
Delegated report Officer: Jenny Blair

Application ref. DMPA/2021/1306

Retrospective application for the change of use from agricultural field to domestic garden at The Croft, Church Broughton Road, Foston, Derby, DE65 5PW

Valid date: 14/09/2021

Consults expired: 05/10/2021

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

DMPA/2019/1052 - the erection of a new garage at The Croft, Church Broughton Road, Foston (land adjacent)

Responses to consultations and publicity

Environmental Health have no comments.

No further responses have been received.

Relevant policy, guidance and/or legislation

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD) 2017

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF) 2021
- Planning Practice Guidance (PPG)

The relevant legislation is:

- The Town and Country Planning (General Permitted Development) Order 2015 (as amended) ('the GPDO')
- The Town and Country Planning (Tree Preservation) Regulations 2012
- The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE4 (Landscape Character and Local Distinctiveness); H26 (Residential Gardens within Rural Areas).

2017 Local Plan Part 2: BNE5 (Development in Rural Areas); BNE7 (Trees, Woodland and Hedgerows);

Planning considerations

Taking in to account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- Principle of development
- Amenity

Planning assessment

The land under consideration previously formed part of a field access track with an established access on to the corner of Breach Lane and Church Broughton Road. Work has already been undertaken to remove the hedge on the northern boundary to join the land to the garden of The Croft, and this application seeks permission to permanently change the use of the land to residential thus increasing the residential curtilage of The Croft. The applicant has stated through a submitted Landscape Plan that the existing farm track access is not intended to be used as an additional access to the property, but closed up by a post and rail fence together with hedge planting to secure the boundary.

Principle of development

Policy H26 (Residential Gardens within Rural Areas) of the adopted Local Plan Part 2 allows for the change of use of land to residential garden where it does not result in detrimental domestication of the countryside within the Rural Areas. Whilst the land in question was previously agricultural land, it was adjacent to residential properties on either side of Breach Lane, and did not appear to contribute to open views of the countryside. It is considered that in this location the change of use would not result in detrimental domestication of the countryside, and that any potential future harm can be controlled by the implementation of the submitted Landscape Plan and Planting Schedule.

Amenity

The change of use from agricultural land to residential is not expected to cause harm to neighbouring properties by way of loss of amenity. It is acknowledged that a protected Ash tree (TPO 543) is located along the southern boundary adjacent to Breach Lane, but that the change of use to residential should not impact upon the long term protection of this tree.

Recommendation

Approve with Conditions

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	23/11/2021
Report agreed:	30/11/2021
Authorised officer:	Sarah Beeby
