

TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT CONTROL

Committee:	Planning
Date:	20 October 2020
Site Location:	Hillview House Brockworth Road Churchdown Gloucester Gloucestershire GL3 2NH
Application No:	20/00713/FUL
Ward:	Churchdown Brookfield With Hucclecote
Parish:	Churchdown
Proposal:	Change of use of land from paddock to garden within the residential curtilage of Hillview House, to include a small patio area.
Report by:	Dawn Lloyd
Appendices:	Drawing number B 3143 01 Site location plan, block plan proposed site layout and sections.
Recommendation:	Permit

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1. The application is retrospective as works have been undertaken to form a patio area to the rear of the detached garage. The site forms a small parcel of land the ground level has been raised to rear of the garage adjacent to the existing residential curtilage of Hillview House, Brockworth Road, Churchdown. A paddock lies to the north east of the residential curtilage, part of patio and bank was part of the paddock. The paddock is at a lower ground level and has no formal boundary treatment in the vicinity of the proposal. The site and residential curtilage site lie within the Green Belt.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
10/00785/FUL	Demolition of existing extensions and erection of single storey and two storey rear and side extensions and rendering of dwelling (Revised scheme Ref: - 10/00385/FUL).	PER	23.08.2010
16/00753/FUL	Proposed erection of a replacement garage.	PER	19.08.2016

3.0 RELEVANT POLICY

- 3.1. The following planning guidance and policies are relevant to the consideration of this application:

National guidance

- 3.2. National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) - Adopted 11 December 2017

- 3.3. Policies: SD5 (Green Belt), SD6 (Landscape)

Tewkesbury Borough Local Plan to 2011 - March 2006 (TBLP)

- 3.4. Policies: HOU10 Change of use of Agricultural Land to Residential Curtilage

Tewkesbury Borough Plan 2011-2031 – Pre-Submission Version (October 2019)

- 3.5. Policies: RES11 Change of use of agricultural land to domestic garden
- 3.6. Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)
- 3.7. The First Protocol, Article 1 (Protection of Property)

4.0 CONSULTATIONS

- 4.1. Churchdown Parish Council (in summary) - Objection The application seeks to incorporate greenbelt land within the residential curtilage of this property; this amounts to development on greenbelt land and reclassifies the status of this land (as non-green belt). This in turn may lead to applications for further development.

5.0 PUBLICITY AND REPRESENTATIONS

- 5.1. The application has been publicised through the posting of a site notice for a period of 21 days and/or the neighbour notification scheme.
- 5.2. One neighbour letter of support -The land in question is at the bottom of my garden and the small patio will be to the right hand side of my property, the position of which will cause me no issues at all and I would welcome the changes proposed.

6.0 POLICY CONTEXT

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2. The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.

- 6.3. The Pre-Submission Tewkesbury Borough Plan was submitted to the Secretary of State for Housing, Communities and Local Government on 18 May 2020 for examination. On the basis of the stage of preparation it has reached it is considered that the plan can be afforded at least moderate weight. However, the weight to be attributed to individual policies will be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and their degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.4. The relevant policies are set out in the appropriate sections of this report.

7.0 ANALYSIS

Principle of development

- 7.1 Hill View House lies outside the built up area of Churchdown in a dispersed linear form of development along the north side of Brockworth Road with agricultural land to the north and south. The land formed part of a paddock which lies to the north east of the residential curtilage which has been raised to form a patio area to the rear of the garage with views over the wider countryside.
- 7.2 Saved local plan Policy HOU 10 considers that the change of use of agricultural land to residential curtilage will not be permitted unless there is no adverse environmental or visual impact on the form, character or setting of the settlement. There is no significant encroachment into the surrounding countryside and the form of the extension is not incongruous with the character pattern of surrounding gardens.
- 7.3 Policy RES11 of the Preferred Option Tewkesbury Borough Local Plan is consistent with the above. The reason justification considers that care must be taken when assessing proposals for the extension of residential gardens into agricultural land to ensure that this does not adversely affect the environment of the area through, for example, both the domestic landscaping of the garden, but also the future introduction of features such as sheds, areas of hardstanding, drying areas or garages. It adds within the Green Belt and Area of Outstanding Natural Beauty such proposals will not normally be permitted given the objectives of these designations.
- 7.4 The rear gardens of neighbouring properties are large and extend beyond the curtilage of Hill View House. The development site is a small parcel of land, the area of paddock that would be incorporated into the curtilage measures 9.8m by 8.9m total of 87.22 sqm. The land lies to the rear of the existing garage, is not visually prominent and would form a distinct visual separation between garden and paddock due to the difference in ground level. The residential curtilage would be in keeping with character of residential curtilage of properties within the vicinity of the site. There is no significant encroachment into the surrounding countryside and no adverse environmental or visual impact on the form or character of the settlement. The proposal does comply with HOU10 in this regard.

Green Belt

- 7.5 The Government attached great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence (paragraph 133 of the NPPF). One of the purposes of the Green Belt is to safeguard the countryside from encroachment (paragraph 134 of the NPPF). Section 13 of the National Planning Policy Framework (NPPF) sets out that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 7.6 Policy SD5 of the JCS considers that development will be restricted to that which is in accordance with the NPPF. Paragraph 146 holds that engineering operations and material changes in the use of land are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The NPPF does not define openness, but the PPG provides guidance on what factors can be taken into account when considering the potential impact of development on the openness of the Green Belt. It clarifies that such an assessment requires a judgment based on the circumstances of the case. These include, but are not limited to:
- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
 - the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
 - the degree of activity likely to be generated, such as traffic generation.
- 7.7 The whole of the residential curtilage of Hill View House lies within the Green Belt. The engineering operations to raise the land on this part of the site and formation of a patio area would be located behind the existing garage and not visible from the public realm. The residential curtilage is located on slightly higher ground than the paddock. Therefore, the patio and engineering operations would be read more in conjunction with the residential use with its associated domestic paraphernalia than as agricultural field. The planning statement maintains the paddock has been used for residential amenity purposes since 2013. However, this is not authorised, is less than 10 years and is not immune from enforcement action. The authorised land use is agricultural paddock. To maintain openness of the Green Belt it is recommended that permitted development rights are removed from the application site. Taking the above into account it is considered that the proposal does preserve the openness of the Green Belt, does not conflict with one of the purposes including land within the Green Belt (i.e. to safeguard the countryside from encroachment) and would not be considered as inappropriate development.
- 7.8 One of the core planning principles of the NPPF is that the planning system should recognise the intrinsic character and beauty of the countryside. Section 11 of the NPPF sets out that the planning system should contribute to and enhance the local environment by, inter alia, protecting and enhancing valued landscapes. Policy SD6 of the JCS states that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being.
- 7.9 There is a difference in levels between the residential curtilage and the paddock. The engineering operations and patio create a more formalised area of the garden which is located adjacent to the built form of the garage. The encroachment into the paddock is relatively minor. The character of neighbouring gardens is of large plots with curtilages that extend beyond that of Hill View House. The proposal is not considered to be detrimental to the pattern of development in the vicinity of the site, the character of the paddock would be retained and therefore the proposal accords with SD6 in this regard.

8.0 CONCLUSION AND RECOMMENDATION

- 8.1. The proposal would preserve the openness of the Green Belt and does not result in significant encroachment into the countryside. The proposal does not result in adverse environmental or visual impact on the form, character or setting of the settlement, therefore recommendation is to **Permit**.

CONDITIONS:

1. The development hereby permitted shall be carried out in accordance with the following approved documents:

- Drawing number B 3143 01 Site location plan, block plan proposed site layout and sections. Except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, substituting, amending, extending, consolidating replacing or modifying that Order), no incidental buildings within Part 1, Class E of Schedule 1, and no gates, fences or walls within Part 2, Class A of the same Schedule, shall be erected on the land, except in the event that a further planning permission is expressly granted for that development.

Reason: To preserve the openness of the Green Belt.

INFORMATIVES:

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.