

TWC/2025/0653

Land adjacent Hillside, Middle Lane, Cold Hatton Heath, Telford, Shropshire
Change of use of land from agriculture land to private garden land ****AMENDED
PLANS & ADDITIONAL INFORMATION RECEIVED****

APPLICANT

Hannah Williams

RECEIVED

25/09/2025

PARISH

Waters Upton

WARD

Ercall Magna

THIS APPLICATION IS BEING HEARD AT PLANNING COMMITTEE AS THE PROPOSAL HAS BEEN CALLED IN BY CLLR. STEPHEN BENTLEY.

<https://secure.telford.gov.uk/planning/pa-applicationsummary.aspx?applicationnumber=TWC/2025/0653>

1. SUMMARY RECOMMENDATIONS

- 1.1 It is recommended that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT FULL PLANNING PERMISSION** subject to conditions and informatives.

2. SITE AND SURROUNDINGS

- 2.1 The application site is Land Adjacent Hillside, Middle Lane, Cold Hatton Heath. The parcel of land in question is situated to the West of the existing dwelling, forming an infill plot between the existing dwelling and neighbouring property 'Lyndale'. The South West boundary line of the parcel of land also falls directly adjacent to Middle Lane.
- 2.2 In terms of the surrounding context, the application site is located within the Rural Area of Telford, approximately 10.5 miles from Telford Town Centre. Whilst there are other existing dwellings along Middle Lane, with formal relatively spacious plots, the wider surrounding area is also made up of open countryside.

3. PROPOSAL

- 3.1 This application seeks full planning permission for the change of use of land from agricultural land to private garden land.
- 3.2 The parcel of land in question measures approximately 1,200 square metres. No built structures are proposed in this instance, including outbuildings and Officers have considered the existing boundary treatments which have been erected prior to this application being submitted; these include post and rail /

picket fencing and relatively substantial soft boundary treatments in the form of hedging.

4. RELEVANT PLANNING HISTORY

- 4.1 TWC/2022/0394 – Erection of 1no. single storey front porch extension, 1no. single storey infill west side extension, 1no. single storey east side extension, conversion of the existing loft space with new roof installed and 1no. detached outbuilding comprising 2no. car ports, 2no. garages and 1no. gym – Full Granted on 15th June, 2022.
- 4.2 TWC/2025/0336 – Erection of a detached double garage – Full Granted on 30th June, 2025.
- 4.3 TWC/2025/0447 – Application under Section 191 for a Certificate of Lawfulness for an existing use for change of use from agricultural land to private garden land – Section 191 Existing Use Refused on 14th August, 2025.

5. RELEVANT POLICY DOCUMENTS

- 5.1 National Planning Practice Guidance (NPPG)
National Planning Policy Framework (NPPF)
- 5.2 Telford and Wrekin Local Plan (TWLP) - 2011-2031
 - SP3 Rural Area
 - SP4 Presumption in favour of sustainable development
 - NE1 Biodiversity & Geodiversity
 - NE2 Trees, Woodland & Hedgerows
 - BE1 Design Criteria
- 5.3 Waters Upton Neighbourhood Plan
- 5.4 Telford & Wrekin Local Plan 2020-2040:
The Telford & Wrekin Local Plan review was formally submitted to the Planning Inspectorate on 12 September 2025. However, limited weight will be given to the relevant policies within this document, until such point that the examination and subsequent comments by the appointed inspectors are received. Relevant policies are listed below:
 - S1 Protecting and enhancing the Boroughs green spaces
 - S2 Nature conservation
 - CC2 Renewable energy in developments
 - NE1 Biodiversity and geodiversity
 - NE2 Trees, hedgerows and woodlands
 - NE3 Biodiversity net gain

6. NEIGHBOUR REPRESENTATIONS

- 6.1 The application has been publicised through direct notification to neighbouring properties, local members and Waters Upton Parish Council.
- 6.2 During the formal consultation process, the Local Planning Authority (LPA) received one objection from a neighbouring property.
- 6.3 The following summarised issues were raised in objection to the proposal:
- It is unclear from the Location Plan whether the area under consideration is outlined in red or blue.
 - Parcel of agricultural land has been subject to planning enforcement.
 - Applicant erected a large scale play area directly behind neighbouring boundary. Nothing has changed materially since this.
 - Certificate of Lawfulness (TWC/2025/0447) was submitted, claiming that the land had always been part of the garden land. This was refused by the LPA, stating there was insufficient evidence to demonstrate lawful garden use.
 - Land has only ever been used for agricultural purposes – no domestic activity has ever taken place.
 - In August 2025, a new fence line was erected on the agricultural land, subdividing the wider agricultural land.
 - New fence line at the rear of the property has been positioned within the lawful garden curtilage, giving the misleading impression of a smaller garden.
 - Omission of the boundary to the West of the property also gives the impression of a residential association.
 - This subdivision does not alter the lands status being agricultural, or constitute evidence of an established domestic use.
 - Proposed application adds a further 1,110 square metres, more than doubling the garden area. This is considered disproportionate to the size of the chalet style dwelling and the curtilages of neighbouring properties.
 - Number of properties along Middle Lane have large areas of agricultural land attached to their garden curtilage, none of which are used domestically.
 - Proposal would be out of character with the surrounding plots and would undermine the rural and open-countryside appearance of the area.
 - Land is accessed through an agricultural gate. Land flows from the

road frontage into the open countryside at the rear – providing a distinct rural setting.

- Conversion to domestic garden with associated paraphernalia would visibly urbanise the frontage.
- Land immediately to the rear of the annexed site remains actively farmed, further emphasising its rural and agricultural function.
- No planning or necessary need, only a personal desire to enlarge garden. No exceptional circumstances or policy grounds cited.
- No functional or community benefits to justify the change of use.
- Proposal fails to comply with Policy SP3 and the NPPF, which requires countryside development to demonstrate a clear need and avoid unnecessary urbanisation and to recognise the ‘intrinsic character and beauty of the countryside’.
- Proposed garden area directly adjoins neighbouring boundary.
- Land can see through the existing hedge and hedge is of no appeasement to the loss of an historic agricultural buffer.
- Proposal would bring significant additional noise, resulting in a loss of privacy harming the residential amenity, contradicting Policy BE1.
- Conversion would have an impact on biodiversity of the land and associated wildlife.
- Pattern of incremental planning activity, seeking to extend or formalise domestic use within agricultural land.
- Piecemeal changes have a cumulative effect, gradually damaging the agricultural character of Cold Hatton Heath and setting a precedent for further encroachment into the countryside.
- Approval of this application would also alter planning potential of the land, making it easier to apply for additional structures or a residential development plot – even if Permitted Development Rights were removed.

7. STATUTORY REPRESENTATIONS

7.1 Cllr Stephen Bentley – Object

- Request that this application is considered by members at Planning Committee.
- Application follows a recent refusal for a certificate of lawfulness under Section 191 (TWC/2025/0447). This included notice to remove unauthorised construction of play equipment on land recognised to be agriculture.
- Since 2022, the footprint of the original dwelling has increased, which has considerably decreased the original garden footprint, which was a large garden – TWC/2022/0394, TWC/2025/0336 and TWC/2025/0447.

- This application has been submitted following the previous refusal, with a slight amendment. The Applicant have already erected a fence line to provide the appearance that this land has been used as garden over a period of years. This is incorrect.
- Current application also closes the access point to the field directly behind this property, where recently witnessed sheep grazing – agricultural uses.
- NPPF generally resists the loss of agricultural land for change to garden.
- Policy BE2 – the existing property has used almost the entire original footprint, extending the property incrementally.
- Policy SP1 – protection of the countryside.
- Policy SP2 – not appropriate for the circumstances.
- Policy NE1 – protecting and enhancing the natural environment.
- The application impacts on neighbouring privacy.
- Impacts on the existing use, and rural character.
- Impacts on wildlife habitat.

7.2 Waters Upton Parish Council – Comment

- Members resolved to support the Call-In request as submitted by Ward Member, Cllr Bentley.
- Members expressed concerns regarding the application for change of use and the loss of agricultural land at this location.
- Members unanimously agreed that the application should be determined by Planning Committee in order that the Applicant and neighbours can have the opportunity to address the members, prior to a decision being made.

7.3 Ecology – No Objection

8. APPRAISAL

8.1 Having regard to the development plan policy and other material considerations including comments received during the consultation process, the planning application raises the following main issues:

- Principle of development
- Scale, design and impact on the character and appearance of the application site and surrounding area
- Impact on the amenity of adjacent properties / uses
- Other matters

Principle of development:

- 8.2 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Telford & Wrekin Local Plan (TWLP) which was adopted in January 2018. The National Planning Policy Framework (NPPF) is also a material planning consideration.
- 8.3 In this instance, the application site is located within the Rural Area of Telford and consideration does therefore need to be given to Policies SP3 and SP4 of the Telford & Wrekin Local Plan and whether this is considered to be sustainable development in its rural context.
- 8.4 Whilst it has been noted that the parcel of land in question has been used as agricultural land in the past, with comments being made that sheep have grazed on the land, Officers have cross referenced and can confirm that the land is graded as Grade 4 within the Agricultural Land Classification (ALC) system. As per the Natural England *Guide to assessing development proposals on agricultural land*, Grade 4 is defined as 'poor quality agricultural land'.
- 8.5 This has therefore formed part of the planning consideration, and whilst Policy SP3 does make specific reference to agricultural land, this is specifically in relation to Grade 1, 2 and 3a which is classed as best and most versatile agricultural land, as set out in the NPPF. In addition to this, given the size and the positioning of the parcel of land, which forms an infill plot between the two existing dwellings, the loss in agricultural terms is considered nominal particularly given its grade. Officers are therefore satisfied that the proposal would not result in significantly detrimental harm and the principle of the proposal is considered appropriate, complying with Policies SP3 and SP4 of the Telford & Wrekin Local Plan.

Scale, design and impact on the character and appearance of the application site and surrounding area:

- 8.6 Policy BE1 of the Telford & Wrekin Local Plan states that the Council will support development which (i) respects and responds positively to its context and enhances the quality of the local built and natural environment.
- 8.7 Officers would firstly like to point out that the planning history on the application site has been duly noted in this instance, as well as comments received relating to the fact that the parcel of land has always been used for agricultural purposes. However, this application has been submitted to allow the Local Planning Authority to assess whether the conversion of this parcel of land to garden land is acceptable, complying with both Local and National Planning Policies. This is what the Officer assessment has been based on, with all material planning considerations being taken into account.

- 8.8 A comment has also been raised during the consultation exercise carried out, stating that the Applicant has erected a new fence line at the rear of their property, within their lawful garden curtilage, giving the misleading impression of a smaller garden. Whilst this has been duly noted, the Officer assessment has been based on the plans submitted and the boundary lines identified. The red line boundary shown relates to the parcel of land the Applicant is looking to change to garden land, whereas the blue line boundary shows any other land that falls within the Applicant's ownership. This is a standard requirement for all planning applications.
- 8.9 As per the Location Plan submitted with this application, the rear (North East) boundary line of the parcel of land in question has been shown to fall in line with the existing North East boundary line of the amenity area for the existing dwelling. Whilst the Applicant has stated that they own the land further to the North East, this is not understood to be existing residential curtilage and has not therefore been considered within this application. By virtue of the positioning of the parcel of land shown within the red line boundary for change of use, particularly the rear (North East) boundary line, Officers are satisfied that a consistent and strongly defined, rear boundary line will remain and the proposal will not encroach unacceptably into the wider open countryside.
- 8.10 The scale of the parcel of land in question has also been taken into consideration in this instance, and Officers are aware that the size of the parcel of land is large, measuring approximately 1,200 square metres. This is also something which has been commented on within the neighbour representation received. This being said, Officers have considered the scale of the parcel of land in relation to the application site as a whole and also in relation to the wider surrounding area. Whilst there is not an overly strong build line evident along Middle Lane and the scale of the existing dwellings does vary, the wider locality is made up of relatively spacious plots with large gardens. The scheme is therefore considered to be balanced with the size of the application property, particularly given the recent planning history on the site to extend the dwelling to a 4/5 bed dwelling (TWC/2022/0394). Additionally, the scale of the parcel of land in question is something which is a feature of a number of houses within the locality. Officers do not therefore consider the scale of the parcel of land is at odds with the character of the wider surrounding area and is acceptable on balance.
- 8.11 Furthermore, whilst the application site does fall directly adjacent to the nearby highway, there is existing soft landscaping in the form of an established hedgerow to the South West boundary line of the application site. A number of site photographs have been provided as part of this application and Officers have requested an amended Block Plan be submitted, prior to determination, detailing the exact positioning of this existing boundary treatment (hedgerow) and other boundary treatments surrounding the parcel of land in question, so that this can be further controlled. As a result of this, and given that no built structures, such as outbuildings, have been proposed as part of this application, Officers are satisfied that the existing boundary treatments will aid with mitigating the effects of the proposal, ensuring that an

incongruous form of development does not occur. Officers are also satisfied that a suitably worded condition can be added onto the decision notice removing Permitted Development Rights for outbuildings, fences gates and walls and hardsurfacing. Officers would also look to include a condition stating that the existing soft landscaping and hedging shall be retained in perpetuity. The incorporation of these conditions will aid in ensuring that there is further control over built structures and landscaping on the application site, to protect the character and appearance of the application site and wider surrounding area, ensuring that it is not detrimentally impacted.

- 8.12 Officers are also aware that there is an existing agricultural field gate serving this parcel of land, to the South West, and whilst Officers are satisfied that this could remain in place, Officers would look to include an additional condition stating that this shall be used in relation to maintenance of the land only and not to allow access for the parking of vehicles or as an alternative domestic access point for 'Hillside'.
- 8.13 Furthermore, a comment has been raised regarding the fact that the approval of this scheme could set a precedent for further encroachment into the countryside. Similarly, a comment has been raised regarding the fact that this scheme being granted could make it easier for additional structures and residential developments to be approved. Officers would like to point out that all planning applications must be assessed on their own merits, in relation to the relevant Local and National Planning Policies and the approval of this application does not automatically mean that other applications of a similar nature would also be considered favourably. Furthermore, as no built structures have been included within this proposal, they have not been considered and should any future planning applications be submitted, they would need to be formally considered. The conditions stipulated above will mean that any structures will require planning permission, as permitted development rights would be removed.
- 8.14 As a result of the above, whilst concerns raised have been duly noted and considered, Officers are satisfied that the proposal will respect and respond positively to the context of the application site and its surrounding area, whilst ensuring that there is no significantly detrimental harm upon the character and appearance of the application site and its surrounding area. The proposal is therefore considered acceptable on balance, in accordance with the relevant parts of Policy BE1 of the TWLP in respect to scale and design.

Impact on the amenity of adjacent properties / uses:

- 8.15 Policy BE1 of the Telford & Wrekin Local Plan states that the Council will support development which demonstrates that there is no significant adverse impact on nearby properties by noise, dust, odour or light pollution or that new development does not prejudice or undermine existing surrounding uses.
- 8.16 Whilst the parcel of land in question does directly adjoin the East boundary line of neighbouring property 'Lyndale', Officers do not consider the proposal will result in significantly detrimental harm upon the residential amenity of

neighbouring properties. Despite the use of land being changed as a result of this proposal, the land will not be in continuous use and the operations carried out on the land through its use as garden land are not considered to result in excessive, quantifiable levels of noise, which are considered to result in significantly detrimental harm.

- 8.17 Furthermore, whilst a comment has been raised regarding a loss of privacy and the fact that the existing hedgerow can be looked through, Officers do not consider the nature of the use would result in intrusive views into the rear garden of the neighbouring property (Lyndale); particularly given the screening effect of existing boundary treatments. As such, the living conditions of 'Lyndale' in respect of privacy and overlooking would not be significantly harmed.
- 8.18 Officers are therefore satisfied that the proposal would comply with Policy BE1 of the Telford & Wrekin Local Plan.

Other matters

- 8.19 In addition to the points discussed and addressed above, other concerns were raised by during the formal consultation period carried out, which are addressed below.
- 8.20 In the first instance, a comment has been made regarding the planning history of the application site, including the fact there has been involvement from the Planning Enforcement team regarding a large-scale play area, which was erected directly behind the neighbouring boundary line. Whilst this has been noted by Officers, this proposal does not include the siting of a play area or any other built structures and Officers have therefore only assessed the proposed conversion of the land to garden land.
- 8.21 Similarly, mention has been made regarding a Lawful Development Certificate which was submitted under ref no. TWC/2025/0447 and subsequently refused. This application was submitted under Section 191 (of the Town and Country Planning Act 1990) for a Certificate of Lawfulness for an existing use for change of use from agricultural land to private garden land. Whilst this is again noted, this assessment was carried out on the balance of probability and the burden of proof rested with the Applicant to demonstrate that the use commenced more than 10 years prior to the date of the application. This was an evidence based assessment, and the LPA did not consider it had been demonstrated, on the balance of probabilities, that the land had been used as private garden for a continuous period of at least 10 years prior to the date of the application. This process did not involve an assessment on the suitability of a change of use, only whether it had occurred beyond 10 years ago.
- 8.22 This being said, the assessment which has been undertaken for this current application is materially different, in that it is Policy based and Officers have considered whether the scheme complies with the relevant Local and National Policies.

- 8.23 A comment has also been raised regarding the impact the proposal would have on the Biodiversity of the land and wildlife. This being said, the Council's Biodiversity Team have been formally consulted on this application and have raised no objection to the proposed works; Officers are therefore satisfied that given the nature of the proposal, no significantly detrimental harm will occur.
- 8.24 Finally, a comment has been made regarding access across the application site and the fact that this will be affected as a result of the proposal. Officers must note that land ownership and matters relating to access are not a material planning considerations and are in fact a civil matter.

9. CONCLUSIONS

- 9.1 Having regard to the above considerations, the proposal is considered to be acceptable in principle and is considered to respect and respond positively to the context of the application site, whilst ensuring that there is no significantly detrimental harm upon the character and appearance of the application site and its surrounding area. This is by virtue of the scale of the parcel of land in question and its infill positioning in relation to the existing dwellings, as well as the fact that the works will not result in an unacceptable encroachment into the open countryside and will not result in the loss of the best and most versatile agricultural land. Furthermore, Officers do not consider the proposed use will result in significantly detrimental harm upon the residential amenity of neighbouring properties, by way of excessive noise levels, overlooking or a loss of privacy. Accordingly, whilst a comment has been received noting that there are no functional or community benefits associated with the proposal, Officers have taken into account all material planning considerations, and when based on the wider planning balance, it is considered that the proposal is acceptable on balance. The scheme represents a sustainable form of development which complies with the National Planning Policy Framework; together with relevant Policies within the Telford & Wrekin Local Plan and Waters Upton Neighbouring Plan. This is subject to Condition(s) and Informative(s).

10. DETAILED RECOMMENDATION

- 10.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT PLANNING PERMISSION** (with the authority to finalise any matter including conditions or any later variations) subject to the following:

A) The following conditions (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager):-

A04 - Time Limit Full

C038 - Development in accordance with plans

C073 – Trees – Hedge & Tree Protection
C075 – Trees – Maintenance of Hedges
D01 – Removal of all permitted development
DCustom – Field access to be used for maintenance only and no parking of vehicles

Informatives:

I39h Biodiversity Net Gain – Not Required
I40 Conditions
I41 Reason for Grant