

Application Recommended for Approval

APP/2016/0569

Ward Lane Head

Full Planning Application

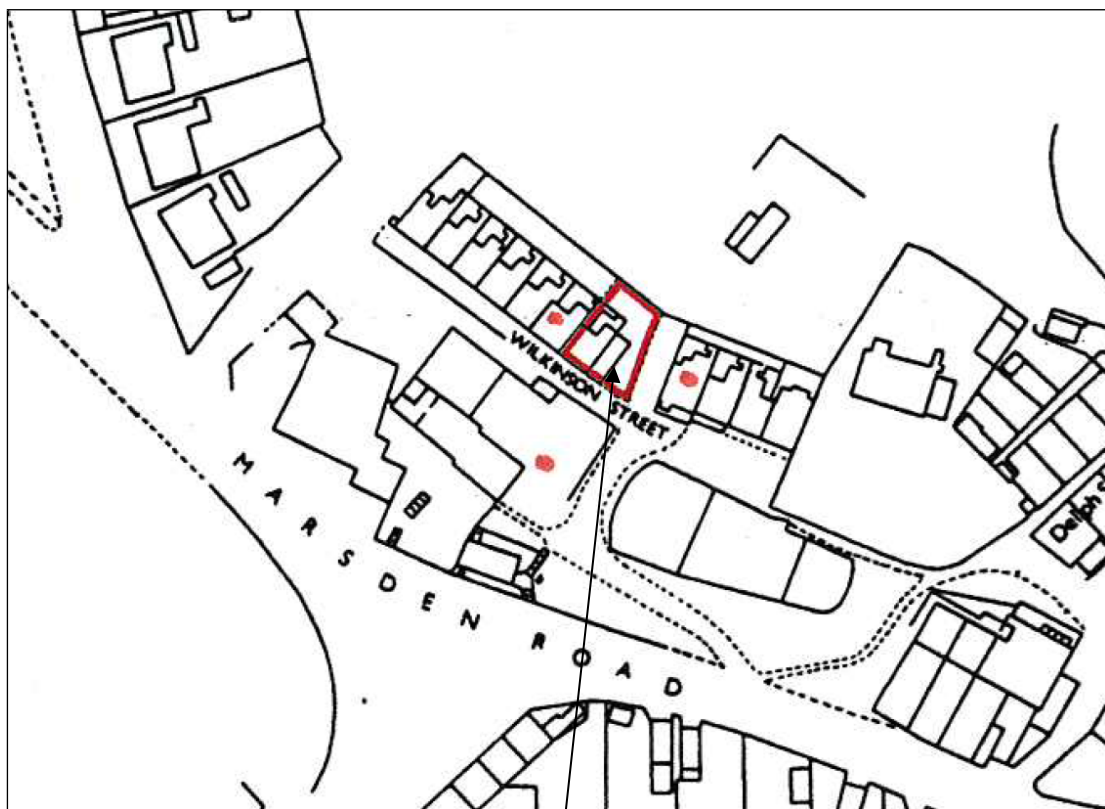
Change of use from tarmac surface to enclosed cottage garden, together with retention of 2.2m high fence; and, erection of climbing support/trellis 3.65 metres in height, to rear of garden.

9 JIB HILL COTTAGES MARSDEN ROAD BURNLEY

Background:

The application relates to land between two terraces in the Jib Hill Conservation Area.

Objections have been received.



Application site

Relevant Policies:

Burnley Local Plan Second Review

E12 - Development in or adjacent to Conservation Areas

Site History: No relevant applications.

Consultation Responses:

Highway Authority – There has historically been an access to the rear of the terraces but there is not a public right of access.

Neighbouring Residents – Five letters making objections to the proposal summarised as follows:

1. The proposal involves enclosing part of a road used for parking by local residents.
2. There is other development (gates and barriers) outside the application site, not referred to in the application [*Comment- This is a separate matter*]
3. Private rights of way are blocked
4. The tarmac road is not unused and has been an access to adjoining land since 1928.
5. Bin access has been interrupted and residents have now to move bins to a collection point.
6. Access to the rear of the dwellings is now gated and kept locked.

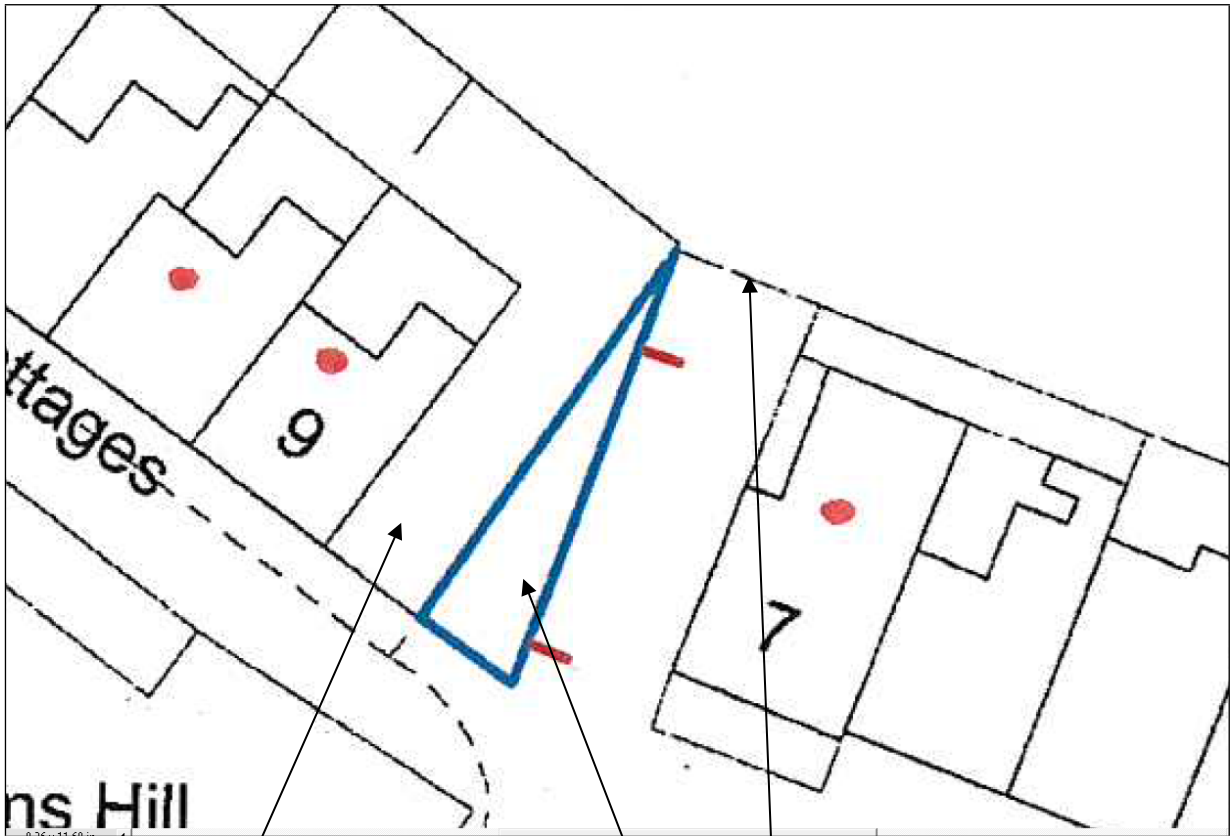
[See comments in the main report on these matters]

Planning and Environmental Considerations:

The application relates to a small piece of land between two terraces in the Jib Hill Conservation Area.

The two terraces of cottage style houses dating from the mid-C19th or earlier were built with a generous space between their gable ends. This is evident from historic plans of the area. Presumably the space allowed ease of access to the rear of the terraces; however, there is no evidence of the access achieving the status of public highway. There is an existing gateway/field-access accessible across the tarmac surfaced space.

The present application is to change the use of a triangle of land to domestic garden to be included in the garden space of No.9. It is for retention of the fence already erected around the area.



Existing garden triangle of land for which change of use sought
Position of field/land access gate



Application site and fence
Other development not part of the application

Law, Policies and Assessment

The site is within the Jib Hill Conservation Area and, therefore, the Planning (Listed Buildings and Conservation Areas) Act 1990 applies to the proposal.

For conservation areas (CA), s72 requires that special attention be paid to the desirability of preserving or enhancing the character of that area. **Policy E12** sets criteria, as relevant to this application, requiring proposals to respect the character and historic street patterns of the CA.

Also, the terrace, Nos9-21 is Locally Listed as a heritage asset, and Policy **E15** requires that proposals avoid removal of features of historic importance.

The character of the CA arises from the development of the short terraces of modest stone cottages built to follow the contours around Jib Hill, the site of an historic stone-quarry. A splayed gap between the terraces formed a rudimentary access to the rear.

Over the years, domestic improvement has seen the access provided with a tarmac surface and the track, rear of the terrace, was subdivided as private rear gardens, retaining pedestrian access along the rear of the terrace.

The present proposal would see the triangular area changed from part of an open tarmac surfaced track to part of a private garden attached to the end terrace house.

Enclosure of the land would affect the character and appearance of the CA. The 'permitted development' rights conferred in planning legislation would permit the erection of a fence in this location up to a height of 2m. The fence erected, for which permission is now sought, is marginally above 2m in height mainly as a result of the ornamental curve atop each panel. The present bright colour of the fence conflicts to a degree with the rugged stonework of the traditional buildings and setting, however this could be mitigated by painting a suitable dark colour.

In conclusion, the enclosure of the land and erection of the fence, whilst it would change the appearance of the CA, would not harm its character and appearance in any significant way, provided a condition is imposed requiring dark coloured painting of the fence.

Procedural matters

A representation has been received claiming of ownership of a small part of the land to which the application relates. However, the applicant can give documentary evidence of ownership at the present time, so that, whatever the outcome of any future dispute, the certification of ownership is in accordance with planning legislation.

Also, there are representations about right of access to/from the field gate, rights to pass over and park on the land. The nature of any of those rights is a private matter to be resolved between the parties involved. However, it needs be said that, on plan, it appears that space would still be available to gain access to the gate.

In any event, a grant of planning permission does not over-ride any matter of land ownership or private right of access.

Other matters

Representations are made about the interruption of rear access to the dwellings, including for bin clearance purposes. Such access was available when the dwellings were erected and throughout intervening years. **Policy GP3** requires that account be taken of movement needs to and through the development and this report considers that the retention of the development, if granted, should be conditional on access to dwellings being kept available.

Recommendation:

That planning permission be Granted subject to the following conditions:

Conditions

1. The development must be begun within three years of the date of this decision.
2. The change of use shall relate only to the area edged in blue on the submitted application plan
3. Pedestrian access shall be kept available at all times across the land to which this application relates to the rear of the terrace of dwelling houses attached to No9 Jib Hill Cottages. Such access shall be sufficient to enable reasonable access for movement of refuse/recycling storage containers.

Reason

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure that the development remains in accordance with the development plan.
3. To ensure proper access is retained to dwelling houses in accordance with Policy GP3 of the Burnley Local Plan, Second Review, currently saved.

AR
18.4.2017