

Report of	Meeting	Date
Director Partnerships, Planning and Policy (Introduced by the Cllr P Malpas Executive Member (Partnership and Planning))	Executive Cabinet	14 October 2010

PRIVATE RESIDENTIAL GARDEN DEVELOPMENT

PURPOSE OF REPORT

1. To inform members of the comments received in relation to the 6 week public consultation exercise carried out on the proposed Interim Policy – Private Residential Garden Development and to seek endorsement of the recommendation to adopt this Policy.
2. To detail those comments received and explain officer responses and associated legal advice.

RECOMMENDATION(S)

3. That the Executive Cabinet notes the table of comments and associated officer responses and endorses the adoption of the attached Interim Policy – Private Residential Garden Development for Development Control purposes (Appendix 1).

EXECUTIVE SUMMARY OF REPORT

4. Members will recall that a report on 12 August was presented to them in respect of the issue of garden development.
5. At this meeting Members approved a 6 week period of consultation and asked that the results of the consultation be brought back to the Executive Cabinet in the event of objections being received.
6. This period has now expired and of the 130 comments received 114 supported the proposed Policy. However, there were 15 objections and 1 response that did not support or object to the policy.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

7. To ensure an appropriate response to the Coalition Government changes to planning policy and to reflect local concerns.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8. None

CORPORATE PRIORITIES

9. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	/
Involving people in their communities	/	Ensure Chorley Borough Council is a performing organization	/

BACKGROUND

10. The revised version of Planning Policy Statement 3 – Housing (PPS3) removed private residential gardens from the definition of previously developed land meaning that private residential gardens are now considered Greenfield rather than Brownfield land. This is intended to 'give Local Authorities the opportunity to prevent over development of neighbourhoods and 'garden grabbing'.
11. Matters of concern in Chorley include the design and bulk of the buildings, compromised privacy, reduced garden size, the effect on daylight and sunlight, the design of the car parking, traffic generation and changes to the character of the surrounding area. Such developments are also taking place in a piecemeal manner without contributing to infrastructure and affordable housing provision.

CHORLEY'S RESPONSE TO THE CHANGES

12. Existing Chorley Local Plan policies prioritise the development of Brownfield Land and there are a range of policies that aim to secure good residential design. However, these policies do not reflect the recent changes to PPS3 and it is therefore considered appropriate to revise the Council's approach to reflect these changes. An Interim Policy Statement is proposed.

Interim Policy

13. The draft Interim Policy Statement has a presumption against residential development in private gardens. Legal advice has informed both the proposed approach to the introduction of this policy and the Policy wording (Appendix 1).

Consultation Exercise

14. During the consultation period, 130 formal representations were received. Of these 114 supported the document and 15 objected and 1 did not state whether they supported or objected to the document. The individual representations, together with the Council response to them, are listed in Appendix 2.

Support for the Policy

15. The policy has been heavily supported by local residents and the Parish Councils of Bretherton, Brindle & Hoghton, Charnock Richard, Croston, Eccleston, Euxton, Heapey & Whittle-le-Woods. However, there does not appear to be any support for the policy from the commercial sector (housebuilders, planning consultants, agents etc).
16. Supporters of the Interim Policy highlight many areas of dissatisfaction with garden development and a number of supporters state that the policy is well overdue (a few also state that it is too late). A large number highlight the problem of overdevelopment on sites and the fact that new schemes do not reflect the character of the area. The 'mini estates' that are built in gardens are a source of concern for many, with schemes in Lancaster Lane in particular, but also in Shaw Hill, often highlighted. A number of respondents state that garden development has caused a significant deterioration in residential amenity. Other

concerns include reductions in light, reductions in privacy, pressure on infrastructure, reductions to property values, traffic increases and negative impacts upon wildlife. Most people that have responded welcome the proposed policy.

Objections to the Policy

17. The main objections to the policy have come from the commercial sector (housebuilders/developers, planning consultants and agents) and also from a limited number of local residents. The objectors raise a variety of issues but the main areas of concern are summarised below: They relate to the principle of the Interim Policy and its relationship with national and local planning policies, sustainability, design and housing choice and to the economic effects of introducing the policy.

Objections to the Principle of the Interim Policy and its relationship with National and Local Planning Policies

18. Some of the objectors argue that a blanket approach to stopping garden development is not sensible and is an overreaction. Many state that each application should be looked at individually and treated on its own merits. They state that the matters of concern in the policy justification can be dealt with via existing policies and that the interim policy is unjustified and unnecessary.
19. A number of objectors state that the policy does not accurately reflect national planning policy. It is stated that the only material change brought about by the amendment to PPS3 is that gardens are now considered Greenfield rather than Brownfield land and that other than the removal of the minimum density there are no other changes. It is highlighted that PPS3 infers that 40% of developments can be on Greenfield land and that it does not preclude appropriate Greenfield development. It is stated that there is no policy or guidance that suggests that garden land cannot or should not contribute to meeting the objectives of PPS3. Another point raised is that regard must be given to other policy advice in PPS3, including that housing is developed in suitable locations offering a range of community facilities, by making effective use of land and existing infrastructure and available public and private investment.
20. Some objectors state that the proposed policy will contradict existing policies in the Local Plan (presumably because Local Policies target development to sustainable locations in urban areas and whilst prioritising Brownfield development do not rule out Greenfield or garden development). It is stated that the proper policy test for garden development is set out in Local Plan policies.
21. One objector also states that PPS3 does not justify the refusal of planning permission for residential development which is in compliance with the Local Plan solely on the basis of there being a five-year housing supply.
22. In summary the objectors believe that there should be no requirement to demonstrate either compliance with the listed criteria in the policy or exceptional circumstances, rather such proposals should comply with the existing development plan and national policies only. One objector states that the proposed policy should be abandoned completely as its implementation would be unjust and unlawful, and would be open to challenge. Another suggests that the Interim Policy approach could be construed as circumventing the provisions for consultation and sustainability appraisal that are required when producing Supplementary Planning Documents. Another objector goes further and suggests that should the Council wish to pursue a policy approach that is not supported by national policy or the development plan, it should seek to do so via an independently examined Development Plan Document (DPD). Consequently it is suggested that the policy can only have little weight attached to it when determining planning applications and that it is weak in planning terms.

Council Comments on objections relating to the Principle of the Interim Policy and its relationship with National and Local Planning Policies

23. Garden developments have increased in Chorley in recent years. It is considered necessary to strengthen our approach to garden development in light of the changes to PPS3, local community concern and to reflect the announcements made by the Coalition Government. Therefore, an Interim Policy is considered necessary.
24. The approach we are proposing reflects recent Government announcements and their public anti-garden development stance and the new localism agenda. The consultation exercise has demonstrated high levels of local community support for the Interim Policy. We are also arguing that our housing supply is sufficient and that we do not need garden development to meet our housing requirements. However, housing supply is just one factor to be taken into account when considering an application for garden development and we are not proposing the refusal of housing permission solely on the basis of there being a five-year housing supply.
25. It is not considered that this Interim Policy contradicts our Local Plan policy or national policy. The Local Plan does not have a policy that specifically mentions garden development and (outside of the definitional change) there is no policy in PPS3 that refers to it.
26. Ultimately, if challenged at appeal, the amount of weight to be given to this policy will be a matter for an independent Inspector. This is not a formal development plan policy that has been independently examined and consequently it is likely to have less weight than such a policy. However, the policy has been through public consultation and consequently should be given some weight. It is the Council's intention to formally adopt this policy through the Site Allocations DPD process.

Sustainability

27. Most of the objectors to the policy have stated that garden development can be sustainable. Gardens are usually located in established residential areas, where there is better access to public transport, schools, shops and facilities etc. Objectors state that new residents provide custom for existing local shops and businesses and use local facilities. Such development also relieves the pressure to develop outlying completely undeveloped sites on the edges of settlements that are in less sustainable locations and may require significant new infrastructure. They state that preventing garden development will lead to the need to release more edge of settlement sites.

Council Comments on Objections relating to Sustainability

28. Garden development can take place in sustainable locations. However, there are also Brownfield opportunities, and identified Greenfield opportunities in Safeguarded Land allocations in sustainable locations that can be developed, and these are considered preferable to the development of gardens. The September 2010 Strategic Housing Land Availability Assessment indicates sufficient potential sites for housing development without requiring gardens to be developed. Garden development is also usually piecemeal in nature and such development does not always contribute significantly to surrounding infrastructure. For example, most garden sites are too small to trigger the requirement for affordable housing. Larger sites can be planned in a more comprehensive manner.

Design & Housing Choice

29. A number of objectors have highlighted that when designed sympathetically garden development can fit well into an area. It has been suggested that it is the overdevelopment/exploitation of some garden sites that is the problem, and that well designed small scale infill plots of 1 – 3 units can fit well into the streetscene. Some objectors have also stated that garden development can provide greater housing choice, as it enables the provision of individually designed properties in established leafy residential areas. It is highlighted that not everybody wants to live in a standard house on a large new estate.

Council Comments on Objections relating to Design & Housing Choice

30. Like any other form of development, garden development can be well designed. However, all too often garden development is very unpopular with neighbouring residents and what is proposed is considered by many to be overdevelopment of a site. The 'mini-estates' in gardens are the focus of a significant number of the policy supporters. There are other policies within the Local Plan that seek to secure well designed residential properties.

Economic Effects

31. A number of objectors have raised concerns about the effects of the policy on the local building industry and local tradesmen who are already operating in a difficult economic climate.

Council Comments on Objections relating to Economic Effects

32. The policy is likely to have impacts upon developers who regularly develop new properties in gardens. However, it only aims to restrict the development of housing in private residential gardens. All other forms of housing development will remain unaffected. The Interim Policy does not alter the Council's approach to any form of Brownfield development, Greenfield non-garden development, replacement dwellings, house extensions and the conversion of existing properties (for example the conversion of a large house into apartments). Therefore, there are still a range of other opportunities for developers.

CORE STRATEGY & THE SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES DEVELOPMENT PLAN DOCUMENT (DPD)

33. The publication Core Strategy was recently on hold to allow officers and members at Chorley, Preston and South Ribble Councils to consider the implications of the revocation of RSS and other changes introduced by the new coalition government. This document includes policies on the design of new buildings and housing density, and is being revised to take account of the changes to PPS3 and give stronger formal policy protection for gardens. It is intended that a publication version of this document will shortly be produced.
34. Work is also currently underway on a Site Allocations and Development Management Policies DPD. It is intended that this Interim Policy will be formally adopted through this DPD process. This presents a further opportunity to gain the support of the community to resist garden development by way of a formal policy.

CONCLUSIONS

35. Nationally and locally there have been concerns about the amount of housing development taking place in gardens. In response to these concerns gardens have been reclassified from Brownfield to Greenfield land. To reflect this policy change and local concerns an Interim Policy Statement is proposed that aims to prevent garden development in Chorley. A public consultation exercise has largely demonstrated public support for this Interim Policy, hence it is appropriate to adopt the Interim Policy in the form consulted on, for Development Control purposes.

IMPLICATIONS OF REPORT

36. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	/	No significant implications in this area	

LESLEY-ANN FENTON
DIRECTOR PARTNERSHIPS PLANNING AND POLICY

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Background Papers			
Document	Date	File	Place of Inspection
Planning Policy Statement 3 – Housing	June 2010	-	Union Street