

Application Number:	2018/0330	Application Type:	Full
Proposal:	Access road, retaining wall and fence (part retrospective)	Location:	Land at Green Street / Hurst Platt, Waingate Road, Rawtenstall
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	10/08/2018
Applicant(s):	Ryan Kiely, BAK Building Contracts Ltd	Determination Expiry Date:	7 th September 2018
Agent:	N/A		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	✓
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

Approve full planning permission subject to the conditions set out in this report.

APPLICATION DETAILS

2. SITE

The application relates to the creation of an access road and associated retaining wall on the southern part of a piece of land on which planning permission has been previously granted for the erection of eight dwellings (ref: 2016/0630). The land is located to the north of Newchurch Road in Rawtenstall, accessed via Green Street.

The land associated with planning approval 2016/0630 has been partially developed; two pairs of semi-detached three-storey stone dwellings have been constructed on the western portion of the site. Excavations have taken place toward the eastern end of the site, extending into the slope to the north, and two steel sheet piled retaining walls have been constructed at the foot of the slope. Foundations have been partially constructed for an additional pair of semi-detached dwellings.

The site is surrounded on its north, west and south sides by residential properties and their gardens. To the east of the site is a small area of woodland.

The site lies within the defined urban boundary.

3. RELEVANT PLANNING HISTORY

2008/0681 - Erection of 3 no. detached dwellings (Refused)

2009/0028 - Erection of 3 dwellings (Refused, than allowed on appeal, not implemented)

2012/0544 - Erection of 3 dwellings (Approved, not implemented)

2013/0470 – Outline: Construction of 8 Dwellings Comprising Four Semi Detached Pairs (Approved, not implemented)

2014/0168 - Erection of 8 houses (Approved, not implemented. The construction of the four dwellings currently on site commenced but without the discharge of several pre-commencement conditions included on planning permission 2014/0168, and as such it is not considered that planning permission 2014/0168 has been lawfully implemented)

2015/0087 - Variation of condition 6 (access road and retaining walls) pursuant to planning permission 2014/0168 (Not determined)

2015/0088 - Discharge of Conditions: 5 (road improvements) 8 (construction method statement) 10 (foul & surface water drainage) & 11(structural stability of land & properties) pursuant to planning permission 2014/0168 (Refused)

2015/0507 - Variation of Condition 11 (land stability) pursuant to Planning Permission 2014/0168 (Refused)

2015/0508 - Discharge of Conditions: 3 (design and facing materials); 5 (scheme to improve section of Green Street); 8 (Construction Method Statement); and 10 (foul/surface water drainage) pursuant to planning permission 2014/0168 (Split Decision – Only Conditions 3 and 8 were discharged)

2016/0167 - Variation of conditions: 5 (scheme to improve section of Green Street); 10 (foul / surface water drainage); and 11 (land stability) pursuant to planning permission 2014/0168 (Not determined)

2016/0630 - Erection of 8 dwellings including new access road, landscaping and land stabilisation and drainage works (part retrospective) (Approved)

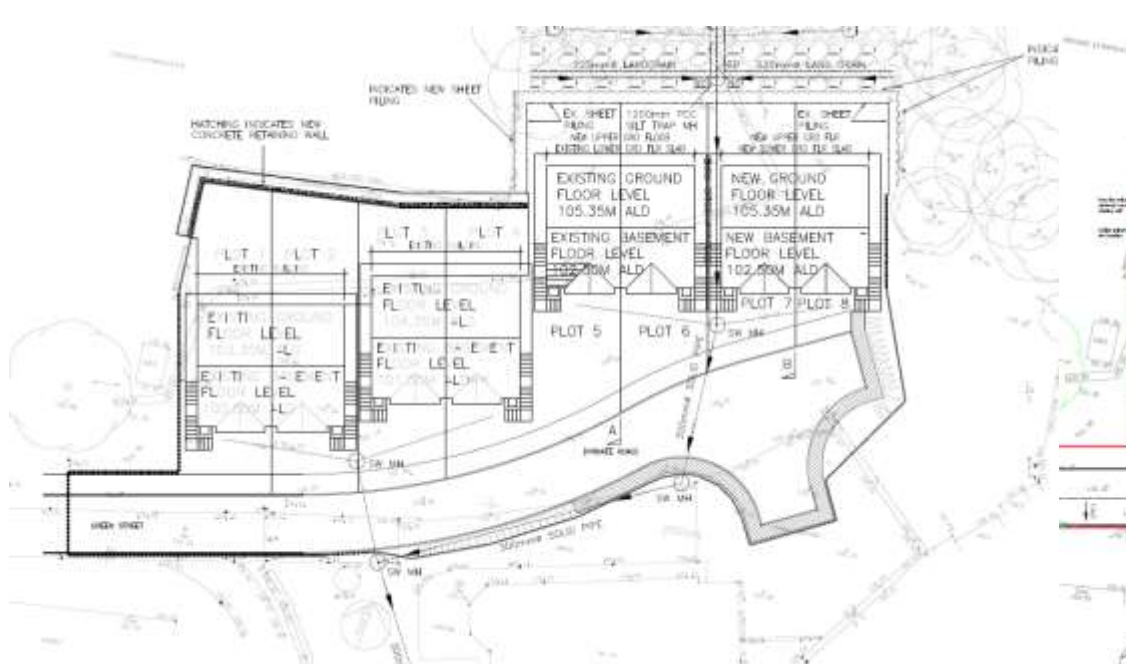
2017/0380 - Discharge of Conditions 8 (Green Street improvements) and 9 (access road) pursuant to Planning Approval 2016/0630 (Withdrawn)

2017/0514 - Construction of access road and associated retaining wall to serve residential development approved under 2016/0630 (part retrospective) (Refused and Appeal Dismissed)

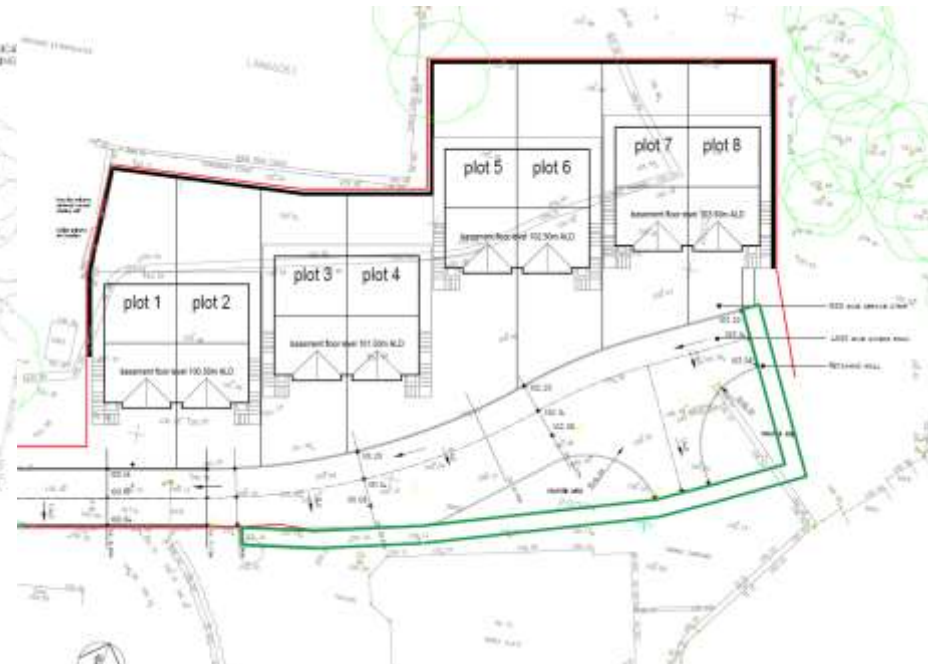
4. PROPOSAL

As set out above there is extensive planning history at this site with planning permission with permission most recently granted (ref: 2016/0630) for the construction of 8 dwellings on the site, with an associated access road, landscaping and land stabilisation / drainage works. However, the development which has taken place in respect of the access road (and associated retaining wall) on site does not accord with the plans approved under 2016/0630.

The plans below show the differences between the approved scheme (2016/0630) and the scheme for which permission is currently sought:



Approved Site Layout (2016/0630)



Proposed Site Layout

Rather than following the curve of the southern edge of the access road, a retaining wall has been constructed along the southern edge of the site in an almost straight line, with the access road set back some distance behind the wall. In addition, the proposed scheme omits the previously approved footway along the front edge of the driveways (but maintains a 1.5m wide service strip in its place).

Planning permission was sought for the access road and associated retaining wall (as constructed and topped with a set of 1.1m high wrought iron railings) under 2017/0514. However this application was refused by the Council's Development Control Committee for the following reasons:

- 1. The proposed development includes the erection of a 1.4m high retaining wall with 1.2m high wrought iron railings on top which is sited in close proximity to habitable room windows and garden area of 16 Hurst Platt, Waingate Road. By reason of the total height of the wall and the railings and their proximity to 16 Hurst Platt, Waingate Road it is considered that they will adversely impact on neighbour amenity. As such the development is considered to be contrary to Policies 1, 23 and 24 of the Adopted Core Strategy 2011.*
- 2. The proposed road layout does not include the provision of a segregated footway for pedestrians which will result in pedestrians sharing the same road surface as moving vehicles. It is considered that the proposed road layout will significantly hinder pedestrian access to the dwellings, and cause a conflict between pedestrians and vehicles, which is detrimental to highway safety and contrary to Policies 9 and 23 of the Adopted Core Strategy 2011 and guidance contained within the National Planning Policy Framework*

The decision to refuse 2017/0514 was appealed to the Planning Inspectorate, and the appeal was subsequently dismissed. The Inspector commented:

“Due to the height of the wall it would not obscure views from the ground floor windows in No 16, while the railings would allow views between the bars. As such, despite its proximity, the development would not create a solid barrier that would prevent sunlight and daylight from being received in habitable rooms that are served by these windows.

In my view, by using railings instead of the timber fence, this would be suitable insofar as sunlight, daylight, privacy and outlook. Yet, the railings would allow vehicle headlights from within the site to affect the living conditions of the occupants in No 16. While vehicles entering the site would be at an oblique angle to the windows in the north elevation of No 16, their headlights would shine directly into the conservatory. Headlights from vehicles turning around or from plots 5 to 8 would also either pass or directly shine into the windows in the north elevation of No 16. Thus, the occupants of No 16 would not have a good standard of amenity as the railings would not mitigate light pollution.

The proposed layout does not include a footway linking to Green Street unlike the 2016 scheme. However, the appeal scheme has been designed in accordance with Manual for Streets. A shared surface does not necessarily mean that conflict will arise between vehicles and pedestrians. It can result in motorists driving more cautiously and negotiating the right of way with pedestrians on a more conciliatory level. The access would facilitate vehicular and pedestrian movements for a modest number of dwellings, and it would be wide enough to allow vehicles and pedestrians to safely pass each other.”

In response to the Inspector's comments above, the applicant now seeks planning permission for the same scheme as submitted under 2017/0514, but with a 0.9m high feather edged timber fence

on top of the retaining wall, in place of the railings which formed part of the previously refused scheme.

Condition 8 of planning approval 2016/0630 read as follows:

“Within three months of the date of the planning permission hereby granted, a scheme (including proposed layout, construction details, materials, width, lighting and drainage) to improve the section of Green Street from its junction with Holmes Street in an easterly direction to the red edge shown on the submitted site location plan (Croft Goode Architects Drawing Number 16-2218-EX001 Revision B) shall be submitted to the Local Planning Authority for its approval. The development shall thereafter be fully implemented in accordance with the approved details prior to first occupation of any of the dwellings hereby permitted.”

Condition 9 of planning approval 2016/0630 read as follows:

“Within three months of the date of the planning permission hereby granted, full engineering, drainage, street lighting and constructional details of the access road (including the retaining wall and the pedestrian/vehicle restraint along the southerly side of the access road) shall be submitted to the Local Planning Authority for its approval. The development shall thereafter be fully implemented in accordance with the approved details prior to first occupation of any of the dwellings hereby permitted.”

As the development which has occurred on site does not accord with the plans approved under 2016/0630 in respect of the construction of the access road and associated retaining wall, it is no longer possible for the applicant to discharge conditions 8 and 9 of that permission.

As such, the current application includes full details as required by conditions 8 and 9 of 2016/0630 and seeks their approval as part of this full planning application.

5. POLICY CONTEXT

National

National Planning Policy Framework (2018)

- Section 2 Achieving Sustainable Development
- Section 4 Decision Making
- Section 5 Delivering a Sufficient Supply of Homes
- Section 6 Building a Strong, Competitive Economy
- Section 8 Promoting Healthy and Safe Communities
- Section 9 Promoting Sustainable Transport
- Section 11 Making Effective Use of Land
- Section 12 Achieving Well Designed Places

Development Plan Policies

Rossendale Core Strategy DPD (2011)

- Policy AVP4 Rawtenstall, Crawshawbooth, Goodshaw and Loveclough
- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 18 Biodiversity, Geodiversity and Landscape Conservation
- Policy 19 Climate Change, etc
- Policy 23 Promoting High Quality Designed Spaces
- Policy 24 Planning Application Requirements

Other Material Considerations

National Planning Practice Guidance
RBC Alterations and Extensions to Residential Properties SPD

6. CONSULTATION RESPONSES

LCC (Highways)

No objection.

7. REPRESENTATIONS

To accord with the General Development Procedure Order neighbours were sent letters on 25/07/2018 and a site notice was posted on 24/07/2018.

Four letters of objection have been received, raising the following points:

- Impacts on neighbour amenity.
- Inappropriate appearance.
- Inadequate drainage of wider site.
- Development is not in keeping with the character of the area.
- Harm to highway safety.

8. ASSESSMENT

Principle

1. The acceptability in principle of developing an access road and retaining wall to serve the dwellings on site has been previously established under planning approval 2016/0630. The site lies within the designated urban boundary where Policy 1 of the Core Strategy seeks to locate the majority of new development.
2. The proposed scheme is considered acceptable in principle.

Visual Amenity

3. The proposed access road and retaining wall would not appear significantly different from those approved under 2016/0630 in terms of their appearance. The submitted drawings indicate that the proposed retaining wall would be clad in stone to match that used in the construction of the dwellings on site.
4. The applicant has confirmed that the current tarmac driveways will be replaced with block paved driveways in accordance with planning approval 2016/0630. This is also indicated on the submitted drawing No. 16-2218-PN001 Rev. A.
5. It is considered that the submitted scheme would not therefore have a substantially greater impact on visual amenity than that approved under 2016/0630.
6. As such the scheme is considered acceptable in terms of visual amenity.

Neighbour Amenity

7. In respect of the previous scheme which was dismissed on appeal, the Inspector commented as follows on the impact of the scheme on neighbour amenity:
8. *“The north elevation of No 16, a two storey dwelling, faces the appeal site. The dwelling is on a lower ground level than the site. There are four clear glazed windows on the ground floor and one clear glazed window and two obscure glazed window on the first floor. A conservatory is also part of this elevation.*
9. *In total, the wall and railings would extend up to roughly 2.6 metres. The railings would be set further away from the windows and behind the wall. Due to the height of the wall it would not obscure views from the ground floor windows in No 16, while the railings would allow views between the bars. As such, despite its proximity, the development would not create a solid barrier that would prevent sunlight and daylight from being received in habitable rooms that are served by these windows. Furthermore, the interface distance to the dwellings within the site would not change. Hence, the privacy of the occupants in No 16 would not be harmed by the appeal scheme.*
10. *In my view, by using railings instead of the timber fence, this would be suitable insofar as sunlight, daylight, privacy and outlook. Yet, the railings would allow vehicle headlights from within the site to affect the living conditions of the occupants in No 16. While vehicles entering the site would be at an oblique angle to the windows in the north elevation of No 16, their headlights would shine directly into the conservatory. Headlights from vehicles turning around or from plots 5 to 8 would also either pass or directly shine into the windows in the north elevation of No 16. Thus, the occupants of No 16 would not have a good standard of amenity as the railings would not mitigate light pollution.”*
11. The scheme now proposed would include a 0.9m high timber fence in place of the previously proposed metal railings. This amendment appears to have been introduced to try and address the Planning Inspector’s concerns about car headlights and light pollution and the inclusion of a solid timber fence as part of the scheme now submitted would address the Inspector’s concerns over car headlights shining directly into the windows of No. 16. However it is important to note that the Planning Inspector commented that the inclusion of railings on the previous scheme ensured that the development would not create a solid barrier that would prevent sunlight and daylight from being received in habitable rooms that are served by these windows. The introduction of a solid timber fence would have the opposite impact and cause a degree of harm to the amenity of the occupant of No. 16.
12. In this case it is necessary to balance the negative impacts of the development against the positive considerations. Whilst the introduction of a more solid barrier, in the former of a timber fence, would impact on daylight received by the windows facing it and the outlook which can be enjoyed from the windows in question it is important to note that the fence will mitigate the light pollution from car headlights which would have a significant benefit compared to the previously refused scheme. Furthermore, the scheme originally approved under 2016/0630 did not include any solid fencing along the boundary with No. 16, and as such if it had been implemented that scheme would also have potentially resulted in some light pollution from car headlights affecting No. 16. It is considered that the scheme now proposed offers a significant advantage over those considered under 2016/0630 and 2017/0514 in this regard.

13. On balance, it is considered that the benefit in terms of a reduction in light pollution to the windows of No. 16 which would result from the construction of the fencing now proposed would outweigh the harm caused by the fencing in terms of a degree of reduction in outlook and daylight to the same windows.

14. The scheme is considered acceptable in terms of neighbour amenity.

Access, Parking and Highway Safety

15. It is not considered that the proposed scheme would have any significantly greater impact on highway safety than the previously approved scheme under 2016/0630. It is considered appropriate to include conditions requiring the following:

- a. The removal of the existing tarmac driveways and their replacement with permeable block paving within three months of the date of the planning approval.
- b. The implementation of the highway works shown on drawing number B14110-03 (including road construction, retaining wall construction street lighting, drainage and other works) within three months of the date of the planning approval.

16. Previously, conditions 8 and 9 of 2016/0630 required the implementation of the above works prior to first occupation of any of the approved dwellings. However, it is understood that the dwellings are now occupied and as such it is considered appropriate to require the completion of the above works within three months. It is considered that such conditions would address concerns raised by the Local Highway Authority in relation to the current proposal.

17. Other conditions imposed on 2016/0630 would still apply to the development on the wider site.

18. Subject to the above, the scheme is considered acceptable in terms of access, parking and highway safety.

9. Conclusion

The proposed development is appropriate in principle within the urban boundary and would be acceptable in terms of visual amenity, neighbour amenity and highway safety. It is considered that the proposed development accords with Core Strategy Policies AVP4, 1, 8, 9, 18, 23 and 24, and the National Planning Policy Framework.

10. CONDITIONS

1. The development shall be carried out in accordance with the following:

- Application Form received as valid on 13th July 2018.
- Site Location Plan (Croft Goode Architects Drawing Number 16-2218-EX001 D) received as valid on 13th July 2018.
- Proposed Site Layout (Croft Goode Architects Drawing Number 16-2218-PN001 REV.A) received as valid on 13th July 2018.
- Part Site Layout Indicating Highway Works (James Crosbie Associates Drawing Number 03) received as valid on 13th July 2018.

- Street Lighting (Lancashire County Council Drawing) received as valid on 13th July 2018.
- Proposed Retaining Wall and Fence Design (BAK Drawing Number 05) received as valid on 13th July 2018.
- Proposed arrangements for future management and maintenance of the proposed streets within the development (received as valid on 13th July 2018).

Reason: For the avoidance of doubt.

2. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: To safeguard the amenities of neighbours.

3. Notwithstanding what is shown on the submitted plans and documents, the retaining wall to the new access road along the southern boundary of the site shall be faced in coursed stone to match that used in the construction of the elevations of the dwelling on Plot 1 which has already been constructed on the site.

Reason: To ensure the development is of satisfactory appearance.

4. Within three months of the date of this planning approval, the existing tarmac driveways serving the dwellings on plots 1-4 shall be resurfaced in permeable block paving. The permeable block paving shall be retained thereafter.

Reason: In the interests of highway safety and to manage surface water runoff.

5. Within three months of the date of this planning approval, the approved details relating to the access road, retaining wall and street lighting shall be implemented in full.

Reason: In the interests of highway safety and visual and neighbour amenity.

6. Within three months of the date of this planning approval the areas of land adjacent to the turning head, as detailed on the Proposed Site Layout Plan (ref: 16-2218-PN001 REV.A), shall be laid with grass and maintained as areas of informal amenity space thereafter.

Reason: In the interests of visual amenity

INFORMATIVES

1. The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at:

http://www.rossendale.gov.uk/downloads/download/331/core_strategy_local_plan_part_1_adapted

The Council operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. In this case the applicant did not engage in pre-application discussions.

The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context.