

<b>Item 3j</b>	<b>14/00960/CB3</b>
<b>Case Officer</b>	<b>Iain Crossland</b>
<b>Ward</b>	<b>Chorley South West Ward</b>
<b>Proposal</b>	<b>Application for change of use from public open space to domestic garden curtilage</b>
<b>Location</b>	<b>Land To The Rear Of 3 - 5 Cottage Fields Chorley</b>
<b>Applicant</b>	<b>Chorley Council</b>
<b>Consultation expiry:</b>	<b>08 October 2014</b>
<b>Decision due by:</b>	<b>06 November 2014</b>

**Recommendation**

It is recommended that this application is approved subject to conditions.

**Executive Summary**

The main issues to consider are the loss of open space, and impact on the appearance and character of the area. As assessed below the proposals are considered to be acceptable when assessed against the relevant criteria.

## Representations

**In total 1 representation and 1 petition have been received, which are summarised below**

### **Objection**

Total No. received:

- Loss of land maintained, planted up and generally enhanced by the occupant of 1 Cottage Fields
- Impact on outlook through loss of trees
- Impact on wildlife due to loss of trees
- Impact from noise due to loss of trees
- Loss of sun shield due to loss of trees
- Loss of amenity due to loss of trees and wildlife
- Loss of privacy due to loss of trees
- Impact from antisocial behaviour due to loss of tree screening
- Would like the area of land to the rear of the garage at 1 Cottage Fields to be brought within the curtilage of 1 Cottage Fields, and not the curtilage of 3 Cottage Fields.
- The occupier of 1 Cottage Fields has been informed by a neighbour that if the garden extensions take place then they will cut the trees down.

A petition has been received that includes 36 names. Individual comments are made on the petition which raise the following issues:

- Loss of trees
- Impact on birds and wildlife

## **Assessment**

### The Site

1. The application site is a Council owned area of public open space located close to the Eaves Green Community Centre. This is within the core settlement area of Chorley.
2. The application site is an allocated open space. It is a predominantly grassed area with tarmac paths crossing the site, goal posts and peripheral tree planting and landscaping to the boundary with the properties on Cottage Fields and reservoir to the east.

### The Proposal

3. It is proposed to change the status of a strip of land to the rear of properties on Cottage Fields from public open space to private garden curtilage. The proposal would effectively extend the area of garden curtilage outwards by up to 4m into the open space for a distance of around 35m from the boundary of 5 and 6 Cottage Fields to a point level with the front elevation of the garage at no1 Cottage Fields. It is the intention that a fence would be erected to enclose the land, thereby removing any public access.

## **Assessment**

The main issues are as follows:-

Issue 1 – Loss of Public Open Space

Issue 2 – Impact on character and appearance of the locality

Issue 3 – Trees

Issue 4 – Birds and wildlife

### Principle of the Development

4. The Inspector has issued her Partial Report on her findings into the soundness of the Chorley Local Plan, which is a material consideration in the consideration of any planning application.
5. In summary, the plan is considered to be legally compliant. In relation to soundness, the plan is considered sound, with the exception of matters relating to Gypsies & Travellers.
6. Paragraph 18 of the Partial Report states: "For the avoidance of doubt, the Plan may not be adopted until it has been changed in accordance with all of the main modifications set out in the Appendix to this partial report and any which may be specified in the Appendix of my forthcoming supplementary report. However, because of the very advanced stage in the examination process that the main modifications set out in the attached Appendix have reached, significant weight should be attached to all policies and proposals of the Plan that are amended accordingly, where necessary, except for matters relating to Gypsies and Travellers." The Council accepted the Inspectors modifications for Development Management purposes at its Executive Committee on 21st November 2013.
7. It is therefore considered that significant weight can be given to the policies and proposals of the emerging Local Plan, as amended by the main modifications.
8. 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 certain criteria can be met. These are assessed below.
9. This approach is reflected and supported in the National Planning Policy Framework (The Framework).

### Loss of Public Open Space

10. The proposal involves the loss of a small part of land allocated as open space under Policy HW2 in the Local Plan. Policy HW2 protects all existing open space, sport and recreational facilities and requires alternative provision to be made under criterion a) of the policy unless the proposal satisfies all of criteria b) to e). The proposal is assessed against these criteria below:

11. *b) 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;*  
There is currently a surplus of amenity greenspace in the Chorley South West ward. Therefore, the loss of this site would not lead to a deficit in provision in the local area in terms of quantity and accessibility.
12. *c) The site is not identified as being of high quality and/or high value in the Open Space Study;*  
The site is identified as being of high value and high quality in the Open Space Study, so this proposal would be contrary to this criterion.
13. *d) It can be demonstrated that retention of the site is not required to satisfy a recreational need in the local area;*  
The site is an important recreational facility in the area and is needed to meet the required amount of this typology of open space in the settlement, however, the proposal relates to an inaccessible part of the site. Although this part of the site contributes to visual amenity the area of actual recreational space would not be diminished.
14. *e) The site does not make a significant contribution to the character of an area in terms of visual amenity;*  
This site is allocated as amenity open space and forms part of the Adjacent to Cottage Fields amenity open space (Open Space Study site ref: 1459). This area of the site forms an area of planting between the open space and neighbouring housing. It is considered that the site does make a significant contribution to the character of the area in terms of visual amenity.
15. The proposal does not accord with criterion c) of HW2 because the site is assessed as being of high quality and high value. It also does not comply with criterion e) as it makes a significant contribution to the character of the area in terms of visual amenity. Therefore, in order to satisfy Policy HW2, alternative provision of an equivalent or enhanced standard should be provided nearby in accordance with criterion a).
16. The policy requires that this provision is provided nearby before the existing facilities cease to be available. The proposal forms part of a wider Council scheme planned for the enhancement of the site, including enhanced landscape buffer planting, tree planting, new railings, football pitch enhancement and a toddler play area and extension to the adjacent community centre. The scheme would commence prior to the curtilage fencing being erected and would continue across the site resulting in an enhanced standard of provision.
17. The loss of open space identified within this proposal is considered acceptable in relation to policy HW2 of the Local Plan as the proposed area is small, there is surplus provision in the area and the functionality of the site can be sustained and indeed enhanced as part of a wider scheme.

#### Impact on character and appearance

18. The visual impact of the proposal would be most noticeable from the open space itself. The trees and landscape buffering along the boundary of the site adjacent to properties on Cottage Fields, to which the application relates, provide a positive contribution to the appearance of the site and character of the area. The trees and shrubs make an important visual contribution to the site and provide screening from noise and disturbance to the properties along Cottage Fields.
19. The application does not propose any felling of trees or landscape clearance and it is noted that the land would remain within the ownership of Chorley Council and leased to properties on Cottage Fields through a License agreement. Chorley Council Property Services have confirmed that the License would stipulate that the land and specifically the trees are protected.

20. The terms of the agreements would :
- Protect the trees on the land and prohibit any chopping, lopping, trimming of the trees, shrubs and vegetation without the Council's prior consent
  - Prohibit any hard surfacing on the land
  - Further conditions would be attached to prevent removal of any vegetation during the bird nesting season to avoid damage to wildlife living within the shelter belt. The site would be closely monitored by Council officers to ensure compliance, particularly during the nesting season
  - Each licence would be granted for a 364 days and would be reviewed prior to renewal to ensure the terms have been observed.
21. Such an agreement would enable the Council to control the use of the land more closely, and in the event that the terms are not adhered to the Agreement could be terminated and the land would revert back to direct Council control and management.
22. The retention of the land within Chorley Council ownership and use of a License agreement is considered to provide a strong level of protection for the trees and landscaping, and as a result it is considered that the impact upon the character and appearance of the site is acceptable as there would be little change from the current situation.
23. Although a fence would be erected to enclose the land and prevent public access it is anticipated that this would be a timber fence that would blend in with the appearance of the site and it is recommended that a condition is attached to any planning permission requiring further details of the fencing prior to the commencement of the works. Furthermore the existing landscape buffer and tree planting would be increase as part of the wider scheme for the site, which would serve to screen any fencing works and improve the overall appearance and character of the site.

#### Trees

24. The application does not propose any felling of trees or landscape clearance and it is noted that the land would remain within the ownership of Chorley Council and leased to properties on Cottage Fields through a License agreement. Chorley Council Property Services have confirmed that the License would stipulate that the land and specifically the trees are protected as described above. This is considered to provide a robust level of protection.

#### Birds and wildlife

25. No trees or landscape clearance would take place as part of the proposal, and it is acknowledged that the existing landscape buffer would be enhanced through further planting. As a result the existing habitat for birds and wildlife would be enhanced rather than diminished.
26. It is noted that any protected species are protected under separate legislation through the Wildlife and Countryside Act (1981) (as amended).

#### Other matters

27. Would like the area of land to the rear of the garage at 1 Cottage Fields to be brought within the curtilage of 1 Cottage Fields, and not the curtilage of 3 Cottage Fields: The application is for the change in status of the land to the rear of Cottage Fields from public open space to private residential garden curtilage. No specific allocation of the land is identified within the proposed plans and this is not a material planning consideration in any case.
28. The occupier of 1 Cottage Fields has been informed by a neighbour that if the garden extensions take place then they will cut the trees down: The application does not propose any felling of trees or landscape clearance and it is noted that the land would remain within the ownership of Chorley Council and leased to properties on Cottage Fields through a License agreement. The License would protect the trees on the land and prohibit any chopping, lopping, trimming of the trees, shrubs and vegetation without the

Council's prior consent. Such an agreement would enable the Council to control the use of the land more closely, and in the event that the terms are not adhered to the Agreement could be terminated and the land would revert back to direct Council control and management.

29. Loss of land maintained, planted up and generally enhanced by the occupant of 1 Cottage Fields: This is not a material planning consideration and there is no intention to remove trees or other planting as part of the proposal.

#### **Overall Conclusion**

30. There would be no impact on the amenity of neighbouring occupiers or the overall appearance and character of the area as a result of the proposal. Although a small part of the public open space would no longer be accessible to the public, the impact is considered acceptable. On the basis of the above, it is recommended that planning permission be granted.

#### **Planning Policies**

31. In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Borough Local Plan Review 2003 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposals has had regard to guidance contained with the National Planning Policy Framework (the Framework), the development plan and the emerging Local Plan 2012-2026. The specific policies/ guidance considerations are contained within the body of the report.

#### **Planning History**

There is no recent planning history at the site

### **Suggested Conditions**

<b>No.</b>	<b>Condition</b>
1.	The proposed development must be begun not later than three years from the date of this permission. <i>Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.</i>
2.	The approved plans are: Title Location Plan <i>Reason: To define the permission and in the interests of the proper development of the site.</i> Received On: 10 September 2014
3.	Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences to be erected (notwithstanding any such detail shown on the approved plans) shall have been submitted to and approved in writing by the Local Planning Authority. <i>Reason: To ensure a visually satisfactory form of development</i>