

<b>Application Number:</b>	2019/0475	<b>Application Type:</b>	Full
<b>Proposal:</b>	Change of use of the yard from storage to storage and sale of landscaping materials (retrospective)	<b>Location:</b>	Roberts Street Depot Roberts Street Rawtenstall
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	6 October 2020
<b>Applicant:</b>	Clegg Landscapes Supplies	<b>Determination Expiry Date:</b>	9 October 2020
<b>Agent:</b>			

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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	Yes
<b>Other (please state):</b>	

## HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:

### Article 8

The right to respect for private and family life, home and correspondence.

### Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

## 1. **RECOMMENDATION**

That Planning Permission be granted subject to the conditions set out in Section 10 of the Report.

## 2. **The Site**

When the Council's Direct Works Depot became surplus to requirements it was sold to B&E Boys and they sub-divided it into business units, an area on the corner of Burnley Road (A682) and Taylor Street becoming a public car park.

This application relates to part of the former depot, the red-edged site on the submitted Location Plan measuring 21m x 36m. Accessed from Robert Street, it is behind the public car park and between the main complex of buildings and Taylor Street. In its NW corner is a 1-storey building, with a footprint of 5.5m x 10m that the Applicant uses as an office. The rest of the red-edged site is hard-surfaced, a ramp giving access to the SW half of the yard, which steps up in level by 1.2m. This yard has been used for storage of assorted materials for undertaking groundworks and landscaping projects (including soil, sand, chippings, flags and sleepers).

On the Taylor Street frontage of the site is a brick wall, which steps up in level, always exceeding a height of 2m, possessing no pedestrian or vehicular entrances. To the opposite side of Taylor Street is a terrace of houses.

To the rear of the red-edged site the land rises up quite steeply, after approximately 18m terminating at a 2m high fence, beyond which is the gable of a children's nursery fronting Greenfield Street. On the submitted Location Plan this area, together with some of the land behind the main buildings of the former depot, has been blue-edged. The Applicant has indicated that they lease from B&E Boys both the red-edged yard and the blue-edged land.

The Plan carries two Notes in respect of the blue-edged land - one states 'Land with Yard' and the other states 'Forest Area'. Aerial photographs between 2001 and 2012 show this steeply-sloping area to have been un-used/undisturbed, remaining as woodland that serves to screen the commercial premises from the residential area at the higher level to the W.

The Applicant has recently had a machine form a ramp (to avoid trees, slightly off-set from the existing ramp) and begun to store materials on a strip of land just beyond the boundary of the historic yard/red-edged application site, having cleared it of vegetation / a degree of levelling, though it has not been hard-surfaced.

On the Proposals Map accompanying the adopted Core Strategy the area is identified as being within the Urban Boundary of Rawtenstall. On the Proposals Map accompany the Emerging Local Plan the former depot (including the red-edged application site and the blue-edged land form part of an Existing Employment site.

## 3. **RELEVANT PLANNING HISTORY**

2003/0476 Change of use from part of Council Direct Works Depot to a car park (770m<sup>2</sup>)  
Approved

#### 4. **PROPOSAL**

Following investigation of a complaint by the Enforcement Officer, the Applicant has submitted this application to regularise the change in use of the existing yard that has occurred - from storage of assorted materials for undertaking its own groundwork/ landscaping projects to also permit sale of these materials to other contractors in a similar line of work and to visiting members of the public.

The application is accompanied by a Site Plan which shows the layout for that half of the yard nearest to Robert Street, with an area immediately beyond the site entrance for a lorry to load/unload and turn within the site, with bays for the storage of materials laid out around it and with the ramp up to the elevated SW half of the yard kept clear of obstruction.

When the site was most recently visited the half of the yard nearest to Robert Street was laid out in this way and in a clean and tidy state. The materials occupying the elevated SW half of the yard were not being kept in such an orderly way, only members of staff accessing this area.

The Application Form indicates that the intended hours of opening are 8am to 5pm Monday – Saturday and 10am to 4pm on Sundays & Bank Holidays.

#### 5. **POLICY CONTEXT**

##### **National**

##### **National Planning Policy Framework**

Section 2	Achieving Sustainable Development
Section 6	Building a Strong, Competitive Economy
Section 7	Ensuring the Vitality of Town Centres
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well-Designed Places
Section 15	Conserving & Enhancing the Natural Environment

##### **Development Plan Policies**

##### **RBC Core Strategy (2011)**

AVP4	Area Vision for Rawtenstall, etc
Policy 1	General Development Locations and Principles
Policy 8	Transport
Policy 10	Provision for Employment
Policy 11	Retail & Other Town Centre Uses
Policy 18	Biodiversity, Geodiversity & Landscape Conservation
Policy 23	Promoting High Quality Design and Spaces
Policy 24	Planning Application Requirements

#### 6. **CONSULTATION RESPONSES**

##### **RBC Environmental Health**

No objection.

##### **RBC Tree Consultant**

No objection.

## LCC Highways

No objection subject to a Condition to ensure the area shown on the submitted Site Plan is kept free for the manoeuvring and loading/unloading of delivery vehicles, to avoid the hazard of vehicles reversing to and from the highway.

## 7. **NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order neighbours were notified by letter and a site notice was posted.

The following comments have been received:

### Address Unknown

In response to the letter we have received:

- Clegg's have been selling various materials since near enough when they opened.
- They have no consideration for the people living on Taylor Street - I sometimes work nights and can't get to sleep as they come into yard early in the morning
- They create noise and dust when they cut stone and use diggers
- They burn materials - the ash lands on our cars and washing can smell of smoke.
- I believe they want to cut down the trees - when I look out of the bedroom window I don't want to be looking out on sheds and nothing but concrete.

### Address Unknown

- I think they have been selling to the public since they moved in.
- The noise and dust when they have deliveries is awful.
- Their vans now take up a lot of the spaces on the car park.
- Sometimes we can't park in front of our house or on the car park due to parking of this company and nearby takeaways, and people are parking very near the Taylor Street/Burnley Road junction.

### 6 Middlegate Green, Loveclough

Object on behalf of owners and tenants of two properties on Taylor Street:

- Out of keeping with character of area /Too close to residential properties /Loss of privacy - any further use of the land for selling transactions will disrupt the peaceful enjoyment of residents.
- Increase in traffic/Inadequate parking provision - it is not clear if there will be sufficient room for light goods vehicles to turn and park without the need to disrupt residents who legitimately park outside their houses.
- Noise nuisance/Pollution - the specified hours of Mon-Sat 8 to 5 and Sun 10 to 4 do not leave much time are the hours of opening to the public and do not leave much time when residents will not be disturbed by vehicles coming and going and noisy/dusty activities. I expect there will be more activity, re-arranging stock, cleaning and maintenance outside these times.
- A business like this should not be located so close to residential properties - it cannot help but harm the health and wellbeing of residents - it belongs on a dedicated commercial site.

### B&E Boys Ltd

As owners we would like to offer our support for the application.

The yard was historically owned and used by RBC Direct Works Department for many years and a Building Company prior to that. Therefore, the proposed usage is very much in line with the historic usage.

The yard itself has ample car parking. There is no requirement/need for the Applicant to use Taylor Street car park although they and other tenants of the former depot are entitled to do so.

The applicants are hardworking occupiers, respectful of the hours of operation to avoid being a nuisance to local residents. We believe this application and the growth of this local business should be encouraged, especially in such trying and testing economic times.

## 8. ASSESSMENT

The main considerations in this case are as follows:

- 1) Principle; 2) Neighbour Amenity; 3) Visual Amenity; & 4) Access/Parking

### Principle

The application relates to part of a longstanding Employment Site, the Council's former Direct Works Depot now sub-divided into units occupied by various businesses.

There is considered to be no objection in principle to that half of the Applicant's yard nearest to the site entrance on Robert Street (the layout of which is shown on the submitted Site Plan) being widened in use to allow for the sale of hard & soft-landscaping materials to other landscape contractors and to visiting members of the public, with the elevated SW half of the yard continuing to be accessed only by staff and not laid out or used for the display and sale of materials.

### Neighbour Amenity

The Council's Environmental Health Unit has considered the objections which have been received and has raised no objection to the proposed widening of use, stating:

*"The hours of operation are reasonable.*

*We have had previous complaints about burning on site but this has now stopped.*

*We have looked into noise complaints but they've never been established as a statutory noise nuisance.*

*We can deal with complaints in relation to excessive dust emissions affecting health but haven't received any and we assume that the site will have an adequate supply of water to mitigate against dust emissions."*

### Visual Amenity

By reason of the height of the boundary wall facing Taylor Street and facing Burnley Road the activities within the yard will continue to be hidden from these highways and the terraced houses fronting Taylor Street.

The Council's Tree Consultant has raised no objection to the proposal, having visited the site and assessed the trees on the embankment rising up behind the Applicant's yard and the buildings of the former depot. They have advised as follows:

*"The trees form a small woodland and are situated on an embankment to the south of Taylor Street and which extends from the end of Taylor Street in a south easterly direction towards the Kingfisher centre. The trees form a separation screen between the industrial units to the north east and the residential area on higher ground to the west and south west. The trees are visible from within a quadrant formed between Taylor Street, the Kingfisher Centre and Burnley Road but not so visible from the*

*residential area except for at the end of Greenfield Street where a small number of the trees at the north end of the group are visible.*

*The tree species mix is dominated by early mature Ash with occasional early mature Sycamore at the south east end. There are younger trees and understorey comprising Ash, Sycamore, Hawthorn, Holly and Whitebeam. There has obviously never been any management of the trees on the site and the early mature Ash particularly are consequently too close together and have competed with each other resulting in tall leggy trees. Given the sloping land and nearby industrial and residential properties such tall trees are not ideal.*

*Consequently, some of the larger trees will need intervention management in the short term. One twin-stemmed Ash at the bottom of the embankment is significantly biased towards the yard due to suppression of the trees behind and some of the roots are exposed. In the recent past someone has started to fell one of the stems evidenced by the two incomplete 'wedge' cuts made at the back of the trunk. This tree is potentially hazardous and should be felled soon on safety grounds."*

Whilst there is no reason to doubt the Applicant when they say that the 'wedge' cuts referred to occurred prior to their occupancy, it is nevertheless the case that this tree requires felling and recent groundworks have been done by them with a machine to form a ramp and have entailed a degree of levelling/vegetation clearance of the land beyond the historic yard/red-edged application site. Accordingly, it is considered appropriate to Condition that the Applicant be required to:

- a) Erect a 1m high post-&-rail or post-&-wire fence on the boundary between the red-edged application site and the land the Applicant has blue-edged; &
- b) Submit a scheme setting out the management/remedial works to be taken in respect of the remaining shrubs/trees within the blue-edged land and to be planted to compensate for recent loss/harm to shrubs/trees on the embankment.

#### Access/Parking

Objectors have raised traffic/parking concerns un-related to the Applicant's premises and the application proposal.

LCC Highways has raised no objection to the proposed widening of use subject to a Condition to ensure the area shown on the submitted Site Plan is kept free for the manoeuvring and loading/unloading of delivery vehicles.

## **9. SUMMARY REASON FOR APPROVAL**

The proposal is acceptable in principle and, subject to the conditions, will not unduly affect visual & neighbour amenity or highway safety. The development is therefore considered to accord with the National Planning Policy Framework and Policies AVP4 / 1 / 8 / 10 / 11 / 18 / 23 of the Council's adopted Core Strategy (2011).

## **10. RECOMMENDATION**

Permission is granted

### **CONDITIONS**

1. The development hereby permitted shall be carried out and completed in accordance with the following drawings/documents, unless otherwise required by the conditions below :

Title	Drwg No	Date Recd
Location Plan	-	05 / 11 / 19
Site Layout Plan	-	05 / 11 / 19

Reason: To ensure the development complies with the approved plans and submitted details.

2. Permission is hereby granted for the use of the red-edged site shown on the Location Plan for storage of groundwork/landscaping materials (including soil, sand, chippings, flags and sleepers) to be widened to enable that half of the yard nearest to the site entrance on Robert Street (as shown on Site Layout Plan) to also be used for the sale of these materials to other landscape contractors and to visiting members of the public, with the elevated SW half of the yard continuing to be accessed only by staff and not laid out or used for the display and sale of materials.

Reason: To regulate the nature scale of retail sales as this is an employment Site and in the interests of neighbour amenity and highway safety.

3. That area shown on the Site Layout Plan between the Robert Street entrance and the ramp, and not shown as being occupied by bays/material storage, shall be kept freely available at all times for manoeuvring and loading/unloading of delivery vehicles.

Reason: To avoid the hazard of vehicles reversing to and from the highway.

4. Within 2 months of the date of this decision notice:

- a) a 1m high post-&-rail or post-&-wire fence on the boundary between the red-edged application site and the land the Applicant has blue-edged; &
- b) a scheme setting out the remedial/ management works to be taken in respect of the remaining shrubs/trees within the blue-edged land, and to be planted to compensate for recent loss/harm to shrubs/trees on the embankment, shall be submitted to the Local Planning Authority, together with details of the ground-preparation/protection measures to be taken to ensure the establishment of the new planting, and incorporating a timetable for implementation.

The scheme approved under 4b shall be implemented in accordance with the approved timetable and any shrubs/trees that are removed, die or become seriously damaged or diseased within 2 years of planting shall be replaced in the following planting season unless the Local Planning Authority has agreed in writing to a variation.

Reason: In the interests of visual and neighbour amenity.

