

DELEGATED DECISION REPORT

SMD/2021/0143
Valid 07/04/2021

120 MOW LANE
GILLOW HEATH

CHANGE OF USE OF LAND TO
PRIVATE GARDEN

(FULL - MINOR)

MAIN ISSUES

- Whether or not the proposal amounts to inappropriate development in the Green Belt
- The impact on the character and appearance of the area
- The impact on residential amenity

DESCRIPTION OF SITE

The site is a short distance to the west of Biddulph and is in the Green Belt. It comprises a 18 x 12 metre plot of land directly behind (to the north of) a row of houses which face Mow Lane, a country road to the south. It was part of a field which the applicant, who lives in the adjacent dwelling, had recently purchased from the farmer who owns the fields and this has been fenced off on three sides by grey painted timber post and rail perimeter fences with a height of between 1.0 and 1.5 metres and which have metal mesh panels. Extraction works have been undertaken to flatten the plot as it was on a north to south downward slope (from the fields down to the houses) and a timber boarded retaining wall forms the west side boundary and the north (rear) boundary of the plot (as land also rises towards the west as well as the north). The wall has a max height of approx. 1.75 metres.

PROPOSAL

This is a full planning application for the change of use from part of a field to a garden for the use of the owners who reside at the adjacent dwelling, 120 Mow Lane, directly to the south and which has a small rear yard abutting the plot. The application would also seek retrospective approval for the extraction and wall works undertaken. The applicant intends to grass over the plot for the purposes of using it as a garden for private outdoor enjoyment in connection with the residential property.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (Adopted September 2020)

SS10 Other Rural Areas Strategy
DC1 Design Considerations

National Planning Policy Framework – Revised July 2021

Sections 12 (Design) and 13 (Green Belts).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None.

CONSULTATIONS

Publicity

Site Notice expiry date: 27.5.21

Neighbour consultation period ends: 27.5.21

Press Advert: N/A

Public Comments

None.

Town / Parish Comments

Recommend approval subject to any valid neighbour planning concerns and that the following conditions be met 1) appropriate covenants are put in place to prevent the land being built on and 2) a habitat survey is undertaken.

Severn Trent Water

No objection.

OFFICER COMMENTS

Policy SS10, the strategy for the countryside, required strict control over inappropriate development in the Green Belt. The NPPF in paras 149 and 150 sets out the forms of development which are not deemed to be inappropriate and therefore not deemed to be harmful to the openness of the Green Belt. This includes "material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)"

It therefore can be assumed that as the application involves a change of use of land it is therefore not inappropriate development. However, the main aims of Green Belt policy include protecting their openness. Therefore the key issue is whether the proposal will impact on the openness of the Green Belt. There have been cases in the District where such changes of use have been refused as the use of private gardens can involve the placing of structures such as outbuildings and sheds and also non-fixed items such as outdoor furniture, children's play equipment, rotary dryers and other domestic paraphernalia which can, cumulatively lead to harm to the openness of a Green Belt site.

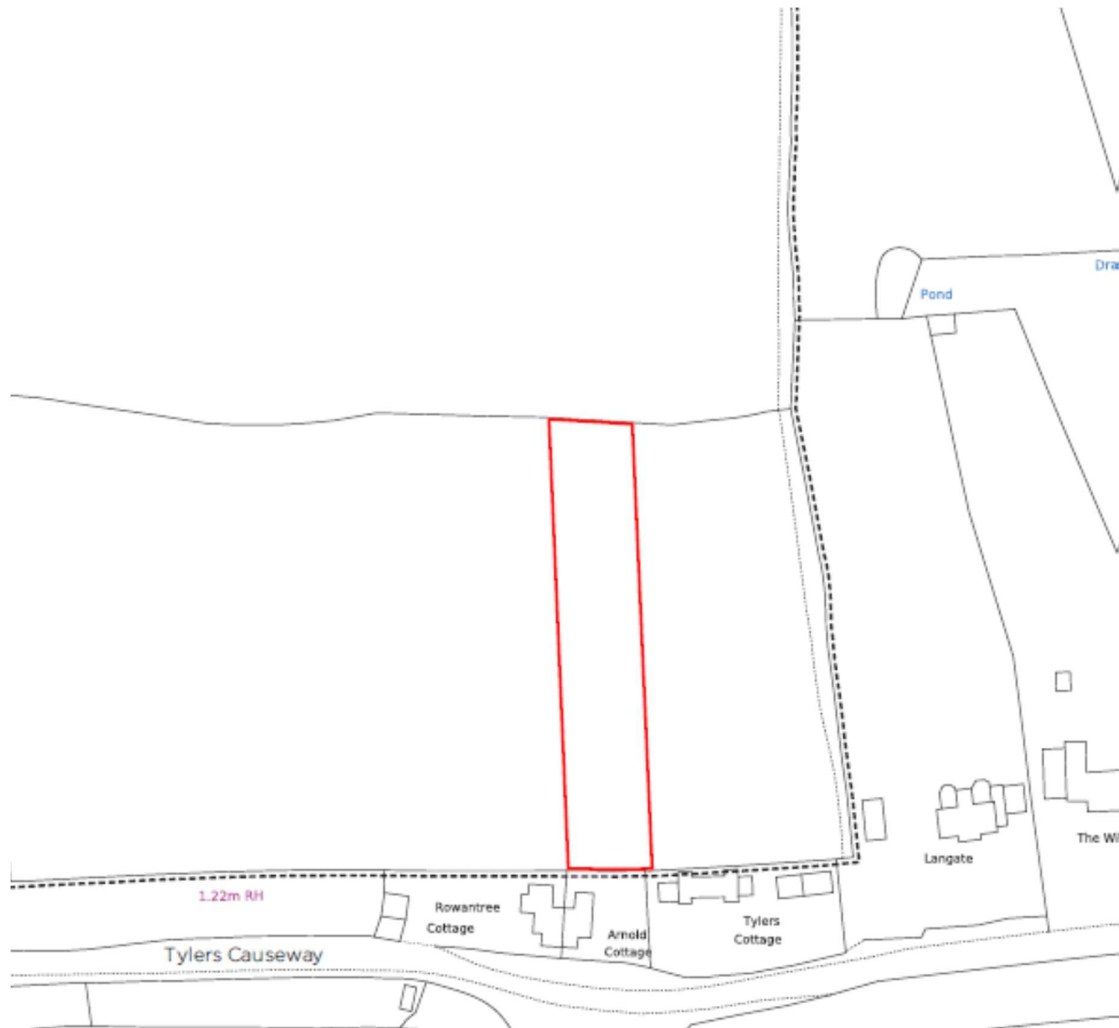
However, each case has to be judged on its own individual merits. For example, an appeal against the refusal of a change of use to a garden in Wychavon District in November 2019 was allowed (ref: 3235302) where the Inspector commented in response to the NPPF Green Belt exceptions, “I can see no apparent reason why a change of use to domestic garden, which is essentially what is proposed in the present appeal, should fall outside this category of material changes in the use of land” and granted planning permission with a condition preventing any further development under Part 1 Class E of the GPDO i.e. outbuildings.

The above case differs with the current application case in that the proposed garden, although bordering a field and already having a storage building and drive on it, was enclosed by an access track to the dwelling on one side and a country lane on the other two sides and so the Inspector considered there was no real encroachment into the countryside. A site plan is below:



However, it was the fact the Inspector considered that the principle of a change of use to a garden fell within the tests of not being inappropriate development that is pertinent in my opinion.

East Hertfordshire Council approved two neighbouring changes of use to gardens on a Green Belt field in 2013 and 2014 (refs 3/13/1437/FP and 3/14/1276/FP). One of the plots is enclosed in red and the other is the larger plot to the east of it in the following drawing:



The plots clearly encroach into open land i.e. fields and are also both considerably larger than the current application plot. It is noted that in the East Herts cases, there are existing residential gardens a short distance to the east which extend even further into the open land to the north. This is a similar situation to the current application site in Biddulph. The proposed plot encroaches slightly further into the fields to the north than the gardens immediately to the east (to the other side of a small gap) but a short distance further east along Mow Lane, the gardens extend further into the open land than the current proposed plot.

I therefore consider that this particular case would amount to a change of use which would not harm the openness of the Green Belt, if it is to be left open and free of buildings. The East Herts cases approved involved soft planting schemes and no structures. A condition can be imposed to prevent any further structures under Part 1 Class E of the GPDO and also to prevent any hard-standings and walls or fences.

However, if this proposal was deemed to impact on the openness of the Green Belt then I consider that very special circumstances do exist which outweigh the operation of Green Belt policy (in reference to the NPPF which states that

inappropriate development should not be allowed unless there are any such very special circumstances). Firstly, the applicants do not have any real current usable outdoor amenity space at the property, unlike all the other properties on the row of dwellings facing Mow Lane which have some form of usable private garden space. There is a yard area at the rear which is very small and overlaps the neighbouring property. To the front is a driveway which takes up much of the existing narrow plot. Furthermore it would not be desirable to change the front parking area into a garden as this would lead to parking on an unsuitable fairly country lane which leads into nearby Biddulph and there is already some parking congestion here. The Local Plan policies and NPPF both encourage the use of private outdoor amenity space for all dwellings in the interests of residential amenity and living conditions. The current occupants do not have that benefit hence the proposal. This was another of the reasons for approving one of the East Herts cases (note that one of the dwellings directly fronts the road). Also, the use of the front parking area as a garden would not create a very desirable or private garden area either due to the proximity of the road.

Secondly, the site is very well screened from the public realm and cannot be seen from either roads or footpaths crossing fields. It is hidden down a dip from open fields towards the back edges of residential plots. The land comprises rough farmland that the farmer clearly considered surplus to requirements. There are also several trees in this area which also screen the proposed garden in the landscape.

I consider that cumulatively, the two points above relating to lack of garden space affecting residential amenity and the very discreet positioning of the site in the landscape, amount to very special circumstances that would outweigh the particular level of harm to the openness of the Green Belt. Overall, I consider the proposal would comply with Section 13 of the NPPF.

With regard to the particular impact on the character and appearance of the area, as stated above there are more extensive rear gardens in the Green Belt vicinity than the one proposed and which back onto the open fields to the north. However, these tend to have hedges along the boundaries, in keeping with rural/semi-rural feel of the area. The current boundaries are timber post-and-rail fencing which potentially could be in keeping with the rural area but have been painted grey and have metal mesh panels giving it a more industrial appearance out of keeping with the area. However, the applicant has agreed to a condition requiring the planting of hedges along all of the field boundaries. This would also help to screen the timber retaining walls which, despite not being inappropriate development in the Green Belt (by virtue of them amounting to "engineering operations" along with the extraction works) are harmful to the character and appearance of the area (despite the well screened wider area).

CONCLUSION / PLANNING BALANCE

On balance, it is considered the proposed change of use to a residential garden would not amount to inappropriate development in the Green Belt and if it was deemed to harm openness, then I consider there are very special circumstances which outweigh the particular level of harm identified. The works that have been undertaken are also not inappropriate development in the Green Belt but are harmful to the character and appearance of the area. However, with the safeguard of

conditions to secure perimeter screen hedging to hide those works and a condition to remove permitted development rights which would normally allow garden structures to be placed on the land, I consider the proposal would not harm the openness of the Green Belt or the general character and appearance of this part of the countryside. The proposal therefore complies with the Local Plan and the government planning guidance contained in the NPPF.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Chris Johnston
Recommendation Date: 23.7.21

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council