

**REPORT OUTLINE FOR AREA PLANNING COMMITTEES****Report No.**

<b>Date of Meeting</b>	18 May 2016
<b>Application Number</b>	16/02306/FUL
<b>Site Address</b>	Homefield 19 Bratton Road West Ashton Wiltshire BA14 6AZ
<b>Proposal</b>	Change of use of part of agricultural paddock to private garden
<b>Applicant</b>	Mr Paul Pursey
<b>Town/Parish Council</b>	WEST ASHTON
<b>Electoral Division</b>	SOUTHWICK – Councillor Prickett
<b>Grid Ref</b>	387997 155595
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Matthew Perks

**Reason for the application being considered by Committee**

This application is brought to Committee at the request of Councillor Prickett for consideration of the scale of development, the visual impact upon the surrounding area, and relationship to adjoining properties.

**1. Purpose of Report**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to recommend that the application be refused.

**2. Report Summary**

The proposal for a change of use of part of agricultural paddock to private garden space is considered in terms of the Wiltshire Core Strategy. The key policies are Core Policy 1 (Settlement Strategy) and Core Policy 51 Landscape read in conjunction with a Core Planning Principle of the NPPF (Paragraph 17 – Core Planning Principles) which recognises the intrinsic character and beauty of the countryside.

Consultee response and a neighbour objection are considered with the recommendation for refusal based on the conclusion that the change of use constitutes the domestication of the countryside without any exceptional justification.

Neighbourhood Responses: 1 neighbour objection was received.

West Ashton Parish Council: supports the proposal.

### **3. Site Description**

The application site is on land to the rear of 19 Bratton Road, West Ashton. The area of agricultural land is rectangular in shape and is approximately 700m<sup>2</sup> in extent.

### **4. Planning History**

W/88/01810/FUL Double garage : Approved

W/06/03179/FUL Two storey extension and conservatory : Approved

W/08/01981/FUL Revised scheme for extension previously approved 06/03179/FUL :  
Approved

### **5. The Proposal**

This is a full planning application for the change of use of land from agricultural to residential garden land.

### **6. Local Planning Policy**

#### **Wiltshire Core Strategy**

CP 1 Settlement Strategy

CP 51 Landscape

#### **NPPF**

Paragraph 17 : Core Planning Principles

### **7. Summary of consultation responses**

#### **West Ashton Parish Council**

The Parish highlights the planning history to the site and surrounds in particular the granting, on Appeal, of permission for the dwelling on the adjacent property to the south, following Committee refusals in 2014. The refusals were based on the anticipated impact of the new dwelling on the street scene and on neighbouring amenity due to the siting, size, height and design of the new dwelling. The Committee decisions were consistent with the Parish recommendations at the time. The Parish is of the view that the Inspector failed to take into account the loss of amenity and the general impact on Homefield (the applications site, No.19) and, to a lesser degree, Beechwood (No.17). The resultant situation with the dwelling now being built has led to this application which is supported by the Parish Council, for a change of use application from agricultural paddock to private garden. The Parish also noted

the granting of permission some 20 years ago of similar changes of use on the opposite side of Bratton road.

### **Archaeologist**

No objections

### **8. Publicity**

One neighbour response was received. Objections include:

- The application is retrospective;
- Works have been carried out far further than indicated on plans;
- The field is not laid out in paddocks as described;
- There is misleading information in form regarding the previous use;
- The overshadowing in the garden is mainly by trees and applicant's own dwelling;
- The recent refusal on adjacent site is not mentioned in application;
- The red lined application site comprises a smaller portion of land than the entire 1.37ha which has been used;
- Historically there has been encroachment into the countryside, but Policy applies and CP1 defines West Ashton as a small village which is of relevance as there is a presumption against development within the open countryside because the proposal would urbanise agricultural land. Similarly CP51 is of relevance as it seeks to maintain and promote the landscape character of the open countryside by not allowing inappropriate development.

### **9. Planning Considerations**

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

The dwelling at 19 Bratton Road is set in a fairly generous curtilage of approximately 1000m<sup>2</sup> which includes a triangular-shaped front garden area of some 33m in depth, measured from the front of the dwelling, to the road boundary. The width of the curtilage at the front of the dwelling is some 22.4m, narrowing to a street frontage width of approximately 7.4m. The driveway access runs along the southern boundary around to the rear of the dwelling where there is parking and the garage access.

The supporting documentation presents a case stating that the applicants have been content to use the front garden as the sole private garden area but that the completion and occupation of the infill residential plot adjacent to the front garden would result in overshadowing and loss of privacy through overlooking. This would reduce the usability of the garden which is the only private garden area since the rear of the curtilage is occupied by a driveway/parking area. The proposal therefore is to change the agricultural use of a 700m<sup>2</sup> area of agricultural land to the rear of the dwelling. The applicants are willing to accept a condition restricting development of the area, and the eastern extent of domestic curtilage is proposed to be demarcated by constructing inset stone setts flush with the ground.

West Ashton is classified as a “Small Village” under the Wiltshire Core Strategy where previous development limits under the old West Wiltshire District Plan have been removed, and there is “...a general presumption against development outside the defined limits of development...” which now exist for settlements higher up in the settlement hierarchy. CP 1 further states that: “Development at Large and Small Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.”

The principle of extending the residential use and domestication into the open countryside would therefore be contrary to Policy.

The supporting documentation nevertheless argues that there are particular circumstances that justify the extension of the curtilage where the new dwelling allowed under Appeal on the adjacent site has resulted in overshadowing and loss of privacy on the existing garden area to the front of the dwelling. The new dwelling is indeed set forward of No 19 relative to the street frontage, approximately in alignment with the established building line of the majority of other properties on this side of the road. At nearest, one corner of the new dwelling is some 3m from the common boundary but this distance widens towards the street frontage to 7m, with a driveway in the intervening space. There is a distance of approximately 14.3m between the new dwelling and the applicant’s dwelling.

In assessing the Appeals on the adjacent property, the Inspector confirmed that a key issue was the living conditions of neighbouring residents in respect of privacy and sunlight. He stated that:

*“No 19’s plot has a correspondingly narrow road frontage, widening out to accommodate the house at the eastern end such that its garden area is solely at the front. Its driveway runs close to the appeal site boundary serving a parking area to the southern side of the house and a garage to the rear.*

*The proposed dwelling would have a fairly modest footprint compared to others in the vicinity and would be sited with its front elevation approximately aligned with that of No 17, thereby respecting the general building line. Although it would partially obscure No 19 when viewed at an angle, that property does not feature as strongly in the wider street scene due to its significant set back. Nevertheless the proposed dwelling would not be directly in front of it and there would be a good degree of separation between the two buildings. It would also be set away from the mutual boundary with a good degree of space around it, including garden, parking and driveway areas. The dwelling would therefore not appear cramped on the site nor in terms of the relationship between it and No 19.*

And specifically in relation to overshadowing and privacy issues stated that:

*“The dwelling would cause some degree of overshadowing of No 19’s garden. However, it is a large garden area, which is also separated from the site by No 19’s driveway, and so it would be unlikely that the overall level of sunlight to the garden as a whole would be reduced to an unacceptable degree. Any proposed planting could cause a small degree of overshadowing, but again unlikely to be to a significant degree and, if anything, would still allow filtered sunlight through. The proposed boundary screen fence would not be high enough to cause substantial shadowing, especially with No 19’s driveway separating it from the main garden.*

....

*In terms of privacy, No 19 has habitable room windows facing the road, and on its southern elevation, and relies upon its front garden as the sole outdoor garden area. The proposed garden and ground floor windows would be prevented from causing direct overlooking of No 19 due to boundary screen fencing. The degree of overlooking of upper floor rooms from these spaces would be significantly restricted by the upward, and from the house, oblique, angle of view.*

.....

*The only first floor windows facing towards No 19 would be high level rooflights that would be at least 1.7 metres above floor level and so would be unlikely to cause any overlooking.”*

The new dwelling is largely complete (at the time of writing) and the use of obscure glazed windows to the skylights referred to by the Inspector confirms the situation that no unacceptable overlooking onto No.19 arises. With regard to overshadowing the existing trees within the garden itself are a significant factor in terms of shading, and the garden area closest to the dwelling and set away from the driveway would, as anticipated in the Inspector not be unacceptably impacted.

Thus, whilst noting the Parish comments on the Appeal and the opinion on the loss of amenity it is considered that the presence of the dwelling does not give rise to a degree of loss of privacy or overshadowing to the garden that would provide exceptional circumstances justifying an extension of the residential use into the open countryside to the rear of the dwelling.

A further consideration on the principle of the use is the extent to which it would protrude into the open countryside land. The observations of the Parish Council on the 1996 approvals of a series of changes of use to provide gardens to the rear of dwellings on the opposite site of Bratton Road are noted. However, in those instances a consistent approach of providing for a regular alignment of rear boundaries and a relatively well aligned edge to the village was taken.

There have been a number of subsequent applications on both sides of the road which have been refused where the result would have been an extension beyond the regular alignment to the village edge and/or a significant encroachment into agricultural land. The most recent example is to the south of the application site (rear of No.17) where an application for a change of use of 500m<sup>2</sup> of agricultural land (15/01390/FUL) was refused. That proposal would similarly have led to an intrusion beyond what a fairly well-established alignment of rear garden boundaries facing onto the countryside. Instances where permission has been granted in the vicinity have again been justified on grounds of infill where the land boundary would coincide with this alignment.

In the current application the 700m<sup>2</sup> portion of land would encroach over 22m into agricultural land beyond the existing alignment of the village edge over a width of +/- 31m. This is considered to constitute a domestication of the countryside contrary to Policy. Further, whilst precedent may not be a key consideration, approval in this instance would not be consistent and would make it difficult to resist ad-hoc applications for similar changes of use. In this regard Core Policy 51 to the WCS requires that proposals need to demonstrate that the separate identity of settlements and the transition between man-made and natural landscapes at the fringe of development have been considered. In this instance, whilst it is acknowledged that change of use of the site in isolation is unlikely to have a major impact on the character of the village fringe, the likely outcome of approval (given that there has already been an adjacent application) would be Council's inability to resist further applications with the consequent further erosion of the agricultural use. It is noted that mowing and new fencing into smaller units has already altered the subdivision and appearance of fields in the vicinity.

In view of the above it is recommended that the application be refused.

## **RECOMMENDATION**

### **Refusal for the following reason:**

1. The proposal would constitute the encroachment of a residential use and domestication onto a 700m<sup>2</sup> portion of agricultural land which lies outside of any defined development limits without any exceptional justification, with the consequent erosion of the separate identity of the countryside in an area where there is a general presumption against development. The proposal is therefore contrary to Core Policies 1 and 51 of the Wiltshire Core Strategy and Paragraph 17 of the National Planning Policy Framework.