

AGENDA ITEM NO: 8/3(h)

Parish:	King's Lynn	
Proposal:	Change of use for land fronting 12 - 26 Queen Mary Road, King's Lynn from Public Open Space to private garden land	
Location:	12 Queen Mary Road Gaywood King's Lynn Norfolk	
Applicant:	Borough Council of King's Lynn And West Norfolk	
Case No:	17/00957/CU (Change of Use Application)	
Case Officer:	Mr C Fry	Date for Determination: 12 July 2017 Extension of Time Expiry Date: 11 September 2017

Reason for Referral to Planning Committee – The Borough Council of King's Lynn and West Norfolk is the applicant.

Case Summary

The application is made by the Borough Council of Kings Lynn and West Norfolk for the change of use of a strip of grassed verge between No 10-28 Queen Mary Road Kings Lynn from public open space to private land for the residents of the adjoining properties.

Key Issues

Principle of Development
Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

The application site is within the Gaywood area of King's Lynn, and comprises of grassed areas with established trees on the western side of Queen Mary Road, set back behind the public footpath. This site extends from the front of 12 Queen Mary Road to as far as 26 Queen Mary Road. The majority of the properties on Queen Mary Road created have driveways over this grassed area. This arrangement is mirrored on the eastern side of the road.

The application seeks consent to change the use of this amenity land to domestic garden land for these properties.

SUPPORTING CASE

The property services team has supplied a brief statement outlined below:-

Historically, the area of land has been a maintenance liability for the Borough Council as residents have driven across the strip of land to access their properties, causing the grassed area to look untidy and damage to the pavement. Local consultation was carried out with the property owners by Ward Councillors Collop & Collop to assess whether they would be interested in acquiring the land as garden land. From this, it was identified that the owners of properties 12 – 26 were broadly in agreement to the land transfer.

It is expected that, should we be able to dispose of the grassed area, the residents would then be able to maintain the land to a higher standard and, where possible, pave driveways rather than drive over open grass. As splitting up the land in the Council's ownership would only make maintenance more difficult, we would not look to dispose of the plots to be used as garden land unless all property owners were willing, therefore maintaining uniformity across the street scene.

PLANNING HISTORY

None

RESPONSE TO CONSULTATION

Parish Council: N/A

Highways Authority: NO OBJECTION

Internal Drainage Board: NO COMMENT

Arboricultural Officer: NO OBJECTION the trees would be the subject of a Tree Preservation Order prior to the disposal of the site.

REPRESENTATIONS

1 letter in support of the application:-

- Agreed to the proposal of land ownership in front of my garden, however there is a large tree which needs attention and a drain cover which has seen better days. I spoke to the Councillors about this issue who has assured me that these can be resolved before the ownership of the proposed land is transferred.

NATIONAL GUIDANCE

National Planning Policy Framework – sets out the Government's planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

LDF CORE STRATEGY POLICIES

CS08 - Sustainable Development

CS12 - Environmental Assets

CS01 - Spatial Strategy

CS03 - King's Lynn Area

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM15 – Environment, Design and Amenity

DM22 - Protection of Local Open Space

PLANNING CONSIDERATIONS

The main planning considerations in regards to the proposal are:-

- Principle of Development
- Other Material Considerations

Principle of Development

The application seeks to change the use of the land edged red so that it changes its status (use in planning terms) from public amenity land in front of the plots to land which is to be subdivided and given/ sold to the residents of the individual plots to become private land and part of their residential curtilage.

Policy DM22 of the Site Allocation and Development Management Policies Plan – Protection of Local Open Space states that

“The Council will have careful regard to the value of any area of open space when assessing planning application for development. In assessing the contribution that an area of open space plays, the Council will consider the following factors:-

- Public Access
- Visual Amenity
- Local Distinctiveness
- Landscape Character
- Recreational Value
- Bio-diversity, geodiversity
- Cultural Value and historic character
- Whether the site has been allocated for development in the local plan

Proposal that result in the loss or restriction of access to locally important areas of open space will be refused planning permission unless such loss can be offset by the replacement of equivalent or higher standard of provision or the wider benefits of allowing development to proceed outweigh the value of the site as an area of open space.”

The most relevant of these factors are discussed below:-

Public Access

In this regard, public access is allowed over the area from both a footpath to the front of the site and a footpath that is to the front of the houses and the application site. Vehicular

access, which from aerial photography has been in existence for a period well in excess of 10 years, and thus is immune from enforcement action, is provided for the properties on the western side of Queen Mary Road.

There is a footway surrounding the northern, western and southern sides of the site which serves 12-26 Queen Mary Road. The main footpath along Queen Mary Road is adjacent to the carriageway and outside of the application site; therefore the proposal would not materially affect the use of the public footpath along the road.

Visual Amenity

Visually, the entrance to Queen Mary Road has a spacious verdant feel to it with the grass areas and established trees on both sides of the road. The houses on Queen Mary Road do not impose or act to enclose the streetscene.

Local Distinctiveness

There is no doubt that this open space, and that on the opposite side of Queen Mary Road, was purposely designed when the estate was built. The mature trees are a feature of this entrance to the estate. In regards to the safeguarding of the mature trees on the site, which are of significant presence on Queen Mary Road, a group Tree Preservation Order would be needed to ensure that the trees are safeguarded from being removed and maintained appropriately. This would be imposed after the granting of planning permission but before the disposal of the site.

Members may wish to take a view on whether it is necessary to remove Part 2 Class A of Schedule 2 of the Town and Country Planning General Permitted Development Order 2015 that permitted development rights for the erection of gates, fences and wall or other means of enclosure. It is your Officer's opinion that in order to respect the character of the open space that such rights ought to be removed and a condition be attached to the decision notice.

For the avoidance of doubt, the prospective owners of the application site, the owners of 12-26 Queen Mary Road have been made aware that there will be the possibility of removing such permitted development rights.

Other Material Considerations

The disposal of the land will be in its entirety and the Property Services team have stated that all of the properties, 12-26 Queen Mary Road, are willing to enter an agreement to transfer the land to their possession.

The site is contained within a mixed use area thus the domestication of the area would not give rise to unacceptable neighbour amenity issues.

CONCLUSION

Members will need to consider whether the change of use of amenity land to garden land is acceptable. Policy DM22 refers to the protection of open space and where considered to be important the loss of such space should be refused. Nevertheless paragraph 203 of the NPPF refers to the imposition of conditions if development could be made acceptable, providing they are in line with the tests of paragraph 206.

Should Members consider that it is important to visually retain the open space in the street scene then the removal of permitted development rights for gates, fences, walls or other means of enclosure (Class A, Schedule 2, Part 2 of the Town and Country Planning General Permitted Development Order 2015) would preserve this. Officers have proposed this at present. The imposition of a group Tree Preservation Order should be imposed prior to the disposal of the site, to protect the trees.

The proposal is therefore recommended for approval subject to the following conditions.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition The development hereby permitted shall be carried out in accordance with the following approved plan:-
 - Site location plan drawing no. ID_193 received 17th May 2017
- 2 Reason For the avoidance of doubt and in the interests of proper planning.
- 3 Condition Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no fence, gate, wall or other means of enclosure shall be erected within the curtilage of any dwelling house that fronts onto a road or footpath.
- 3 Reason In order that the Local Planning Authority may retain control of development which might be detrimental to the amenities of the locality if otherwise allowed by the mentioned Order.