

**TITLE: APPLICATION NUMBER 2004/555
OUTLINE APPLICATION FOR THE ERECTION OF 50 DWELLING
UNITS (THIS MAY AFFECT PUBLIC FOOTPATH NO. 90)
AT: LAND ADJACENT TO DEANSGRAVE ROAD OFF NEW LINE,
BACUP (OUTLINE)**

TO/ON: DEVELOPMENT CONTROL COMMITTEE / 10th JULY 2006

**BY: DEPUTY CHIEF EXECUTIVE/HEAD OF LEGAL AND DEMOCRATIC
SERVICES**

STATUS: FOR PUBLICATION

APPLICANT: TRUSTESS OF ALBERT WORKS

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.

Background

This application was received 27th July 2004. This application was considered by the Development Control Committee in September 2004 where the committee was minded to approve the application subject to a legal agreement. A chronology of the key dates is attached at Appendix 1.

The application relates to land off New Line, Bacup and is in outline for residential purposes. All matters are reserved for determination apart from access. The proposed Section 106 agreement relates to the maintenance and enhancement of the linear walkway to the rear of the site. Whilst the Head of Legal and Democratic Services informs me that the agreement has now been drafted and agreed by both parties, recent changes to the Development Plan, detailed below, require that the application be reconsidered against prevailing policies in order to determine whether the application is acceptable and in accordance with these new policies.

Members should also note that other similar applications, which have also been considered previously by this committee, appear on this agenda. Although the various resolutions were passed at different times they were all passed before the adoption of the current Joint Lancashire Structure Plan and the Council's Housing

Policy Position Statement. The decision whether or not to grant planning permission must be made in accordance with the development plan policies in force at the time unless material considerations indicate otherwise. Members resolved to approve this application at the previous committee in September 2004 but a formal decision notice has not been issued and planning permission has not been granted as the S 106 agreement has not been completed. There have been significant material changes in the policy position since the resolution to grant planning permission was made. In such a circumstance, legal advice received requires the decision to grant planning permission should be reconsidered. Furthermore as the Committee did not delegate anything other than the issuing of the decision notice on completion of a satisfactory S106 agreement it is necessary to refer, the reconsideration of this matter back to Committee. It is not for officers to take the reconsidered decision.

The Development Plan within Rossendale comprises the Rossendale District Local Plan (adopted 12th April 1995), the Joint Lancashire Structure Plan 2001-2016 (adopted 31st March 2005) and RPG 13 (which became RSS and part of the development plan on 28th September 2004). It can be observed that the Local Plan is now over 10 years old whereas the other two elements of the development plan are much more recent in origin. A statement of non-conformity with the Adopted Structure Plan with respect to certain Local Plan policies was issued on 6th July 2005. One of the policies which is considered to be not in conformity with the Structure Plan by the County Council is policy H3 which allocates housing sites.

Given that the application relates to a residential scheme the most relevant changes to the development plan, therefore, relate to the provision of housing. I will discuss the prevailing policy framework below and other relevant material planning considerations in respect of housing which have arisen since Members were minded to approve the application in September 2004. The report does not re-reconsider other aspects of the application which are unaffected by changes to the development plan. The previous committee report is included and a chronology is included at Appendix 1.

Additional Information

The applicant's agent has provided additional information to support this planning application. I have summarised the key material considerations below:

- Insufficient time to prepare a response
- The chronology does not provide a full picture of attempts made by the applicant to secure the provision of the Section 106 agreement. Therefore, with regard to fairness, the weight attached does not reflect the circumstances of this case.
- Concern raised regarding the weight afforded to non statutory documents
- Similar Inspectors decisions are provided for information
- Information is provided on housing need from the Housing Needs and Market Assessment

Regional Spatial Strategy

Regional Planning Guidance was adopted in March 2003 and following the commencement of the new Planning and Compulsory Purchase Act is now the Regional Spatial Strategy for the North West (RSS). RSS has formed part of the Development Plan for Rossendale since 28th September 2005.

The overriding aim of RSS is to promote sustainable development. The key objectives of RSS include:

- achieve greater economic competition and growth with associated social progression;
- to secure an urban renaissance in the cities and towns of the north west;
- to ensure active management of the Region's environmental and cultural assets;
- to secure a better image for the Region and high environmental and design quality; and
- to create an accessible Region with an efficient and fully integrated transport system

Policy DP1 requires that development plans adopt the following sequential approach to meet development needs, taking into account local circumstances, the characteristics of particular land uses, and the spatial development framework; the effective use of existing buildings and infrastructure within urban areas particularly those which are accessible by public transport, walking or cycling; the use of previously developed land particularly that which is accessible by public transport walking or cycling; and thirdly development of previously undeveloped land that is well related to houses, jobs and so on and can be made accessible by public transport, walking or cycling.

Policy DP2 requires an enhancement in the overall quality of life experience in the Region. It states that the overall aim of sustainable development is the provision of a high quality of life, for this and future generations.

Policy DP4 states that economic growth and competitiveness, with social progress for all is required. Local authorities and others should set out, in their regional strategies and development plan policies, guidance to ensure that development and investment will, to the fullest extent possible, simultaneously and harmoniously:

- help grow the Region's economy in a sustainable way; and
- produce a greater degree of social inclusion

Policy UR4 sets a target for Lancashire of reaching, on average, at least 65% of new housing on previously developed land.

Policy UR6 states that local authorities should develop an understanding of local and sub-regional housing markets in order to adopt a concerted and comprehensive approach to influencing housing supply. It goes on to state that this would be especially important in Rossendale. A comprehensive approach to housing renewal, clearance and urban regeneration, particularly in Regeneration Priority Areas, is required.

Policy UR7 states that Local Planning authorities should monitor and manage the availability of land identified in development plans to achieve the annual average rates of housing provision.

Joint Lancashire Structure Plan 2001-2016

Previous consideration of this application pre dates the adoption of the Joint Lancashire Structure Plan. I consider that policies 1 and 12 are most relevant in this instance.

Policy 1b (General Policy) requires development to contribute to achieving high accessibility for all by walking, cycling and public transport.

Policy 1f (General Policy) states development proposals should contribute to achieving “urban regeneration, including priority re-use or conversion of existing buildings and then use brownfield sites”

Policy 12 states “that provision will be made for the construction of 1920 dwellings within the Borough within the plan period (2001-2016) 220 per year between 2001 and 2006 and 80 per year between 2006 and 2016”.

Paragraph 6.3.13 states “Where there is a significant oversupply of housing permission, planning applications for further residential development may not be approved unless they make an essential contribution to the supply of affordable or special needs housing or form a key element within a mixed use regeneration project. Any such project should be compatible with, and help achieve, the regeneration objectives of the Local Authority. Districts may identify, through the Local Plan/Local Development Framework process, other circumstances where it may be appropriate to approve residential development in a situation of housing oversupply, such as the conversion benefits of maintaining an existing building worthy of retention.”

Rossendale District Local Plan

Key policies from the Local Plan against which the proposal was previously assessed but which have now been declared not to be in conformity with the Structure Plan are DC1 and H3.

Policy DC1 (Development Criteria) of the Rossendale District Local Plan states that all applications for planning permission will be considered on the basis of

- a) location and nature of proposed development,
- b) size and intensity of proposed development;
- c) relationship to existing services and community facilities,
- d) relationship to road and public transport network,
- e) likely scale and type of traffic generation,
- f) pollution,
- g) impact upon trees and other natural features,
- h) arrangements for servicing and access,
- i) car parking provision
- j) sun lighting, and day lighting and privacy provided
- k) density layout and relationship between buildings and
- l) visual appearance and relation to surroundings,
- m) landscaping and open space provision,
- n) watercourses and
- o) impact upon man-made or other features of local importance.

Policy H3 (Land for Residential Development) of the Rossendale District Local Plan allocates the site to meet the housing needs of the Borough.

Other Material Planning Considerations

Fairness

As already noted, this application was previously considered by the Development Control Committee in September 2004 when it was minded to approve the application subject to a section 106 agreement. I have attached for members' information a chronology of key dates at appendix 1 in relation to the process of this application and the preparation of the section 106 agreement. I am informed by the Head Legal Democratic Services that the section 106 agreement has been drafted. I would also draw members' attention to the chronology and the agent's assertion that they have bought surrounding land during from Summer 2005 - November 2005. However, I take the view that, in the light of the change in circumstances which has occurred since September 2004 and which has not been considered by members, it would not be appropriate for officers simply to issue the decision notice without reference back to members.

The legal position is that the Council must have considered all material considerations affecting the application as at the date when the decision notice is issued. In this case, as I have already explained, significant changes both to the development plan and to other material considerations which bear on housing development in the Borough have occurred since the Development Control Committee considered this application in September 2004. It is necessary now for members to reconsider the application in the light of these changes.

It is in the nature of this case that the application was made and originally considered by the Development Control Committee in different circumstances. To the extent that delay in progressing the completion of the section 106 agreement and thus issuing the decision notice has allowed the opportunity for the subsequent changes to occur, it is right to consider fairness to the applicant before arriving at a decision now. It is not, however, a question of whether it is fair to take the changed circumstances into account. The Council must take them into account and would be in breach of statutory duty were it not to do so. Rather, the question is how fairness to the applicant should weigh in the balance against other material considerations.

I consider that, whilst fairness should certainly be taken into account, it is not a matter which should prove decisive in arriving at a conclusion unless the planning merits are otherwise reasonably equal in respect of whether to grant or refuse. I also consider that, in approaching the issue of fairness to the applicant, it should be borne in mind that it has always lain in the power of the applicant to counteract any delay by appeal to the Secretary of State for non-determination and, if thought appropriate, by submitting a unilateral planning obligation as part of such appeal.

Housing Position Statement

The final version of the Housing Position Statement was issued by Rossendale Borough Council on 17th August 2005. However, it should also be noted that neither the draft nor final version constitutes a statutory document and does not therefore form part of the development plan for Rossendale. However, the document provides interpretation of the reasoned justification of policy 12 of the Structure Plan and should be used as guidance in the assessment of applications for residential development in conjunction with policy 12 of the Structure Plan.

The policy document states that '*applications for residential development in Rossendale will be refused, on housing land supply grounds, in all but the following limited circumstances:*

- a) *In any location where the proposal is a like for like replacement i.e. for replacement of an existing residential dwelling resulting in no net gain in dwelling numbers and which conforms to relevant policies of the development plan and other material considerations; or*
- b) *The proposal will positively contribute to the urban regeneration of the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative areas or Rawtenstall Town Centre Masterplan (Area Action Plan); and*
- c) *The proposal will not harm the character of the adjoining areas such as conservation areas; and*
- d) *The proposal will assist the regeneration of the site; and*
- e) *The proposal meets an identified local housing need.*

Of most relevance in the consideration of this application are parts b to e. The site is within the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area, for which an Area Action Plan (AAP) is being developed, in accordance with the Planning and Compulsory Purchase Act 2004. The Council's issues and options report (revision B) presented the initial consultation for the AAP, identifies the site as unsightly. An exemplar residential development is identified as a potential and suggested use for the site. The rationale for this suggestion is that it is a vacant site, would consolidate housing density in Britannia, provide improvement of the New Line corridor and would be an exemplar scheme. As such, I consider that the proposal would be supported by parts b and d of the Housing Position Statement. Moreover, given that the proposal is in outline, I am satisfied that the proposal could be designed to enhance the character of the surrounding area and therefore be in accordance with part c.

The applicant's supporting information demonstrates that there is a demand for bungalows in this ward and detached and semi detached properties. The supporting information also considers that a further application at the reserved matters stage could ensure that the layout and design meets the identified housing need.

I agree with the information put forward by the applicant in that the Housing Need and Market Assessment identifies that there is a need for bungalows. In fact local population figures also suggest that the population within this area have 869 people out of 4961 over the age of 60+, which is 17.51% of the population, and this will have almost certainly increased since the census 2001.

Therefore, subject to an appropriate condition which would ensure that the reserved matters application provides for this identified need, I consider that the proposal would accord with all parts of the Housing Position Statement.

However, I would also draw members' attention to the site constraints in terms of the relief of the site and its relationship to an arterial route through the Borough. As such, the design of the proposal a reserved matters stage will need to be of a high quality design that addresses the identified need but also relates to the surrounding area and road network. Any changes in types of dwellings would have to be fully justified.

Given that the purpose of the Interim Planning Policy is to provide a local interpretation of policy 12 of the Structure Plan, I consider that this application for

residential development accords with the criteria identified in this policy statement and also accords with paragraph 6.3.13 of policy 12 of the Structure Plan as it would aid regeneration and meet an identified housing need in an area identified by emerging planning policy.

In light of the above, I consider that the proposal should be considered as an appropriate exception to policy 12 of the Structure Plan and that there is sufficient justification to warrant the approval of the application, given the regeneration benefits that the development of this site would bring to a significant site within the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area.

Bacup, Stacksteads and Britannia Area Action Plan (Issues & Options Report, May 2005)

The application site is located within the boundary defined by the Bacup, Stacksteads and Britannia Area Action Plan and is identified in the Issues and Options Report Appendix B as having potential for exemplar residential development as the site is vacant and that such development would consolidate housing density in Britannia and improve the road corridor.

A consultation exercise has been undertaken on the Issues and Options Report and the AAP will shortly go out to consultation on its Preferred Options Report. The action plan has not been formally adopted by the Council. However, I consider that some weight (albeit limited) should be afforded to this document in consideration of this application.

Moreover, the AAP clearly outlines the regeneration aspirations of Rossendale BC in accordance with the reasoned justification attached to policy 12 of the Structure Plan.

Audit of Housing Figures

Given the changes to the Development Plan an audit of planning permissions granted has been undertaken to clarify the position of oversupply in the Borough. The scope of the audit considered applications for residential development during the period of the Structure Plan and any other extant permissions which were capable of adding to the level of supply.

Following a six week consultation period on the audit the Housing Land Position Monitoring Report was prepared and taken to Cabinet for members' information on the 7th June 2006. The Report includes an estimate of anticipated completions likely to the period 2011, obtained in consultation with developers and agents

It is also necessary to note the recent appeal decisions within the Borough before the audit of housing figures was undertaken. In considering an outline housing scheme for 6-10 houses on land at Manchester Road and Laneside Road the Inspector considered two main issues. Firstly, the lack of evidence to confirm the position of oversupply and secondly, that the actual housing completion rates prior to 2004 fell below the annual average rate set out on Policy 12. The Inspector stated *"This would suggest that insufficient planning permissions are being implemented to achieve the required housing provision, and casts doubt on the validity of the housing supply figures quoted above. LCC itself has suggested that if insufficient dwellings are completed, additional sites for housing may need to be approved."*

The audit of housing figures now provides the validity and robustness needed to determine applications for residential development in positions of oversupply and is a material consideration in the consideration of this application and any other applications for residential development. The audit of housing figures has been through a public consultation exercise.

The audit of housing figures provides evidence that the number of dwellings constructed within the Borough coupled with the number of extant permissions over the plan period exceeds the 1920 identified in the Structure Plan as the Borough's housing figure.

Furthermore, as the annualised completions rate from 2006 onwards has now fallen to 80 dwellings per year, it is expected that completions will be significantly higher than the JLSP annual build rate, resulting in over supply. Taking the actual number of completions since 2001 into account, the residual provision to the end of the plan period is 548. However, anticipated completions (based on existing extant permissions coming forward) are likely to be 832. This represents an over supply of 284. Anticipated completions were established through discussions with developers and agents and do not take account of any approvals granted subject to a S106 Agreement.

There is therefore a need refuse further applications for residential development where they would clearly result in an oversupply of housing in the Borough, in accordance with RSS and the Structure Plan. However, paragraph 6.3.13 of the Structure Plan states *“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 or special needs housing or form a key element within a mixed use regeneration project. Any such project should be compatible with, and help achieve, the regeneration objectives of the Local Authority. Districts may identify, through the Local Plan/Local Development Framework process, other circumstances where it may be appropriate to approve residential development in a situation of housing oversupply, such as the conservation benefits of maintaining and existing building worthy of retention.”*

Whilst I accept that the thrust of policy 12 is to restrict additional residential development within Lancashire and there is the clear presumption to refuse further applications for residential development within the Borough, it is also clear that there are exceptions to this presumption where residential development may be appropriate. Those exceptions are discussed further in this report.

National Planning Guidance

Planning Policy Statement 1 (PPS1) - Delivering Sustainable Development was issued in February 2005. The policy document states that sustainable development is the core principle underpinning planning. Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by: making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life; contributing to sustainable economic development; protecting and enhancing the natural and historic environment, the quality of the countryside and existing communities; ensuring high quality development; and supporting existing communities and contributing to the creation of safe, liveable and mixed communities with good access to jobs and key services for all. On sustainable economic development, local

authorities should recognise that economic development can deliver environmental and social benefits; that they should also recognise the wider sub regional and regional economic benefits and that these should be considered alongside any adverse local impacts.

Paragraph 28 of PPS1 advises that planning decisions should be taken in accordance with the development plan unless other material considerations indicate otherwise.

Paragraph 29 of PPS1 acknowledges that in some circumstances, a planning authority may decide in reaching a decision to give different weight to social, environmental, resource or economic considerations. Where this is the case the reasons for doing so should be explicit and the consequences considered. Adverse environmental, social and economic impacts should be avoided, mitigated or compensated for.

Emerging Policy

Submitted Draft Regional Spatial Strategy (RSS) for the North West (2006)

RSS is currently under review. The Draft RSS ('The North West Plan') was published for its first formal public consultation exercise in January 2006 and will cover the period from 2003 to 2021. Examination will take place later this year.

Draft RSS focuses on the needs of the region as a whole but highlights those areas that need more specific guidance or a different approach. This intended to improve the coordinated and delivery of regional policy and sustainable development

Draft policy L4 Regional Housing Provision identifies a new housing provision of 4000 for Rossendale 2003 – 2021 (net of clearance replacement). The annual average rates of housing provision (net of clearance replacement) is identified as 222. The current annual provision identified in the adopted Structure Plan is 220 between 2001-06 and 80 between 2006-16).

Moreover, paragraph 9.19(b) notes that in the East Lancashire Housing Market Renewal Area it may be appropriate to develop a wider range of housing types (including high quality market housing) while ensuring local and affordable housing needs can be met elsewhere.

Core Strategy (Preferred Options Report, March 2006)

The Preferred Options Report identifies in Proposed Policy Response DS1: Hierarchy of Towns that Rawtenstall (with Bacup and Haslingden) is a "Key Service Centre. Other relevant Proposed Policy Responses include:

L1: Housing Development. Provision is made in the Regional Spatial Strategy (RSS) for 4,000 dwellings between 2003 and 2021. Annual planning permissions will be limited to annual completion rate up to 10% above the annual rate for Rossendale in the RSS, less the number of existing commitments for the RSS period. Five yearly reviews of permissions will be undertaken to monitor housing permissions to ensure they do not exceed the overall RSS figure.

Priority will be given to residential developments on previously developed sites. Residential developments will only be permitted on greenfield sites where there is

evidence of local need and it can be demonstrated that there are no alternative appropriate previously developed sites. Priority will be given to residential developments in the Key Service Centres and Local Service Centres. Comprehensive regeneration strategies may be developed in areas with significant housing market issues and specific housing needs.

Proposed Policy Response L2: Housing Types. In order to diversify the range of dwelling types within the Borough, in major residential schemes at least 33% of dwellings should be flats and no more than 40% of dwellings should be terraced properties, unless a housing needs assessment provides evidence of the need for an alternative composition of dwellings in any particular area/ community.

Proposed Policy Response L4: Affordable Housing. Within all residential developments a minimum of 30% of dwellings should be affordable, of which 20% should be of intermediate tenure. A higher minimum percentage for affordable housing or intermediate tenure may be required in areas of significant housing need based on local evidence of affordable housing needs. A lower percentage of affordable dwellings may be acceptable where it can be demonstrated that this would not be viable due to wider regeneration benefits. A lower percentage may be acceptable in the conversion of vacant residential or non-residential buildings. Types of affordable housing provided should be related to local needs.

Whilst I accept that these emerging policies will have a significant bearing on applications for residential development in the future, I do not consider that sufficient weight can be afforded at present to outweigh the adopted development plan.

Conclusion

The audit of housing figures confirms that the Rossendale is in a position of oversupply as the number of extant permissions and number of dwellings built in the Borough exceed the provision set in the adopted Joint Lancashire Structure Plan. However, the Structure Plan provides guidance and criteria for considering applications for residential development in situations of oversupply.

It is clear that the proposal could provide accommodation where there is an identified housing need. Moreover, the site forms part of the wider Bacup, Stacksteads and Britannia Area Action Plan regeneration area, which identifies residential development as an essential component part of integrated mixed-use regeneration.

The Housing Position Statement, coupled with the AAP provides the additional advice where the Local Planning Authority may approve residential development in circumstances of oversupply that builds upon the policy framework set out in the Structure Plan. One of the core aims of these documents is to allow residential developments to facilitate regeneration in defined areas. The AAP specifically identifies the application site as a site for residential development.

Therefore, whilst I accept that the scheme is contrary to the thrust of policy 12 of the adopted Joint Structure Plan in that the housing numbers have already been exceeded for the plan period, I consider that the proposal should be considered as an appropriate exception to policy 12 as it would aid regeneration which is considered acceptable within the commentary given in 6.3.13 and the further advice provided in the Housing Position Statement and the aims and objectives of the Bacup, Stacksteads and Britannia Area Action Plan.

I recommend therefore, that members be minded to grant consent subject to the conditions set out previously with the addition of the condition relating to the provision of bungalows which also require the Council to enter into an agreement with the developer (relative to the maintenance and enhancement of the linear walkway to the rear of the site) under section 106 of the Town and Country Planning Act 1990, the completion of which shall be delegated to the Head of Legal and Democratic Services (or such other officer as may from time to time exercise the functions currently exercised by that post holder) and that on completion of such section 106 Agreement the Development Control Manager or Principal Planning Officer (or such other officer as may from time to time exercise the functions currently exercised by either of those post holders) be authorised to approved the said application subject to the conditions considered previously.

Additional condition:

The submission for approval of reserved matters shall provide for a significant element of single storey house types to reflect an identified local housing need.

Reason: The application is in outline only and not accompanied by full and detailed plans. Therefore, it is necessary to ensure that the development provides for an identified housing need in accordance with Policy 12 of the Adopted Joint Lancashire Structure Plan. To meet an identified local housing need as expressed by the Rossendale Borough Council Housing Needs and Market Assessment 2004/05.

The previous report to Committee is provided for Members' information below.

+++++

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.

Site and Proposal

The applicant seeks approval in outline for residential development at land off New Line, Bacup. The application site comprises some 1.2 hectares of land used for industrial and related purposes including the storing and working of stone.

The application is submitted in outline with all matters reserved for a future date apart from access. Access would be from New Line. An indicative layout has been submitted with the application (only access details are being submitted for approval in respect of this plan) along with a planning statement (reference is made to site description and relevant planning policies) and a phase 1 contaminated land report.

Notification Responses

Site and press notices posted. To date the following comments have been received from Lancashire Sock Manufacturing Company:

- The land has always been used for industrial purposes
- Adverse impact upon occupiers of houses from Lancashire Sock in terms of smells and noise particularly when working night shift.

Receipt of additional comments will be reported at the meeting.

Consultation Responses

County Highways

No objection

RBC Highways

No objection

United Utilities

No objection

County Planning

May be required to meet completion rates as outlined in Policy 12 of the draft Joint Lancashire Structure Plan

Environment Agency

Comments to be reported at the meeting

RBC Forward Planning

The development (brownfield site) would be required to assist the Council in meeting its annualised house completion rates as identified in Policy 12 of the draft Joint Lancashire Structure Plan.

Development Plan Policies

Policy DS1 (Urban Boundary) of the Rossendale District Local Plan states that *“the Council will seek to locate most new development within a defined boundary – the Urban Boundary – and will resist development beyond it unless it complies with policies DS3 and DS5. The urban boundary is indicated on the proposals map”*

Policy DC1 (Development Criteria) of the Rossendale District Local Plan
The policy states that all applications for planning permission will be considered on the basis of a) location and nature of proposed development, b) size and intensity of proposed development; c) relationship to existing services and community facilities, d) relationship to road and public transport network, e) likely scale and type of traffic generation, f) pollution, g) impact upon trees and other natural features, h) arrangements for servicing and access, i) car parking provision j) sun lighting, and day lighting and privacy provided k) density layout and relationship between buildings and l) visual appearance and relation to surroundings ,m) landscaping and open space provision, n) watercourses and o) impact upon man-made or other features of local importance.

Policy DC 4 (Materials) of the Rossendale District Local Plan states that *“local natural stone (or an alternative acceptable natural substitute which matches as closely as possible the colour, texture, general appearance and weathering characteristics of local natural stone) will normally be required for all new development in selected areas. Within those areas roofs shall normally be clad in natural stone slab or welsh blue slate, or in appropriate cases, with good quality substitute slates”*.

Policy DC3 (Public Open Space) of the Rossendale District Local Plan states that *“in areas of new residential development the Council will expect appropriate public open space to be provided by the developers”*

The reasons and Explanations of the policy states that there is a requirement for *“developers to provide a minimum of 6 acres of open space per 1000 population being housed, of which four acres should be for playing fields, one and a half acres for amenity space and half an acre for children’s play areas.....The Council will expect developers to enter into an agreement with them to ensure the proper future maintenance of such areas. If the amenity space is to be dedicated to the Council they will normally expect to receive a commuted sum equivalent to the cost of 10 years maintenance. ”*

Policy E7 (Contaminated Land)

Policy H3 (Land for Residential Development) of the Rossendale District Local Plan -
The site has been allocated to meet the housing needs of the Borough.

Proposed Changes Deposit Edition Joint Lancashire Structure Plan (2001-2016)

Policy 1b (General Policy) states development proposals should contribute to achieving *“high accessibility for all by walking, cycling and public transport with trip intensive uses focused on town centres”*

Policy 1f (General Policy) states development proposals should contribute to achieving *“urban regeneration, including priority re-use or conversion of existing buildings and then use brownfield sites”*

Other Material Planning Considerations

PPG 3: Housing

Paragraph 22 states that *“the Government is committed to maximizing the re-use of previously developed land and empty properties and the conversion of non-residential buildings for housing, in order both to promote regeneration and minimize the amount of Greenfield land being taken for development”*.

The guidance states that development should be built at a net density of between 30 and 50 dwellings to the hectare.

PPG 13 (Transport): March 2001

Government guidance in the form of PPG 13 sets out the Government's aims and objectives relating to transport.

Paragraph 76 is relevant in terms of promoting walking routes.

Paragraph 84 states that *“planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved, either on their own or as part of a package of measures. Examples might include improvements to a bus service or cycle route which goes near to the site, or pedestrian improvements which make it easier and safer to walk to the site from other developments or from public transport. When entering into a planning obligation consideration should be given to the usual statutory and policy tests (ie as set out in Circular 1/97)”*

Draft RBC Interim Housing Policy

Planning Issues

The site falls within the defined urban boundary for Bacup and is allocated as a housing site in the Rossendale District Local Plan. To this extent the application proposal accords with policies H3 and DS1 of the Rossendale District Local Plan.

The site is located close to good bus routes and local schools and is brownfield. The site is well located from a sustainability point of view. I am satisfied in this case that the proposed development suitably accords with PPG 3.

Having regard to Policy DC3 of the Rossendale District Local Plan, PPG 3, PPG 13 and Policy 1b of the draft Joint Lancashire Structure Plan it is recommended that the applicant enter into a section 106 agreement with the Council relative to the payment

of money towards the maintenance and enhancement of the linear walkway to the rear of the site (£500 per residential unit).

The County Highways Engineer has not raised an objection to the proposed development from a highway safety point of view. All other matters (ie landscaping, design, external appearance and siting) are reserved for consideration at a future date.

Whilst the Council's interim housing policy is currently in draft form and therefore carries some albeit little weight in the determination process, the scheme nonetheless accords with this draft policy in so far as it falls within the Bacup area which is a defined residential priority area. Furthermore, the Council's Forward Planning Department take the view that the development would be required to assist the Council in meeting its annualised house completion rates as identified in Policy 12 of the draft Joint Lancashire Structure Plan.

Summary of Reasons for Approval

The site is allocated for residential purposes, falls within the urban boundary for Bacup, is brownfield and sustainably located. To this extent the proposal accords with Policies DS1 and H3 of the Rossendale District Local Plan and PPG 3. The development would not in principle cause harm to residential amenity or highway safety thereby according with Policy DC1 of the Rossendale District Local Plan. The development would assist the Council in meeting its annualised completion rates as set out in Policy 12 of the Draft Joint Lancashire Structure Plan.

Recommendation

That the committee be minded to grant consent to the application subject to the conditions set out below but desire the Council to enter into an agreement with the developer (relative to the maintenance and enhancement of the linear walkway to the rear of the site) under section 106 of the Town and Country Planning Act 1990, the completion of which shall be delegated to the Director of Corporate Support (or such other officer as may from time to time exercise the functions currently exercised by that post holder) and (ii) that on completion of such section 106 Agreement the Development Control Manager or Principal Planning Officer (or such other officer as may from time to time exercise the functions currently exercised by either of those post holders) be authorised to approved the said application subject to the following conditions:

Conditions

01 Approval of the details of the siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is in outline only and not accompanied by detailed plans.

02 Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason: The application is in outline only and not accompanied by full and detailed plans

03 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Required by Section 92 of the Town and Country Planning Act 1990

04 The development hereby permitted shall be begun either before the expiration of [five years] from the date of this permission, or before the expiration of [two years] from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: Required by Section 92 of the Town and Country Planning Act 1990

05 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 policy DC.1 of the Rossendale District Local Plan.

06 No development shall not be commenced until full details, including representative samples, of the external construction to be used on the roof and walls of the development have been submitted to and first approved in writing by the Local Planning Authority and shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with policy DC.4 of the Rossendale District Local Plan.

07 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping which shall include indications of all existing trees and hedgerows on the land, details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of visual amenity having regard to Policy DC1 of the Rossendale District Local Plan

08 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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 residential amenity and in accordance with policy DC.1 of the Rossendale District Local Plan.

09 Prior to the development commencing:

a. A contaminated land Phase I report to assess the actual/potential contamination risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority (LPA).

b. Should the Phase 1 report recommend that a Phase II investigation is required, a Phase II investigation shall be carried out and the results submitted to, and approved in writing by the LPA

c. Should the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted to, and approved in writing by, the LPA.

The remedial scheme in the approved Remediation Statement shall then be carried out. Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved

Reason: Having regard to Policy E7 of the Rossendale District Local Plan

10 No development shall take place until details of pedestrian links from the site to the Britannia greenway walkway to the rear of the site (south) have been submitted to and approved in writing by the local planning authority. The pedestrian links shall be implemented in accordance with approved details prior to the first occupation of any of the dwelling houses hereby approved.

Reason: In order to promote sustainable travel having regard to PPG 13 and PPG 3

11 **Note** The grant of planning permission does not override the need to apply to divert a footpath under the Highways Act. Advice should be sought from RBC Highways on this matter.

Appendix 1

Chronology of application 2004/555

This application was received 27th July 2004.

The application was considered by the Development Control committee in September 2004 were it was minded to approve the application subject to a legal agreement.

On the 20th September 2004 Legal Services received instructions to draft the s106 agreement

January 2005 the solicitors acting for the applicants requested a draft s106 agreement

On the 21st February 2005 the draft s106 agreement was sent to the solicitors acting for the applicants.

Between February 2005 – June 2005 questions raised regarding legal fees and the release of a caution.

June 2005 – legal request signed s106 agreement

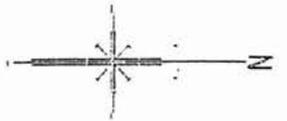
Agreements returned to Rossendale Legal Services in November 2005 signed

2nd December 2005 agents informed of requirement to take the reports back to Committee

22nd December 2005 applicants informed that matter would be reported back to Committee

9th March 2006 legal services inform the agents /solicitors that the matters should proceed back to Committee

N.B. Please note that any correspondence held on legal files is not available for public inspection.



NEW LINE

Path (um)

The Crescent
Bryn Dd

Works

Works

Eldel

Ei Sub St

Works

GEANGREAVE ROAD

Mill

Mill

283.5m

297.0m

BM 288.72m

BM 297.83m

BM 295.74m

280

29

290

13

19

21

25

6

COBEN STREET

NEBEN STREET

Handwritten signatures and notes:
R. Jones
R. Jones
R. Jones
R. Jones

Path

Path

Path

Path

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office. Unauthorised reproduction of this map is prohibited.

Postcardale M

Revised

License No LA 079140
Scale 1:250 24/98-03