

<b>4/01624/18/FUL</b>	<b>CHANGE OF USE FROM AMENITY LAND TO RESIDENTIAL LAND. CONSTRUCTION OF 1800MM HIGH CLOSE-BOARD FENCE TO SOUTH BOUNDARY.</b>
<b>Site Address</b>	<b>26 HOLLYBUSH LANE, HEMEL HEMPSTEAD, HP1 2PQ</b>
<b>Applicant</b>	<b>Mr &amp; Mrs Butler, 26 Hollybush Lane</b>
<b>Case Officer</b>	<b>Nigel Gibbs</b>
<b>Referral to Committee</b>	<b>The land is owned by this Council and there is a local objection to the application</b>

## **1. Recommendation**

1.1 That planning permission be **GRANTED**.

## **2. Summary**

2.1 The change of use would result in the permanent removal of a long established area of amenity land which forms an integral and relatively prominent part of the original estate layout. However, on balance, it is not considered that the land is of such importance to the local residential environment / streetscape that would justify its retention. The visual harshness of the enclosing fence is softened by the introduction of planting at the front of no. 26 adjoining the junction with Pulleys Close.

## **3. Site Description**

3.1 No. 26 is an end of terrace dwelling house which adjoins the Hollybush Lane junction with Pulleys Close. The dwelling's southern flank wall and rear garden lie parallel with Pulleys Close. The rear garden's southern high boundary fence is separated from the Pulleys Close public footpath by a virtually rectangular area of Council owned and maintained amenity land, measuring about 4m in overall depth and 15.8m in length. There are drainage covers on the land.

3.2 It is understood from the Applicant/ Agent that the Council's Estates Department has agreed to sell the land as private garden to the Applicant.

## **4. Proposal**

4.1 This is for the change of use of the amenity land to residential garden to be enclosed by a 1.8m high close boarded fence lying parallel and abutting the back edge of the public footpath.

4.2 The Applicant has agreed to establish a planting area involving 1m high privet hedging at the site frontage as shown by Additional Drawing No.2224 P1B.

## **5. Relevant Planning History**

5.1 None.

## **6. Policies**

6.1 National Policy Guidance

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)

## 6.2 Adopted Core Strategy

NP1, CS1, CS4, CS10, CS11, CS12, CS13, CS23, CS26 and CS29

## 6.3 Saved Policies of the Dacorum Borough Local Plan

13, 51, 54 and 99

Appendices 3 and 6

## 6.4 Supplementary Planning Guidance / Documents

- Environmental Guidelines (May 2004)
- Area Based Policies (May 2004) - Residential Character Area HCA 3 Warners End
- Water Conservation & Sustainable Drainage (June 2005)

## 7. **Constraints**

- Residential Area of Hemel Hempstead
- 15.2M Air Direction Limit
- Community Infrastructure Zone 3
- Not within an identified former land use or vulnerable Flood Zone

## 8. **Representations**

### Consultation responses

8.1 These are reproduced in full at Appendix A.

### Neighbour notification/site notice responses

8.2 These are reproduced in full at Appendix B.

## 9. **Considerations**

### Main issues

9.1 The main issues to consider are:

- Policy and principle.
- Compatibility of the development with the character and appearance of the area: Layout and Design and Soft landscaping.
- Impact on neighbouring properties.
- Highway safety implications.
- Contamination and Land Stability.
- Ecological Implications.

### Policy and Principle

9.2 Dacorum Core Strategy Policy CS1 expects that Hemel will be the focus of new development based upon a range of criteria. These include making best use of existing green infrastructure under criterion (e). This is in association with Policy CS4 which is to ensure that development is guided to appropriate areas within the Borough's Towns and Villages, wherein residential areas 'appropriate residential development is encouraged'.

9.3 Although of relatively small size, the land subject to this application is interpreted as falling within the definition of 'Social Infrastructure' which under Figure 14 of Dacorum Core Strategy, is as 'open space'. Under Policy CS23 existing social infrastructure is to be protected unless appropriate alternative provision is made, or satisfactory evidence is provided to prove the facility is no longer viable. Assessing the proposal against this policy is not straightforward, given the size of the land and its very localised open space role. However, in this respect, the role/ policy basis of saved HCA 3 (Warners End) is very material, providing a structured micro level basis for considering the proposal. Of particular relevance are the following HCA 3's analysis and policy approach:

- Context. Pages 91 and 92: Existing Character of HCA 3. These explain, amongst a range of matters, that the locality is well provided for with the large presence of 'treed amenity greens' assisting the attractive and well landscaped appearance of the area. Under Landscaping and Planting there is reference to the good provision of public and private landscaping which appears mature and well established. Since the document's publication this analysis of the character remains relevant.
- Policy Approach. Page 94: 'Development Principles: Amenity Land. This expects that areas of amenity land are to be retained and permission will not normally be given on areas of amenity land or for their inclusion within residential curtilages **unless it can be demonstrated that the loss of that land will not unduly harm the character and appearance of the area.** Also the use of parts of areas of amenity land for car parking may be acceptable if the resulting visual impact does not adversely affect the character and appearance of the area and established landscaping. Under 'Landscaping' the provision of further public and private landscaping is encouraged.

9.4 In conjunction with this Policy CS11 (Quality of Neighbourhood Design) specifies that within settlements and neighbourhoods, development should satisfy a range of criteria including:

- (a) Respecting the typical density intended in an area and enhancement of spaces between buildings and general character,
- (b) Preserving attractive streetscapes,
- (d) Protecting or enhancing significant views within character areas,
- (e) Incorporating natural surveillance to deter crime and fear of crime, and
- (f) Avoiding large areas dominated by car parking.

9.5 Policy CS11 is complemented by various Policy CS12 (Quality of Site Design) development criteria including (e) the planting of trees and shrubs and (f) the integration within the street scape character.

9.6 Set against the above there is a need to consider whether the loss of the amenity land is acceptable.

#### Layout, Design, Scale/Impact on the Street Scene and Character of the Area

9.7 The change of use would result in the permanent removal of a long established area of amenity land which forms an integral and relatively prominent part of the original estate layout. However, on balance, it is not considered that the land is of such significant importance to the local residential environment / streetscape that would justify its retention. The visual harshness of the enclosing fence is softened by the introduction of planting at the front of no. 26 adjoining the junction with Pulleys Close. In this respect the proposal accords with the aforementioned HCA 3 Development Principles, the aforementioned relevant criteria of Policies CS11 and CS12 .

#### Impact on Neighbouring Properties/ Residential Amenity

9.8 This is with reference to the expectations of Dacorum Core Strategy Policies CS12 and CS32, Appendix 3 of the Dacorum Local Plan and the NPPF regarding residential amenity. There would not be any harm to the residential amenity of any adjoining/ nearby dwellings.

#### Impact on Highway Safety

9.9 Hertfordshire Highways raise no objections. This would have been based upon the observed site and local conditions, including fencing adjoining the access to No.1 Pulleys Close.

#### Other Material Planning Considerations

9.10 As the land is not a former land use there are no identified contamination issues. There are no known land stability or drainage problems.

9.11 Based upon current site conditions there are no apparent ecological implications with the planting compensating for the loss of the green space.

9.12 The enclosure of the land is expected to reduce the likelihood of any security / crime issues arising from the use of the amenity area which is vulnerable to problematical uses with poor natural surveillance.

9.13 An Environmental Impact Assessment is not necessary and there are no air safeguarding issues. Several conditions are necessary.

#### Response to Neighbour comments

9.14 The provision of the area for additional parking is not workable due to the land's depth which would not enable cars to be parked in the standard layout arrangement with vehicles overhanging the public footpath. Parked cars would also detract from the appearance of the street scene on this prominent corner plot, contrary to the expectations of HCA3 Development Principles.

## **10. Conclusions**

10.1 The removal of a substantial and prominent area of long established amenity land which 'provides visual relief' within the street scene is disappointing in eliminating an integral part of the original estate's localised structural soft landscaping. However, it is not considered that it is of such importance to the existing street scene/ streetscape to justify its permanent retention. The combination of the loss of the green space and fencing would create a harsher impact within the residential locality which would however be softened by the frontage hedging on this prominent corner.

10.2 In the interests of further softening the visual impact of the elongated fence to reinforce the positive role of long established planting in the locality's street scene consideration has been given to inseting the fence to provide a continuous soft edge between the fence and back edge of the footpath. However, it is considered that there would be some potentially inbuilt management/ maintenance/ highway issues regarding planting overhanging the footpath.

**11. RECOMMENDATION** – That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions

Conditions

No	Condition
1	<p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>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.</p>
2	<p>All of the fence's outer edge facing Pulleys Close shall be maintained at all times only fully in accordance with in a finish submitted to and approved in writing by the local planning authority. These details shall be submitted before the first use of the land as residential garden.</p> <p>Reason: In the interests of the appearance of the locality in accordance with Policy CS12 of Dacorum Core Strategy.</p>
3	<p>The planting shown by Drawing No.2224 P1B shall be carried out fully in accordance with the specified details in the planting season following the first use of the land as residential garden . For the purposes of this condition the planting season is between 1 October and 31 March.</p> <p>Reason: In the interests of the appearance of the locality and biodiversity in accordance with Policies CS11, CS12, CS26 and CS29 of Dacorum Core Strategy.</p>
4	<p>The planting subject to Condition 3 which if within a period of ten years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by another section of hedge of the same species and size as that originally planted at the same place in the next planting season. For the purposes of this condition the planting season is between 1 October and 31 March.</p> <p>Reason: In the interests of the appearance of the locality and biodiversity in accordance with Policies CBS 11, CS12, CS26 and CS29 of Dacorum Core</p>

	Strategy.
5	<p>No vehicular access shall be installed between the land subject to this planning permission and the highway.</p> <p>Reason: In the interests of highway safety in accordance with Policy CS12 of Dacorum Core Strategy.</p>
6	<p>Subject to the requirements of the requirements of other conditions of this planning permission the development hereby permitted shall be carried out in accordance with the following plans :</p> <p>Site Location Plan Plan 2224 P1B</p> <p>Reason: To safeguard and maintain the strategic policies of the local planning authority and for the avoidance of doubt.</p> <p>ARTICLE 35 STATEMENT</p> <p>Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively 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 2015.</p> <p>Highway Informatives</p> <p>1. The Highway Authority requires any works in the public highway to be carried out to their specification and by a contractor who is authorised to work in the public highway. If any of the works associated with this development requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.), the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. The applicant may need to apply to Highways (Telephone 0300 1234047) to arrange this.</p> <p>2. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to willfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <a href="http://www.hertfordshire.gov.uk/services/transtreets/highways/">http://www.hertfordshire.gov.uk/services/transtreets/highways/</a> or by telephoning 0300 1234047.</p> <p>3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be</p>

	taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <a href="http://www.hertfordshire.gov.uk/services/transtreets/highways/">http://www.hertfordshire.gov.uk/services/transtreets/highways/</a> or by telephoning 0300 1234047
--	---

## REPRESENTATIONS

### Appendix A

#### Estates & Valuation

No response.

#### Hertfordshire County Council: Highways

##### Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

##### Informatives:

1. The Highway Authority requires any works in the public highway to be carried out to their specification and by a contractor who is authorised to work in the public highway. If any of the works associated with this development requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.), the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. The applicant may need to apply to Highways (Telephone 0300 1234047) to arrange this.
2. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.
3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website

<http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047

#### Comments

The proposal is for Change of use from amenity land to residential land. Construction of 1800mm high close-board fence to south boundary.

The site is adjacent to the property and is on Pulleys Close.

#### Access

The applicant states that no new or altered vehicle access is proposed to or from the public highway. I notice that there is a street name sign currently in the grass verge. The applicant will need to be informed that this will need to be relocated at their expense.

#### Conclusion

The proposal is unlikely to have a severe residual impact on the highway network.

### **Appendix B**

#### **Comments received from local residents:**

##### 19 Pulleys Close

Appreciate the proposal to increase the garden at #26 but have previously highlighted this piece of land for improving parking for Pulleys Close/Hollybush Lane residents. With the addition of two houses opposite Pulleys Close there is less parking available for people and feel this land would be better used for improving parking for the new householders/visitors but also safety as people park on the junction which restricts the view when pulling out. Happy to discuss.

##### No.27 Hollybush Lane

Does not object to the application - in full support.

We support this application, as we believe this should be residential land attached to 26 Hollybush Lane. This is the case with the boundary fence across the road (No. 24 Hollybush Lane) and with most other end of terrace houses in this area.

Moreover, we do not believe there will be a detrimental impact on parking in this area, as vehicles very seldom park on this land. There is ample space on the other side of the road and in the parking bays in Pulleys Close.