

**Application Recommended for Approval with
Conditions**

COU/2022/0497

Coal Clough With Deerplay

Town and Country Planning Act 1990

Change of use of open land to garden

Land Off 3 Woodplumpton Road, Burnley, Habergham Eaves, Lancashire BB11
2QT

Background:

The site is an irregular-shaped area of land of approx. 300sq.m in area, to the rear of No. 3 Woodplumpton Road and to the rear of a row of garages, also on Woodplumpton Road. It has been cleared of trees and shrubs at some point in the past to enable use as garden. The land slopes down from the garden of No.3 to a small watercourse at the bottom. The applicant states that the land has been in use as garden since 4th March 2016. It is within the Development Boundary of the settlement of Burnley, as defined by the adopted Local Plan.

Proposal:

Change of use of the land to 'garden', to enable it to be used in association with the applicant's own property at No. 3 Woodplumpton Road. The site abuts the curtilage of No.3.

The application as originally submitted had the description '*Change of use of open land to enclosed garden, within the house curtilage*'. The description was changed to the current one by the Case Officer, as a grant of consent to change a use to garden does not place said land within a domestic curtilage. Fencing (as described on the application form) is ordinarily permitted development under Schedule 2 Part 2 Class A of the GPDO if no higher than 2.0m where not abutting a highway.

Certificate 'D' has been signed as the applicant does not know who owns the land. The applicant states that the requisite Notice was published in the Burnley Express on 5th August 2022.

Visuals

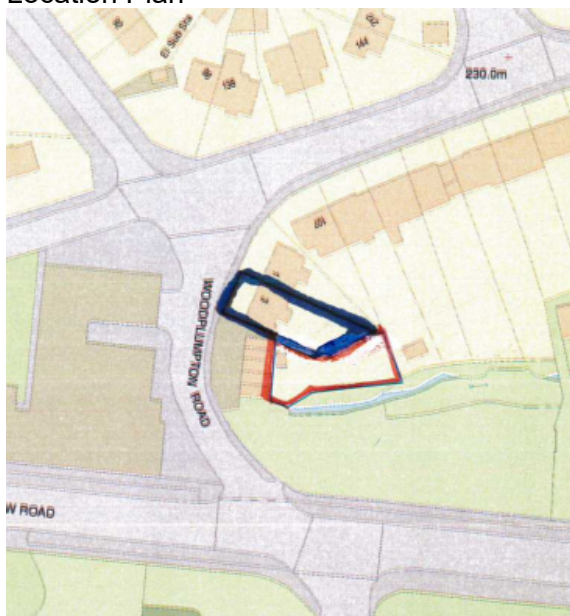
View from Highway



Google Earth Image



Location Plan



Relevant Policies:Burnley Local Plan

Policy SP4 – Development Strategy

Site History:

COU/2021/0617 – an application for ‘*Change of use of open land to enclose garden within the house curtilage*’ submitted and withdrawn prior to a decision. The site boundary is the same as that of the current application. As I understand it, this application was withdrawn due to a dispute over whether the correct Certificate was served.

Consultation Responses:

Habergham Eaves PC – no objection

Objections:

Three received to date (20.09.2022), points being:

Loss of trees and other flora has already taken place.

The proposal may lead to future loss of trees and flora, together with associated wildlife including owls.

Future loss of trees may impact upon privacy and would be of detriment to neighbour’s views.

Land subject of application not within applicant’s ownership.

Construction of a fence plus groundworks has already been undertaken by applicant.

Potential damage to bank of watercourse.

Loss of land enjoyed by children as a play area.

Article 35 Statement:

The Local Planning Authority has acted positively in determining this application, in accordance with paragraph 38 of the National Planning Policy Framework by assessing the proposal against relevant planning policies and all material considerations. The nature of the proposal has not necessitated any liaison with the applicant prior to determining to grant planning permission in accordance with the presumption in favour of sustainable development.

Planning and Environmental Considerations:

The key issues in relation to this application are:

- Principle of development
- Impact on visual amenity

Principle of development:

The land is described as being within the Development Boundary of Burnley by the adopted Local Plan. Policy SP4 of the Local Plan states that ‘*development of an appropriate scale*’ within such areas will be supported. This piece of land is approx. 300sq.m, which is in my opinion of an appropriate scale for use as part of a garden.

Impact on visual amenity:

Given that the land was cleared of trees and bushes at some point in the past (no TPO or Conservation Area restriction exists), the impact upon visual amenity likely as a result of the change of use would be minor. It should be noted that domestic permitted development rights

will not exist should the application be approved, so planning permission would be required for any operational development on the land bar fencing, thus reducing the potential for domestic paraphernalia. As can be seen from the photographs, it isn't possible presently to see the land from the public highway due to a profusion of foliage on the facing embankment.

It should also be noted that other properties on Woodplumpton Road appear to be using land beyond their curtilages in the direction of the watercourse as garden, without the benefit of planning permission or a Certificate of Lawful Use. No applications to regularise the situation have been received to date.

Recommendation:

That the application be approved subject to Conditions.

Conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on the following drawing:

Location Plan submitted 24.08.2022

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Schedule 2, Part 1, Class E other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority.
4. Notwithstanding details shown within the approved application, no works shall be undertaken to trees either on the site or adjacent and overhanging it without the prior written consent of the Local Planning Authority (LPA). Likewise no works shall be undertaken that may compromise the health of trees both on the site and adjacent to it without the prior written consent of the LPA. Any trees removed shall be replaced with others of a size, species, planting and aftercare specification to be agreed in writing by the LPA.

Reasons:

1. Required to be imposed pursuant to section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and to clarify which plans are relevant to the consent.
3. To enable the Local Planning Authority to control the development and to safeguard the character and visual amenity of the area.
4. For the protection of trees in the interests of the amenity of the local area.