

Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 27 August 2020

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Subject:

This is a full planning application for the change of use of a grassed access to the side and rear of the end terrace house at 24, Croke Lane Wilsden to form an enlargement to its private curtilage.

Summary statement:

No 24 Croke Lane, Wilsden is a stone terrace house at the end of a row. The application site is the undesignated access track that runs along the side and rear of the house. It leads into a back access behind the row of terrace houses comprising Nos. 18 to 24 Croke Lane. A public footpath (Bingley 183) runs off the rear access to the village Medical Centre.

A number of objections have been received which are addressed in the Appendix 1 report. Objectors say the access is an historic highway that provides a better link to the Medical Centre and elsewhere in the village than the route alongside No 18. However, the Council's Rights of Way Officer disagrees and has no objections to loss of this connection because access to Public Footpath Bingley 183 and to the rear of Nos 18 to 22 Croke Lane will continue to be provided by the route along the side and rear of No 18.

On balance, therefore, Officers consider that the proposed change of use of the access to form an enlargement to its private curtilage will have no significant impact on access and connectivity within the village or harm connection to Public Footpath (Bingley 183).

Subject to the suggested conditions, the application is recommended for approval.

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(Planning, Transportation & Highways)
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Portfolio: Regeneration, Planning and Transport

**Overview & Scrutiny Area:
Regeneration and Economy**

1. SUMMARY

This is a full planning application 20/01626/FUL for the change of use of the access to the side and rear of the house to private curtilage at 24 Croke Lane, Wilsden, Bradford, West Yorkshire, BD15 0LL.

2. BACKGROUND

Attached as Appendix 1 is a copy of the Officer's Report which identifies the material considerations of the proposal. 3.

3. OTHER CONSIDERATIONS

N/A

4. OPTIONS

This Committee has the authority to approve or refuse this development. If Members are minded to refuse this application then reasons for refusal will need to be given.

5. FINANCIAL & RESOURCE APPRAISAL

There are no financial implications for the Council arising from this application.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

No implications.

7. LEGAL APPRAISAL

The determination of the application is within the Council's powers as the Local Planning Authority.

8. OTHER IMPLICATIONS

N/A

8.1 EQUALITY & DIVERSITY

Section 149 of the Equality Act 2010 states that the Council must, in the exercise of its functions "have due regard to the need to eliminate conduct that is prohibited by the Act, advancing equality of opportunity between people who share a protected characteristics and people who do not share it, and fostering good relations between people who share a protected characteristic and people who do not share it. For this purpose, section 149 defines "relevant protected characteristics" as including a range of characteristics including disability, race and religion. In this particular case due regard has been paid to the section 149 duty but it is not considered there are any issues in this regard relevant to this application.

8.2 SUSTAINABILITY IMPLICATIONS

The change of use of the undesignated highway will have no sustainability implications for the Council, as access to the public footpath and the rear of No 22 to 18 will remain along the undesignated highway alongside No 18 Croke Lane.

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

There will be no significant greenhouse gas emissions impacts caused by the proposed development.

8.4 COMMUNITY SAFETY IMPLICATIONS

There are no Community Safety Implications.

8.5 HUMAN RIGHTS ACT

Article 6 – right to a fair and public hearing. The Council must ensure that it has taken into account the views of all those who have an interest in, or whom may be affected by the proposal. This is incorporated within the report attached as Appendix 1.

8.6 TRADE UNION

None.

8.7 WARD IMPLICATIONS

There are no Ward implications posed by this development.

9. NOT FOR PUBLICATION DOCUMENTS

There are no 'not for publication' documents.

10. RECOMMENDATIONS

It is recommended that the Committee accept the recommendation of approval within the report attached as Appendix 1.

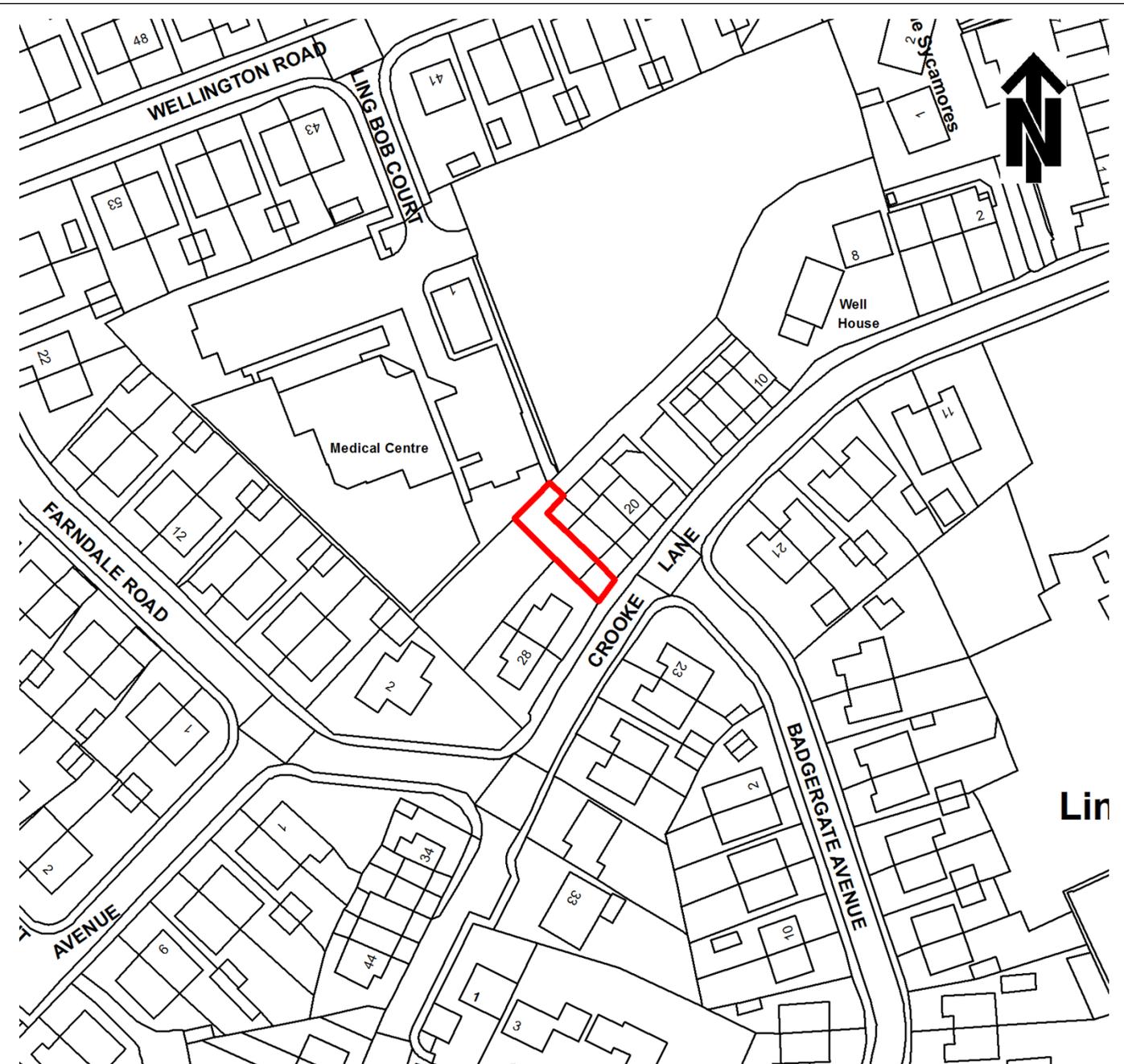
11. APPENDICES

Appendix 1: Report of the Strategic Director of Place.

12. BACKGROUND DOCUMENTS

The Replacement Unitary Development Plan for Bradford District
National Planning Policy Framework
The Core Strategy Development Plan Document

20/01626/FUL



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24 Crooke Lane
Wilsden
Bradford BD15 0LL

Appendix 1

Ward: Bingley Rural (ward 03)

Recommendation:
TO GRANT PLANNING PERMISSION

Application Number:

20/01626/FUL

Type of Application/Proposal and Address:

Change of use of the access to the side and rear of the house to enlarge the private curtilage of 24 Crooke Lane, Wilsden, Bradford, BD15 0LL

Applicant:

Miss Kate Shaw

Agent:

None

Site Description:

Nos. 18 to 24 Crooke Lane is a row of traditional stone terrace houses. The applicant resides at No 24 – the end terrace and this application refers to an unmade track running from Crooke Lane along the side of that end property. It then leads to an unmade access running behind the back of the block of terraced properties. A public footpath (Bingley183) runs off the rear access to the village medical centre. The unmade access consists of a gravelled area which steps up to a grass. Along the boundary with No 26 is a combination of a 1.5m dry stone wall, 2m high fence and mature coniferous hedgerow. Along the boundary facing the public road is a 1m high fence and shrubbery. The general street scene consists of properties of differing ages and forms reflecting that Crooke Lane has developed in differing phases.

Relevant Site History:

No recent relevant site history at this property.

The National Planning Policy Framework (NPPF):

The NPPF is a material planning consideration on any development proposal. The NPPF highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development, which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;
- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the NPPF suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

Local Plan for Bradford:

The Core Strategy for Bradford was adopted on 18 July 2017 though some of the policies contained within the preceding Replacement Unitary Development Plan (RUDP), saved for the purposes of formulating the Local Plan for Bradford, remain applicable until adoption of Allocations and Area Action Plan development plan documents.

Core Strategy Policies:

DS1- Achieving Good Design

DS3- Urban character

DS4 - Streets and Movement

Parish Council:

Wilsden Parish Council objects to the proposal and has the following concerns;

- The applicant has not given sufficient legal reasons for closing the highway
- Approval would result in a significant loss of public amenity which has been established and exercised over many years

Publicity and Number of Representations:

53 Letters of representation received (Any duplicated letters of representation have only been counted once);

30 letters of objection have been received

23 letters of support have been received,

Summary of Representations Received:

Objections

Loss of public right of way that links to the adjacent public footpath.

The alternative route proposed is through the back gardens of No 18 and 22

The undesignated highway supports movement around the village as not everyone has cars.

The route provides easy and safe access compared to the undesignated access way alongside No 18. What is there to stop the owners of No 18 doing the same and this would affect the public right of way that connects with the rear access along the back of the terraced properties to the two undesignated highways.

No advertisement of the application which is a legal requirement.

The tracks and undesignated highways reflect the history of Wilsden and effects resident's enjoyment of walking around the village.

When purchasing this property, the residents knew there was a public footpath at the side of their house which is used by many residents, if they didn't want this access they shouldn't have brought the house.

Summary of letters of support

Existing alternative route exists alongside No 18 and is safer because it is tarmac.

The undesignated highway already has the feel and appearance of private home and garden and the garden is not safe with a public right of way going through.

Upkeep of maintaining the public right of way will be less.

Consultations:

Highways Section has no objections to the proposal

Rights of Way Section has no objections to the proposal as long as a connection is maintained between public footpath 183 and Crooke Lane. The existing undesignated route along the side No 18 Crooke Lane would achieve this. The Rights of Way Section recommends an informative be placed on the decision notice advising that the adjacent public footpath should not be obstructed, and if building works mean the public right of way cannot be kept open because of safety hazards, a temporary diversion order must be obtained.

The surface of the footpath should not be disturbed, however, if damage to the public footpaths/bridleways caused by development works does occur, it must be promptly repaired by the applicant at their expense.

Summary of Main Issues:

Principle of the development/background
Connectivity to the existing street and path networks
Visual amenity
Residential amenity
Highways
Other matters raised in the course of the application

Appraisal:

Impact on Connectivity to the Existing Street and Path Networks

The Council's Rights of Way Officer confirms that neither the grassed access at the side of the applicant's house at No 24 Crooke Lane, nor the partly surfaced access at the other end of the terrace along the side of No 18 is a designated public right of way . These connections are therefore undesignated routes although people may, over time have established rights to use them.

Unusually, Public Footpath (Bingley) 183 is a clearly a signposted right of way that starts at a point on the undesignated rear access. The start of this Public Footpath has historically been reached either by walking down the side of No 24, or down the side of No. 18.

Over time, the character of the access along the side of No 24 appears to have changed. It now has a more private appearance than the access at the side of No 18 Crooke Lane which is currently a much more open and visible connection to Public Footpath 183 and appears to be the better used route.

The applicant has confirmed legal ownership of the undesignated route and the correct certificates have been signed.

The representations suggest that the proposal to change the access to the side and rear of No 24 to part of its private curtilage will result in the loss of a public right of way and the

track is said to connect to the Public Right of Way to the Medical centre and beyond. Objectors say the route supports movement on foot around the village and its loss would affect residents' enjoyment of walking around the village.

Officers agree that connectivity on foot is important. However, it has been established that the route does not have status as a Public Footpath and if the track at the side of No 24 Crooke Lane changed to private curtilage, the undesignated route along the side of No 18 Crooke Lane would still continue to provide access on foot from Crooke Lane to Public Footpath (Bingley) 183 and the Medical Centre.

Also, the neighbouring properties within the terraced block Nos 22-18 would still have access to their rear yards from this track. Connectivity between Crooke Lane and the Medical Centre and beyond would remain, so the proposal will not deter movement on foot or result in reduced connectivity within the village.

Significantly, the Council's Rights of Way Officer confirms that there are no objections as long as the existing undesignated access alongside No 18 Crooke Lane remains as a connection to the Public Footpath 183. The Rights of Way Section simply requests that an informative be placed on the decision notice advising that the adjacent public footpath should not be obstructed, and if building works mean the public right of way cannot be kept open because of safety hazards, a temporary diversion order must be obtained. However, it seems unlikely that this development would affect the route alongside No 18 Crooke Lane.

Given the consultation advice it is concluded that the proposal would maintain connectivity within Wilsden and would not prejudice walking routes. As such the proposal does not conflict with Policy DS4 of the Core Strategy which seeks to ensure that planning decisions promote access via non car modes of travel.

Visual Amenity

In the course of the application, further information was provided within an email received on the 22nd July 2020 regarding the proposed boundary treatment/means of enclosure to the land should permission for its change of use be granted. The land would be enclosed by replacing an existing 1m high fence facing Crooke Lane with a new 1-metre high fence. The existing 1.2- metre high boundary wall between No 24 and No 22 would be extended to the rear and matching materials would be used to the existing wall. The proposed boundary treatment will maintain the character of the surrounding area. The proposal accords with DS1 and DS3 of the Core Strategy.

Residential Amenity

Access to the rear of the rest of the row of terraced properties from No22 to No18 Crooke Lane for bins etc will remain along a defined stone pathway that runs along the rear of the gardens and connects with the undesignated that runs along the side of No 18. The neighbouring properties within the terraced block will therefore still have access to their rear yards from the public road. Thus, following the change of use there will be no significant impact on the residential amenity of neighbouring occupiers and the proposal accords with DS5 of the Core Strategy Plan Document for Bradford.

Other Matters Raised in the Course of the Application:

Within the letter of representations received it is suggested the application was not advertised correctly. The application was advertised in accordance with the statutory publicity requirements for planning applications set out in The Town & Country Planning (Development Management Procedure) (England) Order 2015.

It was also raised that the owners of No 18 could do the same as this application proposes and this would negatively affect the public right of way that at present connects to these two undesignated highways. However, such a change of use would also require a full planning application and procedures to allow the stopping up of the undesignated highway. Any planning application submitted to close the access alongside No 18 would be considered on its own merits.

Within the letter of representations received it was advised the public right of way did not run alongside No 18 but alongside No 24. The public rights of way section have confirmed that these are both undesignated routes and have no status as public footpaths. The applicant has confirmed ownership of the undesignated highway and Officers consider that the correct certificates have been signed.

Legal Issues:

Objectors have referred to closure of the route as a “public right of way” and Wilsden Parish Council has said the applicant has not given sufficient “legal reasons” for closing the highway. However, the Council’s Rights of Way Section has confirmed that the land which is the subject of this planning permission is not designated as a public right of way. Whether the route is subject to public rights of way by virtue of successful claims showing 20 years uninterrupted use pursuant to s 31 of the Highways Act is a separate matter for others to pursue. The planning permission does not in itself alter the status of a public highway should such claims be established in law and whether such claims come to be made will be a risk for the applicant. In considering the use of the land, there are no planning objections to the alternative use being proposed.

Community Safety Implications:

None foreseen

Equality Act 2010, Section 149:

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups. The issues with regard thereto are noted above in relation to this application but do not raise any matters that would outweigh the material planning considerations.

Reason for Granting Planning Permission:

The change of use of the undesignated highway along the side and rear of No 24 Crooke Lane to form a private garden would not prejudice access on foot or connectivity within Wilsden given that connection from Public Footpath 183 to Crooke Lane would still remain via the existing undesignated access alongside No. 18 Crooke Lane. In terms of impact on the surrounding area and the amenity of neighbouring occupiers, the proposal will have no significant impact. The proposal is not considered to raise any significant planning

concerns. The proposal is considered to accord with Policies DS1, DS3, DS4, and TR2 of the Core Strategy Development Plan Document.

Conditions of Approval:

1. The development to which this notice relates must be begun not later than the expiration of three years beginning with the date of this notice.

Reason: To accord with the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).