

<b>Application Number:</b>	2015/0124	<b>Application Type:</b>	Full
<b>Proposal:</b>	Construction of Warehouse/Wholesale Unit (2 units in one building) Use Class B8.	<b>Location:</b>	Former Cloughfold Dairy, Bacup Road Cloughfold
<b>Report of:</b>	Planning Unit Manager		
<b>Report to:</b>	Development Control Committee	<b>Report Written:</b>	5 June 2015
<b>Applicant:</b>	Mr R Hargreaves	<b>Determination Expiry Date:</b>	28 May 2015
<b>Agent:</b>	Hartley Planning and Development Ltd		

<b>Contact Officer:</b>	Richard Elliott	<b>Telephone:</b>	01706-238639
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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	YES
<b>Other (please state):</b>	

## 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. RECOMMENDATION

That Committee Approve planning permission for the reasons set out in Section 10.

## 2. SITE

The premises formerly occupied by Dairy Crest, to the south side of Bacup Road (A681) until recently possessed a small white-painted flat-roofed building with vehicle parking and turning area to its west side, enclosed by green palisade fencing.

Under Application 2013/0464 permission was sought and granted for the site's redevelopment, entailing erection of a new building of greater size and re-configuration of the parking/servicing area within the existing boundaries.

Under Application 2014/0117 permission was sought and granted for an extension to the site's boundaries to its south and west sides.

Under Application 2014/0407 planning permission was refused for a larger building to provide for two units.

The extension to the site curtilage has now been completed. The agreed fencing has been partially implemented. The ground has been cleared ready for redevelopment.

The site runs alongside a long-distance recreational route on the former railway line, now designated a Valley Way. Properties on the opposite side of Bacup Road to the depot site/application site are for the most part residential, to the east side there are substantial buildings in commercial use. For the most part along that stretch of Bacup Road towards Rawtenstall it can be seen that the residential properties either have open views southwards or that there is a significant setback from the road between industrial / commercial properties opposite, and those with lesser setbacks generally have their gables facing the road.

The majority of the site lies within the Urban Boundary and in an employment area, land to its west and south lie within Countryside.

### **3. RELEVANT PLANNING HISTORY**

2014/0407 Construction of Warehouse/Wholesale Units

Refused under delegated authority for the following reasons:

- 1) The proposed scheme would result in the creation of two B8 storage units with insufficient off road space for large rigid vehicles to turn, load and exit the site in a forward gear. Any additional on street parking of such large servicing vehicles on the southern side of Bacup Road in the vicinity of the site would significantly disrupt the free flow of traffic in the area. Accordingly the scheme is considered detrimental to highway safety and contrary to sections 4 and 7 of the National Planning Policy Framework (2011) and Policies 1, 8, 9, 23 and 24 of the Council's adopted Core Strategy DPD (2011).
- 2) The proposed B8 commercial building and its relationship to the existing dwellinghouses on Bacup Road discords with the existing pattern of development in the locality by reason of distance, siting and orientation, and is therefore harmful to the character of the street scene and detrimental to the visual amenities currently enjoyed by the occupiers of 310 Bacup Road, contrary to the NPPF and Policies 1, 23 and 24 of the Rossendale Core Strategy DPD (2011).

2014/0117 Extension of site curtilage to provide additional parking, and erection of a 2m high perimeter fence

Approved at April 2014 DC Committee

2013/0464 Erection of wholesale warehouse

Approved

#### 4. **PROPOSAL**

Following the refusal of planning application 2014/0407 the applicant entered into pre-application discussions with the Local Planning Authority. The applicant was advised that an approval would unlikely to be granted for a building that encroached further along Bacup Road than the extant approval, and that parking and turning would have to be satisfactorily resolved.

Accordingly planning permission is now sought for a revised building. It would project a similar distance along Bacup Road to the extant approval, less than the previously refused scheme but would be wider extending back further into the site than the previous extension, but not increasing the size of the site.

The building would comprise two wholesale/warehouse units (Use Class B8).

The curtilage of the site and the proposed planting areas and access point would remain as per the previous permission, although reference appears to have been removed in respect of tree planting to the north western corner. The boundary fencing would be the same as previously approved and which has been partially erected on site. The fencing to the rear of the site would begin from the corner of the building, rather than completely enclose it. A comparison of the buildings is included within the table below.

<b>Comparisons:</b>	<b>2013/0464 Approved</b>	<b>2014/0407 Refused</b>	<b>2015/0124 Current</b>
Depth (Bacup Road elevation)	16.1m	19.2m	16.75m
Width (Elevation fronting car park)	13.3m	13.8m	17.4m
Height to Eaves	5.0m	5.54m	5.04m
Height to Ridge	7.5m	8.79m	8.9m
Gross Floor Space	296m <sup>2</sup>	472m <sup>2</sup> (236m <sup>2</sup> for each unit)	524m <sup>2</sup>
Parking spaces	6 (increased to twelve with the site extension granted under permission 2014/0117)	9 plus area for cycle/motorcycle parking	9 plus area for cycle/motorcycle parking

Each unit would have a ground and first floor. However, unlike the previous permission the full first floor will be utilised (indicated as stock/open plan office). Each floor would have kitchen and toilet facilities.

The Bacup Road elevation and the south east elevation (towards Waterfoot) would be in natural stone. The rear elevation would be rendered. The south west elevation which would include the unit frontages would comprise two roller shutter doors leading to loading bays, a standard entrance floor and glazing.

The fenestration has been revised from the previous schemes. There would be two ground floor windows at ground floor level, and a door in the elevation fronting Bacup Road, and the same to the opposite (SW) elevation facing the footpath. No windows are proposed to the rear (SE) elevation.

It has been clarified through discussions with the applicant's agent that each of the upper floors is directly associated with the ground floor beneath. The upper floors are not independent units, and the buildings would fall within the B8 (Storage and Distribution) Use Class.

They have advised that staff numbers are unknown as the unit are speculative, but they consider that numbers are likely to be reflected by the number of car parking spaces proposed.

A cross section drawing has been provided demonstrating the relationship of the proposed building with the residential properties on the opposite side of Bacup Road.

As part of the application swept path plans have been provided which show that articulated vehicles can enter and leave the site in a forward gear. To do this they would require to two of the car parking spaces proposed.

However, the applicant has stated that servicing of the units will be from small vans and it would be only very exceptionally, if at all, that servicing would be by articulated vehicles.

Initially the use of a Marley concrete tile was proposed for the roof. Following a request from the case officer the applicant has agreed to use a natural blue slate instead.

## 5. **POLICY CONTEXT**

### **National**

#### **National Planning Policy Framework (2012)**

- Section 1 Building a Strong Competitive Economy
- Section 4 Promoting Sustainable Transport
- Section 7 Requiring Good Design
- Section 10 Meeting the Challenges of Climate Change, Flooding, etc
- Section 11 Conserving and Enhancing the Natural Environment

### **Development Plan Policies**

#### **Rossendale Core Strategy DPD (2011)**

- AVP4 Strategy for Rawtenstall
- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 17 Rossendale's Green Infrastructure
- Policy 18 Biodiversity and Landscape Conservation
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

## 6. **CONSULTATION RESPONSES**

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

There are no objections in relation to this application however I recommend the hours of construction and hours of operation and vehicle movement are conditioned to be daytime hours.

### **RBC (Property Services)**

Terms have been agreed for the release of the covenant on the south west part of the site.

### **LCC (Highways)**

I had previously recommended the following conditions for highway safety reasons on application 2014/0407 that was subsequently refused:-

- Deliveries of goods by vehicles over 7.5 tonnes are prohibited before 09:30 and after 3pm to avoid the peak flow on the highway network.
- No two delivery vehicles should arrive at the same time and this should be managed by the site manager through a Delivery Management Plan which should be provided and be kept updated for inspection by the LPA giving days, times and sizes of delivery vehicles expected.
- All delivery vehicles should enter and exit the site in forward gear
- No deliveries of goods shall be accepted by articulated vehicles
- No deliveries of goods shall be accepted by the site manager (either through the service yard or the public entrance) from any vehicle which has unloaded whilst parked on the public highway.

In addition I requested that a contribution of £1,500 be made by a 106 agreement for the pursuance of a TRO to restrict parking on Bacup Road outside the premises. This will prevent staff and customers parking on Bacup Road and causing an obstruction to large vehicles and/or pedestrians if the vehicle is straddling the pavement.

The current application 2015/0124 has an enlarged area of hard standing which will enable service vehicles to manoeuvre more easily.

Therefore I would recommend that the reduced number of conditions stated below are placed on any approved application for reasons of highway safety:-

- No two delivery vehicles should arrive at the same time and this should be managed by the site manager through a Delivery Management Plan which should be provided and be kept updated for inspection by the LPA giving days, times and sizes of delivery vehicles expected.
- All delivery vehicles should enter and exit the site in forward gear
- No deliveries of goods shall be accepted by the site manager (either through the service yard or the public entrance) from any vehicle which has unloaded whilst parked on the public highway.

There is a concern that the area on the 1<sup>st</sup> floor of the units is more suitable as office space rather than storage space and would require more off street parking than is available. This has been raised previously with the agent and he has confirmed that the use will be restricted to B8 storage and distribution and that the number of off street parking spaces will be sufficient.

It would be preferable for the applicant to make a contribution for a TRO to be pursued however should the above recommended conditions be stated on any approved application then this would overcome the highway safety concerns, subject to the following conditions:

- No two delivery vehicles should arrive at the same time and this should be managed by the site manager through a Delivery Management Plan which should

be provided and be kept updated for inspection by the LPA giving days, times and sizes of delivery vehicles expected.

- All delivery vehicles should enter and exit the site in forward gear
- No deliveries of goods shall be accepted by the site manager (either through the service yard or the public entrance) from any vehicle which has unloaded whilst parked on the public highway.

### **Environment Agency**

Previously commented that the scheme does not require their comments.

## **7. NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order nine neighbours were notified of the proposal by letter on 21/04/2015 and two site notices were posted on 01/05/2015.

Three letters of objection have been received. (Twenty letters of objection has been received on the previous application).

- There does not appear to be much change from the previous scheme and the road is too busy for extra HGVs.
- Since the last plans were refused lorries associated with JJ Ormerods have been causing problems on the road. Also a submission for disabled parking has been submitted directly across from the gates which will make getting in and out horrendous.
- The changing of the drawings will not alter the traffic problem on Bacup Road or make the outlook from the houses better.

## **8. ASSESSMENT**

The main considerations of the application are:

1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; and 4) Access/Parking.

### **Principle**

The description of development states “warehouse / wholesale unit” and the application form at question 18 refers to B8 floorspace. However, the floor plans show “stock” at ground floor with “stock / open plan office” at first floor. Notwithstanding what is shown on the submitted floor plans, the applicant has clarified that the application relates solely to a proposed B8 use with ancillary office use only.

Had the applicant sought permission for office (Use Class B1) at first floor level, this would be unlikely to be acceptable from a planning policy perspective given its location, but in any event such an application would need to be informed by a sequential assessment in accordance with the NPPF.

Given the applicant’s clarification of the proposed B8 use only, the application has been assessed on this basis. Having regards to the previous permissions for the B8 use and extension of the site curtilage, the scheme is acceptable in principle.

### **Visual Amenity**

The proposed materials of natural stone (to match Rossendale Health Centre) to the front, Bacup Road side and rear elevations, and natural blue slate are considered entirely

appropriate for the location. Textured render to the remaining elevation would not cause any material harm to the area and would be consistent with the earlier approval. The proposed boundary fencing is also considered appropriate, being the same as previously approved. I do consider it necessary to ensure tree planting is carried out in the north western corner of the site as per the previous approval.

The building would have a very similar eaves height and depth to the extant permission. Although the ridge height would be higher and the building would be wider, having regard to the extant approval and the additional planting proposed (as per the approval for the extension of the site curtilage) I do not consider it would cause harm to the street scene, or be overly imposing or intrusive when viewed from the footpath to the rear.

It was considered that the previous scheme, due to its additional encroachment along Bacup Road, significantly overlapping the frontage with No.310 would be out of character with the pattern of development in the area, where residential and commercial properties on the opposite sides of the road either did not overlap, had significant setbacks, or were orientated such that the gable ends of the residential properties faced the commercial buildings. This scheme, with its reduced depth and having regard to the extant approval, is considered much more acceptable in this regard.

#### Neighbour Amenity

With the reduction in depth of the building I am satisfied that the building would not unduly detract from the light and outlook of properties along Bacup Road over and above the extant permission. Although there is an increase in the ridge height the proposed hipped roof would slope away from the residential properties on the opposite side of the road. There would be no loss in privacy as none of the windows would directly overlook any properties.

#### Access / Parking

Paragraph 32 of the NPPF requires decision to take into account of whether (inter alia):

- “safe and suitable access to the site can be achieved for all people; and
- ...Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

The proposed number of parking spaces exceeds the Council’s adopted standards for B8 development (one space per 100m<sup>2</sup> of floorspace) and following the concerns expressed previously the submitted swept path analysis demonstrates that articulated vehicles can enter and leave the site in a forward gear. Even though this shows two parking spaces would be required for the turning, the parking standards would still be met.

As explained previously, the applicant has clarified that the proposal comprises B8 use with only ancillary office space. The Highway Engineer had advised Officers that had the applicant proposed a B8/B1 mix, the parking standards would not be met because B1 uses demand a greater number of parking spaces than B8.

There is no scope for parking outside of the site due to the reliance on on-street parking for the residential properties opposite. Parking on either side of the road would disrupt traffic along the A681, as would loading and unloading.

Given that the scheme meets the Council’s parking standards it is not considered that the scheme would lead to additional parking along Bacup Road, and the Highway Authority has not objected to this scheme subject conditions, in order to ensure that there is no parking and deliveries taking place on the highway.

An appeal decision has been provided to me by the Highway Authority. It was for a public enquiry for the proposed erection of a convenience retail store and car park. The Inspector wrote that “A *planning condition cannot limit the use of the public highway (other than by the appellant in certain circumstances). But the likelihood of delivery vehicles parking on the highway can be minimised by preventing the store receiving any deliveries unloaded from a vehicles on the road.*” He went on to say that it would meet the relevant tests for conditions and adherence to it would be within the control of the store operator. Any breach would be readily observable from the public highway.

Having regard to the above I am satisfied that the condition recommended by the Highway Authority in respect of restricting the acceptance of goods from the highway subject to a slight variation to the wording. I am also satisfied that a condition requiring all delivery vehicles to enter and exit in a forward gear is acceptable. I do however, consider that the first condition recommended by the Highway Authority would not meet the tests as required by the Planning Practice Guidance (necessary; relevant to planning and to the development to be permitted; enforceable; precise and; reasonable in all other respects), as it would be unduly onerous and difficult to enforce. Following discussions with the Highway Authority it was established that the main reason for the condition was in relation to more than one HGV or articulated lorry visiting/leaving the site at the same time, a situation which is more likely as two units are proposed. With this in mind the following condition is considered appropriate:

*“No HGVs or articulated vehicles shall enter the site until a Delivery Management Plan to manage deliveries by such vehicles is submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the lifetime of the development unless a variation to it has been first agreed in writing by the Local Planning Authority.”*

## 9. **SUMMARY REASON FOR APPROVAL**

The proposed development is considered to be acceptable in principle and, subject to the conditions, is not considered likely to detract unacceptably from visual and neighbour amenity or highway safety. It is therefore considered to accord with Policies AVP4 /1 / 8 / 9 / 10 / 23 / 24 of the Council’s adopted Core Strategy DPD (2011) and the relevant provisions of the National Planning Policy Framework.

## 10. **RECOMMENDATION**

That the application be approved.

### **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason : To accord with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the drawing titled “milk depot 23-03-15” date stamped 02 March 2015 by the Local Planning Authority, unless otherwise required by the conditions below.



Reason: For the avoidance of doubt.

3. Notwithstanding the details given on the approved plans, the roof of the development shall be constructed of natural blue slate, and the elevations in stone as used in the Rossendale Health Centre, Bacup Road, Rawtenstall. The window frames and doors shall be coloured grey. All materials shall thereafter be satisfactorily retained at all times.

Reason: In the interests of visual amenity, in accordance with the requirements of Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

4. Notwithstanding the General Permitted Development Order 2015, the premises shall only be used for Use Class B8 storage and distribution, and for no other purpose.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of highway safety and the vitality and viability of identified shopping areas, and to comply with the NPPF and Policies 8 and 11 of the Core Strategy.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order amending or revoking and re-enacting that order, no windows shall be inserted into the first floor north east (Bacup Road facing) and south west elevations of the building without the submission and approval of an application for planning permission.

Reason: To safeguard the amenities of neighbours and in the interests of visual amenity, in accordance with Policies 1 and 24 of the adopted Core Strategy DPD.

6. All areas to be used by vehicles shall be constructed/surfaced/marked out in the manner shown on the approved Site Plan (shown on the "milk depot 23-03-15" plan date stamped 02 March 2015 by the Local Planning Authority) before first use of either of the units hereby permitted, and shall avoid surface-water run-off to the highway. These areas shall thereafter be satisfactorily retained at all times solely for the parking and manoeuvring of vehicles in conjunction with the development.

Reason : In the interests of highway safety, in accordance with Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

7. There shall be no fork lift truck movements within the site and no deliveries shall be taken at or dispatched from the site, outside of the hours of 8am to 8pm Monday to Friday and 8am to 6pm on Saturdays, Sundays or Bank Holidays.

Reason: In order to safeguard the amenities of the occupiers of nearby residential properties in accordance with the requirements of Policy 24 of the Council's adopted Council Core Strategy DPD (2011).

8. Notwithstanding the details given on the approved application form, foul and surface water from the developed site shall be discharged to separate drainage systems, unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure that the site is satisfactorily drained, in accordance with the requirements of Policy 24 of the Council's adopted Core Strategy DPD (2011).

9. Goods sold by wholesale shall be limited to those stored on the premises, shall be sold solely to trade and shall be sold solely from the trade counters shown on the approved plan. At no time shall any retail sales be undertaken from the premises.

Reason : To protect the vitality and viability of identified shopping centres, in accordance with the requirements of Policy 11 of the Council's adopted Core Strategy DPD (2011).

10. No deliveries of goods shall be accepted to either unit from any vehicle which has unloaded whilst parked on the public highway.

Reason : In the interests of highway safety, in accordance with Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

11. All delivery vehicles should enter and exit the site in forward gear.

Reason : In the interests of highway safety, in accordance with Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

12. The fencing as detailed within the Design and Access Statement shall be erected and completed in full prior to first use of any of the units hereby permitted. Notwithstanding what is shown on the approved drawings, the fencing shall extend to the north western corner of the building.

Reason: In the interests of visual amenity in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

13. The hedging, shrub planting and tree planting shall be as per planning approval 2014/0117 and shall be carried out in the first available planting season following first occupation of either of the units hereby approved. Any trees or shrubs dying, removed or becoming seriously damaged or diseased within five years of planting shall be replaced with the same species within twelve months.

Reason: In the interests of visual amenity and in accordance with Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

14. No HGVs or articulated vehicles shall enter the site until a Delivery Management Plan to manage deliveries by such vehicles is submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the lifetime of the development unless a variation to it has been first agreed in writing by the Local Planning Authority.

Reason: To ensure that deliveries by HGVs and/or articulated vehicles are appropriately managed in the interests of highway safety and to accord with Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD.

## **Informatives**

1. The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at [http://www.rossendale.gov.uk/a\\_to\\_z/service/309/core\\_strategy](http://www.rossendale.gov.uk/a_to_z/service/309/core_strategy), and operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant. In this case the applicant did engage in pre-application discussions. The Local Planning Authority has considered the application and where necessary

considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context.

2. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coalmine workings or coal mine entries (shafts and adits) require the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)