

**TITLE:** CHANGE OF USE OF LAND TO GARDEN AREA & PRIVATE PARKING FOR VEHICLES RELATING TO 2 LEE ROAD. ERECTION OF A FENCE BORDERING THE RIVER BANK & A GARDEN SHED AT 2 LEE ROAD, BACUP

**APPLICATION NO:** 2006/326

**TO/ON:** DEVELOPMENT CONTROL COMMITTEE 25<sup>TH</sup> JULY 2006

**BY:** TEAM MANAGER DEVELOPMENT CONTROL

**STATUS:** FOR PUBLICATION

**PORTFOLIO HOLDER:** CABINET MEMBER FOR REGENERATION

**APPLICANT:** MISS M CROMPTON

**DETERMINATION EXPIRY DATE:** 8<sup>TH</sup> AUGUST 2006.

### **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.

### **Site and Proposal**

The applicant seeks permission for the change of use of land to garden area and private parking for vehicles relating to 2 Lee Road as well as the erection of a fence bordering the river bank as well as a garden shed on land to the rear of 2 Lee Road.

### **Relevant Planning History**

None.

### **Notification Responses**

Site notices were posted and three letters of objection have been received, which have raised the following points:

- There is an ongoing dispute regarding the use of the land and rights belonging to the houses which abut the site. This is currently being dealt with

by solicitors and to date, no response has been received to a letter sent 5<sup>th</sup> January 2006.

- Several houses have rights to use the land and this is confirmed in the deeds of the houses.
- When the property (No. 2) was put up for sale, the estate agent was aware of the rights of the residents to use the land. Since the property was sold in 2003 gardens have been reduced without discussion or prior arrangement with the owners of the land.
- A concern that if the planning application is approved, there would be a loss of privacy and public amenity.
- On occasion, up to 12 vehicles have been parked in the land to the rear of No. 2 Lee Road.

## **Consultation Responses**

### **County Highways**

Comments will be reported at the meeting.

### **Environment Agency**

The Agency has no objection in principle to the proposed development but wishes to make the following comments:

Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the Main River, River Irwell.

We would advise that as part of the proposed works, the applicant inspects and carries out repairs as necessary to the high retaining wall next to the river. This wall would be the responsibility of the landowner and details of any reconstruction works should be submitted to the Agency for approval in accordance with the Water Resources Act 1991 and Land Drainage Byelaws.

## **Development Plan Policies**

Policy DS1  
Policy DC1  
Parking standards

## **Other Material Planning Considerations**

None.

## **Planning Issues**

The location for the proposed development is located within the urban boundary and therefore, the proposal is in accordance with Policy DS1 of the Rossendale District Local Plan.

It is considered that the proposed garden shed will not impact adversely upon the amenity of the neighbouring residents in terms of loss of light or loss of privacy. It is considered that the proposed garden shed will not look out of place within the

locality and therefore, is in accordance with Policies DC1 and DC4 of the Rossendale District Local Plan.

The proposed fence will not impact upon the amenity of the neighbouring residents and will not look out of place within the locality. The Environment Agency have no objections to the proposed development. Therefore, the proposed development is in accordance with Policy DC1 of the Rossendale District Local Plan.

The proposed change of use to garden curtilage is considered to be acceptable or can be made so through the imposition of conditions, in particular the removal of permitted development rights. Therefore, the proposed development is in accordance with Policy DC1 of the Rossendale District Local Plan.

The proposed development is located within the urban boundary and will not impact upon the amenity of the neighbouring residents. The proposed development will not look out of place within the locality, subject to conditional control. Therefore, the proposed development is in accordance with Policies DS1 and DC4 of the Rossendale District Local Plan.

### **Recommendation**

That planning permission should be granted, subject to the following conditions:

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act

2. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification) no development shall be carried out on the site within the terms of class E, part 1 of Schedule 2 of the Order, without the prior consent of the Local Planning Authority.

REASON: To ensure that any development of the site has due regard to the amenities of the surrounding area.

3. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification) no development shall be carried out on the site within the terms of class F, part 1 of Schedule 2 of the Order (creation of a hardstanding), without the prior consent of the Local Planning Authority, other than that which has been approved, in writing, as part of the landscaping scheme.

REASON: To ensure that any development of the site has due regard to the amenities of the surrounding area.

4. Within two months from the date of decision, a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of residential amenity.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the written approval of the details and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: In the interests of residential amenity.

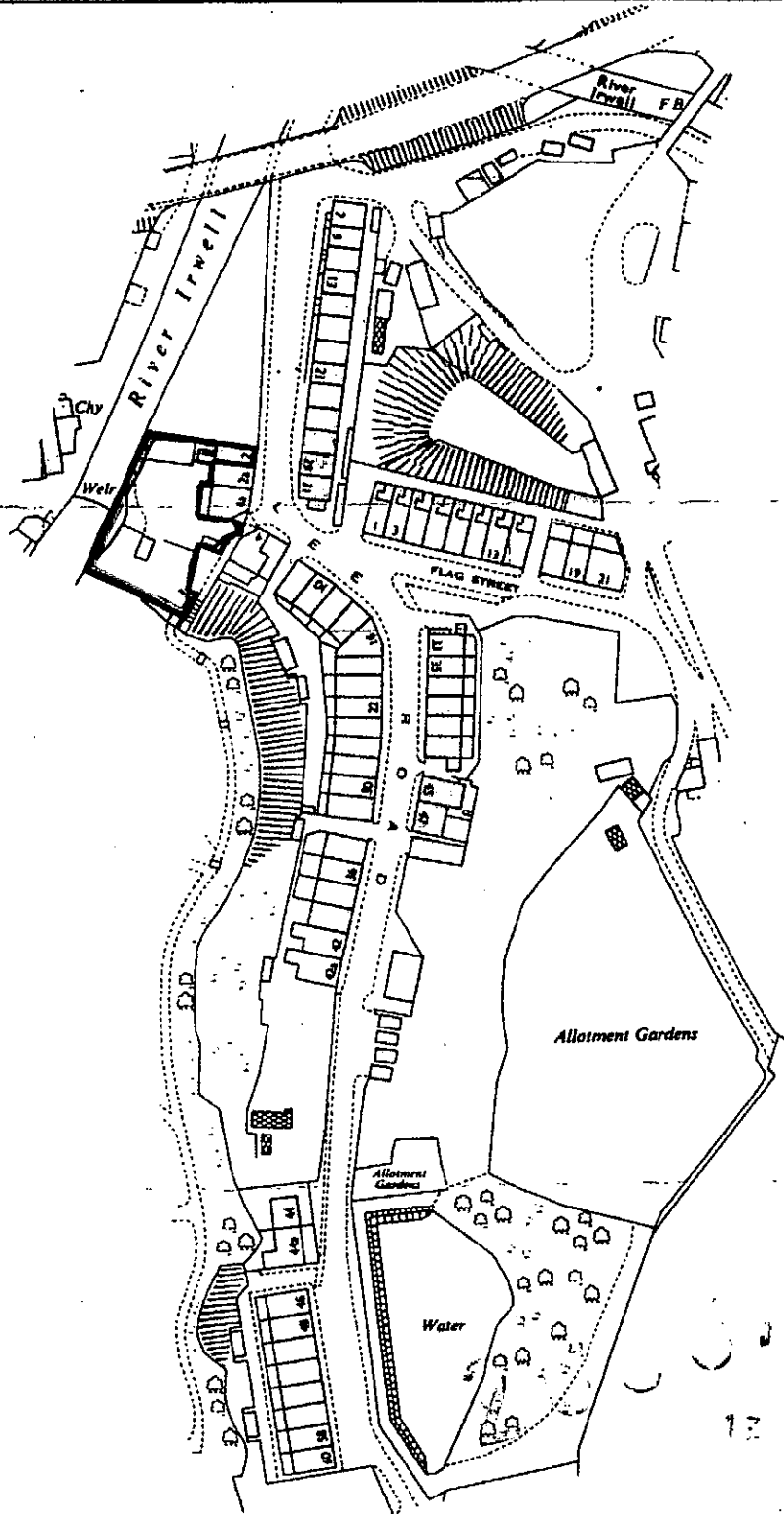
6. No part of the application site shall be used in connection with the operation of a trade or business.

REASON: for the avoidance of doubt and in order to protect the amenity of neighbouring residents

### **Development Plan Policies**

Policy DS1  
Policy DC1  
Policy DC4

H.M. LAND REGISTRY		TITLE NUMBER	
		LA 418679	
ORDNANCE SURVEY PLAN REFERENCE	SD 8621	SECTION D	Scale 1/1250
COUNTY LANCASHIRE	DISTRICT ROSSENDALE	© Crown copyright 1977	



526



This is a print of the view of the title plan obtained through Land Registry Direct showing the state of the title plan on 29 MAR 2005 at 12:59:33. It may not be to the scale shown on the title plan.  
 This title is dealt with by the District Land Registry for Lancashire.