

Application Recommended for Approval
Briercliffe

HOU/2021/0065

Town and Country Planning Act 1990
Retention/Construction of dry stone walls and diversion of Public Footpath No. 163.
Musty Haulgh Barn Granville Street Briercliffe

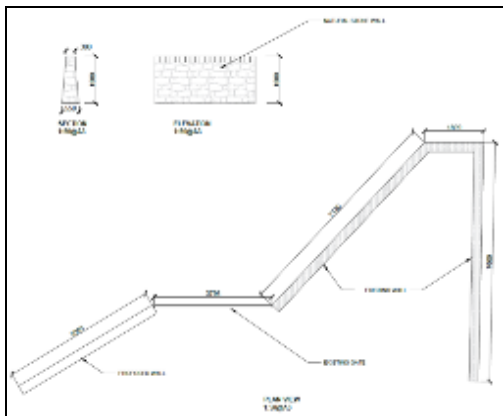
Applicant: Mr Brent Frankland

The application is before the committee following receipt of objections.

Background:

The proposal is to retain a dry stone wall, which has already been constructed at the entrance to Musty Haulgh Barn, and to construct a further section of wall adjacent to it, on the opposite side of the entrance gates.

The section of drystone wall which has already been constructed roughly forms a u-shape measuring 7.12 metres long by 1.5 metres high, returning along the frontage for a length of 1.899 metres by 1.5 metres high and then returning for a length of 7.6 metres by 1.5 metres high. It is built in a traditional manner with a base of 0.55 metres reducing to 0.30 metres at its top. It includes a slate name plaque directing visitors to Musty Haulgh Barn and the nearby Musty Haulgh Farm and Cottage.



Plan View of Wall



View of entrance to Musty Haulgh Barn from Granville Street

The additional section of wall to be constructed on the opposite side of the entrance gate to replace the existing timber fence, would be 5 metres long, matching the wall already built, in height and width.

The wall affects Public Footpath No 163 and it is proposed to divert the Public Footpath. This is currently being dealt with by the Lancashire County Council Public Rights of Way Officer. Until any diversion is approved, the built section of wall has been adapted to allow access through it, to avoid blocking the Public Footpath in the meantime.



Cut out in wall to accommodate Public Footpath

Up to four Leyland Cyprus trees would be removed to accommodate the proposed new section of the wall. A Tree Survey is submitted in support of the application.

The proposal has been the subject of public consultation and a site notice and press notice have been produced.

Objections have been received to the proposal.

Relevant Policies:

Burnley Local Plan

Policy SP1 – Achieving Sustainable Development
Policy SP4 – Development Strategy
Policy SP5 – Development Quality and Sustainability
Policy HS5 – House Extensions and Alterations
Policy NE1 – Biodiversity and Ecological Networks
Policy NE3 – Landscape Character
Policy NE4 – Trees, Hedgerows and Woodlands
Policy IC1 – Sustainable Travel

No Relevant Site History:

Consultation Responses:

1. Highway Authority: the proposal would not raise any highway concerns. The proposed diversion appears to be following the correct procedures and no objections are raised to the proposal on highway grounds.
2. The Ramblers Association: It appears that the present footpath has been unofficially diverted for around 8 years. The proposed line of the new path is to be upgraded to a bridleway, to join up with one already running through Heasandford. No objections are raised to the diversion of the footpath as this will evidently be on a firm surface, will avoid passing through the farmyard and will be of much the same length giving access between the same points. The official path diversion will have to be made with the Definitive Maps being brought into line.
3. Briercliffe Parish Council: The Council fully support this application and welcomes the donation of the land to connect the path to the bridleway.
4. Neighbour Objection: A neighbouring resident objects to the proposal making the following comments:

- Although it has been constructed well from good materials, it is far too high
- Traffic and pedestrians cannot be seen from the main entrance/exit which is a danger to public safety as young families regularly walk here.
- It is hard for walkers to see the public footpath as it is unclear and unmarked, and they often get lost
- The structure makes it impossible for lost delivery vehicles, etc to turn round safely at this point
- The wall extends further than before and impedes access
- The proposed line of the public footpath would be a health and safety nightmare and the path would be generally unsuitable for members of the public.

5. Neighbour Objection: An occupier of the adjoining land to the north of the site objects to the proposal and makes the following comments:

- The stone wall looks good but is not very practical and creates a blind spot when exiting our land in a vehicle. Vehicles approaching from the right are not visible
- The wall makes it difficult for delivery drivers, etc to manoeuvre to our land
- The proposed new route of the public footpath is not suitable for walkers

Comment on neighbour objections

The wall is 1.5 metres high and is visually pleasing, in scale with its surroundings. The Highway Authority raise no concerns regarding traffic and pedestrian safety. The wall is constructed on land within the ownership of the applicant and other visitors/users of the track have no entitlement to encroach onto private land to manoeuvre vehicles. The suitability of the proposed alternative public footpath will be considered by LCC during the diversion procedure.

Planning and Environmental Considerations:

Principle of the Development

The site is outside the Development Area and within the Open Countryside as defined in Burnley's Local Plan, where Policy SP4 states that development will be strictly controlled and will only be permitted where there is a need to be located in the countryside and it is of appropriate scale and type.

The proposal is to provide boundary treatment at the entrance to the dwelling for security and privacy purposes which, in principle, is an acceptable development in the countryside area, providing it is of appropriate quality and in scale and keeping with the locality.

Main issues for Consideration

The issues for consideration relate to the design and materials of the wall and its impact on the visual amenity and character of the surrounding landscape; the position of the wall and its impact on highway/ pedestrian safety and access to neighbouring property; loss of trees; and the impact of the proposal on the public footpath.

Design and Materials

Policy SP5 expects development to be of a high standard of design, construction and sustainability. In respect of its design and materials, such development should respect local scale and massing and contribute positively to the public realm. Materials should be high quality and appropriate to the local context.

The wall is of a high quality construction and design. It is built from local reclaimed natural stone and constructed in a traditional manner by a skilled craftsman. The scale is compatible with its surroundings and the materials are appropriate to the context.

Impact on Highway / Pedestrian Safety



Neighbouring access point

The Highway Authority raise no objections to the development. This section of Granville Street is an unmade track and vehicles generally would need to negotiate the track quite slowly. Pedestrians would be aware of the entrance as they pass and the need to be mindful of vehicles exiting the site. The entrance is wide where it meets Granville Street.

The wall should have no impact in terms of the manoeuvring or turning of visiting / delivery vehicles at the entrance as it is constructed on private land, where there would be no right of access or encroachment for other users. If neighbouring access is not suitable for purpose it would be up to the occupiers whether or not they wish to improve it on their own land.

Loss of trees

The section of wall not yet constructed would sit close to existing trees on the site. A Tree Report sets out that the roots of up to four low quality Leyland Cypress trees may be affected and the trees lost. The trees are not protected by Tree Preservation Orders and are not suitable for such protection.

The applicant is keen to minimise the loss of trees and proposes that only one tree, nearest to the proposed wall, will be removed initially, with root protection measures undertaken to enable the retention of the remaining trees. The remaining trees would only be lost in a worst case scenario.



Position of tree/s to be removed

It is proposed to require by condition that replanting of a heavy standard tree of native species takes place for each tree which is lost by the development which will provide a net gain in biodiversity in line with Policy NE1.

A condition is proposed requiring that no tree works should be undertaken during the bird nesting season from March to August in order to protect potentially nesting birds, having regard to Policy NE1 and the Wildlife and the Countryside Acts.

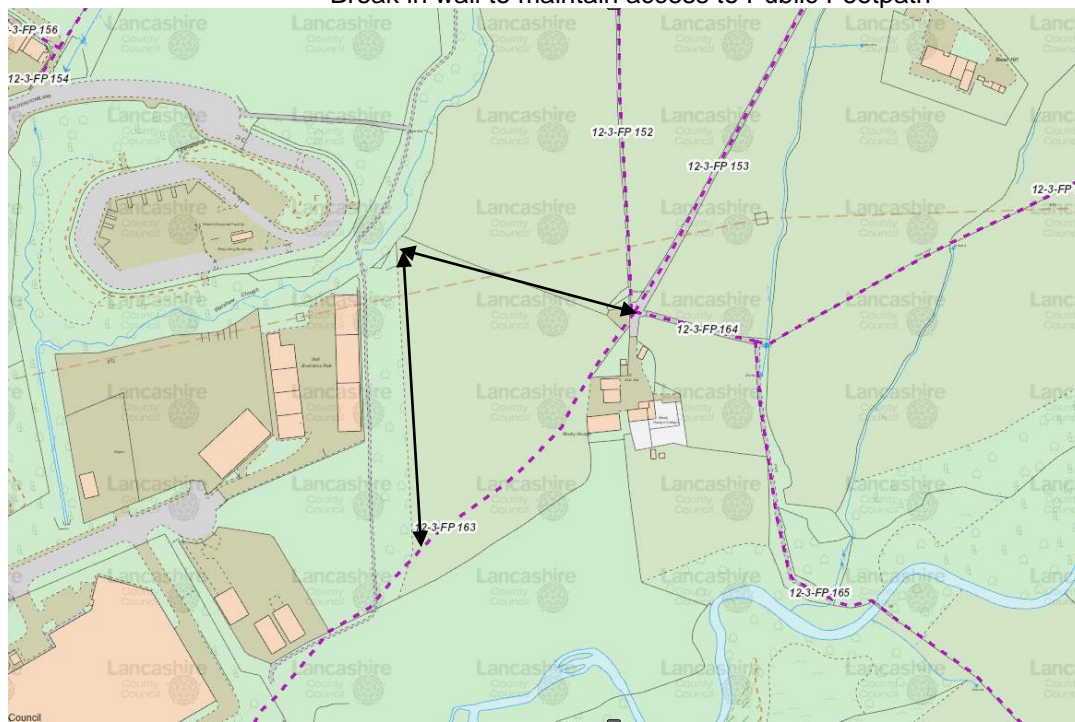
Impact of the Proposal on the Public Footpath

The proposed diversion of the Public Footpath is a matter for Lancashire County Council and interested parties will have the opportunity to comment on the new route during the course of the formal procedure for the diversion.

Until a Diversion Order is made, the applicant has taken steps to retain the existing public footpath by providing a break in the wall to maintain access. The Public Right of Way Officer considers this solution to be acceptable.



Break in wall to maintain access to Public Footpath



It is proposed that Footpath 163 would be diverted along the lines marked with an arrow as shown.

Conclusions

The proposal satisfies the policies of the Local Plan and is acceptable in terms of design, materials and impact on the character of the locality, in line with Policy SP5 – Development Quality and Sustainability.

No issues of highway safety have been raised by the Highway Authority and the proposal provides for safe pedestrian and vehicular access into the site in line with Policy IC1 – Sustainable Travel. The public footpath is maintained at present until the appropriate procedure is followed to secure a diversion, which will be actioned by Lancashire County Council.

Any trees which will be lost will be compensated for by replanting with native species, giving a net gain in biodiversity in line with Policy NE1 – Biodiversity and Ecological Networks.

Recommendation:

It is recommended that planning permission is granted for the development subject to the following conditions:

Conditions

- 1 The development, not yet carried out, to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

- 2 The development shall be carried out in accordance with the approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

3. All materials and dimensions to be used for the approved scheme shall be as stated on the application form and approved drawings and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: To ensure that the development will be of a satisfactory appearance and to comply with Policy SP5 of Burnley's Local Plan (July 2018).

4. One heavy-standard, native tree shall be planted within the curtilage of the dwellinghouse for each tree that will be removed or lost as part of the approved development. The planting of the replacement trees shall be carried out within the next planting season following the felling of the tree/s and shall thereafter be maintained in accordance with good horticultural practice and replaced within 3 months if they die within three years of their planting.

Reason: In order to maintain tree cover in the area having regard to Policy NE4 of Burnley's Local Plan (July 2018)

5. No works to the trees shall be carried out within the bird nesting season from March to August of any year.

Reason: To protect biodiversity having regard to Policy NE1 of Burnley's Local Plan (July 2018).

Approved Plans:

Location Plan 1:1250; Site Plan 1:500; Site Plan with wall 1:500; Existing and Proposed Wall details 1:50 all received 22 February 2021.

Article 35 Statement

Some negotiation was carried out to advise on the procedure for the diversion of the public footpath, the requirement for the submission of a planning application and a Tree Report. The application as submitted is in accordance with the local plan policies and the National Planning Policy Framework and there was no need for further negotiation with the applicant.

CR
Senior Planner