

Application No: 2009/160	Application Type: Full
Proposal: Change of use of part of yard to parking of five HGVs (Retrospective)	Location: Hey Head Farm, Tong Lane, Bacup
Report of: Planning Unit Manager	Status: For Publication
Report to: Development Control Committee	Date: 8 June 2009
Applicant: Mr Paul Harrison	Determination Expiry Date: 10 June 2009
Agent: Alison Roland Town Planner Ltd	

REASON FOR REPORTING **Tick Box**

Outside Officer Scheme of Delegation **X**

Member Call-In

Name of Member: Councillor Peter Steen

Reason for Call-In: Having checked the application, I am of the opinion that the proposed development is a valid use of the land in line with paragraphs 5 & 30 of Planning Policy Statement 7.

More than 3 objections received

Other (please state)

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.

APPLICATION DETAILS

1. SITE

- 1.1 The application site forms part of the farm yard at Hey Head Farm, which is situated in the open countryside to the east of the settlement of Bacup. The Farm has an area of approx 35 hectares, the complex of buildings serving it accessed from Tong Lane.
- 1.2 The principal building on the site is of traditional design and stone/slate construction, in use as 2 dwellings, with an attached barn. There are two large portal-frame agricultural buildings located to the west of the dwellings, one of which is currently being used for breeding-pigs and lambing of sheep and the other for storing baled-hay and straw/general agricultural storage.

2. RELEVANT PLANNING HISTORY

- 2.1 2006/20: Erection of 2 no Agricultural Buildings with associated silage clamp, yard and access - Approved

This application originally proposed the erection of 3 buildings. However, as the applicant could not substantiate an agricultural need for the third of them it, was deleted from the application.

Nevertheless, objections to the application were received from a local resident and Britannia Residents United. The principal concern both objectors expressed was that the applicant operated a commercial-vehicle business from a site elsewhere and they feared that it would relocate to Hey Head Farm. They considered it would be an inappropriate use for a rural area, would detract unacceptably by reason of the traffic it would put on to Tong Lane and in terms of visual and neighbour amenity.

At its meeting in March 2006 Committee granted permission, subject to conditions:

Condition 1

Neither of the buildings hereby permitted, or the existing agricultural buildings, shall be used other than for the purposes of agriculture within the unit.

Condition 2

The yard hereby permitted shall not be used other than for the purposes of agriculture within the unit or incidental residential purposes associated with the dwellings at Hey Head Farm.

In each case the Reason for the Condition reads: *To protect the character and appearance of this countryside area from inappropriate uses and levels of activity, in accordance with Policy C7 of the adopted Rossendale District Local Plan.*

- 2.2 2008/82: Erection of a Free Range Egg Unit - Approved
- 2.3 2008/813: Change of use of part of yard to parking of five HGVs - Refused
- 2.4 2009/159: Demolition of 1no Agricultural Building and erection of 2no Agricultural Buildings - Currently being considered

3. THE PROPOSAL

- 3.1 This application is a re-submission of Application 2008/813, which was refused permission by Officers on 22 February 2009 on the grounds of: 1) Countryside Policies; & 2) Residential Amenity. The applicant considers that in refusing the previous application the Council failed to properly assess the proposal in the context of PPS7 and that the concern regarding impact on the landscape is ill-conceived. Furthermore, the Council failed to take into account the contribution that the proposal makes to providing jobs in the area.
- 3.2 This application is made in retrospect and seeks permission for the continued use of part of the farm yard to keep up to five heavy goods vehicles. The parking/turning area to be used is located adjacent to and in front of the existing portal - frame agricultural buildings.
- 3.3 Access to this parking/turning area is gained via Tong Lane and the track running along the southerly side of the farm buildings (i.e. 2 dwellings and the attached barn). According to the details provided on the application form the parking/turning area will be used on a 24 hours basis, seven days a week. However, in the Supporting Statement accompanying the application the applicant advises that, in an attempt to reach a reasonable compromise between the needs of the business and the living conditions of neighbours, they would be willing to accept a Condition limiting the use of the site to hours between 6am and 11pm.
- 3.4 In support of the application, the applicants points out:
- The vehicles using the application site are engaged in a family run business for the repair and maintenance of the motorway network across the whole north-west.
 - The vehicles are driven by the applicant, his partner and up to seven other men working on a self employed basis.
 - Although the permission is sought for the parking of five vehicles, much of the time, vehicles are retained on site for periods of several days or more.
 - The proposal would supplement and diversify the source of income for the farm.
 - The proposal would assist in providing employment opportunities in the area in a small, but nonetheless significant way.

4. POLICY CONTEXT

4.1 National

- PPS1 - Sustainable Development
- PPG4 - Industrial & Commercial Development & Small Firms
- PPS7 - Rural Areas
- PPG13 - Transport
- PPG24 - Noise

4.2 Development Plan

Regional Spatial Strategy (2008)

- DP1-9 Spatial Principles
- RDF1 Spatial Priorities
- RDF2 Rural Areas
- W1 Strengthening the Regional Economy
- EM1 Enhancement and protection of the Region's Environmental Assets
- RT2 Managing Travel Demand
- RT4 Management of the Highway Network

4.3 Rossendale District Local Plan (1995)

- DS5 Development Outside the Urban Boundary & Green Belt
- DC1 Development Criteria

4.4 Other Material Planning Considerations

- LCC Landscape Strategy for Lancashire

5. CONSULTATION RESPONSES

5.1 LCC (Highways)

No highway comments.

5.2 RBC (Environmental Health)

In order to protect neighbours from unacceptable noise/disturbance refusal of the application is recommended. The condition proposed by the applicant for the use of the site between the hours of 6am to 11pm, is unenforceable and inadequate to address its concerns about noise disturbance for occupiers of nearby residential properties.

6. NOTIFICATION RESPONSES

6.1 To accord with the General Development Procedure Order a site notice was posted on 28 April 2009 and the relevant neighbours were notified by letter on 23 April 2009. Two letters raising objection to the proposal have been received from the residents of the area. The comments made are:

- The applicant is building up a transport business on his farm to keep his huge lorries and heavy plant machinery used in the repair of motorways, to the detriment of public rights of way and wild animals in the area.

- With no extended footpaths and a junior school at the beginning of Tong Lane, it is only a matter of time before there is a fatal accident.
- We can not safely negotiate Tong Lane whilst these heavy vehicles are churning up the lane surface.
- I, along with neighbours, object strongly to the environment being destroyed in this manner.
- At present lorries from Hey Head Farm are travelling into the Pennine Road estate at all hours, day or night, including weekends.
- The lorries pass through the heavily populated area and cause noise, vibration, dust and damage to road surface.

7. PLANNING ISSUES

In dealing with this application the principal issues to consider are as follows:
1) Principle; 2) Landscape Impact; 3) Neighbour Amenity; & 4) Highway Safety.

Principle

7.1 In the adopted Local Plan, the application site lies within a Countryside Area, wherein Policy DS5 would preclude development other than for the purposes of agriculture, forestry or other uses appropriate to a rural area, unless for the rehabilitation and re-use of buildings providing that they comply with Policy DC1. Since the application seeks permission for the keeping of lorries unconnected with agriculture (including repair of motorways), it is considered that the proposal conflicts with the Policy DS5 of the Local Plan and is therefore unacceptable in principle.

7.2 PPS7 recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises. It is supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help sustain the agricultural enterprise, and are consistent in their nature and scale with their rural location. Policy W1 of the RSS accords with PPS7 in this regard. It is considered that the business for which permission is sought is of a nature which does not have an affinity with the countryside, and is of a scale which will serve to erode the essentially open and rural character of the area. Furthermore, there is at least 40 hectares of redundant, derelict and vacant land within the Borough that could be utilised for economic development. Previously developed land within the Urban Boundary is readily available for such a business, and in such a location would assist the Council to meet its economic regeneration/urban renewal goals and make for a more sustainable pattern of development. The applicant has not advanced special circumstances to warrant an exception to Government guidance and Development Plan policy in this instance.

Neighbour amenity

7.3 Access to the site is gained through the Pennine Road Housing Estate, via Tong Lane and a track which runs along the southerly side and in front of the two dwellings at the farm (which are in the applicant's ownership/control). The application site has been used on a 24 hours basis, seven days a week, for operations in connection with the keeping of HGVs. Even if on-site activities were in future limited by Condition to between 6am and 11pm, as now suggested by the applicant, it is considered that the noise and disturbance

likely to be caused by the movements of the heavy goods vehicles along Tong Lane, the track and in the parking/turning area (particularly during the late evening/early morning) is likely to affect adversely the amenities residents could reasonably expect to enjoy. The Environmental Health Officer recommends refusal of the application for reasons of noise/disturbance for local residents.

Landscape Impact

- 7.4 The site is situated in a Moorland Fringe landscape character tract which is a transitional rolling landscape of predominantly sheep grazed marginal pastures divided by stone walls. Although this landscape characteristic is marred to some extent with a number of landscape quality issues such as the presence of quarries, pylons etc, it is considered that the keeping and operation of commercial vehicles from this site unacceptably and unnecessarily erodes the character and appearance of the area of Hey Head Farm. Although planting could mitigate the landscape impact to a degree, parked lorries would be exposed to public view from the surrounding open land, including the public footpaths, and detract unacceptably from the character of this essentially open and rural area.

Highway safety

- 7.5 The Highway Authority is satisfied with regard to the suitability of the access in terms of highway safety.

8. CONCLUSION

- 8.1 Application 2006/20 was permitted by Committee in March 2006 subject to conditions intended to preclude from the site the keeping and operation of a commercial vehicle business on the grounds that this would be inappropriate in principle and likely to unduly detract from the character and appearance of the countryside.
- 8.2 Contrary to the applicant's opinion, all the relevant issues (including the guidance given in PPS7) were considered in the determination of the previously refused Application 2008/813. This application is identical to the one so recently refused and, as was the case then, the applicant has not advanced the case to warrant an exception to Government guidance and Development Plan policy in this instance.

9. RECOMMENDATION

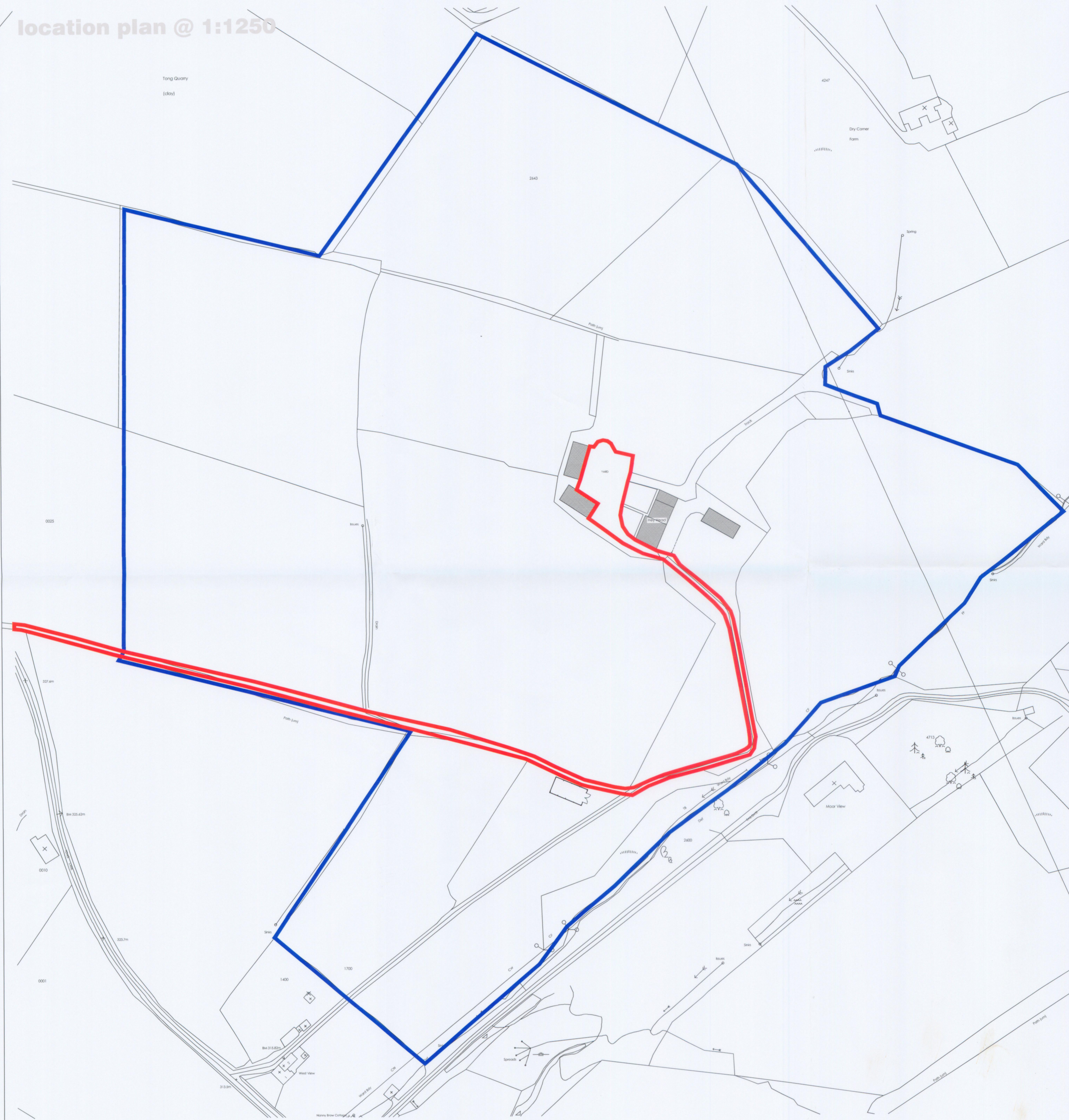
- 9.1 That permission be refused for the following reasons:
1. The application site is located within the Countryside as defined by the adopted Rossendale District Local Plan, wherein development is restricted to that needed for the purposes of agriculture, forestry or other uses appropriate to a rural area. The proposed development is neither appropriate in principle within the countryside, nor is it of a nature/scale to be an acceptable diversification of the rural economy, the keeping of heavy goods vehicles here detracting to an unacceptable and unnecessary extent from the essentially open and rural character of the

area. The proposal is therefore considered to be contrary to PPS1/PPS7, Policies DP1-9/RDF1-2/W1/EM1 of the RSS for the NW of England (2008) and Policies DS5/DC1 of the Rossendale District Local Plan (1995).

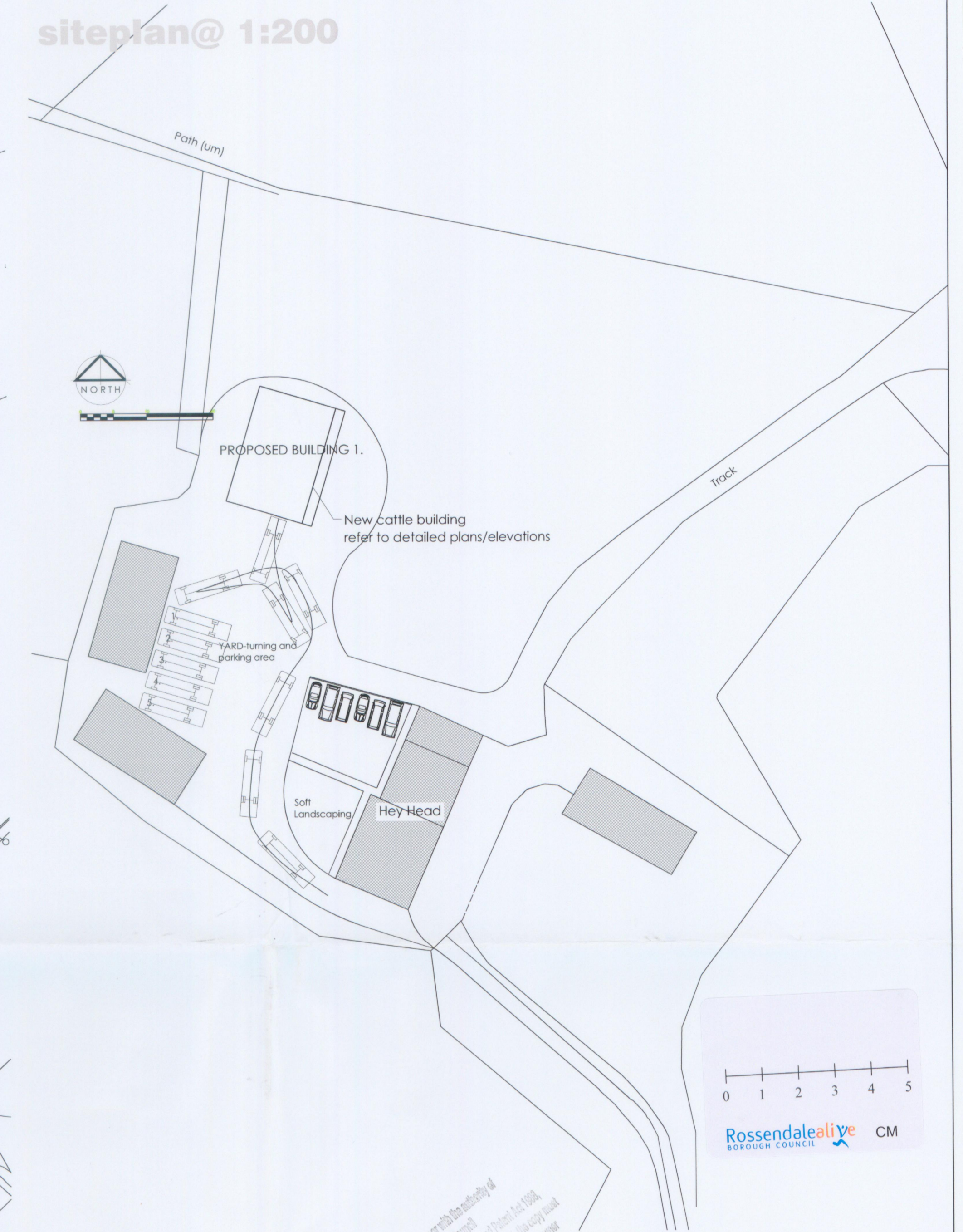
2. The development for which permission is sought will unduly detract from the amenities local residents could reasonably expect to enjoy, most particularly by reason of the noise and disturbance resulting from the movements of the heavy goods vehicles in the early morning/late evening. The proposal is therefore considered to be contrary to PPG24 and Policy DC1 of the Rossendale District Local Plan (1995).

Contact Officer	
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location plan @ 1:1250



siteplan @ 1:200



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2009/160

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rev	date		
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drawing title: Proposed Plans and Elevations- Buildings 1 and 2

drawing no.: 08.35.02A date July 08

scale(s): 1:200/ 1:250 @A1