

APPLICATION NO.	P20/V1422/FUL
SITE	Land at Penstones Farm, Horsecroft, Stanford in the Vale Farringdon, SN7 8LL
PARISH	STANFORD IN THE VALE
PROPOSAL	Regularise fencing and access changes adjacent to the north-west public open space, and convert the enclosed green space in north-west corner to private garden space for use by residents of plot one (as amended by plans received 24 July 2020) and change the shared bin store to a timber bin shelter (as amended by plans received 17 September 2020).
WARD MEMBER(S)	The application is made under section 73A of the TCPA.
APPLICANT	Nathan Boyd
OFFICER	Lagan Homes Ltd Katherine Canavan

RECOMMENDATION

It is recommended that permission is granted subject to the following:

1. A deed of variation to the S106 legal agreement

Conditions

1. In accordance with approved plans (*as per varied plans*)
2. Details of bin storage structure to be submitted before work begins on base for structure
3. Landscaping scheme in accordance with plans (*as per varied plans*)
4. Tree protection
5. Permitted development restriction – Plot 1 only: No outbuildings, structures, sheds, fences or pools on the area changing from POS to private garden

1.0 INTRODUCTION AND PROPOSAL

- 1.1 The application is referred to Planning Committee as Stanford in the Vale Parish Council object to the proposal. The applicant seeks retrospective permission to change an area of Public Open Space (POS) in the north-west corner of the site to private garden, to become part of Plot 1. The applicant also seeks to regularise hard and soft landscape work that has been carried out

without complying with approved plans, and to change the proposed enclosed bin store to a shelter.

- 1.2 The site, a development of 18 dwellings currently under construction, is approximately 0.95 Hectare in size and is located on the eastern edge of the village. A site location plan is **attached** at Appendix 1.
- 1.3 The north-west area of POS is located towards the front of the site, between Plot 1 and 16-24 (even) Horsecroft, known as 'The Cottages'. The area measures approximately 9m by 17m and is enclosed on all sides by neighbouring properties. Access to the POS (as per approved plans) is via a narrow pathway which runs between the private driveway of plot 1 and the garage of no 18 Horsecroft.
- 1.4 The approved landscaping plan shows a 1.2m fence and hedging forming the boundary between The Cottages and the POS, and a 1.8m fence and hedging separating Plot no. 1 and the POS. The height of the fencing it to remain the same.
- 1.5 The communal bin shelter is to serve plots 10-18 and is located adjacent to plot 9, on the north-eastern edge of the site.
- 1.6 In summary the changes are as follows:
 - To change the use of the POS in the north-western corner to private garden space, solely for Plot 1.
 - To alter the percentage of POS on the site from 1574 sqm (16.7%) to 1390sqm (14.75%).
 - To introduce fencing alongside the driveway of Plot 1 to close access to the original POS and create a side gate between the two areas of private garden space.
 - To introduce fencing alongside the garage of no 18 Horsecroft, and adjacent to the driveway of Plot 1.
 - To change the bin store adjacent to plot 9 to a timber bin shelter.
 - To update the landscaping scheme, to align with minor changes agreed through non-material amendment applications.
- 1.7 Following comments from technical officers, amended plans have been to correct the Landscaping Plan and to clarify details of the proposed timber bin store. A copy of the latest plans is **attached** at Appendix 2.

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 2.1 A summary of the responses received is below. Full comments can be viewed online at: www.whitehorsedc.gov.uk.

2.2 | | |---| | Stanford In the Vale Parish Council | | Objection: | | <ul style="list-style-type: none">• Any reduction in Public Open Space (POS) in the overall scheme is unacceptable. |

- There is potential to create a shared access by reconfiguring the driveway of No 1.
- The Parish Council understand the public open space was originally designed like this to limit the impact of the development on the existing neighbouring properties, and the parish see no valid reason why this principle should change.
- To overcome the issue of enclosed POS, plot 1 should not be able to install a fence on that boundary, and an innovative approach to shared street space will be needed to achieve a balance between functionality for the future homeowner and the wider community.
- Installing hedgerow alongside the western boundary bordering the existing dwellings is likely to cause issues (in terms of impact on the existing built form and potential loss of amenity).
- We have concerns about the amended landscaping of the POS in the central (southern) part of the site. Reassurances required that the developer is not seeking to promote additional parking in this area.

Officer response:

In response to the Parish Council's concerns over the potential for the revised Landscaping Plan to make alterations to the central POS (in the form of additional parking spaces), this area of the site has not been altered from that approved. Although an application (P20/V0464/FUL) was recently made to introduce additional parking around this area of POS, Officers did not support the proposal and it was subsequently withdrawn.

Residents

Loss of open space

- The removal of Public Open Space from land adjacent to Plot 1 and its redistribution between other areas on the site can be understood given the limited access and it being so enclosed / hidden. However, the resulting overall reduction in the Public Open Space area is not acceptable and is therefore not supported.
- Further reduction in safe, shared green land for the use of residents.

Loss of residential amenity for adjoining cottages

- Removal of the proposed public open space will be to the detriment of the terrace of cottages bordering plot 1.
- Loss of light, particularly to no. 22 Horsecroft. The POS was originally designed as a buffer to safeguard the amenity of the existing cottages. As private land the homeowners could put up a high fence along the boundary taking away light from the whole row.
- Accessible green space is vital in a village which has seen large amounts of development.

Design

- The original development was very poorly considered and designed from the outset.
- The proposed change seems indicative of a failure to properly assess site topography during the design process. Such small slivers of POS

<p>being scraped together in order to get as close as possible to the required 15% seems also to suggest inadequate consideration during design.</p> <ul style="list-style-type: none">• It would seem reasonable to make some change to address this design or construction error as clearly the current arrangement is unsightly. Perhaps the area could be used for additional native hedging protected from loss by covenant on the deeds.• The POS space has already been enclosed so it appears as though it belongs to Plot 1 – there is no attempt to provide it as originally permitted, as accessible public open space.
<p><i>Impact on biodiversity</i></p> <ul style="list-style-type: none">• We have a thriving local hedgehog population and continued access to foraging and nesting areas is important for this declining species. Very little else is being done for biodiversity on this development and this is a very simple safeguard.• Recommend that the original conditions requiring all close board fencing to provide hedgehog access be carried across to this amendment.
<p><i>Additional comments</i></p> <ul style="list-style-type: none">• Recommend the incorporation of swift nesting boxes within eaves of houses still to be built to help achieve biodiversity mitigation.• There is a local need for community land – the space could be used for allotments instead.• Nothing can be done to restore the far reaching views across the Vale lost by the granting of this application at appeal, or the overbearing design of the home facing the old cottages opposite on Horsecroft, but ensuring biodiversity mitigation is delivered is still possible at this stage.
<p>Landscape Officer</p>
<p>No objection:</p> <ul style="list-style-type: none">• The area was originally designed to provide the cottages with a buffer area and privacy. The area of land does not provide the main area of POS and has limited impact on the street scene due to its accessibility and site edge location.• The amenity of the cottages should be protected by condition with removed permitted development rights on this area of land.
<p>Waste Management Officer</p>
<p>Comment:</p> <ul style="list-style-type: none">• Loss of bin store to a bin collection point is not ideal, particularly as the store serves 'Over-55s' accommodation.• Kerbside collection is preferred if the households are likely to be larger families. However, tracking of the waste collection vehicles must be provided, and this doesn't look to be achievable on this part of the site.• If a bin collection point is proposed, the bins will have to be moved to / from the BCP each week on collection day. This is not ideal as it is over 30m from dwellings.

- Additional information will need to be provided to confirm that future residents are aware of this arrangement to avoid issues later down the line.

3.0 **RELEVANT PLANNING HISTORY**

3.1 [P20/V0464/FUL](#) - Withdrawn (08/04/2020)

Variation of Condition 2 of [P15/V1752/FUL](#) for amended plans affecting plots 11-13, changing materials and providing parking bays on central area.

[P20/V0166/NM](#) - Approved (06/02/2020)

Non material amendment to application ref. [P15/V1752/FUL](#) - Plot 3 garage to be set back by 5 metres to provide additional off road parking space. Plot 4 Garage to be built as single garage. Plot 5 garage is not to be built and instead additional off-road parking provided (3no. car spaces total).

[P17/V1819/NM](#) - Approved (12/10/2017)

Non material amendment to application ref. [P15/V1752/FUL](#) - all of the consented chimneys on the house types are to be omitted save for those on Plots 1, 2 and 9

[P17/V1653/DIS](#) - Approved (12/10/2017)

Discharge of condition 3 - Material samples of [P15/V1752/FUL](#)

[P17/V1509/DIS](#) - Approved (11/07/2017)

Discharge of condition 8 - Drainage Details on application ref. [P15/V1752/FUL](#)

[P15/V1752/FUL](#) - Approved (23/05/2017)

Variation of condition 2 of planning permission [P14/V0080/FUL](#) (Removal of internal access gate and relocation of 2 parking bays).
(As amended per plans submitted 21 February 2017 to provide 35% affordable housing and to change fenestration details.)

[P14/V0080/FUL](#) - Refused (29/05/2014) - Appeal allowed (02/04/2015)

18 dwellings (8 no. dwellings for the Over 55 age range, 7 no. affordable and 3 no. Open Market dwellings) with landscaping and associated infrastructure.

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 The proposal is not EIA development.

5.0 **MAIN ISSUES**

5.1 The main issues in this case are:

1. **The principle of retrospective applications**
2. **Public Open Space**
3. **Residential Amenity**
4. **Waste and recycling collection**
5. **Technical matters**
6. **Legal agreement**
7. **Conditions**

5.2 **The principle of retrospective applications**

The council's adopted enforcement statement is clear that efforts should be made to remedy planning harm through negotiation or a retrospective planning application and that people who breach planning law are given the opportunity to remedy any breach identified.

5.3 In some cases, the most appropriate way to rectify a breach of planning control is to invite a retrospective planning application for the development that has occurred. Such applications allow all interested parties to comment on the development and for the local planning authority to consider the planning merits as if it were a proposed development.

5.4 In this case work is well advanced on the site and there are elements of the proposal that have been built out not in accordance with the approved plans. The applicant is seeking to regularise these matters through this application. The changes are discussed in more detail below.

5.5 **Public Open Space**

Policy DP33 of the Local Plan: Part 2 states that proposals for major residential developments will be required to provide or contribute towards safe, attractive and accessible open space, and for residential development this amounts to 15% of the residential area.

5.6 The original proposal was designed with 1573,8sqm of public open space, which equated to 16.7% of the whole site. The proposed changes in this application to change the north-west POS to private amenity space, would result in an overall reduction to 14.75% as shown on plans, and 14.3% of useable POS. A plan of the proposed POS is **attached** at Appendix 3.

5.7 Areas of public open space in the original scheme included several areas of buffer landscape planting, as well as the central open space, grassed entrance area and small area in the north-west corner. Since permission was granted at appeal in 2015, there is now a more considered approach to public open space on developments to ensure it is fully usable and to meet the requirements of new policy DP33. There is a greater emphasis on providing at least 15% of a site as useable, public space, which has both visual and play space benefits.

5.8 The small area in the north-west corner was included in the POS calculation, but in practice does not function as usable POS. It is hindered by being accessible off Horsecroft only, with an access not well located within the site. Even if the boundary treatment had been provided in accordance with approved plans, access would have been via a narrow pathway alongside the front garden of plot 1 and the rear of The Cottages. As a result, surveillance of the area is poor and because of its positioning, is not conducive to 'community ownership' of the space. Officers consider there are very limited opportunities for how the space could be used in practical terms as usable POS.

5.9 Furthermore, in terms of accessing the north-west public open space, there is ambiguity between the details on previously approved plans, the supporting report accompanying the application, and the pathway and boundary treatment

visible on-site. The P15/V1752/FUL permission sets out in the covering letter (dated 20 July 2015), in relation to plot 1:

'The garage and drive width have been reduced and now provides a 5.5m wide garage which allows for a 900mm wide grass path. This offers an improved link to the adjacent public open space.'

- 5.10 The access was designed to run between the driveway of Plot 1, and the neighbouring garage (18 Horsecroft) and the rear of The Cottages. This has not been built out in accordance with the approved plans. Consequently, there is now no feasible, public pathway, apart from access across the private driveway of Plot 1 should the land be retained as POS.
- 5.11 Overall officers consider the proposal is acceptable in respect of open space provision. The loss of the land to plot 1 would not have a noticeable impact for outdoor amenity space for new residents, as each property has private amenity space in addition to the onsite open space in the public realm. The transfer of the land to private ownership would also bring with it some benefits for its management.
- 5.12 **Residential Amenity**
The area of POS is located directly alongside The Cottages. These dwellings are located 0.9m from the boundary and have habitable rooms on this elevation. The garden space attached to these cottages is located on the western edge, away from Land at Penstones Farm, and serves as front garden space or parking.
- 5.13 DP23 of the Local Plan: Part 2 considers the impact of development on amenity, taking in to account loss of privacy, daylight or sunlight, dominance or visual intrusion, and noise.
- 5.14 *Relationship between dwellings*
It is understood that one of the reasons for safeguarding this area as POS, was to create a buffer between the new houses and the cottages. The original development sought to retain a buffer zone of 9m between the boundary with The Cottages and the garage on Plot 1, all indicated as POS.
- 5.15 The proposed layout is unchanged in terms of the relationship and distance between buildings. The garage associated with Plot 1 is 11m from habitable rooms belonging to the Cottages, and the new dwelling is 17m away and partially screened by the garages on Plot 1 and associated with no. 18 Horsecroft.
- 5.16 1.8m fencing and hedging would separate the existing garden of Plot 1 and the area proposed to be transferred (located 9m from the boundary). This arrangement is unchanged from the approved plans, other than a gate being inserted in the fencing. The boundary with The Cottages is currently approved as having a 1.2m high fence and hedging. This is unchanged from approved plans. The gap through to the driveway of Plot no 1 has already been closed and the applicant seeks to regularise this change, as shown on plans.

- 5.17 On this basis the proposal does not introduce any issues around loss of privacy, outlook or light that were not previously considered as part of the approved layout. The 1.8m fence continues to be at a suitable distance from habitable rooms in The Cottages, and along the immediate boundary this drops down to 1.2m; thereby retaining a level of privacy, but not restricting light or outlook to these properties.
- 5.18 *Use of POS vs private garden*
When considering how the approved POS could be used, officers consider its use as private garden space for plot 1 would be beneficial in amenity terms for existing residents. It should be noted that residents and the public would be able to access and use the POS as they would any other public garden space or park. This could involve sitting alongside the 1.2m high fence and hedging, playing garden games, and noise associated with families. Therefore, a certain level of noise would be generated by residents using that area, in the layout currently permitted.
- 5.19 While it is recognised that The Cottage properties are very close to the boundary, it would therefore not be reasonable to place more restrictive conditions on how the space is used, beyond those set out by environmental protection and in law, which in any case are governed by non-planning regulations.
- 5.20 In planning terms, permitted development rights for the erection of buildings or extensions have been removed for all properties on the site (ref. condition 9 of P15/V1752/FUL) to ensure private amenity space is not reduced to below levels set out in the Design Guide. Under this current application, a permitted development restriction is also recommended to prevent the erection of buildings, extensions, sheds, fences and pools (unless planning permission is sought and granted first) being constructed on the land. This is necessary to safeguard the outlook of The Cottages and minimise loss of light from tall structures on neighbouring habitable rooms.
- 5.21 *Fencing along the garage and The Cottages*
Alongside the garage on the neighbouring site, a 1.8m high fence has been erected – this was not indicated on approved plans. The applicant seeks to regularise this, and the boundary fencing can be found on the updated Landscaping plan.
- 5.22 Overall, officers consider the impact from the changes to be acceptable in respect of the amenity of existing properties.
- 5.23 **Waste and recycling collection**
DP28 of the Local Plan: Part 2 requires proposals for residential development to ensure:
- i. sufficient space is provided for the storage of individual or communal recycling and refuse containers, and*
 - ii. access is provided that is safe for existing users / residents and for refuse and recycling collection vehicles.*

5.24 Waste and recycling details were agreed by condition as part of application P17/V1510/DIS. The applicant proposes to change the bin store adjacent to plot 9 to a timber bin shelter. Since the bin storage area is to be used by residents of the 'Over 55 properties and given the distance from the properties to the storage area, residents will need to have the option of leaving their bins there permanently. The structure will need to be substantial enough to keep bins contained and be large enough to accommodate the bins for the 9 households it serves. No change to the location of the bin store is proposed, and the waste collection vehicle will not need to access properties beyond plot 9 due to the location of the bin store. For this reason, the proposed changes to the bin store would not introduce any new highways considerations.

5.25 The principle of a wooden structure instead of brick is acceptable, but to ensure that the proposed store meets the requirements of the waste management team, and is not visually intrusive in the street scene, further details of the structure are required. These can be secured by condition.

5.26 **Technical matters**

Matters of traffic generation, parking and highway safety, affordable housing, drainage and surface water, landscape character, biodiversity, conservation and archaeological interest were previously assessed in detail on the previous applications and were considered acceptable. Officers consider the changes proposed in this application do not result in any material change to these matters.

5.27 **Legal agreement**

The original application was accompanied by a S106 legal agreement which secured affordable housing and financial contributions for highways infrastructure, education, community and leisure. It also sets out the public open space requirement and the maintenance agreement for the POS, formalising these details through the landscaping plan.

5.28 In order to reflect the changes being considered in this application, the legal agreement will need to be updated through a deed of variation. This will ensure that details of the public open space are updated and the correct landscaping plan forms part of the agreement. The updated legal agreement is drafted and will be completed should permission be granted.

5.29 **Conditions**

The wider residential development is governed by a series of conditions for matters covering archaeology, construction traffic, site specific details, drainage and permitted development restrictions. Where additional details were required by condition, these have since been formally approved, and the conditions require ongoing compliance in accordance with the approved details. Of these compliance conditions, the following matters are specifically relevant to this application:

- In accordance with approved plans (*as per varied plans*)
- Landscaping scheme in accordance with plans (*as per varied plans*)

- Tree protection (*as per original detail*)

The following conditions have been added as new requirements, as safeguarding measures directed linked to the changes:

- Details of bin storage structure to be submitted before work begins on base / structure
- Permitted development restriction – Plot 1 only: No outbuildings, structures, sheds, fences or pools on the area changing from POS to private garden

6.0 **CONCLUSION**

- 6.1 This application has been assessed against the development plan, the National Planning Policy Framework (NPPF) and all other material planning considerations. In considering the application, due regard has been given to the representations received from statutory and other consultees. These have been taken in account in assessing the overall scheme.
- 6.2 Planning permission was granted on appeal for a residential development for 18 dwellings and construction is underway.
- 6.3 The change of the north-west corner of public space to private garden space represents an under provision slightly below the policy requirement of 15%. Notwithstanding, the change of use of the land to private garden results in some benefits in terms of how this area is to be managed in the long term and addresses an issue over land that does not successfully function as public open space. Furthermore, the changes do not adversely affect the residential amenity, privacy or light levels of neighbouring occupants. Overall, officers consider the as built changes are acceptable and should be approved.

The following planning policies have been considered:

Vale of White Horse Local Plan 2031 Part 1 (LPP1) Policies:

CP37 - Design and Local Distinctiveness, including design against crime
CP44 - Landscape
CP45 - Green Infrastructure

Vale of White Horse Local Plan 2031 Part 2 (LPP2) Policies:

DP16 - Access
DP23 - Impact of Development on Amenity
DP25 - Noise pollution
DP28 - Waste Collection and Recycling
DP33 - Open Space

Stanford in the Vale Neighbourhood Plan

A neighbourhood planning area was formally designated on 4 April 2014 but to date a neighbourhood plan has not been submitted to the Council for assessment. Consequently, no weight can be given to emerging policies in any draft neighbourhood plan.

Supplementary Planning Guidance/Documents

Vale of White Horse Design Guide (2015)

National Planning Policy Framework and Planning Practice Guidance

The National Planning Policy Framework (NPPF)

The National Planning Policy Guidance (NPPG)

Other Relevant Legislation

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been considered in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application, the Council has regard to its equality obligations including its obligations under Section 149 of the Equality Act 2010.

Author: Katherine Canavan

Contact No: 01235 422600

Email: planning@whitehorsedc.gov.uk