

Application No: 2007/665

<b>Proposal:</b>	<b>Amendment of draft conditions</b>	<b>Location:</b>	<b>35 Bacup Road, Rawtenstall.</b>
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<b>Report of:</b>	<b>Director of Business</b>	<b>Status:</b>	<b>For Publication</b>
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<b>Report to:</b>	<b>Development Control Committee</b>	<b>Date:</b>	<b>20 April 2009</b>
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## REASON FOR REPORTING

Other -Revised conditions are required to be considered by the Committee. The amendment of the wording of the conditions agreed previously by Committee is a decision for the Committee.

## 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. APPLICATION DETAILS

- 1.1 Members will recall that this scheme was considered by the DC Committee in March 2008 where it was 'minded to approve' the scheme subject to the provisions of a legal agreement and subject to the agreed draft conditions.
- 1.2 Members received a further report on the details of the s106 agreement in December 2008.
- 1.3 That legal agreement has now been engrossed by Lancashire County Council and will shortly be engrossed by the Borough Council. The agreement effectively provides for:-
- 1.4 A land swap arrangement with Lidl and LCC to facilitate the provisions of a new bus interchange. Members will recall that this was an important factor in the decision making process as it would safeguard the aspirations of the AAP and Structure Plan policies to provide a new bus interchange within Rawtenstall. The

payment of 150K to the Council in the event the bus interchange is not delivered in 15 years.

- 1.5 A 20K contribution to CCTV
- 1.6 A 50K contribution to highway improvements
- 1.7 However, at present the legal agreements have not been fully completed and therefore the decision has not been issued in accordance with the resolution of the March committee. The applicants have recently commenced the development project without the benefit of a formal planning decision although in accordance with a 'minded to approve' scheme.
- 1.8 At this stage it is considered that most of the information provided in relation to the draft conditions is acceptable or some further information is required.
- 1.9 The Environment Agency have been involved in the site investigation and controlled waters aspect of the remediation conditions. Whilst the information required to discharge the requirements of draft condition 12 has not been agreed, the applicants have agreed to stop any further construction. The EA together with Urban Vision Environment have been working closely with the applicant's agents to ensure that the site is appropriately remediated and the neighbouring Irwell safeguarded. However, the EA have confirmed that the conditions attached are sufficiently robust to ensure the remediation of the site and safeguard the river Irwell although further detailed work and testing would be required.
- 1.10 As such, the conditions attached to the report (including additional conditions set out in the late items report) have been re-phrased to reflect the current position and submitted information.
- 1.11 In conclusion, it is still considered that the scheme accords with the relevant provisions of the development for Rossendale and that permission should be granted subject to the completion of the legal agreement and alterations to the conditions as set out in the summary update table below.
- 1.12 This report seeks not to reopen the issue of the principle of the development but simply to agree conditions to reflect the work carried out on site. There being no material planning considerations which have changed since the minded to approve scheme was agreed by this Committee.

**Summary update table in relation to Lidl, Rawtenstall**

No.	Conditions considered by DC Committee (including those set out in late items)	New Con No.	Revised / rephrased conditions for 2007/665
1	<p>The development permitted shall be begun before the expiration of three years from the date of this consent.</p> <p><b>Reason:</b> <i>The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990 (as amended).</i></p>		<b>Take out</b>
2	<p>The hours of demolition for the existing buildings on site to be removed and the hours for the construction of the development hereby approved shall be limited to 07:00 to 19:00 Monday to Friday and 8am-1pm Saturdays. Demolition or construction work shall carried out at no other time.</p> <p><b>Reason:</b> <i>In the interests of the residential amenities of the occupiers of adjoining properties</i></p>		<b>Take out</b>
3	<p>No development authorised by this permission shall take place unless and until the local planning authority has received and approved in writing a site operating statement in relation to provision of method of demolition, construction, permitted hours for construction works, delivery of materials and delivery and collection of equipment, provision and use of on-site parking for contractors' and workpeople's vehicles, wheelwashing facilities, street sweeping and no development or activities related or incidental thereto shall take place on the site in contravention of such site operating statement.</p> <p><b>Reason:</b> <i>In order to safeguard highway safety in accordance with policy DC1 of the Rossendale District Local Plan.</i></p>	<b>1</b>	<p><b>The development hereby approved shall be carried out in accordance with the site operating statement submitted 5<sup>th</sup> September 2008 and drawing 0720 L(90) 101 unless otherwise agreed in writing by the Local Planning Authority.</b></p> <p><b>Reason:</b> <i>In order to safeguard highway safety in accordance with policy DC1 of the Rossendale District Local Plan.</i></p>

4	<p>Prior to the commencement of development on site, the applicant shall submit to the Local Planning Authority for their approval, details of location and acoustic properties of condensers/chiller units. The approved scheme shall be implemented prior to the units first being occupied and shall thereafter be maintained.</p> <p><b>Reason:</b> <i>In the interests of visual and residential amenity pursuant to policy DC1 of the Rossendale District Local Plan.</i></p>	2	<p><b>The development hereby approved shall be carried out in accordance with the details and recommendations contained with the noise impact assessment undertaken by Cheshire Environmental Associates (issued 2<sup>nd</sup> September 2008) unless otherwise agreed in writing by the Local Planning Authority.</b></p> <p><b>Reason:</b> <i>In the interests of visual and residential amenity pursuant to policy DC1 of the Rossendale District Local Plan.</i></p>
5	<p>The use of the retail sales hereby approved shall only be permitted between the hours of 08:00 and 20:00 on any day</p> <p><b>Reason:</b> <i>In the interests of the residential amenities of the occupiers of adjoining properties</i></p>	3	<p><b>The use of the retail sales hereby approved shall only be permitted between the hours of 08:00 and 20:00 on any day</b></p> <p><b>Reason:</b> <i>In the interests of the residential amenities of the occupiers of adjoining properties</i></p>
6	<p>Prior to the commencement of development on site, the applicant shall submit to the Local Planning Authority for their approval, a scheme for the delivery of goods to the store. The scheme shall include the hours of delivery and a management plan to safeguard pedestrian safety including details of the gate access onto Markross Street. The development shall be carried out at all times in accordance within the approved scheme unless otherwise approved in writing by the Local Planning Authority.</p> <p><b>Reason:</b> <i>In order to safeguard highway safety in accordance with policy DC1 of the Rossendale District Local Plan.</i></p>	4	<p><b>The deliveries associated to the development hereby approved shall take place in accordance with the submitted scheme for the delivery of goods dated 5<sup>th</sup> September 2008 unless otherwise agreed in writing by the Local Planning Authority.</b></p> <p><b>Reason:</b> <i>In order to safeguard highway safety in accordance with policy DC1 of the Rossendale District Local Plan.</i></p>
7	<p>Notwithstanding the information on the submitted plans and prior to the commencement of demolition on site, the applicant shall submit to the Local Planning Authority for their approval, a scheme detailing the re-use of natural stone sourced from</p>	5	<p>Notwithstanding the information on the submitted plans and within 2 months from the date of this decision, the applicant shall submit to the Local Planning Authority for their approval, a scheme detailing the re-use of natural stone sourced</p>

	<p>the existing building and where those materials will be re-used along with samples of natural stone for the remaining external elevations and slate for the roof. The development shall be carried out in accordance with the approved scheme and approved materials unless otherwise agreed in writing by the Local Planning Authority.</p> <p><i><b>Reason:</b> In the interests of visual amenity and to accord with Policy DC1 of the adopted Rossendale District Local Plan.</i></p>		<p>from the existing building and where those materials will be re-used along with samples of natural stone for the remaining external elevations and slate for the roof. The development shall be carried out in accordance with the approved scheme and approved materials unless otherwise agreed in writing by the Local Planning Authority.</p> <p><i><b>Reason:</b> In the interests of visual amenity and to accord with Policy DC1 of the adopted Rossendale District Local Plan.</i></p>
8	<p>No part of this development shall be occupied unless and until its associated car parking/servicing provision has been completed and available for use. The car parking provision shall be retained and kept available for use as such unless otherwise agreed in writing by the Local Planning Authority</p> <p><i><b>Reason:</b> To ensure the provision of adequate off street parking/servicing in accordance with PPS6, PPG13, Policy 1 of the adopted Joint Lancashire Structure Plan and Policies DC1, T4 and T7 of the Rossendale District Local Plan.</i></p>	6	<p><b>No part of this development shall be occupied unless and until its associated car parking/servicing provision has been completed and available for use. The car parking provision shall be retained and kept available for use as such unless otherwise agreed in writing by the Local Planning Authority</b></p> <p><i><b>Reason:</b> To ensure the provision of adequate off street parking/servicing in accordance with PPS6, PPG13, Policy 1 of the adopted Joint Lancashire Structure Plan and Policies DC1, T4 and T7 of the Rossendale District Local Plan.</i></p>
9	<p>Prior to the commencement of development a scheme detailing external lighting shall be submitted to and agreed in writing by the Local Planning Authority. Such scheme as is approved shall be implemented in full prior to first use of the development unless otherwise agreed in writing by the Local Planning Authority</p> <p><i><b>Reason:</b> To safeguard the amenity of the area and Conservation Area in accordance with policies HP.1 and DC1 of the Rossendale Local Plan.</i></p>	7	<p><b>The development hereby approved shall be carried out in accordance with the submitted car park lighting plan dated 22<sup>nd</sup> September 2008 by Philips Lighting unless otherwise agreed in writing.</b></p> <p><i><b>Reason:</b> To safeguard the amenity of the area and Conservation Area in accordance with policies HP.1 and DC1 of the Rossendale Local Plan.</i></p> <p><b>NEW INFORMATIVE</b></p>

			<b>Further to the requirements of condition 7 the illuminance levels should not exceed those described in Schedule 3 Part II of the Town and Country Planning Act (Control of advertisements) Regulations 1992. Moreover, the light sources should be screened from the view of drivers</b>
10	<p>No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include details of all existing trees and hedgerows on/bounding the site, detail any to be retained and the measures for their protection in the course of development, together with details of the planting to be provided. All planting, seeding and turfing proposed in the approved details of landscaping shall be carried out in the first planting and seeding seasons following completion of the building, 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.</p> <p><b>Reason:</b> <i>In the interests of visual amenity and to accord with Policy DC1 of the adopted Rossendale District Local Plan</i></p>	8	<p>Within 2 months of the date of this decision a landscaping scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall include details of all existing trees and hedgerows on/bounding the site, detail any to be retained and the measures for their protection in the course of development, together with details of the planting to be provided. All planting, seeding and turfing proposed in the approved details of landscaping shall be carried out in the first planting and seeding seasons following completion of the building, 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.</p> <p><b>Reason:</b> <i>In the interests of visual amenity and to accord with Policy DC1 of the adopted Rossendale District Local Plan</i></p>
11	<p>Prior to the commencement of demolition on site, the buildings to be demolished shall be re-surveyed for the presence of bats, owls or other protected species and recommendations for mitigation measures made by a suitably</p>		<b>Should be taken out</b>

	<p>qualified person, the identity of whom has been agreed in writing by the Local Planning Authority. The survey shall be submitted to and agreed by the Local Planning Authority prior to the commencement of development on site and any mitigation measures shall be carried out prior to and during construction. If bats, owls or other protected species are found within the buildings to be demolished, an application for a Licence should be made to the Department of the Environment, Food and Rural Affairs for the demolition to occur shall be made and the procedures agreed within that application by DEFRA shall be implemented if the demolition of the building is permitted.</p> <p><b>Reason:</b> <i>In order to ensure that no harm is caused to a Protected Species in accordance with the Wildlife and Countryside Act 1981.</i></p>		
12	<p>No development approved by this permission shall be commenced until:</p> <p>a) A desktop study has been undertaken to identify all previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors has been produced.</p> <p>b) A site investigation has been designed for the site using the information obtained from (a) above. This should be submitted to, and approved in writing by the</p>	9	<p><b>No further development approved by this permission shall be commenced until:</b></p> <p><b>a) A desktop study has been undertaken to identify all previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors has been produced.</b></p> <p><b>b) A site investigation has been designed for the site using the information obtained from (a) above. This should be</b></p>

<p>local planning authority prior to that investigation being carried out on the site.</p> <p>c) The site investigation and associated risk assessment have been undertaken in accordance with details approved in writing by the local planning authority.</p> <p>d) A Method Statement and remediation strategy, based on the information obtained from (c) above has been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in strict accordance with the measures approved.</p> <p>A completion Report shall be submitted to the Local Planning Authority detailing the conclusions and actions taken at each stage of the works (to include validation works).</p> <p><b>Reason:</b> <i>To ensure the site is properly remediated and any risk to human health and controlled waters is minimised in accordance with Policy DC1 of the Rossendale District Local Plan.</i></p>	<p><b>submitted to, and approved in writing by the local planning authority prior to that investigation being carried out on the site.</b></p> <p>c) The site investigation and associated risk assessment have been undertaken in accordance with details approved in writing by the local planning authority</p> <p><b>d) A Method Statement and remediation strategy, based on the information obtained from (c) above has been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in strict accordance with the measures approved.</b></p> <p><b>A completion Report shall be submitted to the Local Planning Authority detailing the conclusions and actions taken at each stage of the works (to include validation works).</b></p> <p><b>Reason:</b> <i>To ensure the site is properly remediated and any risk to human health and controlled waters is minimised in accordance with Policy DC1 of the Rossendale District Local Plan.</i></p> <p><b>NEW INFORMATIVE</b></p> <p><i>Applicants attention is drawn to the advice of the Environment Agency dated 30<sup>th</sup> March which advocates continued dialog with the EA and areas of further investigation, reporting and monitoring necessary in order to formally discharge the requirements of condition 9.</i></p>
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13	<p>The development shall be carried out in accordance with the following plans unless otherwise agreed in writing by the Local Planning Authority:</p> <p>0720 L(90) 301 0720 L(90) 302 A 0720 L(90) 303 A 0720 L(90) 304 A 0720 L(90) 304 A</p> <p><b>Reason:</b> <i>For the avoidance of doubt</i></p>	10	<p><b>The development shall be carried out in accordance with the following plans unless otherwise agreed in writing by the Local Planning Authority:</b></p> <p><b>0720 L(90) 301</b> <b>0720 L(90) 302 A</b> <b>0720 L(90) 303 A</b> <b>0720 L(90) 304 A</b> <b>0720 L(90) 304 A</b></p> <p><b>Reason:</b> <i>For the avoidance of doubt</i></p>
14	<p>No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority</p> <p><b>Reason:</b> <i>To prevent the increased risk of flooding</i></p>	11	<p>No further development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority</p> <p><b>Reason:</b> <i>To prevent the increased risk of flooding</i></p>
15	<p>No development approved by this permission shall be commenced until details of the existing and proposed floor levels have been submitted and approved by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved details.</p> <p><b>Reason:</b> <i>To ensure that the development is subject to minimum risk of flooding.</i></p>	12	<p>No further development approved by this permission shall be commenced until details of the existing and proposed floor levels have been submitted and approved by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved details.</p> <p><b>Reason:</b> <i>To ensure that the development is subject to minimum risk of flooding.</i></p>
16	No development approved by this	13	<b>Prior to the occupation of the</b>

	<p>permission shall be commenced until a scheme for the provision and implementation of a flood warning facility has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be installed and implemented prior to the development being brought into operation.</p> <p><i><b>Reason:</b> To provide warnings in connection with the safe operation of the development.</i></p>	<p><b>building approved by this permission a scheme for the provision and implementation of a flood warning facility shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be installed and implemented prior to the development being brought into operation.</b></p> <p><i><b>Reason:</b> To provide warnings in connection with the safe operation of the development.</i></p>
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**Recommendation.**

That the Planning permission is issued subject to the revised conditions outlined above and subject to the signature of the s106 agreement on the terms outlined above.

<b>Contact Officer</b>	
Name	Linda Fisher
Position	Director of Business
Service / Team	Development Control
Telephone	01706 238637
Email address	planning@rossendalebc.gov.uk