

**TITLE: APPLICATION NUMBER 2003/744
OUTLINE APPLICATION (SITING AND MEANS OF ACCESS DETAILS
INCLUDED) FOR THE ERECTION OF AN OFFICE BUILDING AND 15
DWELLINGS
AT: HIGHER MILL, MILLGATE ROAD / EAST PARADE,
RAWTENSTALL**

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

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

STATUS: FOR PUBLICATION

APPLICANT: B & E BOYS LTD

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 16th December 2003. This application was considered by the Development Control Committee on the 14th April 2004 where the committee was minded to approve the application subject to a legal agreement. A chronology of key dates is attached at Appendix 1.

This outline application would provide B1 office provision and 15 dwellings. Siting and means of access sought at this stage with all other matters reserved for further consideration.

The application site was previously occupied in part by Higher Mill. It is now occupied by derelict, run down buildings. It is in very close proximity to the main shopping area of Rawtenstall and is surrounded by terrace and semi-detached dwellings. The whole site falls within the Urban Boundary and the former Higher Mill part of the site falls within the Rawtenstall Conservation Area, Town Centre and Employment Site boundary and the Rawtenstall Town Centre Area Action Plan boundary. Number 25 Newchurch Road, adjacent to the development boundary, is a grade II listed building. The proposed office unit falls within the defined employment site and the residential units within an unallocated area of land.

The proposed Section 106 agreement has been drafted which requires that the Council to enter into a legal agreement with the developer (relative to the improvement and maintenance of the Mill Row Recreation Area and a traffic regulation order). The Head of Legal and Democratic Services informs me that the agreement has now been drafted and the wording has been 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 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 April 2004 but a 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, 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 April 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.

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 April 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. However, I take the view that, in the light of the change in circumstances which has occurred since April 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 April 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. Part of the site is within the Rawtenstall Town Centre Masterplan (Area Action Plan).

The Revised Preferred Option identifies potential locations for residential development within Rawtenstall town centre. These include the former Tomlinson Works and the Valley Centre. The report notes that this site (Higher Mill) already has permission for residential development. Whilst it is clear that this application does not benefit from planning consent, I consider it appropriate to assess the application against the specified criteria for residential development as outlined in the revised preferred option for this site and the two identified above given that members have been minded to approve this scheme previously.

Those criteria include (para 5.5):

- Redeveloping derelict or underused sites;
- Supporting the commercial viability of a mixed use development;
- Achieving a high quality of architectural and urban design; and
- Contributing towards the provision (directly or indirectly) of wider infrastructure which is required to secure the regeneration of Rawtenstall town centre

It is clear that the proposal would redevelop an existing derelict site. Given that the proposal would provide for employment opportunities on a site which previously provided employment and one which is allocated for employment uses within the development plan, I consider that this mixed use proposal would support the commercial viability of the area.

I am also of the opinion that the design of the proposal could be appropriately controlled through the assessment of a future reserved matters application. I am confident that such an application would ensure that the proposal would be of a high quality of architecture and urban design, particularly given that the site is within a conservation area and adjacent to a listed building. The applicant has agreed to enter in a legal agreement which would provide improvement and maintenance of Mill Row Recreation Area and a traffic regulation order. As such I am of the opinion that the proposal would satisfy the criteria set out in the revised preferred options report regarding residential development.

In satisfying the general requirements of the area action plan for the town centre, 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 particularly given that the site is within a conservation area and adjacent to a listed building.

The proposal is seeking a mix used scheme with 15 three bed open market town houses on the site. In terms of Housing Need (part e of the Housing Position Statement), the Housing Need Market Assessment (HNMA) for this ward indicates that there is a demand for open market housing, and there is a strong need for three

bedroom accommodation. Therefore, I consider that the application accords with an identified housing need and therefore accords with parts b – e of the Housing Position Statement.

Moreover, I am also of the opinion that the proposal also accords directly with the limited circumstances referred to in paragraph 6.3.13 of Policy 12 of the Structure Plan in that this proposal (being identified within the Revised Preferred Option report) would represent a key element within a mixed use regeneration project.

Therefore, I am satisfied that the proposal accords with the exceptions identified within both the local interpretation of policy 12 (The Housing Position Statement) and specifically policy 12 of the adopted joint Lancashire Structure Plan in circumstances of housing oversupply.

Rawtenstall Town Centre Masterplan (Area Action Plan)

The application site is partially located within the boundary defined by the Rawtenstall Town Centre Masterplan (Area Action Plan).

Several consultation exercises have been undertaken on preparing the Area Action Plan for the town centre in accordance with the Planning and Compulsory Purchase Act 2004. The consultation period has now ended on the Revised Preferred Options. 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 regenerations aspiration 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 permission 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."*

I consider that 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 1,920 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 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 and 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.

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 Option Report 2006

The Preferred Options Report identifies in Proposed Policy Response DS1: Hierarchy of Towns that Rawtenstall with Haslingden and Bacup are Key Service Centres. Furthermore Rawtenstall town centre is identified as a Regeneration Priority Area in Proposed Policy DS3. 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.

The applicant has not indicated that the scheme would include an 'essential' contribution to the supply of affordable or special needs housing. The proposal would provide a mix of uses on a single site within an identified regeneration project. Moreover, the site does form part of the wider Rawtenstall Town Centre Masterplan (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 Rawtenstall Town Centre Masterplan Area Action Plan.

It is recommended that (i) 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 under section 106 of the Town and Country Planning Act 1990 for the contributions to the improvement and maintenance of the Mill Row Recreation Area and to a traffic regulation order the completion of which shall be delegated to the Head of Democratic and Legal Services.

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

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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

The application has been amended since the original submission. The development boundary has been altered to exclude the land between 8 and 10 Grange Road, the number of dwellings has been reduced from 17 to 15 and the car parking associated with the office has increased to 75 spaces.

Site and Proposal

The application site was previously occupied in part by Higher Mill. It is now occupied by derelict, run down buildings. It is in very close proximity to the main shopping area of Rawtenstall and is surrounded by terraced and semi-detached dwellings.

The whole site falls within the Urban Boundary and the former Higher Mill part of the site falls within the Rawtenstall Conservation Area, Town Centre and Employment Site boundary. Number 25 Newchurch Road, adjacent to the development boundary, is a grade II listed building. The proposed office unit falls within the defined employment site and the residential units within an unallocated area of land.

Consultation Responses

County Planning

“In conclusion, based on information supplied to the County Council regarding the current housing situation in Rossendale, and in the absence of information to justify any overriding consideration in support of the proposal, the Environment Director concludes that this development proposal is not required to meet the housing provision set by the aLSP, dJLSP and PCdJLSP at 2006 at this time.”

County Highways

In response to the original scheme:

The parking provision for the office development is below the maximum level proscribed (sic) by the County Council’s parking standards and this is to be welcomed. However I would require that the applicant/future occupier of the offices submit a Travel Plan to ensure that there is no staff overspill parking occurring in the adjacent streets. I am aware that your Council is considering the introduction of off street parking charges in Rawtenstall along with residents parking schemes. It would therefore seem beneficial to both your Council and the future occupants of the development for a developer contribution to be sought to procure a residents only parking scheme in this area.

In terms of access to the office development and the specific parking provision, whilst the undercroft parking is acceptable in principle I would require further details of the site access onto Higher Mill Street. The visitor parking shown on East Parade is considered to be too close to the junction with Millgate Road.

The parking shown fronting the residential plots numbered 15-17 on Alder Bank are (sic) unacceptable as it would require vehicles to reverse onto the carriage (sic) close to a 90 degree bend and junction.....

Subject to the above concerns being addressed satisfactorily and the following conditions being attached to any permission that may be granted I would raise no objection to the proposed development.

- 1) The new estate road between Higher Mill Street and East Parade shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.*
- 2) The occupant of the office development shall, within 6 months of his first occupation submit a Staff travel Plan to the Planning Authority for approval in consultation with the Highway Authority.”*

Comments on the amended plans will be reported at committee.

RBC Highways

Seven main comments were raised in response to the original scheme, including:

1. The developer would be required to fund construction of a new kerb and footpath along the south side of Higher Mill Street and to provide a new radius kerb and footpath with Newchurch Road.
2. New extension of Higher Mill Street to link with East Parade would need to be constructed to standards for adoption by the Highway Authority,
3. New footpath would need to be provided by the developer to a width 1.8 metre along the north side of East Parade to standards acceptable for adoption.
4. Proposed new footpath width 1.8 metres at Grange Terrace would be considered for adoption
5. Ramp to undercroft parking should not exceed 7%
6. Access for delivery of goods and equipment and clearance of refuse is not shown.
7. Existing shared access from Grange Road is used to access a garage at the side of 10 Grange Road. The proposals do not give details of any satisfactory alternative.

Comments on the amended plans will be reported at committee.

Forward Planning

“This site is located within the urban boundary. The western part of this site is within both the Rawtenstall town centre boundary and Rawtenstall Conservation Area. It is also allocated as an employment site within the Local Plan.

The site is previously developed, within the town centre, close to public transport, shops and services. The proposed mixed use of the site for office and residential is acceptable in principle.

I consider that conditions should be attached to any approval that the employment site should be completed prior to commencement of the residential units, or at least a reasonable start should be made, to avoid sterilising the allocated employment area.”

Coal Authority

No objection

United Utilities

No objection

Rossendale Civic Trust

No response received

Notification Responses

Site notices were posted along with a press advertisement and four letters were received. The concerns in these letters relate to:

- Landownership issues
- Distance between the existing and proposed properties
- Three storey nature of proposed dwellings
- Impact of proposal on 25 Newchurch Road
- Need to create cul de sacs rather than through roads to prevent people from taking short cuts
- Introduction of residents only parking

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 DC.1 (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.

DC.3 states that *“In areas of new residential development, the Council will expect appropriate public open space to be provided by developers”*.

HP.1 (Conservation Areas) states that *“Proposals for development within conservation areas will be assessed against the following criteria:-*

- a) Townscape features and roofscape*
- b) Views within and out of the conservation area*
- c) Any trees of importance to the character of the area*
- d) And compliance with policy DC.4*

Policy HP.2 (Listed Buildings) seeks to *“...safeguard listed buildings and structures by strict control of development proposals in relation to such buildings or structures and development of neighbouring sites”*.

Policy J.2 (Service Industries) states that *“The development of service industries and of offices will be encouraged on the following sites”*. Office development is considered appropriate at Higher Mill.

Policy T.4 (Car Parking) states that *“Development proposals will be required to provide, normally within the curtilage of the development, sufficient space to meet both operational and non operational parking requirements”*.

Lancashire Structure Plan

Policy 22: Heritage states with regards to conservation areas that *“their settings will be protected from development proposals which would have an adverse impact on their character and appearance”*.

Policy 43 (General Housing Provision) sets out the number of new residential units needed between mid 1991 and mid 2006 to adequately house the County's population. The number stipulated for Rossendale is 2,500 dwellings.

Policy 51 (Business and Industrial land Provision) aims to provide 50 hectares of land for business and industrial uses between 1991 and 2006.

Joint Lancashire Structure Plan 2001-2016 (deposit)

Policy 12 stipulates the annual average rates for future housing provision. For Rossendale 220 houses per year are required between 2001 and 2006 and then 80 house per year between 2006 and 2016.

The parking standards indicate that for residential properties with two to three bedrooms, 2 spaces are provided and for properties with 4 bedrooms, 3. This can be reduced to 1.5 or less unless exceptional circumstances are demonstrated.

Other Material Planning Considerations

Government guidance in the form of PPG 3 (Housing) is relevant. In relation to windfall sites this guidance states that *“Windfall sites are those which have not been specifically identified as available in the local plan process. They comprise previously-developed sites that have unexpectedly become available.”*

This guidance seeks to *“avoid developments which make inefficient use of land (those of less than 30 dwellings per hectare net and encourage housing development which makes more efficient use of land (between 30 and 50 dwellings per hectare net)”*.

Paragraph 22 states that “The Government is committed to maximizing the re-use of previously-developed land....in order both to promote regeneration and minimize the amount of greenfield land being taken for development”.

The guidance states that sites for housing should be assessed against a number of criteria namely the availability of previously-developed sites, location and accessibility, capacity of existing and potential infrastructure, ability to build communities and the physical and environmental constraints on development of land.

PPG15: Planning and the Historic Environment refers to conservation areas and paragraph 4.19 states that “...*development proposed to be carried out in a conservation area must give a high priority to the objective of preserving and enhancing the character or appearance of the area*”.

Paragraphs 2.16 and 2.17 specifically refer to the setting of listed buildings. Authorities are required to “*have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of the building’s character*”.

PPG13: Transport states in paragraph 19 that “*A key objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling.*”

Paragraph 49 states in relation to parking that “*The availability of car parking has a major influence on the means of transport people choose for their journeys....Reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices*”.

Issues

The first issue to be addressed is whether the principle of development on this site is acceptable. As this property falls within the Urban Boundary policy DS.1 is relevant. This policy seeks to focus new development within this boundary and as such this proposal is acceptable in land use principle.

There are two distinct parts to this application and they will be looked at in turn. In relation to the housing element, this needs to be assessed against PPG3. The land is previously developed which is favoured in the sequential approach promoted in this guidance and the site is very accessible to jobs, shops and services which accords with policy 1b of the Joint Lancashire Structure Plan, PPG3 and PPG13.

Another issue is whether there is a requirement for new housing in the Borough based on the annualised figures provided in the adopted and deposit Structure Plan. Policy 43 of the aLSP requires the provision of 2,500 dwellings over the plan period and to date 1,848 dwellings have been built. This leaves capacity for 652 dwellings by 2006 and on 1st April 2003 there were 1,307 existing permissions. The PCdJLSP sets a maximum provision of 1,920 dwellings over the plan period. This equates to the provision between 2001-2006 of 1,100 dwellings, 220 dwellings each year. The total housing completions between 2001 and 2003 amounted to 296 dwellings with 1,307 existing permissions. It is important that the annual rate of 220 houses per year is met as closely as possible and as such the ability of the existing permission to meet this rate needs to be carefully considered.

In relation to car parking, two spaces per dwelling would be provided. The maximum number of spaces is 3 for four bedroom houses and 2 for three and two bedroom properties. As this site is classed as being highly accessible the number of spaces can be reduced to 1.5 per dwelling. This site falls within the lower part of the range for 'high accessibility' and as such 2 spaces per dwelling is considered satisfactory.

This applicant is seeking approval for both siting and means of access. The number of dwellings has been reduced from 17 to 15 to overcome issues raised relative to land ownership and distances between properties. The development boundary has been amended to exclude the land between numbers 8 and 10 Grange Road which was the site of one of the proposed. The distance between the houses on Grange Road and plots 1 to 11 will be 20 metres or greater which is considered acceptable. Illustrative details have been submitted with the application relative to the external appearance and design of the houses and these indicate houses 10 metres in height with the use of the roof space as a third floor. Having regard to the height of surrounding buildings and hence the character of the area (ie predominantly two storey) it is considered that the height of the new dwellings should be controlled. This will ensure that there are no adverse issues relative to overlooking, privacy, loss of outlook or adverse impact on the character of the area.

Under Policy DC.3 there is a requirement for the provision of public open space on the site in accordance with a 6 acre standard per thousand population being housed. In this case the applicant is willing to make a contribution of £15,000 towards the improvement of the existing recreation area at Mill Row (Section 106 agreement).

The proposed office building is within the town centre boundary, the Rawtenstall conservation area and an area allocated for office development. The proposal will have a positive impact on the character and appearance of the conservation area. The site is currently characterised by rundown, derelict buildings. The replacement of these buildings with new development will visually enhance the conservation area. For the same reasons the proposed siting of the office building will enhance the setting of 25 Newchurch Road which is a grade II listed building. The office building will be 21 metres from the existing properties on East Parade and the new properties, plots 1 to 8 which is considered acceptable. As with the houses, illustrative drawings of the office building have been submitted. These indicate a three storey building however the third floor will be set in from the main building line increasing the distance with the properties on East Parade to an acceptable level.

75 car parking spaces are proposed for the office development. As this site has been identified as a high accessibility site, albeit at the lowest end of the range, 1 space per 35 square metres as a maximum is necessary. Based on a floor area of 2750 square metres 79 spaces are required as a maximum standard.

In relation to the means of access both County and Borough Highways consider the proposal to be acceptable. It is not considered reasonable or necessary to require the applicant to contribute towards a residents only parking scheme in the area as requested by County Highways. Circular 1/97 requires planning obligations to be sought only where they meet a number of tests including the need to be necessary, relevant to planning and directly related to the proposed development. As this proposal will meet the adopted parking requirements it is not considered that there will be any overspill parking on the residential streets making a residents parking scheme necessary.

Summary of Reasons for Conditional Approval to Appear on Decision Notice

Development for housing of this brownfield site, within the Urban Boundary in a sustainable location accords with the principles of PPG3, PPG13 and policy DS.1. The siting and car park provision details associated with the dwellings accords with policies DC.1 and T.4 of the Rossendale District Local Plan. These factors, including regeneration benefits are considered to, override the strategic housing land supply objections from the County Council. In relation to the office development the character of the conservation area will not be harmed nor will the setting of the listed building and therefore the proposed development accords with policies HP.1 and HP.2 of the Rossendale District Local Plan. The siting of the office building in this location accords with policies J.2, DC.1 and T.4 of the Rossendale District Local Plan

Recommendation

it is recommended that (i) 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 under section 106 of the Town and Country Planning Act 1990 for contributions to the improvement and maintenance of the Mill Row Recreation Area the completion of which shall be delegated to the Director of Corporate Support and (ii) on completion of such section 106 agreement the Development Control Manager or Principal Planning Officer be authorised to approve the said application subject to the following conditions:-

Conditions

01 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.

02 Approval of the details of the design and external appearance of the building(s) 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 is not accompanied by detailed plans.

03 Plans and particulars of the reserved matters referred to in condition 2 above 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 is not accompanied by detailed plans.

04 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.

05 The development shall be carried out in accordance with plan(s) numbered 2315 00.005 received on 09.02/04 and 2315 00.004 received on 19/02/04.

Reason: To ensure the development complies with the approved plans and for the avoidance of doubt

06 Details of the proposed kerb and footpath along the south side of Higher Mill Street and a new 6 metre radius kerb and 1.8 metre footpath at its junction with Newchurch Road including a new gully street light upgrading or repositioning shall

be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved.

Reason: In the interests of pedestrian and highway safety in accordance with policy DC.1 of the Rossendale District Local Plan

07 Details of the proposed extension of Higher Mill Street to link with East Parade incorporating a 5.5 metre wide carriageway and 1.8 metre wide footpaths on both sides shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved.

Reason: In the interests of pedestrian and highway safety in accordance with policy DC.1 of the Rossendale District Local Plan

08 Details of the proposed 1.8 metre wide footpath to the north side of East Parade and east side of Grange Terrace shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full accordance with the approved details prior to the first occupation of any of the dwellings hereby approved.

Reason: In the interests of pedestrian and highway safety in accordance with policy DC.1 of the Rossendale District Local Plan

09 Within 6 months of the first occupation/use of the office building hereby permitted there shall have been submitted to and approved in writing by the Local Planning Authority (in consultation with Lancashire County Council) a Staff Travel Plan (including an Implementation Plan/Programme for a period of one year). The Travel Plan shall document the measures to be pursued to reduce the number and length of car trips to the development and the active promotion of alternative methods of travel. The approved Travel Plan shall be implemented in full for a 12 month period following its approval. Within 18 months of the first occupation/use of the office building hereby permitted and every 12 months thereafter for a period of 5 years there shall have been submitted to and approved in writing by the Local Planning Authority an updated Staff Travel Plan (including an Implementation Plan/Programme for a period of one year and a monitoring/audit report detailing the achievements in carrying out the Implementation Programme for the previous one year period.

Reason: To reduce the reliance on the private car and promote alternative modes of transport in accordance with the Proposed Changes deposit Joint Lancashire Structure Plan.

10 The proposed dwellings shall not exceed the height of the terraced properties numbers 1-33 East Parade.

Reason: To ensure that the new buildings are in keeping with the scale of existing buildings and to prevent issues of overlooking and privacy in accordance with policy DC.1 of the Rossendale District Local Plan.

11 Two car parking spaces shall be provided for each of the dwellings and 1 space per 35 square metres of office floorspace shall be provided (including in this overall provision 1 mobility impaired space per 10 car spaces) and in addition 1 bicycle space per 10 car spaces and 1 motorcycle space per 25 car spaces.

Reason: To ensure adequate off-street parking in the interests of highway safety in accordance with policy DC.1 and T.4 of the Rossendale District Local Plan.

12 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: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to site users or neighbours during the course of the development in accordance with policy DC.1 of the Rossendale District Local Plan.

Background Documents

Rossendale District Local Plan (Adopted April 1995)
Lancashire Structure Plan 1991-2006
Deposit and proposed changes deposit Joint Lancashire Structure Plan 2001-2016
PPG3 Housing
PPG13 Transport
PPG15 Planning and the Historic Environment

Local Plan Policies

DS.1
DC.1
DC.3
DC.4
HP.1
HP.2
J.2
J.4

Structure Plan Policies (Adopted/Emerging)

Adopted

Policy 22
Policy 43
Policy 51

Emerging

Policy 12

Appendix 1

Chronology of application 2003/744

This application was received 12th December 2003.

The application was considered by the Development Control committee on the 14th April 2004 were it was minded to approve the application subject to a legal agreement.

Instructions received 22nd June 2004

2nd November 2004 letter to applicants regarding certificate etc and enclosed draft s106

12th November 2004 letter from agents saying they were discussing draft agreement with clients

7th February 2005 legal service letter to agent.

27th July 2005 question on draft s106 raised by agent .28th July 2005 letter to agents query on draft agreement.

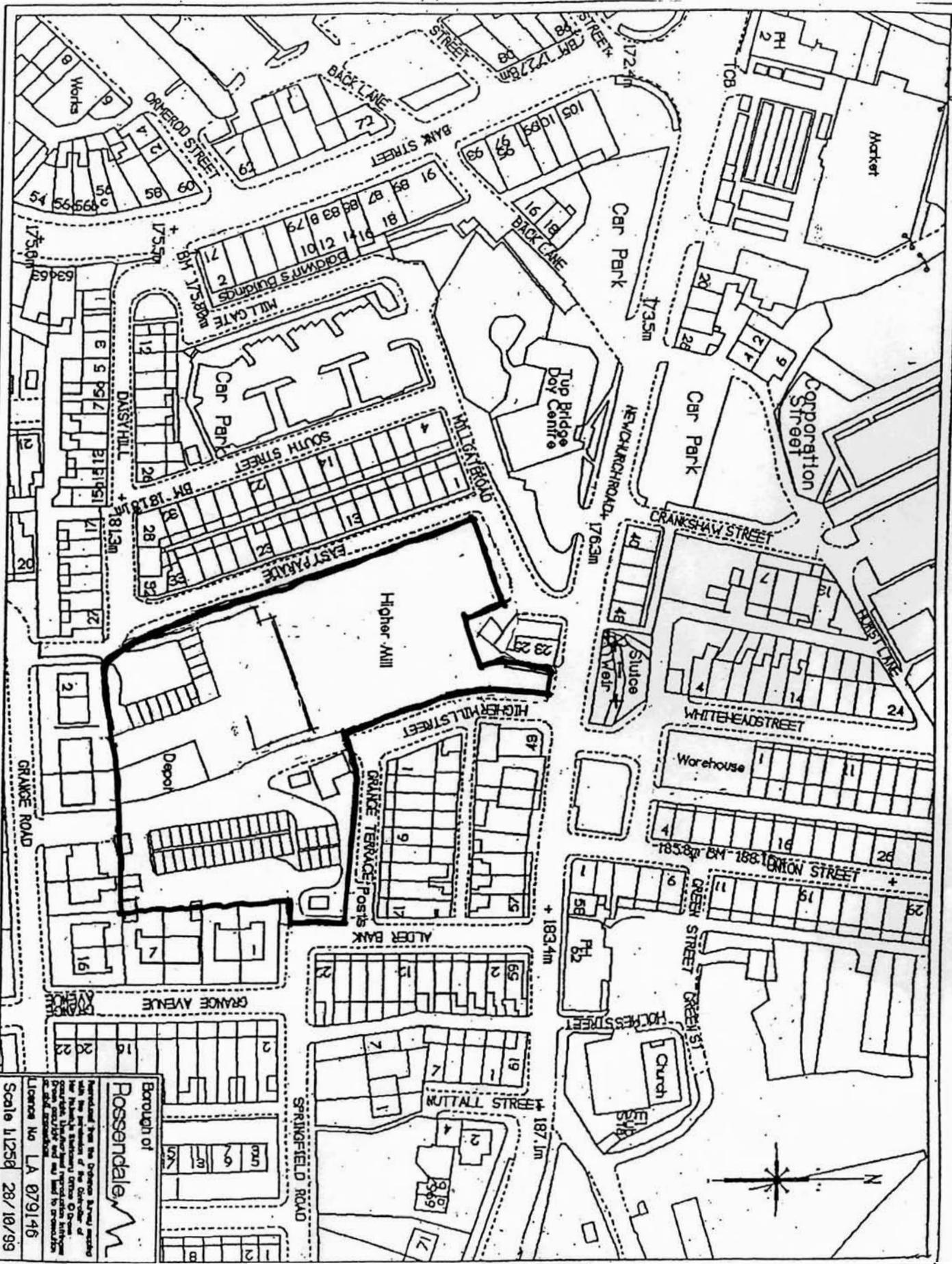
4th August 2005 telephone call from agents

16 September 2005 agents letter in asking for copy planning permission

22nd December 2005 – letter from UV

09/03/06 – letter from legal informing of requirement to report back to Committee

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



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