

**TITLE: 2005/232 CHANGE OF USE TO GARAGE FOR VEHICULAR REPAIRS
AT GLEN TOP WORKS, NEWCHURCH ROAD, STACKSTEADS**

TO/ON: DEVELOPMENT CONTROL COMMITTEE 21ST JUNE 2005

BY: TEAM MANAGER DEVELOPMENT CONTROL

DETERMINATION EXPIRY DATE: 13TH JUNE 2005

APPLICANT: MR D HOLT

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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 to vehicle repairs at the above site. It should be noted that this is a retrospective planning application. The property is located within the urban boundary and an employment area.

Relevant Planning History

2001/063 – Proposed use for car repairs and restoration and spare parts sales, storage and distribution at Glen Top Mill, Newchurch Road, Stacksteads - APPROVED

Notification Responses

Site notices were posted and 20 letters from 12 addresses have been received. The following summarised points have been raised:

- A preference that the site remains as a light industrial classification, as any change would adversely affect the amenity of local residents.

- The garage has been in operation for the past twelve months. As a result the neighbourhood has experienced excessive noise throughout the day and at evenings and weekends.
- When the garage is in operation, work has been taking place on the forecourt, again causing excessive noise, which affects the amenity of local residents.
- The change of use would result in a loss of visual amenity.
- The site is currently accessible to anyone and this has safety implications for surrounding residents.
- The neighbours of the location for the proposed development wish to enjoy their locality and increased working hours including weekend working would compromise this right.
- The approval of this planning application would lead to increased traffic movement on a blind bend that could increase the possibility of more accidents on this very busy road.
- A food preparation/storage business is already operating from the adjacent unit and a mix of food and medium industry cannot be considered as a suitable arrangement.
- Already, waste and rubbish is being dumped on the bank of the River Irwell by the garage and valeting businesses.
- A list of conditions that should be included on the decision notice if planning permission is passed.

Consultation Responses

County Highways

No objections.

RBC Environmental Health

The premises have recently been used for the purpose for which approval is now sought and during that time complaints have been received about noisy activities being carried out to motor vehicles at various points on the site (other than the specific 'garage' premises). It has been alleged that these activities have taken place at various times of the day, evening and weekends.

A change of use would permit a development which would potentially increase noise levels in the vicinity. It should also be noted that the application site is immediately adjacent to a food premises. Exhaust emissions to atmosphere by regular vehicle movements and manoeuvres, and by engine tuning/repair/testing should not be encouraged in such a location.

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.

Development Plan Policies

Policy DS1 (Urban Boundary) of the Rossendale District Local Plan states that the Council *will seek to locate most new development within a defined boundary - the urban boundary- and will resist development beyond it unless it complies with Policies DS3 and DS5.*

Policy E12 (Noise Attenuation) of the Rossendale District Local Plan states that the Council *will not permit any development proposals which would lead to an unacceptable levels of noise to nearby noise sensitive uses. In appropriate cases developers will be expected to incorporate into the design of such structures measures which will reduce or remove the prospect of noise pollution and aid the control of development. In addition, where appropriate, development shall include landforms and/or landscaping designed to reduce or mitigate the effects of noise emission.*

Policy E13 (Noise Sources) of the Rossendale District Local Plan states that the Council *will not normally support development proposals which would introduce noise sensitive uses (EG. Houses, schools, aged persons homes etc) in close proximity to existing noise sources which are or could be the subject of justified public complaint.*

Policy DC1 (Development Criteria) of the Rossendale District Local Plan. The policy states that all applications for planning permission will be considered on the basis of a) location and nature of proposed development, b) size and intensity of proposed development; c) relationship to existing services and community facilities, d) relationship to road and public transport network, e) likely scale and type of traffic generation, f) pollution, g) impact upon trees and other natural features, h) arrangements for servicing and access, i) car parking provision, j) sun lighting, and day lighting and privacy provided k) density layout and relationship between buildings and l) visual appearance and relation to surroundings, m) landscaping and open space provision, n) watercourses and o) impact upon man-made or other features of local importance.

Policy J3 (Existing Employment Areas) of the Rossendale District Local Plan states that *in existing and proposed employment areas the needs of industry and commerce will usually be given priority over housing, specifically in the determination of planning applications.*

Policy T3 (Commercial Traffic) of the Rossendale District Local Plan states that *development proposals will normally be allowed except where significant numbers of traffic movements by commercial vehicles would be generated such as to create an adverse environmental impact on residential streets, conservation areas, other unsuitable roads and listed buildings.*

Policy T5 (Commercial Vehicle Parking) of the Rossendale District Local Plan states that *proposals for industrial/commercial development will normally be required to provide, normally within the curtilage of the site, the appropriate quantity of operational space for the parking of the number of commercial vehicles using the site, together with space to meet the normal requirements for non operational space.*

Other Material Planning Considerations

None

Planning Issues

The location for the proposed development is within the urban boundary and within a site designated as a employment area and is in principle, an appropriate use. Therefore the proposal complies with Policies DS1 and of the Rossendale District Local Plan.

The proposed development will not result in a large scale increase in traffic using Newchurch Road, although it is acknowledged that there will be some additional journeys made to the site. The site has adequate parking facilities, which can accommodate the requirements of the proposed development. The highways authority has no objections to the proposed development. Therefore the proposed development is in accordance with Policies T3 and T5 of the Rossendale District Local Plan.

As stated above, this planning application is a retrospective one and there have been complaints from local residents regarding the issue of noise nuisance. As the premises for the proposed development are quite small, some works have had to be undertaken outside of the building. This has implications for the amenity of the neighbouring residents as it has the potential to result in severe noise nuisance to the occupiers of nearby dwellings. Therefore the proposed development is not in accordance with Policies E12 and E13 of the Rossendale District Local Plan.

It is not possible to accommodate the use fully within the industrial unit and therefore it has become necessary to store and undertake work upon cars within the parking area. Objections have been made regarding the loss of visual amenity that this has caused and therefore the proposed development is contrary to Policy DC1 of the Rossendale District Local Plan as the proposed development would be detrimental to the existing conditions.

By the nature of the proposed use, there will be an increase in pollution and fumes from the need to complete vehicle manoeuvres and engine repairs. This has implications for the amenity of nearby residents and other uses within Glen Top Works, which include a food storage business. It is considered by the Environmental Health department that the two uses are incompatible on such a small site and in such close proximity. Therefore the proposed development is not in accordance with Policy DS1 of the Rossendale District Local Plan, which states that the proposed development must not be detrimental to existing conditions.

The proposed development will take place within a employment area, and as such Policy J3 applies, which states that the needs of industry and commerce should be given priority over housing. However, in this case, it is considered that the proposed development would be in close proximity to a existing commercial use (food storage) and, as stated above, the two uses are not compatible. Therefore the proposed development is not in accordance with Policy J3 of the Rossendale District Local Plan, as the proposed development is not appropriate in its proposed location.

Recommendation

That planning permission is refused for the following reasons:

Reasons

1. The proposed development will have a significant adverse impact upon the amenity of the neighbouring properties in terms of noise, and loss of visual amenity.

Therefore the proposed development is contrary to Policies DC1, E12 and E13 of the Rossendale District Local Plan.

2. The proposed development is not appropriate in the proposed location as it is in close proximity to a food storage business and therefore, is detrimental to existing conditions and is contrary to Policies DC1 and J3 of the Rossendale District Local Plan.

3. The proposed development would result in an increase in pollution and fumes, which would be detrimental to the amenity of the neighbouring residents and is not appropriate in close proximity to a food storage business. Therefore the proposed development is contrary to Policy DC1 of the Rossendale District Local Plan.

Local Plan Policies

DS1

E12

E13

DC1

J3

T3

T5