

Application No: 2007/334

Application Type: Full

Proposal: Erection of detached dwelling

Location: Land adj 176 Burnley Road, Bacup

Report of: Head of Planning, Legal & Democratic Services

Status: For Publication

Report to: Development Control Committee

Date: 16 October 2007

Applicant: Mrs D Fisher

Determination Expiry Date:
11 July 2007

Agent : Hartley Planning & Development Assocs Ltd

REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation

Member Call-In

X

Name of Member:

Cllr J Eaton

Reason for Call-In:

I am aware of the personal medical circumstances of Dawn Fisher and think that there are exceptional circumstances here which need to be considered as a material planning matter. She suffered a horrific accident some time ago and has been left in need of help from her family.

3 or more 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. THE SITE

- 1.1 The Applicant resides in a detached dwelling in Hillside Crescent. This property is located within the Urban Boundary of the settlement of Weir and is approximately 200m to the north of the application site.
- 1.2 This application relates to a plot of land situated in the countryside to the south of the settlement of Weir. It is a split-level site, having a 19m frontage to Burnley Road (A671) and a depth of 39m.
- 1.3 The front half of the site is, for the most part, level and hard-surfaced. Immediately behind the 3m high conifer hedge on the frontage there are a couple of small timber sheds, and towards the rear a stone-built flat-roofed building which is the size of a garage but used as stabling. Towards the northern boundary of the site the land rises up steeply, the path here giving access to the rear half of the site. The rear half of the site is un-surfaced and matches in level the adjacent field. It is occupied by other stables/animal shelters, some of timber construction and another comprising of a wagon body, of varying age/condition.
- 1.4 Immediately to the south of the application site is a stone-built terrace of houses, forming part of the sporadic development which fronts the main road between the settlements of Weir and Bacup. Whilst the top half of the site is bounded to the south side by the 2m high beech hedge separating it from an extended garden belonging to one of the terraced houses, the application site is separated from the adjacent field to the north and west by a post-and-rail fence.

2. RELEVANT DEVELOPMENT CONTROL HISTORY

2007/241 - Land adj 176 Burnley Road, Bacup
Erection of detached dwelling - Withdrawn

3. THE PROPOSAL

- 3.1 The application proposes removal of the sheds/animal shelters, demolition of the stone-built flat-roofed building and excavation of land to its rear in order to accommodate a detached 5-bedroomed house, with integral garage.
- 3.2 To be constructed with natural-stone walls and a concrete-tile roof, the main body of the proposed house is to measure approx 7m x 12m, with a gutter-height of 6m and a ridge-height of 8m. To the front will project a garage, with sitting-room over, and to the rear will project a conservatory. The submitted layout provides the facility for 2 or more cars to park and turn clear of the highway, a new access to be formed towards the northern boundary of the site by removal of part of the frontage hedge.

4. POLICY CONTEXT

Rossendale District Local Plan (Adopted 1995)

DS5 – Development Outside the Urban Boundary & Green Belt

DC1 – Development Criteria

DC4 - Materials

Joint Lancashire Structure Plan (Adopted 2005)

Policy 1

Policy 5

Policy 7

Policy 12

Policy 20

Other Material Planning Considerations

PPS1

PPS3

PPS7

PPG13

RPG13

Draft RSS

LCC Parking Standards

RBC Core Strategy

RBC Revised Interim Housing Position Statement (January 2007)

RBC Affordable Housing Position Statement (January 2007)

RBC Housing Needs & Market Assessment

5. CONSULTATIONS

5.1 LCC(Highways)

The application initially proposed that the existing vehicular access-point, situated towards the southern boundary of the site, be utilised to serve the new dwelling. The Highway Authority objected to this on the grounds that it did not possess adequate sight-lines.

- 5.2 In response the Applicant has submitted an amended layout which proposes closure of the existing access-point and formation of a new access towards the northern boundary of the site. As a consequence the Highway Authority now advises that the proposed access, though not ideal in terms of its sight-lines, is better than the existing access. It does not now recommend refusal of the application on highway safety grounds, subject to conditions.

6. REPRESENTATIONS

- 6.1 The application has been advertised by individual neighbour notification letters and the posting of a site notice. No responses have been received.

7. THE APPLICANTS CASE

- 7.1 Housing/Countryside Policy - The Council's desire to restrict the number of new housing permissions at the present time is recognised but in this case there are other personal circumstances - relating to disability - that warrant a permission being granted.
- 7.2 The application site is owned by the Applicant's mother, who resides in a house within the terrace immediately to the south and who sustained life-threatening injuries when trampled by a horse 5 years ago. The mother is Registered Disabled and still has a punctured lung and suffers badly from rheumatoid arthritis and spondylitis of the neck, on 'bad days' being unable to walk with the aid of a mobility cart or crutches, or even get out of bed.
- 7.3 The mother wishes to live as independent a life as possible and, with the help of her family, has so far been able to do so without constant attention from Social Services. The mothers ability to look after herself fluctuates and the proposed house would enable the Applicant to both provide the support and care generally needed by her mother and allow her mother to move into her home on those days she is unable to care for herself. Furthermore, the mother fears her condition might deteriorate and, in preference to having to move into a Care Home, would wish to live with the Applicant, surrounded by friends and neighbours who help her and with whom she is comfortable.
- 7.4 The mothers mid-terraced house is neither big enough to accommodate the Applicant and her family or DDA compliant, nor reasonably capable of being extended/fitted with the necessary lift. Nor is the Applicant's property on Hillside Crescent reasonably capable of being extended to provide her mother with accommodation, lift and extra car parking in a convenient position.
- 7.5 To erect a new house here avoids the expense/delay/disruption of having to find and purchase a plot of land elsewhere, first sell off existing properties, find suitable temporary accommodation, etc.
- 7.6 The proposed dwelling has been designed to meet the space needs of the Applicant, her partner and child, and her mother (incorporating a lift, wide doors, storage-space, etc to facilitate occupation by a disabled person).
- 7.7 The Applicant advises that the Government's guidance, in both PPS3 and PPS7, make it clear that everyone should have the opportunity of getting a decent home and, if the needs of all in the community are to be met in this respect, there can be justification for permitting special needs housing in rural areas. Attention is also drawn to two other instances where permission has been granted by the Council for conversion of existing garages at dwellings in the countryside for occupation by elderly/disabled relatives.
- 7.8 Brownfield Development - Government guidance and Structure Plan policy seek to direct new development towards brownfield sites. This is a brownfield site: owned by the occupier of a house in the middle of the terrace immediately to

the south, it gives rear access to it and forms part of the domestic curtilage of that property, used for keeping animals & for domestic storage.

- 7.9 Landscape Impact - The proposed dwelling will not be conspicuous, sitting below the level of the field on the north side and with a terrace of houses on the south side. The proposal allows for the retention of the high frontage hedge and the intended facing materials accord with local policy.

8. ASSESSMENT

- 8.1 In dealing with this application the main issues to consider are : 1) Countryside Policy; 2) Housing Policy; 3) Landscape Impact; 4) Highway Safety; & 5) Special Circumstances.

8.2 Countryside Policy

PPS7 sets out Government guidance for rural areas, seeking to : raise the quality of life; promote sustainable economic development; and to protect & enhance local distinctiveness and the intrinsic qualities of the countryside.

- 8.3 In respect of housing Para 8 of PPS7 states : “...*The needs of all in the community should be recognised, including those in need of affordable and accessible, special needs housing in rural areas. It is essential that local planning authorities plan to meet housing requirements in rural areas, based on an up to date assessment of local need. To promote more sustainable patterns of development and make better use of previously developed land, the focus for most additional housing in rural areas should be on existing towns and identified service centres...*”. The following paragraphs go on to state that local planning authorities should “...*strictly control new house building (including single dwellings) in the countryside, away from established settlements or from areas allocated for housing in development plans... Isolated new houses in the countryside will require special justification for planning permission to be granted*”.

- 8.4 Consistent with Government guidance, the policies of the Regional Spatial Strategy, Policy 5 of the Structure Plan and Policy DS5 of the Local Plan similarly seek to strictly control erection of new dwellings in the countryside.

- 8.5 The Applicant acknowledges that the submitted proposal is contrary to the thrust of Countryside policy, but argues that there are the special circumstances to justify a permission in this instance. The matter of the special circumstances is addressed below.

8.6 Housing Policy

The main issue which needs to be considered in relation to Housing Policy is that of housing over-supply.

- 8.7 PPS3 sets out Government guidance on a range of issues relating to the provision of housing. Paragraph 3 states that “*One of the roles of the planning system is to ensure that new homes are provided in the right place and at the right time, whether through new development or the conversion of existing buildings. The aim is to provide a choice of sites which are both suitable and*

available for housebuilding. This is important not only to ensure that everyone has the opportunity of a decent home but also to maintain the momentum of economic growth". Paragraph 8 goes on to say "It is an essential feature of the plan, monitor and manage approach that housing requirements and the ways in which they are to be met, should be kept under regular review. The planned level of housing provision and its distribution should be based on a clear set of policy objectives, linked to measurable indicators of change...Reviews should occur at least every five years and sooner, if there are signs of either under or over-provision of housing land".

8.8 Consistent with housing policy contained in national and regional guidance, Policy 12 of the Joint Lancashire Structure Plan (adopted March 2005) has resulted in a housing allocation requiring a reduced rate of provision for several Lancashire Districts over the period 2001-2016, including Rossendale. Policy 12 states that 1,920 dwellings are required to be built within the Borough between 2001 and 2016 in order to adequately house the Borough's population. It further states that these are to be provided at the rate of 220 dwellings per year until 2006 and 80 per year thereafter. Having regard to the number of dwellings which have been built since 2001, and to the number for which permission exists, Lancashire County Council (Planning) is of the view that this Council should rigorously enforce a policy of restraint on proposals coming forward that will create additional dwelling units.

8.9 In the supporting text following Policy 12 of the Structure Plan it states that:
"Where there is a significant oversupply of housing permissions, planning applications for further residential development may not be approved unless they make an essential contribution to the supply of affordable housing or special needs housing or form a key element within a mixed use regeneration project".

8.10 Members will recall that a Revised Interim Housing Position Statement and an Affordable Housing Position Statement were approved by Council in January of this year. Both documents set out that applications received on or after the approval date will be considered against the criteria set out in these position statements. The application was submitted after the approval of these documents and will therefore be assessed against their provisions.

8.11 The Council's Revised Interim Housing Position Statement (January 2007) accepted the contention that the Council would over-shoot its housing allocation and the permissions now granted should be limited to those it set out:

"Applications for residential development in Rossendale will be acceptable in the following circumstances:

- a) The replacement of existing dwellings, provided that the number of dwellings is not increased.*
- b) The proposal can be justified in relation to agricultural and forestry activities.*
- c) In relation to listed building and important buildings in conservation areas, the applicant can demonstrate the proposal is the only means to their conservation.*

- d) *Conversion or change of use of buildings within the urban boundary of the main development location within the Borough (ie Rawtenstall including Bacup and Haslingden) where the number of units is 4 or less.*
- e) *The conversion to 5 units or more, or for new build developments of 1 unit or more on previously developed land, where it can be demonstrated the proposal lies within and will deliver regeneration benefits within the Regeneration Priority Areas of Rawtenstall Town Centre or Bacup, Stacksteads and Britannia (Elevate) Pathfinder.”*

8.12 At its meeting in June 2006, Cabinet received a Housing Land Monitoring Report, setting out the latest position in relation to provision of housing. The report to Cabinet says of the Monitoring Report: *“It shows that the number of dwellings which have a valid planning approval exceed the requirements of the Joint Lancashire Structure Plan (JLSP). Anticipated completions have also been considered and this will significantly exceed the provisions of just 80 that the JLSP requires on an annual basis for the period 2006 to 2016”*. The Draft Regional Spatial Strategy has not progressed to the stage that its contents can have a greater weight than Policy 12 of the adopted Structure Plan and the Regional Guidance it was founded upon.

8.13 Accordingly, it is appropriate to consider the application in relation to the criteria of the Revised Interim Housing Position Statement. The application proposal:

- Does not represent the replacement of existing dwellings.
- Is not in relation to agricultural or forestry activities.
- Will not harm the character of any Listed Building or Conservation Area.
- Does not relate to conversion or change of use of a building within the urban boundary of the main development location within the Borough (ie Rawtenstall including Bacup and Haslingden).
- Does not lie within the Study Area boundary of the emerging Bacup, Stacksteads & Britannia AAP or Rawtenstall Town Centre AAP.

8.14 The proposal is contrary to the general thrust of Housing policy to be applied in a situation of housing oversupply and to the siting of new dwellings which should in any case apply. With respect particularly to the issue of oversupply, the proposal does not meet any of the criteria of the Council’s own Revised Interim Housing Position Statement. However, the supporting text to Policy 12 to the Structure Plan indicates that in a situation of oversupply it may nevertheless be appropriate to permit special needs housing. It is appropriate to consider whether the special circumstances advanced by the Applicant, relating to the disability of her mother, justify a permission in this instance. This matter is addressed below.

8.15 Landscape Impact

In favour of the proposal, the Applicant argues that the site is “brownfield”, rather than “greenfield”. As the half of the site nearest to Burnley Road is occupied by a permanent structure (the stone-built flat-roofed building used as a stables) and largely hard-surfaced I consider this half of the site to be “brownfield”. However, the same cannot be said of the rear half of the site.

8.16 PPS3 defines “brownfield” land as *“...land which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure”*. The rear half of the site is not occupied by

permanent structures and cannot be looked upon as being part of the curtilage of a permanent structure.

8.17 Furthermore, whilst it is the case that all the land within the curtilage of a permanent structure would be defined as “brownfield”, PPS3 makes it clear that *“this does not mean that the whole area of the curtilage should therefore be redeveloped.....where the footprint of a building only occupies a proportion of a site of which the remainder is open land...the whole site should not normally be developed to the boundary of the curtilage. The local planning authority should make a judgement about site layout in this context, bearing in mind other considerations, such as policies for the protection of open space and playing fields or development in the countryside, how the site relates to the surrounding area...”*.

8.18 As viewed from Burnley Road, the stone-built flat-roofed stables, couple of timber sheds and hard-standings presently occupying the front half of the site do not impinge greatly on the character and appearance of the wider area, hidden behind a 3m high conifer hedge and between a terrace of houses and a field which is at a higher level. Although the timber sheds occupying the rear half of the site are visible from Burnley Road, by reason of their elevation, they do not impinge greatly on the character and appearance of the countryside such is their distance from the main road, limited size and facing materials.

8.19 The proposed house is of significantly greater height and bulk than the existing buildings occupying the site, and will have a far more permanent appearance than most of them. To address the concerns of the Highway Authority will result in loss of not only that part of the 3m high conifer hedge fronting the site necessary to relocate the vehicular access, but reduction of the rest to no more than 1m in height. The intention to setback the proposed house approx 7m from the highway will limit the views of it when the site is approached from the south along Burnley Road. However, the first-floor of the extended gable of the proposed house will impinge to a significant extent upon the character and appearance of the countryside when the site is approached from the north along Burnley Road, despite the rising level of the adjacent field. The proposal will more than double the depth of built-development to be seen projecting back from Burnley Road as the site is approached from the north.

8.20 Accordingly, it is considered that the proposed house will erode the essentially open and rural character of the area to an extent which is contrary to Landscape/Countryside policy.

8.21 Highway Safety

The Highway Authority considers the access-point now proposed, though not ideal in terms of its sight-lines, to be adequate subject to conditions to ensure : the closure of the existing vehicular access; the provision of the off-street parking/turning facilities shown on the latest Site Layout; and the avoidance of obstructions to the vision of drivers along the site frontage.

8.22 Special Circumstances

For the reasons set out above, the proposal is considered to conflict with national and development plan policy in respect of Housing, the Countryside and

Landscape. Accordingly, it is necessary to consider whether there are special circumstances of sufficient weight to tip the balance in favour of granting permission.

8.23 The Applicant considers that there are the special circumstances for permitting erection of the proposed house. That case is founded upon the disability of her mother and is set out above under the section of the report entitled The Applicants Case.

8.24 The submitted application was accompanied by a letter from the mothers GP, which briefly explains the nature of her continuing illnesses and indicates that she needs regular care and support to help her through day-to-day living.

8.25 I do not have reason to doubt the nature and extent of the mothers illnesses. Nor is there reason to doubt the importance of the role played by the Applicant in providing the care and support generally needed in order that her mother can continue to live independently. At the present time the Applicant fulfils this role whilst residing in a property on Hillside Crescent, approximately 250m from her mothers house. Similarly those days on which the mothers illnesses fluctuate to an extent that she cannot live independently are presently being met without the proposed dwelling.

8.26 The mother may fear her condition will deteriorate, and I can well understand her preference would be to live with the Applicant, near to friends and neighbours, rather than to move into a Care Home. However, no information has been submitted to suggest if or when she will cease to be able to live independently and thus have need to take up residence in the proposed house. Furthermore, while I would agree that the mothers house is not reasonably capable of extension/adaptation to accommodate the Applicant, her partner & child and a lift, it has not been demonstrated that the Applicants property could not be suitably extended/adapted to accommodate the mother. As the Applicants house is located within the Urban Boundary of Weir there would not be any objection in principle to its extension. The weight to be given to the special circumstances would not need to be so great to tip the balance in favour of granting permission for extension/adaptation of an existing dwelling, or indeed erection of a new dwelling within the Urban Boundary.

8.27 Accordingly, it is concluded that the personal circumstances advanced for the proposed dwelling are not sufficient to tip the balance in favour of granting permission for erection of a 5-bedroomed house, with integral garage, contrary to national and development plan policy in respect of Housing, the Countryside and Landscape.

9. RECOMMENDATION

9.1 That permission be refused for the following reasons :

1. The proposed development would contribute towards an inappropriate excess in housing supply provision and would provide no affordable housing, contrary to Policy 12 of the adopted Joint Lancashire Structure Plan and the Rossendale Borough Council Revised Interim Housing

Position Statement (January 2007) and Affordable Housing Position Statement (January 2007). The special circumstances have not been advanced to warrant permission being granted in this instance.

2. The proposed development constitutes inappropriate development in the countryside and, by reason of its siting/size/design, will be unduly prominent and unacceptably erode the essentially open and rural character of the area. The proposed development would be contrary to the aims and objectives of PPS1 & PPS7, Policies 1, 5 & 20 of the adopted Joint Lancashire Structure Plan and Policy DS5 & DC4 and the criteria of Policy DC1 of the adopted Rossendale District Local Plan. The special circumstances have not been advanced to warrant permission being granted in this instance.

Contact Officer	
Name	Neil Birtles
Position	Senior Planning Officer
Service / Team	Development Control
Telephone	01706 238642
Email address	planning@rossendalebc.gov.uk

Daughters Support

Date: 1st March 2007

From: Donna Fisher (Daughter)

Re: Medical Condition – Jacqueline Fisher, 172 Burnley Road, Wier, Bacup,
Lancs OL13 8PZ

As you can see from my mother's medical statement she has suffered dramatically since her accident in April 2000.

To help support my mother throughout my working career I have taken leave from work and also reduced my hours to part time hours through difficult times having worked for a company that has been flexible and supportive.

I have just taken on a new job which allows more flexibility that I can work from home anytime.

My mother is a very independent lady and always has been, I would like to live near her to give her the support and care that is needed but at the same time allowing her independence. This would allow me to move my mother into my property on the days that she is unable to get out of bed and care for her.

I have also taken my mother to London and paid for a private specialist who was highly recommended to me. He gave her good advice and support but nothing more can be done to the medication she is already taking.

To allow a house to be built next to my mother would allow for my mother to lead a life she wishes without having to go into a nursing home.

Regards

Donna Fisher



Statement of Jacqueline's Illness

Date: 26th February 2007

From: Donna Fisher (Daughter)

Re: Medical Condition – Jacqueline Fisher, 172 Burnley Road, Wier, Bacup,
Lanes OL13 8PZ

Back in April 2000 Jacqueline suffered from a serious accident whereby she was crushed and trampled on by a horse. As a result of this Jacqueline was taken to hospital and was in Intensive Care Unit for over 4 weeks. She suffered multiple injuries such as 7 broken ribs, a punctured lung, head injuries and bones chipped away from her body.

Since the accident Jacqueline has been referred to many specialist/consultants to diagnose and help her medical condition's. She has been diagnosed with many illnesses and this includes:

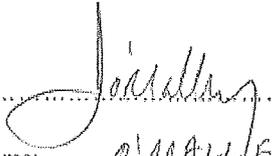
- Benign paroxysmal positional vertigo
- Asthma
- Rheumatoid arthritis

Rheumatoid arthritis is an autoimmune disease. It is also an inflammatory type of arthritis which can lead to joint pain, joint deformity, and disability.

Often Jacqueline has not been able to get out of bed from some days and has had close friends and family caring for her. She also is unable to unlock the door as she regular suffers with the swelling and pain to the joints in her hands, making them completely disabled and out of use.

Jacqueline needs regular care and support to help her through the day to day living.

I can confirm that I have read and agree with the medical condition of Jacqueline mentioned above.

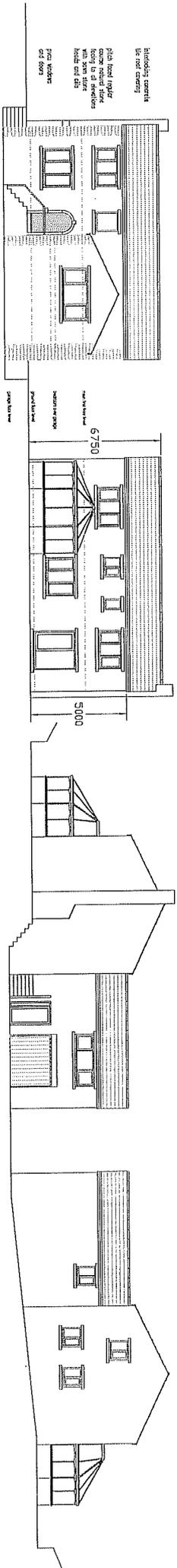
Signed: 

Date: 9/3/07

Print Name: O'MALLEY

Position: GP

Dr J O'Malley
Irwell Medical Practice
Irwell Mill, Rochdale Road
Bacup OL13 9NR
Tel: 0845 0540 022

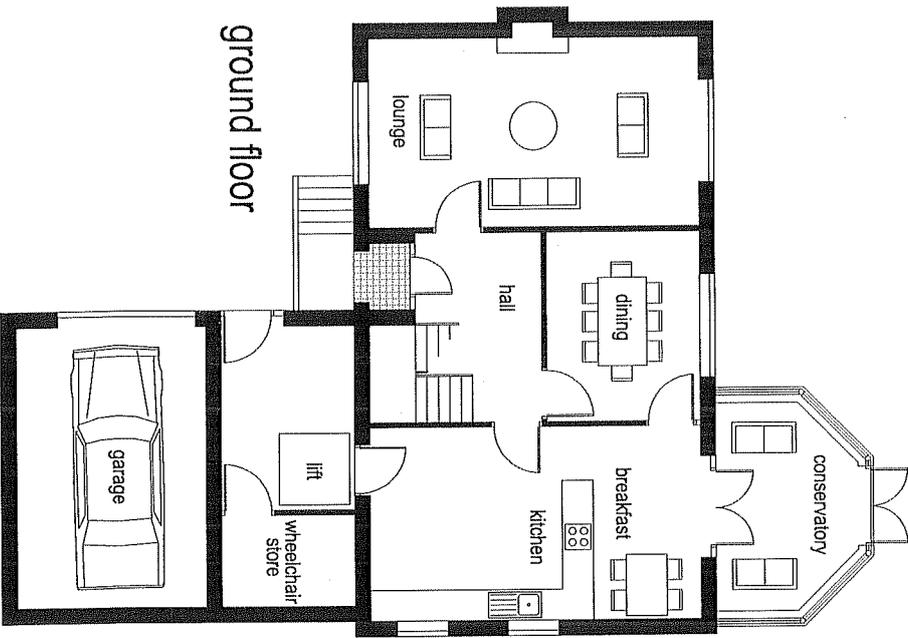


front elevation

rear elevation

side elevation

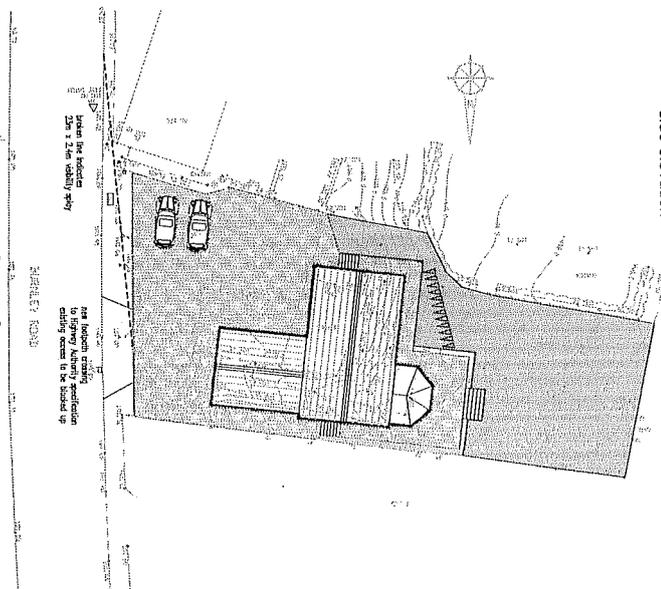
side elevation



ground floor



first floor



site plan

07/334
AMENDED
PLAN

proposed 5 bed dwelling with
accommodation for wheelchair
dependent relative adjacent to
176 Burnley Road
Weir
Bacup

scale 1:50 1:100 1:200 @ A1
linear scale 1:100
0m 5m 10m



APPLICANT'S
EXISTING
PROPERTY

APPLICATION
SITE

URBAN
BOUNDARY

Melrose
Terrace

Weir Bottom

Weir Bottom
Farm

MELROSE
TERRACE

BURLEY ROAD

CRESCENT
BOULEVARD

Path (um)

Path (um)

ACM

ACM
BIN 316.78m

317.2m

TOB

Track

Track

↑ + 2

The Weir (FH)

El Sub Sta

Weir