

Can I change a greenfield designation?

I've had a planning application refused for two pairs of semi detached houses on a strip of land — shown as garden curtilage on my deeds. The land is within the village boundary and the Local Development Plan (LDP) indicates that it is developable. However, the refusal is based on the garden being designated greenfield. Why is this the case? And, can I revert the greenfield status to brownfield through reuse of the land?

A planning definition of residential curtilage can often vary from the legal deed of a property. From a planning perspective the land that immediately surrounds the property, commonly used as garden, would normally have the same use class – such as C3 Residential – as defined by the Use Class Order 2006.

In your case, however, it seems as though the land in question – whilst in your ownership and close to your property – is not considered by your local authority to be in the same planning unit as the dwelling. The land does not benefit from the same use class designation. Planning law and civil law in respect of your deeds are two separate entities and this is where the confusion may lie.

To this end, the land is considered greenfield and therefore by default agricultural land if no changes to its use class have been made. Therefore, the land to which you refer would constitute agricultural land unless a change of use is applied for, or it could be proved that it had been continually used as residential for in excess of ten years.

You can submit a change of use as part of the same application in conjunction with your proposed resubmission in order to allow a holistic consideration of the proposed scheme by the LPA.