



# Appeal Decision

Site visit made on 9 June 2009

by **Richard Clegg BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**25 August 2009**

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## Appeal Ref: APP/B2355/A/09/2100527

### Land east of Green Street, Rawtenstall, Rossendale, BB4 8TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr R Stansfield against the decision of Rossendale Borough Council.
- The application Ref 2009/0028, dated 29 January 2009, was refused by notice dated 19 March 2009.
- The development proposed is the erection of three dwellings.

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### Decision

1. I allow the appeal, and grant planning permission for the erection of three dwellings on land east of Green Street, Rawtenstall, Rossendale, BB4 8TA, in accordance with the terms of the application, Ref 2009/0028, dated 29 January 2009, and the plans submitted with it, as modified by the submission of a revised site plan dated 25 February 2009, subject to the conditions in the attached schedule.

### Procedural matters

2. On the application form, the location of the site is given as Hurst Platt, Waingate Road, Rawtenstall. Hurst Platt is the appellant's house, and the appeal site is to the north of this. It is more accurately referred to as land east of Green Street, and I have identified it accordingly in the appeal details above.
3. The Council has submitted a list of suggested conditions, the second of which would require the development to be carried out in accordance with the plan received on 26 January 2009. This is a reference to the plans originally submitted with the planning application.<sup>1</sup> The site plan submitted with the appeal is an amended version dated 25 February 2009. It includes an increase in width of the drive to plot No 3 of about 1m, and at the site visit the main parties agreed that this is the relevant plan for the scheme. It was prepared before determination of the application, and only involves a minor change. I am satisfied that no prejudice would be caused to the interests of any parties by consideration of the revised plan, and I have taken it into account in determining the appeal.

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<sup>1</sup> The planning application was submitted towards the end of January 2009. Notwithstanding the date in its suggested condition, the Council gives the receipt of the application as 24 January 2009 on the decision notice. I have recorded 29 January in the case details, which is the date given on the application form.

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## **Main issue**

4. I consider that the main issue in this appeal is the effect of the proposed development on the character and appearance of this part of Rawtenstall.

## **Reasons**

5. The appeal site comprises a parcel of steeply sloping overgrown land, which rises to the north of Hurst Platt and the built development along Waingate Road and Newchurch Road. There is open land to the east, but the site extends up to the rear of housing on Hurst Crescent to the north, and there is housing on Union Street beyond garden areas to the west. The site lies within the urban boundary, within which Policy DS.1 of the Rossendale District Local Plan stipulates that most new development should be located, and planning permission was granted for a single dwelling on the larger part of the appeal site in March this year. It is not in a location where the principle of residential development would be unacceptable.
6. The present scheme would occupy more of the site than the proposal for a single dwelling which already has planning permission, and the housing would extend further up the hillside towards Hurst Crescent. To achieve a 1 in 9 gradient for the access drive, the lower section would be built up above existing ground levels, whereas the turning head would be about 4.5m below the existing slope of the land. Similarly the basement floor level of the southernmost house would be partly above the existing ground level and that of the northernmost house would be largely below it, although the composite front elevation indicates that the differences would not be as great as in relation to the drive. Nevertheless, the development would follow the general slope of the land, and the changes which would be made to ground levels would not disturb the topography to a damaging degree.
7. The development would be clearly visible, particularly from Newchurch Road to the south. However, development on rising land is a feature of the locality, and in this location the presence of houses in an elevated position would not be out of keeping with the surroundings. The proposed three-storey houses are similar in design to that for which planning permission has already been granted. They would be built in stone and slate, reflecting the use of these materials in the area. Whilst the turning head would necessarily be wider than the carriageway, it would not be unduly large, and the adjacent retaining wall would only be about 1.5m high and faced in stone. The dense planting proposed between this part of the site and Hurst Crescent would assist in assimilating the upper part of the development into its surroundings. Planting adjacent to the safety barrier, which is proposed along the southern part of the access drive and in a lower position on the hillside, would soften its appearance, and a condition could require the details of its appearance to be submitted for approval. Implementation of landscaping here and elsewhere on the site could also be secured by a condition.
8. I conclude that the proposed development would not be damaging to the character and appearance of this part of Rawtenstall, and in this respect it would not conflict with Policy DC.1 of the Rossendale District Local Plan, the objectives of Policies DP 7 and EM 1 of the North West of England Plan or national policy on design contained in Planning Policy Statements 1 and 3.

9. Local residents have raised several other objections to the development. The houses would be separated from properties on Union Street, Hurst Lane and Hurst Crescent by open land, including detached garden areas and the area proposed for planting above the turning head. I am satisfied that there would be sufficient distances between the new houses and their access drive and existing dwellings to avoid any loss of privacy or disturbance to neighbours. Several neighbours have expressed concern about possible structural damage to existing properties arising from development on the hillside. However, the scheme would involve the construction of a retaining wall above the end of the access drive, and additional plant cover should assist in ensuring stability of the land between this structure and the northern boundary of the site. I note, moreover, that the Council has raised no objection in this regard. I do not anticipate that the level of traffic generated by this small-scale would materially alter the pattern of vehicle movement on nearby roads, and the Highway Authority does not oppose residential development of the site. Insofar as wildlife is concerned, bat and badger surveys accompanied the planning application, and no sign of occupation by either species was found. There are general references to the presence of certain animals, but there is no clear evidence in the residents' representations to suggest that this land has any significant value for wildlife. None of these matters, whether considered individually or collectively, outweighs my conclusion on the main issue
10. Several local residents have made submissions under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. They argue that the proposal would adversely affect respect for their private and family life and the peaceful enjoyment of their possessions. In the light of the relationship between the site and nearby houses, to which I refer above, I am satisfied that if the development proceeds its effect on local residents would not be disproportionate.
11. The appellant has submitted extensive material in relation to housing land supply, and it is argued that the Council's assessment is over-optimistic. The Council refutes the view that the Borough has an insufficient supply of housing land, but it has not responded to this matter in detail as it did not oppose the proposal in relation to its Interim Housing Policy. However, given my findings in relation to the main issue and the matters raised by local residents, the question of housing land supply is not determinative in relation to this appeal.
12. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed. I have already referred to conditions concerning the details of the safety barrier and landscaping which I intend to impose. To ensure that the development would be in keeping with its surroundings, it is important that samples of materials and details of boundary treatment are submitted for approval. In the interest of highway safety, the access drive and individual drive-ways should be provided before occupation, and the carriageway linking the site to Green Street should be improved. As there is existing housing nearby, I agree with the Council that working hours during the construction period should be controlled. I shall not impose the conditions suggested by the Council which would specify the plans and restrict permitted development rights. The plans are referred to in my formal decision, and given the relationship of the dwellings to their surroundings there is no

need to restrict permitted development rights, which Circular 11/95 explains should only be done in exceptional circumstances.

*Richard Clegg*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings and the retaining wall hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of any changes in ground level and shall identify the areas to be planted and hard-surfaced. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons 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 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 4) No development shall take place until details of boundary treatment have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the boundary treatment of that plot has been carried out in accordance with the approved details.
- 5) No development shall take place until details of the highway safety barrier on the southern side of the access drive have been submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until the safety barrier has been installed in accordance with the approved details.
- 6) No dwelling shall be occupied until the access drive, turning head for the site and the individual drive-way for that plot have been constructed in accordance with the site plan dated 25 February 2009, incorporating drainage to prevent surface water run-off beyond the site boundaries, and finished with a hard impermeable surface.
- 7) No development shall take place until a scheme to improve the carriageway between the site and Green Street has been submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until the scheme has been carried out in accordance with the approved details.

- 8) No construction work shall take place outside the following times: 0700 to 1900 from Monday to Friday and 0800 to 1300 on Saturdays, and there shall be no working on Sundays or public holidays.