

Delegated Report

Householder Planning Application

Planning Application No: 20231164

Location: 24 Thong Lane Gravesend Kent DA12 4LD

Description: Construction of a dropped kerb and vehicle crossover.

Applicant: Mr Thomas Sandow

Site Visit Date: 23/02/2024

Submitted Documents/Plans

- Application form;
- Pre-application decision;
- Quote;
- Google Maps image;
- Street View of Thong Lane.
- Un-numbered drawing – Front Layout Plan – Proposed;
- Un-numbered drawing – Front Garden Layout – Existing;
- Block Plan – Existing;
- Block Plan – Proposed; and
- Measurements of existing wall.

Relevant Planning History

None.

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 - Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on Highway Network
- T5 – Access to the Identified Highway Network
- TC7 – Other Archaeological Sites

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as

necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 12 – Achieving well-designed and beautiful places

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006);
- Householder Extensions/Alterations Design Guide (2021);
- Kent Design Guide Making it Happen – Highways (Design Standards – Residential and Industrial)

Informal Guidance

- Driveway Dropped Kerb Guidance (2023)
- Front Driveway Design Guidance (2023)
- KCC Specification for the Construction of a Light Vehicle Crossing Over a Footway or Verge (V2)
- KCC Dropped Kerb Application Guidance (2023)

Consultations, Publicity and Representations

Consultees

GBC Highways Officer

This application requires very careful consideration, particularly given the comments by Kent County Council in their quote for the carriage crossover.

As we have previously discussed, due to site topography and levels present, there are concerns that the completed gradient may make the vehicle crossing difficult to use by some vehicles, which could result in vehicle contact with either the new crossing surface, the road or the boundary line at the front of your property. By accepting this quotation, you would also be accepting that neither Kent County Council or our contractor New Approach Contractors can accept any liability for any future damage caused to vehicles in its use

No long sections have been presented to demonstrate that a suitable gradient can be achieved resulting in a restriction on the use of the access by existing and future occupants. It is also noted that the property benefits from a rear access and the rear garden is more suitable place for parking vehicles. Generally a maximum gradient of 10% is considered acceptable, although a slightly steeper gradient may be achievable if suitable approaches and exits to the slope can be achieved, but this takes space, which does not appear to be available in this instance.

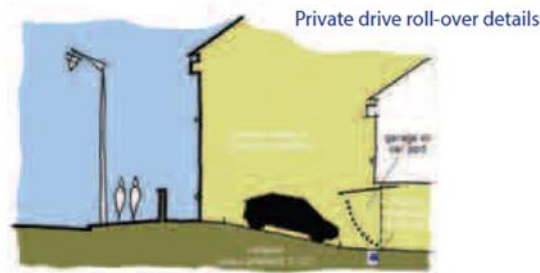
Wherever possible driveways should incorporate shallow gradients or include roll-over details. (see opposite). Drivers will have less control of their vehicle's speed on steeper gradients, which could result in accidents.

Shared private driveways must incorporate suitable drainage systems which prevent surface water migrating onto the highway, and causing a safety hazard in the winter where the water freezes.

Shared private driveways should not be surfaced with gravel or any similar material which could migrate onto the highway.

Small stones can be hazardous for pedestrians on footways, can exacerbate drainage problems and are dangerous if propelled at high speed.

The local District Planning Authority may insist that some garages are located behind houses and may discourage the use of integral garages. Early discussions should be held with them to determine their requirements.



Kent Design 'Making it Happen' Design Standards Page 26

Given the loss of amenity space could set a precedent for further applications from neighbours, and there is no guarantee that the driveway would be useable, I would suggest refusal pending further information, it seems inappropriate that Kent County Council are not following their own adopted design standards.

KCC Highways

I would recommend that you are in a position wherein the application should be refused on account of the access being too steep i.e. greater than 1 in 10 as Les has previously suggested. As I mentioned before, this is a non-protocol application therefore can only help you with informal advice, but I suggest it runs on the lines of it not meeting KCC vehicle crossing criteria.

KCC Heritage

The site lies within an area of multi-period archaeological potential. However, based on existing Historic Environment Record data for the area and the relatively limited extent of the proposed works, I consider it unlikely that these proposals would have a significant below-ground archaeological impact and have no further comments to make in this case.

National Highways

No objection.

Neighbouring properties

11 surrounding properties were consulted plus site notice – overall consultation expiry date was 15 March 2024 – 7 responses received although two responses are identical so there are actually only 6 responses that were received. All are in support and the comments can be summarised as follows:

- The drop kerb and crossover will ease street parking in the immediate area;
- A shared drop kerb with 22 Thong Lane will also limit the damage to the verge;
- There is a precedent as at present on the East side of Thong Lane from numbers 1 to 55 all but 1 have drop kerbs and crossovers and on the West side numbers 2 to 14 all have drop kerbs and crossovers and further to that numbers 16 to 50 have 7;
- The saving to on street parking which will have major savings in safety hazards due to limiting traffic congestion;
- Thong Lane is busy and this would mean less cars parked in the lane which will make it safer for all users;
- Lots of properties have dropped kerbs including theirs so see no reason why this shouldn't be approved;
- Feels it would support the family moving forward;
- Doesn't understand why all houses didn't get the benefit of a dropped kerb, would be a better experience for neighbours with the current horrendous parking in the area;
- Crossover would not ruin or upset the look of Thong Lane as there is already one installed a little

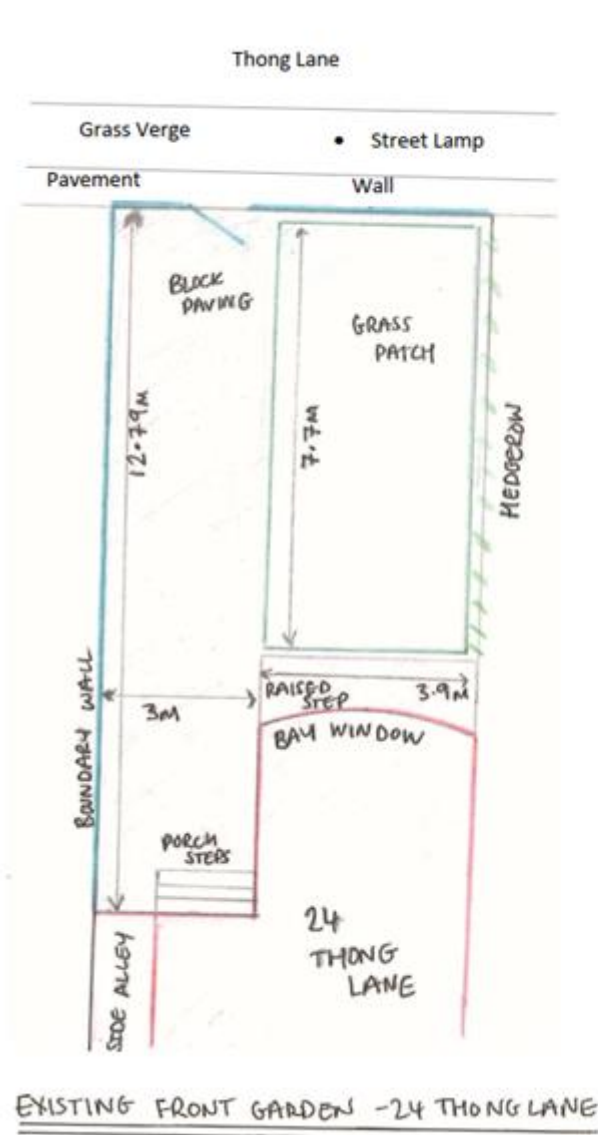
further up;

- Parking in Thong Lane is becoming a real struggle, this will benefit the family as well as surrounding neighbours;
- Fully support application.

Officer's Analysis

The application site consists of a two storey semi-detached dwelling situated on the western side of Thong Lane.

The proposal is for construction of a dropped kerb and vehicle crossover. A 1.7m wide section of the front boundary wall and railings would be removed and the same width of grass verge removed to form the crossover; the grass area in the front garden would be replaced with block paving and a drainage channel would be installed in front of the raised step to the bay window. The existing and proposed plans are as follows:



Existing:



Proposed:



The principle considerations in the assessment of the application are the effect of the proposal on the character and appearance of the surrounding area and parking and highway safety.

Design, Character and Appearance

The application site lies within a row of semi-detached dwellings fronting Thong Lane. A grass verge is

situated along the front of these properties and the front garden is part laid to lawn and part block paved. It is considered that the existing grassed area in the front garden and the grass verge makes a positive contribution to the character and appearance of the area by providing verdant soft landscaping in this built-up area.

The proposal involves the removal of the grassed area in the front garden and a 1.7m wide section of the front boundary wall and grass verge.

Paragraph 135 of the NPPF (2023) sets out various design requirements and includes the need for the development to add to the overall quality of an area; be visually attractive; and be sympathetic to local character, including the surrounding built environment. Paragraph 139 of the NPPF (2023) states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Policy CS19 (LPCS) sets out that new development will be visually attractive, fit for purpose and locally distinctive. It should conserve and enhance the character of the built environment and take account of the scale, height, building lines and other architectural features of buildings. Account should also be taken of strategic views, site topography, the significance of heritage assets and features of townscape and landscape value which contribute to local character and sense of place.

In relation to front gardens and parking, the Householder Extensions/Alterations Design Guide (2021) sets out (amongst other things) that hardstandings should be proportionate to the size of the dwelling and the car parking standards and should avoid paving over a significant amount of the forecourt. Planted borders should be provided along all boundaries and landscaping should be provided in all spaces not required for parking or turning.

It is considered that the loss of the grassed area in the front garden so that the whole of the front garden would be hard paved (aside from retention of the existing hedgerow on the southern boundary) and the loss of the grass verge and replacement of both with hardstanding would significantly erode the soft landscape quality of the street scene. The stark appearance of the proposed hardstanding and loss of the existing soft landscaping quality of the front garden and grass verge would result in significant harm to the character and appearance of the surrounding area.

There are some nine other vehicular accesses through the grass verge further south which serve either parking in front gardens as proposed here or accesses to the rear of properties – these include nos. 32, 34 & 36, 38, 46 & 48, 50 & 52, 58, 60 & 62, 64 & 82 & 84 Thong Lane as seen below:



However, the particular section of grass verge outside no. 22 is still intact for a significant length and has not had any sections of it removed for crossovers as seen below:



The proposed crossover at no. 22 would breach through the centre of this grass verge which is still intact thereby leading to the loss of the verdant character of this part of the grass verge due to its proposed replacement with a hardstanding. Furthermore, out of the nine crossovers further south along Thong Lane only one of these has received planning permission – no. 32 Thong Lane (crossover permitted under ref. 20160589).

In the Delegated Report for ref. 20160589 in respect of character and appearance the officer stated that although the Council has been successful in defending appeals against similar crossovers where a grass verge would be harmed, in this case the crossover was considered acceptable as a number of other crossovers were noted in the vicinity and a brick wall would be reinstated against the part of the front boundary which would not be used by the crossover. It is noted that it was not highlighted that none of these other crossovers had the benefit of planning permission. Also at the point where no. 32 Thong Lane is, there is one of these crossovers in very close vicinity between nos. 34 & 36 and then also at no. 38. It can therefore be seen that given the very close proximity to no. 32 of other crossovers, a crossover at no. 32 was considered acceptable albeit those other crossovers had not had the benefit of planning permission. However, in the case of no. 24 Thong Lane as stated, the section of grass verge outside of it is a much more intact longer section than was the case with no. 32 and the grass verge outside no. 24 has not had any sections removed for crossovers. The proposed crossover would go through the middle of this section of grass verge removing the grass and replacing with hardstanding which would be detrimental to the character of the streetscene. For these reasons the crossover at no. 32 is not considered directly comparable.

The other eight crossovers further south have not received planning permission although it can be seen from Google Earth Pro that they have been in place for more than ten years and so would be immune from enforcement action. It is considered that they as well as the crossover at no. 32 demonstrate the

harm that is caused to the character and appearance of the surrounding area when crossovers go through grass verges as these piecemeal crossovers diminish the extent and character of grassed verges over time. It is unfortunate that the basis of the permission for no. 32 in respect of character and appearance was on there being a number of other crossovers further south when they did not have the benefit of planning permission. Furthermore, the presence of harmful development elsewhere is not a good reason to allow similar development; these have therefore been attributed little weight.

It is further the case that it is proposed to share the crossover with no. 22 Thong Lane (the crossover proposed at no. 22 is currently under consideration under planning application ref. 20240142). Application sites must be self-sufficient given that it cannot be relied upon and guaranteed that other site/s would carry out a development on their site or indeed even receive planning permission to do so in the first place if it is required. It is therefore the case that in reality the section of grass verge that would need to be lost to form the access and crossover would need to be even wider in order to support the width required for a vehicle. The Kent Design Guide making it happen – highways (design standards – residential and industrial) shows that an access should be a minimum of 3m in width. The proposed harm caused to the streetscene would therefore in reality be even greater than is shown.

The proposed vehicular access would detract from the character and amenity of the street scene by virtue of the loss of the existing grassed area in the front garden and the loss of the grassed verge outside the dwelling between the pavement and the road and their replacement with hardstanding. The loss of this part of the front garden and grass verge would erode the soft landscaped quality of the streetscape and be harmful to the visual amenity and character and appearance of the area. As such, this proposal is contrary to Policy CS19 (LPCS) and section 12 of the NPPF (2023).

Parking and Highways

Paragraph 114(b) of the NPPF (2023) requires new development to ensure that safe and suitable access can be achieved for all users and paragraph 115 of the NPPF (2023) sets out (amongst other things) that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Policy CS11 (LPCS) and saved Policies T1 and P3 (LPFR) require new development to mitigate its impact on the highway and public transport networks and to provide sufficient parking in accordance with adopted parking standards. Saved Policy T5 of the Gravesham Local Plan First Review (1994) requires new accesses to be in an acceptable location and to an acceptable standard and to not give rise to danger.

The Kent Design Guide making it happen – highways (design standards – residential and industrial) and the KCC Specification for the Construction of a Light Vehicle Crossing Over a Footway or Verge (V2) state that gradients should be no steeper than 1 in 10 or in extreme cases 1 in 8.

Widening on bends

On roads serving more than 25 dwellings, carriageways are normally widened around bends, that curve more than 10 degrees in accordance with the requirements shown below.

Table C

Widening on Bends						
Centre-line radius (m)	20	30	40	50	60	80
Minimum widening (m)	0.60	0.40	0.35	0.25	0.20	0.15

Bends should be widened for industrial and commercial roads in accordance with the advice included in this section on design standards for Industrial and Commercial Roads.

You will be required to produce computerised vehicle-path assessments to show that the proposed layout can accommodate vehicles without endangering other road users, especially pedestrians and cyclists.



Roads can be widened at bends to allow larger vehicles to negotiate them. Areas that maybe over-run by vehicles can be attractively finished in paving materials.

Gradients

Sometimes there is a tendency to use steep gradients to avoid excessive cut and fill of the natural landscape when designing a layout. In order to minimise the dangers to road users in icy conditions and improve road safety on bends and at junctions, the maximum acceptable gradient that

can be used must be restricted. Similarly, to assist in draining the road and prevent ponding areas occurring, there is a need to restrict the minimum acceptable gradient.

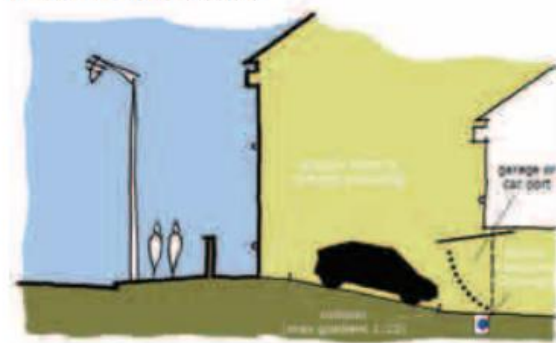
The maximum and minimum longitudinal gradients for roads are detailed in the movement and connections part of the main document.

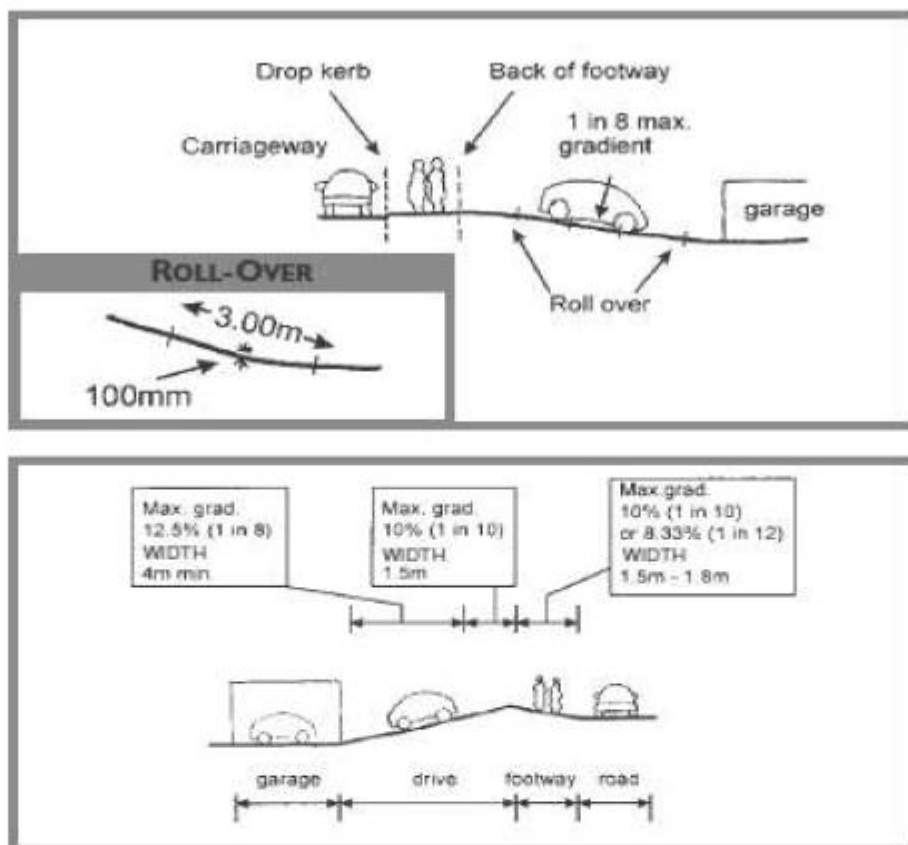
You will need to design Industrial and Commercial Road gradients in accordance with the advice included in this section on design standards for Industrial and Commercial Roads.

Shared and individual private drives should not normally have a longitudinal gradient steeper than 10% (1 in 10). However, access gradients may be increased to a maximum of 12.5% (1 in 8) on sites where the level differences make it impractical to use less steep gradients.

To prevent vehicles from grounding, the gradient must be maintained at 10% (1 in 10) for a distance of at least 1.5m from the back of the highway boundary, or include a roll-over detail as shown below.

Private Drive Roll-over details





Where the footway is situated adjacent to the carriageway the profile of the crossing shall give a uniform gradient between the back of the footway and the lowered kerb. However, where there is an area of verge between the footway and the carriageway the crossing shall be ramped over the verge width leaving the footway with uniform cross fall and longitudinal gradient. Where there is an area of verge between the footway and the highway boundary, or where there is only a verge between the carriageway and the highway boundary, the gradient of the crossing over the verge shall not exceed 1 in 10 unless otherwise agreed by the KCC Officer.

The gradient of the driveway on private land should not normally exceed 1 in 10 or in extreme cases 1 in 8, and a 'roll-over' should be incorporated at the start of the driveway to ensure that vehicles do not 'bottom' on the vehicle crossing on entry or exit.

In this case both the Council's Highways Officer and KCC Highways advise that the application should be refused on account of the access being too steep i.e. greater than 1 in 10 and so would not meet the KCC vehicle crossing criteria. The crossover could potentially lead to vehicles slipping into the carriageway during icy weather which would be detrimental to highway safety.

Regarding accesses in Thong Lane further south as mentioned in the above section the grass verge has levelled much more by this point and is not as steep as at the application site and so those cases are not considered comparable. Furthermore eight of the nine accesses did not have the benefit of planning permission and no. 32 which was granted permission the verge is not as steep as is the case at the application site.

The proposed crossover by virtue of its steep gradient would be unacceptable as it could potentially lead to vehicles slipping into the carriageway during icy weather which would be detrimental to highway safety. As such the proposal would be contrary to Policy CS11 (LPCS), saved Policy T5 (LPFR), section 11 of the NPPF (2023) and would not adhere to the guidance as set out in the Kent Design Guide making it happen –

highways (design standards – residential and industrial) and KCC's Specification for the Construction of a Light Vehicle Crossing over a Footway or Verge.

Ecology and Biodiversity

The NPPF (2023) requires planning decisions to protect and enhance sites of biodiversity value (paragraph 180(a)) and to minimise impacts on, and provide net gains for, biodiversity (at paragraph 180(d)). Paragraph 186 of the NPPF (2023) states that when determining planning applications, Local Planning Authorities should refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for.

Policy CS12 (LPCS) states that there will be no net loss of biodiversity in the Borough, and opportunities to enhance, restore, re-create and maintain habitats will be sought.

The proposal which includes the removal of all of the existing soft landscaping in the front garden and replacing it with block paving would mean the whole of the front garden would be hardpaved (aside from the existing hedgerow on the southern boundary which is to be retained). A section of grass verge outside the property would also be replaced with hardstanding.

The proposed development by virtue of the proposed loss of the existing grassed area in the front garden and the loss of part of the grassed verge outside the property and their replacement with hardstanding would lead to a net loss of biodiversity on the site. As such the proposal would be contrary to Policies CS12 and CS19 (LPCS) and sections 12 and 15 of the NPPF (2023).

Other matters

Archaeology

The site is in an Area of Archaeological Potential however, it is considered unlikely that these proposals for low level groundworks to the front of the dwelling would have a significant below-ground archaeological impact. As such it is considered the proposal would be compliant with saved Policy TC7 (LPFR).

Equalities Considerations

The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not

have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

Human Rights Implications

In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

Along with any supporting material supplied by the applicant, this report has outlined the consultation that has been undertaken on the planning application and representations made to the Council as Local Planning Authority.

In determining the application, the Council needs to satisfy itself that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights are legitimate and justified. Both public and private interests are to be considered in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. The Council must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

In making the recommendation on this application, consideration has been given to the requirements of the Human Rights Act. Where it is engaged, any interference in those rights is considered proportionate, lawful and in the public interest to secure the proper planning of the area in accordance with adopted policy, having regard to any other material considerations.

Conclusion and Recommendation

The proposal would have an adverse effect on the character and appearance of the area, be unacceptable in respect of highway safety and would lead to a net loss of biodiversity on the site. As such the proposal is contrary to local and national planning policy.

Recommendation: Refusal

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Ms Rebecca Harrison	Team Leader:	Miss Faye Hobbs
Signed:	<i>Rebecca Harrison</i>	Signed:	
Dated:	14 June 2024	Dated:	21 June 2024