

Application Number:	2010/669	Application Type:	Full
Proposal:	Erection of new perimeter railings, screen planting and alterations to front entrance (Retrospective)	Location:	Scrap Yard, Opp 183 Dean Lane, Water
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	28 August 2012
Applicant:	I M Salvage	Determination Expiry Date:	9 August 2012
Agent:			

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REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:

Reason for Call-In:

3 or more objections received

X

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.

1. RECOMMENDATION

Approval, subject to the conditions detailed in Section 9 of the report.

2. SITE

The application relates to the long-established scrapyards occupying a rectangular site located on the north side of Dean Lane. The site is relatively level and currently used for the storage of vehicles for breaking-up and salvage and has various portacabins/storage containers upon it.

Without the benefit of the necessary planning permission a 2.4m high palisade fence was erected around the greater part of the perimeter of the scrap yard, with a new entrance gate provided midway along the Dean Lane frontage and the old fence and gate retained to its west side.

The scrap yard is bounded by open land to north, west and east; the land to the east is in the same ownership as the scrap yard. On the opposite side of Dean Lane, there are a number of residential properties set well back from the road. These properties are fronted by 2m high timber boarded fences/brick walls.

The application site lies within the Countryside, as designated in Rosendale District Local Plan.

3. RELEVANT PLANNING HISTORY

1996/62: Certificate of Lawfulness for an existing use for the storage and breaking of salvage and scrap vehicles.

Granted

2009/289: Erection of new galvanised steel palisade perimeter fence (Retrospective)

Refused

Enf Notice: Unauthorised erection of 2.4m high palisade fencing and gates

Issued 14 December 2009.

Appeal dismissed on 30 April 2010

In dismissing the Appeal the Inspector stated :

- *“My assessment is that, because of its location and design, the fence is a very intrusive and jarring feature in the local scene of a scatter of buildings (mainly dwellings) within the countryside.*
- *I conclude that the unauthorised fence and gates fail in relation to issue (i) - visual harm. I have no doubt that they conflict with relevant established planning policies, notably Local Plan Policy DC1 on environmental quality.*
- *I saw that there are limits to visibility mainly by the unauthorised fence to the east of the access and by the old fence and vegetation on the road verge to the west. However, I also saw that the new access gates (of the same material as the palisade fencing) replicate the older gates which have been retained, and both sets of gates have to be opened to allow access and egress. Given the previous fencing that existed here, I do not believe that the Council have satisfactorily demonstrated that the road safety position has been made worse as a result of the unauthorised development. I therefore take no exception to that development in relation to issue (ii) – highway safety.*

- *Given the lawful use of the site and the appellant's evidence, backed up by many photographs, about the diverse hazards and risks at the site (with damage and thefts having occurred and the police involved), I have no doubt at all that there is a need for a secure boundary. The Council accepts that this is a material consideration. But the appellant's evidence includes no substantial consideration of any range of alternative ways of providing a secure boundary that would have a less intrusive visual impact.*
- *I agree that a darker finish to the fence would be helpful, although I am not satisfied that it would remove the objection in terms of visual harm. In addition, it is not at all clear what land is available for landscaping with the fence located as it is, and that could make an important difference to the degree of screening that could be achieved. "*

To accord with the requirements of the Notice the Appellant had until the end of January 2011 to remove the unauthorised fencing and gates. Court action is pending as they failed to comply with these requirements.

3. THE PROPOSAL

This application has been submitted seeking permission for the retention of the new gates and fence for most of its length, its position to be varied on the site frontage where to the east side of the entrance.

This proposal differs from that before the Inspector in the following respects :

1. The new fence has been painted green.
2. To the east side of the entrance the fence is to be setback further from Dean Lane in order to improve intervisibility between drivers of vehicles exiting the site and approaching it along Dean Lane from the east.
3. It proposes the planting of hawthorn hedges to the rear, each side and (in part) to the front of the scrap yard.

In support of the application the applicant has stated :

- The fence is required to keep the site secure and safe.
- Metal railings were chosen in preference to wood as they have a longer life span and are less prone to vandalism.
- The proposed hawthorn hedge will help enhance site security and screen the site from the neighbouring properties and the surrounding countryside.

When the Applicant first sought to submit this application I had reason to question whether they owned the land required in order to plant the hawthorn hedge outside the palisade fence to the west and north sides of the scrap yard. The Applicant acknowledged that they did not have title to all of the land but had been in possession of the small portion of the land they did not own since purchase of the scrap yard in 2004. As the Land Registry could not advise them who owned the land they were required to advertise the application by way of a Notice in the Rossendale Free Press. I have received a letter from the person purporting to own a portion of the application site - the letter indicates that they were not hitherto aware of the application, but does not express support or objection to the development for which permission is being sought.

Solicitors acting for the Applicant have since made application to the Land Registry to have that land which they occupied but did not have title to registered in their name.

4. POLICY CONTEXT

National

National Planning Policy Framework (2012)

Section 1	Building a Strong, competitive Economy
Section 3	Supporting a Prosperous Rural Economy
Section 4	Promoting Sustainable Transport
Section 7	Requiring Good Design
Section 10	Meeting the challenges of climate change, flooding & coastal change
Section 11	Conserving & enhancing the Natural Environment

Development Plan

Regional Spatial Strategy (2008)

DP1-9	Spatial Principles etc
RDF2	Rural Areas
RT2	Managing Travel Demand
RT4	Management of the Highway Network
EM1	Environmental Assets

RBC Core Strategy DPD (2011)

AVP3	Area Vision for Waterfoot, Lumb, Cowpe & Water
Policy 1	General Development Locations and Principles
Policy 8	Transport
Policy 9	Accessibility
Policy 18	Biodiversity, Geodiversity & Landscape Conservation
Policy 19	Climate Change & Low Carbon & Zero Carbon Sources of Energy
Policy 21	Supporting the Rural Economy and its communities
Policy 24	Planning Application Requirements

5. CONSULTATION RESPONSES

RBC (Legal)

The Council's Legal Section has now confirmed that the Land Registry has registered the strip of land towards the western boundary of the scrapyard in the Applicants name, and the Applicant has also completed a new Ownership Certificate to accompany this planning application.

Accordingly, it is satisfied that the application can now be determined and the determination made on the basis of the planning merits of the case.

LCC (Highways)

No objection but would request a condition that any frontage planting within 6m of the centre of the site access is not allowed to attain a height greater than 0.9m.

6. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted on 5/1/11 and the relevant neighbours were notified by letter on 22/12/10.

Five objections to the proposal have been received. The points raised are:

- The 2.4m high palisade metal perimeter fencing proposed in the application is the same fencing which was refused permission in September 2009, and the Appeal Inspector described as “very intrusive and jarring”.
- This kind of fencing is more suited to an industrial estate and not a countryside area - it will never blend into the surrounding landscape, even when painted green.
- The alterations to the front entrance do not improve the visibility/sight lines.
- The shrubs planted along the fence will impair vision still further.
- Currently the staff do not park in the scrap yard but on Dean Lane opposite the site - this causes problems as Dean Lane is very narrow.
- Prior to the scrap yard being taken over by the applicant the perimeter fencing was not railings and there was never an issue concerning security and there has since been an increase in noise and traffic on Dean Lane due to the number of cars now being transported to and from the scrap yard.

7. Assessment

This application is a re-submission of the previous application (2009/289) which was refused for the following reasons:

1. *The proposed fence is, by reason of its size, position and design, a prominent and intrusive feature in the street scene and countryside, thereby failing to enhance the local distinctiveness and intrinsic quality of the countryside, contrary to PPS1, PPS7, Policies DP2/DP7/RDF2/EM1 of the Regional Spatial Strategy and saved Policies DS5/DC1 of the Rossendale District Local Plan.*
2. *The proposed development restricts sight lines when leaving the site, causing increased risks for drivers leaving the site and passing motorists and is thereby detrimental to the interests of highway safety, contrary to DC1 of the Rossendale District Local Plan.*

The application seeks permission for the retention of the existing fence along the easterly, northerly and westerly perimeter of the site and re-positioning of a 13.5m length of 2.4m high galvanised palisade fence to the east of the access to provide a set back from the Dean Lane of 1.2m to 2m. It is proposed that the fence/gates would be painted green and a hawthorn hedge provided outside the new fence on all sides. According to the applicant, the fence is required to keep the site safe and secure.

Since determination of Application 2009/289 and the Inspectors decision in relation to the Enforcement Appeal the Government has issued the National Planning Policy Framework and the Rossendale District Local Plan has been replaced by the Core Strategy DPD. However, it remains the case that permission exists for a scrapyards in this Countryside location and it has need for boundary fencing.

The main issues to consider in the determination of this application are whether the resulting boundary treatment for the scrapyards is acceptable in terms of :

1. Visual/Neighbour Amenity
2. Highway Safety

Visual/Neighbour Amenity

In dismissing the Appeal against the Enforcement Notice in respect of the unauthorised fence the Inspector found there to be a need for a secure boundary he considered :

- the fence to be seen then was a very intrusive and jarring feature in the local scene
- to paint the fence would be helpful, but not sufficient in itself to remove the objection in terms of visual harm
- whilst planting outside the fence could make an important difference to the degree of screening, it was not clear what land outside the fence was available for such landscaping.

The scheme now before you proposes both the green-painting of the perimeter fence and the planting of a hawthorn hedge outside it (except where so close to the access point it would detract from highway safety). The Applicant having managed to get the Land Registry to register land to the west side of the site in their name it is possible to Condition that the hedge planting proposed for this and other boundaries is undertaken. On this basis I am satisfied that the proposal will not result in unacceptable harm to visual or neighbour amenity.

Highway Safety

LCC Highways is satisfied that with the setting back from Dean Lane of the length of fence to the east side of the access, as is now proposed, the proposal will not detract to an unacceptable extent from highway safety (so long as conditions limit the extent of planting adjacent to the access).

8. Summary Reason for Approval

The resulting development is considered appropriate in principle within the countryside and, subject to conditions, would not unduly detract from visual and neighbour amenity or highway safety. Therefore, it is considered that the proposed development is in accordance with Policies RDF2 / RT4 / EM1 of the Regional Spatial Strategy for the NW of England (2008), and Policies 1 / 8 / 18 / 21 / 24 of the RBC Core Strategy DPD (2011).

9. RECOMMENDATION

Approve subject to the following conditions :

1. Within four weeks of the date of this permission the length of recently-erected fence to the east side of the site access along the southern boundary shall be set back from Dean Lane in accordance with the details shown on the submitted drawings. Within six weeks of the date of this permission all of the perimeter fencing/gates shall be painted green in colour.

Reason : In the interests of visual amenity and highway safety, in accordance with Policy 1 / 24 of the adopted Core Strategy DPD.

2. Within four weeks of the date of this permission a scheme shall be submitted providing details of the boundary hedge to be provided/maintained, including details of species/size/spacing of plants, measures to be taken for the protection of the plants until established and for their future management (most particularly to ensure the hedge does not adversely affect driver visibility in the vicinity of the site access but elsewhere is allowed to attain a height/width to adequately screen the scrapyards). The hedge shall be planted in the first available planting season following approval, and

any plants which within a period of five years of planting die, are removed or becomes seriously damaged or diseased shall be replaced in the next planting season with new plants of the same species and size. The hedge shall be managed in accordance with the approved management scheme.

Reason : In the interests of visual amenity and highway safety, in accordance with Policy 1 / 24 of the adopted Core Strategy DPD.