

Application Ref: 22/00431/FUL

Proposal: Change of use from Agricultural Use to Residential Garden and installation of children's play equipment- retrospective

Site: 16 Russell Hill, Thornhaugh, Peterborough, PE8 6HL

Applicant: Mr and Mrs Sharpley

Agent: Mr S Machen
Barmach Ltd

Referred by: **Councillor Gavin Elsey**

Reason: Important that the personal needs of the applicant are carefully balanced against the Council's protection of open countryside policy

Site visit: 20.05.2022

Case officer: Mrs Shaheeda Montgomery

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Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and surrounding area

The application site comprises a two-storey detached residential dwelling with associated garden to the side/rear, and a parcel of paddock/agricultural land. The dwellinghouse is located within the identified village boundary of Thornhaugh, whilst the paddock land is situated outside and is therefore, in planning policy terms, located within the open countryside.

The application site is bounded by No.14 Russell Hill on its eastern side and open countryside on its south and west, with access provided via a private shared vehicular path from Russell Hill.

The site abuts the Thornhaugh Conservation Area on its south-west and is located within proximity to a number of Listed Buildings.

Proposal

The proposal seeks the benefit of planning permission for the retrospective extension of the residential garden of the dwellinghouse into the open countryside and the installation of children's play equipment within that garden extension.

2 Planning History

Reference	Proposal	Decision	Date
18/00281/HHFUL	Single storey rear extension	Permitted	13/04/2018
12/01882/HHFUL	Two storey extension	Permitted	03/04/2013
07/01268/FUL	Two dwellings	Permitted	05/02/2008

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Planning (Listed Building and Conservation Areas) Act 1990

Section 66 - General duty as respects listed buildings in exercise of planning functions

The Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

Section 72 - General duty as respects conservation areas in exercise of planning functions.

The Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area or its setting, or any features of special architectural or historic interest which it possesses.

Peterborough Local Plan 2016 to 2036 (2019)

LP02 - The Settle Hierarchy and the Countryside

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

LP11 - Development in the Countryside

Part A: Re-Use and Conversion of Non-Residential Buildings for Residential Use in the Countryside- Change of use proposals will be supported provided that the use has not ceased, for agricultural buildings they were not constructed in the last 10 years, no more than 3 units would be created, significant reconstruction is not required and there are no fundamental constraints to delivery or harm arising.

Part B: Replacement of Permanent Existing Dwellings in the Countryside- Proposals will be supported provided that the residential use has not been abandoned, it is a permanent structure and the dwelling is not of architectural or historic merit. The replacement dwelling should be of an appropriate scale and design and is located on the site of the original house (unless suitable justification is provided).

Part C: Mobile Homes/Temporary Dwellings in the Countryside- Applications will be considered in the same way as permanent dwellings.

Part D: New Dwellings in the Countryside- Permission for a permanent dwelling in the countryside for an agricultural worker will only be granted to support existing agricultural activities on a well established agricultural unit subject to demonstration of a functional need which cannot be met by an existing dwelling or conversion.

Part E: The Rural Economy- Development involving the expansion or conversion of an existing employment use/building or use for tourism/leisure will be supported provided it is an appropriate scale, would not adversely affect the local community/services and would not cause harm to the character of the area and would be accessible.

Part F: Protecting the Best and Most Versatile Agricultural Land- Proposals should protect this land to ensure the continuation of the agricultural economy. With the exception of allocated sites proposals affecting this land will only be accepted if there is lower grade land available, the impacts have been minimised through design solutions and where feasible the land is restored when the development ceases.

Part G: Agricultural Diversification- Proposals will be permitted provided that the location and scale are appropriate for the use and the scale is appropriate for the business.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

LP27 - Landscape Character

New development in and adjoining the countryside should be located and designed in a way that is sensitive to its landscaping setting, retaining and enhancing the landscape character.

4 Consultations/Representations

PCC Conservation Officer (31.05.22)

Objection - The approach to Thornhaugh from the west is positive, with No.10 & 12 prominent in the view and a clear boundary between the village and its agricultural surroundings. There is a concern that this proposal will blur the existing clear separation.

The existing access from Russell Hill to No14 & 16 is considered poor and detracts from the approach due to its construction which clearly denotes in fill development in a linear village. The proposed expansion of the domestic curtilage will be clearly visible and exacerbate the impact of the access which at the moment would have the advantage of in part appearing as an access to the agricultural fields if the domestic element was removed.

Thornhaugh Parish Council (24.05.22)

Objection - The proposed garden area is outside of the village envelope and, once again, agricultural land is being eroded. This objection is consistent with the Parish Council's approach to other requests from residents to develop domestic areas outside of the village envelope (e.g. refusal by the City Council to grant change of use for land adjacent to 18 Meadow Lane) and is consistent with the City Council's own study relating to the local environment and protection of villages in conservation areas.

PCC Tree Officer (12.05.22)

Objection - The above site is not within the Thornhaugh Conservation Area, however, it is situated

immediately adjacent to part of its western boundary and has a detrimental visual impact on it. Insufficient information has been submitted to make an informed decision/recommendation. Details of the existing hedge on the southern boundary of the site are required and please request or condition that full and detailed landscaping scheme is submitted for consideration, including a mixed native hedge to the southern and western boundaries consisting of a double staggered row, with 5 plants per metre with a number of suitable and appropriate individual specimen, native tree species planted adjacent to the hedge along both boundaries, to offer some screening and enhancement to the site on the edge of the Thornhaugh Conservation Area and from the adjacent open countryside and from long views from the south in particular.

Local Residents/Interested Parties

Initial consultations: 4
Total number of responses: 2 (including Parish Council)
Total number of objections: 1
Total number in support: 1

No representations have been received from local residents with regards to this application.

Councillor Elsey has expressed his support for the proposal as follows:

It is important that the personal needs of the applicant are carefully balanced against the Council's protection of open countryside policy in this instance. The proposal relates to a small area of land and the proposed change of use is reversible as it does not involve physical development.

5 Assessment of the planning issues

Main considerations are

- Principle of development
- Design and impact on the character and appearance of the site and surrounding area
- Neighbour amenity

a) Principle of development

As detailed above, the application seeks retrospective consent for the extension of the residential garden of No.16 Russell Hill beyond the confines of the village boundary into the open countryside as well as the installation of play equipment which is a sizeable installation with a significant degree of structure and permanence. The piece of land identified by this change of use application is 17.9m wide and 44.8m in length, with a total area of some 730 sqm, which effectively doubles the residential curtilage of No.16 Russell Hill.

Policy LP2 of the Peterborough Local Plan sets out the spatial strategy for Peterborough in terms of the location and scale of new development. It is explicit and unequivocal in what development is acceptable within the open countryside. The policy states that development in the countryside will only be acceptable if it meets certain specified criteria as follows:

- is demonstrably essential for the effective operation of local agricultural (and other similar countryside uses);
- residential development which meets the exceptions test of Policy LP8 of the Local Plan;
- development which accords with Policy LP11; or
- minerals and waste development which accords with the Minerals and Waste Local Plan.

The proposal does not meet any of the above criteria.

The policy goes on to state that 'All other residential development outside of village envelopes ... will, by definition, be contrary to the vision, objectives, development strategy and policies of this Local Plan, and should be refused, unless otherwise acceptable within a made Neighbourhood Plan.'

Officers are of the view that garden land associated with a dwelling is residential development and therefore, the current proposal is by definition, wholly contrary to the adopted Local Plan. Indeed, the Local Planning Authority has issued a reason for refusal on this basis for a similar scheme at a site in Thorney (application reference 19/01511/FUL), and the refusal was then upheld by the Planning Inspectorate.

As Members will be aware, applications which are contrary to the Local Plan should be refused unless there are material considerations which dictate otherwise. The Applicant contends that there is such a consideration in this case.

The Applicant has presented the Local Planning Authority with an Education, Health and Care (EHC) Assessment, (presented to committee members as an exempt annexe) and stated that the garden extension and associated play equipment are necessary for the use of a dependant family member to meet their specialist health needs. It is their view that the needs of the Applicant outweigh the harm caused by the departure from the Local Plan.

Whilst Officers are sympathetic to the Applicant's personal situation, it is considered that the submitted report does not make any recommendations for a larger outdoor space or play facility such as comprises the proposal, nor does it adequately demonstrate that the use of this particular site and its scale could be justified for this reason. Accordingly, Officers consider that there are no evidenced overriding personal circumstances which weigh in favour of allowing a departure from the Local Plan.

Taking the above into account, as the residential development is outside the village envelope of Thornhaugh, and there are no overriding material considerations, it is by definition, contrary to the vision, objectives, development strategy and policies of the Local Plan. Therefore the principle of development cannot be justified, and the proposal is unacceptable.

b) Design and impact on the character and appearance of the site and surrounding area

The application site abuts the Thornhaugh Conservation Area. Therefore, special consideration has to be given to the impact that the development has upon the character and setting of the surrounding area under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which places a statutory duty upon the Local Planning Authority to ensure that all new development either preserves or enhances Conservation Areas.

In addition, the site is located within proximity of a number of Listed Buildings. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty upon the LPA to ensure that all new development either preserves or enhances the special features of such buildings, including their settings.

These duties are reinforced through the local and national planning policies which attach significant weight to the need to protect designated heritage assets. For the above reasons the Council's Conservation Officer was consulted and has raised objection to the retrospective development as well as the proposed change of use.

In addition, the site forms part of the open countryside and abuts the village edge. As such, the view of the Council's Tree Officer in terms of landscape impact has also been sought.

The existing village boundary is considered to be well defined with clear separation between the built form of the village and the agricultural land surrounding. The spatial policies of the Local Plan seek to prevent encroachment of development into the open countryside owing to the harm that it causes to the landscape character of areas.

The extension of the garden land in this instance appears a stark and obvious encroachment beyond the village boundaries which is incongruous and at odds with the village edge. The garden

extension results in residential garden land extending beyond the existing mature hedgerow which forms the lawful and original western boundary of No.16 Russell Hill, and is the clear limit of the built form of Thornhaugh. This reads in the context of the village as a visually harmful element and the token landscaping undertaken by the Applicant does little, and would do little, to screen this.

In addition, the harm is exacerbated by the introduction of the play equipment, which adds residential clutter and unnecessary proliferation of structures in the open countryside which does not appear to be related to any residential dwellings owing to the separation between the enlarged garden and the dwelling it serves. The development is considered to result in an erosion of the clearly defined residential boundaries and appears wholly incongruent and out of place.

Policy LP27 of the Local Plan states that in considering the impacts of a proposal, the cumulative as well as the individual impacts on the landscape will be considered. Officers consider that the development results in significant harm to the setting of Thornhaugh and the Conservation Area. The landscaping undertaken by the Applicant will take a considerable time to mature, and even then, would not adequately mitigate the harm to the village edge.

The harm to the Conservation Area is considered to fall within the category of 'less than substantial', which is not to say that the harm is not considerable. The National Planning Policy Framework requires that where a development proposal leads to less than substantial harm, this should be weighed against the public benefits of the proposal. Officers are of the view that there are negligible public benefits arising from the development. The main benefit is to the Applicant and their dependent. This is not considered to outweigh the harm to the Conservation Area or wider visual amenity of the area.

Given the above it is considered that the retrospective installation of the play equipment and the change of use, are contrary to Policies LP16, LP19 and LP27 of the Peterborough Local Plan (2019) and Chapter 16 of the NPPF (2021).

c) Neighbour amenity

Considering the size, scale and siting of the play equipment the installation is not considered to result in overbearing, overshadowing or loss of privacy impact on occupiers of neighbouring properties. The development is also sited a sufficient distance from neighbours so as to not result in undue noise or general disturbance, and for this reason it is considered that the proposal would accord with Policy LP17 of the Peterborough Local Plan (2019).

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The case officer recommends that Planning Permission is **REFUSED** for the following reasons:

- R 1 The development represents extension and encroachment of the residential curtilage of the property known as 16 Russell Hill, Thornhaugh, into the open countryside for domestic purposes. The proposal results in unacceptable erosion of the open countryside for residential purposes that have not been adequately demonstrated as being essential. Accordingly, the development is wholly contrary to the vision, objectives, development strategy and policies of the adopted Peterborough Local Plan (2019), specifically Policy LP2.

- R 2 The extended residential garden and children's play equipment is of a size, scale, appearance, design and siting that results in unacceptable encroachment of built development beyond the settlement boundary of the village and into the open countryside. The development appears unduly stark, awkward and incongruous, blurring the separation between residential curtilage of the village and open countryside and at odds with the character and appearance of the locality. The development harms the visual amenity and character of the area, and the setting of the village, including the Thornhaugh Conservation Area. The development is therefore contrary to LP16, LP19 and LP27 of the Peterborough Local Plan (2019) and Chapter 16 of the National Planning Policy Framework (2021).

Copy to Councillors- Cllr Gavin Elsey

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