

**REPORT OF: PLANNING, BUILDING CONTROL & LICENSING
MANAGER**

TO: NELSON COMMITTEE

DATE: 3rd OCTOBER, 2016

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FOREST HOUSE, COBDEN STREET, NELSON

PURPOSE OF REPORT

To consider the issue of the wall to the rear of the site.

RECOMMENDATION

That no enforcement action be taken against the height of the wall.

REASONS FOR RECOMMENDATION

The wall does not have and detrimental impact on any interest of acknowledged importance and it is no in the public interest to take enforcement action.

ISSUE

1. A report was considered at the May 16 meeting of this Committee relating to the condition of the land and the erection of the wall. The issue of the wall was deferred for further information to come forward about the historical height of the wall.
2. To recap on the legislation a wall may be built that is not next to a highway either up to 2m in height or it may be rebuilt up to the height it formerly existed at. There are no known measurements for the height of the wall prior to the current work that has been undertaken to it.

3. The only source of information that we have been able to find relating to the wall is via Google. We have not been able to find any other source of information.
4. Attached at Appendix A is a photograph taken from Google Earth which was taken whilst the wall was being demolished. What we know from this is that a wall did exist to the rear of the site and that it was a wall which was at the approximate height of a normal shipping container. This can be seen from the photograph.
5. Appendix B is a photograph taken in 2003. It does not show the wall in any detail. What it does however show is a large shadow running for the whole length of the north boundary of the land. The shadow includes a building the shadow of which extends slightly further than that of the wall.
6. Whilst this photograph is not conclusive what can be taken from it is that there has been a former high structure situated along the northern part of the land.
7. Were Pendle to pursue an enforcement notice that would have to prove what the planning transgression was. It is not for any other party to prove. We need proper evidence in order to prove there has been a breach.
8. The owner has verbally indicated that he has added another 9 inches to the height of the wall.

Planning Impact

9. The wall is situated at the far side of the land. There are no neighbours affected directly by it. The site faces onto an industrial area from which it is heavily screened from views.
10. In terms of the streetscape the wall is only seen as a backdrop and does not have any detrimental impact on the design or physical appearance of the area.
11. The only impact of a negative nature that may have happened is that private views over the land have been affected. These are however private views which the planning system is not in place to protect.

Conclusions

12. The evidence that we have is that there was a substantial structure historically in place along the boundary of the land. Any enforcement action could only require the wall to be taken down to that former height. We do not have any indication of what height that was. In any event the wall has not unacceptable impact on any interest of acknowledged importance.
13. Taking enforcement action against the wall be not be based on evidence, could not be substantiated at appeal and would inevitably lead the Council into an application for costs at appeal. It would be difficult to defend a position on a costs application as taking enforcement action based on the information we have and against there being no impact would be unreasonable.

IMPLICATIONS

Policy: None

Financial: None arising directly from the report.

Legal: None arising directly from the report.

Risk Management: None arising directly from the report.

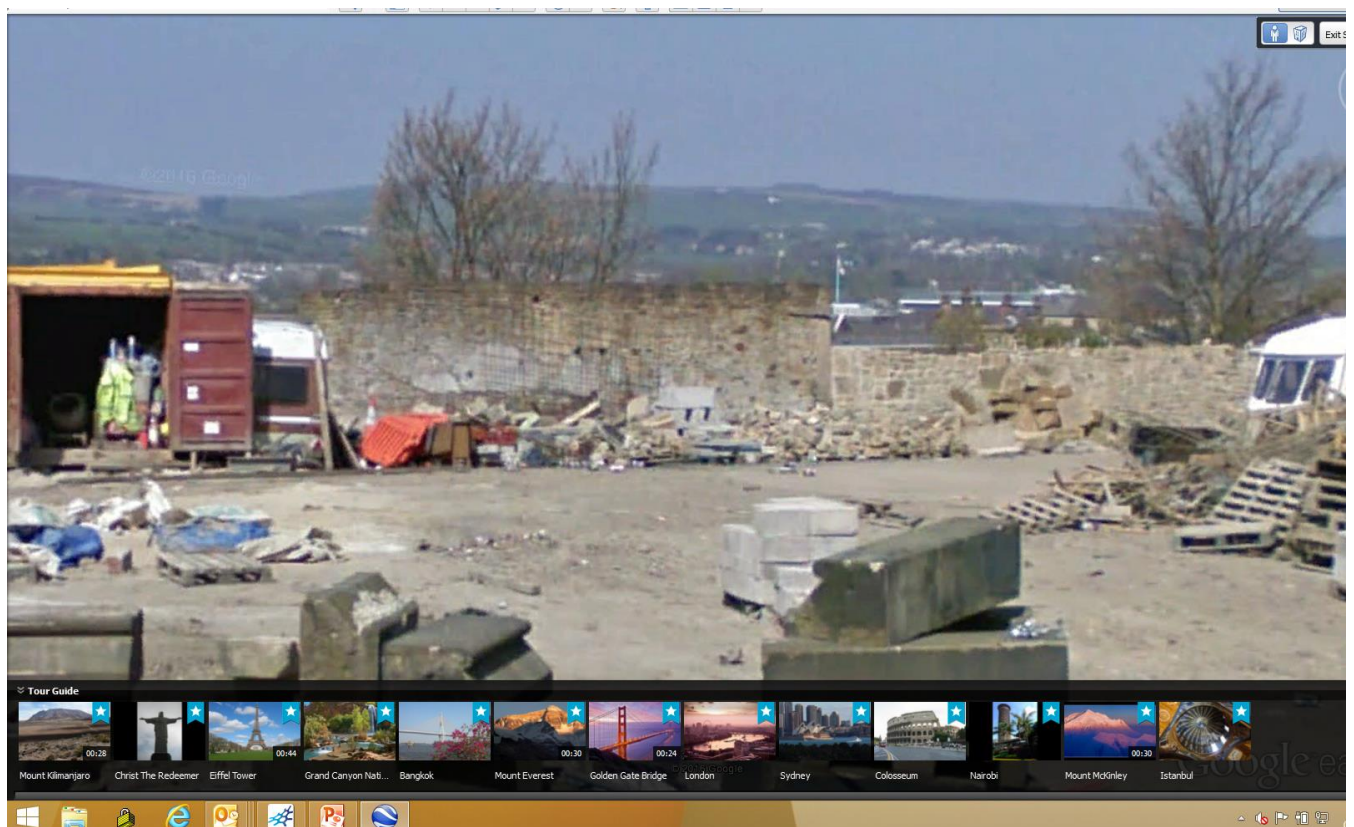
Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.

Appendix A



Appendix B

