

<b>Application No:</b> 2011/0052	<b>Application Type:</b> Full
<b>Proposal:</b> Erection of Open Shelter to Rear of Existing Metal Container	<b>Location:</b> Scrap Yard, 232 Dean Lane, Water
<b>Report of:</b> Planning Unit Manager	<b>Status:</b> For Publication
<b>Report to:</b> Development Control Committee	<b>Date:</b> 21 March 2011
<b>Applicant:</b> Mr M Ilyas	<b>Determination Expiry Date:</b> 04 April 2011
<b>Agent:</b>	

**REASON FOR REPORTING**                      **Tick Box**

**Outside Officer Scheme of Delegation**

**Member Call-In**

Name of Member:  
Reason for Call-In:

**Three or more objections received**                      **X**

**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**

The application relates to the long-established scrapyards occupying a rectangular site located on the north side of Dean Lane. The site is relatively level and currently used for the storage of vehicles for breaking-up and salvage, together with portacabins.

It is surrounded by open land to north, west and east. On the opposite side of Dean Lane, there are number of residential properties set well back from the road. These properties are fronted by 2m high timber boarded fences/brick walls.

The application site lies within the Countryside, as delineated in Rosendale District Local Plan.

### **2. RELEVANT PLANNING HISTORY**

1996/062: Certificate of Lawfulness for an existing use for the storage and breaking of salvage and scrap vehicles to a maximum of 4 metres in height.

Granted

2009/289: Retrospective application for the erection of new galvanised steel palisade perimeter fence

Refused

Enf Notice Against the unauthorised erection of 2.4m high palisade fencing and gates on land opposite 183 Dean Lane, Water

Issued on 14 December 2009.

Appeal against the Notice dismissed on 30 April 2010

In dismissing the Appeal the Inspector points out:

- “----- My assessment is that, because of its location and design, the fence is a very intrusive and jarring feature in the local scene of a scatter of buildings (mainly dwellings) within the countryside.
- I conclude that the unauthorised fence and gates fail in relation to issue (i) - visual harm. I have no doubt that they conflict with relevant established planning policies, notably Local Plan Policy DC1 on environmental quality.
- ----- I saw that there are limits to visibility mainly by the unauthorised fence to the east of the access and by the old fence and vegetation on the road verge to the west. However, I also saw that the new access gates (of the same material as the palisade fencing) replicate the older gates which have been retained, and both sets of gates have to be opened to allow access and egress. Given the previous fencing that existed here, I do not believe that the Council have satisfactorily demonstrated that the road safety position has been made worse as a result of the unauthorised development. I therefore take no exception to that development in relation to issue (ii) – highway safety.
- ----- Given the lawful use of the site and the appellant’s evidence, backed up by many photographs, about the diverse hazards and risks at

the site ( with damage and thefts having occurred and the police involved), I have no doubt at all that there is a need for a secure boundary. The Council accepts that this is a material consideration. But the appellant's evidence includes no substantial consideration of any range of alternative ways of providing a secure boundary that would have a less intrusive visual impact.

- ----- I agree that a darker finish to the fence would be helpful, although I am not satisfied that it would remove the objection in terms of visual harm. In addition, it is not at all clear what land is available for landscaping with the fence located as it is, and that could make an important difference to the degree of screening that could be achieved.”

The Inspector amended the requirements of the Enforcement Notice to read:

- a) Remove the palisade fencing and gates from the land; and
- b) Remove all materials associates (sic) with complying with (a) above from the land.

The time for compliance is 9 months.

The time for compliance with this enforcement notice has now passed and the fencing, gates and materials associated therewith remain. Legal action is now being prepared.

2010/0669: Retrospective application for erection of new perimeter railings, screen planting and alterations to front entrance

This application has been submitted following refusal of the previous application 2009/0289 and dismissal of an Appeal against the Enforcement Notice concerning the unauthorised development. It appears to the Council, however, that the application contains misleading information in respect of land ownership to the north and west which would affect the proposed landscaping and boundary treatment. Accordingly the application has been made invalid until this matter can be resolved.

### **3. THE PROPOSAL**

The applicant seeks planning permission for the erection of an open fronted shelter within the existing site to be used for car dismantling and salvage works. The shelter would be attached to the existing container to the south west of the site and would measure 8 metres in depth with a width of 8.2 metres rising up in height from the height of the existing container to approximately 4.2 metres. The shelter would be constructed on a concrete slab base and would have a dwarf concrete block wall to a height of 1.6 metres with softwood vertical boarding above under a dark green coloured metal sheet roof. The west elevation of the shelter would be open. Proposed opening hours are 10am-6pm Monday to Sunday.

The submitted plans include alterations to the fence fronting Dean Lane and include the same boundary positions/fencing/landscaping as proposed under application 2010/0669 which has yet to be determined due to issues regarding the land ownership. There is no reason to dispute that the area for the proposed shelter is

within the ownership of the applicant. This application relates therefore to the proposed shelter only.

#### **4. POLICY CONTEXT**

##### **National**

PPS1 – Delivering Sustainable Development  
PPS4 – Economic Development  
PPS7 – Sustainable Development in Rural Areas  
PPG13 – Transport

##### **Development Plan**

###### **Regional Spatial Strategy (2008)**

DP1-9 Spatial Principles etc  
RDF2 Rural Areas  
RT2 Managing Travel Demand  
EM1 Environmental Assets

###### **Rossendale District Local Plan (1995)**

DS5 - Development Outside the Urban Boundary & Green Belt  
DC1 - Development Criteria  
DC4 - Materials

##### **Other Material Planning Considerations**

RBC Submitted Core Strategy DPD (2010)  
LCC Landscape Strategy for Lancashire

#### **5. CONSULTATION RESPONSES**

##### **LCC (Highways)**

Awaiting Comments

##### **RBC (Land Drainage)**

Measures should be implemented to prevent surface water runoff onto adjoining land and property, both during and after development. Drainage of the proposal should not cause nuisance to adjoining land. A condition is suggested as follows:

Condition: No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved plans. Reason: To reduce the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

##### **RBC (Environmental Health)**

Contaminated Land Consultant's have verbally commented that in respect of the issue raised by neighbours relating to contaminants, that a preliminary risk assessment should be undertaken prior to commencement of development. This can be subject to condition of any subsequent planning permission. Full comments, however, are awaited.

## 6. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted on 15/02/2011 and the relevant neighbours were notified by letter on 08/02/11 and were subsequently re-notified on 17/02/2011 following comments from a neighbour that some letters hadn't been received.

Four letters raising objection to the proposal have been received. The points raised are:

- As it is within a Countryside Area the building would conflict with Local Planning Policies, particularly DC1;
- The building would require the site to be excavated to form the base and therefore there are concerns that the land could be heavily contaminated causing contaminants to affect local water courses and land;
- As existing the activities on the site create a lot of noise and operate 7 days a week sometimes until late in the evening. The shelter and lighting within would create longer working hours thus causing a disturbance to those in the area.
- The shelter would take up more space within the scrap yard possibly increasing the number of vehicles that already park on Dean Lane.
- No permission exists for the fencing and planting around the site therefore the applicant's cannot state the shelter would not be visible.
- The shelter would far exceed the height of the fencing in any case therefore would question how high the planting around the perimeter would grow and indeed how long it would take for this to reach a height that would screen the building; and given the narrow strip of land the roots/overhang could protrude onto other land.
- The application contravenes the Borough Plan in that all building in the Dean Lane area should be of stone construction with a grey slate roof, although imitation slate may be used, and that the building be for agricultural use
- The 4 metre height of the building is excessive;
- The building will impact on the rural landscape.

## 7. PLANNING ISSUES

### Assessment

The main issues to consider are:

- 1) Principle; 2) Visual Amenity/Countryside Impact; 3) Neighbour Amenity; & 5) Access/Parking

### Principle

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.

The site has lawful use as a scrap yard and for scrap vehicles to be stored to a maximum height of 4 metres. Due to the nature of the scrap yard/salvage business it is not considered unreasonable to expect some form of building or structure on the site to provide shelter for working. Such a building would not be untypical of a scrap yard.

As such, it is considered that the proposed shelter is acceptable within the countryside in context with Policy DS5 provided that it complies with Policy DC1 of the District Plan.

#### Visual Amenity/Countryside Impact

The proposed shelter would be located immediately to the rear of an existing container to the south westerly side of the site which would act as a partial screen when viewed from the south. Although the site currently does not have permission for any fencing to bound the site (retrospective application 2010/0669 has yet to be determined) permitted development rights would allow for a 2 metre high fence to bound the majority of the site and it is highly likely that the site owners would use this fall back position should permission for a fence of a greater height be refused. This would further screen the building. The siting and number of vehicles within the site would also act as a screen when viewed from wider areas. The size, design and materials of the shelter are not considered inappropriate, however, given the prominence of the monopitched roof it is considered that it should be coloured slate grey which would lessen its impact. Taken all of the above into consideration I do not consider that the proposed shelter would be an unduly intrusive feature in the countryside.

#### Neighbour Amenity

Given the modest size and height of the building and separation distances from neighbours it is considered that there would be no loss of light or outlook to neighbours, nor would privacy be affected. Objectors have raised concerns regarding noise impacts resulting from the shelter which would allow for working late into the night. The applicant's however, have proposed that the opening hours for the site are 0900-1800. Subject to this being a condition of any approval then it is considered that the use would not cause undue noise and disturbance to neighbours and would provide greater control over the site than at present, as the site currently does not have any restrictions over hours of working. The scheme is therefore considered acceptable in terms of neighbour amenity.

#### Access/Parking

The shelter would not alter the existing parking arrangements and would not result in a need for further parking. The scheme is considered acceptable in terms of highway safety.

#### Contaminated Land

Concerns have been raised from neighbours that by excavating the land to provide the foundations for the shelter, the contaminated land would be disturbed and would cause a risk to adjoining land and watercourses. Due to the nature of the existing use I am of the view that the development may have the potential to cause an impact, however, given the modest amount of excavation to be undertaken I am of the opinion that any such issue could be surmountable, subject to full comments from Environmental Health concurring with the provisional comments received. Accordingly

it is considered necessary to condition that the applicant's conduct a preliminary risk assessment to establish the danger and what measures (if any) would be necessary to prevent such risk.

### **Summary Reason for Approval**

The proposed development is considered appropriate within the countryside and subject to conditions, would not unduly affect visual and neighbour amenity or highway safety. Therefore, it is considered that the proposed development is in accordance with PPS1, PPS7, Policies DP1-9 / RDF2 / EM1 of the Regional Spatial Strategy for the NW of England (2008), and Policies DS5 /DC1 of the Rossendale District Local Plan (1995).

### **8. RECOMMENDATION**

Approve subject to conditions.

### **9. CONDITIONS/REASONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.
2. The development shall be carried out accordance with drawing number 'Rev A' in respect of the proposed shelter only, dated 07 February 2011 approved unless otherwise required by the conditions below or first agreed in writing by the Local Planning Authority.  
Reason: To ensure the development complies with the approved plans and for the avoidance of doubt.
3. All materials to be used in the scheme hereby approved shall be as stated on the application forms and approved drawings unless otherwise first agreed in writing by the Local Planning Authority.  
Reason: To protect the amenities of the neighbour, in accordance with Policy DC1 of the Rossendale District Local Plan.
4. The roof of the shelter shall be coloured slate grey and shall remain as such unless otherwise first agreed in writing by the Local Planning Authority. Reason: IN the interests of visual amenity in accordance with Policy DC1 of the Rossendale District Local Plan.
5. The scrap yard shall not be operate outside of the hours of 09:00 – 18:00 Monday to Sunday and shall not be varied unless otherwise first agreed in writing by the Local Planning Authority.  
Reason: In the interests of neighbour amenity in accordance with the Application Form, Policy DC1 of the Rossendale District Local Plan.
6. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to

Friday and 8:00 am to 1:00 pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: In the interests of visual and neighbour amenity, in accordance with Policy DC1 of the Rossendale District Local Plan.

7. Prior to commencement of development on site, an investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, the impact of the proposed excavation of the site area on adjoining land and watercourses and measures to prevent contaminants resulting from the development affecting such areas, full details of which must be submitted to the Local Planning Authority for their approval in writing. The development shall be carried out in accordance with the approved details and shall not be varied unless otherwise first agreed in writing by the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR'. Reason: In the interests of amenity and ecology in accordance with Policy Dc1 of the Rossendale District Local Plan.

## 10. **INFORMATIVE**

1. The applicant's attention is drawn to the fact this permission relates only to the construction of the proposed shelter and does not convey permission or implicit acceptance of the erection of the existing palisade fence or revised fencing fronting Dean Lane, or any other buildings/containers or unauthorised use of the site which would require approval under a separate planning permission.

<b>Contact Officer</b>	
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