

Planning Committee



Application Address	32 Endfield Road Christchurch BH23 2HT
Proposal	Change of use of grass verge to use as private garden, erection of boundary fence and widening of existing access
Application Number	8/22/0829/COU
Applicant	Mr S Crabb
Agent	Mr Matt Stevens
Ward and Ward Member(s)	Commons Councillor Phipps Councillor Ricketts
Report status	Public
Meeting date	19 January 2023
Summary of Recommendation	Grant in accordance with the details set out below
Reason for Referral to Planning Committee	Call in by Cllr Phipps for the following reasons; The land proposed to be taken from the verge is excessive. It will be contrary to HE2 Landscaping and HE3 Landscape Character. The removal of this verge will completely change the character of the entrance to Crofton Close and constitute a loss of local amenity greenspace. In addition I consider the application contrary to policy H12 being inappropriate in character and scale to the immediate locality.
Case Officer	Mufaweli Mubukwanu

Description of Proposal

1. Full planning permission is sought for a change of use of grass verge to use as private garden at number 32 Endfield Road. In addition a boundary fence is proposed to enclose the land.

Description of Site and Surroundings

2. The site is a stripe of highway verge adjacent the existing boundary fence of 32 Endfield Road and runs parallel to Crofton Close. Currently the verge is grassed with a recently planted tree.
3. The application dwelling fronts Endfield Road and is a detached dwelling with a low front boundary wall fence with established hedging and off road parking and close board fencing of 1.8 metres on the north-western boundary.
4. This part of Endfield Road is varied and consists of different style and size dwellings, with low front boundary fences and off-road parking. Crofton Close largely consists of terraces with open front boundaries.

Relevant Planning History

5.

8/83/0346	ENDFIELD ROAD, NO 32	FIRST FLOOR ADDITION TO DWELLINGHOUSE	Granted	30/08/83
8/22/0697/COU	28 Endfield Road Christchurch	Change of use of grass verge to use as private garden and erection of boundary fence.	Under considerat ion	

Constraints

6. The following constraints apply to the site;

- SSSI Impact Risk Zone
- Highways Inspected Network
- Heathland 5km Consultation Area
- Airport Safeguarding
- Wessex Water Sewer Flooding

Public Sector Equalities Duty

7. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other relevant duties

8. In accordance with section 40 Natural Environment and Rural Communities Act 2006, in considering this application, regard has been had, so far as is consistent with the proper exercise of this function, to the purpose of conserving biodiversity.
9. For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area.

Consultations

10. **Christchurch Town Council** - no comments received
11. **BCP Highways** - No objection.
12. The proposal is for the enclosure of a section of highway verge as private amenity space along with the relocation of the existing boundary treatment. The existing crossover is to be widened from 2.5m to 4m. The site is located at the junction of Endfield Road a residential street and Crofton Close a cul-de-sac.
13. The relocation of the boundary treatment into the verge is unlikely to impede visibility at the junction with Crofton Close due to the low height proposed and consequentially can be considered not necessary as public highway.
14. A stopping up order would be required to remove the land from the public highway. This would be best achieved under the Planning Act rather than under the Highway Act. Therefore, the applicant is required to apply for a Stopping Up Order using the provision of Section 247 of the Town and Country Planning Act 1990 to extinguish the highway rights and make the land private (with the rights of access reverting to the freeholder). The cost of the Stopping Up Order and any accommodation works are to be borne by the applicant.
15. Turning to the widening of the access given the existing location in relation to the junction with Crofton Close is not altered and the widening would be away from the junction this is acceptable.

Representations

16. 13 letters of objections have been received raising the following concerns;
 - Compromised safety when reversing
 - Landscape altered considerably
 - Loss of amenity for children
 - Intention of building larger development
 - Loss of green space
 - Supports habitat
 - Will spoil symmetrical entrance to close
 - Loss of tree planted on verge
 - Fence will affect visibility at junction
 - Road sign will be removed
 - Verge being used for relieving dogs and fly tipping

Two letters in support of the proposals have been received.

Key Issue(s)

17. The key issue(s) involved with this proposal are:
- Principle of Development
 - Impact on character and appearance of area
 - Impact on neighbouring amenity
18. These issues will be considered along with other matters relevant to this proposal below.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises Christchurch and East Dorset Local Plan Part 1 - Core Strategy (2014) and saved policies of the Christchurch Local Plan (2001).

The following policies are of particular relevance in this case:

KS1	Presumption in favour of sustainable development
HE2	Design of new development
HE3	Landscape quality
HE4	Open Space
H12	Residential Infill
KS11	Transport and Development
ME1	Safeguarding Biodiversity and Geodiversity

19. National Planning Policy Framework (“NPPF”/“Framework”)

Section 2 – Achieving Sustainable Development

Paragraph 11 –

“Plans and decisions should apply a presumption in favour of sustainable development.

.....

For **decision-taking** this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.”

Planning Assessment

Impact of the character of site and wider area

20. The proposal would see the fence moved from its current position to enclose part of the grassed verge on Crofton Close. The fence would be set back from the public footpath by 1m to allow for landscaping. The existing fence height will be reduced to a height of 1 metre and stepped up towards the rear and increasing in height to 1.86 metres. During the course of the application, amended plans were received to address concerns raised in respect of the loss of openness as well as taking into consideration the proposed development at number 28 Endfield Road. It is considered that the proposed amended plans will harmonise the appearance on approach of Crofton Road and enhance the appearance of the area.
21. This will result in the majority of the verge being enclosed within the domestic garden of No.32 with a consequent change in the existing character of the junction of Endfield Road and Crofton Close. The fence is a typical form of domestic enclosure and is not unacceptable in its appearance. The fence is set back from the footpath by approximately 1 metre as such a small strip of greenery will be retained.
22. A similar size highway verge exists on the opposing side of the application site across Crofton Close as such the open view upon approach onto Crofton Close is symmetrical currently. The proposal would result in a built form that would change this existing more open view. However, due to the combination of the 1-metre-high fence and the retained 1-metre-wide verge, the proposals would not result in significant harm to the character of the immediate area.
23. A similar application at number 28 Endfield Road is under consideration on this agenda (App. No. 8/22/0697/COU). The proposal seeks to change of use of part of the verge to residential garden. The proposals would work in harmony to maintain a symmetrical view of the approach onto Crofton Close if both applications are approved. Notwithstanding this, the approval of this application is considered to be acceptable on its merits in relation to its impact on the character and appearance of the area irrespective of any proposed changes to No.28 opposite.
24. The proposal seeks to use matching materials and design as that of the existing fence, as such the appearance of the built form would not result in a visually intrusive form of development on Crofton Close. The proposal is considered acceptable to the appearance and the character of the wider area.
25. The proposal also seeks to increase the existing access widened by replacing the existing brick piers with timber posts. It is not considered that the altered access would affect the existing parking provisions nor the entrance and egress of motor vehicles.
26. The height of the fence will be reduced in height as stated above and will replicate that of the proposed development at number 28 Endfield Road. The proposal will introduce some hedging to part of the proposed 1 metre high fence as indicated on plan number ASP.22.034.102 Rev A. The scheme is considered to comply with the test in Policies HE2, HE3 and H12 to be compatible with its surroundings.

Impact on neighbouring living conditions

27. The fence borders a drive/parking to the rear and footpath on Crofton Close. It is a typical form of residential enclosure as noted above, and due to its height and location, the fence is considered to be compatible with the living conditions of neighbouring properties.

28. The scheme is considered to comply with the test in Policy HE2 to be compatible with or improve its surroundings in its relationship to nearby properties including minimising general disturbance to amenity.

Loss of amenity and open space

29. The application site currently highway verge. A number of representations have raised concerns in respect of a perceived “open space” being lost should the proposed development be approved.
30. Paragraph 98 of the NPPF requires that *“access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate*
31. Paragraph 99 of the NPPF requires that *“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*
- (b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location”*
32. Currently the land is not designated as open space in the adopted Local Plan and therefore site could not reasonably be protected for such purposes under Policy HE4. No public right to use the land as open space or for recreational purposes has been demonstrated. The proposals do not affect land designated as open spaces in the Local Plan and thereby the scheme does not result in an adverse impact on the provision of open space in the area.
33. The proposal is considered to comply with Policy HE4 of the Local Plan.

Impacts on trees and habitats

34. There are no trees of significant amenity of the site as such the tree officer was not consulted. However, it is noted that an oak tree was planted on site which will be retained in this instance and further vegetation will be introduced as stated above.
35. Paragraph 179 of the NPPF requires that *“To protect and enhance biodiversity and geodiversity, plans should:*
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁶¹; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁶²; and*
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”*

36. A number of representations have raised concerns in respect of the negative impacts resulting from the proposed development in the form of loss to habitat. The application site is not within any designated ecological area. It is currently an open grassed verge otherwise devoid of any further planting apart from the new tree. The proposals will incorporate the grassed verge into a residential garden and there is little evidence that the land will change substantially in this regard. The proposal will see a 1 metre landscape strip retained which offers the opportunity for enhancement over the existing. It is considered there is limited evidence the proposed development will have an adverse impact on habitats and the scheme will comply with Policy ME1.

Highways safety

37. The site currently forms part of the public highway. The highways officer was consulted and no objection has been raised in respect to the loss of this land as public highway as part of this planning application. There is a separate process for the applicant to follow (as set out in the proposed Informative Notes below) in order to address this issue. As this is a process controlled by separate legislation, it is not the role of the development management process to interfere in the operation of this separate legislative regime.
38. Representations in respect of highways safety concerns have been raised regards reduced visibility in particular at the junction of Endfield Road and Crofton Close. However, the Highways Authority have not objected on the grounds of the scheme affecting the safety of highway users.
39. Acceptable access and parking facilities will be provided and the scheme is considered to comply with the tests in Policies KS11 & 12 to provide;
- a) safe access onto the existing transport network;
 - b) allow safe movement of development related trips on the immediate network and;
 - c) adequate vehicle and cycle parking facilities to serve the needs of the proposed development.

Planning Balance/Conclusion

40. The proposed development is considered to have an acceptable impact on the character and appearance of the surrounding area. The proposal is considered to respect residential living conditions and to preserve the privacy of neighbouring properties, nor have any adverse impact on parking provisions/highway safety or wildlife been identified. The site is not designated as open space and the scheme does not harm the provision of open space in the area.
41. The scheme therefore has acceptable environmental, social and economic impacts. Therefore, having considered the appropriate development plan policies and other material considerations, including the NPPF, it is considered that subject to compliance with the conditions attached to this permission, the development, would accord with the Development Plan. Subject to conditions the proposal is acceptable, and according to NPPF paragraph 11(c) development should be approved without delay.

Recommendation

Grant, subject to the following:

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: ASP.22.034.001, ASP.22.034.002, ASP.22.034.101 Rev A, ASP.22.034.102 Rev A and ASP.22.034.103 Rev A.

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

3. The materials to be used in the external surfaces of the proposed development shall be as specified in the approved application unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of design and amenity.

4. No development above DCP (damp proof course) shall take place until full details of both soft landscaping works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include details of boundary planting, schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate). All landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development and the planting carried out in the first planting season following completion of the development or its first occupation, whichever is the sooner. Any planting found damaged, dead or dying in the first five years following their planting are to be duly replaced with appropriate species. The landscaping shall thereafter be retained.

Reason: This is required in order to ensure the implementation of the scheme and in the interests of the character of the area.

Informatives

1. The verge adjacent to 28 Endfield Road, Christchurch is currently recorded as highway maintainable at public expense and therefore members of the public have a right to pass over the verge. The verge would not be able to be enclosed within the boundaries of the property until the highway rights have been stopped up. For further information regarding this process please email highways.highways@bcpcouncil.gov.uk

Background Documents: App. No. 8/22/0829/COU

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all formal consultation response and representations submitted by the applicant in respect of the application. Notes: This excludes all documents which are considered to contain exempt information for the purposes of Schedule 12A Local Government Act 1972.

Case Officer Report Completed:

Officer: Mufaweli Mubukwanu

Date: 28/11/2022