

A04

F/TH/24/0203

PROPOSAL: Variation of condition 2 of planning permission F/TH/22/0494 for the "Formation of a footpath on the south side of Joss Gap Road between Convent Road and the existing shared pedestrian and cycle facility, together with the erection of a 2m high timber fence and planting" to allow realignment of pathway and alterations to landscaping (retrospective)

LOCATION: Joss Gap Road BROADSTAIRS Kent

WARD: Kingsgate

AGENT: Ben Meekings

APPLICANT: Mr Ben Meekings

RECOMMENDATION: Approve

Subject to the following conditions:

1 The development hereby approved shall be commenced before the 22nd September 2025.

GROUND

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

2 The proposed development shall be carried out in accordance with the submitted application as amended by the revised drawings numbered 1000007350-001-C-GA S73 Rev C received 23 February 2024.

GROUND;

To secure the proper development of the area.

3 All hard and soft landscape works shall be carried out in accordance with the approved details. The approved planting shall be completed within the next planting season. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

GROUND

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan.

INFORMATIVES

It is the responsibility of the applicant to ensure, prior to the commencement of the development hereby approved, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highway and Transportation to progress this aspect of the works prior to commencement on site

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

SITE, LOCATION AND DESCRIPTION

The site is located on the south western side of Joss Gap Road and extends from the junction of Joss Gap Road, Kingsgate Bay Road and Convent Road to the existing cycle and footpath. The southern section of the site is located on North Foreland Golf Course and the northern section of the site is located on land owned by Kingsgate Castle. The footpath approved as

RELEVANT PLANNING HISTORY

F/TH/22/0494 - Formation of a footpath on the south side of Joss Gap Road between Convent Road and the existing shared pedestrian and cycle facility, together with the erection of a 2m high timber fence and planting. Granted 22 September 2022

Secretary of states decision - <https://www.gov.uk/government/publications/coastal-access-section-52-notice-for-ramsgate-to-whitstable>

TCA/TH/16/1526 - 3no. Holm oaks (T1, T2 & T4) - cut back by 2m from the power line, 1no. Holm Oak (T3) - crown reduce by 3m. Raise no objection 24 February 2017.

PROPOSED DEVELOPMENT

This is a retrospective application for the variation of condition 2 of planning permission F/TH/22/0494 for the "Formation of a footpath on the south side of Joss Gap Road between Convent Road and the existing shared pedestrian and cycle facility, together with the

erection of a 2m high timber fence and planting" to allow realignment of pathway and alterations to landscaping.

The submitted documents indicate that the alignment of the path and fence has been altered to best fit with the existing gradients, features and constraints including the edges of the road and golf course. The height of the fence has also been altered from 2m to 1.975m and some planting has been moved from the northern to the southern side of the fence.

The application is made by Kent County Council in partnership with Natural England as part of the wider English Coast Path project.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan

CC02 - Surface Water Management
GI02 - Locally Designated Wildlife Sites
HE01 - Archaeology
QD01 - Sustainable Design
QD02 - General design Principles
QD03 - Living Conditions
SP24 - Development in the Countryside
SP25 - Safeguarding the Identity of Thanet's Settlements
SP26 - Landscape Character Areas
SP30 - Biodiversity and Geodiversity Assets
SP35 - Quality Development
SP37 - Climate Change
SP43 - Safe and Sustainable Travel
TP02 - Walking
TP03 - Cycling
TP06 - Car Parking

Broadstairs and St Peters Neighbourhood Plan

BSP1 - The Green Wedge
BSP2 - Important Views and Vistas
BSP3 - Protecting and Providing Important Trees
BSP4 - Seafront Character Zones
BSP6 - Sustaining Community Facilities
BSP9 - Design in Broadstairs & St. Peter's
BSP14 - Sustaining Leisure and Tourism Assets

NOTIFICATIONS

Letters were sent to neighbouring property occupiers and a site notice was posted close to the site.

One letter of support has been received raising the following points:

Development is part of a national walking route
Secretary of state approval has been given
Changes do not undermine the original work

CONSULTATIONS

KCC Biodiversity - We advise that we are satisfied that the condition can be varied.

The proposal will result in a reduction of planted vegetation but we are satisfied that over time the edges of the footpath will revegetate naturally.

We provided pre application advice on this condition variation and we were of the view that if the areas were planted up (as originally proposed) the path may become overgrown very quickly and require constant management.

We are supportive of additional planting which will be carried out on the other side of the fencing within the adjacent golf course.

KCC Flood and Water Management - The application falls outside the definition of major development and also falls outside of KCC's remit as statutory consultee.

KCC Highways - I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.

TDC Conservation Officer - Following a review of the proposed application I would raise no objections from a heritage perspective.

COMMENTS

This application is brought before memes as part of the site is on land owned by Thanet District Council.

Principle

The previously approved application for the formation of a footpath and the erection of a fence (Reference F/TH/22/0494) has been implemented, therefore the principle of development on the site is considered acceptable.

Section 73 of the 1990 Town and Country Planning Act allows applications to be made for planning permission without complying with conditions applied to a previous permission. Planning authorities may decide whether to grant permission, subject to differing conditions, remove the conditions altogether or refuse to alter conditions.

Section 73 makes it clear that in considering an application to remove or modify a condition or conditions a local planning authority may only consider the question of the condition/s.

However, just like the determination of any other application due regard must be paid to the development plan and other material considerations.

Thus the key issue in the consideration of this application is whether there are sound and clear-cut reasons for the conditions of planning permission FH/TH/22/0494 to be retained in their current format.

Character and Appearance

The NPPF states that planning decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and appropriate landscaping; are sympathetic to local character and history; establish or maintain a strong sense of place; and provide a high standard of amenity for existing and future users (Paragraph 135).

As noted above the site is located within the open countryside and a green wedge. The site is also located within the St Peter's Undulating Farmland Landscape Character Area as defined by policy SP26 of the Thanet Local Plan and the northern part of the site is located within Kingsgate Conservation Area.

The site is located within the Kingsgate Conservation Area and, therefore, the Council must take into account Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that in relation to conservation areas, 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.' The NPPF states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." (Paragraph 199)

Policy HE02 of the Thanet Local Plan requires that appropriate materials and detailing are proposed and that developments would not result in the loss of features that contribute to the character or appearance of the conservation area. New development which would detract from the immediate or wider landscape setting of any part of a conservation area will not be permitted.

Policy QD02 of the Thanet Local Plan provides general principles for new development and states that the primary planning aim in all new development is to promote or reinforce the local character of the area and provide high quality and inclusive design and be sustainable in all other respects. In this regard development must relate to the surrounding development, form and layout and strengthen links to the adjacent areas.

Policy SP35 relates to the quality of development and states that new development will be required to be of high quality and inclusive design.

Policy BSP9 of the Broadstairs and St Peter's Neighbourhood Plan states that development proposals that conserve and enhance the local character and sense of identity of the Plan area will be encouraged. Proposals should take account of the Design Guidelines. Proposals

which demonstrate that they reflect the design characteristics of the area and have taken account of the Design Guidelines will be supported.

The site falls within the St Peters Undulating Chalk Farmland Landscape Character areas as defined by policy SP26 of the Thanet Local Plan. Within these areas development proposals should demonstrate how they respect and respond to the character, key sensitivities, qualities and guidelines of the relevant landscape character areas. All development should seek to avoid skyline intrusion and the loss or interruption of long views of the coast and the sea, and proposals should demonstrate how the development will take advantage of and engage with these views.

The submitted statement indicates that existing natural features and gradients were only apparent on the site during construction and upon clearance of the vegetation on the site. The applicant has also indicated that "When the works were carried out attention was paid to keeping as much existing vegetation as possible following advice from the on-site ecologist." The construction of the footpath was altered to take into account these natural features and existing gradients. This alteration to the arrangement of the footpath has resulted in the fencing on the southern side of the site to largely abut the southern side of the footpath and leaving limited space for planting between the path and fence.

It is now proposed to allow the existing remaining vegetation to remain and regrow rather than replace it with new planting. The submitted plans show three areas of planting that are proposed around the fence, two on the northern side of the fence and one on the southern side. Honeysuckle, Wildrose and Hedra Helix are proposed on the northern side of the fence and Hawthorn and Blackthorn are proposed in the area on the southern side of the fence.

The changes to the alignment of the footpath are considered to be limited in nature, however opposite Lauriston, the plans show the footpath to be set further away from the road than approved with existing vegetation retained between the footpath and the road. The new arrangement would result in the fencing being more prominent from the footpath due to the lack of planting between the path and fence, however this is considered to be a local impact. Given the similarities between this arrangement and the original proposal, this application is not considered to result in any significant harm to the character and appearance of the area, or the surrounding conservation area, in line with policies HE02, QD02 and SP26 of the Thanet Local Plan and the National Planning Policy Framework.

Living Conditions

The footpath and fencing are located on the south western side of the Joss Gap Road. The closest residential properties are located on the north eastern side of the road, directly opposite the site. Given the height and location of the fence and footpath and its function, this development is not considered to result in any significant harm to the living amenity of the neighbouring property occupiers, in line with policy QD03 of the Thanet Local Plan and the National Planning Policy Framework.

Biodiversity

The site falls within the Golf Course Roughs Locally Designated Wildlife Site as defined by policy GI02 of the Thanet Local Plan. This policy states "Development which would have a detrimental impact on locally designated wildlife sites will not be permitted unless suitable mitigation can be provided either on or off site within Thanet. Exceptionally, where a strategic need for a proposed development is identified which outweighs the importance of the locally designated sites and cannot be located elsewhere, an equivalent area of habitat will be created elsewhere at a suitable location well related to other existing habitats.

Wherever possible and appropriate, new developments will provide a net environmental gain in accordance with Policy SP30, and include measures to enhance and improve wildlife connectivity to designated wildlife sites."

The plans approved as part of the 2022 permission included planting on both sides of the footpath. Due to changes in the alignment of the footpath there is limited space between the footpath and the fencing on the southern side of the path. It is now proposed to allow the existing remaining vegetation to remain and regrow rather than replace it with new planting. The submitted plans show three areas of planting that are proposed around the fence, two on the northern side of the fence and one on the southern side. Honeysuckle, Wildrose and Hedra Helix are proposed on the northern side of the fence and Hawthorn and Blackthorn are proposed in the area on the southern side of the fence.

Both KCC Biodiversity and the Council's Arboricultural consultant have reviewed the application and are satisfied with the proposal to allow the existing vegetation adjacent to the path to regrow naturally rather than to remove further existing vegetation and add new planting.

Given the limited changes to the alignment of the fencing and footpath and the existing retained vegetation, this development is not considered to result in significant harm to biodiversity in the area compared to the approved development.

Transportation

The footpath runs alongside Joss Gap Road and provides a link between the existing footpaths to the north and south of the site. This development removes pedestrian traffic from the highway and is considered to represent a notable improvement in highway safety.

KCC Highways raised no objection to the proposed development and the amended plan has retained the staggered barrier at the existing northern entrance to the highway.

The alterations to the arrangement of the footpath compared to the approved arrangement have not significantly altered its width or proximity to the highway. It is therefore considered that the amended footpath would still represent an improvement in highway safety and connectivity in the area.

Other Matters

Policy BSP14 of the Broadstairs and St Peter's Neighbourhood Plan restricts the loss of existing leisure and tourism assets. The existing golf course would be considered a leisure

and tourism asset, however so would the proposed footpath. This development would remove a small section of the golf course and is not considered to result in any significant harm to its function or appeal. It is therefore considered that this proposal would comply with the aims and objectives of this policy.

Conclusion

The development would result in the direct loss of woodland/hedgerow to create the footpath, however would allow pedestrians to move between Kingsgate Bay and Joss Bay without walking along the highway. This proposal is not considered to result in a significant change in loss of woodland and hedgerows compared to the approved development and is still considered to result in an improvement in highway safety. Furthermore this route is part of the new National Walking Trail, the English Coastal Path, which seeks to provide a walking route around the English coast and is supported by Natural England and the Secretary of State. Subject to the agreed mitigation, the benefits to highway safety and facilitating wider coastal access as part of the National Walking Trail, are, therefore, considered to outweigh the harm to biodiversity and the amenity of the area.

It is therefore recommended that members approve the application.

Case Officer

Duncan Fitt

TITLE:

F/TH/24/0203

Project

Joss Gap Road BROADSTAIRS Kent

