

The information, recommendations and advice contained in this report are correct as at the date of preparation, which is more than two weeks in advance of the Committee meeting. Because of these time constraints some reports may have been prepared in advance of the final date given for consultee responses or neighbour comment. Any changes or necessary updates to the report will be made orally at the Committee meeting.

Case Officer	David Stevens
Application No.	19/00099/COUPP
Date Valid	5th February 2019
Expiry date of consultations	28th February 2019
Proposal	Change of use from Public Open Space to private garden land
Address	44 Caswell Close Farnborough
Ward	Cherrywood
Applicant	Mr Nicholas Ratcliffe
Agent	Mr Trevor Harding
Recommendation	GRANT

Description

The property is a terraced two-storey house in a corner position between two runs of terraced housing joined at right-angles, and is located towards the western end of Caswell Close. The property has pedestrian only access to the front, with an open-plan front garden adjoining a larger area of communal public open space. The property has a private enclosed rear garden to the rear that backs onto Wren Way and, because of the corner position, also sides onto a footpath leading from Wren Way into the pedestrian path network and communal amenity areas within Caswell Close.

As the footpath approaches Wren Way it is splayed out beyond the pathway to either side, and also on the Wren Way frontage, with strips of land planted with low shrubs. There is a tree planted within the planting areas to either side of the footpath junction with the Wren Way pavement. The planting areas are enclosed with a low metal pole 'trip rail' fencing. These strips of land, and the trees and other planting within, were provided within the original layout design for the Caswell Close development by indenting the boundary enclosures of the adjacent residential properties, thereby reducing the depth of the private rear gardens of these properties. The rear garden area of No.44 Caswell Close is enclosed with sections of 2.1 metre high brick wall and some intervening close-boarded timber fencing.

This application seeks planning permission for the change of use of some of the planting areas fronting Wren Way and the Caswell Close footpath adjoining the application property from public amenity land to private garden land. The amenity land is currently owned by the Council and the current application is prompted by the intended acquisition of some of this

land by the owner of No.44 Caswell Close, the applicant. The submitted plans indicate that the areas of land that they are seeking to acquire would be enclosed with new 2.1 metre high timber fencing and existing sections of wall and fence within removed such that the rear garden of No.44 Caswell Close would be enlarged.

In the case of the footpath frontage, it is proposed to acquire and change the planning use of half of the existing area of land amenity land adjoining the path. As existing this area is roughly rectangular in shape and measures 3.5 metres deep by 10 metres long, thereby 35 sqm in area. It is proposed that this area be bisected diagonally such that the change of use would relate to a triangle of 18 sqm in area terminating at a point at the existing corner of the rear garden wall. In this way an area of public amenity land incorporating the tree and splayed out approaching the entrance to the footpath would remain within the public realm.

In respect of the Wren Way frontage of the application property, the planted amenity area is already a narrow triangle measuring some 15.5 metres long by a maximum of 2 metres deep, thereby 15.5 sqm. There is also an additional small rectangular area of low shrub planting measuring a further 6 sqm at the east end of this triangle. It is proposed that all of this land (31.5 sqm) is also acquired and, as such, the use changed to private garden land for No.44 Caswell Close. The submitted plans indicate that the proposed new fence would enclose this land as far as the existing on-site parking of the property – and that the small rectangular area would not be enclosed. Accordingly it seems likely that this small rectangle of land area would simply be used to enlarge the parking area at the property.

The application is accompanied by a brief statement explaining that the works to erect the proposed new fence within the root protection area of the adjoining tree would be undertaken by hand to minimise potential root damage.

Consultee Responses

Environment Agency	The EA do not wish to comment on this application and have referred the Council to their Standing Advice.
Arboricultural Officer	No objection subject to condition.
Planning Policy	No planning policy objections.
RBC Estates Officer	No response at time of writing this report. However the current application arises as a result of the Council indicating to the applicant that it may be prepared to sell the land in question.

Neighbours notified

In addition to posting a site notice, individual letters of notification were sent to both adjoining properties, Nos.43 and 45 Caswell Close.

Neighbour comments

1 Ratcliffe Road, Farnborough	Objection on behalf of The Farnborough Society. TFS strongly opposes this proposal because of the loss of visual amenity in an area of multiple deprivation, where poor architectural design has resulted in a dead street scene with little to soften its harshness. The loss of any green space in this area is to be deplored. The Society opposes the principle of selling off amenity green space, generally,
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because of the detrimental effect it can have on the health and wellbeing of residents. If the cost of maintenance is the issue, we suggest that amenity land be offered to communities to create mini-orchards or vegetable gardens, this would be more beneficial to the local residents or groups within the Borough.

[Officer Note: this objector's more general point about the principle of the Council selling-off areas of amenity land into private ownership is noted, but is not a matter that can be taken into account in the consideration of this application. It is a separate matter to be considered by the Council corporately having regard to its Estates function. Similarly, whilst this objector would clearly prefer that the land were put to use by a community organisation instead of being subsumed into an adjoining householder's private garden, the existence of alternative proposals for the ownership and use of the land also cannot be taken into account. The Council as Local Planning Authority must simply consider the proposals the subject of the application objectively on their relevant planning merits.]

Policy and determining issues

With effect from 21 February 2019, the New Rushmoor Local Plan 2014-2032 was adopted by the Council as the new replacement local component of the Development Plan for the area. As a result, on this date, Policies in the Rushmoor Core Strategy and saved old Local Plan policies were superseded.

The site lies within the built up area as defined by the adopted (on 21 February 2019) New Rushmoor Local Plan (2014-2032). The land is also identified by the Environment Agency Flood Risk maps as land at medium risk of fluvial flooding and low to very low risk of surface water flooding. Policies DE1 (Design in the Built Environment), DE6 (Open Space, Sport and Recreation), NE3 (Trees & Landscaping) and NE6 (Managing Fluvial Flood Risk) are considered relevant to the consideration of the current application.

The main determining issues are the principle of the proposals, the impact of the proposals on the visual character and amenity of the area including impact on trees, impact on neighbours and flood risk.

Commentary

1. Principle – Policy DE6 of the New Rushmoor Local Plan states that development will not be permitted on areas of open space used for recreation, outdoor sport or having visual amenity value unless specific circumstances apply, including that the open space is surplus to requirements. However, it is considered that this policy has limited applicability to the particular circumstances of this case, not least due to the small-scale extent, design function and location of the land involved. Whilst Policy DE1 is more generally concerned with design in the built environment and, inter alia, seeks to encourage good design, use of sympathetic materials and appropriate consideration to the relationship between the public and private realms. It is considered that the proposals are acceptable in principle subject to being found acceptable in detail in respect of the relevant Development Management issues considered in the following paragraphs.

2. Visual Impact – The proposals would result in the small-scale loss of an area of public amenity land that was evidently provided as part of the original design of the Caswell Close development. In this respect the planted areas were provided principally to have amenity

value, softening the appearance of the adjoining built development. The splaying out of the footpath end is also a security design measure to provide a sight-line at the junctions between footpaths. However the proposals are for only a partial loss of amenity land in this location. As a result of a considered design a significant splay of amenity land would be retained in the public realm, including the land containing the existing tree. The applicant has set out appropriate proposals for the undertaking of the new fence installation within the vicinity of this tree. The erection of a new close-boarded fence to match those that already exists is considered to be appropriate. Accordingly it is considered that, despite the proposed change of use, the principal design functions of the amenity land would be retained and the visual impact of the proposals would be insufficient to have any material and harmful impact upon the character and appearance of the area.

3. Impact on Neighbours – It is considered that the proposed change and use and enclosure of the land in this case would have no material and adverse impacts upon the amenities of occupiers of neighbouring residential properties.

4. Flood Risk – The application site is located on land identified by the Environment Agency (EA) as being within Flood Zone 2; i.e. land at medium probability risk of fluvial flooding from Cove Brook. The proposed development 's small in scale and “less vulnerable” development, such that EA ‘Standing Advice’ indicates that such development is appropriate, that the Sequential and Exception Tests do not need to be applied and no Flood Risk Assessment is required. In any event, it is not considered that the proposed enclosure of land in this case would have any significant impact on flood risk. In terms of surface water drainage, the site is identified as being at low to very low risk of surface water flooding. It is considered that the proposed small-scale change of use and enclosure of the land in question would not change this situation. It is therefore considered that the proposals are acceptable having regard to fluvial flood risk considerations.

Conclusions – The concerns of The Farnborough Society in objecting to this application are understood. However, in considering the proposals on their planning merits it is necessary to examine and consider the specific relevant planning circumstances of the case. When this is done it is concluded that, in this particular instance, the proposals give rise to no material planning harm in terms of visual impact, impact on trees, impact on neighbours and flood risk considerations. The proposals are thereby considered acceptable having regard to Policies DE1, DE6, NE3 and NE6 of the new adopted Rushmoor Local Plan (2014-2032).

Full Recommendation

It is recommended that planning permission be GRANTED subject to the following conditions and informatives:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - As required by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 1:1250 Scale Location Plan; 1:500 Scale Block Plan; 1:100 Scale Site Plan; Root Protection Area calculator; and Root Protection Statement.

Reason - To ensure the development is implemented in accordance with the permission granted.

- 3 Notwithstanding the tree protection statement submitted with the application and hereby approved, the proposed fencing works within the Root Protection Area of the adjoining amenity tree to be retained (as identified on the Site Plan hereby approved) shall, for the avoidance of doubt, be undertaken entirely in accordance with the following tree protection measures:-
- (a) No machinery shall be used anywhere within the root protection area;
 - (b) Materials arising from the demolition of the existing wall to be removed where it is located within the root protection area shall be removed immediately from the root protection area;
 - (c) No demolition material shall be piled-up/stored and no building materials, plant or equipment shall be stored within the identified root protection area;
 - (d) all post holes within the identified root protection area shall be dug with hand tools only;
 - (e) should any roots in excess of 25mm in diameter be encountered when a post hole is being dug, the post hole shall be re-positioned to avoid and retain intact any tree roots of in excess of 25mm in diameter; and
 - (f) concrete contamination of the root protection area shall be avoided by lining all post holes within the root protection area with a suitable impermeable barrier (such as a heavy-duty polythene bag) to prevent the leaching of chemicals from the concrete.

Reason - To protect the adjacent amenity tree from development harm in order to preserve its amenity value.

- 4 The new fence hereby approved to be provided to enclose the land the subject of the application within the garden area of No.44 Caswell Close shall match as closely as possible the visual appearance and method of construction (close-boarded) of the existing boundary fencing to be removed.

Reason - To ensure satisfactory external appearance.*

INFORMATIVES

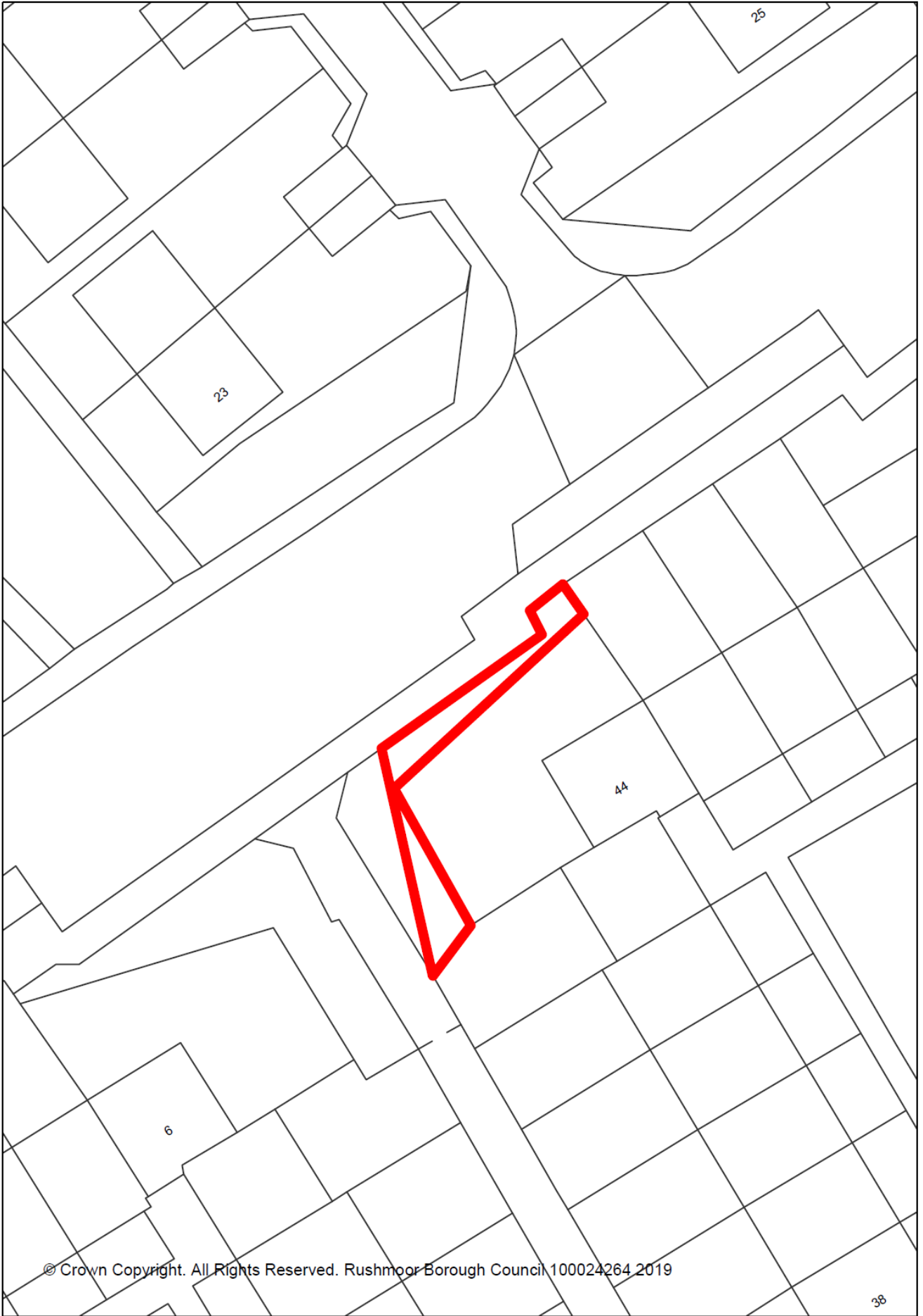
- 1 **INFORMATIVE - REASONS FOR APPROVAL-** The Council has granted permission because:-

It is considered that, in this particular instance, the proposals give rise to no material planning harm in terms of visual impact, impact on trees, impact on neighbours and flood risk considerations. The proposals are thereby considered acceptable having regard to Policies DE1, DE6, NE3 and NE6 of the new adopted Rushmoor Local Plan (2014-2032).

It is therefore considered that subject to compliance with the attached conditions, and taking into account all other material planning considerations, including the provisions of the development plan, the proposal would be acceptable. This also includes a consideration of whether the decision to grant permission is compatible with the Human Rights Act 1998.

- 2 **INFORMATIVE –** The Local Planning Authority's commitment to working with the applicants in a positive and proactive way is demonstrated by its offer of pre-application discussion to all, and assistance in the validation and determination of

applications through the provision of clear guidance regarding necessary supporting information or amendments both before and after submission, in line with the National Planning Policy Framework.



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1:100 Scale Site Plan



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