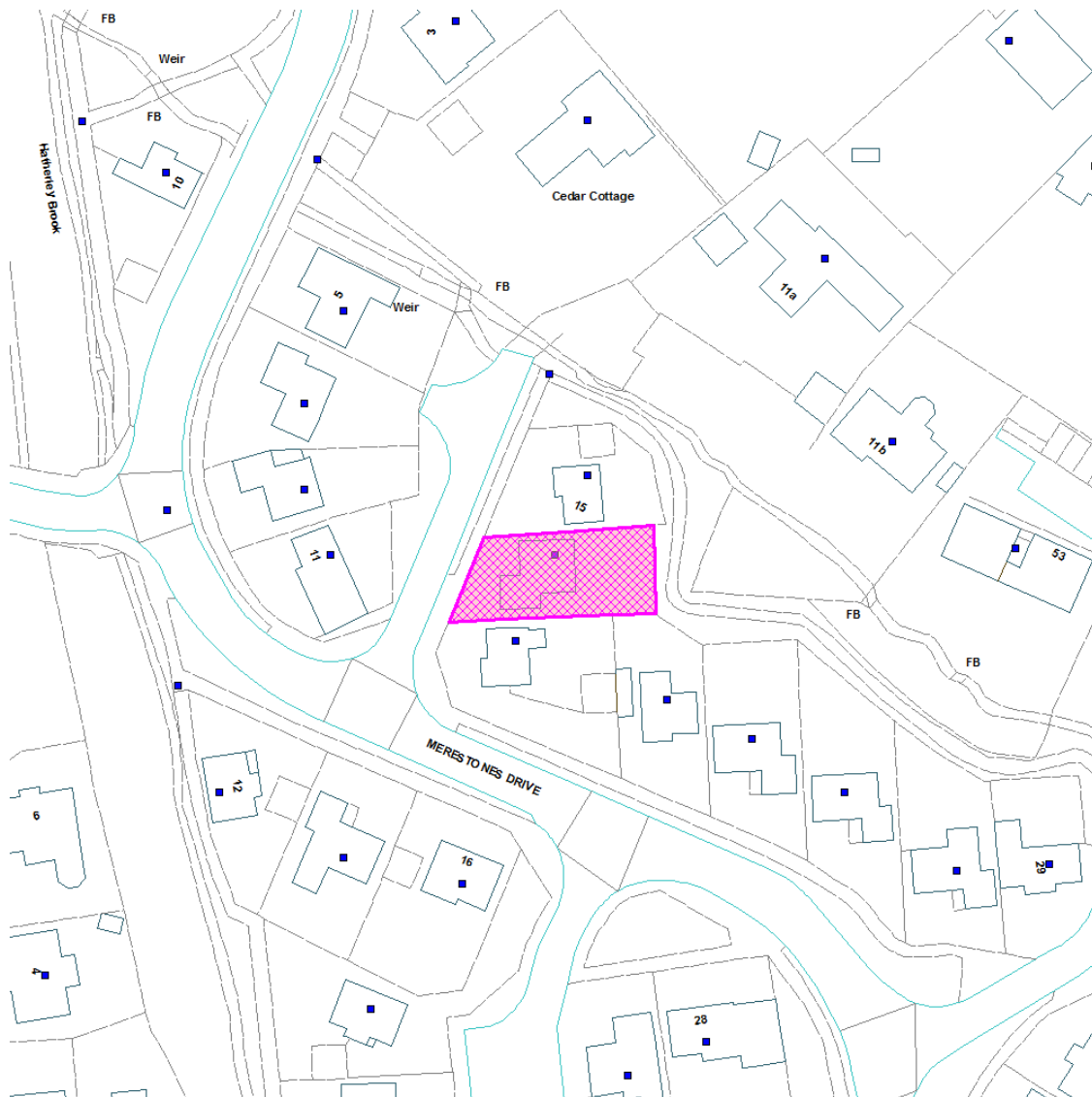


APPLICATION NO: 21/01517/FUL	OFFICER: Mr Daniel O Neill
DATE REGISTERED: 30th June 2021	DATE OF EXPIRY: 25th August 2021
DATE VALIDATED: 30th June 2021	DATE OF SITE VISIT:
WARD: Park	PARISH:
APPLICANT:	Mr A Busk and Ms A Donald
AGENT:	N/A
LOCATION:	17 Merestones Drive, Cheltenham, Gloucestershire
PROPOSAL:	Change of use of land to residential garden to rear with an fence to the rear. Extension of existing dropped kerb to allow for increased parking at front of property

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 17 Merestones Drive is a detached two storey dwelling located in a residential cul-de-sac within the Park ward. The site does not lie within a conservation area or within a local parish boundary.
- 1.2 The applicant is seeking planning permission for a change of use of land to residential garden to rear with fencing. Extension of existing dropped kerb to allow for increased parking at front of property.
- 1.3 This application has been referred by Cllr Barrell to planning committee due to the impact on the visual amenity of the wider locality.
- 1.4 An application for a similar change of use of land to residential garden or curtilage land has also been made by the adjoining land user 21 Merestones Drive. This applications have been submitted and considered separately.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Flood Zone 2
Principal Urban Area
Non Contact Residents Association
Smoke Control Order

Relevant Planning History:

21/00478/FUL 27th April 2021 PER
Side and rear extensions and internal reconfiguration

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 8 Promoting healthy and safe communities
Section 11 Making effective use of land
Section 12 Achieving well-designed places

Adopted Cheltenham Plan Policies

D1 Design
D3 Private Green Space
SL1 Safe and Sustainable Living

Adopted Joint Core Strategy Policies

SD4 Design Requirements
SD6 Landscape
SD9 Biodiversity and Geodiversity
SD14 Health and Environmental Quality
INF1 Transport Network
INF3 Green Infrastructure

Supplementary Planning Guidance/Documents

Residential Alterations and Extensions (2008)

4. CONSULTATIONS

GCC Highways Planning Liaison Officer

27th July 2021

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 has no objection.

The justification for this decision is provided below.

The proposal seeks the change of use of land to residential garden to rear with a fence to the rear. Extension of existing dropped kerb to allow for increased parking at front of property at 17 Merestones Drive Cheltenham.

The information collected shows the section of land being considered for a change of use to residential garden forms part of publicly maintainable highway by GCC. The Highway Authority does not consider this area of land of sufficient public utility to justify an objection.

There could be existing utility services under this section of land, and the applicant is recommended to contact the concerned bodies prior to any works commencing. The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

The Highway Authority therefore submits a response of no objection.

Informatives

Alterations to Vehicular Access

The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 licence. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or highways@gloucestershire.gov.uk before commencing any works on the highway.

Stopping Up/Diversion of Adopted Highway

You are advised that to facilitate the development an order must be obtained to stop up or divert the adopted highway under sections 247 and 248 of the Town and Country Planning Act 1990. Contact the National Transport Casework team on nationalcasework@dft.gov.uk.

Merestones Residents Association

16th July 2021

Thank you for sending information regarding the above to the Merestones Residents Association. In 2014 grass verges and parcels of land were put up for auction by the family of Percy Bilton the builder of Merestones Estate. This caused great consternation and controversy amongst the residents. Meetings were held and the help of local councillors was invoked. The councillors went to a great deal of trouble checking through archives to ensure that the verges are open land and as such could not be built on.

It is not clear whether these applications relate to the above verges/parcels of land but regardless of that, as Chairman of the Association I object to the applications. If permission

were granted, it would set a precedent for other verges and parcels of land to be incorporated into resident's property thus removing open green spaces which are an integral part of the Merestones estate. This is a major concern. Residents have a right of access over these areas.

As detailed in the attached letter from Robert Garnham (councillor) [available to view in Documents tab] if the owners wanted to stop a public right of way, they would have to apply for a 'Stopping Up Order'. I would seek to oppose this also. I attach a copy of Councillor Robert Garnham's letter confirming this, this letter was addressed to the Residents of this estate.

Public Rights Of Way Department

15th July 2021

The footpath located behind the property is defined as a Class 6 Highway and does not form part of the public right of way network. Therefore this development does not appear to affect any public right of way, however if there is any suggestion that it will, whether through a need for a temporary closure or permanent diversion then contact should be made with the PRow team at the earliest opportunity.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	4
Total comments received	2
Number of objections	1
Number of supporting	0
General comment	1

5.1 Following notification to neighbouring properties, 2 comments were received and one objected to the application. These objections have been summarised but not limited to the following points;

- Impact on the footpath
- Obstructing of public right of way
- Loss of grass verge
- Impact on the character of the area
- Maintenance of the footpath

6. OFFICER COMMENTS

6.1 Determining Issues

6.2 The main considerations when determining this application are the principal of the change of use in relation to its impact on the character of the area, design of the proposed fencing, impact on the amenity of the surrounding neighbours, biodiversity and the transport network.

6.3 The site and its context

6.4 The application site is a detached dwelling with a considerable large garden and a strip of land located to the rear boundary line of the property known as 17 Merestones Drive. This

strip of land is an area of flat grassland adjacent to a footpath that abounds the rear of the surrounding properties and provides a walkable connection through the wider Merestones estate.

- 6.5** Surrounding the footpath is a verge of flat grassland and this is quite a common feature along the entire pathway throughout the estate. Some areas of the footpath further south have small verge of grassland adjacent to the pathway and boundary fences.

6.6 Principal of Development

- 6.7** The application proposes to incorporate a strip of grass land, adjacent to the rear footpath of the Merestones Estate, into the residential garden land or curtilage of the property known as 17 Merestones Drive. This application will remove the existing rear boundary fence and erect a new fencing acting as the new boundary line.

- 6.8** Officers consider that the principle of change of use in this instance is considered to be acceptable. The strip of grassland in question and the property are located within an established urban setting characterised by garden lands with timber boundary fences. This new boundary will adjoin and follow the line of 15 Merestones Drive rear boundary fence, the adjoining neighbouring property.

- 6.9** Consideration has been given to the proposed development and the impact on the character of the area, including the landscape and green infrastructure. Policy SD6 of the JCS indicates that landscape character is a key component of an areas identity and development will be requested to respect it. The change of use subject to this application covers a modest strip of grassland with no mature vegetation or trees located on it. This new residential curtilage would not project further eastwards than the curtilage and rear boundary fence of the adjoining neighbouring property to the north, 15 Merestones Drive.

- 6.10** Whilst the land subject to the change of use was formerly undeveloped, the land in question is not subject to any formal landscape designation and does not appear to have been formally appraised for its landscape value. This land is associated with the intended footpath of the wider estate which remains untouched. There is a distinct lack of openness given how the land surrounds high fencing and dense vegetation across the eastern side of the footpath. When viewed from the north, the enlarged residential curtilage does not result in any visual incongruity and it is considered to integrate effectively within the pattern of the boundary lines and subsequent landscape. Overall, officers consider that the proposed development will not result in an adverse impact to the landscape character of the wider area.

- 6.11** With regard to the impact on character of the area in relation to its green infrastructure, policy INF3 indicates existing green infrastructure and the connectivity will be protected. Local green infrastructure includes Public Right of Way, cycle paths and footpaths. It is acknowledged that adjacent footpath to the rear of property is not a known public right of way but was part of the original estate plan to provide a form of connectivity through the estate. The majority of this footpath within this area of Merestones Drive will remain undisturbed. While this land subject to change will result in the boundary closer to the footpath, ease of access will remain unrestricted and the resultant visual pattern will be similar to the appearance of footpath located further south-east of the estate adjacent to properties 23-29 Merestones Drive. Officers therefore considered that the proposal will not detract from the overall established pattern of the residential estate and will protect the existing green infrastructure of the rear footpath provided during the development of the estate.

- 6.12** In light of the above, officers consider that the development does not result in any unacceptable impact on the intrinsic character, appearance and connectivity to the immediate surrounding area.

6.13 Design and Impact on neighbouring amenity

6.14 The proposed fence will be approximately 2.4m high and sit somewhat higher than the existing fence line. This will be of a similar height to the fence proposed with regard to the Change of Use of land at 21 Merestones Road.

6.15 This boundary form will provide a consistent appearance to the established boundaries of the wider area. Whilst it will be higher than the existing rear boundary, it will mirror the height of the property's existing side boundary fence and it will not stand out visually to an unreasonable level. A condition has been added to provide further design details of the fence.

6.16 Due to its nature, the change of use has minimal, if any, impacts on the residential amenity of the occupants of the surround properties. The proposed fence will offer increased privacy the occupants of the site and users of the footpath. Given the orientation of the land, there will be no unacceptable loss of light or outlook to the surrounding neighbours.

6.17 For this reason, the proposed development would adhere to the relevant Cheltenham Plan policies and JCS policies related to design.

6.18 Biodiversity

6.19 Policy SD9 of the JCS requires development to respect landscape features of importance for biodiversity and protect important habitats and species.

6.20 The Gloucestershire Centre for Environmental Records (GCER) which screens planning application identifies that the records indicate that no known protected species have been sighted on or near the application site.

6.21 The grass land subject to change is considered rough in its nature with little evidence of any wildlife or wild flowers. This was evidenced when officers visited the site through the height of summer. By incorporating this land within the residential curtilage of the 17 Merestones Drive, this area will consist of garden grassland which can sustain future biodiversity as gardens can help promote ecological life. There is no solid built form proposed and any future outbuildings will be subject to planning permission.

6.22 Overall, officers are satisfied that the proposed development will respect and preserve existing biodiversity without causing any significant harm to important habitats and species.

6.23 Other considerations

6.24 Precedent Set

6.25 A concern has been raised that permitting this application could set a precedent for other verges and parcels of land to be incorporated into residential curtilage. Merestones estate is known for its large open spaces and verges across its form, and there are noticeable open spaces at corner plots within the street scene. Each application is considered on its own merits and further assessment may be taken in those different areas.

6.26 Public Right of Way

6.27 Comments were made that any infringement of the footpath would require a 'stopping up' order. There is no infringement of the path, the land subject to a change of use only relates to a grassland verge. This footpath is also not a designated public right of way and this has been confirmed by the Public Right of Way department.

6.28 Maintenance

6.29 Any future maintenance of the footpath by the County Council or Borough Council is not pertinent to this application. Only a small area of the entire length of the footpath is affected by the proposed development. This land is privately owned and it is a civil matter as to ensure the maintenance of this land.

6.30 Dropped Kerb

6.31 This application also seeks planning permission for a extending the dropped kerb and hardstanding part of the front outside area. The Local Highways officer raises no objection and the proposal will not cause an impact to highway safety.

6.32 The proposed hardstanding will be part tarmac surrounding be permeable paving blocks. Other properties within the surrounding area have fully hardstanding front driveways, while the surround of permeable surface will allow for water runoff and this is considered acceptable.

7. CONCLUSION AND RECOMMENDATION

7.1 The land subject to the proposed change of use is modest area of rough grassland adjacent to an established footpath that will be incorporated as residential garden land or curtilage. Officer considered that the principal of this development is acceptable, as to be the design and impact on the amenity of the surrounding neighbours.

7.2 It is acknowledged that the proposal will undoubtedly alter the character and appearance as residential curtilage is increase, while boundary lines are changing. On balance, officers consider that the proposal will respect the pattern of development without causing an adverse harm on the existing landscape and green infrastructure, or any unacceptable impact on the character of the wider area.

7.3 In light of the above, it is considered that this application complies with the relevant Cheltenham Plan polices, JCS polices, NPPF and any supplementary guidance.

7.4 Officer recommendation therefore is to permit this application subject to the conditions set out below;

8. CONDITIONS

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of 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 planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The following elements of the scheme shall not be installed, implemented or carried out unless in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority, and shall be retained as such thereafter;

Boundary Fencing (to include but not limited to specific product details (including material(s), finish/colour(s) and dimensions)).

Reason: In the interests of the character and appearance of the area, having regard to adopted policy D1 of the Cheltenham Plan (2020) and adopted policy SD8 of the Joint Core Strategy (2017).

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.

- 2 The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 licence. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or highways@gloucestershire.gov.uk before commencing any works on the highway.
- 3 There could be existing utility services under this section of land, and the applicant is recommended to contact the concerned bodies prior to any works commencing.