



**TITLE: 2005/403 - CHANGE OF USE OF FROM SHOP WITH LIVING ACCOMMODATION TO THE RELIGIOUS TEACHING OF CHILDREN 38 BURY ROAD, HASLINGDEN.**

**TO/ON: DEVELOPMENT CONTROL COMMITTEE - 6 SEPTMEBER 2005**

**BY: TEAM MANAGER – DEVELOPMENT CONTROL**

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

**DETERMINATION EXPIRY DATE: 29 AUGUST 2005**

**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**

A previous application relating to 44 Bury Road for the same development was withdrawn on the 26 April 2005 (2005/16).

**Site**

This application relates to a 2-storey terraced property located at the junction of Bury Road and Warwick Street. Whilst other properties in the terrace running down Warwick St, along Bury Rd and up Wells St are in residential use, 38 Bury Road comprises of an antiques shop, with living accommodation above. Its front

doors is situated on the corner, with a shop display window on each road frontage. On the opposite side of Bury Road are 3-storey flats and to the other side of Warwick Road the Haslingden Baptist Church.

### **Proposal**

Permission is sought to use the building for the religious teaching of up to 30 children at any one time, ranging in age up to 12 years. The applicant envisages that there will be no more than 2 members of staff on the premises at any time and that the premises will be used 4pm-7pm Monday to Friday and 12noon-2pm Saturday & Sunday. He says that as the school will serve purely the local community the lack of any off-street parking at the premises will not inconvenience them or deny neighbours the opportunities to park on-street they presently have or be of detriment to highway safety..

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

### **Notification Responses**

Ten letters of objection have been received, together with a petition bearing 20 names, which make the following summarised points:

- a) the proposed use would generate noise which would unduly disturb local residents;
- b) the level of privacy currently enjoyed by the occupiers of adjoining residential properties would be adversely affected;
- c) the proposal would give rise to highway and pedestrian safety problems/lead to 'on-street' parking & congestion on adjoining streets (especially when pupils are being 'picked up' and 'dropped off')/vehicles parked close to the junction would obstruct the visibility of other drivers/there are no barriers outside the premises to prevent children from overspilling onto the highway;
- d) the proposal does not make any provision for allowing suitable 'means of escape' from the premises in the event of an emergency.
- e) there is no need for a further school in this area there being others within walking distance that the children could attend/use of the building as a single dwelling would be more appropriate;
- f) all children should be educated together, in order to promote a multicultural society, or within a mosque/at home;

g) the value of surrounding properties would be adversely affected.

### **Consultation Responses**

LCC (Highways) has no objection.

Environmental Health has no objection 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 (Adopted 1995)

Policy DS.1 (Urban Boundary) states that *“the Council will seek to locate most new development within the urban boundary”*.

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...”*.

Adopted Joint Lancashire Structure Plan 2001-2016

Policy 1 - General Policy

Policy 7 - Parking

### **Other Material Planning Considerations**

PPS1 - Sustainable Development

PPG13 - Transport

LCC Parking Standards

### **Planning Issues**

The main issues to consider in dealing with this application are as follows :

- 1) Principle; 2) Neighbour Amenity; & 3) Highway Safety.

Principle

There are no policies within the Development Plan which relate specifically to educational establishments. However, it is quite common for schools to be located within residential areas or within/close to the Town Centre. Accordingly, I do not consider an inappropriate location for the proposed development.

#### Neighbour Amenity

I concur with the view of Environmental Health that, in order to minimise the risk of noise nuisance for residential neighbours, it is appropriate to impose conditions requiring party walls with the attached buildings to be suitably insulated against noise transmission and preclude use of the premises at hours likely to cause disturbance to neighbours. Conditions to this effect are therefore recommended.

I do not consider 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.

#### Highway Issues

The existing shop, with living accommodation, does not possess off-street parking and it is not possible for the applicant to provide such facilities within the 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/have little need for parking. The Highway Authority raises no objection to the proposal on highway grounds (in relation to parking or pedestrian safety). I have no reason to doubt its conclusion on this matter, but recommend a condition be imposed to ensure the premises are not used more intensively than the applicant has indicated will be the case (ie a maximum of 30 children at any one time).

#### **Recommendation**

That permission be granted subject to the following conditions :

#### **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 a scheme for insulating the building to minimise the transmission of airborne and impact sound to the attached buildings shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first use of the building as hereby permitted.

Reason: To safeguard the amenities of adjoining residential properties in accordance with Policy E12 of the adopted Rossendale District Local Plan.

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

Reason: To preclude an intensification of the use hereby permitted which may result in unacceptable detriment to neighbours or highway safety, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

06 The use hereby permitted shall not take place other than between the hours of 7.30am & 7.30pm Monday to Saturday and 10am & 4pm on Sunday.

Reason: To protect the amenities of neighbours, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.