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| Item | 10/00904/FUL |
| Case Officer | Mrs Nicola Hopkins |
| Ward | Pennine |
| Proposal | Change of use of land from agricultural land to garden (to create an extension of the existing garden curtilage) |
| Location | Highfield House Copthurst Lane Whittle-Le-Woods Chorley PR6 8LR |
| Applicant | Mr J & Mrs L-A Fenton |

Consultation expiry: 10 November 2010

Application expiry: 2 December 2010

Proposal

1. The proposal involves the change of use of agricultural land to garden land which will create an extension to the existing garden curtilage associated with the dwellinghouse.
2. The piece of land subject to this planning application is a rectangular piece of land located to the south west of the dwellinghouse adjacent to the existing garden and measures 12.8 metres wide and 22 metres deep.
3. The land subject to this planning application is owned by Lesley-Ann Fenton (Director of Partnerships, Planning and Policy) and her husband. In accordance with the scheme of delegation the application is required to be considered at Development Control Committee.

Recommendation

4. It is recommended that this application is granted conditional full planning permission and that the issue of a decision notice is referred to the Chief Executive.

Main Issues

5. The main issues for consideration in respect of this planning application are:
 - Impact on the Green Belt
 - Future uses of the land

Representations

6. No letters of objection have been received
7. Whittle le Woods Parish Council have commented that it is against green belt policy to change agricultural land to garden and it does not conform to green belt policy

Consultations

8. The Council's Planning Policy Section have commented on the use of the adjacent land, the use of the application site, the impact on the Green Belt and possible future uses of the land. All of which will be discussed more fully within the body of the report.

Assessment

Impact on the Green Belt

9. The application site is located within the Green Belt where there is a presumption against inappropriate development. Planning Policy Guidance Note 2 (PPG2) sets out the general intentions of Green Belt policy and sets out the categories of appropriate development. PPG2 also sets out the purposes of including land within the Green Belt which includes: 'to assist in safeguarding the countryside from encroachment'.

10. The application site was purchased from the adjacent land owner in 2009 and following this date was no longer farmed and ceased to form part of the agricultural holding. A beech hedge has been planted along the south west boundary of the site and the existing hedge along the boundary of the application site and the highway has been reduced in height to replicate the height of the existing hedge along the garden boundary. The north west boundary to the application site has been left open to the adjacent field. Some small vegetation has been planted along this north-west boundary however this does not provide an effective screen and allows views through to the adjacent field.
11. Planning Policy considers that the change of use has already occurred and as such this application is in fact a retrospective application. The Policy Officer states within his comments that *'the grassed areas appear to merge into one larger lawned area'* and *'the new area has the appearance and function of serving and being incidental to the enjoyment of the adjacent house.'*
12. The description of the application does not state 'retrospective' as the application forms submitted with the application do not state that the application is retrospective. In accordance with Government guidance the Planning Authority should not, when validating an application, amend the description of development without first discussing any revised wording with the applicant or their agent.
13. Whether the application is actually retrospective in this case is subjective. Case law states that in respect of retrospective applications for curtilage extensions there should be some physical evidence that land is actually used for domestic garden purposes. Whilst the hedge has been relocated and the existing hedge along the highway trimmed down, which does create a form of enclosure, it is clear on site that the application site is not mown as often as the existing garden area, the application site does not have the same manicured appearance as the existing garden and there is no garden paraphernalia located on the application site which would indicate that the application site is being used as part of the garden as a whole and as such incidental to the enjoyment of the dwellinghouse.
14. The above notwithstanding however the same Policy implications apply to both retrospective and proposed change of use applications and this application will be assessed against Green Belt Policy.
15. Any material change in the use of land falls within the statutory definition of development and PPG2 states that material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.
16. The application site was purchased off the adjacent land owner which forms part of a larger agricultural holding. However in February 2006 planning permission was granted on the adjacent piece of land (06/00015/FUL) for two stable blocks and a wildlife pond. One of the stable blocks has been constructed and the wildlife pond has been formed. On site there is evidence of recent vehicular tracks across the land but no evidence that it has been in recent use for agriculture, with the pasture looking overgrown. It is considered that these changes have reduced the openness and rural character of the countryside adjacent to Highfield House.
17. The main aim of the green belt is to keep land permanently open, and the particular green belt purpose that is relevant to this application concerns the need to safeguard the countryside from encroachment. From an amenity perspective the most prominent view of the application site is the view from Cophurst Lane, which is a public right of way. Due to the existing hedgerow along Cophurst Lane this view is virtually unchanged. From an openness perspective the views across the land are virtually unchanged. The application site extends along Cophurst Lane and does not propose to extend the garden past the existing North-West boundary further into the Green Belt. There is existing development along the Cophurst Lane frontage in the form of a stable block and access track. From an agriculture perspective the use of the adjacent land as set out above does not fall to be considered traditional agriculture and as such there would be no benefit in retaining this land as pasture/ agricultural land.

18. It is considered that the proposal maintains the same amenity perspective as has historically been present at this site and it does not impact on the openness of the Green Belt. As such it is not considered that the proposed change of use will conflict with the purposes of including land within the Green Belt.

19. It is however considered appropriate to attach conditions removing permitted development rights to the approval, which the applicants have confirmed they are happy to have imposed, to ensure that the site is not suburbanised by the erection of garden fences, garden buildings or other garden paraphernalia which could impact on the openness of the area.

Future uses of the land

20. The proposed change of use will create a larger garden area associated with the dwellinghouse. Clearly a larger garden has the potential to enable the construction of a new dwellinghouse as seen recently across other garden sites within the Borough.

21. However following the amendments to PPS 3 in June 2010 private residential gardens are now excluded from the definition of previously developed land. Additionally notwithstanding the change of use to garden area the land will still fall to be considered Green Belt land where the erection of new dwellings fall to be considered inappropriate development. It is therefore very unlikely that the erection of a new dwelling would fall to be considered appropriate development on this site.

22. As such it is not considered that the grant of planning permission for the change of use to garden area will result in the possibility of the existing garden along with the extended garden being occupied by a new dwellinghouse.

Overall Conclusion

23. It is not considered that the proposed change of use will adversely impact on the openness of the Green Belt or impact on the purposes for including this site within the Green Belt and as such the proposal is considered to be acceptable in terms of PPG2 and Policy DC1

Planning Policies

National Planning Policies:

PPG2: Green Belts

PPS3: Housing

Adopted Chorley Borough Local Plan Review

Policies:

DC1: Development in the Green Belt

Planning History

99/00223/FUL- Two-storey side and two storey rear extensions. Approved May 1999

04/01171/FUL-Erection of a conservatory to rear of property. Approved December 2004

10/00903/FUL- Erection of a garden shed. Pending consideration

Recommendation: Permit Full Planning Permission Conditions

1. The proposed development must be begun not later than three years from the date of this permission.

Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (Schedule 2 Part 1, Class E and F), or any Order revoking or re-enacting the Order, no garage, shed or other outbuilding shall be erected or hard surface

provided on the garden extension hereby permitted (other than those expressly authorised by this permission).

Reason: To protect the appearance of the locality, to retain the open character of the area and in accordance with Policy No. DC1 of the Adopted Chorley Borough Local Plan Review and Government advice contained in PPG2: Green Belts

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (Schedule 2, Part 2, Class A) (or any Order revoking and re-enacting that Order) no fences, gates or walls shall be erected on the land hereby permitted (other than those expressly authorised by this permission).

Reason: To protect the appearance of the locality, to retain the open character of the area and in accordance with Policy No DC1 of the Adopted Chorley Borough Local Plan Review and Government advice contained in PPG2: Green Belts.

4. The approved plans are:

| Plan Ref. | Received On: | Title: |
|-----------|----------------|--------------------|
| | 7 October 2010 | Site Location Plan |
| | 7 October 2010 | Site Plan |

Reason: To define the permission and in the interests of the proper development of the site.

5. No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The scheme shall indicate all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform. Specifically the scheme shall include full details of a Hawthorn hedge (or other appropriate hedge species) to be planted along the north-west boundary of the site.

Reason: In the interests of the amenity of the area and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and 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 similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the appearance of the locality and in accordance with Policy No GN5 of the Adopted Chorley Borough Local Plan Review.