



**TITLE: 2005/016 : USE OF BUILDING FOR THE RELIGIOUS TEACHING OF CHILDREN, 44 BURY ROAD, HASLINGDEN.**

**TO/ON: DEVELOPMENT CONTROL COMMITTEE 28 APRIL 2005**  
**BY: DEVELOPMENT CONTROL MANAGER**

**DETERMINATION EXPIRY DATE: 7 MARCH 2005**

**APPLICANT: MR. M.G.A. CHOWDHURY**

### **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.

### **Background**

This application was reported to the last Planning Committee meeting on 17 March 2005 but was deferred because of Members concerns about pedestrian safety. Further discussions have since taken place with County Highways on this issue and the outcome of those discussions is set out later in the report.

### **Site and Proposal**

44 Bury Road is a disused two storey terraced property constructed of natural stone and blue slate. It is located at the junction of Bury Road and Wells Street in an area of predominantly residential development. The building was last used as a dwelling.

Planning permission is sought to use the building for the religious teaching of children of up to 12 years of age. The applicants have indicated that up to 30 children and 2 staff members will be on the premises at any one time. The intention is that the school will purely serve the local community.

The site is located within the Urban Boundary as defined by the Rossendale District Local Plan.

## **Relevant Planning History**

None relevant

## **Notification Responses**

8 letters of objection have been received from local residents. Their objections are:-

- a) that the proposed use would generate excessive noise which would unduly disturb surrounding local residents
- b) that the level of privacy, currently enjoyed by the occupiers of adjoining residential properties, would be adversely affected should this proposal go ahead
- c) that the proposal would give rise to highway and pedestrian safety problems. It would lead to 'on-street' parking and congestion on the adjoining streets especially when pupils are being 'picked up' and 'dropped off'. Vehicles parked at the junction of Bury Road and Wells Street would obstruct the visibility of drivers entering the former from the latter. There are currently no barriers outside of the premises to prevent children from overspilling onto the adjoining highways
- d) that the building is not currently in a satisfactory condition for re-use. It is also a potential danger to 'passers by' as it is not in a sound structural condition
- e) that the proposal does not make any provision for allowing suitable 'means of escape' from the premises in the event of an emergency
- f) that there is no need for a further school in this area there being three others within walking distance that the children could attend. It also makes no sense to open a new school when there are others in the area that face possible closure due to falling attendances
- g) that all children should be educated together in order to promote a multicultural society. Religious teaching of this nature should either be undertaken within a mosque, of which there are a number in the town, or at home
- h) that use of the building as a single dwelling would be more appropriate for this residential area, and
- i) that the values of surrounding properties would be adversely affected if this proposal was to go ahead.

One local resident has requested that if this application is approved conditions are imposed limiting the hours during which the premises may be used and requiring the building to be properly restored.

## **Consultation Responses**

### **RBC Engineers**

No comments received

### **County Highways**

No objections provided that pedestrian access to the building is gained solely from Wells Street.

## Environmental Health

No objections subject to conditions restricting hours of use and requiring the building to be suitably insulated against noise transmission

## **Development Plan Policies**

### Rossendale District Local Plan

Policy DS.1 (Urban Boundary) 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. The urban boundary is indicated on the proposals map”*

Policy DC.1 (Development Criteria) 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 E12 (Noise Attenuation) states that *“the Council will not permit any development proposals which would lead to unacceptable levels of noise to nearby noise sensitive uses. In appropriate cases developers will be expected to incorporate into the design of structures measures which reduce or remove the prospect of noise pollution and aid the control of development. In addition, where appropriate, developments shall include landforms and/or landscaping designed to reduce or mitigate the effects of noise emission”*

Policy T.4 (Car Parking) states that *“ Development proposals will be required to provide, normally within the cartilage of the development, sufficient space to meet both operational and non operational parking requirements”*

### Joint Lancashire Structure Plan 2001-2016

Policy 1 states that development should be located primarily within the principal urban areas, main towns, key service centres (market towns) and strategic locations for development. Development outside of these areas will be deemed acceptable in principle if it meets an identified local need or supports rural regeneration. In all cases the proposals must satisfy certain specified criteria.

## **Other Material Planning Considerations**

### PPG1 (General Policy and principles)

Government guidance in the form of PPG1 emphasises that development should be sustainable and states that there is a need to achieve a balance between promoting economic prosperity and protecting the natural and built environment. It also

identifies ways in which mixed use development can be promoted, and provides advice on design matters.

Paragraph 7 states that *“Urban regeneration and re-use of previously- developed land are important supporting objectives for creating a more sustainable pattern of development. The Government is committed to:*

- a) concentrating development for uses which generate a large number of trips in places well served by public transport, especially in town centres, rather than in out of centre locations; and*
- b) preferring the development of land within urban areas, particularly on previously-developed sites, provided that this creates or maintains a good living environment, before considering the development of Greenfield sites.”*

### PPG13 (Transport)

Government guidance in the form of PPG13 states in paragraph 19 that *“A key objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling.”*

### Planning Issues

#### Principle

There are no policies contained within either the Local Plan or the Adopted and Draft Structure Plans which relate specifically to proposals for educational establishments. However, it is quite common for schools to be located within residential areas such as this. In view of this, and since this site lies within the defined Urban Boundary within which new development is normally deemed appropriate, it is considered that no reasonable objection could be raised to this proposal in principle.

#### Highway Issues

It is not possible to provide any ‘off-street’ parking facilities in conjunction with this use as the building occupies almost all of the defined application site. However, the applicant has stated that as the school will primarily serve the local community most people will walk to the site and consequently the proposal will attract very little vehicular traffic. The proposal has been considered by County Highways who consider that operated on this basis it is unlikely that it will give rise to any undue highway safety problems.

Members expressed concern, at the last meeting, about the safety of children walking to and from the premises and as a result further discussions have since taken place with County Highways. However, they are of the opinion that this area is currently well served by pedestrian facilities, namely a zebra crossing and pedestrian refuges, and consequently contend that a proposal of this scale and nature should not give rise to any undue pedestrian safety problems. Apart therefore from recommending that pedestrian access to the building is restricted solely to the entrance from Wells Street (to reduce the likelihood of children running directly into the busier Bury Road) they do not consider that any measures are required in order to render this proposal acceptable in pedestrian safety terms.

In view of the above, and given the relatively small scale nature of this proposal, it is considered that, despite concerns to the contrary, a refusal of this proposal on highway or pedestrian safety grounds could not reasonably be justified in this

instance. In order to minimise the risk of such problems from subsequently occurring, and to allow the Local Planning Authority to retain a degree of control over the development, conditions are recommended limiting pedestrian access to the building in the manner described and requiring that the overall use is operated strictly in accordance with the details set out in the applicant's letter accompanying the application.

### Amenity Issues

It is proposed to use the building between the hours of 4 pm and 7pm Mondays to Fridays, and between the hours of 12 noon and 2 pm on Saturdays and Sundays. It is considered that on this basis, given the relatively small scale nature of the use, the proposal should not give rise to any undue disturbance of surrounding local residents despite concerns to the contrary. Environmental Health support this view but recommend that in order to minimise the risk of future noise nuisance conditions are imposed limiting use of the premises to the hours specified above and requiring the building to be suitably insulated against noise transmission. Conditions to this end are therefore recommended.

### Other Issues

Local residents have raised a number of concerns about the proposal (see 'Notification Responses' section above). However they are not accepted for the reasons given above and below:-

- a) it is contended that the level of privacy, currently enjoyed by occupiers of adjoining residential properties, would not be significantly affected should this building be used for the purpose proposed.
- b) concerns about the structural condition of this building, its suitability for use for the purpose proposed, the likely effect that the development may have upon property values, the need for further schools in the locality, where and how pupils should be educated, and whether there are more appropriate uses for the premises, are not planning matters and can not therefore be taken into consideration when determining this application.

### Recommendation

That planning permission be granted for the following reason and subject to the following conditions:

### Summary of Reasons for Conditional Approval to Appear on Decision Notice

It is considered that the development satisfies the requirements of policies DS.1, DC.1, E.12 and T.4 of the Rossendale District Local Plan. The building is located within the defined Urban Boundary within which it is considered appropriate to locate new development. It is contended that the use of the premises for the purpose proposed would not lead to undue disturbance of local residents subject to the imposition of conditions limiting hours of use and requiring suitable sound insulation of the building. Finally, it is contended that, despite the lack of off street parking facilities, the proposal would not give rise to any undue highway or pedestrian safety problems subject to the imposition of conditions restricting pedestrian access to the building and restricting operation of the use in the manner specified in the applicants letter.

## **Conditions**

01 The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason: The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990.

02 Details of any alterations proposed to the external appearance of the building shall be submitted to, and approved in writing by, the Local Planning Authority. The approved alterations shall be completed, in accordance with the approved details, before the use hereby approved is commenced and shall thereafter be retained at all times.

Reason: In order to safeguard the appearance of the building and the surrounding area, in accordance with policy DC.1 of the Rossendale District Local Plan.

03 The premises shall not be used outside of the hours of 4 pm to 7 pm Monday to Friday and 12 noon to 2 pm on Saturdays and Sundays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of adjoining residential properties in accordance with policies DC.1 and E.12 of the Rossendale District Local Plan.

04 Details of a scheme for insulating the building against the transmission of airborne and impact sound shall be submitted to, and approved in writing by, the Local Planning Authority. The building shall be insulated in accordance with the approved details before the use, hereby approved, is commenced and shall thereafter be retained at all times.

Reason: To safeguard the amenities of adjoining residential properties in accordance with policies DC.1 and E.12 of the Rossendale District Local Plan.

05 The use hereby approved shall not commence until the pedestrian access to the building from Bury Road has been closed off in accordance with details which shall have first been submitted to and agreed in writing by the Local Planning Authority. Pedestrian access to the building shall thereafter be gained solely via the entrance from Wells Street.

Reason: In the interests of pedestrian safety and to safeguard the appearance of the building, in accordance with policy DC.1 of the Local Planning Authority.

06 No more than 30 children and two staff shall be present within the building at any one time unless otherwise agreed in writing by the Local Planning Authority.

Reason: So as to enable the Local Planning Authority to retain a degree of control over the use having regard to the lack of 'off street' parking facilities available for use in conjunction with the premises and the potential for it to cause disturbance to adjoining residents, in accordance with policies DC.1 and E.12 of the Rossendale District Local Plan.

07 The use, hereby approved, shall be operated strictly in accordance with the details set out in the letter accompanying the application (received by the Local Planning Authority on 10 January 2005).

Reason: So as to enable the Local Planning Authority to retain a degree of control over the use having regard to the lack of 'off street' parking facilities available for use in conjunction with the premises and the potential for it to cause disturbance to adjoining residents, in accordance with policies DC.1 and E.12 of the Rossendale District Local Plan.

Local Plan Policies

DS.1

DC.1

E.12

T.4

Structure Plan Policies

Policy 1