

Report of	Meeting	Date
Director of Partnerships, Planning and Policy	Development Control Committee	13.05.2014

## **ENFORCEMENT ITEM**

### **CHANGE OF USE OF LAND FROM PUBLIC OPEN SPACE TO DOMESTIC CURTILAGE, LAND REAR OF 19 BEECHWOOD ROAD CHORLEY**

#### **PURPOSE OF REPORT**

1. To seek authority for the issue of an Enforcement Notice in respect of the change of use of land from public open space to domestic curtilage.

#### **RECOMMENDATION(S)**

2. That it is expedient to issue an Enforcement Notice in respect of the following breach of planning control: - Without planning permission the change of use of public open space to domestic curtilage.

#### **Remedy For Breach**

1. Cease the use of land as domestic curtilage.
2. Dismantle and remove the fencing erected between points A,B,C and D shown on the site plan attached to this Enforcement Notice from the land.

#### **Period For Compliance**

Two Months

#### **Reason For Issue Of Notice**

The proposed development would result in the loss of land designated as Existing Open Space by the Chorley Local Plan 2012-2026. There is a deficit of amenity greenspace in the Chorley South East ward, which this proposal would worsen, and no alternative equivalent provision has been offered as part of the proposal contrary to policy HW2 of the Chorley Local Plan 2012-2026.

#### **EXECUTIVE SUMMARY OF REPORT**

3. Planning permission has been refused retrospectively to retain the land as domestic curtilage and no appeal has been lodged against that decision and the use of the land remains in breach of the refusal of planning permission.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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## CORPORATE PRIORITIES

4. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	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	

## BACKGROUND

5. A planning application was submitted retrospectively for the change of use of the land which forms part of the open space area for this residential estate. Planning permission was refused for the change of use of the land on the 25 March 2014 and since the refusal no appeal has been lodged against the Council's decision to refuse permission or any steps taken to remedy the breach of planning control. The Council can only secure the reinstatement of the land through the issue of an Enforcement Notice.

## ASSESSMENT

6. The land to the rear of 19 Beechwood Road was retained as public open space as part of the residential housing estate that was developed in the early 2000s. The area of public open space measures approximately 0.172Ha. The extended garden curtilage covers an area of around 0.006Ha of this land, thereby reducing the public open space to an area of around 0.166Ha.
7. The boundary line of 21 Beechwood Road has been continued across the rear of 19 Beechwood Road with a 1.9m high concrete post and timber panel fence to enclose the land within the curtilage of 19 Beechwood Road.
8. The land is designated within the Chorley Local Plan 2012 – 2026 as Existing Open Space. The land is protected as open space by policy HW2.
9. Chorley Local Plan 2012 – 2026 has now been amended in accordance with Inspector's Partial Report, received 6th November 2013, and carries significant weight in all planning decisions. Policy HW2 of the Chorley Local Plan 2012 – 2026 states that land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless:
- Alternative facilities of an equivalent or enhanced standard are provided nearby before the existing facilities cease to be available; or
  - It can be demonstrated that the loss of site would not lead to a deficit of provision in the local area in terms of quantity and accessibility; and
  - The site is not identified as being of high quality and/or high value in the Open Space Study; and
  - It can be demonstrated that retention of the site is not required to satisfy a recreational need in the local area; and
  - The site does not make a significant contribution to the character of an area in terms of visual amenity.

In respect of the above criteria:

- a) No provision for alternative equivalent facilities in the area.
  - b) The evidence base that supports the Open Space and Playing Pitch SPD identifies a deficit of amenity greenspace in the Chorley South East ward therefore the loss of this open space without alternative provision would worsen this deficit.
  - c) The site was not included in the Open Space Study therefore its quality and value has not been assessed.
  - d) Although it is recognised that the loss of the open space to domestic garden curtilage is minimal in this case, and would not prevent the remaining area from being used for public enjoyment, the Council is mindful of the potential impact that a proliferation of such schemes would have on the quality and functionality of the land and the precedent that would be set. The Council does not wish to encourage similar proposals on public open space.
  - e) The open space as a whole does contribute to the visual amenity of the immediate area, however, it is recognised that the small area of land that has been subsumed within the garden curtilage of 19 Beechwood Road makes little visual impact in its own right by virtue of its size and positioning. The potential impact of a proliferation of such schemes would, however, be detrimental to visual amenity.
10. The proposal does not meet the criteria set out in Policy HW2 of the Chorley Local Plan 2012 -2026, and is therefore considered to be unacceptable.

**IMPLICATIONS OF REPORT**

11. 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**

12. No comments

**COMMENTS OF THE MONITORING OFFICER**

13. Retrospective planning permission for change of use has been refused, the land continues to be used as domestic curtilage which is a breach of planning control. The issue of an enforcement notice that requires the use of the land as domestic curtilage to cease and the removal of the fencing is a reasonable step. The Local Planning Authority must have regard to its Local Enforcement Plan. The recipient of the enforcement notice has the right to appeal the enforcement notice.

Lesley-Ann Fenton  
 DIRECTOR OF PARTNERSHIPS, PLANNING AND POLICY

<b>Background Papers</b>			
<b>Document</b>	<b>Date</b>	<b>File</b>	<b>Place of Inspection</b>

Planning Application	29.01.2014	14/00094/FUL	Civic Offices, Union Street, Chorley
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<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Peter Willacy	5226	29 April 2014	