

Application Number:	2018/0472	Application Type:	Full
Proposal:	Change of use of land to private garden, including boundary treatment	Location:	Land adj to 10 Fallbarn Crescent Rawtenstall
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	03 January 2019
Applicant:	Mr W Skillings	Determination Expiry Date:	18 January 2019
Agent:			

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	
Other (please state):	Council owned land

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

Approve subject to the conditions set out in Section 10 of the report.

2. SITE

The applicant resides in a semi-detached house on the corner of Fallbarn Crescent and Yarraville Street.

The garden of this property projects further north than do the gardens of the neighbouring properties as a result of a previous purchase of Council-owned land of irregular shape, upon which

a double-garage was constructed with hardstanding to its front enabling vehicles to turn and exit to Fallbarn Crescent in forward gear.

The current application relates to a further piece of Council-owned land with a 9.5m frontage to Fallbarn Crescent and a depth of 12.5m. The applicant has formed a gate from the existing garden to this area and has begun works within it, including levelling/stoning-up and removal of trees & other vegetation, leaving a belt of trees/shrubs on the road frontage which screens the area from public view.

The application site forms part of an extensive area of woodland owned by the Council which slopes down to the Fallbarn Road/Bocholt Way junction.

None of the trees still on or bounding the application site has the protection of a Tree Preservation Order. However, whilst the applicant's house and those neighbouring it lie within the Urban Boundary of Rawtenstall, the previous extension of garden and that for which permission is now sought relate to land beyond the Urban Boundary and forming part of a Greenland.

3. RELEVANT PLANNING HISTORY

2001/0159 Dining room and porch extension and detached garage - 10 Fallbarn Crescent
Approved 19/06/01

4. PROPOSAL

As first submitted the application sought Permission to remove the remaining trees/shrubs and level the area to extend the garden, entailing:

- construction of a gabion-wall of up to 1m in height on the Fallbarn Crescent frontage;
- erection of a 1.8m high vertical-boarded timber fencing around all 3 sides of the garden extension;
- erection a greenhouse in the NW corner of the site and a garden shed in the SE corner
- extension of the existing drive into the area, with the rest of the land to be used for storage and vegetable plots.

The applicant was advised that to replace the trees/shrubs on the Fallbarn Crescent frontage with a gabion-wall topped by 1.8m high fencing would unduly detract from the street-scene.

The applicant has submitted an amended drawing that retains trees/shrubs on the Fallbarn Crescent frontage and allows for extension of the garden behind them without need of the gabion-wall. Furthermore, between the existing trees/shrubs and the new 1.8m high timber fence to bound the garden extension a hedge of holly and privet is to be planted.

The Application is accompanied by a Design & Access Statement that acknowledges "*the existing dense undergrowth, which restricts views into the site, will be replaced by more formal garden treatment*" but states:

- The existing garden offers limited scope for growing vegetables.
- The site forms a small part of a much larger wooded copse and what is proposed will not increase the prominence of the site due to retention of the surrounding trees.
- The trees within the site are poor specimens and of non-native species.

5. POLICY CONTEXT

National

National Planning Policy Framework

- Section 2 Achieving Sustainable Development
- Section 4 Decision Making
- Section 6 Building a Strong, Competitive Economy
- Section 9 Promoting Sustainable Transport
- Section 11 Making Effective Use of Land
- Section 12 Achieving Well Designed Places
- Section 15 Conserving and Enhancing the Natural Environment

Development Plan Policies

Rossendale Core Strategy (2011)

- AVP4 Area Vision for Rawtenstall, etc
- Policy 1 General Development Locations and Principles
- Policy 17 Rossendale's Green Infrastructure
- Policy 18 Biodiversity, Geodiversity and Landscape Conservation
- Policy 23 Promoting High Quality Designed Spaces
- Policy 24 Planning Application Requirements

Other Material Considerations

National Planning Practice Guidance

6. CONSULTATION RESPONSES

Consultee	Comment
RBC Tree Consultant	Objection to the scheme as first submitted.

7. REPRESENTATIONS

To accord with the General Development Procedure Order a site notice was posted and letters were sent to neighbours.

No comments have been received.

8. ASSESSMENT

The main considerations in determining the application are:

- 1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; 4) Access, Parking and Highway Safety

Principle

The site lies outside the Urban Boundary and forms part of a Greenland - areas which Policy 17 of the Core Strategy seeks to protect for their amenity, recreation and nature conservation value, contribution to landscape character and to act as 'breathing spaces' for more built-up areas.

It is the case that under Application 2001/0159 permission was granted for erection of a double-garage within Countryside/Greenland, delivering a highway safety benefit as it was fronted by the hardstanding to enable vehicles to turn and exit to Fallbarn Crescent in forward gear. The current proposal delivers no such benefit.

Visual Amenity

As first submitted the application proposed to replace the trees/shrubs on the Fallbarn Crescent frontage with a gabion-wall topped by 1.8m high fencing. The Council's Tree Consult had objection to the loss of this tree-cover and the proposed gabion-wall topped by 1.8m high fencing was considered to unduly detract from the street-scene.

The applicant has now submitted an amended drawing that retains trees/shrubs on the Fallbarn Crescent frontage and allows for extension of the garden behind them without need of the gabion-wall. On this basis the proposed extension of garden (entailing erection of a 1.8m high timber-boarded perimeter fence, fronted by a new hedge) will not form an unduly prominent or intrusive feature in the street-scene.

The scheme is considered acceptable in terms of visual amenity.

Neighbour Amenity

The proposed dwelling will not detract to an unacceptable extent from the light/outlook/privacy neighbours of nearby dwellings currently enjoy or could expect to enjoy.

The scheme is considered acceptable in terms of neighbour amenity.

Access and Parking

The proposal has no implications for highway safety.

Conclusion

On balance, it is considered appropriate for permission to be granted.

Whilst the proposal entails a small part of a Greenland being taken into a private garden, the scheme has been amended to retain existing trees/shrubs on the Fallbarn Crescent frontage. Consequently, the garden extension will not detract to an unacceptable extent from the character and appearance of the area.

9. SUMMARY REASON FOR APPROVAL

Notwithstanding that the proposal entails a small area of land that is Greenland/beyond the Urban Boundary becoming private garden, subject to the conditions, the proposal will not detract to an unacceptable extent from the character and appearance of the area, neighbour amenity, trees & ecology or highway safety. The proposal is considered to accord with the National Planning Policy Framework and Policies AVP4 / 1 / 17 / 18 / 23 / 24 of the Council's adopted Core Strategy (2011).

10. RECOMMENDATION

Approve subject to conditions.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

2. The development shall be carried out in accordance with the following unless otherwise required by the conditions below :

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Location Plan	-	17 / 09 / 18
Existing Site Layout	Rev A	06 / 12 / 18
Proposed Site Layout	Rev A	06 / 12 / 18
Cross Sections	Rev A	06 / 12 / 18

Reason: To define the permission and in the interests of the proper development of the site.

3. In the first planting season following erection of the 1.8m high fence hereby permitted the hedge indicated on the approved drawings to front it shall be planted and it and the existing trees/shrubs between it and Fallbarn Crescent shall be maintained to a height not less than that of the fence.

Reason: In the interests of visual amenity.

4. No tree removals or vegetation clearance required to facilitate the scheme should be undertaken during the optimum period for bird nesting (March to July inclusive), unless immediately prior to the commencement of these works a suitably qualified Ecologist has done a survey of the site and has provided the Local Planning Authority with written confirmation that there will be no disturbance of nesting birds.

Reason: All nesting birds, their eggs and young are legally protected.