

Agenda Item	A7
Application Number	24/00638/FUL
Proposal	Installation of a gate and control panel, repair of wall and fence and realignment of pedestrian/cyclist path
Application site	East Lodge Aldcliffe Road Lancaster Lancashire
Applicant	Mr Michael Stainton
Agent	Mr David Hall
Case Officer	Mr Patrick Hopwood
Departure	No
Summary of Recommendation	Refusal

(i) Procedural Matters

This application has been called in for determination at the Planning and Regulatory Committee by Councillor Hamilton-Cox.

Where this report refers to the Strategic Policies and Land Allocations DPD and Development Management DPD, these are those policies set out in the adopted Climate Emergency Review of the Local Plan (CERLP). The CERLP was reported and adopted at Full Council on the 22 January 2025.

1.0 Application Site and Setting

- 1.1 The site to which this application relates is a gateway adjacent to East Lodge on Aldcliffe Hall Drive, which leads from Aldcliffe Road to Aldcliffe Hall Lane. East Lodge is a Grade II listed building and the wall and railings opposite (on the northwest side) are identified as a Non-Designated Heritage Asset (NDHA) within Appendix 5 of the Aldcliffe-with-Stodday Neighbourhood Development Plan (NDP). The trees adjacent to the driveway are protected by a Tree Preservation Order (TPO) and recorded as a NDHA within the NDP. The site faces Lancaster Canal.

2.0 Proposal

- 2.1 This application seeks planning permission for installation of electric gates and a control panel, repair of a wall and fence, and realignment of pedestrian/cyclist path. The proposed double gates are to be constructed of timber with metal railings and timber boarding at the base. The gates are to be hung from new metal posts set behind the existing stone gateposts across Aldcliffe Hall Drive. An intercom control panel is to be fitted to the railings of East Lodge, and a 2m wide pedestrian/cycle path is proposed to bypass the proposed gates on the northwest side of the driveway. A 2m wide opening is to be created within the wall and railings on the northwest side to facilitate the new path.

3.0 Site History

3.1 A number of applications relating to East Lodge have previously been received by the Local Planning Authority. The most recent of these include:

Application Number	Proposal	Decision
23/00176/FUL	Erection of new boundary railings to the front and side	Approved
22/00795/LB	Listed building application for internal refurbishment, addition of lime plaster to internal walls and erection of a two storey side extension	Approved
22/00794/FUL	Erection of a two storey side extension	Approved

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultee	Response
Parish Council	Objection. Definitive Map Modification Order should be resolved before erection of gates is considered; restricts and impacts flow of pedestrians and cyclists; presents Aldcliffe as if it is a "gated community"; impact on restricted byway and safety claims unfounded.
Conservation Team	Comments. Low harm from loss of wall section balanced by benefit in reinstatement of gates. No harm from intercom unit. Images of the old gate required to justify the design. Details of how the railing and stone wall would be made good required. Details of materials for footpath, gateposts and gate timber also required.
Arboricultural Officer	Comments. Requires further information relating to ground protection, surfacing, excavation, impact on tree roots and reinstated railings.
Canal and River Trust	Comments and advice. Efforts should be made to protect the canal during construction works.
Natural England	No response received.
County Highways	No objection , subject to condition for gate restrictions.
County Public Rights of Way	Neither support nor object. Comments and advice provided in relation to current Definitive Map Modification Order made by Lancashire County Council.
Ramblers Association	No response received.
Planning Policy Officer (Active Travel)	Comments. Proposal would have an adverse impact on the existing cycle network and cycle users, and is not justified from a safety point of view.
Dynamo Cycle Campaign	Objection. Case for the gates is tenuous and proposed realignment is very cyclist-unfriendly.
North West Ambulance Service	Objection. Risk that access to patients would be delayed.

4.2 At the time of writing this report, 107 letters of objection have been received raising the following main issues:

- Gates unnecessary
- Impact on trees
- Impact on wildlife
- Could displace users onto unsafe main road
- Impact on pedestrians and cyclists
- Impact on views, openness and character of area
- Lack of community support
- Definitive Map Modification Order should be resolved first
- Contrary to encouraging active leisure
- Impact on non-standard cycles, trailers and mobility scooters
- Impact on highway and public safety
- Impact on horse riders
- Impact on postal, delivery and emergency services

- Convey a “keep out” message
- Not all property owners agree to the gates
- Future maintenance responsibilities unknown
- Impact on restricted byway

One letter of support has been received raising the following main points:

- Sympathetic to original design
- Helps alleviate traffic problem
- Improves security and aesthetics

5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Trees impacts
- Biodiversity impacts
- Highway impacts
- Heritage and design impacts
- Residential amenity

5.2 **Trees** (NPPF Sections 12 (Achieving well-designed places) and 15 (Conserving and enhancing the natural environment); Policies ASNP1 (Conserving and Enhancing Local Biodiversity), ASNP3 (Protecting and Enhancing Local Character and Landscape), DM29 (Key Design Principles), DM43 (Green and Blue Infrastructure) and DM45 (Protection of Trees, Hedgerows and Woodland))

5.2.1 Policy ASNP1 requires proposal to avoid impacts from loss of natural infrastructure, retaining mature trees to improve habitat quality. Policy ASNP3 requires development proposals to follow the Aldcliffe with Stodday Design Code (ASDC) and protect and enhance local character and landscape, including NDHAs. The trees adjacent to the driveway are protected by a Tree Preservation Order (TPO) and also recorded as a NDHA within the NDP. Design Code 4 of the NDP requires trees to be incorporated in development design.

5.2.2 Policy DM45 sets out that new development should positively incorporate existing trees, and that the council supports the protection of trees that positively contribute either as individual specimens or a part of a wider group, to the visual amenity, landscape character and/or environmental value of a location. Section 15 of the NPPF seeks to conserve and enhance the natural environment, and expects planning decisions to recognise the intrinsic character and beauty of the countryside and also the wider benefits of trees. Policy DM29 and Section 12 of the NPPF require a high standard of design and layout, which positively contributes to surrounding landscape. Policy DM43 requires green infrastructure, which includes woodland and trees, to be protected and enhanced.

5.2.3 The NDP notes that many of the trees along Aldcliffe Hall Drive – beech, oak, horse-chestnut, lime – are over 190 years old having been planted when the Drive was laid out and the East Lodge built in 1827. The trees provide a wildlife corridor supporting insects, birds and bats. A basic Tree Protection Plan has been submitted with the application but not a full Arboricultural Impact Assessment (AIA) as required by Policy DM45 where proposal have potential implications for existing trees. The proposed development is within the Root Protection Area of the protected trees. Due to the absence of a full AIA, it is not possible to accurately establish the full impact of the construction and completed development on the protected trees.

5.2.4 However, Officers have observed that there appears to be a difference in land levels either side of the wall, which is likely to require some degree of excavation to enable the path to be level with the driveway and accommodate a suitable surface. There are also shallow/exposed crown roots visible close to the gate post which are likely to be negatively affected by the excavation required for the proposed path to be level with the driveway and be completed in accordance with any of the proposed cross-section construction options. Excavations would not be supported given the presence of the TPO and significance of these trees.

5.2.5 Overall, the proposal would potentially adversely harm the long-term health and stability of the protected trees, contrary to Policies ASNP1, ASNP3, DM29, DM43 and DM45 and NPPF Sections 12 and 15.

- 5.3 **Biodiversity (NPPF Section 15 (Conserving and enhancing the natural environment); Policies ASNP1 (Conserving and Enhancing Local Biodiversity), SP8 (Protecting the Natural Environment) and DM44 (The Protection and Enhancement of Biodiversity))**
- 5.3.1 Policy ASNP1 requires development proposal to conserve and enhance biodiversity, avoiding impacts on wildlife and natural environment and aim to achieve a biodiversity net gain of 10% minimum. Policies SP8 and DM44 seek to protect and enhance biodiversity, including both habitats and species. Paragraph 187 of the NPPF requires planning decisions to provide net gains for biodiversity. Biodiversity Net Gain (BNG) became mandatory for most planning applications in February 2024 and requires developers to increase or enhance wildlife habitats by a minimum value of 10%. The BNG legislation requires developers to complete the Defra Biodiversity Metric to record and calculate the pre-development baseline biodiversity value of the site.
- 5.3.2 The Applicant has claimed that the application is exempt from BNG based on simple land area value so has not provided a completed Metric, nor any survey reports, to demonstrate the baseline habitat information. However, in accordance with the national legislation and Planning Practice Guidance, where there are trees within the site or affected by the proposal, the value of the trees needs to be considered using the Defra Biodiversity Metric, to establish the habitat value. Furthermore, no assessment of ecological impact upon the woodland understorey habitat has been provided.
- 5.3.3 Overall, insufficient information has been submitted to determine the impact of the proposal upon ecology and ensure that it secures biodiversity net gain.
- 5.4 **Highways (NPPF Section 9 (Promoting sustainable transport); Policies ASNP2 (Supporting Walking and Cycling) and DM61 (Prioritising Walking and Cycling))**
- 5.4.1 Policy ASNP2 requires development to incorporate measures to promote sustainable travel enhancing cyclist and pedestrian safety. Policy DM62 states *“To build on the previous success of Lancaster’s designation as a ‘Cycling Demonstration Town’ the Council will ensure that development proposals do not adversely impact on the existing cycling network or cycle users. Development proposals should also encourage greater opportunities for cycle users through good design, and deliver appropriate cycle access.”* NPPF Paragraph 117 requires development to give priority first to pedestrian and cycle movements; address the needs of people with disabilities and reduced mobility; and minimise scope for conflicts between pedestrians, cyclists and vehicles.
- 5.4.2 Aldcliffe Hall Drive is a long established and well used public right of way for pedestrians and cyclists and forms part of an important link between the Lancaster Canal towpath and the Lune Estuary cycle path. The link provides a safe and attractive alternative to Aldcliffe Road which is an on-road route and has a narrow blind bend to the east of East Lodge.
- 5.4.3 The submitted design shows a narrow and awkward arrangement for cyclists to negotiate to the side of the proposed gate. It is shared space with pedestrians and likely to cause conflict between cyclists and pedestrians. Referring to the Planning Statement it is apparent that the purpose of the proposal is to slow down and impede cyclists. The proposed design is not in conformity with Government guidance for cycling infrastructure (LTN1/20 Cycle Infrastructure Design) and will require cyclists to dismount in order to avoid potential conflict with pedestrians.
- 5.4.4 In terms of existing safety issues, there is no substantive evidence provided in the application to suggest that cyclists need to be restricted and certainly not to the point that gates across the driveway are required with cyclists having to negotiate a bypass route. No other speed control measures appear to have been considered. Rather than residents attempting to address highway safety issues themselves, improvements to highway safety are more appropriately pursued by the Highway Authority, in association with landowners and other stakeholders as necessary, based on evidence and designed to the relevant codes and legislation.
- 5.4.5 The driveway is subject to a Definitive Map Modification Order to record a public right of way (restricted byway) and the proposed gates would obstruct this route, with the proposed pedestrian/cycle bypass not approved by the County Council as a suitable diversion to the Order route. Lancashire County Council have not yet confirmed this Order to add the route to the definitive map. Should the Order be confirmed, the landowner will need to open the route to the public along

the alignment shown on the Order plan, and remove any obstructions to the path, regardless of whether any planning permissions exist. Due to the current status of the public right of way application and noting that this is subject to separate legislation under the Highways Act 1980, no weight as a material planning consideration can be attached to this matter.

- 5.4.6 The objection from the Ambulance Service is noted; however, it is understood that there are other gated communities within the district and appropriate arrangements for emergency vehicle access can be arranged. In the event of an approval, this matter could be explored further in consultation with the relevant authorities. County Highways have no objection to the application and note that the gates are set back a sufficient distance from the adopted highway to avoid waiting vehicles obstructing Aldcliffe Road.
- 5.4.7 Overall, whilst the proposal is acceptable in terms of impact on the adopted highway network and can be made acceptable in terms of emergency vehicle access, the proposal would have an adverse impact on the existing cycle network and cycle users and is not justified from a safety point of view. It is, therefore, considered to be contrary to Policies ASNP2 and DM61, and NPPF Section 9.
- 5.5 **Heritage and Design** (NPPF Sections 12 (Achieving well-designed places) and 16 (Conserving and enhancing the historic environment)); Policies ASNP3 (Protecting and Enhancing Local Character and Landscape), ASNP4 (Promoting High Quality and Detailed Design), SP7 (Maintaining Lancaster District's Unique Heritage), DM29 (Key Design Principles), DM37 (Development Affecting Listed Buildings), DM39 (The Setting of Designated Heritage Assets) and DM41 (Development Affecting Non-Designated Heritage or their Settings))
- 5.5.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed Building, a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by the heritage policies of the Local Plan.
- 5.5.2 Section 16 of the NPPF seeks to conserve and enhance the historic environment; with Paragraph 212 affording 'great weight' to a designated heritage asset's conservation; Paragraph 213 requiring clear and convincing justification for any harm to the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting); and Paragraph 215 requiring decision makers to weigh 'less than substantial' harm against the public benefits of the proposal.
- 5.5.3 Policies DM37 and SP7 also seek to protect and enhance Lancaster's Listed Buildings and historic environment. Policy DM39 expects new development to preserve or enhance the setting of heritage assets, whilst Policy DM41 calls for alterations to NDHAs to be designed sympathetically, with any loss in whole or part of an NDHA requiring clear and convincing justification. NDP Policies ASNP3 and ASNP4 required development designs to be of high quality and sensitive to the character and significance of any nearby heritage assets, including the NDHAs listed in Appendix 5 of the NDP.
- 5.5.4 Grade II-listed East Lodge dates to 1827 and related to the former Aldcliffe Hall (now demolished). The building is of Elizabethan style in coursed sandstone and ashlar dressings under a decorative slate roof with spike finials. The lodge sits adjacent to the driveway at its junction with Aldcliffe Road and is surrounded by a low sandstone wall with metal railings atop.
- 5.5.5 Appendix 5 of the NDP notes that the railings opposite East Lodge on Aldcliffe Hall Drive are included due to their historical significance contributing to the "collective memory" of the area, and that they are all that remain of the entrance to the drive leading to the now demolished Aldcliffe Hall. The railings comprise of decorative metal railings atop a low stone wall. The avenue of trees is included as an NDHA as a designated landscape feature, with many planted in 1827 when the drive was laid out as part of Edward Dawson's landscaping vision for the Hall.
- 5.5.6 The proposed gates are of a distinctive design, constructed from timber with vertical metal rods. The submitted Heritage Statement sets out that the design of gates has been based on an old photograph and a painting. Copies of the aforementioned photograph and painting have not been submitted with the application, and provision of these would be useful in confirming and justifying the proposed design. It is understood that there have been no gates on the driveway for many years,

and the reinstatement of gates could help to enhance the historic environment by way of reinstating lost features.

- 5.5.7 The new gate posts would be functional on design but reasonably slim and discretely sited, and have potential to be acceptable subject to details of their finish. The intercom unit will be a small feature, and the mechanical feature would be underground, resulting in no material harm from these elements of the proposal.
- 5.5.8 The proposed pedestrian/cyclist path requires the removal of a 2m section of the NDHA wall which will result in a degree of harm from its loss. This harm to the NDHA, overall, is of low level, but such an impact, and the potential impact upon the trees/ ecology, is collectively attributed moderate harm.
- 5.5.9 The reinstatement of the gates can be considered a public benefit and is afforded positive weight in the heritage balance. Any harm to heritage assets (less than substantial in the context of the NPPF) is given negative weight, and the harm must be clearly and convincingly justified. It is noted that the Conservation consultee considers that the loss of the NDHA wall and railings section is balanced by the reinstatement of the gates. However, Officers take a different view when balancing all impacts and benefits and consider that the loss of the wall and railings is not properly justified, given the lack of convincing justification, together with the identified harm to protected trees, biodiversity and cycle movements. Without such justification the Local Planning Authority cannot conclude that the harm identified would be outweighed by any public benefits of the proposal. Therefore, on balance, the proposal is unacceptable in terms of impact on the historic environment as a whole.
- 5.6 **Residential Amenity** (NPPF Section 12 (Achieving well-designed places); Policy DM29 (Key Design Principles))
- 5.6.1 The main concern in terms residential amenity is potential noise impact from the electric gate motors and mechanism. Based on the information provided the applicant, the noise would be barely discernible, and therefore result in no adverse residential amenity impacts.

6.0 Conclusion and Planning Balance

- 6.1 For the reasons outlined above, the proposal is unacceptable in terms of trees, biodiversity, cycle movements, and heritage, contrary to the relevant local and national planning policies.

Recommendation

That Planning Permission **BE REFUSED** for the following reasons:

1. By virtue of the development being located within the Root Protection Area of the protected trees, the proposed development would potentially adversely harm the long-term health and stability of the protected trees. Furthermore, insufficient information has been submitted in order to accurately establish the full impact of the construction and completed development upon the trees. As such, the proposal is considered contrary to Policies ASNP1 and ASNP3 of the Aldcliffe with Stodday Neighbourhood Development Plan, Policies DM29, DM43 and DM45 of the Development Management DPD, and NPPF Sections 12 and 15 of the National Planning Policy Framework.
2. Insufficient information has been provided to determine the impact of the development upon ecology and biodiversity. As a consequence, it is not possible to conclude that the development proposed would minimise ecological impacts nor provide net gain for biodiversity. Without such information, the development results in adverse overall biodiversity value of the site, and contradicts the aims and objectives of Policy ASNP1 of the Aldcliffe with Stodday Neighbourhood Development Plan, Policy SP8 of the Strategic Policies and Land Allocations DPD, Policy DM44 of the Development Management DPD, and Section 15 of the National Planning Policy Framework.
3. Due to the narrow and awkward design of the proposed pedestrian/cyclist path, there is likely to be conflict between cyclists and pedestrians. As a result, the proposed development would have an adverse impact on the existing cycle network and cycle users is contrary to Policy ASNP2 of the Aldcliffe with Stodday Neighbourhood Development Plan, Policy DM61 of the Development Management DPD, and Section 9 of the National Planning Policy Framework.

4. It is considered that the proposed gates and pedestrian/cycle path would result in harm to the Grade II Listed Building and Non-Designated Heritage Assets, which is not clearly and convincingly justified. Consequently, the proposal fails to comply with the aims and objectives of Policies ASNP3, ASNP4 and Appendix 5 of the Aldcliffe with Stodday Neighbourhood Development Plan, Policy SP7 of the Strategic Policies and Land Allocations DPD, Policies DM37, DM39 and DM41 of the Development Management DPD, and Section 16 of the National Planning Policy Framework.

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm that it takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a formal pre-application service, aimed at positively influencing development proposals. Regrettably the applicant has failed to take full advantage of this service and the resulting proposal is unacceptable for the reasons prescribed in this report. The applicant is encouraged to utilise the pre-application service prior to the submission of any future planning applications, in order to engage with the local planning authority to attempt to resolve the reasons for refusal.

Background Papers

N/A