

**TITLE: APPLICATION NUMBER 2004/143
OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF 90
NO. DWELLINGS AND LANDSCAPE AREA
AT: LAND OFF ROCKLIFFE ROAD, BACUP**

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

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

STATUS: FOR PUBLICATION

APPLICANT: BARNFIELD PEREGRINE 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 4th March 2004. This application was considered by the Development Control Committee in July 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 full application relates to an area of 3.4 hectares (8.4 acres) located on the western side of Rockcliffe Road, within a mix of Residential and Employment Areas. The development would be accessed from Grafton Villas via Bold Street and would provide 90 dwellings and a landscaped area.

The Section 106 agreement relates to open space and contributions towards a Quality Bus Service. 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 July 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 that 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 July 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
- Policy overview stating that the scheme accords with policy
- Concern regarding the weight afforded to policy
- Housing need and Market Assessment
- Concludes that the scheme fully accords with the Development Plan

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 July 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 now been drafted. However, I take the view that, in the light of the change in circumstances which has occurred since July 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 July 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 is parts b to e. The site is within the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area. The issues and options report (revision B) which provides an integral part of the action plan, identifies the site as one with an existing planning permission and therefore supports a mix of residential and open space. As such, I consider that the proposal would be supported by parts b and d of the Interim Housing Position Statement. The site is not within a conservation area and members have previously considered that the design, density and layout of the scheme is acceptable within the context of the surrounding uses. As such I am satisfied that the proposal satisfies part c of the housing position statement.

However, given that the purpose of the Interim Planning Policy is to provide a local interpretation of policy 12 of the Structure Plan and demonstrate the exceptional circumstances where housing development would be considered appropriate in positions of over supply, I consider that the proposal should demonstrate compliance with all of the criteria to fully demonstrate the exceptional circumstances identified within Policy 12 of the Structure Plan.

The applicant's supporting information demonstrates that there is a demand for the type of properties proposed by this scheme. However, the supporting information is Borough wide and not specific to this location.

The Housing Needs & Market Assessment indicates that there is relative demand for flats and through household demand and emerging household demand, there is a demand for social rented accommodation. However the proposal does not seek consent for flatted accommodation.

The applicant has informed me that they have a good relationship with local St Vincent's Housing Association and is prepared to consider an element of RSL rented accommodation based on local need and that any provision can be agreed through a S106 agreement as necessary.

Therefore, subject to a revised S106 agreement to provide an appropriate element of RSL rented accommodation I consider that the proposal would accord with all elements of the Interim Housing Position Statement.

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

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 a strategic site for housing within the AAP.

A consultation exercise has been undertaken on the Issues and Options Report and the AAP will shortly go out to consultation on its Revised Preferred Option 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 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."*

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)

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 an 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 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

Draft Regional Spatial Strategy (RSS)

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 is 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

The Preferred Options Report identifies in Proposed Policy Response DS1: Hierarchy of Towns that Whitworth is a "Local Service Centre" in addition to the "Key Service Centre" set out in the RSS. 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 subject to provision set out in a revised S106 agreement. 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 Interim 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 Interim 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 which also require the Council to enter into a revised agreement with the developer (relative to open space and contributions towards a Quality Bus Service and to provide an appropriate provision of social rented accommodation) 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 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.

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.

Site and Proposal

This application relates to an area of 3.4 hectares (8.4 acres) located on the western side of Rockliffe Road, within a mix of Residential and Employment Areas.

The development would be accessed from Grafton Villas via Bold Street.

The site is partly within a defined housing site and partly in Greenlands according to the Rossendale District Local Plan. This is a full planning application for 90 brick built dwellings (semi-detached, detached and terraced) with public open space provision proposed that exceeds the area of greenlands that would be lost to facilitate built development.

The applicant has submitted a supporting statement and Transport Impact Assessment with the application.

Notification Responses

Site and press notices posted. Five letters of objection have been received the main points of these are:-

- There is a path through the site
- Access to the site is not acceptable through terraced properties.
- Owners of the terraced properties park their cars on the street leaving little or no access.
- Large contractors wagons will damage the road surface.

- The junction at the bottom of Greenhill Road is very dangerous and there have been several near misses
- Loss of privacy
- When the last properties were built on Grafton Street and Anderson Close (16 in total) the road on River Street and Bold Street was badly damaged by the contractors' vehicles and had to be re-surfaced afterwards, however, the damage was only covered up.
- Traffic generation and adverse impact upon highway safety and residential amenity
- Bold Street is too steep and dangerous - too narrow when cars are parked either side.
- Junction at the bottom of Greenhill Road is very dangerous

The Ramblers Association

- Contrary to Policy 43 of the Lancashire Structure Plan and Policy 12 of the Draft Joint Lancashire Structure Plan
- Contrary to PPG3 – part of the site is Greenfield
- The sloping sides of the meadow and part of the land on top are unfit to build on.
- Adverse impact upon residential amenity and Bold Street is not suitable as an access road.
- Contrary to Human Rights legislation

The Bacup Consortium

- Stone would be a better material and not buff coloured brick
- A smaller estate of 30 houses would be more acceptable
- The plans should include retaining walls
- Adverse impact upon the skyline

Consultation Responses

RBC Highways:

- River Street and Bold street and Grafton Villas are not adequate to cater for the extra traffic generated by the proposed development
- On-street parking on Bold Street will restrict access to the development site for emergency services and for maintenance vehicles
- Adjoining off site highways still remain uncomplete and therefore unadopted
- All side roads serving more than 5 dwellings should be designed, laid out and constructed in accordance with LCC Residential Road Design Guide and the Specification for the construction of Estate Roads.
- Roads serving 3,4,5 dwellings should be laid out and constructed to adoption standards.
- Given the above the application as submitted is not acceptable
- Levels have not been submitted – Highways should be designed such that
 - i) longitudinal gradients do not exceed 1 in 10 Carriageway and footway cross falls are generally 1 in 36
 - ii) Drive gradients do not exceed 1 in 7.

Note

Further advice was obtained from RBC Highways on 12th July 2004. RBC Highways have confirmed that whilst the above points have been raised as concerns they can nonetheless be satisfactorily addressed by means of conditional control taking into account comments received from County Highways. County Highways have raised some concerns but consider that such concerns can be addressed by means of conditional control and legal agreement (eg section 278 agreement/ section 106 agreement)

County Highways

“Whilst I would raise no objection to the proposal in principle my obvious concern relates to the access into the area via Grafton Villas and the route off Rockcliffe Road.

- 1. Given the enclosed nature of this development and the single access point for the area on to Rockcliffe Road, it would be beneficial to introduce a 20 mph zone to cover the whole area of the new development and also River Street, Grafton Villas etc. This would require additional traffic calming features to the measures proposed by Sanderson Associates i.e. a zone entry treatment at the River Street/ Rockcliffe Road junction and an additional physical feature on River Street (subject to a speed survey). The road layout of the development will be suitably designed/amended to restrict vehicle speeds.*
- 2. The junction of Rockcliffe Road/Market Street is substandard in terms of the visibility to the left on exit. It is suggested that the developer examines the possibility of creating a kerbed building out outside the public house to allow the give way line to be brought forward. A realignment of the kerblines to the right may also be necessary although access to HGV's would need to be maintained.*
- 3. The measures proposed for Rockcliffe Road are acceptable*
- 4. Having revisited the site, the suggested one way working on Greenhill Road should not be proceeded with as it will exacerbate the sightline issues at its junction with Rockcliffe Road. The proposed kerbing at this junction would however, have a beneficial effect on vehicle speeds around this junction and therefore should be retained.*

Subject to the above matters being resolved satisfactorily and the following conditions being attached to any permission that may be granted, I would raise no objection to the proposal.

- 1) The developer is to contribute the sum of £40,000 towards the upgrading of 4 bus stops to Quality Bus Standard on the Bacup-Accrington and the Bacup-Rochdale bus corridors. The upgrading to include shelters, raised kerbs, road markings etc.*
- 2) No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority, Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.*
- 3) No part of the development hereby approved shall be occupied or opened for trading until the approved scheme referred to in condition 2 has been constructed and completed in accordance with the scheme details. Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works”*

The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be subject of an Order under the appropriate Act. Footpath 486 passes through the site”

RBC Footpaths Officer

No objection subject to footpath No. 486 being diverted under the Highways Act

County Planning

If the Council concludes that it is unlikely that sufficient current housing approvals will be completed by 2006 to satisfy annualised average provision figures contained in Policy 12 of the Draft Joint Lancashire Structure Plan it may be necessary to approve additional sites) to satisfy that provision.

The site falls within land identified for potential reclamation in the REMADE in Lancashire programme. REMADE is a five year programme to reclaim derelict land in Lancashire for `soft` end uses such as public open space, nature reserves and cycle routes. No specific objections to the application from a REMADE perspective.

Environment Agency

No objection subject to amended plan
Condition relating to landscaping recommended

RBC Forward Planning

The development of this site is acceptable in principle, and its early development will be beneficial to the District insofar as the Council needs to accelerate the rate in which houses are delivered ie the Structure Plan has set a target for Rossendale of 1100 dwellings built in the period April 2001 to April 2006, and the district is under-performing, in this regard.

This is a good site insofar as it rates highly in terms of sustainability. The previous workings and general topographical conditions qualify the site as a brownfield in an urban area. Its proximity to community facilities and the best bus routes/services in the District give the site a high sustainability rating.

The Forward Planning section is satisfied with this proposal.

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 E1 (Greenlands)

Policy E7 (Contaminated Land) of the Rossendale District Local Plan states *“where the Council believes that a proposed development site is contaminated it will require a report to be prepared detailing the nature of any contamination and any measures necessary to deal with any hazards, before the relevant planning application is determined”*

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

Adopted Lancashire Structure Plan (1991-2016)

Policy 43 (General Housing Provision) states that Rossendale requires about 2500 dwellings for the period 1991-2006

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”*

Policy 12 (Housing Provision) states that Rossendale requires about 1,920 dwellings for the period 2001-2016 of which an annual average provision of 220 should be provided between 2001-2006 and 80 between 2006-2016.

Other Material Planning Considerations

PPG 3: Housing

Government guidance in the form of PPG 3: Housing (2000) sets out the Government's aims and objectives relating to housing. Paragraph 32 states that *"the presumption will be that previously developed sites (or buildings for re-use or conversion) should be developed before Greenfield sites"*

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"*.

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 23 states that *"where developments will have significant transport implications, transport Assessments should be prepared and submitted alongside the relevant planning applications for development"*

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)"*

RBC Interim Housing Strategy

Planning Issues

The issues relate to land-use principle, density and sustainability, public open space, visual/residential amenity and highway safety.

The application proposal is considered to be acceptable in land-use principle in so far as the application site falls within the defined urban boundary for Bacup thereby according with Policy DS1 of the Rossendale District Local Plan.

Part of the site is allocated for housing in the Rossendale District Local Plan and as such the proposed development accords with Policy H3 of such a plan. Whilst part of land defined as Greenlands would be lost to facilitate development the applicant would nonetheless propose substantial areas of public open space that would exceed any lost greenlands space. For these reasons it is not considered that the proposed development would prejudice the aims and objectives of Policy E1 of the Rossendale District Local Plan. A section 106 agreement is recommended in

respect of the maintenance of open space (between the applicant and Council) and it is requested that the applicant pay £1159 per residential unit. On this basis and if Members are minded to approve this application it is not considered that there would be a need to refer this application to the Secretary of State having regard to the Town and County Planning (Development Plans and Consultation) (Departures) Directions 1999

The site is located close to Bacup Town Centre and close to good bus routes and local schools. The site is well located from a sustainability point of view. Having regard to the large areas of open space and significant landscape buffer areas to serve the wider areas it is considered that the proposed development would make efficient use of land whilst at the same time providing open and green spaces to be used by members of the immediate and wider community. The proposed development suitably accords with PPG 3 (reference should be made to the comments received from RBC Forward Planning) and would not have a detrimental impact upon visual amenity thereby according with Policy DC1 of the Rossendale District Local Plan.

An amended landscaping scheme has been submitted to take on board concerns raised by the Environment Agency. The Environment Agency recommends a condition relating to a planting scheme along the River Irwell corridor. Notwithstanding the applicant's intention to construct the houses in brick I recommend a planning condition to control the finish and type of materials.

The applicant has not submitted details relating to finished floor levels. It is considered that houses could be built without compromising residential amenity but nonetheless a planning condition is recommended relative to being able to enforce finished floor levels and road/driveway gradients appropriately.

The Council's Forward Planning Department consider that early development of this site will be beneficial to the District insofar as the Council needs to accelerate the rate in which houses are delivered. In other words the Draft Joint Lancashire Structure Plan has set a target for Rossendale of 1100 dwellings built in the period April 2001 to April 2006, and the district is under-performing, in this regard. For these reasons it is not considered that the proposed development would conflict with Policy 12 of the Draft Joint Lancashire Structure Plan.

Notwithstanding comments raised by third parties it is considered, subject to conditional control and legal agreements, that the proposed development would have an adverse impact upon highway safety thereby according with Policy DC1 of the Rossendale District Local Plan. The Council has approved residential development with access from Bold Street and Grafton Villas in the past.

Summary of Reasons for Approval

Development of this site is acceptable in principle and subject to conditional control would not have an adverse impact upon highway safety or residential/visual amenity thereby according with Policy DC1 of the Rossendale District Local Plan. The application site is sustainably located and having regard to areas of open space which would serve the wider areas it is considered that the proposed development would make efficient use of land according with PPG 3. The proposed areas of open space off-set the loss of land defined as greenlands and to this extent the proposed development does not materially conflict with Policy E1 of the Rossendale District Local Plan. The proposed development would assist the Council in meeting

identified annualised completion rates thereby according with Policy 12 of the Draft Joint Lancashire Structure Plan.

Recommendation

That the committee be minded to grant consent to the application for the reasons indicated above and subject to the conditions set out below but desire the Council to enter into an agreement with the developer (relative to public open space (£1159 per residential unit) and contributions towards upgrading 4 Bus stops to quality bus standard (£40,000)) under section 106 of the Town and Country Planning Act 1990, the completion of which shall be delegated to the Director of Corporate Support and (ii) that on completion of such section 106 Agreement the Development Control Manager or Principal Planning Officer be authorised to approved the said application subject to the following conditions and for the above summarised reasons:

Conditions

01 The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason: The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990.

02 The proposed development shall be carried out in accordance with the amended site plan received on 11th May 2004 and the amended "scheme layout plan" received on 4th May 2004 and elevation and floor plans received on 4th March 2004.

Reason: For the avoidance of doubt.

03 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.

04 The 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.1 of the Rossendale District Local Plan.

05 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 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.

06 No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local

Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

Reason: To ensure a satisfactory means of drainage in accordance with policy DC.1 of the Rossendale District Local Plan.

07 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 E7 of the Rossendale District Local Plan.

08 No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority

Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site having regard to highway safety and increased vehicular traffic flows likely to result from the development (Policy DC1 of the Rossendale District Local Plan).

09 No part of the development hereby approved shall be occupied until the approved scheme referred to in condition 8 has been constructed and completed in accordance with the scheme details.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works having regard to policy DC1 of the Rossendale District Local Plan.

10 No development shall be commenced until details of driveways and finished floor levels and any retaining structures/walls have been submitted to and approved in writing by the local planning authority. The driveways, finished floor levels and retaining walls/structures shall thereafter accord with approved details.

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

11 No development approved by this permission shall be commenced until a planting scheme for the River Irwell corridor has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be carried out in accordance with a programme for planting and maintenance related to stages of completion of the development and will incorporate native species.

Reason: To protect, restore or replace the natural features of importance within or adjoining the watercourse having regard to Policy DC1 of the Rossendale District Local Plan.

12. **Note** The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be subject of an Order under the appropriate Act. Footpath 486 passes through the site.

Appendix 1

Chronology of application 2004/143

This application was received 4th March 2004.

The application was considered by the Development Control committee on the 29th July 2004 were it was minded to approve the application subject to a legal agreement.

Instructions received 31 /08/04

05/10/04 request regarding diversion of the footpath

09/11/04 draft agreements sent out

10/11/04 amendments sent back by owners

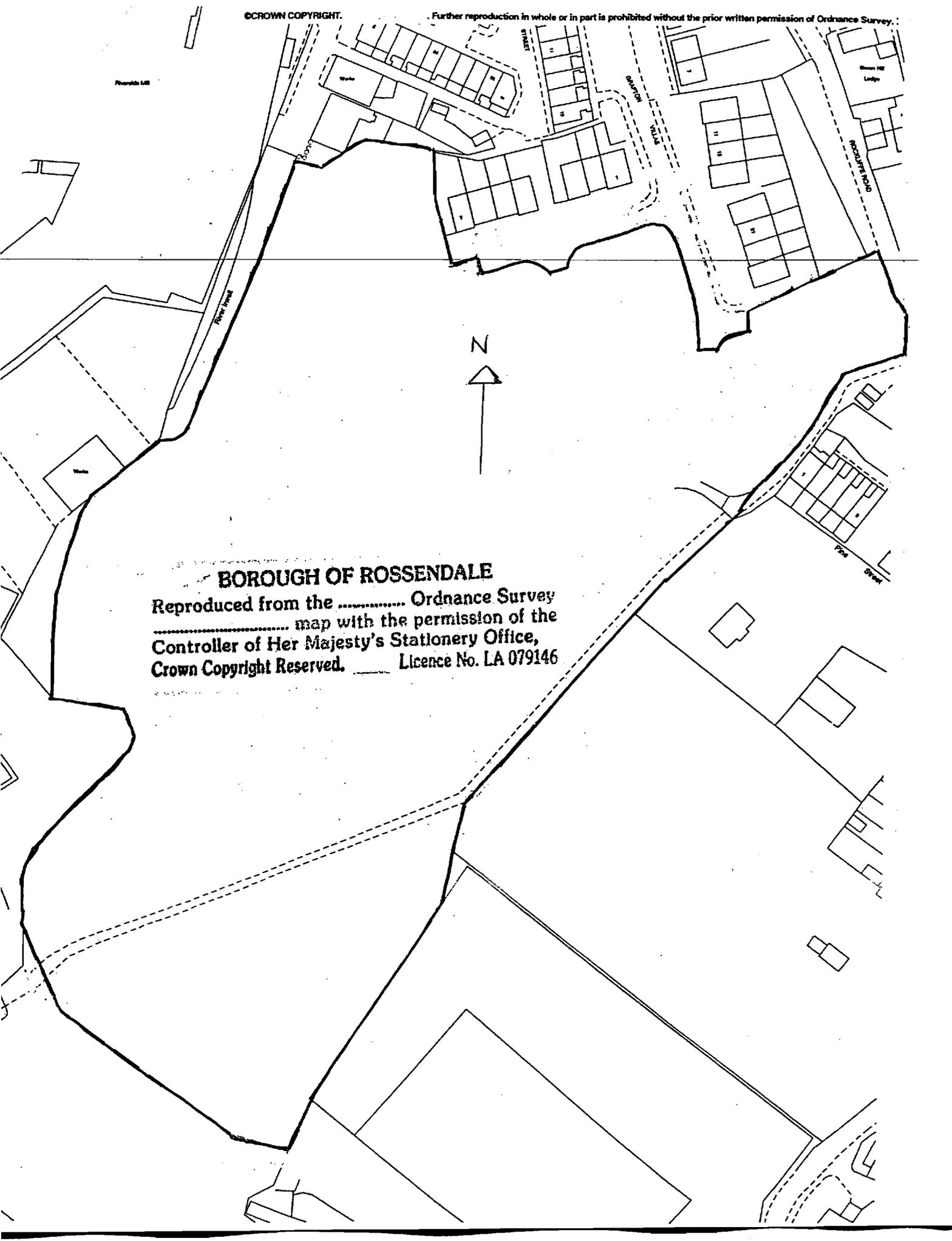
07/04/05 discussions ongoing regarding sums to be paid

06/05/05 wording agreed

22/12/05 Urban Vision informed applicants of change in policy

09/03/05 Legal Services write to inform of requirement to report back to Committee

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



BOROUGH OF ROSSENDALE

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