

## **APPLICATION REPORT – 17/01014/FUL**

**Validation Date: 27 November 2017**

**Ward: Chisnall**

**Type of Application: Full Planning**

**Proposal: Construction of pathways and sheds to facilitate to the use of a part of the land as 15 allotments and erection of 1.2m high post and wire fencing.**

**Location: Land West Of Town Lane Farm Town Lane Heskin**

**Case Officer: Amy Smith**

**Applicant: Mr Alan Whittaker**

**Consultation expiry: 28 December 2017**

**Decision due by: 22 January 2018**

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### **RECOMMENDATION**

1. It is recommended that the application is approved.

### **SITE DESCRIPTION**

2. This application relates to a plot of land, approximately 0.8ha in area, located to the west of Town Lane Farm, Heskin. The land is accessed from Town Lane; a narrow unclassified road. The land was formerly a children's play area but is currently an area of space with a small picnic bench.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

3. It is proposed to utilise less than half of the land identified on the location plan as 15 allotment plots. Each plot would have access via a 1.5m wide pathway, constructed from recycled aggregate, leading from the existing hard standing and there would be the opportunity to erect a shed, in the locations shown on the submitted site layout plan with a footprint limited in size to 1.8m x 1.2m.
4. It is noted that the use of the land as allotments does not require planning permission. This was debated in the High Court (Crowborough Parish Council v. Secretary of State for the Environment November 1980) where it was held that allotments fell within the definition of "agriculture" in the relevant planning act. The definition of agriculture in the current planning act (Section 336) remains the same as it did when the decision was made in 1980. This ruling has been supported in several appeal cases since (Newark B.C. 8/12/83), (City of Leeds 30/5/84) and (Doncaster B.C. 14/1/94) where use of agricultural land as allotments was not considered to require planning permission. The applicant has confirmed that the proposed allotment use would be for agriculture (i.e. growing food and flowers, fruit growing and seed growing etc.)
5. As agriculture is not included within the meaning of development in section 55 of the Town and Country Planning Act 1990, the use of the land as allotments does not require planning

permission and this application seeks permission for the laying of the footpaths, the erection of 1.2m high post and wire fencing and the erection of up to 15 sheds.

## REPRESENTATIONS

6. Objections have been received from 19 separate addresses. The issues raised can be summarised as follows:

- The Parish Council were granted over £10,000 and made an agreement with “Fields in Trust” that the field would be retained and safeguarded forever to celebrate the Diamond Jubilee. The use of the land as allotments would take over more than a third of the field from general public access.
- The site is unsuitable for allotments.
- The use of the land as allotments will generate additional traffic on a narrow and unlit road with a sign warning that the road is unsuitable for motor vehicles.
- The car park, which is also used by users of the field, is too small and there is no room for manoeuvre within. If cars were to park on Town Lane, this would cause an obstruction and lead to an increase in pollution.
- Visibility from the car park to Town Lane is poor.
- The oak tree should be made subject of a Tree Preservation Order.
- There are no facilities/services on site (water, electricity or drainage).
- The site is isolated and could encourage vandalism (which has been experienced in the past when the children’s play area was removed).
- The cost of carrying out the development will cost tens of thousands of pounds but the income would generate less than £1000 p/a.
- The field is currently used by dog walkers where dogs can run freely due to the gated entrance and lack of livestock.
- The field is well used by young children, elderly and people with disabilities due to the surfaced footpaths.
- Questions the arrangements for the removal of waste.
- Questions the management of the site (i.e. maintenance and cleanliness).
- The field is the only area in the village with a path, seating and picnic table.
- The field is already subject to fly-tipping and littering and allotment use would add to this.
- The use of allotments would ruin the open aspect of the area.
- The funding would come from Council funds.
- The sheds would be an unsightly addition and would impinge on the openness of the Green Belt.
- There is no footpath along Town Lane.
- Unrestricted hours of use could lead to disturbance.

- Water butts represent a drowning hazard for children.
  - There is no demand for the allotments which could lead to the allotments being offered to people wider afield.
  - There is planning permission to erect a new dwelling on adjacent land within 10m of the allotment site. The home will overlook the allotments and will affect amenity.
  - The land is not registered with the Land Registry.
  - Questions whether the development would be funded by tax payers.
  - The land is previously undeveloped and there is no wish to see a future application for housing.
  - The allotments would reduce the amount of publicly available space to 15 exclusive plots.
  - The post code on the application form is incorrect.
  - The allotments will put people off using the field.
  - The network of footpaths within the area is not a suitable alternative for use instead of the field.
7. In addition to these objections, 40 copies of an individually signed leaflet that has been passed around the community have been submitted. These leaflets oppose the development on the following grounds (summarised):
- Fields in Trust – The allotments are not in keeping with the Fields in Trust contract.
  - Traffic – Town Lane is a narrow, single track road and additional traffic should not be encouraged.
  - Parking – The application form suggests that 7 parking spaces are available but this is considered unrealistic.
  - Facilities – These are expensive to install and there could be costs to the Parish.
  - Vandalism – The children’s play area was removed in 2012 as a result of vandalism.
  - Dog walkers – The field is accessible and well used by dog walkers as dogs can run freely on the land. This space will be restricted with the allotments.
8. In addition to the letters of objection, a petition with 58 signatures has been received in support of the proposal and 12 letters of support have been received. The letters of support highlight the following points:
- Allotments are a good way of joining the community together.
  - Allotments are a good way of encouraging families to spend time outdoors.
  - The field is currently underused.
  - Affords the community the opportunity to grow their own fruit and vegetables.
  - Allotments are a good hobby.
  - Ideal location – the field is large enough to accommodate the allotments and retain space for dog walkers.
  - Allotments promote healthy lifestyles.
  - Local businesses could benefit from the produce.

- Numerous requests have been made to the Parish Council to create allotments which, until now, have not been considered.
- Many houses in the area have gardens but additional space for growing food is welcomed.
- The field can be a lonely place and the allotments would attract more people.
- Wild flower meadow on the field has not worked in practice.
- The area will look better.
- The allotments will bring ecological benefits.
- Previously lived near allotments and there were no issues of anti-social behaviour.

## **CONSULTATIONS**

9. Council's Tree Officer – No objection but recommends that the mature Oak tree is retained.
10. Lancashire Highway Services – No comments have been received.
11. Greater Manchester Ecology Unit – Have no objection
12. Lancashire County Council Public Rights Of Way – No comments have been received.

## **PLANNING CONSIDERATIONS**

### Principle of Development

13. The application site is located within the Green Belt. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt, except in a limited number of specific circumstances. One such exception is buildings for agriculture and forestry.
14. Policy BNE5 of the Chorley Local Plan 2016-2026 reflects the guidance set out in Paragraph 89 of the Framework in that the proposed development should have no greater impact on the openness of the Green Belt and the development.
15. In this case it is considered that the proposal falls to be considered as an exception, as outlined in paragraph 89. It is not considered that the laying of a small number of pathways would have any impact through encroachment over and above the existing pathways on the field, and are considered reasonably necessary for the proposed purpose. The extent of 'built' development (sheds) would be small scale and strictly controlled to a specific footprint, which is that of a small shed for the storage of the necessary tools and equipment associated with an agricultural allotment, and restricted to defined locations within each allotment plot. These are considered reasonably necessary for the type of agriculture proposed.
16. On this basis, the development is not considered to be inappropriate development in the Green Belt.

### Design and Amenity

17. Policy BNE1 of the Chorley Local Plan 2012 – 2026 stipulates that planning permission will be granted for new development, including free standing structures provided that the proposal does not have a significantly detrimental impact on the surrounding area through its density, siting, layout, building to plot ratio, height, scale and massing, design orientation and use of materials.

18. The sheds would be situated within a corner of the associated plot. They are to be of a standard shed appearance being constructed of timber with a dual-pitched roof and single access door. The sheds are of a small scale and their siting would retain an adequate distance away from the closest residential neighbour to ensure that there would be no overbearing impact. The design of the sheds is considered appropriate and typical for this type of land use.

19. The proposed fencing would be situated around the perimeter of the site and would suitably demarcate the allotment area from the remaining field area. The proposed fencing is of a simple timber post and galvanised wire design at a height of 1.2m, which is considered appropriate in the context of this setting.

#### Highway safety

20. It is acknowledged that the parking provision on this site is inadequate and that users of allotments are more than likely going to access the site by motor vehicle. There are areas of unrestricted parking on Wood Lane, which is a short walk away from the entrance to the allotments.

21. It is important to recognise once more that the application only seeks permission for the laying of the path ways and the erection of sheds, which would have no detrimental impact on the highway network in terms of safety or capacity.

#### Trees

22. There is a large mature oak tree adjacent to the car park boundary fence on Town Lane. Chorley Council's Tree Officer raises no objections to the development on the basis that this tree is retained. There is no proposal to remove this tree and it is not expected that the development would have a detrimental impact on the health of the tree.

#### Ecology

23. The application site currently forms part of a public amenity area, which has limited value for wildlife, being largely short mown grassland. The main interest of the site, in ecology terms, would be the hedgerows and trees that border the site. Greater Manchester Ecology Unit raises no objection to the proposal on the basis that these are to be retained.

#### Other matters

24. The contract with "Fields in Trust" is a civil matter between the Parish Council and Fields in Trust. However, the Parish Council have applied to Fields in Trust for permission, which has been declined. If planning permission is granted, the Parish Council will appeal the decision of Fields in Trust.

25. The use of the land as allotments does not require planning permission, as explained above and so the assessment of this application has focussed on the construction of the pathways and erection of sheds.

26. The oak tree is to be retained. In relation to making the tree subject to a Tree Preservation Order (TPO), the Council will only consider making a TPO where all of the following conditions are met:

1. The tree is a good specimen in good health;
2. The tree provides a good level of public amenity value, i.e. it can be seen from a number of public vantage points: and
3. There is a demonstrable threat to the tree, i.e. there is clear evidence of an intent to prune or fell the tree.

27. Furthermore the Council does not make trees the subject of a TPO where:

- a. The site is allocated for future development;
- b. The site has an extant planning permission in place;
- c. The imposition of a TPO would stall or hinder the future development of a site that has potential for an alternative use.

28. In this instance, there is no intention to remove or prune this oak tree. That being the case, this situation fails to meet requirement 3, above, and therefore the Council will not be making this tree the subject of a TPO.
29. The fact that there are no services/facilities, the funding of the development, the use of water butts and the registration of the land are not material planning considerations.
30. The management and maintenance of the allotments will be the responsibility of the Parish Council.
31. The incorrect post code on the application form is also immaterial. This simply serves to identify the location of the development. The location address and the location plan are suitable for this purpose.

## CONCLUSION

32. The proposed development is considered to be acceptable and it is recommended that the application is approved.

**RELEVANT POLICIES:** 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 Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

## RELEVANT HISTORY OF THE SITE

**Ref:** 84/00442/FUL **Decision:** PERFPP **Decision Date:** 2 April 1985  
**Description:** Playing field

### Suggested 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. The development hereby permitted shall be carried out in accordance with the approved plans below:

Title	Plan Ref	Received On
Location Plan	N/A	31 October 2017
Site Layout Plan	TL_A001	23 November 2017
Fence (post and wire)	N/A	28 November 2017
Fence store plan	N/A	9 November 2017

*Reason: For the avoidance of doubt and in the interests of proper planning.*

3. Where the use of the site as allotments ceases for a continuous period of 6 months within any twelve month period, any structures and hard surfacing shall be removed.

*Reason: To protect the character and openness of the Green Belt.*

4. The permission hereby granted does not authorise the erection any buildings or structures on the site, other than one shed per allotment plot, to be constructed in accordance with the details set out in the Fence Store plan received by the Council on the 9th November 2017

*Reason: To clarify the permission and in the interest of the amenity of the area and to prevent a proliferation of buildings in the Green Belt for which there is no need.*