

Application Number:	2018/0514	Application Type:	Full
Proposal:	Formation of vehicular access from Hall Street, entailing changes to ground levels, and boundary wall/gate (partially retrospective)	Location:	Land off Hall Street Whitworth
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	26 February 2019
Applicant:	Mr & Mrs N Gordon	Determination Expiry Date:	28 February 2019
Agent:			

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	Cllr RA Neal To allow elected members to consider local resident concerns : 1 Loss of Residential Amenities 2 Impact upon the Green Belt 3 Impact upon the openness of the Countryside 4 Unlawful Creations of a New Access/roadway 5 Impact upon local wildlife habitats 6 Impact upon local watercourses and land drainage 7 Loss of Environmental Habitats 8 Contrary to the 1998 Human Rights Acts peaceful protest and rights to Private property.
3 or more 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.

1. RECOMMENDATION

Approve subject to the conditions set out in Section 10 of the report.

2. SITE

The applicant resides in house that fronts an adopted section of Hall Street and is within the Urban Boundary of Whitworth.

The application relates to a broadly triangular area of land of 0.1ha that fronts an un-adopted section of Hall Street. Sited approximately 40m to the north-west of their house, it is within Countryside designated as Green Belt.

The site is bounded to the east side by Hall Street for a distance of approximately 48m, which at this point is poorly-surfaced and a bridleway (forming part of a long-distance recreational route extending from Rochdale via Healey Dell Nature Reserve to Bacup via Cowm Reservoir). Towards the north-west end of this site frontage the road is particularly narrow and steeply-sloping, a further road switching back to run along the western boundary of the site for a distance of approximately 45m, to the opposite side of which are 3 houses, this road also giving access to the complex of buildings at Lower Fold Head Farm (40m to the SW) and the complex of buildings at Limed Farm (600m to the N). The site is bounded to the south side by a steeply-sloping bridleway and a drainage ditch.

Prior to the recent works undertaken by the Applicant the site comprised of a relatively level paddock taking vehicular access from the road to the west side, with 2 timber buildings of modest size in the south-west corner for stabling a couple of horses (& associated storage), the site then sloping quite steeply down to Hall Street to the east and the bridleway to the south side. A flight of steps at the southern end of the Hall Street frontage also allowed people on foot up to the stables.

To the opposite side of Hall Street to the site are residential properties of varying age & design, elevated above the level of the roadway, none with direct vehicular access to it. To the opposite side of the roadway to the west side are 3 residential properties of significant age and traditional design and stone/slate construction. To the opposite side of the bridleway and ditch on the south side is open land.

The Urban Boundary of Whitworth includes the properties up both sides of Hall Street as it extends from Hall Fold as far as the application site and to the east side of it beyond this point. The application site and land to its south and west sides is Countryside designated as Green Belt.

3. RELEVANT PLANNING HISTORY

2015/0339

Demolition of stables and erection of house and detached double-garage and associated access

This application sought permission to erect a 4-bedroomed house in the centre of the site, with a detached double-garage in the position of the stables, to be served by a new vehicular access to slope up from the southern end of the site frontage to Hall Street.

On 17/02/16 the application was refused permission on the basis that the proposed development was inappropriate in principle in this location and would unduly detract from the essentially open and rural character of Countryside

designated as Green Belt.

The subsequent appeal against the Council's decision was dismissed by the Planning Inspectorate on 09/09/16.

Ownership of the site has since changed hands.

4. PROPOSAL

Following an investigation by the Enforcement Officer an application was submitted by the Applicant to complete the works on the site that had been begun, namely:

- Formation of a new vehicular access of 3m in wide and 37.5m in length (with 0.75m wide gravelled wheel-treads and a 1.5m grass margin between), to slope up from the southern end of the site frontage to Hall Street, to 'ease' the gradient of the drive excavation of the ground necessitating a 13m retaining wall to one side and a 19m retaining wall to the other side.
- Construction on the western site boundary of a 0.6m high stone wall topped by a 0.9m high fence of pre-cast concrete posts & 2 timber rails, not on the alignment of the previous post-&-wire fence but tighter to the road running to the west of the site.

The application was submitted with a Certificate acknowledging that the Applicant did not own all the land within the red-edged site and, as the land beyond their ownership was unregistered with the Land Registry, had complied with the legal requirement to advertise their application in the local press.

In response to comments received from/on behalf of neighbours and Officers, the scheme for which permission is sought has been amended:

- The new drive is to have a 9m long retaining wall to its south side but to the north side the land is instead to be battered-back, enabling it to be grassed. A drainage channel is to be incorporated at its eastern end of the drive to prevent surface-water run-off to Hall Street.
- Rather than construct a stone wall topped by a post-&-rail fence a 1.5m high dry stone wall it is now intended with a 5-bar farmer's gate for access to the Septic tanks.

5. POLICY CONTEXT

National

National Planning Policy Framework

Section 2	Achieving Sustainable Development
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well Designed Places
Section 13	Protecting Green Belt Land
Section 14	Meeting the Challenges of Climate Change, etc
Section 15	Conserving and Enhancing the Natural Environment

Development Plan Policies

Rossendale Core Strategy (2011)

AVP1	Area Vision for Whitworth, Facit & Shawforth
Policy 1	General Development Locations and Principles
Policy 9	Accessibility

- Policy 17 Rossendale's Green Infrastructure
- 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

6. CONSULTATION RESPONSES

Whitworth Town Council

Object strongly to this application.

Reasons:

- The area is within greenbelt and should be protected.
- This development would adversely affect the local wildlife habitat and affect water courses and land drainage.

With respect to the revised scheme it has advised that it has serious concerns with regard highway safety issues.

LCC Highways

The revised plans raise no highway concerns.

7. REPRESENTATIONS

To accord with the General Development Procedure Order a site notice was posted and letters were sent to neighbours (in respect of the originally-submitted and revised schemes).

The following comments have been received :

81 Hall Fold

Objection

1 Fold Head Cottages

3 Fold Head Cottages

My self and others in the local area have legal rights over land included by the Applicant within the red-edged application site - this land containing my septic tank and services to it, also spring-water pipes.

Solicitors acting for these objectors has further advised :

Notwithstanding the amendments to the scheme, continued objection.

The agent's latest email, submitted with the revised plan, states that the 5-bar gate is being provided for "*access to the septic tanks for maintenance etc*". The amendments however fail to address the following fundamental objections of our clients to the Planning Application - it is now proposing the construction of a 1.5 metre high dry stone wall to the west of their septic tanks. Not only does it lie outside the ownership of the applicant such that it is not deliverable, it will also be sited on top of the drainage pipes to the septic tanks. The construction of a heavy structure on top of / in proximity to the pipes will potentially cause damage to their integrity, and limit access for maintenance & repair, interfering with our clients' enjoyment/use of their properties and potentially causing pollution.

We would also query whether the access proposed by the applicant to the septic tanks via the 5-bar gate is sufficient for emptying/maintenance purposes, which involves access by commercial/agricultural vehicles.

It is also clear that in the light of the above impacts that the Planning Application is contrary to Policy 24 of the adopted Core Strategy which requires all applications to take account of a number of specified criteria, in particular that it :

- “1. Has adequately considered the on and offsite impacts of the proposal in terms of climate change, flood risk, wildlife, natural resource use, pollution and air quality and identified any measures necessary for mitigation and/or enhancement”*
- “5. Is compatible with its surroundings in terms of style, siting, layout, orientation, visual impact, local context and views, scale, massing, height, density, materials and detailing”*
- “7. Protects the amenity of the area, including residential amenity.....”*
- “10. Demonstrates that existing drainage, waste water and sewerage infrastructure capacity is maintained...”*

Lower Fold Head Farm

Objection.

Since August 2018 the Applicant has made attempts to claim land that is currently unregistered, entailing walling/fencing an area which is historically a right of way to our farm and has been used by use for over 40years, unhindered and unchallenged. We move 20 plus cattle regularly up and down the lanes and our farm business requires free movement for tractors and large farm machinery. Also they have erected posts up to our farm boundary that are on a bridleway and hinder its use as such.

The applicant’s suggestion that the land is to be used for agriculture raises concern for the welfare and basic needs of livestock as the land has an area of less than a third of an acre.

Limed Farm

Notwithstanding the amendments to the scheme, continued objection.

Reasons:

The access has been unrestricted for several decades and if in anyway restricted will adversely affect long standing businesses in the area - The terrain is difficult and the open space being enclosed is used by working farms to manoeuvre large agricultural vehicles/trailers and to access to residential dwellings. Unobstructed access is required by emergency, postal, local waste management services and to maintain/service septic tanks (two within the site), private spring-water supply, electricity & gas supply, etc

Those of us that use the access route and land have hitherto respectfully worked together to ensure that there have been no obstructions or restrictions.

Whilst we have no objection to the appearance of the boundary wall, we do have concerns about the several tonnes of stone needed for its construction being dumped where it will interfere with accessibility with their property. Also have concerns that the new access cuts through a water drainage course and water will run down Hall Street and flooding issues for houses at the bottom of Hallfold. Services that run at the side of the water course were dug up with no consultation with the service providers prior to work commencing and no consideration given for the residents that use them and has caused damage to the bridleway to the south side, and smell from manure escaping from the site to the bridleway and drain running alongside it. Users of this bridleway may be injured as visibility at the junction of the new drive with Hall Street is restricted.

During the time between the original and the revised submission several dogs have been kept on the site and cause noise nuisance with their continual barking.

8. ASSESSMENT

The application seeks permission for works that have been started but not complete, namely:

- 1) a new vehicular access extending into the site from the southern end of the site frontage to Hall Street; &
- 2) a stone wall on the western boundary of the site.

Objections to the application have been received on the basis that the Applicant does not own all of the land within the red-edged application site - it is undoubtedly the case that there are a couple of septic tanks towards the SW corner of the site that serve neighbouring dwellings. However, the Applicant has Completed the necessary Certificate acknowledging that they do not the sole owners of all of the land within the red-edge. In dealing with the application the Council must look to protect the public interest - any Planning Permission granted will not over-ride the private rights of others in respect of the red-edged site.

The main considerations in determining the application are:

- a) Principle; b) Visual Amenity; c) Neighbour Amenity; & d) Access/Parking

New Vehicular Access

The site is within Countryside, wherein National guidance and Core Strategy policies seek to limit development to that which maintains the essentially open and rural character of the area. This application is not seeking permission for any new building but for a new access to serve the existing stables and adjacent paddock. Accordingly, there is no objection in principle to this element of the proposal.

Your Officers originally had concern about the way in which a new access of 3m in wide x 37.5m in length, with a retaining-wall to each side would erode the character and appearance of countryside. As amended the track is to comprise of two gravel-surfaced wheel-treads of 0.75m in width, now to have a grassed bank to one side and to the other side a retaining-wall which is to be stone-faced and of no more than 9m in length at no more than 2m in height. Furthermore, the topography of the area and curvature of the track mean that a third of its length will be hidden from view from people on Hall Street. On this basis it will not detract to an unacceptable extent from the character and appearance of countryside or neighbours.

As amended, a drainage channel is to be provided across the eastern end of the new access to prevent surface-water run-off to Hall Street. LCC Highways has no objection to this element of the proposal.

Stone Wall on Western Boundary

The Applicant first began to construct a low stone wall topped with pre-cast concrete posts to support a fence that would have exceeded 2m in height.

As first submitted the application sought permission to retain the low stone wall and top it with a fence of pre-cast concrete posts and 2 timber rails, with an overall height of 1.5m.

In response to objectors concerns about its siting, and Officers concerns about the 'urbanising' appearance of such a wall/fence, it is now proposed to erect a drystone wall of 1.5m in height with a 5-bar farmer's gate to give access to the neighbours Septic tanks.

This treatment of the western boundary of the site will not unduly detract from the character and appearance of countryside or the visual amenities of neighbours - a condition is recommended to ensure the wall and gate are of appropriate design and materials for a field-boundary. It is also considered appropriate to require submission of details of protection to be afforded to pipes to the neighbours septic tanks or other services to run under/through the wall.

No public rights of way will be obstructed and LCC Highways has raised no objection to this element of the proposal.

9. SUMMARY REASON FOR APPROVAL

The development for which permission is not inappropriate in principle for land within the Countryside and, subject to the conditions, the proposal will not detract to an unacceptable extent from the character and appearance of the area, neighbour amenity or highway safety. The proposal is considered to accord with the National Planning Policy Framework and Policies 1 / 9 / 17 / 18 / 23 of the Council's adopted Core Strategy (2011).

10. RECOMMENDATION

Approve

CONDITIONS

1. The development hereby permitted shall be carried out and completed in accordance with the following unless otherwise required by the conditions below :

Title	Drwg No	Date Recd
Location Plan	T18-80 02 rev B	10 / 01 / 19
Site Survey	130918CP-01	11 / 01 / 19
Site Plan & Boundary Detail	T18-80 01 rev D	10 / 01 / 19

Reason: To define the permission and in the interests of the proper development of the site.

2. Within 2 months of the date of this permission :
 - a) The concrete posts protruding from the wall on the western boundary shall be removed;
 - b) A drawing detailing the positions and depths of pipes to the neighbours septic tanks and other services to run under/through the wall hereby permitted shall be submitted to the Local Planning Authority;
 - c) Details of the design/facing materials of the 1.5m high drystone wall to be provided, together with the details of protection to be afforded to pipes to the neighbours septic tanks or other services to run under/through the wall, shall be submitted to the Local Planning Authority;
 - d) Details of the siting/size/design/materials of the 5-bar farmer's gate to be provided shall be submitted to the Local Planning Authority;
 - e) Details of the drainage channel to be provided across the eastern end of the new access to prevent surface-water run-off to Hall Street;
 - f) Details of the size/design/materials of the retaining-wall to be provided to south side of the new access, and for the stabilisation and planting to be provided to the north side, shall be submitted to the Local Planning Authority; &
 - g) A timetable/programme for undertaking works c-f shall be submitted to the Local Planning Authority.

The approved works shall be undertaken in accordance with the timetable/programme agreed in writing by Local Planning Authority.
Reason: In the interests of visual and neighbour amenity and highway safety.