

Application No: 2006/618	Application Type: Full
Proposal: Demolition of Retaining Wall and Associated Landscaping Work	Location: Plot 4 Worswick Green Rawtenstall
Report of: Development Control Team Leader	Status: For Publication
Report to: Development Control Committee	Date: 9 th January 2007
Applicant: Mr A Walsh	Determination Expiry Date: 22 DEC 2006
Agent: Mr S Walsh	

REASON FOR REPORTING

Outside Officer Scheme of Delegation	Yes
Member Call-In	No
Name of Member:	
Reason for Call-In:	
More than 3 objections received	Yes

Other (please state)

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.

APPLICATION DETAILS

1.1 The Site and the Proposal

The application site stands to the north of Worswick Green Cricket Ground, Rawtenstall. To the north the ground rises sharply to the rear of properties on Grange Road and Alder Avenue. To the north-west stands the County Court

and County Council Offices whilst to the west, set down from the site stands Worswick Crescent.

The site is level although a stone retaining wall stands along the northern boundary of the site. The wall is currently failing in several places and retains land to the north which has a number of semi-mature sycamore trees.

The site lies within the Urban Boundary but outside of the Town Centre Boundary and Town Centre Conservation Area. Whilst the site lies outside of the Conservation Area it does form part of the setting of the Conservation Area. The trees to the north of the wall are covered by TPO T2/126.

The application seeks consent to demolish the existing retaining wall, fell the trees on top of the bank, reprofile the ground and remove the earth. The ground would be battered back. The applicant does not own all of the wall but has advertised the proposal under Certificate C.

1.2 Relevant Planning History

None.

1.3 Policy Context

DC1 – Development Criteria
DC2 – Landscaping
HP1 – Conservation Area
E4 – Tree Preservation

1.4 Other Material Planning Considerations

PPG 15 – Planning and the Historic Environment

2. INTERNAL CONSULTATIONS

Retained Arboriculturalist – considers that the proposed removal of the trees and replacement would be acceptable although further clarification has been sought on whether the trees would be worthy of being covered by a Preservation Order. Further comments will be reported via the Late Items Report. The Officer reserves their position in this regard.

Conservation Officer – considers that since the wall has had some sections of it partly removed, its contribution to the setting of the Conservation Area has been lessened and with the construction of a house on the site, the wall's contribution to the amenity of the surrounding area would be further reduced. Thus, there is little justification for the retention of the wall in conservation terms.

2.1 EXTERNAL CONSULTATIONS

Lancashire County Council

Planning - no response received.

Highways – no comments.

3. REPRESENTATIONS

3.1 6 letters received from 5 addresses objecting to the proposal on the following relevant planning grounds:

- Question the need for the wall's removal
- This will allow for an unauthorised access which will result in a loss of privacy
- The applicant has damaged trees under TPO
- Loss of trees covered by TPO
- Loss of visual amenity with removal of trees

4. REPORT

4.1 The main considerations of the application are the loss of unprotected trees and the impact of the loss of the wall and trees on the setting of the Conservation Area and visual amenity of the locality.

4.2 The applicant claims that the wall is currently failing and should be demolished. An alternative view might be that the trees' root systems will support the banking which the wall retains. However, even if the trees are holding back the banking, the wall is nevertheless failing in several places and in the fullness of time will need either significant maintenance or fully replacing. When this happens it is likely that the works will affect the root systems of the trees which may either kill the trees or necessitate their removal. On this stance, it is only a matter of time before the wall will require work. It is therefore considered that there is a genuine requirement to replace the wall which will result in the loss of over 15 trees, although these are not covered by TPO.

4.3 The proposed re-profiling of the bank and replanting of 30 replacement saplings would not only solve the problem for the future by removing the wall, but also would see a higher number of replacement trees being planted. There would be a short term loss of visual amenity but ultimately this should avoid the work having to be carried out again or the same scenario occurring in the future. The application should be conditioned to require that a detailed landscape scheme be submitted and approved prior to the commencement of development on site, which should require a mixture of mature saplings and semi-mature trees to be planted on the re-profiled bank together with a method statement of how they will put in situ and protection thereafter.

4.4 In relation to the neighbour objections not covered by the preceding discussion, if a new access was created it would require planning permission. Whilst it is noted that damage has occurred on site to other trees covered by TPO, enforcement action will be pursued separately and should not affect the consideration of this application. The completion of the landscaping scheme for replacement trees will maintain and enhance the setting of the Conservation Area and the visual amenity of the surrounding area.

5. **CONCLUSION**

- 5.1 The proposed development would result in a short term loss of visual amenity to the setting of the Conservation Area and character of the surrounding area. However, this can be ameliorated by condition and would overcome the problem of the maintenance of the wall resurfacing in future years.

6. **RECOMMENDATIONS**

- 6.1 That the application be approved subject to conditions.

7. **REASONS FOR APPROVAL**

The proposed development would not detrimentally affect the setting of the Rawtenstall Town Centre Conservation Area nor the visual amenity of the surrounding area and should therefore be approved. There are no other material considerations which outweigh this finding.

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 hereby approved shall be constructed in strict accordance with the approved plans numbered 06.014.02 and date stamped 27 OCT 2006.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of design.

3. Prior to the commencement of development on site, the applicant or successor in title shall submit to the Local Planning Authority for their approval, a scheme for the planting of 30 saplings to include details of their species, age, size and positioning and the method of their planting. The approved scheme shall be implemented within 3 months of the demolition of the wall or the nearest next planting season and shall thereafter be maintained. Any trees becoming diseased or dying shall be replaced by agreement with the Local Planning Authority within 12 months of it becoming diseased or dying and shall thereafter be maintained and replaced should it become diseased or die.

Reason: To protect the setting of the Rawtenstall Town Centre Conservation Area and in the interests of visual amenity.

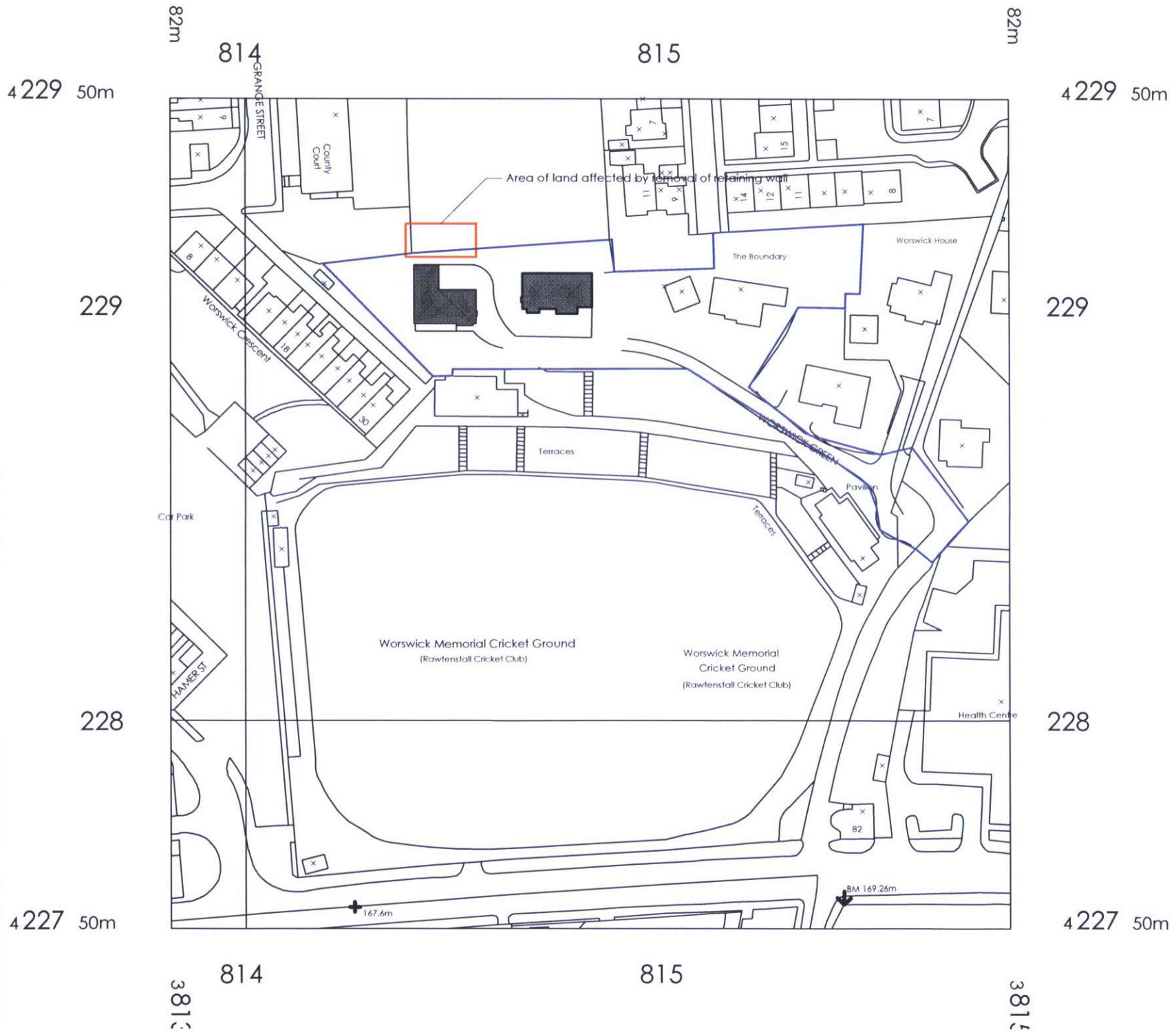
4. No foundation, gate, fence, wall or other means of enclosure shall be constructed within 5 metres of the trunk of any replacement sapling planted under the approved scheme in condition 3 of the development hereby approved.

Reason: To protect the trees in the interests of protecting the setting of the Rawtenstall Town Centre Conservation Area and of visual amenity.

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