

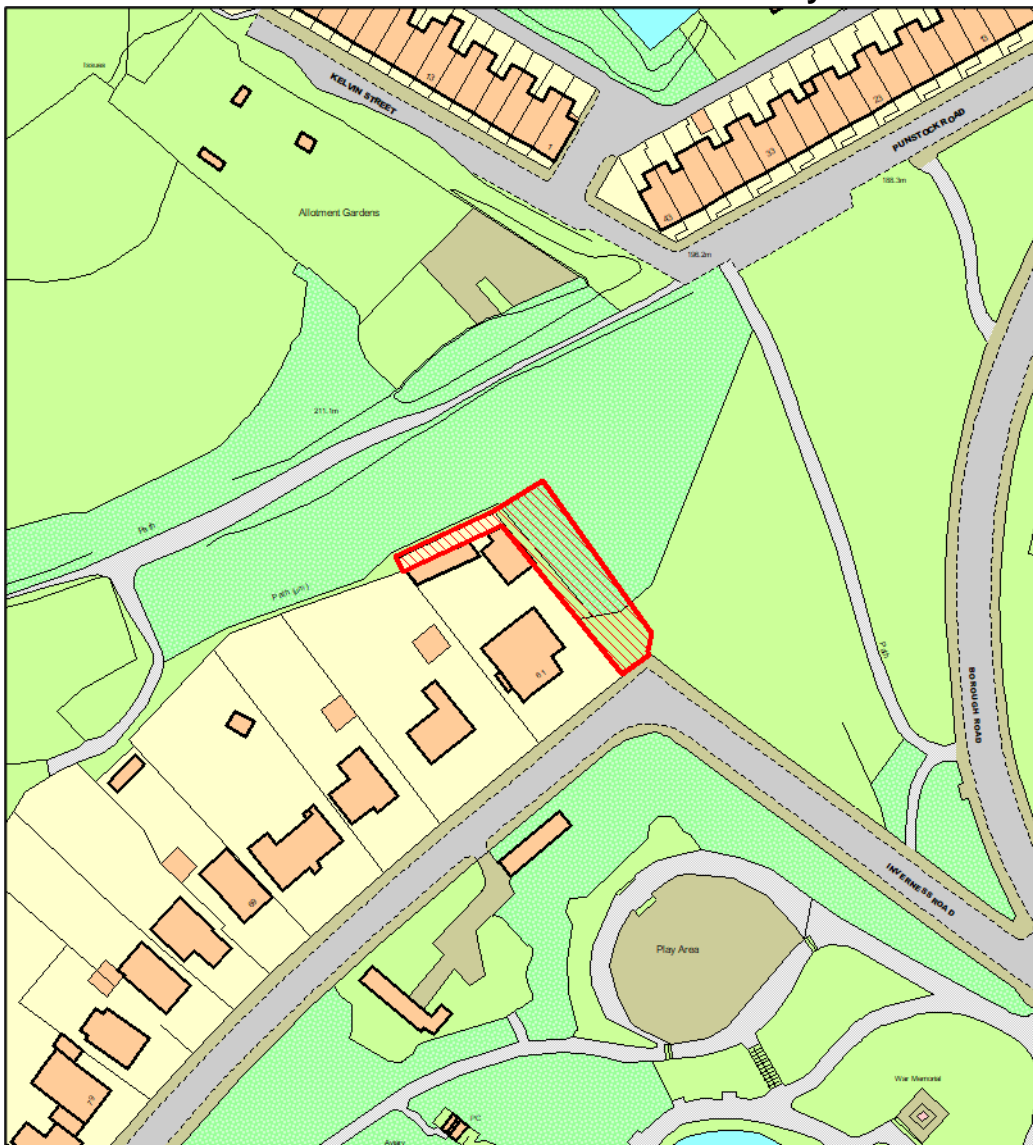
Proposed development: Full Planning Application (Retrospective) for Change of use of land to residential garden (C3) (retrospective)

**Site Address:
Newlands
61 Manor Road
Darwen
BB3 2SN**

Applicant: Mr Sergio Arnone

Ward: Darwen West

**Councillors Dave Smith, Stephanie Brookfield,
Councillor Brian Taylor**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to conditions, as set out in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The application is presented to the Committee in accordance with the Scheme of Delegation of the Council's constitution, in which the applicant of the application is related to an Officer at the Council within the Growth & Development Department and the application is also part retrospective.
- 2.2 The land to the east side of the residential property; No.61 Manor Road, Darwen, subject of this application was sold to the applicant by the Council's Property section in September 2023.
- 2.3 The land to the north/rear of the application site was gained by adverse possession by the applicant through the relevant legal recourse with the Land Registry.
- 2.3 Planning Enforcement colleagues visited the site in January 2024 following complaints received in December 2023, regarding the installation of CCTV equipment on the temporary heras perimeter fencing.
- 2.3 The applicant was advised by enforcement colleagues the change of use of land to residential garden (Use Class C3) would require the benefit of planning permission.
- 2.4 Following the site visit, the applicant submitted a planning application on 23rd January 2024 for '**change of use of land to residential garden (C3) (Retrospective)**'. However, the application was initially invalid and was made valid on 6th March 2024.
- 2.5 Internal dialogue with the Council's Property Team has confirmed the land to the east has been sold to the applicant, therefore the correct Certificate has been signed on the application form and the application is valid and procedurally correct in accordance with the statutory requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2.6 The application is limited to the area defined by the red edged location and site plans; being the area proposed as additional garden space associated with No.61 Manor Road, Darwen.
- 2.7 The key issues in the assessment of the application are the impact of the development on neighbouring amenity, landscape character and highway safety. In arriving at the recommendation, all material matters have been

considered, in the context of relevant Development Plan policies and The Framework, as set out in the Assessment section of this report. It is considered, on balance, that the development is consistent with those policies.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site relates to a parcel of land to the north and east of No.61 Manor Road, Darwen, as defined by the submitted red edged location and site plans.

3.1.2 The parcel of land is described as scrubland on the application form. It was, up until the involvement of the applicant, mostly covered by soft landscape and shrubbery and formed part of the Borough Road open space as identified on the Policies Map. This is supported by Google earth imagery (see extract below).

3.1.3 The wider area is characterised by its urban pattern, featuring residential dwellings to the west and Bold Venture Park to the south.



Google earth view of the application site (March 2023)



Google earth view of the application site (September 2021)

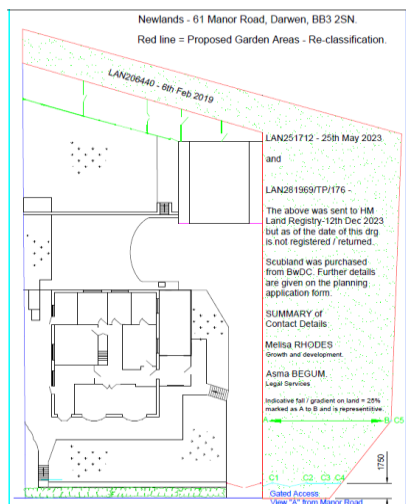


Google aerial imagery of application site to the side and rear of No.61 Manor Road.

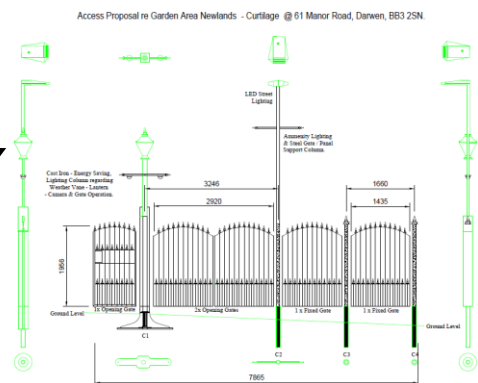
3.2 Proposed Development

3.2.1 A change of use of land to residential garden and erection of gates/lighting columns to the front associated with No.61 Manor Road is proposed. No other building operations are proposed. At the time of the Case Officer's site visit it was noted temporary heras fencing was in situ. The fencing providing an indication of the extent of land acquired by the applicant and subject of this application.

3.2.2 The proposed change of use of the land would adjoin the existing side/rear of the domestic garden area, as set out in the location plan below.



Proposed plans





Photos taken at the time of the Case Officer's visit – 28th February 2024.

3.2 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises The Blackburn with Darwen Borough Council Local Plan 2021 – 2037. In assessment of the proposal, the following are the most relevant policies:

- Policy CP1 – A Balanced Growth Strategy
- Policy CP2 – The Spatial Approach
- Policy CP8 – Securing High Quality and Inclusive Design
- Policy CP9 – Transport and Accessibility
- Policy DM02 – Protecting Living and Working Environments
- Policy DM10 – Residential Gardens and Boundaries
- Policy DM15 – Protection and Enhancement of Wildlife Habitats
- Policy DM19 – Development of Open Spaces
- Policy DM27 – Design in New Developments
- Policy DM29 – Transport and Accessibility

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework) (December 2023)

3.4.2 National Planning Policy Guidance (NPPG)

3.5 Assessment

3.5.1 In assessing this full application the following important material considerations are taken into account:

- Principle of the development
- Amenity impacts
- Design/character and appearance impacts
- Environmental impacts
- Highway considerations

3.5.2 Principle

3.5.3 As a site located within the Urban Area of Blackburn with Darwen, the development is consistent with Policy CP2 of the Development Plan which state that the urban area is the preferred location for new development. In land terms use, therefore, the principle of a change of use to residential garden is supported.

3.5.4 The principle of the development is also accepted, in accordance with the NPPF's presumption in favour of sustainable development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified, subject to assessment of the following matters:

3.5.5 Amenity

3.5.6 Assessment of visual amenity impact of the development is a key consideration. The Council has a bespoke policy for residential curtilage development, in order to protect the character of an area from the unacceptable introduction of domestic features and maintain land to an otherwise unaltered area. Policy DM10 sets out the following requirements:

1. *Outside the urban boundary, an extension to a residential garden or boundary will only be permitted where it will not, in isolation or in combination with other committed or completed development, lead to any detriment to visual amenity or to the character of the surrounding landscape. In appropriate cases, the Council will remove permitted development rights in order to protect the character and amenity of the landscape.*

2. *Proposals to extend a residential garden within the urban boundary will be assessed against all other relevant policies of the plan. All proposals will consider issues around privacy, overlooking and amenity, and should be of appropriate scale or size for the area.*

3.5.7 To the east and north of the site lies Borough Road green open space. At its widest point to the side/rear of No.61 Manor Road, the proposed change of use to be incorporated within the garden area would measure circa 13m wide. The depth of the land to the rear to be incorporated as garden would measure circa 2.1m depth and measure the full width of the existing rear boundary circa 19m. Both the rear and side elements would form a 'wrapround'.

3.5.8 A fencing/boundary treatment plan would be appropriately conditioned to be discharged within 6 months of the decision. Upon adequate discharge and implementation, the proposal would not be to the visual detriment of the surrounding area and would integrate appropriately in its setting. As such, for this reason it is considered that no significant detriment to visual amenity or landscape character arises as a consequence of the development.

3.5.9 Further, should permission be granted, it is considered prudent to remove permitted development rights relating to development within the curtilage of a dwellinghouse and minor operations, in order to control future development of the site. This will ensure the land would retain its open landscape and not be open to household paraphernalia associated with residential dwellings i.e. outbuildings/hard surfacing/ additional fencing etc. This would be secured through application of an appropriately worded condition.

3.5.10 Safeguarding amenity should also be considered in the context of Policy DM02, which requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise or other nuisance, privacy, light dominance etc.

3.5.11 The application site is isolated from nearby dwellings and the only residential dwelling that has a direct relationship is No.61 Manor Road with the parcel of land and therefore the proposal would not cause any unacceptable amenity impacts upon neighbouring occupants in terms of loss of privacy/light etc. The proposal therefore appropriately complies with the amenity consideration raised on point 2 of DM10. Further, upon implementation of an appropriate boundary treatment plan to replace the temporary heras fencing the land would be adequately screened to ensure neighbouring amenity is not compromised.

3.5.12 Design/Character and Appearance

3.5.13 Policy DM27 of the LP requires new development to achieve a high quality, sustainable design, with 10 specific characteristics outlined in point 1 of the policy.

3.5.14 Upon receipt of an appropriate boundary treatment plan to be implemented, it is not considered the proposal would form an obtrusive feature nor will it appear as an incongruous addition. Overall, the site would be aesthetically pleasing and can be considered a positive contribution to the local area given the land would be maintained on a regular basis by the applicant. The removal of PD rights will ensure the land would be retained as landscaped area and therefore visual amenity would not be compromised.

3.5.15 Environmental Impacts

3.5.16 Policy CP6 of the Local Plan (2021-2037) 'The Natural Environment' states that the Council want to take urgent action to conserve the natural environment – to sustain and enhance habitat and species and deliver multifunctional benefits and natural capital. Furthermore, Policy DM15 states that development should be designed to protect and enhance existing habitats and ecological networks, including wildlife corridors and stepping stones. Development should minimise any potential disturbance to species and habitats.

3.5.17 The application site is within the urban area and forms part of Borough Road's open space. Bio-diversity net gain (BNG) requirements for small sites were nationally adopted on 2nd April 2024. Given the application was submitted well in advance of this national adoption date for small sites and the adoption date of the Council's BNG Planning Advisory Note (March 2024), a pragmatic view must be taken and therefore it is not considered appropriate to apply BNG requirements to this application.

3.5.18 Highways

3.5.19 Policy DM29 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced. No public rights of way or adopted footpaths run through the site.

3.5.20 The proposal would introduce gated railings to the front as set out in the plan below, however these have been set-back adequately from the adjacent highway in line with the gates leading to No.61 Manor Road therefore this ensures there would be no conflict with road safety of highway users nor sightlines would be compromised as a result of the proposal.

3.5.21 Highway impacts arising from the development are, therefore, found to be acceptable and in accordance with the requirements of Policies CP9, DM29.

3.5.22 Summary

This assessment takes into account a range of material matters associated with the full planning application for change of use of land to domestic garden, to the rear and side of No.61 Manor Road, Darwen. The application is considered to demonstrate compliance with the Development Plan and The

Framework, subject to imposition of conditions in order to make the development acceptable in planning terms.

4.0 RECOMMENDATION

4.1 APPROVE

Delegated authority is given to the Strategic Director of Growth & Development/Deputy Chief Executive to approve planning permission, subject to the following conditions:

1. 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 drawings received on 23rd January 2024 and 4th March 2024 numbered Location Plan, 70-C-07-03, 70-C-07-01C.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

2. The use of the land hereby permitted, as defined by the red edged site plan numbered 70-C-07-01C received on 4th March 2024, shall be for the sole benefit of householders residing at 61 Manor Road, Darwen, BB3 2SN and for no other purpose.

REASON: In order to safeguard the amenities of the adjacent householders and the area generally, in accordance with Policy DM02 of the Blackburn with Darwen Borough Local Plan 2021-2037.

3. Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no development of the type specified in Classes A-G of Part 1 of that Schedule or Class A of Part 2 of that Schedule shall be carried out unless planning permission has been granted first.

REASON: To ensure enhanced control over future development of the properties; in the interests of preserving residential amenity and the area generally; in accordance with Policies DM02 and DM27 of the Blackburn with Darwen Borough Local Plan 2021-2037.

4. Within 6 months of the date of this decision a scheme detailing the siting and appearance of a boundary treatment to replace the temporary heras fencing shall be submitted to an approved in writing by the Local Planning Authority. The boundary treatment shall be implemented within 6 months of the date of discharge in accordance with the approved details and remain in perpetuity.

REASON: In the interests of residential and visual amenity, in accordance with the requirements of Policies DM02 and DM27 of the Blackburn with Darwen Borough Local Plan 2021-2037.

5.0 PLANNING HISTORY

- 5.1 10/05/0377 – Proposed conservatory – approved subject to conditions on 01/06/2005.
- 5.2 10/15/0441 - To form New Proposed Dwelling to Land at 61 Manor Road – Refused on 27/08/2015.
- 5.3 10/16/0006 - Re-submission - conversion of existing garage to create one single dwelling – Refused on 19/04/2016.
- 5.4 10/17/0240 - Demolition of existing garage and outbuilding and the erection of a single dwelling – Refused on 05/05/2017 – appeal dismissed on 08/02/2018.
- 5.5 10/17/0876 - Proposed demolition of existing garage and outbuildings to allow for construction of residential annex to main dwelling – approved subject to conditions on 11/09/2017.
- 5.6 10/19/0256 - Demolition of existing garage and outbuildings and erection of a new dwelling. – Refused on 20/05/2019 – appeal dismissed on 04/11/2019.

6.0 CONSULTATIONS

- 6.1 Public consultation has taken place, with 3 letters posted to neighbouring addresses on 6th March 2024. Additionally, a site notice was displayed. No representations have been made received.
- 6.2 In addition to neighbour consultation, 3 statutory consultees were consulted:

Public Protection – no objections.

Property Team – no objections.

Darwen Town Council – no response received.

7.0 CONTACT OFFICER: Adam Shaikh, Planning Officer

8.0 DATE PREPARED: 2nd April 2024.