erection of housing accommodation; access roads etc. at Part of Bovingdon Airfield, Chesham Road, Bovingdon. The Borough Council did not object to the proposal and the Council's decision notice was dated 17 January 1983 (consultation under Circular 7/77). The application site forms part of this development.

## **Constraints**

Large Village

## **Policies**

National Policy Guidance

National Planning Policy Framework

Core Strategy

Policies CS4 and CS12

Dacorum Borough Local Plan (saved policies)

Policy 58

Appendix 5

## **Representations**

Neighbours

Nos. 2, 3, 5, 6, 8, 9, 10, 11, 12, 14 and 15 Lancaster Drive were notified on 26 June 2013.

Four items of correspondence were received. This included one from No. 6 Lancaster Drive on 3 July 2013 in support of the proposal.

The remaining three items of correspondence were received from No. 15 Lancaster Drive on 5 July 2013, 10 Lancaster Drive on 8 July 2013, and 12 Lancaster Drive on 15 July 2013, objecting to the proposal on the following grounds:

- Loss of footpath to the side of the application site;
- Proximity of proposed fence to the road raises safety issues with respect to on street car parking and being able to exit cars when parked on street;
- Proximity of proposed fence to the road would have implications for road access for large vehicles and turning vehicles;
- Visibility around the corner at the T junction of Lancaster Drive; and
- Visual intrusion on street.

Following the submission of amended plans, the above neighbours were notified on 26

July 2013, and subsequently on 29 August 2013 following an amended description to include the change of use. Three items of correspondence were received including two from No. 16 Lancaster Drive on 29 July 2013 and 2 September 2013, and one from No. 10 Lancaster Drive on 31 July 2013 objecting to the proposal on the following grounds:

- Visual intrusion;
- Proximity of fence to road and parking bays;
- Loss of footpath;
- Loss of children's playground.
- Highway safety and sufficient area for parking and turning of vehicles; and
- Road access.

### Bovingdon Parish Council

Bovingdon Parish Council was notified on 26 June 2013. The following response was received on 26 July 2013:

#### *Object*

1. *Cuts off a public right of way*
2. *Removes amenity land from public use*
3. *Fence too high as it is close to a junction*

Following the submission of amended plans, Bovingdon Parish Council was notified on 26 July 2013. The following response was received on 21 August 2013:

#### *Object.*

*Our concerns are as previously reported. This was amenity land with a public footpath across it when the Ministry of Justice sold it to the applicant and, therefore, should be retained as such. Members of the public should still have free access to come and go as before. If it is added to the curtilage of No. 4, then the public will be restricted from accessing it. The fence that has been erected is too close to the junction and road. We note that the fence and associated works were carried out prior to the appropriate planning permission being applied for.*

Following the amended description to include the change of use, Bovingdon Parish Council was notified on 29 August 2013. The following objection was received on 26 September 2013:

*The right of way should be retained and the land continued to be used as amenity land with the public having access to it. This would be keeping with the comments contained in The Green Space Area Study included in the Dacorum Green Space Strategy 2011-2016, which found that Bovingdon has a significant under provision of open space and lacks allotments, green corridors, parks and gardens and space for children and young people. We understand that this land was determined as a childrens play area in 1986.*

### Highways

Highways (Hertfordshire County Council) was notified on 26 June 2013. The following response was received on 16 July 2013:

*Notice is given under article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 that the Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reasons:*

*1) The applicant has not demonstrated adequate visibility can be achieved.*

*Reason for refusal: In the interests of highway safety and amenity.*

#### *Highway Comment*

*The above application is for the creation of off street parking and the retention of a 1.8m high close-boarded fence on the boundary of the applicants land. The applicant states that the road and footways are maintained by the HM Prison. They are not. HCC is the highway authority and maintains this section of road at public expense.*

*The closeness of the fence to the highway is the concern and not the creation of additional off street parking spaces. The lack of forward visibility created by the fences position could lead to conditions where other highway users are put in danger.*

*The highway authority's concerns are over the lack of forward visibility when driving up to the bend in Lancaster Drive and the restricted visibility when exiting the existing parking spaces. Both pedestrians and vehicle forward visibility is sub standard as per the suggested minimum standards in Roads in Hertfordshire- Highway Design 3rd edition.*

*The application should be refused until the fence is repositioned creating acceptable levels of visibility as mentioned above.*

Following submission of amended plans, Hertfordshire Highways was notified on 29 July 2013. The following response was received on 5 August 2013.

*Notice is given under article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:*

*1) The proposed car parking spaces shall have measurements of 2.4m x 4.8m respectively. Such spaces shall be maintained as a permanent ancillary to the development shall be paved and shall be used for no other purpose.*

*Reason: The above condition is required to ensure the adequate provision of off-street parking at all times in order to minimise the impact on the safe and efficient operation of the adjoining Highway.*

*2) All areas for storage and delivery of materials associated with the construction of this development shall be provided within the site on land, which is not public highway, and the use of such areas must not interfere with the use of the public highway.*

*Reason: In the interest of highway safety and free and safe flow of traffic*

#### *Highway Comment*

*The above-amended application is for a 1.8m high close-boarded fence and two off street parking spaces to the side of 4 Lancaster Drive. The previous application submitted was in fact retention of the as built fence. The amended plan, which is for consideration now shows both forward visibility and inter visibility where previously there was none by virtue of the fences position to the adopted highway. As part of this scheme, the applicant is proposing to construct two off street parking spaces served via a new dropped kerb vehicle crossover (VXO) as shown on the submitted plan. On street parking demand opposite and in close proximity to 4 Lancaster Drive is high so the request to create more off street parking is not unreasonable in this instance.*

#### *Conclusion*

*Although the highway authority in principle has no objection to the construction of this VXO, it shall only be constructed to the local highway authority's maximum width and standard, hence the informative above. On balance, this proposal with the improved visibility splays from the car parking spaces and around the left hand corner of Lancaster Drive is unlikely to have a significant impact on the safety and operation of the adjacent highway. Therefore, the highway authority does not consider it could substantiate a continued highway objection to this amended proposal. The Highway Authority has no objection subject to the above conditions to the grant of permission.*

Further informal advice was received from Hertfordshire Highways on 5 August 2013 that there is no requirement for the applicant to dedicate some of their land to provide a footpath on their side of Lancaster Drive, and further advice received on 19 August 2013 confirming that the proposed width of the vehicle crossover is acceptable.

#### Rights of Way

Rights of Way (internal) was notified on 27 September 2013. It was confirmed on 1 October 2013 that there is no public right of way through the application site (the former amenity green adjacent to No. 4 Lancaster Drive).

#### **Considerations**

The main issues of relevance to the consideration of this application relate to the policy and principle justification for the proposed change of use, the impact of the loss of the amenity space, the proposed front hardstanding and fencing on the character and appearance of the original building and the street scene, the impact on neighbouring properties, and the impact on highway safety, access and car parking.

#### Policy and principle

Under the Area Based Policies, Development in Residential Areas Supplementary Planning Guidance, the terminology section defines amenity spaces and greens as small areas of open undeveloped land within residential areas which may be space for landscaping, grassed verges or areas, or play space but do not qualify as larger areas

of structural open land defined in Policies 9 and 116 of the Local Plan. The former has been superseded by Policy CS4 of the Core Strategy; and Policy 116 of the Local Plan is a saved policy.

Policy CS4 of the Core Strategy states that in residential areas appropriate residential development is encouraged. The application site is located within an established residential area within the large village of Bovingdon. The proposed change of use would not raise any policy objections.

The Dacorum Green Space Area Study 2011-2016 (January 2011) does not identify small amenity greens on Lancaster Drive as integral to the provision of outdoor and recreational facilities within the Borough. It is important to note that an amenity green of such size would not contribute to the existing provision of facilities for children and young people as identified in the study. Nor does the study identify this amenity green as a children's playground. As such, the study does not preclude the transfer of this amenity green to private ownership where in this instance it would form part of a residential garden.

It is also important to note that there is no public right of way across the amenity green.

Sufficient evidence has been provided to confirm the application site is entirely within the applicant's ownership, with no restrictions to converting the site to form part or for its use as a residential garden.

#### Impact on appearance of original building and street scene

The NPPF places great importance to the design of the built environment, and the integration of development into the natural, built and historic environment. The above mentioned policies contained in the Local Plan and the Pre-submission Core Strategy with Modifications are consistent with the objectives of the NPPF.

The proposed boundary fence would be of a simple design and dark stained to complement the host dwelling and blend in with its surroundings. Its timber construction would give the fence a softer appearance and would be an expected feature within a residential area, particularly when enclosing a private garden which has a road frontage. At a height of 1.8m this would ensure the fence would be subservient to the parent building.

The splayed fence would ensure that a sufficient grassed area to the north-western corner at the T-junction of Lancaster Drive would be retained and this would assist in softening the appearance of the proposed hardstanding.

Hardstanding within the front garden of residential properties within the street is a common feature, including to dwellings on Lancaster Drive. Front gardens in the immediate area are open with the absence of front fencing, and whilst the proposed hardstanding would be visible, it would be suitably integrated within the street. The use of grey block paving would be an appropriate material that would allow the proposed hardstanding to blend in with the surrounding area.

The insertion of the 5.3m wide vehicle crossover, although quite wide, is considered

acceptable with respect to its impact on the street scene. The proposed car parking layout and access as viewed from the street would not be dissimilar to the existing on street parking arrangements of the inlets providing 90° parking bays, located to the south-west of the application site.

The resultant layout of the application site and the proposed residential curtilage is considered acceptable. The boundaries of the residential curtilage would appropriately mirror the garden area of the adjoining property to the rear at No. 3 Lancaster Drive.

For reasons mentioned above, the proposal would not detract from the appearance of the street scene. Although the amenity green sits on a prominent corner within the street, its enclosure is not considered to have a significant impact on the character of the street scene to warrant refusal. It is not uncommon for side gardens to be sited on a road frontage and as such, high fencing to enclose private garden areas is to be expected. This is exemplified by the enclosed side garden at No. 3 Lancaster Drive. The conversion of the amenity green would not unduly affect the landscape character of the surrounding area.

In summary, the proposal represents a satisfactory design and would not detract from the character and appearance of the original building or the street scene. The proposal is therefore in accordance with the NPPF, Policy 11 of the Local Plan and Policy CS12 of the Pre-submission Core Strategy with Modifications.

#### Impact on neighbouring properties

The proposed boundary fence would not be sited proximate to any habitable room windows and therefore this aspect of the development would not have an adverse impact on the amenity of surrounding properties.

Similarly, the proposed front hardstanding and vehicle crossover would not be significantly raised above existing ground level, and noting that the land is generally flat, there would not be a detrimental impact on neighbouring properties directly opposite with respect to visual intrusion.

#### Impact on highway safety, access and car parking

It is not considered necessary that a footpath is provided across the application site, and this approach has been supported by Highways, nor is there a public right of way over the amenity green. It would appear sufficient pedestrian links exist within the street, including directly opposite the application site on the far side of Lancaster Drive in front of dwellings at Nos. 12 and 14. It is not considered reasonable to require that public access is maintained through this space. It follows that it would not be reasonable to restrict the enclosure of this space for the purposes of providing a public amenity green or a footpath link.

The proposed fencing would incorporate splays to enable a sufficient level of visibility to be achieved from the car parking spaces immediately south of the application site; and therefore this aspect of the proposal would not raise a highway safety concern. Similarly, the proximity of the fence to the kerb with Lancaster Drive has not raised any concerns from a highways perspective.

With respect to car parking provision on the site, the application proposes to cover part of the front garden in hardstanding that could accommodate two on site car parking spaces to dimensions required by Appendix 5 of the Local Plan. This is considered acceptable from a highways perspective.

The construction of a vehicle crossover to the application site would decrease the number of available on street car parking spaces by one. However, the proposal would provide for two on site car parking spaces resulting in a net gain of spaces. The proposal has also received the support of Highways and in this instance the car parking arrangements are satisfactory.

It would be reasonable to attach the suggested condition above relating to the measurements of the proposed car parking spaces and that they would be maintained as a permanent ancillary to the dwelling, if planning permission is granted. However, with respect to the condition relating to areas of storage and delivery of materials associated with construction of the development, if planning permission is granted it would not be reasonable to attach this condition as this matter cannot be enforced by the local planning authority.

#### Other matters

It is noted that the construction of the fence prior to planning permission being sought would not restrict the grant of retrospective planning permission.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

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

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 **The development hereby permitted shall be constructed in accordance with the materials specified on the approved drawings or such other materials as may be agreed in writing by the local planning authority.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Dacorum Borough Core Strategy September 2013.

- 3 **The proposed car parking spaces shall have measurements of 2.4m by 4.8m respectively. Such spaces shall be maintained as a permanent ancillary to the development shall be paved and shall be used for no other purpose.**



Reason: To ensure the adequate provision of off-street parking at all times in order to minimise the impact on the safe and efficient operation of the adjoining highway.

- 4 **The development hereby permitted shall be carried out in accordance with the following approved plans: CMA 07 (site location plan) received 26 June 2013; CMA08/A (proposed block plan) received 24 July 2013; and e-mail dated 15 August 2013 (confirming dimensions of hardstanding and vehicle crossover).**

Reason: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE:

The highway authority require the construction of the vehicle crossover to be undertaken by approved contractors so that the works are carried out to their specification and by a contractor who is authorised to work in the public highway. The applicant will need to contact [www.hertsdirect.org](http://www.hertsdirect.org) or telephone 0300 1234 047 for further instruction.

#### **Article 31 Statement**

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.