

Planning permission needed to replace wall with fence?

Q Our farm is almost a mile down an unclassified, single rack, council-maintained road with passing places. Further down the lane are three more properties, after which it is unsuitable for motor vehicles.

The lane meets a B road at a crossroads, with the top of our lane and the junction area in a 30-mile-an-hour area at the start of the village. The junction is part of the National Cycle Network route and the land beyond our lane and the junction is in a conservation area.

Visibility up and down the B road is very poor, with several near misses when pulling out of our lane. The B road is a commuter route and can be very busy.

At the end of our lane, on the right, is an old brick and stone wall with some plaster, about 4ft high. We own the wall and the field behind it and would like to cut back a visibility splay on that side only and erect a new post and rail fence.

We would grass and maintain the splay. Do we need planning permission to do this and who would own the new splay?



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A This matter gives rise to various legal issues; I will focus on the planning aspects.

The creation of a new post and rail fence may fall within permitted development rights (PDRs), where planning permission is deemed to be granted for certain development without the need for submitting a formal planning application.

However, certain criteria apply which must be adhered to in order to benefit from the



Increasing traffic speed and volume are making rural roads more hazardous

PHOTO: FUSION/SHUTTERSTOCK

PDR. It is a good idea to familiarise yourself with this before commencing development and contacting the local planning authority (LPA) to ensure your proposal falls within the regime. The submission of a Certificate of Lawfulness of Proposed Use or Development is another way of ensuring the proposal is compliant.

Turning to the visibility splay, the starting point for creating this is likely to comprise operational development that involves a physical change to the land and requires planning permission from the LPA. Therefore, it will be necessary to submit a formal planning application.

Given the nature of the works, early engagement with the LPA's highways officer will be key as their opinion will carry significant weight in the overall determination of the application.

The improvement of highway safety offered by the proposal will be particularly important, especially given the junction abuts a national cycle route, the history of near misses and the volume of traffic during rush hour. As such, a supporting highway statement from a highways consultant would be a prudent step.

If the proposal lies within a conservation area or is likely to impact on it, the LPA will pay special attention to preserving the area when considering the application.

The removal of the old brick and stone wall to create the visibility splay is likely to be a sensitive issue so, again, early engagement with the LPA's conservation officer will be worthwhile.

Consultation and engagement

During the determination of the planning application there will be a consultation process whereby stakeholders – such as highways, conservation, the parish council and local residents – will be given the opportunity to submit their views on the proposal.

It goes without saying that a significant advantage is to be had by early engagement with the parish council and local residents to ensure they are on side.

Given that the visibility splay will be cut back on the field that you own, you may be required to enter into a planning obligation to maintain the upkeep of that splay. Alternatively, the LPA may impose a planning condition to a similar effect.

Any land affected that is in your ownership would continue in your ownership. ■

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