

**Application No:** 2007/645 **Application Type:** Removal of condition

**Proposal:** Removal of condition on Planning Permission 13/3/4689 to provide access to dwelling from Mill Row **Location:** Land at Foxhill, Lime Tree Grove, Rawtenstall

**Report of:** Executive Director of Regulatory Services **Status:** For Publication

**Report to:** Development Control Committee **Date:** 15 January 2008

**Applicant:** Mr J Korab **Determination Expiry Date:** 9 January 2008

**Agent:** UK Drawing Services Limited

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

**Outside Officer Scheme of Delegation**

**Member Call-In**

Name of Member:  
Reason for Call-In:

**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**

1.1 Fox Hill is a large detached dwelling, set within extensive grounds. It is situated to the east of Burnley Road, in an area that is predominantly residential in character.

- 1.2 Fox Hill is one of a number of properties currently accessed via Lime Tree Grove. It is a narrow and winding lane, that slopes steeply down to Burnley Road. It lacks footways and is, in places, flanked by stone walls of a height that limits the forward visibility of drivers and the ability of vehicles to pass each other.
- 1.3 The site is located within the Urban Boundary as designated in the Rossendale District Local Plan.

## **2. Relevant Planning History**

- 2.1 Planning Permission for the erection of Fox Hill was granted in 1973 (13/3/4689). Condition 3 of the Permission states that : “All pedestrian and vehicular access to the site shall be via Lime Tree Grove (formerly Grange Road).” The reason for this condition reads as follows : “The restrictions of access to major traffic routes contributes to the safety and free flow of traffic using these routes.”

## **3. The Current Proposal**

- 3.1 The applicant seeks the removal of Condition 3 to allow a vehicular access to the property to be created from the Mill Row. The new entrance would be gated, beyond which a drive would be formed that rises up the slope to the dwelling and its existing parking/garaging facilities. To ensure it will not exceed a gradient of more than 1/10 the existing ground level is to be reduced, in no place by more than 0.6m.

## **4. Policy Context**

### **4.1 National Planning Guidance**

PPS1 - Sustainable Development  
PPG13 - Transport

### **4.2 Development Plan Policies**

RPG13 - Regional Spatial Strategy for the North West

Joint Lancashire Structure Plan (Adopted 2005)

Policy 1 - General Policy

Rossendale District Local Plan (Adopted 1995) – Saved Policies

DS1 - Urban Boundary

DC1 - Development Control

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

Lancashire CC - Parking Standards

## **5. CONSULTEE RESPONSES**

- 5.1 LCC (Highways)

It has no objection in principle to formation of the proposed access to Mill Row. However, it wishes : a) the gate to be set back a minimum of 5m from the footway; b) fences/walls between the new drive and adjacent parking spaces to be less than 1 metre high; & c) works on the public highway to be to a specification/carried out by a contractor approved by it, a favours painting of a 'H' bar across end of street to discourage obstruction of the proposed access.

## **6. REPRESENTATIONS**

6.1 Site notices were posted on 27/11/2007 and 53 letters were sent to neighbours. 13 objections have been received objecting to the proposal on the following grounds:

- A belief that there is an ulterior motive behind the application with a view to developing land to the north of Fox Hill at a future date.
- The applicant already has two access points from his property. Creating a further access road would further increase congestion and therefore restrict the freeflow of traffic.
- Increase in noise and light pollution.
- Mill Row is a narrow residential street and the increase in traffic would be detrimental to the row.
- Works associated with the development would pose a dangerto users of the nearby park and football area.
- Current access to Fox Hill is more than sufficient.
- A belief that the applicant has the key to drop down bollards, which enables good access from the Constablee Estate.

## **7. REPORT**

7.1 In the determination of this application the main consideration is whether, for reasons of highway safety, there are now the grounds to resist formation of the proposed access to Mill Row.

7.2 Unlike Lime Tree Grove, Mill Row extends from Burnley Road at a right-angle to it and is on the same level. To its south side are to be seen the backs of 11 houses fronting Olive Terrace, many of their occupiers making use of Mill Row to park their cars. Towards the eastern end of Mill Row the adopted highway turns north to serve a further 6 dwellings, each of which possesses its own off-street parking facilities. Permission for the erection of each of the 6 houses on Park View Close was granted separately, after the permission for Fox Hill.

7.2 The Highway Authority raises no objection to the proposed access to Mill Row. I concur with its view that the formation and use of the proposed access by vehicles associated with Fox Hill will not detract to an unacceptable extent or unduly obstruct other road-users or pedestrians. For the vehicles associated with the dwelling at Fox Hill to switch from using Lime Tree Grove to Mill Row will not add significantly to the traffic movements on it. Fences/walls to each side of the proposed access-point are not at a height to unduly affect the intervisibility of drivers. In accordance with the wishes of the Highway Authority, a condition is recommended to ensure any gate is setback not less than 5m from the footway of Mill Row.

- 7.3 The increase in noise/disturbance as a result of additional vehicles passing along Mill Row is not considered likely to be unduly detrimental to neighbouring residents. However, a landscaping condition is recommended to ensure that the proposed drive and vehicles that move along it are suitably screened from view from beyond the boundaries of the site.

## 8. SUMMARY REASONS FOR APPROVAL

The application site is located within the Urban Boundary and the proposed development will not detract to an unacceptable extent from visual/neighbour amenity or highway safety. The proposal is therefore considered to accord with Policy DS1 and the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

## 9. RECOMMENDATION

That permission be granted subject to the following conditions :

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. Notwithstanding what is shown on the approved drawings, prior to first use of the drive hereby permitted it shall be tarmacadamed or otherwise hard-surfaced for a distance of not less than 5m as measured from the back-edge of the footway of Mill Row, and no gate shall be erected nearer to the highway than this or shall open outwards towards the highway.  
*Reason : In the interests of highway safety, and to avoid obstruction of other road-users or pedestrians, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*
3. No development shall take place until a scheme of landscaping/boundary treatment has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The scheme shall indicate existing planting/walls/fences to be retained, the types/numbers/distribution of trees and shrubs to be planted, their on site, together with details of proposed boundary walls/fences, and detail any changes of ground level or landform.  
*Reason: In the interests of the amenity of the area, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*
4. All hard-surfaced areas/walls/fences forming part of the approved scheme of landscaping/boundary treatment shall be completed prior to first use of the drive hereby permitted, unless otherwise agreed in writing with the Local Planning Authority. All new planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first use of the drive. Any trees or plants in the approved scheme of landscaping which within a period of 5 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.

*Reason: In the interests of the amenity of the area, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*

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

*Reason: To safeguard the amenities of nearby residential properties, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*

<b>Contact Officer</b>	
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