

Report of	Meeting	Date
Director of Partnerships, Planning & Policy	Development Control Committee	23 April 2013

ENFORCEMENT ITEM

Change of Use of land from agriculture to domestic curtilage land to the rear of 125 Rawlinson Lane, Heath Charnock, Chorley, PR7 4DF.

PURPOSE OF REPORT

- To seek authority for the serving of an enforcement notice to cease the use of the land as domestic curtilage and to remove all items that facilitate that use from the land.

RECOMMENDATION(S)

- That it is expedient to issue an Enforcement Notice under Section 171A(1) of the Town & Country Planning Act 1990 in respect of the following breach of planning control:

i. Alleged Breach

Without planning permission the change in use of land from an agricultural use to domestic curtilage on land at 125 Rawlinson Lane Heath Charnock Chorley PR7 4DF.

ii. Remedy for Breach

- Cease the use of the land as domestic curtilage.
- Demolish the stables and remove the resultant materials from the land.
- Remove the hard standing from the land.
- Remove all concrete paving slabs from the land.

Period of Compliance

3 months

iii. Reason

- The proposed development would be detrimental to the character and appearance of the Green Belt and would be prejudicial to the purposes of the Green Belt in terms of encroachment into the countryside, contrary to Policy DC1 of the Adopted Chorley Borough Local Plan Review and Paragraph 80 National Planning Policy Framework.

EXECUTIVE SUMMARY OF REPORT

3. The land subject of this report is located in Heath Charnock, within an area designated as Green Belt where there is generally a presumption against inappropriate development. Policy DC1 in the Local Plan deals with development in the Green Belt. This policy sets out types of development, which are considered acceptable in the Green Belt. The change of use of land from Green Belt to residential garden curtilage is not listed as a type of such acceptable development.
4. The land in is located to the rear of 125 Rawlinson Lane and is 0.16 hectare in area. The land is currently being used as an extension to the existing rear garden area, the parcels of land separated by a hedge with a gated access on to the land. In 2006 a small two horse stable block was erected on the land which the landowner believed was permitted development as she believed the land was in use as domestic curtilage. It has now transpired that the land was not domestic curtilage and therefore the stables did not benefit as permitted development.
5. The landowner was advised that if she had evidence to substantiate the use of the land as domestic curtilage then she should apply for a Certificate of Lawfulness for the use. To date no application has been submitted. Investigations have continued with aerial photographs being obtained and statements recorded from the immediate neighbours. The photographs are not conclusive but do appear to show no domestic use of the land and the statements recorded from the immediate neighbours provide evidence that the land has not been in use as domestic curtilage. There has been no continuous use of the land as domestic curtilage for a period of ten or more years therefore the unlawful use is not immune from enforcement action.

Confidential report Please bold as appropriate	Yes	No
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REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

6. It is considered that the proposed change of use would adversely impact on the openness of the Green Belt and the purposes of including land in the Green Belt and as such the proposal is considered unacceptable in terms of Policy DC1 and Paragraph 80 of the National Planning Policy Framework.

CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	x

BACKGROUND

8. In 2006 the owner of 125 Rawlinson Lane erected a two bay stable on land to the rear of the property under permitted development rights that were appropriate at that time. The stables were inspected and it was seen that they did fall within the conditions applicable for an outbuilding with regards to its size. The owner stated the land was domestic curtilage and provided written evidence to that effect.

9. The landowner asserted that the land to the rear was used for horse and livestock grazing and for flower growing by her grandfather and that the land had been so used for over 80 years.
10. Further complaints were received regarding the use of the land and the stables erected upon the land and further investigation were carried out that culminated in statements of evidence being recorded from the immediate neighbours that both refuted the assertion the land in question was domestic curtilage. Aerial photographs were obtained showing the condition of the land prior to the stables being erected and whilst not conclusive they do not appear to show any domestic use of the land.
11. Any buildings upon the land that facilitates the unauthorised change in use of the land, in this case the stables, is also unauthorised and is therefore not immune from enforcement action and should be removed from the land to restore the land to its former condition and use.

IMPLICATIONS OF REPORT

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

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area	x	Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

13. The report sets out the reasons for enforcement which should mean that the process can be contained within existing budgets. Should for any reason this is not the case, budget provision would be requested, but the risk of this is low in this instance.

COMMENTS OF THE MONITORING OFFICER

14. The comments in the report are noted and agreed. It is appropriate to confirm that the previous inspection of the stables does not constitute permission and neither does it prevent the Council taking enforcement action.

LESLEY ANNE FENTON
PARTNERSHIPS, PLANNING & POLICY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
S Aldous	515414	11.04.13	