

# ROSSENDALE DRAFT LOCAL PLAN

## Pre-Submission Publication Version

### Regulation 19 Consultation

#### APPENDIX 1



November 2018

**Rossendale**  
BOROUGH COUNCIL

This appendix includes information we have received from individuals to support their comments on the Rossendale Draft Local Plan. This information includes photographs, maps and statements and it is organised numerically by the individual reference number for each person. Confidential information including personal addresses, signatures, contact details etc. have been removed.

<b>Respondent Reference</b>	<b>Respondent Name or Organisation</b>	<b>Represented by</b>	<b>Page Number</b>
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# ROSSENDALE BOROUGH COUNCIL

## DRAFT LOCAL PLAN

### REGULATION 18 CONSULTATION

**CLIENT:**

Mr Ken Howieson

**SITE:**

Land opposite 1019 Burnley Road, Loveclough

**DATE:**

9 October 2017

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<b>Report Drafted By</b>	<b>Report Checked By</b>	<b>Report Approved By</b>
RT	DC	DC
06.10.2017	09.10.2017	09.10.2017

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## Appendices

Appendix 1 Proposed change to Urban Boundary

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## 1. INTRODUCTION

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- 1.1 Rossendale Borough Council (RBC) is preparing a new Local Plan which will guide the future planning and development of the area. The Council are asking for comments on the Draft Local Plan which will replace the Core Strategy once it is adopted.
- 1.2 The Draft Local Plan document has been informed by a series of evidence base documents, and previous consultations undertaken on proposed changes to the Urban Boundary and the Green Belt<sup>1</sup>.
- 1.3 The evidence base comprises the following documents:
- Strategic Housing Land Availability Assessment (SHLAA) - Stages 1 & 2 and Site Assessments 2017
  - Strategic Housing Market Assessment (SHMA) 2017
  - Employment Land Review 2017
  - Green Belt Review 2016
  - Environmental Network Study 2017
  - Gypsies and Travellers Accommodation Assessment 2016
  - Town Centre, Retail, Leisure and Tourism Study 2017
  - Playing Pitch Strategy 2016 (previously published)
  - Strategic Flood Risk Assessment (SFRA) 2016
  - Local Plan Viability Study 2015 and Updated Viability Study in relation to Affordable Housing 2017
  - Landscape Study 2015 (previously published)
  - Landscape capacity study for wind energy developments in the South Pennines (2014) (previously published).
- 1.4 Rossendale's Local Plan will designate land and buildings for future uses to meet the Borough's needs and set out what developments should look like and how they should fit in with their surroundings.

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<sup>1</sup> Consultation was undertaken on the Green Belt & Urban Boundary Review between October – December 2012, January 2013 and December 2014, with further comments accepted by the Council during 2015 and 2016 to inform the previous Local Plan Part 2 consultation, which was late withdrawn.

1.5 Sites have been proposed for development (such as housing or employment sites), for environmental protection and for recreation uses on the Draft Policies Map. Changes are also proposed to the existing Green Belt and the Urban Boundary. Also, four additional Conservation areas and an extension to an existing Conservation area are being considered.

## BACKGROUND

1.6 Hourigan Connolly is instructed to review and comment on the Draft Local Plan in relation to land opposite 1019 Burnley Road in Loveclough, Rossendale. Currently the site is designated as being located beyond the Urban Boundary within the open countryside. On behalf of our client, we seek to promote a change to the Urban Boundary to include the subject site.

1.7 This Statement will demonstrate that a change to the Urban Boundary to include the subject site would accord with the criteria set out by the Council as part of their consultation for the Review of existing Green Belt and Urban Boundary in 2012 / 2013 (no update to this appears to be available as part of the 2017 consultation).

1.8 The location of the site is shown below, at Figure 1.1.

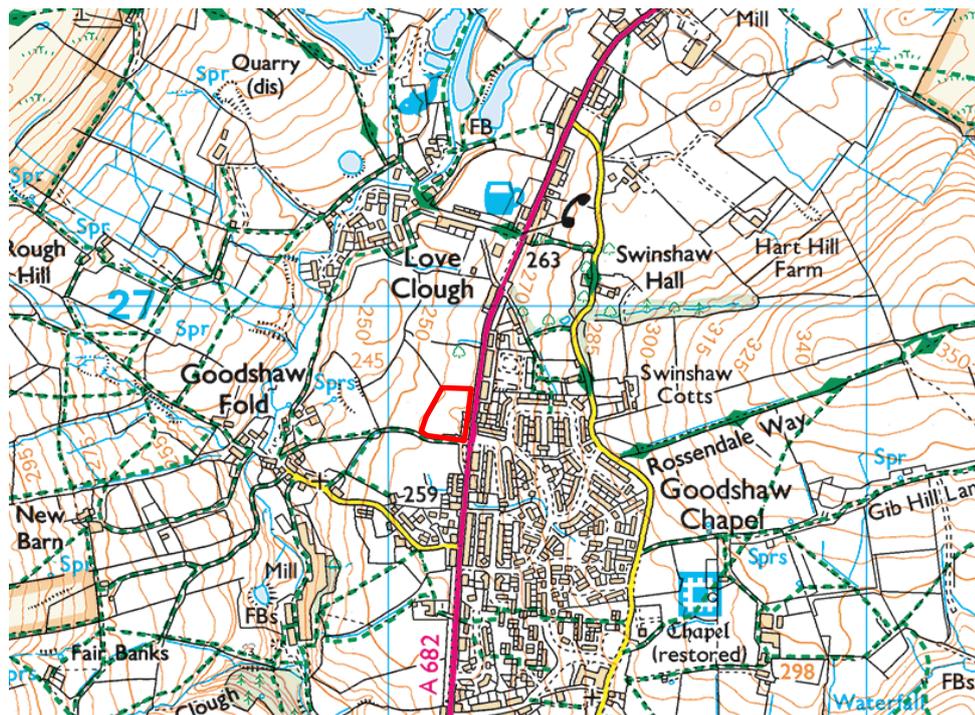


Figure 1.1 Site Location & Context (NB. Red line is for indicative purposes only).

1.9 The site itself has been previously developed and includes nine existing garages, which are currently used for storage purposes, with two being used as workshops for local builders. These are accessed via an existing track which is in private ownership but is a public right of way. Abutting the site to the east is an allotment and further garage which is under separate ownership. The to the south is greenfield land, beyond which is existing residential development.



**Figure 1.2 Existing garages within the site, viewed from Burnley Road**

- 1.10 The site is bordered to the north by recreational sports fields (Loveclough Sports Field), to the east by Burnley Road with residential uses beyond and to the south by further existing residential uses.
- 1.11 Land to the north west of the site benefits from a recent planning permission for a large allotment development<sup>2</sup>, which was approved by the Council's Planning Committee on 10 December 2013 and is under construction. This development is known as Badgercote Allotments and is on land owned by the Council. Also to the west is the settlement of Goodshaw Fold.
- 1.12 The site is within walking distance of a number of settlements including Goodshaw, Crawshawbooth and Dunnockshaw, which provide a variety of services, and the topography of the area is conducive to walking, with good, well-surfaced and street-lit footways on both sides of all the roads in the area. There are a number of facilities within a 5km cycling distance of the site, including primary, secondary and further education facilities, convenience and large-format foodstores, accessible via traffic-free routes.
- 1.13 The site has previously been subject to an appeal against the Council's decision to refuse full planning permission on 05 February 2015 for the erection of 15no. detached dwellings including formation of access from Burnley Road and landscaping<sup>3</sup>. The appeal was dismissed by the Planning Inspectorate, primarily on the grounds of landscape impact on 4<sup>th</sup> February 2016.
- 1.14 In preparing these submissions we have reviewed the documents mentioned above as well as other documents forming the evidence base that underpins the emerging Local Plan.

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<sup>2</sup> Council ref: 2013/0461

<sup>3</sup> PINS Reference: APP/B2355/W/15/3130570

## **OVERVIEW**

- 1.15 The starting point for consideration of the Draft Local Plan document is the well-established principle embodied in Paragraph 158 of the National Planning Policy Framework (hereafter referred to as the Framework) that Development Plans must be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area.
- 1.16 On behalf of Mr Ken Howieson we strongly recommend that the Council redraw the Urban Boundary so that it includes the area of land subject to this Representation.
- 1.17 Needless to say we will wish to participate in the Examination in Public and attend the relevant hearings and will make further representations at the Regulation 19 Submission stage.

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## 2. LEGISLATIVE & POLICY CONTEXT

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### INTRODUCTION

- 2.1 In this Chapter we set out the relevant legislative and policy context before going on to examine the Council's Development Strategy.

### LEGISLATIVE CONTEXT

- 2.2 Part 2 of the Planning & Compulsory Purchase Act 2004 (As amended) deals with Local Development.
- 2.3 The Rosendale Borough Council Local Plan is being brought forward following changes to the Development Plan making system in England which are set out in the Localism Act 2011. Part 6 Sections 109 – 144 of the Localism Act deal with Planning.
- 2.4 Following revocation of the North West Regional Strategy (RS) in May 2013, Councils such as RBC will set their own housing and employment targets against objectively assessed needs.
- 2.5 The Town & Country Planning (Local Planning) (England) Regulations (SI No. 767) came into force on 6 April 2012 and will guide the preparation of Local Plans.

### MINISTERIAL STATEMENTS

- 2.6 In his Written Statement of 23 March 2012 the then Minister for Decentralisation and Cities the Rt. Hon Greg Clark MP referred to a pressing need to ensure that the planning system does everything it can to help England secure a swift return to economic growth. He urged local planning authorities to make every effort to identify and meet the housing, business and other development needs of their areas.
- 2.7 The National Planning Policy Framework (hereafter referred to as the Framework) (see below) was subsequently published on 27 March 2012 and urges local planning authorities to boost significantly the supply of housing.
- 2.8 In his Written Statement of 6 September 2012 the Secretary of State for Communities and Local Government the Rt. Hon Eric Pickles MP noted an increase in house building starts between 2009 and 2011 but said that there was far more to do to provide homes to meet Britain's demographic needs and to help generate local economic growth.
- 2.9 There can be no doubt that house building is a driver of the local economy besides providing homes for local people.

## FRAMEWORK REQUIREMENTS

- 2.10 Paragraphs 150 to 185 of the Framework deal with Plan-making.
- 2.11 The importance of the Local Plan is identified as the key to delivering sustainable development and a cornerstone of the development management process (Paragraph 150 refers).
- 2.12 The requirement for Local Plans to be prepared with the objective of contributing to the achievement of sustainable development is embodied in Paragraph 151 of the Framework and stems from the requirements set out under Section 39(2) of the Planning & Compulsory Purchase Act 2004. Local Plans must also be consistent with the principles and policies of the Framework.
- 2.13 Paragraph 152 of the Framework requires local planning authorities to seek opportunities to achieve and secure net gains for each of the three dimensions of sustainable development. These three dimensions are defined in Paragraph 7 of the framework as economic, social and environmental. According to Paragraph 7 of the Framework these dimensions give rise to the need for the planning system to perform a number of roles:
- *“an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
  - *a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
  - *an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy”.*
- 2.14 Paragraph 8 of the Framework states that the roles mentioned in Paragraph 7 should not be undertaken in isolation, because they are mutually dependant and should be sought jointly and simultaneously through the planning system.
- 2.15 The importance of Local Plans taking into account local circumstances is highlighted in Paragraph 10 of the Framework to ensure that they respond to the different opportunities for achieving sustainable development.
- 2.16 Paragraph 152 of the Framework goes on to deal with adverse impacts on any of the dimensions of sustainable development and sets out three tests:

- Firstly significant adverse impacts on any of the dimensions should be avoided, and where possible, alternative options which reduce or eliminate such impacts should be pursued.
- Where adverse impacts are unavoidable, measures to mitigate the impact should be considered.
- Where adequate mitigation measures are not possible, compensatory measures may be appropriate.

2.17 Paragraph 154 of the Framework requires Local Plans to be aspirational but **realistic** and address the spatial implications of economic, social and environmental change.

2.18 The requirement for local planning authorities to set out strategic priorities for their areas in their Local Plans is established in Paragraph 156 of the Framework. Such policies are required to deliver:

- *“the homes and jobs needed in the area;*
- *the provision of retail, leisure and other commercial development;*
- *the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);*
- *the provision of health, security, community and cultural infrastructure and other local facilities; and*
- *climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape”.*

2.19 The importance of using a robust and proportionate evidence base for Plan making is dealt with in Paragraphs 158 to 177 of the Framework. Paragraph 158 is of particular relevance to these submissions:

*“Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals”.*

2.20 A number of topics are discussed and for the purpose of this document we will focus on housing (Paragraph 159), business (Paragraphs 160 – 161), infrastructure (Paragraph 162) and environment (Paragraphs 165 – 168).

## **HOUSING**

- 2.21 Paragraph 159 outlines the importance of preparing a Strategic Housing Market Assessment (SHMA) to assess **full** housing needs and a Strategic Housing Land Availability Assessment (SHLAA) to establish **realistic** assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.
- 2.22 Of particular importance is the requirement for the SHMA to identify the scale and mix of housing and the range of tenures that the local population is likely to need over the Plan period which:
- *“meets household and population projections, taking account of migration and demographic change;*
  - *addresses the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); and*
  - *caters for housing demand and the scale of housing supply necessary to meet this demand”.*

## **BUSINESS**

- 2.23 Paragraph 160 of the Framework outlines the importance of local planning authorities having a clear understanding (from a robust evidence base) of business needs within the economic markets operating in and across their area.
- 2.24 Paragraph 161 of the Framework establishes the importance of understanding business needs (both quantitative and qualitative) and ensuring that sufficient suitable land (both existing and future) is available to meet needs.

## **INFRASTRUCTURE**

- 2.25 An objective of government policy is the delivery of growth. Central to this objective is ensuring that infrastructure has the capacity or can be enhanced to deliver growth. A number of factors are outlined in Paragraph 162 of the Framework which need to be considered at a local level including transport, water, foul drainage, energy, telecommunications, waste, health, social care, education, flood risk and coastal change management.

## **ENVIRONMENT**

- 2.26 Paragraphs 165 to 168 of the Framework deal with environmental matters and set out the requirement that a sustainability appraisal which meets the requirements of the European

Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors.

## SOUNDNESS

2.27 Paragraph 182 of the Framework deals with the examination of Local Plans. The Local Plan will be examined by an independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. Local planning authorities are required to submit Plans for examination which they consider “sound” – namely that they are:

- **“Positively prepared** – *the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;*
- **Justified** – *the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;*
- **Effective** – *the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and*
- **Consistent with national policy** – *the plan should enable the delivery of sustainable development in accordance with the policies in the Framework”.*

## NATIONAL PLANNING PRACTICE GUIDANCE

2.28 The NPPG replaces some 230 planning guidance documents but will result in no amendments to the Framework.

2.29 The Housing and Economic Land Availability Assessment section of the NPPG is worthy of specific mention in relation to this Submission, in particular paragraph 030 (reference ID: 3-030-20140306 confirms):

*Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.”*

- 2.30 The NPPG deals with deliverable sites as follows at paragraph 031 (Reference ID 3-031-20140306):

*WHAT CONSTITUTES A 'DELIVERABLE SITE' IN THE CONTEXT OF HOUSING POLICY?*

*Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.*

*However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgments on deliverability are clearly and transparently set out. If there are no significant constraints (e.g. infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.*

*The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust five-year housing supply*

- 2.31 In regards to how often a Local Plan should be reviewed, the NPPG states at paragraph 008 (Reference ID 12-008-20140306) that:

*HOW OFTEN SHOULD A LOCAL PLAN BE REVIEWED?*

*To be effective plans need to be kept up-to-date. Policies will age at different rates depending on local circumstances, and the local planning authority should review the relevance of the Local Plan at regular intervals to assess whether some or all of it may need updating. Most Local Plans are likely to require updating in whole or in part at least every five years. Reviews should be proportionate to the issues in hand. Local Plans may be found sound conditional upon a review in whole or in part within five years of the date of adoption.*

## **GOVERNMENT CONSULTATION ON STANDARDISED METHODOLOGY FOR HOUSING NEED (SEPTEMBER 2017)**

- 2.32 On 14 September 2017 the Government announced a consultation on a Standardised Methodology for Assessing Local Housing Need, the basis of which was included in the White Paper (February 2017) and is aimed at helping local authorities plan for the right homes in the right places.

- 2.33 As the consultation document sets out, the root cause of the dysfunctional housing market in the UK is that for too long we have not built enough homes. The Government is aiming to deliver 1.5 million new homes between 2015-2022 and is attempting to create a system which is clear and transparent for local authorities. The new methodology will apply to all future plans, with the exception of those which have been submitted or will be submitted before 31 March 2018.
- 2.34 The standard methodology is principally aimed at tackling problems of affordability as the proposed formula simply uplifts the household projections figure, based on market signals.
- 2.35 For Rossendale the proposed standard methodology has little impact on the annual housing requirement (which, it is suggested should be 212 rather than the current 265 dwellings per annum). However, it should be noted that the proposed standard methodology is currently on consultation and may therefore be subject to changes in due course. It is also worth noting the heavy speculation that the proposed methodology focuses on growth in the south east to the detriment of other parts of the UK, in particular the north west.

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## 3. DRAFT LOCAL PLAN POLICIES

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### **POLICY SD1 PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT**

- 3.1 This policy is in line with the Framework and supports sustainable development in accordance with the Local Plan, unless material considerations indicate otherwise. In addition, where policies are out of date or irrelevant the Council will grant permission unless material considerations indicate otherwise, taking into account any adverse impacts that would demonstrably outweigh the benefits or any specific policies in the Framework that indicate development should be restricted.
- 3.2 This policy is supported as it is directly in line with the Framework.

### **POLICY SD2 URBAN BOUNDARY AND GREEN BELT**

- 3.3 This policy seeks to restrict new development to within the Urban Boundary, except where development specifically needs to be located within a countryside location and the development enhances the rural character of the area.
- 3.4 The principle of this policy is supported; however, the proposed extent of the Urban Boundary is not. We consider that there is scope within the Borough to further revise the line of the Urban Boundary to accommodate the level of growth required to ensure the Borough's growth is sustainable and meets the aspirations of the Council moving forward.

### **SUGGESTED MODIFICATION**

- 3.5 The Council should change the Urban Boundary to include the subject site within this boundary line to further deliver a sustainable level of growth. To change the Urban Boundary at this location would be sound and would not harm the objectives of the Local Plan and would accord with the Council's criteria set out in the Review of the Urban Boundary.
- 3.6 The detailed proposed amendment to the Urban Boundary is shown in the following Chapter.

### **HS1 HOUSING**

- 3.7 This Policy sets out the need to provide at least 4,000 additional dwellings over the plan period (2019-2034), equating to 265 dwellings per annum. The policy seeks to address prior under-provision in the first five years of the plan period, by increasing the annual requirement to 350 in the first five years. This strategy is supported.
- 3.8 It is however noted that the SHMA sets out a range of need from 265-335 dwellings per annum, it is therefore questionable as to why the Council has simply chosen the lower end of this range,

rather than opting for an aspirational target to ensure need is met and sustainable growth achieved.

## 4. PROPOSED AMENDMENT TO THE URBAN BOUNDARY

### INTRODUCTION

- 4.1 Previous consultations by the Council on the Review of the Green Belt and Urban Boundary has resulted in a number of proposed changes to the Urban Boundary line as shown on the draft Proposals Maps<sup>4</sup>. The Council used a number of criteria to assess whether a change to the Urban Boundary would accord with the purpose of the Urban Boundary to clearly define and differentiate between designated settlements, Countryside and Green Belt.
- 4.2 The subject site is situated within the Ward of Goodshaw in Loveclough. Loveclough is a village located between Burnley and Rawtenstall with quick and direct access by public transport to both towns via Burnley Road (A682). The bus shelters opposite the site are served by the X43 'Witch Way' bus service which provides an express service into Manchester City Centre.
- 4.3 **Appendix 1** contains an extract from the Goodshaw Ward Proposals Map where the location of the subject site has been indicated with an arrow. Currently the site is located directly adjacent to the Urban Boundary. In the second extract, we have indicated how the Urban Boundary should be changed to include the site. The amendment to the delineation of the boundary line is minor.
- 4.4 By assessing the inclusion of the site within the Urban Boundary against the Council's criteria (as listed above), we reach the following conclusions:

1	<b><i>The Urban Boundary will be amended to correct any cartographic errors, anomalies and inconsistencies where:</i></b>	
(a)	Boundaries are inaccurately drawn, <b>or</b>	The current Urban Boundary in this location is some 20 years out of date, representing the old field boundaries in this locality.
(b)	Do not follow strong, robust and permanent boundaries, on the ground, <b>or</b>	The boundary should include the subject site which would be bounded by a clearly defined boundary line associated with the allotment development immediately adjacent to the west. The new boundary would be well established, permanent and robust.
(c)	Areas of land no longer read as part of the wider built up area, <b>or</b>	N/A
(d)	Areas of land clearly read as part of the wider built up area.	This site reads as part of the built up area along Burnley Road, where there is residential development on both sides of the main road. This relationship has been strengthened following the development of the approved allotments to the immediate west of the site.
2	<b><i>To meet the Borough's future development and community needs, additional land will be considered for inclusion within the Urban Boundary where</i></b>	
(a)	It is capable of being developed sustainably and integrated into the existing built-up area, <b>and</b>	Yes. The site is sustainably located and is already integrated into the existing built-up area.

<sup>4</sup> The Council has produced a Borough-wide Proposals Maps and a number of Ward Proposals Maps.

(b)	It would not adversely affect aspects of the natural environment unless it is capable of full mitigation, <b>and</b>	Yes. There would be no adverse effect.
(c)	It would not result in the amalgamation of settlements or adversely affect the character of the settlement; <b>and</b>	Yes. There would be no amalgamation of settlements or adverse effect on the character of the settlement.
(d)	It would not adversely affect heritage assets or their setting, <b>and</b>	N/A
(e)	It is capable of being developed without a significant adverse impact on local views and viewpoints, including where appropriate the use of appropriate mitigation measures.	Yes. Development could be achieved without significant impact.
<b>3</b>	<b><i>Open land on the edge of existing settlements will be excluded from the Urban Boundary where it has existing recreational or community value (e.g. playing fields, allotments, playgrounds etc) to ensure it remains undeveloped</i></b>	
	The site is not used for recreational purposes.	

- 4.5 The subject site is sustainably located and any future development, would represent sustainable development, which the Framework establishes a presumption in favour of.
- 4.6 The Framework also encourages Local Planning Authorities to positively seek opportunities to meet the objectively assessed development needs of their area unless, inter alia, any adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits.
- 4.7 With this in mind, we would recommend that the draft Proposals Map for Goodshaw Ward be revised to take account of a change to the Urban Boundary so that the site on land opposite 1019 Burnley Road, Loveclough is included within the Urban Boundary.
- 4.8 We reserve the right to add to make further submissions to the Council during the Local Plan preparation period.

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## **5. CONCLUSIONS**

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- 5.1 The Council should amend the Urban Boundary to include the subject site within this boundary line to further deliver a sustainable level of growth and to properly reflect the lie of the land. To amend the Urban Boundary at this location would be sound and would not harm the objectives of the Local Plan and would accord with the Council's criteria set out in the Review of the Urban Boundary.







MT55 ZYU

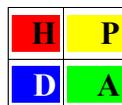
Reeds  
Rains  
For Sale





**Objection to the emerging local plan on behalf of Candice Harwood (and others) with regard to the inclusion of site no SHLAA16172 at Higher Cloughfold, Rawtenstall for inclusion within the Urban Boundary and for its allocation for housing development.**

**Planning Statement**



**September 2018**

**Prepared by Hartley Planning and Development Associates Ltd**

This objection is submitted on behalf of Mrs Candice Harwood and on behalf of other residents in the vicinity, the names of whom are shown below: -

Mrs Candice and Mr Simon Harwood –

Mr Jim and Mrs Janet Barrie –

Miss Maureen Griffin –

Mr Anthony Wright –

Mr Anthony Brennan and Miss Gail Moscrop –

Mr Vincent Smith and Miss Helen Maguire –

Mr Josh Davis and Miss Natalie Whelan –

Mr Michael and Mrs Diane Hammond-

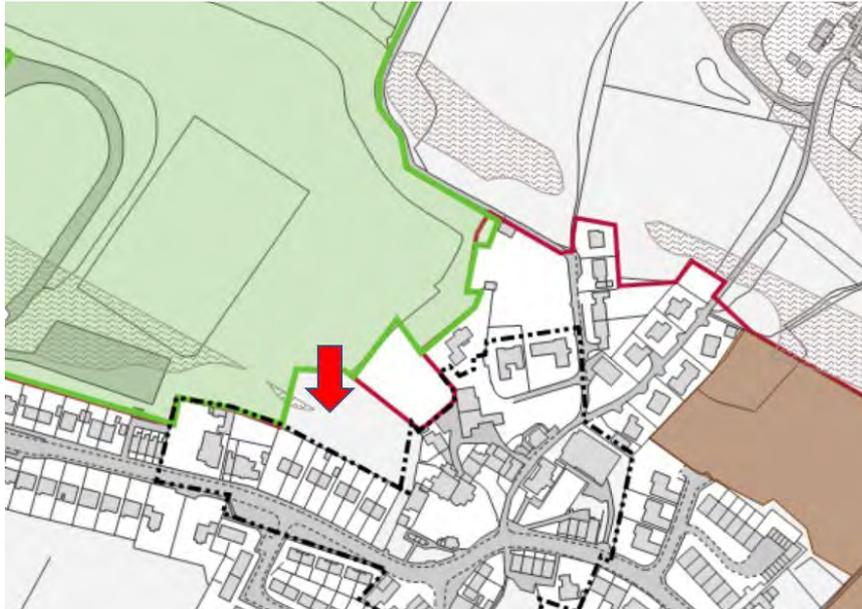
Mr Michael Larner –

Mr David and Mrs Nathalie Murphy –

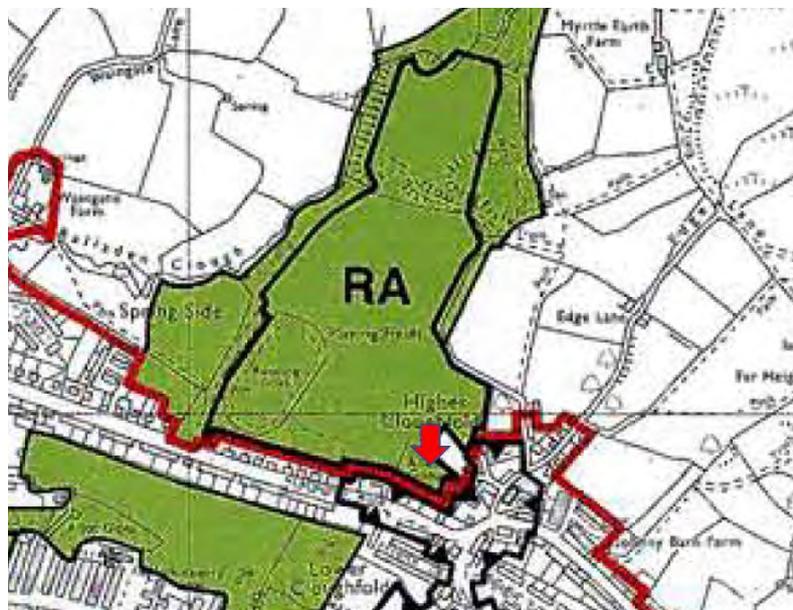
The objection relates to the Housing Topic paper, paragraph 3.3 and in particular to the evidence base paper, the Strategic Housing Land Availability Assessment (2018), site SHLAA 16172 at Higher Cloughfold, Rawtenstall.

The emerging plan proposes that this site is included within the Urban Boundary and that it should be considered suitable for up to 7 houses.

Extract from the Emerging plan: -



This local authority owned site is currently shown as outside the Urban Boundary within which most development has to be concentrated and it forms part of the Recreation Area (RA) of Marl Pits sports area: -



Marl Pits is a thriving sports complex when new facilities are being added. The most recent additions include a golf driving range (where an extension has just been

approved). There are good reasons why the land associated with it, including site no SHLA16172 should be retained for the designated use.

In fact there are good **planning policy reasons why it should not be included either within the proposed Urban Boundary or shown for housing development:** -

1. The result of the Marl Pits complex and with which site SHLAA16172 forms part of the planning unit is excluded from the proposed Urban Boundary.
2. The National Planning Policy Framework (The Framework) specifically advises against the release of such a site for development. It states: -

*96. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.*

*97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

*a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*

*b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*

*c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

(My highlighting)

Nothing has been done to show that the release of the site meets any of the exceptions to the above policy.

3. The Council's own local policies in the form of the adopted Core Strategy supports national policy as follows: -

### **Policy 7: Social Infrastructure**

**It is proposed that social infrastructure improvements and new provision will be encouraged at suitable locations within the Borough:**

**The loss of social infrastructure / cultural facilities such as pubs, post offices, theatres, community halls, youth centres, parks and open space that require a change of use application will be resisted, particularly in local centres and small settlements. All the following factors will be considered when assessing applications:**

- **The availability of alternatives within 15 minutes travelling time by non car modes**
- **The financial viability of the existing use**
- **The results of marketing the site for existing or other community uses for a minimum period of six months**
- **Whether it is possible for the community facility to be retained in the same locality, but combined with another use**
- **Significance of loss on the local community**

**A positive approach will be taken to the development of new and enhanced social infrastructure, especially where this creates options for a variety of uses and user groups and reduces the need to travel.**

**The Council will support the delivery of broadband and communications technology to all parts of the Borough and will encourage and facilitate its use.**

## Policy 17: Rossendale's Green Infrastructure

The Council will promote the protection, enhancement and where appropriate the expansion of the Green Infrastructure network in the following ways:

1. Identification and illustration of the Green Infrastructure network (see figure 23)
2. Preparation of more detailed policies through the future Site Allocations DPD, assisted by the definition of key national, regional and the most significant local sites on the Proposals Map.
3. As part of the Council's response to climate change, new developments will be required to maximise the environmental risk management benefits of Green Infrastructure where possible through:
  - a. Flood risk management (utilising Sustainable Drainage Systems)
  - b. Providing shade, cooling and carbon storage through the planting of appropriate vegetation and tree species
  - c. Contributing to a reduction in air, water, noise and light pollution.
4. Manage and appropriately enhance existing Green Belt, open spaces, river corridors, urban green corridors and woodlands (as shown on figure 23) and continue to protect Greenlands (policy E.1 as designated in the Rossendale District Local Plan 1995). Where redevelopment takes place to enhance Green Infrastructure, the Council will seek to ensure that where necessary, opportunities are taken to address any issues of land instability or surface hazards resulting from historic mining activity.
5. Resist the fragmentation of the network by new development, and pursue the implementation of Natural England's Access to Natural Greenspace Standards (ANGSt) over the lifetime of the Core Strategy.
6. Expect new developments to contribute to the provision of recreational green space, and to incorporate improvements to the quality of, and access to, existing Green Infrastructure in accordance with local circumstances.
7. Support the improvement of and access to the Public Rights of Way network (in particular the Pennine Bridleway, Rossendale Way, Irwell Sculpture Trail, Shoe Trail and National Cycle Routes) and other linear corridors in line with Policy 9 and maximise the potential of Green Infrastructure to support sustainable and active tourism, in conjunction with the Adrenaline Gateway project.

4. The Borough Council has very recently dealt with a very similar issue involving an application to develop a former bowling green in Newchurch village which is only a few minutes away from site no SHLAA16172.(Application no 2017/0597). On the 31 August 2018 planning permission was refused for a change of use of the former bowling green for 6 houses. Two of the reasons for refusal are as follows: -

1. *The proposal would result in the loss of a sports facility in the form of a bowling green and it has not been adequately demonstrated that the bowling green is clearly surplus to requirements. In the absence of replacement or better provision or alternative sports and recreational provision, the proposal is contrary to Section 8 of the Framework and Policy 7 of the Council's Core Strategy DPD.*

*2. The proposed scheme would not plan positively for the provision of community facilities and would result in the loss of a significant area of open space, contrary to Sections 6 and 8 of the Framework and Policies 7 and 23 of the Council's Core Strategy DPD.*

The Council has shown resolve in defending sporting and recreational provision from alternate development - even when such sports and recreational provision has ceased several years ago. In fact, the Council refused a similar application for housing development on the same site under application no 2013/0513 in August 2014. The accompanying officer report includes the strong objection from Sport England and with which the LPA agreed.

It cannot be sound, therefore, for it now to propose that site no SHLAA16172 which is in its ownership should somehow be treated differently.

**Other reasons for leaving the site outside of the Urban boundary and not included as a housing allocation**

1. While the site itself is outside the Higher Cloughfold conservation Area it abuts it and the access is within the Conservation Area.  
There is no guarantee that housing can be suitably designed so as to make a positive contribution to the Conservation area (and when a recently submitted and withdrawn application for 1 no 8 bedroom dwelling gives support to such a concern)
2. The site provides a valuable area of open space with some ecological value and adds to the character and appearance of the conservation area
3. The access is both narrow and lined with protected trees. The recent application for 1 house saw the need to widen the access track – but with no regard to the impact on the protected trees
4. The access onto Newchurch Road adjoins a severe bend with very poor sight lines especially towards the East. The development of the site for up to 7 houses as the SHLAA assessment suggests is likely to add to the dangers at the junction.

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## Rossendale Borough Council

### REFUSAL OF PLANNING PERMISSION

Town and Country Planning Act 1990

#### Applicant Name:

#### Part 1 – Particulars of Application:

Dated Received: **10th July 2018**

Application Number: **2017/0597**

Proposed Works: Erection of 6 no. three-bedroom dwellings with associated works, on site of former bowling green.

Location: Boars Head 69 Church Street Newchurch

Following consideration of the application in respect of the proposal outlined above, it was resolved to **REFUSE PLANNING PERMISSION** for the following reasons:-

#### REASON(S) FOR REFUSAL

1. The proposal would result in the loss of a sports facility in the form of a bowling green and it has not been adequately demonstrated that the bowling green is clearly surplus to requirements. In the absence of replacement or better provision or alternative sports and recreational provision, the proposal is contrary to Section 8 of the Framework and Policy 7 of the Council's Core Strategy DPD.
2. The proposed scheme would not plan positively for the provision of community facilities and would result in the loss of a significant area of open space, contrary to Sections 6 and 8 of the Framework and Policies 7 and 23 of the Council's Core Strategy DPD.
3. The proposed scheme would cause significant harm to the setting of nearby listed buildings and to the historic development pattern of Newchurch, and is considered unacceptable in terms of visual amenity and heritage impact, contrary to Sections 11, 12 and 16 of the Framework and Policies 16 and 23 of the Council's Core Strategy DPD.
4. It has not been adequately demonstrated that the proposed scheme will avoid harmful impacts on the daylight, outlook and privacy of neighbouring residents at Brandwood. As such, the scheme is considered to be contrary to the guidance contained within the Framework and Policy 24 of the Council's Core Strategy DPD.

5. The application has not addressed concerns raised by the Local Highway Authority relating to access for vehicles and pedestrians, bin storage and parking provision. As such, the scheme is considered to be contrary to the guidance contained within the Framework and Policies 8, 9 and 24 of the Council's Core Strategy DPD.

**Informative**

The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at [http://www.rossendale.gov.uk/a\\_to\\_z/service/309/core\\_strategy](http://www.rossendale.gov.uk/a_to_z/service/309/core_strategy), and operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant. The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context. In this case it has not been possible to resolve the issues as set out in this refusal notice. The applicant was informed of this during the course of the application.

Date: 31.08.2018

Signed:

Development Control  
First Floor  
The Business Centre  
Futures Park  
Bacup  
OL13 0BB

Mike Atherton  
Planning Manager

## TOWN AND COUNTRY PLANNING ACT 1990

### **NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS**

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- As this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.\*
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.\*
- As this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.\*
- As this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.\*
- As this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.\*
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.\*
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at
- <http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal>
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

\* delete where inappropriate



Delegated Case	Case Officer	Date for Decision
	Richard Elliott	07 August 2014

**Application No. 2013/0513**

**Proposal :** Erection of 6 Dwellings (3 Pairs of Semi Detached)

**At:** Land to Rear of 69 Church Street, Newchurch

**Site**

The application relates to a roughly rectangular parcel of land situated between a row of traditional two/three-storey stone and slate terraced properties to the north (which includes the Boars Head Public House) and a more modern two-storey red-brick residential home (Brandwood) on lower land to the south. The land slopes down from the garden areas of properties on Church Street and drops quite steeply to the flat part of the site; the land retained by stone walls with hedging and overgrown planting above.

There are two Grade II\* listed buildings and four Grade II listed buildings adjacent to this site. To the east is the Grade II\* Church of St Nicholas with St John, to the northwest of the site lies Grade II 2-6 Old Street, immediately to the north is Grade II 62-63 Church Street, and to the west lies Grade II 5 Bolton Street. The Boars Head, whilst not listed, is a 17th century Inn directly to the north of the site. Within the churchyard of St Nicholas is the Grade II\* Harrier Hound Monument to Mesuthala Yates (1864) and a Grade II listed 18th century sundial.

The settlement of Newchurch is exceptionally well-preserved and the historic street layout (probably dating to the 16<sup>th</sup> century) is still discernible along Church Street, Church Lane and Old Street. The site has remained as open space since at least 1845 and forms part of the immediate setting of the Grade II\* Church of St Nicholas with St John.

Although not a conservation area, as evidenced above, the area is of significant historical character, characterised by the tight layout of stone and slate buildings, the narrow Church Lane, natural stone walls, St Nicholas Church and the application site itself, historically connected with the Boars Head Public House.

The historical character of the area appears to terminate to the west of Church Lane at the point where the bowling green/car park meets the red brick residential home, with a relatively modern housing development to the south of it.

Until approximately September of 2011 the application site was used as a bowling green to its western end and a car park associated with the pub and also by the Church to its eastern end.

Behind the retaining wall to the site that fronts Church Lane are presently to be seen 2 large and prominent trees; they have the protection of a Tree Preservation Order.

The site lies within the Urban Boundary, between Rawtenstall and Waterfoot, as designated in Policy 1 of the adopted Core Strategy.

### **Relevant Planning History**

2010/693      Erection of eight houses - comprising a Terraced Row of 4, & 2 Pairs of Semi Detached

This application proposed : a terrace row of four houses to face Church Lane, each with vehicular access directly from it; two pair of semi-detached dwellings located to the rear, facing southwards towards Brandwood and accessed via a new road to be created alongside the party-boundary with the residential care home. The houses were to be constructed in artificial stone and tile, with white upvc windows. The mature trees fronting Church Lane were to be removed; they were not the subject of a TPO when the application was submitted. Boundary treatment to Church Lane was to include timber fencing atop the dry stone wall in places with the gardens of the houses facing Church Lane to be separated by timber fencing to a height of approximately 1.5m.

This application was withdrawn by the applicant having been advised that the submitted scheme was to be refused for the following reasons :

- Loss of trees fronting Church Lane
- Impact on Heritage Assets including Listed Building/ Overall Character of Area
- Poor design
- Access/Parking
- Contrary to PPG17

Since the previous application was submitted the applicant has fenced off the land with temporary fencing. Accordingly, the bowling green and the car park cannot now be used as such.

2011/397 Erection of 8 houses comprising two terraces of three and 1 pair of semi detached

As described in the case officer report the main differences between the previous application were:

“The layout has been altered so that vehicular access is now to be from the north end of the site, and then turn south towards Brandwood. There will be a row of three houses facing towards its east side, thus having their backs facing towards Church Lane; the 2 trees on the frontage are shown as remaining. The other 5 houses would be split into a 3 and a 2, located to the west side of the new road and with their fronts facing towards it, thus presenting a gable to the northern and southern boundaries.”

The application was refused for the following reasons:

- 1) The proposed development would result in the loss of an area of open space (the bowling green) regularly and continually used by the local community. It has not been adequately demonstrated that this open space is surplus to requirements.
- 2) The proposed development by reason of the layout, scale, design/appearance and implications for trees the subject of a Tree Preservation Order is considered to constitute poor design that fails to protect or enhance the locally distinct character and appearance of the area and the adjacent listed buildings or their settings, most particularly the Grade II\* St Nicholas Church.
- 3) The proposed development would result in inadequate visibility splays to the north and south of the proposed access point, would not provide the required parking spaces or provide for the adequate turning for refuse vehicles within the site and would result in the loss of a pub car park with no provision provided elsewhere.
- 4) The proposed development, most particularly by reason of the dwellings to the east of the site would result in the loss of privacy to the garden areas of Bolton Street properties and loss of light/outlook to the garden areas of No's 59 and 61 Church Street.

Following on from this refusal the applicant provided with the LPA with pre application submission drawings for a revised scheme of 6 dwellings, comprising one pair of semi detached and a terrace of three set back into the site and facing Church Lane, with a detached standalone dwelling occupying more of a central position within the site with its gable to Church Lane.

Dedicated private parking to the Church was to be provided directly adjacent Church Lane.

This scheme was, with the agreement of the applicant submitted to Places Matter for a Design Review. As background Places Matter are affiliated with Cabe and provide a Design Review which according to their website “..is a respected method of improving the quality of new development by offering constructive, impartial and expert advice. Design Review panel meetings allow local authorities, clients, developers and design teams to present their schemes at the pre-planning stage to a panel of experts from the built environment sector and benefit from the discussion and constructive advice of the panel.” Such reviews are now advocated within the NPPF.

Notable points from the Review are as follows:

- The proposal is over developed for the number of dwellings and is poorly laid out with no meaningful landscape shown.
- The layout is weak with no street frontage but rather a blind gable end facing the roadway surrounded by bin stores.
- The approach to the housing design is also very weak.
- It is distressing to read the intention to use reconstituted stone, imitation slate and UPVC windows. There is no attempt being made to even mimic the quality of the buildings within the conservation area. It is further disturbing to see no attempt has been made to consider the design context of the buildings in this area as you appear to be including dormer windows and the use of random bond.
- The height of the housing terrace is too high. A storey needs to be removed. The housing shown could be anywhere. No sense of place has been considered. As it stands we cannot support such an approach to this site.
- Unless you take a more sympathetic approach to the development of this site we feel that it is doomed to fail in a number of different ways most of all from a lack of neighbourhood support. This is a unique site. There are many challenges to it as it sits within a conservation area, has a steep change in level, sits on a very tight roadway and is historically the oldest settlement within the borough.
- Within the large number of constraints of this site we feel much more could be achieved taking a more sympathetic and community minded approach. This would entail limiting the number of dwellings to a maximum of four (preferably two) and turning the front of the site into the bowling green.
- By placing this public space at the front of the site you could site your housing terrace facing onto it towards the back with parking and garden behind. This would mean that you have provided good security to the road and the bowling green by passive surveillance. It provides a good division between public and private space on the site and gives the historic church a better setting.
- By carefully analysing where this site actually sits and how it fits into the context of the area you will see that not only can you work within the constraints of the area but by providing good public amenity space

and better dwellings you would be raising the value of the land and creating a more sustainable development.

2013/0019 Erection of Six Dwellings  
Withdrawn

This application proposed: three pairs of semi-detached dwellings, three storeys in height with their frontages facing northwards and the gable of the end pair facing Church Lane; vehicular access to the houses to be served adjacent the access to the public house and adjacent dwellings; The houses were to be constructed in artificial stone for the front elevations, render to the sides and rear, white UPVC windows and artificial slate for the roofs; a bin store was proposed next to the protected tree to the north east of the site adjacent to Church Lane. Boundary treatments comprised 1.8m and 1.5m timber fencing to the rear of the house.

In the submission no reference was made to the Design review or its conclusions,

The application was withdrawn following case officer correspondence stating that it would be refused for all reasons as set out previously (design/layout and effect on listed buildings/character of the area, loss of the open space without adequate justification, highway matters, materials etc.

The applicant was again advised to go over all of the issues, take into account all previous objections and the comments from Cabe, and was also advised that it would be beneficial to them if they provided a proper and accurate heritage statement.

Inaccuracies in the submitted drawings were also pointed out, e.g. a garage to the north of the site was to be dissected in accordance with the plans, but no reference given to this.

**Proposal**

The applicant now seeks permission for the erection of six houses comprising three pairs of semi-detached in an almost identical layout and with almost identical (if not identical), design and massing to the previously submitted application. The development would require the existing retaining walls to the north of the site to be removed, pushed back further to the north and rebuilt. As per the previous application it is proposed that the existing car parking area would be made available for parking for the Church (less the bin store area). The drawings show the parking spaces nearest to Church Lane would be moved right up to the existing boundary wall, requiring some alteration to ground levels and the removal of the existing grass verge. The total number of spaces for the Church would be five.

The applicant has not chosen to amend the heritage statement, nor does the submission make any reference to the Design Review undertaken by Cabe.

The palette of materials has been amended slightly in that the house would have artificial stone fronts and slate roofs. Render is still proposed to the sides and rear as is white UPVC windows.

The submission, following an invalidation letter from the case officer now has included the area to which a garage was to be dissected and also provides access to the rear of two of the properties on Church Street.

The applicant has provided a study undertaken by Peter Brett Associates relating principally to the Open Space and Highway issues raised in all of the previous applications. The summaries and conclusions from the report are noted in brief below:

- The application scheme fully accords with the various relevant parts of the NPPF in that it will deliver new housing, is acceptable in highways terms, achieves a high level of design quality, and will have no significant adverse impact on the natural or historic environment. In light of this the application is consistent with the NPPF when taken as a whole and should be approved in accordance with the presumption in favour of sustainable development.
- The scheme has been designed to a high standard using appropriate materials, and will have no discernible impact on the setting or significance of the nearby listed building, thereby satisfying Policies 16 and 23
- The scheme, taken as a whole, meets all the relevant requirements of Policy 24 in that the proposal will have no environmental impacts; makes efficient use of land; enhances the site vis-à-vis the existing condition; is fully compatible with the surrounding area which is predominantly residential; will have no significant impact on amenity, is accessible by foot and public transport; and includes adequate parking and servicing provision.
- The Council's concerns with respect to the 'loss' of the bowling green at this location are unfounded. Furthermore, there is no policy context on which to base a reason for refusal relating to the use of this land as a bowling green.
- Access to the site is proposed via the existing, previously consented site access. Although the visibility from the site access does not meet the requirements set out in Manual for Streets, the observed speeds along Church Lane have been recorded as being significantly lower than the 30mph speed limit along Church Lane and no PICs have been recorded along the site frontage over the last five years. Therefore the

proposed site access is considered acceptable, particularly as the access is an existing site access that has previously been consented.

- The application scheme accords with the development plan when taken as a whole, and will not give rise to any significant adverse impacts that would demonstrably outweigh the genuine benefits of bringing the land back into active use to provide a contribution towards local housing provision.

## **Consultation Responses**

### **LCC (Highways)**

#### **Object**

Together the reduction in vehicle movements, the evidence provided showing low vehicle speeds on Church Lane and the acceptance that the access is an existing vehicular access that has served the public house car park for many years requires the highway authority to withdraw its former objection relating particularly to the visibility splays.

I would raise an objection to the layout of the new access road which will result in inadequate parking provision and access for goods/refuse vehicles, which I have given the details of below. If these amendments are made to the plan then I would consider withdrawing the objection.

- Plot 4 requires 2 off street parking spaces, the parking spaces shown are not acceptable within the turning head.
- The turning head should be provided to accommodate the turning of refuse and other larger delivery vehicles within the adopted highway and not within a private car park. This will eliminate the need for a bin store within the car park which will allow additional car parking spaces to be provided. I have attached the LCC specification for turning heads which will be required.
- Currently the unloading of the HGVs for the public house is carried out in a large area to the rear which is un-gated. This area also serves as a bin store for the residents of Church Street and the public house. The proposal sees this area greatly reduced in size and gated. I would recommend that the gates are removed from the plan to allow the residents free access and to ensure that the goods vehicles serving the public house can easily manoeuvre into the area.
- The driveways are 4.8 metres long and the reversing space behind is 5.5 metres. The combination of the sub-standard distances results in inadequate parking provision for plots 1 – 6. (The distances should be 6 metres driveway and 6 metres reversing distance).
- The garages must be 3m x 6m to properly accommodate a vehicle.
- There should be no boundary fences/walls/railings between the plots.
- A 1 metre wide service strip will be required alongside the carriageway to accommodate the services and street lighting columns.
- The access road and retaining walls adjacent to the highway will require building to adoptable standards. The appropriate agreements

must be entered into with the Highway Authority Lancashire County Council.

- An assessment of the retaining wall alongside Church Lane will be required due to the proximity of the parking spaces and an adequate vehicular restraint should be provided to protect the users of the highway. Details of which should be submitted to the LPA for approval.
- A footway should be provided from Church Lane on the southerly side of the access point around the radius to the car park.

#### RBC (Environmental Health)

No objection subject to conditions.

#### RBC (Conservation Officer)

Objects:

The proposal is for 6 three-storey dwellings (3 pairs of semidetached) on land between Church Street and Church Lane, Newchurch. They are sited in an east-to-west alignment with gable ends facing Church Lane. The principal façade and parking is to the north with gardens to the south.

The settlement of Newchurch is exceptionally well-preserved and the historic street layout (probably dating to the 16<sup>th</sup> century) is still discernible along Church Street, Church Lane and Old Street. The site has remained as open space since at least 1845 and forms part of the immediate setting of the Grade II\* Church of St Nicholas with St John.

Setting is defined in the National Planning Policy Framework (NPPF) as *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”*

There are two Grade II\* listed buildings and four Grade II listed buildings adjacent to this site. To the east is the Grade II\* Church of St Nicholas with St John, to the northwest of the site lies Grade II 2-6 Old Street, immediately to the north is Grade II 62-63 Church Street, and to the west lies Grade II 5 Bolton Street. The Boars Head, whilst not listed, is a 17<sup>th</sup> century Inn directly to the north of the site that contributes to the historic character of the area and the setting of the listed buildings. Within the churchyard of St Nicholas is the Grade II\* Harrier Hound Monument to Mesuthala Yates (1864) and a Grade II listed 18<sup>th</sup> century sundial.

The current St Nicholas Church dates to 1825 but this is the third church on this site, and some features from the second church of 1561 survive. 2-6 Old Street are two exceptionally well-preserved two-storey cottages dating to the 16<sup>th</sup> century. Surviving features include mullion windows and Tudor hoodmoulds. 5 Bolton Street has watershot sandstone coursing and a symmetrical, 18<sup>th</sup> century appearance. 62-63 Church Street are two-storey gabled buildings forming part of the continuous frontage along Church Street.

They possess early 19<sup>th</sup> century shopfronts. The rich variety in architectural style is unified through the use of local sandstone.

Church Lane rises steeply from the south and slopes down dramatically from the north from Church Street. The curve of Church Lane is emphasised by the continuous building line on Church Street, and views south are framed by 1 Old Street and 71 Church Street being sited directly onto the road and pavement. Further south, the tall stone walls of the church add to the sense of enclosure. The wall and mature trees of the site emphasise this enclosed atmosphere and provide an attractive setting to the Church.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (*General Duty as respects listed buildings in exercise of planning functions*) states that: *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting.”*

Paragraph 132 of the National Planning Policy Framework (NPPF) states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...Substantial harm to or loss of designated heritage assets of the highest significance, notably...grade I and II\* listed buildings... should be wholly exceptional.”*

Paragraph 137 of the NPPF states that *“Local planning authorities should look for opportunities for new development ...within the setting of heritage assets to enhance or better reveal their significance.”*

Taking into account Paragraph 132 of the NPPF, significance can be harmed or lost through development within the setting of heritage assets, and substantial harm to Grade II\* assets should be wholly exceptional. Taking into account paragraph 137 of the NPPF, any development on this site should either enhance or reveal the significance of the various Grade II\* and Grade II heritage assets which are experienced from this site and therefore form part of their setting as defined in the NPPF.

Policy 16 (5 a,b) of Rossendale Borough Council’s Core Strategy Development Plan Document (DPD) *Preserving and Enhancing Rossendale’s Built Environment* states that heritage assets and their settings will be safeguarded by ensuring development is located in a way that respects the distinctive quality of the historic landscape and setting, and retains or enhances the character and context, and is of a high standard of design. The proposed development is considered below in terms of impact on the character of the historic landscape, and impact on the setting of the Grade II\* and Grade II heritage assets.

### **Siting, Form and Layout**

The east-west alignment behind Church Street does not follow any known historic street pattern and there is no precedent for development in this area.

The gap between the road and development creates an alien layout and the main elevation being to the north with gable end facing Church Lane obscures the historic street pattern which in turn impacts negatively on the setting of the church.

There is no historic precedent for semi-detached dwellings in this area and the creation of large driveways will have further detrimental impact on the setting of the church by adding a modern inappropriate material. Viewed from the south, the dwellings will dilute the sense of enclosure created by the wall and trees by overpowering this area visually and causing space leakage.

The ground floor is stepped forward with a lean-to to main façade and porch feature, neither of which are found historically in the area and will further dilute the historic character of the area and impact negatively on the setting of the church.

### **Scale**

The three-storey dwellings are out of scale with the surrounding buildings and will compete visually with the surrounding listed buildings, most notably the Church, and obscure views of Grade II 62-63 Church Street and the Boars Head. The development may be more appropriate if sited in a north-south alignment with main façade to Church Lane, and reduced in scale to reduce impact on the listed church. However views to 62-63 Church Street and The Boars Head will still be obscured. The dwellings would be more appropriate if they were single dwellings or formed a terrace with no projecting porches or lean-tos to the main façade in order to mirror surrounding buildings which have a continuous building line. However, the enclosed character of this area and impact on surviving historic street pattern suggests development in this area would be inappropriate.

### **Materials**

The Heritage Statement states that stone will be used for the main façade with render to the sides and rear. On the application form the proposed walling material is a reconstituted stone. The coursing proposed on drawing E259-300 is not traditionally found in this area, and the proposal would be improved by using natural stone, regularly coursed, to complement the historic watershot coursed sandstone. uPVC windows and doors are not appropriate for this area, where many historic features remain. Timber would be more appropriate for doors and for windows a vertically sliding timber sash would be more appropriate. The gable end being sited onto Church Lane will present to the road a gable of part reconstituted stone and painted white render. White render will also be observed from the south of Church Lane. Painted render is not a feature of this area and the proposal would be improved by omitting render and using coursed local sandstone.

### **Landscaping**

Waney fencing is not a traditional feature of the area and a coursed wall observed in other areas along Church Lane would greatly improve the proposals. The modern pavements proposed would be better replaced by a traditional sandstone flag. The landscape buffer planting between Church

Lane and the development will neither hide nor complement the new development and create a modern car park appearance.

In considering siting, form, layout, scale, materials and landscaping, the proposal in its current form fails to preserve, enhance or better reveal the significance of the heritage assets or their setting. The proposal has a direct negative impact on the setting of the Grade II\* listed church and is therefore contrary to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF paragraphs 132 and 137, and Policy 16 (5 a and b) of Rossendale Borough Council's Core Strategy DPD.

### **Rossendale Civic Society**

Object:

The area is of significant historic interest and any development that might significantly affect this setting must be extremely high quality, well considered and intrinsically linked to its context to be acceptable.

However the applicant sees it as disguising the rear of the Boars Head and adjacent properties, whereas significance is a measure of the historic interest and importance of a place, not how pretty it is in isolation. The rears of these properties give important clues to their former uses and changes over time, which are historically interesting in their own right. To justify proposals on the basis of hiding this is to ignore what makes the place special.

With respect to the applicant's arguments about bowling green provision, while there are other greens within a claimed 15mins walking distance, has the topography been taken into account; and as its stated that bowling attracts an older demographic, that surely makes bowling a highly localised sport and that 15min walk is unacceptably long for a sport attracting predominantly older people? And there is also the very local source of older users, next door, in Regenda Housing Association's Brandwood House. The Bowling Green Is therefore an important asset as a) its understood that Edgeside is no longer in use and b) any walk from Newchurch involves a long steep hill.

The applicant aims to provide 5 car parking spaces for church users, but does not appear to have noted that provision for Car Parking to Drinking Premises in the 2011 approved Core Strategy is 1 space : 5sqm or 7.5sqm if good public transport – does the Rosso Bus Route 482 suit pub closing times? The Boars Head, 69 Church Street, BB4 9EH, is from recent sales details: a public house, stone walls, originally constructed in 1674, accommodation over three floors briefly comprises: a large bar and lounge area, commercial kitchen, male and female toilets, first floor, two bedrooms, lounge, office, wc and an open second floor. To the outside there is a flagged beer garden to the rear with views over the Rossendale Valley. EPC Certificate gives total useful floor area 294sqm. The ground floor extends to the rear, so how much is licensed; 100sqm would suggest at least 14 spaces.

When you look at the actual layout of these houses, points that stand out are:

1. No stated overlooking distance down into the claimed non habitable room windows of a large sheltered housing scheme – RBC policy is 13m for 2 storey + 3m for extra storey height as here = 16m, but as proposed it looks closer to 14m, and there's also a proposal to further obstruct its windows with a garden fence. Are all these windows to corridors, or are some to Kitchens, which if space for a table could count as a habitable room?
2. The application refers to requirements in Core Strategy, so should not be surprised that these include Lifetime Homes, which allows for comments on the internal layout and space standards of these houses, and RCT do not see that these homes are Lifetime Homes.
3. The present housing design looks to be challenged by its site width north to south. by whatever space is needed for a retaining wall to gardens of overlooking houses and the Boars Head, by a 5.5m wide access road, by a 4.8 or 5m depth of car parking, and by an overlooking distance down to the sheltered housing scheme. Note how the swept path, shown for a large refuse vehicle allows access from only the upper section of Church Lane, and for cars, note how much reversing is needed to use the end house's parking spaces.
4. So what's left for the houses – look at the size of the Dining Kitchen – a table with 4 chairs for a 3 bedroom 5 person house – where's its fridge freezer to stand, or its washing machine, drier and dish washer. In the First Floor Bedroom, look at the space around the double bed – is it a small 1400 double or the more usual 1500 width, and what happens when someone brakes a leg and needs to use a walking frame? And same need for this extra space in the Bathroom = Lifetime Homes???
5. Then there's the staircase open all the way from the Living Room to the Second Floor, and with no Hallway to the Front Door. A permanent vent in winter to keep it cool and increase energy bills. And what if there's a fire, don't the Building Regs, expect stairs in 3 storey houses to be in a 30 minutes fire resisting enclosure to an escape, either at ground level or to a safe level to fall from?
6. Do these proposed houses, with so much blank walls over their first floor windows and to their side gables, show the same respect for this windy exposed site, as does the terrace along Church Street? In such locations should we need to see a layout which the winds blow over rather than through it?
7. There's a need to look at the wall adjoining the proposed building site and Bolton Street and there are no details for the design of the retaining wall between fronts of houses and back of Church Street.
8. There is also a need to show height between new build roofs and Church tower? This too will be important when seen across the valley, and even from approaching the village along Staghills Road.

### **Neighbour Notification Responses**

To accord with the statutory requirements a press notice was published on 20/06/2014, 52 local residents have been notified by letter and site notices were posted on 16/06/2014.

116 objections have been received, including an objection from Sport England. The following are the main points raised:

- Impact on protected trees
- Highway safety
- Inaccurate plans and supporting information
- Inappropriate materials, design, layout etc
- Very similar to the previous application
- Contrary to local and national planning policy
- Impact on amenities of surrounding residents including the occupants of Brandwood
- Land subsidence caused by construction and reduction in the retaining walls, no assessment as to how the development would be achieved in light of this and no assessment as to the strength of existing retaining walls
- Loss of the bowling green – there was still an active team in 2011 until the site was closed off and green was dug up
- Part of the land is owned by residents at 61 Church Street
- There has been no community consultation

Sport England (although not a statutory consultee) object for the following reason:

The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation. Sport England has assessed the application in the light of Sport England's Land Use Planning Policy Statement 'Planning for Sport Aims and Objectives'.

The statement details Sport England's three objectives in its involvement in planning matters;

- 1) To prevent the loss of sports facilities and land along with access to natural resources used for sport.
- 2) To ensure that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable.
- 3) To ensure that new sports facilities are planned for and provided in a positive and integrated way and that opportunities for new facilities are identified to meet current and future demands for sporting participation.

The site of the proposed housing contains a bowling green which was in active use by Boars Head Bowling Club. Sport England has been advised that the bowling green has been demolished.

The NPPF is clear in its advice relating to sport facilities and it does not distinguish between private sport facilities and public ones. Paragraph 74 states:

*“74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”*

We note that an assessment has been submitted in an attempt to meet the first bullet point of paragraph 74. Having reviewed the assessment, we do not consider that this assessment shows that the bowling green is surplus to requirements for the reasons set out in Appendix 1 of this letter.

Sport England therefore considers that the proposal conflicts with Objective 1 of Sport England’s Land Use Planning Policy Statement. Without any replacement facility, the proposal is also contrary to paragraph 74 of the NPPF as the assessment has not demonstrated that the bowling green is clearly surplus to requirements.

In light of the above and the lack of evidence of any other exceptional circumstances Sport England **objects** to the proposal.

Given the lack of evidence that the bowling green is surplus, Sport England would suggest that the applicant should replace the bowling green in the locality or provide the Council with a commuted sum to provide the bowling green.

## **Policy Context**

### **National**

Section 1	Building a Strong Competitive Economy
Section 4	Promoting Sustainable Transport
Section 6	Delivering a Wide Choice of High Quality Homes
Section 7	Requiring Good Design
Section 8	Promoting Healthy Communities
Section 10	Meeting the Challenges of Climate Change, Flooding, etc
Section 11	Conserving and Enhancing the Natural Environment
Section 12	Conserving and Enhancing the Historic Environment

### **Development Plan**

#### **Rossendale Core Strategy DPD (2011)**

AVP 3:	Waterfoot, Lumb, Cowpe and Water
Policy 1	General Development Locations and Principles
Policy 2	Meeting Rossendale’s Housing Requirement
Policy 3	Distribution of Additional Housing

Policy 4	Affordable and Supported Housing
Policy 7	Social Infrastructure
Policy 13	Protecting Key Local Retail and Other Services
Policy 16	Preserving and Enhancing the Built Environment
Policy 18	Biodiversity and Landscape Conservation
Policy 19	Climate Change & Low Carbon & Zero Carbon Sources of Energy
Policy 22	Planning Contributions
Policy 23	Promoting High Quality Designed Spaces
Policy 24	Planning Application Requirement

### **Other Material Planning Considerations**

National Planning Practice Guidance (2014)

Planning (Listed Buildings and Conservation Areas) Act 1990

### **Assessment**

The main issues to be considered in the determination of this application are:

- 1) Principle
- 2) Housing
- 3) Heritage Issues/Visual Amenity
- 4) Neighbour Amenity
- 5) Access/Parking

#### **Principle**

The development is located within the Urban Boundary of Waterfoot and is in a sustainable location close to regular bus routes and the Town Centre. It is something of a moot point as to whether the land would constitute previously-developed land or not. To my mind, and based on information I have received from neighbours and the applicant, the bowling green and car park have historically been connected with The Boars Head Public House. Accordingly, I consider the land to be previously developed. As the Council, in accordance with National Planning Guidance, seek to locate most new housing development in sustainable locations on previously-developed land within the Urban Boundary I do not consider the scheme unacceptable in this regard, however, I am aware that in accordance with the NPPF definition of previously developed land it should not be assumed that the whole of the curtilage should be developed.

The western part of the site has until recently been used as a bowling green and, despite the applicant's claims to the contrary, I do consider that it has been used by members of the community up until the site was relatively recently closed off by the applicant, who had purchased the Public House and the Bowling Green/Car Park.

Bowling Greens were within the definition of open space contained within the now replaced PPG17, in accordance with the definition they could be either publicly or privately owned.

The NPPF now having replaced PPG17 provides guidance on the matter within paragraph 74:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”

The NPPF defines open space as ‘All open space of public value, including not just land, but also areas of water which offer important opportunities for sport and recreation and can act as a visual amenity.’

I am satisfied that part of the site constitutes an existing open space to which paragraph 74 of the NPPF applies. This is now (after 3 previous submissions) finally accepted by the applicant and a report has been produced in order to overcome previous objections in this regard.

It is recognised that the site does not constitute a playing field, and therefore, consultation with Sport England has been undertaken on a non-statutory basis. However, this does not lessen the requirements of paragraph 74 of the NPPF and Sport England is considered the appropriate body to assess such applications.

Sport England has maintained their objection to the scheme, stating that the report does not adequately address the requirement(s) of paragraph 74 of the NPPF. The response from Sport England specifically identifies sections of the report that further their conclusions.

I have no reason to disagree with the conclusion reached by Sport England and I concur with many if not all of their points relating to the applicant’s submitted report. I would further add, as referenced by a number of residents in their objection letters, that there does not appear to be any consideration given to the accessibility of this particular site for local residents, which would clearly be a significant consideration for local residents, particularly the elderly, who may find it difficult to walk to alternative sites given the topography of Rossendale.

Accordingly I concur with the views of Sport England that the proposal would result in the loss of a sports facility in the form of a bowling green and it has not been adequately demonstrated that the bowling green is clearly surplus to requirements. In the absence of replacement or better provision or alternative sports and recreational provision the proposal is contrary to paragraph 74 of the NPPF.

Policy 7 of the Council's Core Strategy continues the approach of paragraph 74 of the NPPF to protecting open space. I disagree with the view of the applicant that Policy 7 is not applicable as the land is not included in any designation or park or open space. I would contend that as the open space fits within the definition of open space, the requirements of Policy 7 are applicable and largely consistent with paragraph 74 of the NPPF.

### Housing

Despite claims within the applicant's submission that the Council does not have a five year housing land supply, the LPA in a report to Cabinet on 16th July has identified a deliverable five year housing land supply for the five year period from 1 April 2014 to 31 March 2019, with a base date of 31 March 2014.

Relevant local planning policies in respect of housing are therefore still applicable in the determination of this application. Furthermore, this is not a site allocated for housing within the Council's Local Plan and nor is it proposed to be.

The site lies between Rawtenstall and Waterfoot, settlements where the Council recognise that there is capacity to provide significant additional housing towards meeting the net housing requirement for the plan period, with priority being given to previously developed land.

I do not consider that the 6 additional houses here would have a detrimental impact on capacity or infrastructure, and would not compromise the Council's housing strategy. There would be no requirement for any affordable units, the scheme being on previously developed land and for less than 15 dwellings.

In line with section 6 of Policy 2 and consistent with the NPPF definition of previously developed land that there is no presumption that the whole of the curtilage of a property should be built on, 'the net housing requirement should be met by safeguarding the character of established residential areas from over-intensive and inappropriate new development'.

All previous applications have been considered inappropriate and over-intensive having regard to site constraints and it is considered that this application does not differ in this regard, as will be demonstrated in the remaining sections of this report.

### Heritage Issues / Visual Amenity

The applicant has been provided with a considerable amount of feedback and information relating to previous applications. The applicant has been given ample opportunity to address previous objections and to alter their schemes accordingly.

It is a source of much frustration to local residents and the LPA that very little has been done to address all such issues and it remains the case that the applicant has failed to acknowledge the advice provided from Cabe.

Irrespective of such advice it appears that the applicants also continue to downplay the significance of the open space on the historic character of the area and the significance it has on the setting of surrounding heritage assets.

Setting is defined in the National Planning Policy Framework (NPPF) as *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”*

The current application is very similar to that previously submitted and subsequently withdrawn to prevent a refusal of planning permission.

A meeting has been held with the applicant and their representatives in relation to this scheme in which it was again made clear that this scheme is considered wholly unacceptable.

Although national planning policy has changed significantly since the refused application ref: 2011/ 0397(NPPF replacing PPS's and PPG's) design and heritage continue to be amongst the core planning principles and a fundamental part of sustainable development. The more recently published NPPG further adds to the weight that needs to be given to heritage and good design. Policies within the Council's Core Strategy are consistent with relevant policies in the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990 remains.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (General Duty as respects listed buildings in exercise of planning functions) states that: “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting.”

Some notable paragraphs of the NPPF relevant to this application are below:

Para 56 “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”

Para 64 “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

Para 66 “Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.”

Para 131 “In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage
- assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Para 132 “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”

Para 133 “Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Para 134 “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

Para 135 “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

I can only concur with the views expressed by the Council's Conservation Officer (and previous Conservation Officers), Rossendale Civic Society and the majority of opposing residents regarding the unsuitability of this scheme. It is considered that the site forms an important part of the historic character of the area. The site continues to and has historically formed a pocket of open space between the listed buildings to the north, east and west of the site. In addition to the two oak trees to the front of the site, existing stone boundary treatments, retaining walls and landscaping within and bordering the site it forms a highly significant setting to the Grade II\* Listed Church and the other listed buildings.

In addition, the open space provides a visual break between the old and new along Church Lane. The open space, therefore, has a positive role to play in the area and for the community.

In short, I retain the opinions I expressed in previous reports and all previous correspondence on the matter that the proposed scheme does very little, if anything, to respect the character of the area or its setting adjacent to the listed buildings.

The houses, as proposed, have no affinity with the Grade II\* Listed Church or the surrounding Listed Buildings on Church Street and Robert Street, in terms of design, form, layout or materials. The layout of the properties is more akin to standard modern housing development compounded by the 3-storey semi detached town-house design. The proposed use of artificial stone, substantial areas of render (sides and rear) and white upvc windows is incompatible with the natural stone/stone slates/slates used on those buildings with which the land is considered to have a historical affinity. A rendered gable facing Church Street and the Grade II\* St Nicholas Church is not considered appropriate.

The proposal includes works to the existing parking area, namely digging up and into the existing verge up to the retaining wall with Church Lane in very close proximity to the two protected Ash trees. There will also be a 25sqm bin store placed beneath one of the trees. The submitted tree report pre-dates this application and does not refer to these aspects of the scheme. Clearly the alteration to the ground levels, the construction of a hard surface and the bin store would/could have serious implications for the protected trees which are features that positively contribute to the character and appearance of the area, and the setting of the listed buildings. Irrespective of the impact on the trees the siting of a relatively large bin store immediately adjacent to Church Lane would not be appropriate.

The proposed street design, inclusive of the turning heads, parking areas and tarmac surfaces do appear a highway engineered solution that in themselves would not be particularly appropriate to such a site and nor would the proposed timber fencing. There is a possible conflict between heritage and highway standards in respect of this matter which could be overcome should

any alternative schemes come forwards for a lesser number of residential units.

In conclusion, the proposed development by reason of the layout, scale, design/appearance and implications for trees subject to a Tree Preservation Order is considered to constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, does not contribute positively to making the area better for people and would cause substantial harm to designated heritage assets and their setting, including the Grade II\* St Nicholas Church to which it has not been demonstrated that this harm is necessary to achieve substantial public benefits that would outweigh the harm identified.

The scheme is considered unacceptable in terms of visual amenity/heritage impact.

#### Neighbour Amenity

I do not consider that there would be a significant loss of light, privacy or outlook to those residents at Brandwood, the first floor windows facing onto the application site being non habitable. Nor do I consider there to be an undue loss of light/outlook to those residents on Church Street owing to the level and separation distances between the properties. There would not now be any significant overlooking to garden areas of neighbouring residential properties to the east. The scheme is considered acceptable in terms of neighbour amenity.

#### Access/Parking

There is an objection from the Highway Authority and as submitted the proposal in my view would be detrimental to highway safety.

Further information would be required in relation to how the existing area to the rear of No.67, 69 and 71 is used by vehicles and how the existing public house and the proposed site would function to ensure deliveries and refuse could be carried out without causing harm to highway safety in the area.

Proposed parking and turning within the site for the proposed houses and refuse vehicles is inadequate as shown, and the scheme lacks a required service strip for services and street lighting columns. This would also lessen the extent of parking and turning within the site.

I understand residents' concerns relating to the loss of parking for the public house, however, the Highway Authority has been made aware of this issue but do not consider it warrants an objection .

However, in the absence of amended plans to address the highway authority reasons for objecting I consider the application unacceptable in terms of highway safety.

The scheme is considered unacceptable in terms of highway safety.

## **Reasons for Refusal**

- 1) The proposed development would result in the loss of an area of open space (the bowling green) which up until recently was regularly and continually used by the local community. It has not been clearly shown that this open space is surplus to requirements, or that its loss would be replaced by equivalent or better provision, or that the development is for alternative sports and recreation provision. Accordingly, the scheme is contrary to the advice of Sport England, paragraph 74 of the NPPF and Policy 7 of the Council's adopted Core Strategy DPD (2011).
  
- 2) The proposed development by reason of the layout, scale, design/appearance and implications for trees covered by a Tree Preservation Order, constitutes poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, does not contribute positively to making the area better for people and would cause substantial harm to designated heritage assets and their setting, including the Grade II\* St Nicholas Church to which it has not been demonstrated that this harm is necessary to achieve substantial public benefits that would outweigh the harm identified. Furthermore, the scheme, which is very similar to that of application reference 2013/0019, has failed to address concerns previously raised by the LPA and failed to acknowledge the comments and conclusions resulting from a Cobe Design Review specifically relating to the site. The application is considered contrary to the NPPF and Policies 1, 2, 8, 9, 16, 18, 23 and 24 of the Council's Core Strategy DPD (2011).
  
- 3) Proposed parking, turning and access to/within the site for the proposed houses and for good/refuse vehicles is inadequate as shown and the scheme lacks a required service strip for services and street lighting columns which would further lessen the extent of parking and turning within the site. The proposed development would also result in a significant reduction to the area to the rear of no's 67, 69 and 71 Church Street with insufficient information provided to fully assess the impact this would have on the area, most particularly taking into account the dray wagons necessary for the public house. In the absence of amended plans to address the objections raised by the Highway Authority, the scheme is considered contrary to the NPPF, Policies 1, 8, 9, 23 and 24 of the Council's Core Strategy DPD (2011).

**CASE OFFICER**.....**DATE**:.....

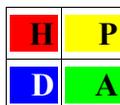
**PRINCIPAL PLANNING OFFICER**.....**DATE**:.....



**Objection to the emerging local plan on behalf of Mr S. Ainsworth with regard to the proposed exclusion of a site to the West of the former Glory public house (now apartments) within the Urban Boundary and for its excluded allocation for housing development.**

GR 381264;427214

## **Planning Statement**



**September 2018**

**Prepared by Hartley Planning and Development Associates Ltd**

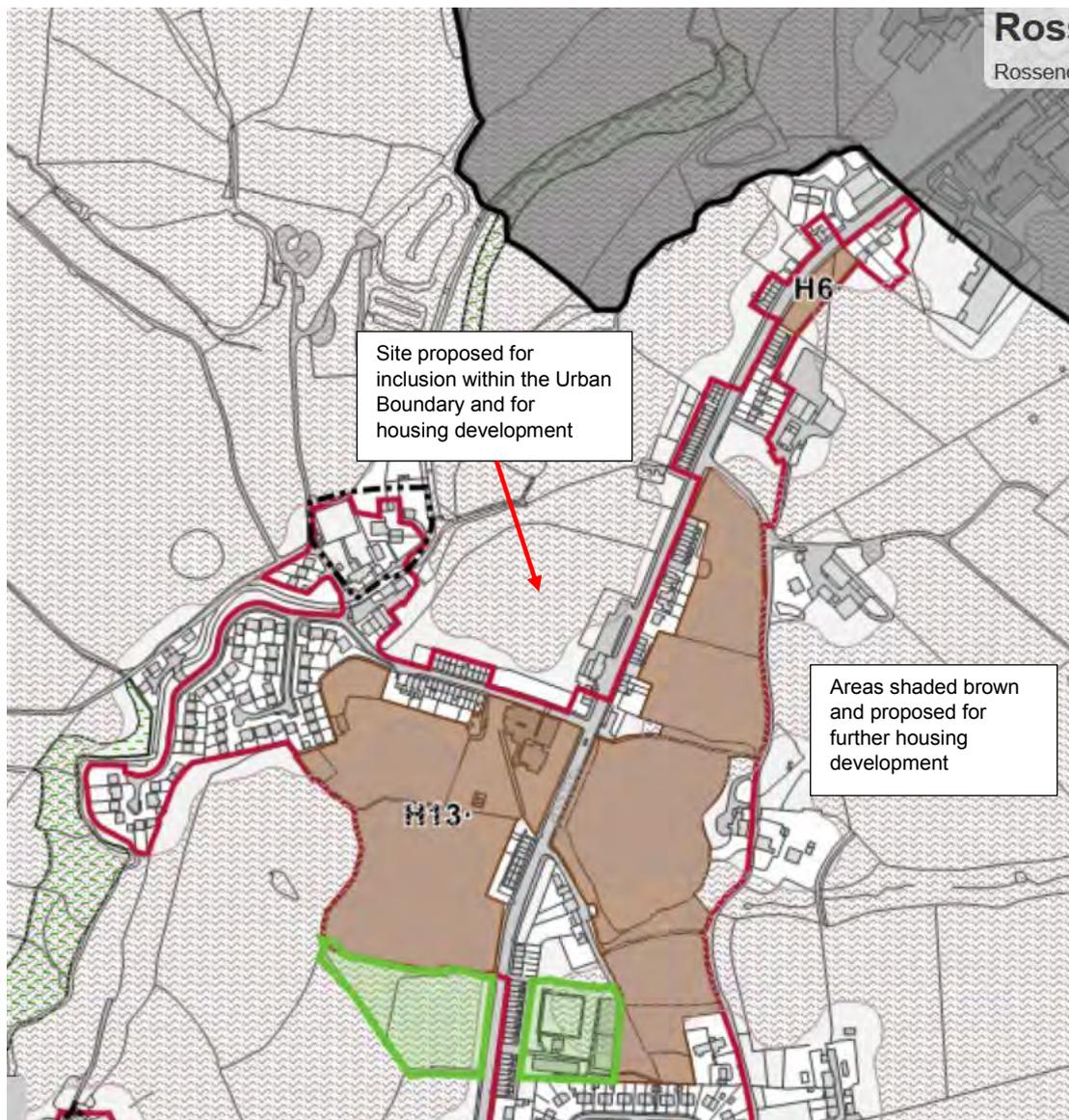
This objection is submitted on behalf of Mr S. Ainsworth

The objection relates to the Housing Topic paper, paragraph 3.3 and in particular to the evidence base paper, the Strategic Housing land Availability Assessment (2018),

In October 2017 representations were submitted to the Council for the inclusion of this site for inclusion within the Urban Boundary and for its allocation for housing purposes.

The current consultation document does not propose its inclusion within the Urban Boundary or for housing purposes but it does propose that adjacent land should be treated in this way

Extract from the consultation plan: -



Land immediately to the South and to the East is being proposed for inclusion within the Urban Boundary and for allocation for housing development.

There is a logic for including the following site in the same way: -



1. The inclusion of the above site with the adjoining sites proposed for housing development makes a coherent boundary to proposed development on both sides of Burnley road
2. The site is as sustainably located as the adjoining sites which are proposed for housing development
3. The site has been used in the past for non -agricultural uses.
4. Most of the site is relatively flat with no known constraints for its development
5. There is good access in the vicinity of the existing access to the former public house car park
6. It is conceivable that some of the sites proposed for development throughout the Borough will not be included in the eventual plan or, if they are included, will not proceed to development for a variety of reasons. In such circumstances it seems likely that other sites will have to be brought forward which are deliverable. The owner is willing to develop the site immediately.

SH.260918

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Regulation 19 Consultation : Objection to The Rossendale Draft Local Plan  
Policy HS18: Gypsies, Travellers and Travelling Showpeople

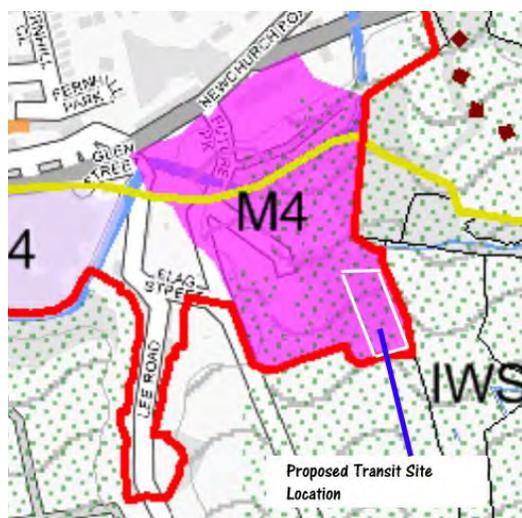
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### Interest

1. I have been a resident of Stacksteads since 1967 and have lived at the above address since 1986. My home is about 500metres from the proposed Transit Site and overlooks the site from the north side of the valley. I am familiar with the history of the development of Futures Park. Before retirement, I was a Headteacher in the nearby Borough of Hyndburn for 27 years. My school was located near two permanent Traveller sites and many of the children from the sites attended my school. I have a reasonable understanding of the issues affecting Traveller families and am sympathetic to the creation of a suitable and deliverable site in the area.

### Introduction

2. This representation objects to a section of Policy HS18 contained in the pre-submission version of the Local Plan published on 23 August 2018:  
*“A Transit Site accommodating a minimum of four pitches will be provided on a site at Futures Park, Bacup shown on the Policies Map as an Employment Mixed Use site M4.”*  
It is important to clarify at the outset that the proposed area for the Gypsy and Traveller Transit Site (TSA) is located in woodland at the extreme southeast corner of an area identified in the Local Plan as Mixed Use Area - Futures Park (M4).



The local plan identifies an Employment Area within M4 as Emp18 but, while this is a large part of M4, it does not include the area designated for the TSA. This means that descriptions, assessments and reports relating to Emp18 do not apply to the TSA.

There is considerable confusion and inconsistency between the documents published by RBC about the extent and characteristics of 'Futures Park'. It would seem that references to the Futures Park TSA have been hastily added to existing documents very late stage. Some of the Regulation 19 documents published on 23 August still contained references to Barlow Bottoms as the location for the TSA.

- 3 The following image is from the section on Emp18 contained in Appendix 5(Site Pro-formas) of the Rossendale Employment Land Review Final Report 2017 (Page 47). Woodland along the eastern boundary of M4 and in the location of the proposed TSA is clearly not included within Emp18.



## Soundness Arguments

4. My contention is that the inclusion of the TSA in policy M18 fails all four tests of soundness at NPPF paragraph 35, namely
5. Positively Prepared
  - 5.1 Identification of a supply of specific and deliverable traveller sites has not been robustly and methodically carried out against consistent criteria related to the Government guidelines as set out in DCLG 'Planning Policy for Traveller Sites 2015'
  - 5.2 As a result, several sites proved to be undeliverable during the local plan consultation which was withdrawn in 2015 and during the Regulation 18 Consultation for the current plan. Because of the failure of these sites to be considered deliverable, the Futures Park TSA was included in the Regulation 19 consultation as a hasty and poorly assessed expedient to meet the deadline for Inspection
  - 5.3 The TSA is not included in the suitability and sustainability assessments and reports relating to the M4 Mixed Employment area, Emp18 Employment Area or in the SHLAA. Therefore, the suitability of the Futures Park TSA was not effectively assessed before its inclusion in PolicyM18.
  - 5.4 The TSA was not included in the Regulation 18 Consultation for the current plan, contrary to the requirement to pay particular attention to early and effective community engagement with both settled and traveller communities.
  - 5.5 No public information was provided with regard to the inclusion of the Futures Park TSA in the Local Plan before the Regulation 19 Consultation. No engagement with key stakeholders and local groups was undertaken before the Regulation 19 Consultation. This is contrary to RBC's own current, published Statement of Community Involvement.
  - 5.6 Documentary evidence of the unsuitability of the Futures Park TSA in Ground Investigation Surveys commissioned by Rossendale Borough Council in 1999, 2005 and 2013 was not taken into account in the site selection process.
  - 5.7 It is highly likely that, because of the insertion of Futures Park TSA in the pre-submission version of the Local Plan (23 August 2018), at such a late stage, RBC staff were unprepared and the draft plan documentation was hurriedly amended. For Example
    - A plan showing the indicative position of the TSA was not published until 2 September
    - Capacity of the TSA is 'up to four pitches' on Page 22 of the Local Plan but a 'minimum of four pitches' on page 45.
    - The 23 August version of the plan still contained references that the TSA would be at Barlow Bottoms not Futures Park.
6. Justified
  - 6.1 Inclusion of the Futures Park TSA in Policy M18 is not the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence.
  - 6.2 There is specific evidence about the historical use, topography, land stability, contamination, vehicle access, environmental impact and cost of the TSA which has

not been considered. Failure to consider this evidence means that the TSA is unlikely to be deliverable or provide an appropriate living environment for travellers.

- 6.3 No evaluation of the loss of amenity value of the wooded area on which the TSA is proposed has taken place.
  - 6.4 No investigation of the effects on habitats and protected species has taken place.
  - 6.5 Possible restrictive covenants arising from the development of the H4 site by NWDA in 2001-2004 have not been taken into account
  - 6.6 The RBC 2016 Gypsy and Traveller Accommodation Assessment section dealing with Transit Sites has been subject to only superficial analysis. Qualitative information and updated data about Unauthorised Encampments does not seem to have been considered.
  - 6.7 No attempt has been made to engage with transitory travelling families in order to gather evidence on which their needs can be assessed.
7. Effective
- 7.1 The site is likely to be undeliverable over the required period and is unlikely to be granted planning permission.
  - 7.2 The costs associated with preparing and the developing the site have not been identified. There is no evidence presented that such costs could be met and that the development of the site would be viable
  - 7.3 No regard has been given to who would bring forward the development and how would it be done.
  - 7.4 There has been no evidence of investigation into the effects of the TSA on the development of Employment and Industry on the Futures Park Site (Emp18)
  - 7.5 There has been no evidence of investigation into the effects of the TSA on the development of the Mountain Bike Trailhead Centre and the use of the Lee Quarry Mountain Bike Trail. These are major parts of RBC's Tourist Policy
  - 7.6 The TSA is not included in the Sustainability Appraisal of the Local Plan which deals with site M4 Mixed Employment Area.
- 8... Consistent with national policy
- 8.1 The inclusion of the Futures Park TSA in Policy M18 is inconsistent with the DCLG 'Planning Policy for Traveller Sites 2015' and earlier guidance.
  - 8.2 Rossendale Borough Council has not followed DEFRA Contaminated Land Statutory Guidance Relating to The Environmental Protection Act 1990: Part 2A
  - 8.3 Rossendale Borough Council has not followed the MHCLG National Planning Policy Framework 2018 Paragraphs 174 and 178

## Proposed Site Location

9. The minutes of the full council meeting held on 11 July 2018 record the following:

Councillor Serridge asked the Portfolio Holder to consider amending the plan and section 5.5 of the report to remove Barlow Bottoms and state *“Gypsy and Traveller Transit Site relocated to a small discreet piece of land owned by the Borough Council at the far corner of Futures Park,”*

The pre-submission version of the Local Plan published on 23 August 2018 includes the following in Policy M18.

*“A Transit Site accommodating a minimum of four pitches will be provided on a site at Futures Park, Bacup shown on the Policies Map as an Employment Mixed Use site M4.”*

10. As mentioned in the introduction, it is important to identify the exact position of the proposed TSA within Futures Park (M4) since there is inconsistency in definitions of this area between different documents. Employment Area Emp18 is not the same as M4 and does not include the woodland where the TSA is proposed. As a result, the site assessments related to Emp18 do not include the TSA.

It is worth noting that developable area of M4 is omitted in the 23 August Draft Plan - Housing Site Allocations (Table1) but given as 4.6 Ha in the same section of the Errata Document of 3 September. Its area is specified as gross 3.68ha and net 2.64ha in the Employment Land Review for Emp18. (Appendix 5)

To assist with this clarification, three plans are provided on the following pages

11. Plan 1:  
On 2 August 2018, Rossendale Borough Council published a plan of the indicative location of the TSA within the Futures Park Site on their website. This indicated that the TSA would be located in an area of about 80m x 45m in the extreme southeast of the M4 site. The location is in the southernmost plot of the site labelled Plot 3 on this plan. Earlier and more accurate plans label this area as Plot 5 (see plan 2).
12. Plan 2  
This is the most accurate and detailed plan and was drawn up at the time of an application for planning permission for the proposed Trailhead Centre in 2013. I have indicated the approximate extent of the proposed TSA. This plan also shows the approximate area of leather waste identified in the 2013 Ground Survey.
13. Plan 3  
This was drawn up by RBC Planning Department in 2001 prior to the clearing and remediation of the site by NWDA in 2001-2004. The proposed locations of 5 industrial/commercial units are indicated. It clearly shows that the TSA was not considered for development.

# Plan 1







This area not considered for building - marked 'Trees' on the original plan.

**Plan 3**  
 Prepared by RBC 2001 showing  
 proposed layout of buiness units

BOROUGH OF ROSSENDALE	
John Campa, F.R.I.C.S., M.R.T.P.I. Borough Engineer & Planning 300/301 Lee Hill Lonsdale OL13 0PE Teler: 01706 874333	
Scale	1:250
Drawn	Bois J.
Checked	Approved
Drawing Title LEE HILL, INDUSTRIAL PROVISIONAL LAY PLAN NO. 0110	

2.57  
 (SEF)

## History of the Futures Park Site

14. The development history of the site and, specifically, Plot 5 is important to the understanding of the suitability of the TSA for the building of the traveller site and subsequent living conditions.

This is summarised in the attached document **TSAMaps.pdf**

Additional information can be found at the website: [www.futurespark.inbacup.com](http://www.futurespark.inbacup.com)

15. The area was originally agricultural land in a loop of the River Irwell. In common with other similar loops nearby it was a level area and part of the flood plain of the river. By the 1890's a tramway and industrial buildings associated with the nearby Lee Quarries had been built and a small quarry to the SW of the site was in use as a landfill area.
16. In the late 1890's an artificial channel was cut to change the course of the Irwell and provide a useable site for development of industrial activities connected with the quarry. The landfill site (Phase 1) expanded to the north and east of the original tip to include all of the area which became Plot 5 of Futures Park. The nearby cotton mills (Lee Mill, Olive Mill and Kiln Holme Mill) were converted to footwear and felt manufacture in the period 1917- 1927.
17. The landfill area had expanded significantly (Phase 2) by the 1930's to receive domestic waste and industrial waste from the nearby footwear and felt factories. The original tip (Phase 1) formed a high bank along the southern boundary of the Futures Park site. Landfill depths in Plot 5 range from 3-9 metres and include an area of leather waste, possibly from the nearby footwear factories.
18. Landfill continued until at least the late 1960's (Phase 3) forming steep, uneven banks within the TSA. The Plot 4 was used as a ready-mixed concrete plant in the 1980's and 1990's.
19. In the late 1990's proposals were made to clear the site of the former industrial buildings, form new infrastructure and remediate contamination the site with a view to providing industrial/commercial development. This was carried out during 2001-2004 by a consortium headed by the Northwest Development Agency. A ground investigation survey commissioned by RBC in 1999 revealed significant contamination, levelling and building issues across the whole area caused by previous industrial use and landfill.
20. Access roads and the Kingfisher Centre were built 2001-2004 but the remainder of the Futures Park Site (M4) has remained undeveloped since then. Further Ground Investigations were commissioned for the by RBC in 2005 and 2013 both of which reported that there were significant unresolved contamination and building issues.

The extent of levelling, clearance and remediation of the whole site in 2001-2004 is unclear, but the topography, soil stability and age of woodland in the TSA indicate that it was not included in the remediation of the site in 2001-2004.
21. In 2013, a local business proposed to build a Trailhead Centre on Plot 4 (See Plan 2) to provide facilities for Lee Quarry Mountain Bike Trail. This was granted planning permission subject to ground investigation and remediation. The remediation problems prevented the project being carried forward and the planning permission expired in 2016.

## Supply of Traveller Sites 2014-2018.

22. The DCLG document 'Planning Policy for traveller sites' (August 2015) requires that Local Planning Authorities  
*'identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets'*  
*To be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within five years.*
23. It would be expected that RBC would have considered these recommendations in drawing up a list of sites. It is also reasonable to assume that the withdrawn guidance given in the DCLG document designing 'Gypsy and Traveller Sites- Good Practice Guide' should have been followed in respect of sites identified before 2015. Many local authorities have drawn up a robust policy for site selection and have assessed sites according to a set of standard criteria, often using a scored matrix approach. These policies and assessments are routinely open to discussion and examination by the public.
24. It is difficult to discern the principles and methods used by RBC as most of the discussion seems to have taken place between officers and elected members. Attempts have been made to locate records or minutes of these discussions but RBC have stated that the meetings are not public meetings and no minutes have been made available. However, on the basis that so many of the selected sites have proved to be undeliverable and that an unsuitable and undeliverable site is now the Council's preferred option, it seems likely that the site selection process has not been effective.
25. Some clues to the process are provided in the 'Gypsy and Traveller Topic Paper' published by Rossendale Borough Council in August 2018 to support the pre-submission draft of the Local Plan. In 2014, a long list was drawn up of 'Draft Initial Thoughts' consisting of nineteen possible sites with perfunctory notes for each site. This list was never made public.
26. The Proposed Gypsy Allocations-Site Allocations DPD of 2015 included three sites, two at Blackwood Rd and a site at Baxenden. A grid was prepared for each site with a reasonable analysis, although the ownership of G2 was stated to be 'Public' which proved later not to be the case. This DPD was withdrawn in February 2016. Page 3 of the Topic paper cites public opposition and landownership issues as the main factors in these sites becoming undeliverable. It could be reasonably assumed that land ownership should have been considered in the site assessment process.
27. The Topic Paper then moves on to the Regulation 18 Consultation for the current plan. It states that the selection of sites for consideration was discussed by the Council's Management Team but gives no information about the selection criteria or which sites were considered. Their only preferred site, included in the Regulation 18 Consultation, was at Sharneyford Quarry. This again proved to be undeliverable by the end of the Regulation 18 consultation with RBC citing flood risk, isolation and landownership as factors, along with strong community objection. Again it would seem reasonable to have considered these factors in the initial assessment.
28. The Topic Paper then outlines a number of alternative sites for consideration under Regulation 19 and a site at Barlow Bottoms, Whitworth was chosen. The list of sites

considered and assessments were again only known to RBCs Senior Management Team and Cabinet members and not made public until the publication of the G&T Topic Paper on 23 August 2018

29. Barlow Bottoms was formally proposed in a Council Report on 4 July, five working days before the Full Council Meeting on 11 July 2018. Approval of a site at this meeting was considered by RBC to be essential to meet the deadline for publication and final submission of the Local Plan.
30. The residents of Whitworth learned of the proposed site and organised an effective campaign of opposition in just a few days. At a very late stage, land ownership issues were raised as a reason for the site to be undeliverable, although this is not mentioned in the G&T Topic Paper. Some of this site is owned by Lancashire County Council (including access to the site), RBC own part of the land but the ownership of the central part of the site is unknown and not registered with the Land Registry. This land was offered for sale by RBC for housing development as early as 2007 and it would be reasonable to assume that land ownership issues would have been investigated at this time.

These problems is could have been established before the site was proposed as a Transit site or resolved within the five-year development period.

31. At the Full Council Meeting on 11 July, the Councillor for Whitworth Cllr Serridge proposed that the Barlow Bottoms, Whitworth site be removed from the Local Plan and the Transit Site allocation be moved instead to Futures Park, Bacup. A subsequent vote along party political lines approved this change. Many of the Councillors at this meeting were unaware of the proposal before the meeting. An amendment to allow further discussion was defeated. .
32. However, Cllr Serridge, who had made the proposal at this meeting, was quoted in the Rossendale Free Press of 28 July 2018 as follows:  
*“If the site ‘has to be in anyone’s backyard I think it needs to be in the council’s rather than residents. This isn’t a proposal, planning application or even an intention.*  
  
*It simply says that if we need to have one, a small piece of land at the far end of Futures Park is less intrusive than other proposals. However I will always give full consideration to any options that come forward. I don’t expect a site to be built, and I will certainly be opposed to the council building one but Rossendale has to identify a site, regardless of if it is needed or wanted.*
33. There is no reason why the Futures Park TSA could not have been included in the Regulation 18 Consultation in order to meet the requirement to ‘pay particular attention to early and effective community engagement with both settled and traveller communities.’ No public information was provided about the selection of the Futures Park TSA during the Regulation 18 Consultation, contrary to RBC’s own published Statement of Community Involvement.
34. Public opposition is quoted as a reason for undeliverability several times in the Topic Paper, yet this is not a site specific issue – it is likely that most proposals for traveller sites will attract some degree of opposition. The various communities where sites have been proposed have had different opportunities and lengths of time to object; in the case of Whitworth, only five days. The objections under Regulation 19 required from communities in Bacup and Stacksteads are relatively more difficult to make, involve a more formal process and an understanding of the technical/legal issues of soundness which has proved a deterrent to several potential objections.

## Assessment of the Futures Park Site

Three Ground Investigation Surveys have been carried out on the Futures Park (M4) site

35. A GIS was carried out in 1999 by the Babbie Group at the request of Rossendale Borough Council. This was an initial assessment of the site prior to its clearance and development in 2001-2004. I have been able to obtain extracts from only the Stage 2 Report which shows that the whole site was surveyed in detail but no contamination data was taken from the area currently proposed for the TSA. However, borehole and trial pit data from an area close to and just west of the proposed TSA revealed a number of gas spikes, sulphides and raised concentrations of heavy metals (Lead, Chromium, Copper, Zinc) many of which would be used in the leather and felt industries. As this surveyed area and the TSA were part of the same historic landfill it is not unreasonable to assume that results would be similar had they been carried out.
36. Concern was also expressed about the stability of the southern slope.
37. Most of the M4 area was subsequently remediated and levelled and outline plans were drawn up for five industrial units (Plan3). No units were planned to be built on the TSA. It is clear from the notes on the plans that the TSA was established woodland at the time and considered unsuitable for building. I am happy to provide copies of this Ground Investigation if required.
38. In April 2005, a Ground Investigation was carried out by Fowler Partnership architects on behalf of RBC. RBC has been unable to locate copies of this report, but it is referred to in the 2013 GIS mentioned below. It seems that residual contamination still remained on the site, including an "Area of Waste Leather" at the base of the steep bank near the western end of the sites southern boundary within Plot 5.
39. In 2013, the most significant Ground Investigation commissioned by RBC and carried out by the Smith Grant Environmental Consultancy. This was carried out in connection with the planning application for the Trailhead Centre. The report is available from RBC at:  
  
[https://www.rossendale.gov.uk/planx\\_downloads/2013-0450\\_Grond\\_Investigation\\_Stage\\_1\\_&\\_2.pdf](https://www.rossendale.gov.uk/planx_downloads/2013-0450_Grond_Investigation_Stage_1_&_2.pdf)
40. The 2013 Ground Investigation makes a number of references to Plot 5 and the TSA which are extracted in the attached document: **Plot 5 Summary.pdf**  
  
Documents relating to the Planning Application for the Trailhead Centre can be found at:  
  
<https://www.rossendale.gov.uk/planningApplication/3436>
41. As far as I am aware, none of these surveys have been mentioned in the assessment of the TSA in the Local Plan or in supporting documentation. There is no evidence that they have been considered in an assessment of Futures Park, either as a TSA or as an employment area.  
  
The reports are not mentioned in the G&T Topic Paper Page 7 in relation to Futures Park.
42. All three reports point out levels of contamination over the whole site. The whole of Plot 5 is underlain by historic landfill, both domestic and industrial, as described earlier. According to the 2013 GIS the principal constituent is coal ash which has high concentrations of harmful contaminants and potentially dangerous levels of these are identified throughout the report. It

is also likely that the landfill area received industrial and leather waste from the two nearby shoe factories and felt waste from the former Lee Mill after its occupation by Gaskells in 1927. The reports focussed on the more northerly plots and contaminant levels were assessed in relation to safe levels for commercial/industrial use, not for mixed use. No risk assessments seem to have been carried out on the TSA to determine the levels or effects of possible contamination on residential users.

43. It is evident that some remediation took place when NWDA worked on Futures Park (M4) in 2001-2004 but the extent of this is unclear. RBC has been unable to provide evidence of what work was carried out or copies of a remediation certificate. The TSA appears not to have been included in any remediation program judging by the condition of the edges of the Phase 2 and Phase 3 tips. Landfill items including leather, metal, fabric, glass and electrical components can be seen emerging from the eroding edges of the former landfill banks. Many of the trees in the TSA are of an age that significantly predates the remediation of 2001-2004 and the whole TSA site appears undisturbed since the end of the landfill period. Unfortunately the plans showing the locations of the trial pits and boreholes that were part of the 2103 GIS could not be located by RBC.
44. It may well be that further investigation reveals that contamination of the TSA is at a level that would not be harmful to residential users but I would like to make the point strongly that this is unknown because no appropriate investigation has taken place.
45. RBC was aware from the three Ground Investigations that a reasonable possibility that a significant contamination linkage could exist to residential users. However, no action was taken as per the DEFRA Contaminated Land Statutory Guidance Relating to The Environmental Protection Act 1990: Part 2A (Paragraphs 2.9 to 2.13). RBC has argued that a Ground Investigation would take place at the time a Planning Permission was sought and any remediation required would be part of the conditions of approval. This seems inconsistent with the requirement in the DCLG document 'Planning Policy' document  
*To be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within five years*
46. RBC has not included any proposals for mitigation or remediation in their policy although it would seem that MHCLG National Planning Policy Framework 2018 Paragraph 178 applies here.  
*a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
47. It is also worth noting that RBC does not appear to have a formally adopted written Contaminated Land Policy as required by the above Statutory Guidance
48. The TSA has a number of important Topographical Issues. As mentioned earlier and detailed in the attached **TSAMaps.pdf** document, there are substantial variations in levels across the site with several steep banks and mounds. The centre of the TSA is dominated by the edge of the Phase 3 tip which runs roughly north-south for about 40 metres, ranging in height from 2m in the south to over 5 metres in its centre. The bank of the Phase 1 tip lies along the southern edge of the TSA rendering the southernmost 15-20 metres totally unsuitable for building. Attention has been drawn in both the 1999 and 2013 GIS to the soil instability and foundation problems of the area. Two small streams converge near the SE corner of the TSA

which formerly ran into the old course of the Irwell. These contribute to a boggy area along the eastern edge of the site which is subject to flooding at times.

49. Given these restrictions in overall size, it would seem very difficult to provide a space large enough to build a four-pitch Transit Site with an indicative area of 2000m<sup>2</sup>. There would be substantial engineering and building problems involved in the construction of a flat hardstanding of 40x50m bearing in mind the 5-6m fall of unstable landfill across the site east to west part of which is subject to flooding. The cost of this is likely to render the project financially undeliverable.
50. At present, there is no direct vehicle access to the TSA. If access were to be constructed from the western end of the site, approximately 75 metres of roadway of a suitable specification would be required. Land stability and contamination would need to be addressed and there would be further cost implications. An access road from this direction would be close to the area of historical leather waste identified in the 2005 and 2013 GIS and the unstable southern slope. The creation of an access road would also impact on the construction and viability of any proposed industrial units and the development of the Trailhead centre.
51. There are a number of Environmental issues as construction of the TSA would entail the clearance of about 0.4ha of established woodland. This woodland is part of a larger wooded area which runs for about a mile along the south bank of the Irwell and links to mature woodland in Stubbylee Park to the east and Bacup Cemetery to the west. This was an area of historic woodland much diminished by the Industrial Revolution but now regenerated by the efforts of local councils and environmental groups.
52. The woodland where the TSA is proposed is made up of a variety of species and ages of trees, the oldest of which is estimated to be 40-50 years. This is consistent with the cessation of the landfill activities in the late 1960's. The condition of some of the trees is poor but many are healthy, are longer-living species and appear to have a reasonable future lifespan. It would be expected that an amenity evaluation of the woodland should have been carried out as part of the TSA assessment but this does not seem to have been the case.
52. In addition to the more common woodland animals and birds, the woodland area is also visited by deer, badger and foxes; birds include at least three species of owl and a number of other birds of prey. There are three badger setts located near the centre of the TSA and a further sett in the southern bank of Plot 5. It is not known whether these setts are active, but badgers are frequently seen in the area and there is evidence of badger trails and territorial markings in the TSA woodland. Whatever the status of these setts, no attempt seems to have been made by RBC to consider the presence of a protected species in their assessment of the site.
53. It is worth mentioning here that the 2018 Habitat Regulations Assessment of the Rossendale Borough Council Local Plan makes no mention of these environmental considerations with regard to Futures Park. Policy Emp6 is awarded a 'K' assessment - policies not likely to have a significant effect either alone or in combination.

The Rossendale Employment Land Review Appendix 4 site assessment matrix awards Futures Park a 'Good' rating with respect to developmental and environmental constraints.

The description of Emp18 taken from Appendix 5(Site Pro-formas) of the Rossendale Employment Land Review Final Report 2017 makes no mention of any environmental considerations.

Another relevant document is the Appraisal and Strategic Environmental Assessment of the Rossendale Borough Council Local Plan Regulation 19 Report. This makes no mention of the TSA at Futures Park. In the section on Biodiversity & Geodiversity, development is considered to have only minor adverse impact (BG4) However, MHCLG National Planning Policy Framework 2018 Paragraph 174 should apply here with regard to a duty to protect and enhance biodiversity and geodiversity.

54. It seems certain that the wooded area of the TSA was not included in these assessments. It is hard to believe that the removal of a substantial area of woodland would not have a significant environmental effect.
55. Possible restrictive covenants arising from the development of the Futures Park (H4) site by NWDA and 2001-2004 have not been taken into account. Provision of a Transit Site may result in clawback of funds by the successor organisation.
56. There may be an adverse effect on the current use of the Lee Quarry Mountain Bike Trail and the proposed development of a Trailhead Centre. This is a major part of RBC leisure and Tourism Policy and is described fully at:

[https://www.rossendale.gov.uk/info/210177/regeneration/10747/lee\\_quarry](https://www.rossendale.gov.uk/info/210177/regeneration/10747/lee_quarry)

There is already considerable tension between the users of the Lee Quarry Mountain Bike Trail and the Travellers. Lancashire County Council recommend that users park on the Futures Park access roads and there are signs there erected by LCC to this effect. Two of the lower trails pass through the area favoured by the travellers for their unauthorised encampments.

When traveller groups arrive, the users of the Bike Trails are prevented from accessing the parking places and lower trails and have concerns about the security of their vehicles and equipment. Whether this is justified or not, the presence of the TSA is likely to be a deterrent to the leisure and recreation use of the area.

## **Interpretation of the 2016 GATAA**

57. It is worth stressing that the UE cases referred to as ‘Futures Park’ in the GATAA (Table 6.1 Page 37) do not refer to occupation of the proposed TSA which is presently inaccessible for vehicles and about 75 metres away from the nearest highway. The GATAA figures refer exclusively to UEs on the service roads built to provide access to the proposed commercial units on Plots 3 and 4.
58. Page 5 of the Gypsy and Traveller Topic Paper shows a table (6.1) taken from page 37 of the GATAA. Unfortunately, the data point shown as 18 June 2016 relates to a UE that took place on 18 June 2012 which affects the analysis shown in the table (6.2) on page 38 and the figures shown in paragraph 6.1. Also, the row in table 6.2 labelled ‘Range of caravans’ seems to have been mistakenly taken from the range of durations column in table 6.1. I believe that these figures have now been corrected by the originator of the report.
59. During the three year analysis period (1 April 2013 -31 March 2016) eleven cases of UE were recorded but only seven were considered to be valid because data was not recorded about number of caravans and length of stay. It is doubtful whether any reliable conclusions can be derived from a sample of this small size with such a wide range of values.

- 60 RBC keep records of UEs and information is available for the period April 2016-July 2018 which could have been incorporated in into the Topic Paper in more detail. The following table includes this additional data and shows the number of UEs 1 April 2013 to July 2018. There were 16 UEs during this five year period of which complete data is available for 11.

		Days	Caravans	Caravan /days	Visits /year
13/06/2013	Futures Park – Highway	7	4	28	
10/03/2014	Futures Park	6	1	6	
14/03/2014	Futures Park	8	No data	No data	3
11/04/2014	Heys St, Bacup	3	No data	No data	
12/08/2014	Oak Street, Whitworth	8	13	104	
27/10/2014	Futures Park	7	No data	No data	3
25/06/2015	Futures Park	2	1	2	
26/06/2015	Phipps Car Park, Rawtenstall	No data	No data	No data	
02/07/2015	Oak Street, Whitworth	9	10	90	
15/02/2016	Futures Park	7	2	14	4
18/04/2016	Futures Park – Highway	5	2	10	
01/05/2016	Futures Park	5	No data	No data	
01/10/2016	Futures Park	6	14	84	3
01/05/2017	Rosendale Crescent, Bacup	2	10	20	1
01/05/2018	Lane End Rd, Bacup	2	1	2	
13/07/2018	Futures Park	4	7	28	2

- 61 The number of UEs shows a slight decline over the six year period
- Futures Park had no UEs in the 16/17 year .
  - Only one UE took place during the period November-February in any measurement year. (2 caravans for 7 days in February 2016)
  - Futures Park is the most frequently visited but it is not the most occupied in terms of Caravan/Days. (Oak St Whitworth has the highest figure)
  - The median number of caravans is 4 but the data seems to show a bimodal distribution. Five cases have values of 1 or 2 and five are in the range 7-14. Although there are problems with interpretation of such a small dataset, it is probable that there are underlying factors here and that a simple conclusion from a median or mean value is not justified.
62. A survey of the needs of transitory travellers has not been carried out and there is no evidence of attempts to engage with transitory groups to obtain information which would help to interpret the numeric data collected.
63. A list of the 7 cases of valid UEs on the highways at Futures Park from June 2013 to July 2018 suggests there are two distinct groups. All cases were on the Futures Park access roads. Four are cases of 1 or 2 caravans and three cases are of larger numbers of caravans (4-14).

		Days	Caravans	Caravan/days
13/06/2013	Futures Park – Highway	7	4	28
10/03/2014	Futures Park	6	1	6
25/06/2015	Futures Park	2	1	2
15/02/2016	Futures Park	7	2	14
18/04/2016	Futures Park – Highway	5	2	10
01/10/2016	Futures Park	6	14	84

64. This larger group typically canvass the area aggressively a few days in advance of the arrival of the rest of the group looking for gardening, tree removal/ pruning, and driveways/paving work. This is then carried out using a number of commercial vehicles and machinery which are parked on the highways at Futures Park. Garden waste, tree branches and paving waste material are frequently illegally tipped on the Futures Park roadways. Sometimes, larger vehicles tip significant quantities of stone and hardcore.
- The site has good hardstanding, is secluded and the roadways are easily blocked off by vehicles so that evidence for illegal tipping is difficult to gather. It is suggested that these factors have contributed to the ‘popularity’ of the Futures Park Highways site by this group of travellers. . It is difficult to imagine that the planned Transit Site would meet the needs of this group.
65. Residents of Lee Rd and Flag St report a high level of aggressive, intimidatory and antisocial behaviour from some groups of Travellers.
66. Given the relatively low usage of Futures Park and the seasonal nature of the visits, the high cost of developing this Transit Site seems unjustified.
67. Neighbouring Local Authorities (e.g. Hyndburn) have surplus transit capacity and could accommodate the smaller groups easily and our Local Member of Parliament has supported this alternative solution. From the description of RBC’s engagement with Hyndburn BC the G&T Topic Paper on this matter, it does not seem that this solution has been fully explored.
68. Insufficient consideration seems to have been given to the possibility of ‘negotiated stopping’ which has been successful in some areas. This would involve RBC/LCC giving permission for a stopping place and providing temporary services and refuse disposal in return for a negotiated period of stopping. This may be a good solution for the smaller groups who visit on a relatively infrequent basis and could improve interaction with the traveller groups and ease some of the community tensions which can arise. The cost is likely to be much less than the present enforcement and cleanup costs
69. A negotiated stopping arrangement is, however, unlikely to be attractive to the larger groups of travellers whose requirements are not just for temporary accommodation and whose activities are unlikely to be mitigated by such arrangements. Travellers are not a homogenous group and solutions need to be found that address the needs of different groups whilst dealing with genuine concerns about the problems that some travellers can cause.

## Community Involvement

70. Rossendale Borough Council has published a Statement of Community Involvement in connection with the local plan (July 2018). Section 2.3 states that :

*‘We are committed to involving all stakeholders in developing planning policies for Rossendale’.*

There follows a list of consultees which includes :

- residents
- businesses
- developers, agents and landowners

- Neighbourhood Forums
  - local interest groups
  - local community and amenity groups
71. It is worth noting that there are a number of active community/environmental groups in the area who have an interest in the development of Futures Park. These include :
- Friends of Stubblelee Park
  - Bacup Pride
  - Stacksteads Countryside Park Group
  - Valley Heritage
  - Bacup Natural History Society
  - Stubblelee Community Greenhouses
  - Pennine Mountain Bike Association
72. It does not appear that any of these groups or individuals have been informed or consulted about the selection of the Futures Park TSA or Policy M18 prior to the Regulation 19 Consultation. Approximately 70 families live on Lee Rd and Flag St which are within 200m of the TSA. This has hardly been mentioned in any of the documentation and planning and their involvement has not been sought.
73. As is often the case, there is substantial local opposition to Traveller sites - sometimes justified and sometimes not. Introducing Futures Park as a location for the TSA at such a late stage and with no prior information, involvement or warning has alienated and angered many in the local community and increased the negative view towards the creation of a Transit Site.
- Bacup and s Stacksteads is an area of high Social Deprivation and dereliction of old industrial areas. Residents of the eastern end of the Rossendale valley often feel that their needs and opinions are ignored. There has been hope for positive developments of the Futures Park site for many years, particularly the expansion of the Mountain Bike Trail and its associated tourist employment.
74. This frustration has been expressed in an online petition of over 1900 names.

## **Conclusion**

- 75 I trust that the information I have set out here has established that the inclusion of the Futures Park TSA in Policy M18 is unsound. I would welcome the opportunity to discuss this further with a member of the Inspection Team.

I am willing to accompany members of the Inspection Team on their visits to the site

# Extracts from 2013 Ground Investigation commissioned by RBC relating to plot 5 of Futures Park. Carried out by Smith Grant Partnership.

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## **Table 3.1 Page 7**

References to tipped material

## **Table 3.1 Page 8**

On The 1930 OS Map, the southern parts of the former river channel are no longer indicated and appear to be in-filled by significant landraising throughout the southern areas.

## **Table 3.1 Page 8**

1962-1964 OS Map : An area on the eastern side of plot 5 is indicated as a tip and accessed by a track from the former stone cutting works.

## **Table 3.2 Page 10**

Past geotechnical reports comment on requirement for piled foundations, gas venting and possible significant levels of contamination. Groundwater contamination not found to impact the river. An area of leather waste contamination present advised to be 550m<sup>2</sup>; possible contamination by volatile organic compounds (VOCs) noted. Possibly unstable embankment along southern boundary. Badger setts present in the south eastern tree area and the Presence of Japanese Knotweed was noted.

## **Para 3.2.5 Page 10**

The site plan produced by the Fowler Partnership architects on behalf of RBC, dated 19/04/2005 indicates an “Area of Waste Leather” at the base of the steep bank near the western end of the sites southern boundary within Plot 5.

## **Table 3.2 Page 11 :**

A low lying area corresponding to the location of the historical channel of the River Irwell crosses the western part of the Plot but much of the eastern area is undulating with mounds, banks and ditches present.

## **Table 3.2 Page 11 Ecology Section**

SGP has not carried out a detailed ecological survey on the site but noted the presence of a possible badger sett in the south-east corner of the site. Badgers are a legally protected species, with legislation including preventing disturbance of badger sets. A number of mature/semi-mature trees are present within the site boundary, the majority of which are located on the boundary between plots 4 and 5, the majority of plot 5 and the southern area of plot 3; a number of stands of Japanese Knotweed were identified in this area.

## **Table 4.1 Page 12 Topography Section**

Plot 5 slopes steeply down from the south towards the north across the southernmost third of the site, then generally levels off with a gentle slope towards the east. A slope down to the north is also present on the boundary between Plots 4-5

## **Table 4.1 Page 12 Excavation and Landfilling Section**

Historical mapping indicates an infilled river channel passing through the centre of the site and later phases of tipping appear to have taken place throughout the subsequent history of the site, which largely pre-date waste licensing regulation. The Environment Agency note are two landfills within a

1km radius of the site, one located 250m to the east of the site (Land off Lane End Road) and one 250m to the south west (Cemetery tip). Both landfills appear to be closed, with no further information supplied. Recent fly tipping of materials on the site surface is evident.

#### **Paragraph 5.1.2 Page 13**

Other waste disposal activities pre-date the enactment of waste-licensing legislation or result from unregulated activity, so are presumed to have been uncontrolled and potentially involving co deposition of domestic refuse and industrial wastes in an unengineered void and/or on the site surface. A wide range of substances could therefore be present in the recorded tips areas. The presence of tanks or drums of industrial wastes in particular could have resulted in the release of oils, fuels, solvents, pesticides or other organic contaminants.

#### **Paragraph 5.1.4 Page 13**

Leather waste has been reported in one area which may have resulted in the presence of a range of pollutants associated with various tanning processes as well as generation of polluting leachate and hazardous ground gas from the degradation of the organic material present. Leather waste may also be associated with anthrax spores, which may remain viable for decades under certain conditions.

#### **Paragraph 5.3.3 Page 15**

Several steep slopes are present and at least one source indicates that stability of the slope adjacent to the southern boundary of Plot 5 may be an issue.

#### **Paragraph 6.1.3 Page 13**

Due to the presence of various constraints including the presence of very dense vegetation and soft ground in the southern parts of the site, several steep banks and “stand off” zones around various live services and avoid potential disturbance of protected species, the actual area available for investigation was about 2.1ha. A decision was made in consultation with RBC to avoid penetrating the area of leather waste in case biological pathogens (anthrax) are present.

#### **Paragraph 7.5.1 Page 24**

Trial pits TP11-TP14 and borehole BH9c were targeted within the approximate extent of the historical tip area; trial pits TP15-TP17 were located in the western part of Plot 5. Boreholes BH9-9b, BH10-BH11 were targeted to the area conjecture to surround the leather waste area.

The possible land filled area encountered made ground comprising ashy sand with frequent glass and metal within TP11-TP13 to a depth of at least 4.0m bgl in TP11 and to 9.5m bgl in BH9c. TP12 encountered differing types of made ground along the length of the trial pit, with grey cement bound sand, in the eastern half of the pit to a depth of 1.8m bgl, underlain by natural sand. TP14 encountered similar material to a depth of 3.0m bgl, underlain by made ground clay with metal and fabric to a depth of at least 4.0m bgl. BH9c encountered natural ground comprising sand/gravel from 9.5-11.0m bgl.

#### **Paragraph 7.5.2 Page 24**

The western half of Plot 5 comprised made ground of sand and weakly cemented sand and gravel to depth varying between 1.7-4.0m bgl, natural ground was not encountered and TP15 and TP16 were both terminated on concrete. 7.5.3.

#### **Paragraph 7.5.3 Page 24**

The easternmost boreholes targeting the surrounds to the leather waste material encountered leather waste (BH9a, BH9b) at between 2.7-3.0m bgl and were terminated on contact. BH10 and BH11

encountered made ground ash and cinder fill to depths varying between 10.2-10.5m bgl, underlain by natural gravel.

**Paragraph 7.6.2 Page 25**

Widespread made ground was encountered across the site, consisting largely of reworked natural soils with varying amounts of brick, concrete and ash or clinker, as well as deposits containing largely ash and clinker and various, generally inert, waste deposits. Across the western half of Plot 5 and majority of Plots 3 and 4 this comprised concrete/weakly cemented sand and gravel.

Within the eastern half of plot 5 this comprised ashy sand with glass and metal, consistent with landfill material. The greatest depths of made ground (up to 10.2m bgl) were encountered in Plot 5 in the south of the site and correspond to areas where levels appear to have been raised through historical tipping; the materials present in this area are dominated by ash and clinker.

**Paragraph 7.56.4 Page 25**

The encountered ground conditions are generally consistent with the mapped geology of alluvium over lying sandstone (encountered as siltstone), and the history of the site with the infilling of the former River Irwell channel, widespread tipping of deposition of boiler ash/clinker and discreet deposits of demolition waste and other refuse.

**Paragraph 7.8.3 Page 26**

Ash and clinker were encountered within the majority of locations in the eastern half of Plot 5, as well as BH7 2.0-4.5m bgl, BH10 1.0-10.2

**Paragraph 8.1.4 Page 29**

The presence of asbestos fibres has been identified in the made ground on the site in a number of samples, including several from shallow depths. Due to the presence of asbestos fibre in samples, dry analysis could not be undertaken by the laboratory due to health and safety considerations, therefore metal analysis has only been undertaken on ten out of nineteen samples. Elevated concentrations of lead, copper, zinc, hydrocarbons were detected associated with the landfilled area within **Plot 5**, however only lead exceeded criteria for **commercial/industrial land use**.

**Paragraph 8.11.4 Page 34**

Slope stability issues may affect the southern boundary of the site and the boundary between plots 4 and 5 and the southern parts of Plot 3. These are associated with the steep drop down from the higher ground to the south of the site which was tipped early in the site's development history; more recent waste deposits appear to consist of variable, albeit generally inert, materials which have been loose tipped and not subject to methodical compaction or consolidation. The area of leather waste may be assumed to contain a significant volume of degradable organic matter which could undergo future settlement.

**Paragraph 8.11.5 Page 34**

The slopes appear to be well vegetated and stable, and ash banks may typically remain stable at a relatively steep angle of repose; however a detailed slope stability assessment was outside the scope of the investigation and the summary of previous assessments provided contain reference to a recommendation that the large bank at the southern end of the site may require some re-profiling to improve its stability.

**Paragraph 9.2.1 Page 36**

The historical mapping indicates the site to have been subject to infilling at various times between the diversion of the River Irwell at the end of the 19th Century and tipping of material from the southern boundary of the site ongoing from pre 1893, as well as the landfilled area within Plot 5 dating from 1962-1987. Recent, possibly uncontrolled, tipping of waste materials is also apparent on site. In addition, a concrete batching plant and stone cutting works were present within Plots 3 and 4, and a mill within Plot 1. Low levels of solid (or adsorbed) contaminants, specifically heavy metals, PAHs

and asbestos fibre may be anticipated in all parts of the site and one significant exceedance of criteria for commercial/industrial landuse for lead was recorded in the **eastern** tip area [Plot5].

**Paragraph 9.4.4 Page 37**

Disturbance of the leather wastes in the southern part of Plot 5 could feasibly result in the release of and exposure to viable pathogens (anthrax spores)

**Paragraph 9.4.5 Page 37**

The raised level of lead, in the eastern tip area [Plot 5] may pose a risk to human health if widespread within shallow soils in soft standing areas via ingestion / inhalation / dermal contact, although the majority of the site is expected to be used as car parking [Note: this refers to Plot 3] with only limited areas of soft landscaping, the other metals zinc and copper detected in this area, and the hydrocarbons present are not at concentrations where health impacts would be anticipated although the potential for discrete areas of greater contamination within the waste body cannot be discounted.

## Maps showing development of Tip Area on Plot 5 Futures Park



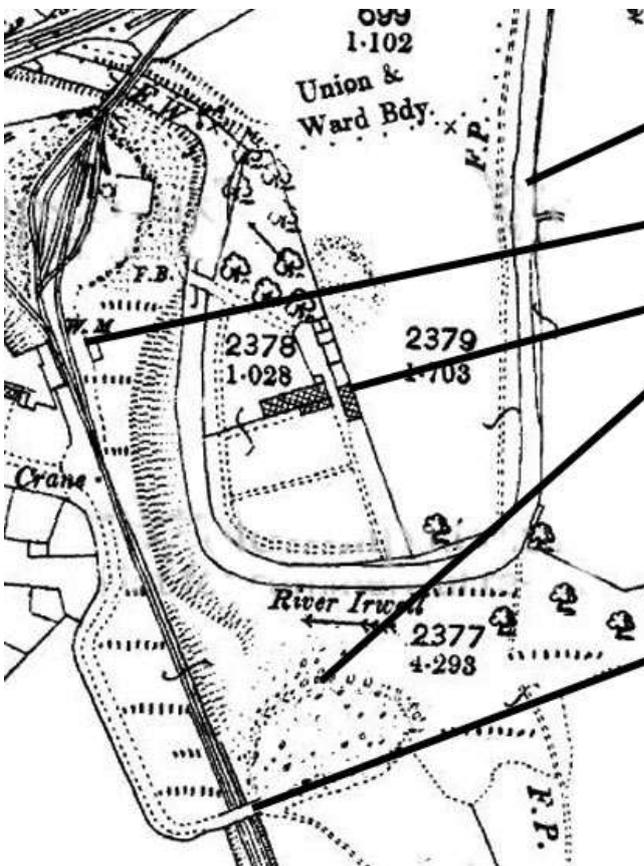
1849 OS

This shows the original course of the Irwell. No developments for Lee Quarry in this area at this time.

Inside the loop a relatively flat flood plain.

The Irwell would have turned at a rocky outcrop here.

It was much further south than the present steep slope which forms the southern boundary of the site.



1893 OS

The Irwell still follows its original course.

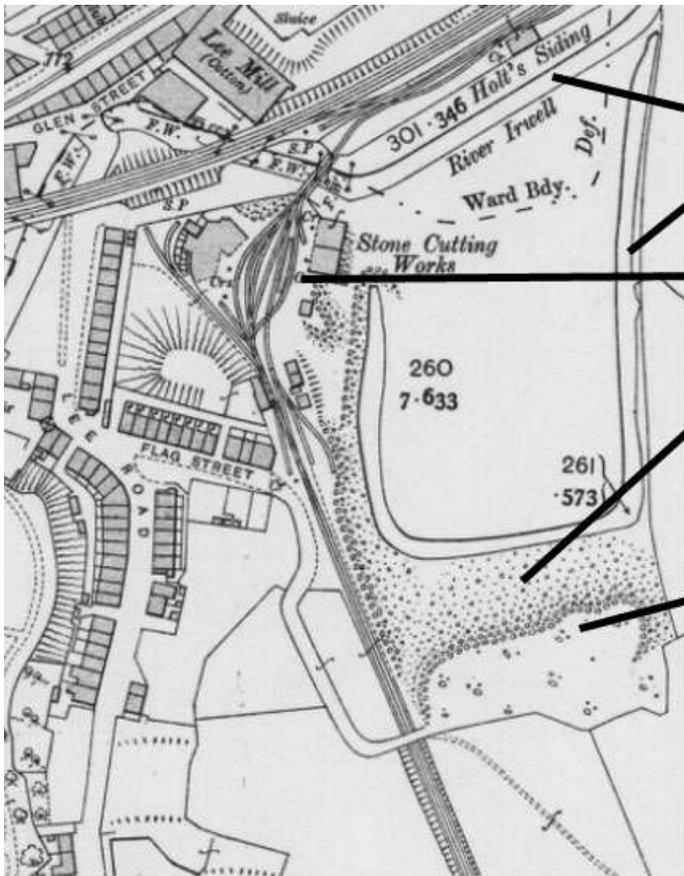
A mineral tramway has been built on the west side of the site to bring stone from Lee Quarry to railway sidings to the north.

Some industrial buildings have appeared.

A small sand quarry is being operated to the south of the river. By around 1900 it has become an infill site for domestic rubbish.

It is known as the 'Cemetery Tip' in historical landfill records.

It is reached by a small bridge over the tramway and a road leading to Flag street.



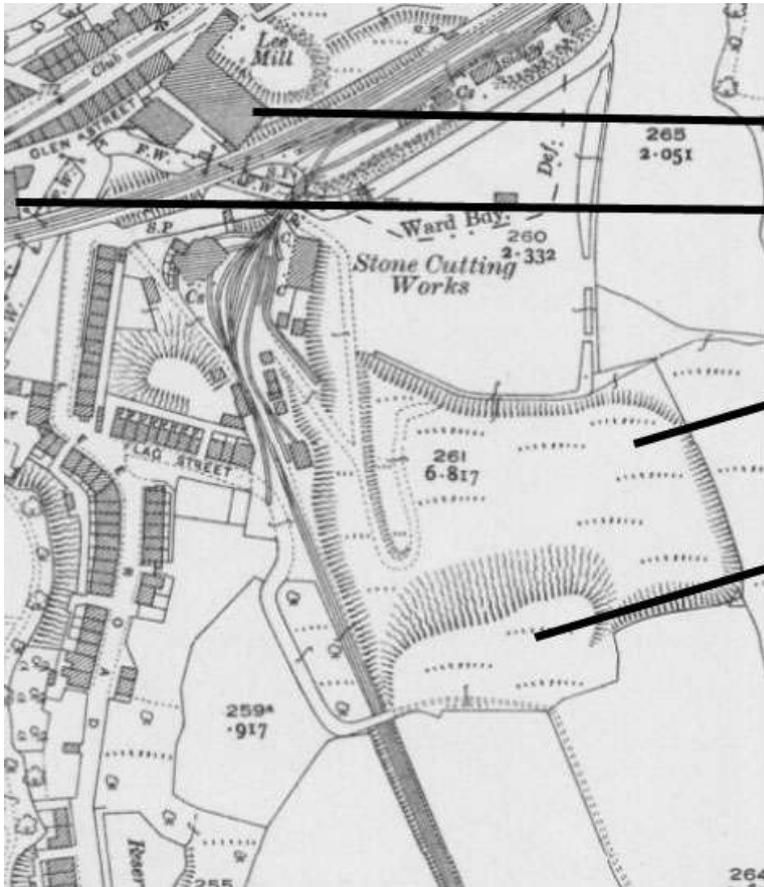
1910 OS

The River Irwell has now been diverted leaving only a channel to mark the original course.

The mineral tramway is now more developed and a stone cutting works appears.

Infill is now taking place in the area south of the old river course. (Phase 2)

Infill from the old 'Cemetery Tip' (Phase 1) now forms a level area with a steep bank 9-12m high along its northern edge.

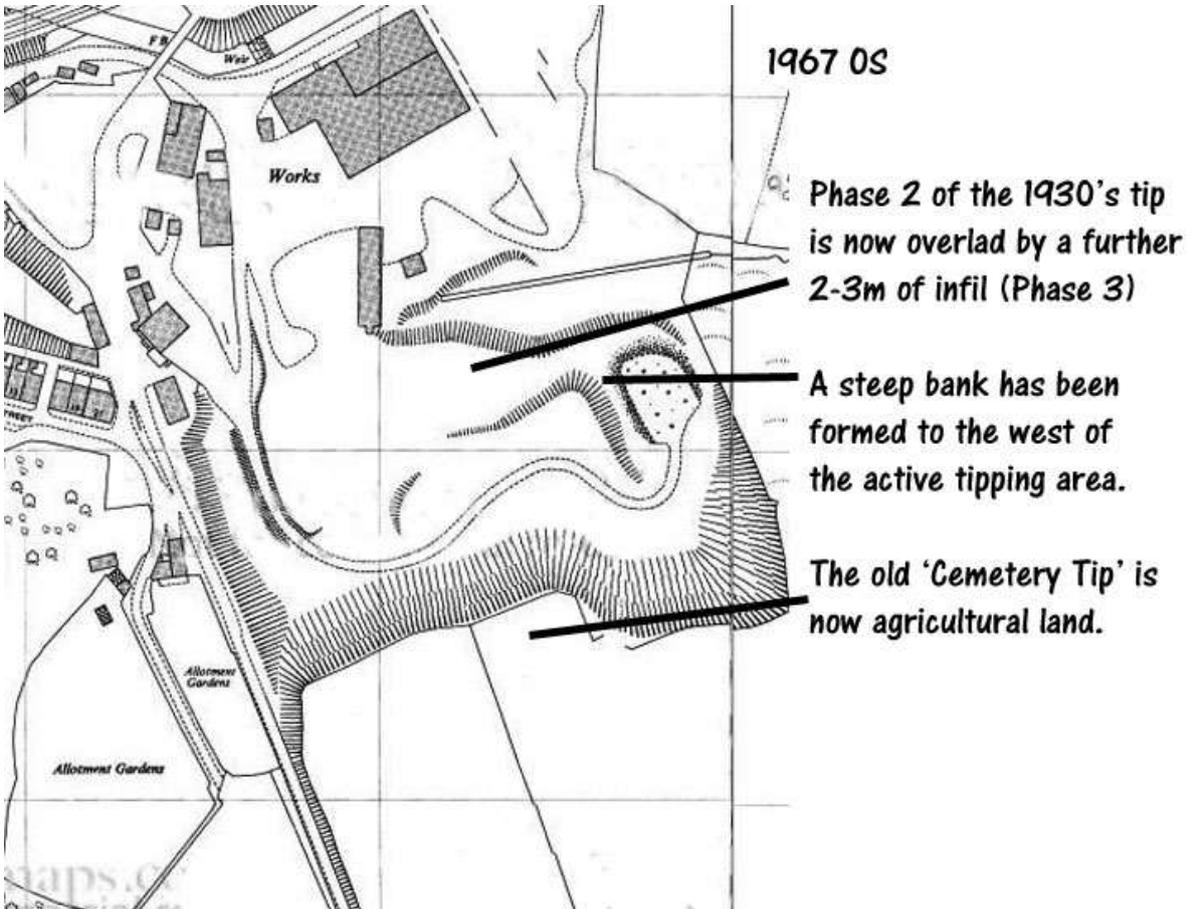


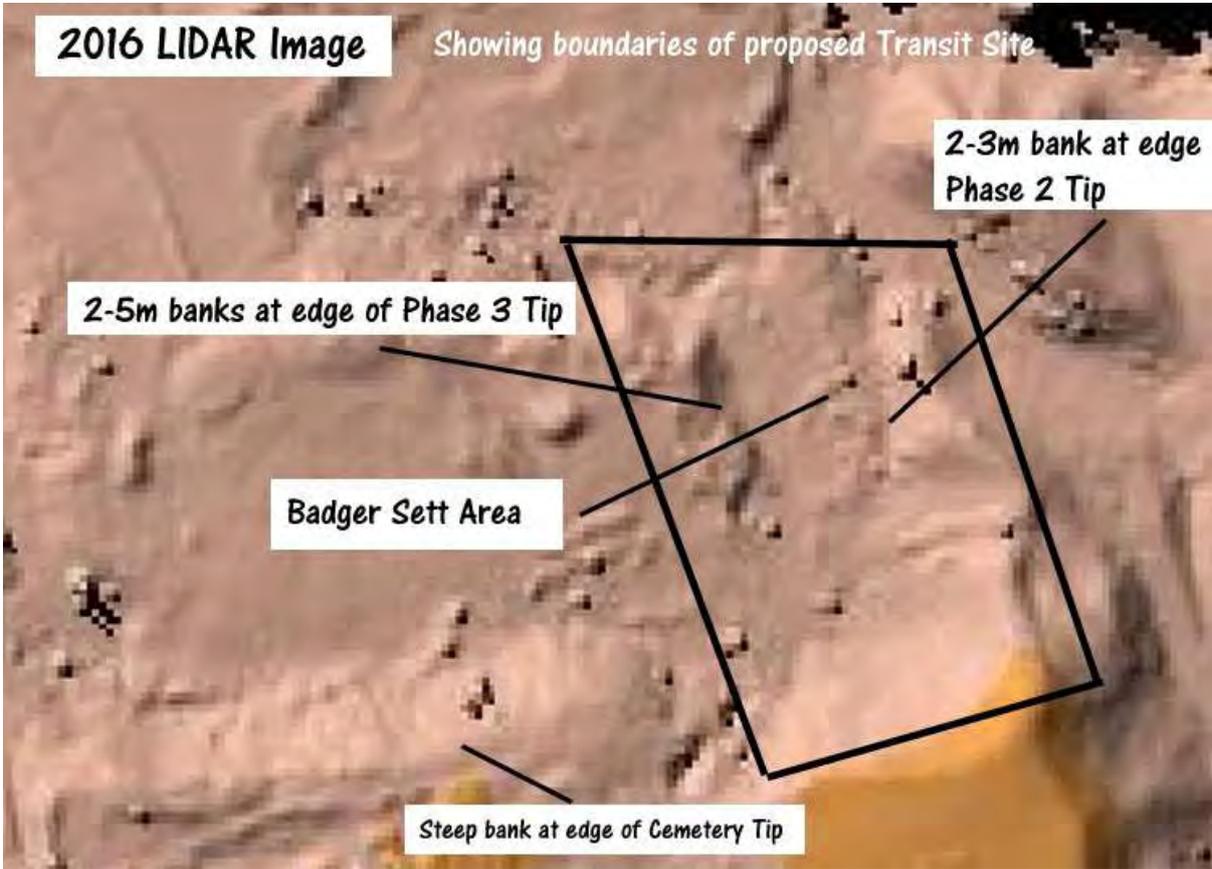
1930 OS

By 1927, Gaskell Co had taken over Lee Mill for Felt manufacture. Olive Mill and Kiln Holme Mill were Producing shoes and slippers.

The infill area (Phase 2) has expanded significantly to the north and east of the area shown in 1910

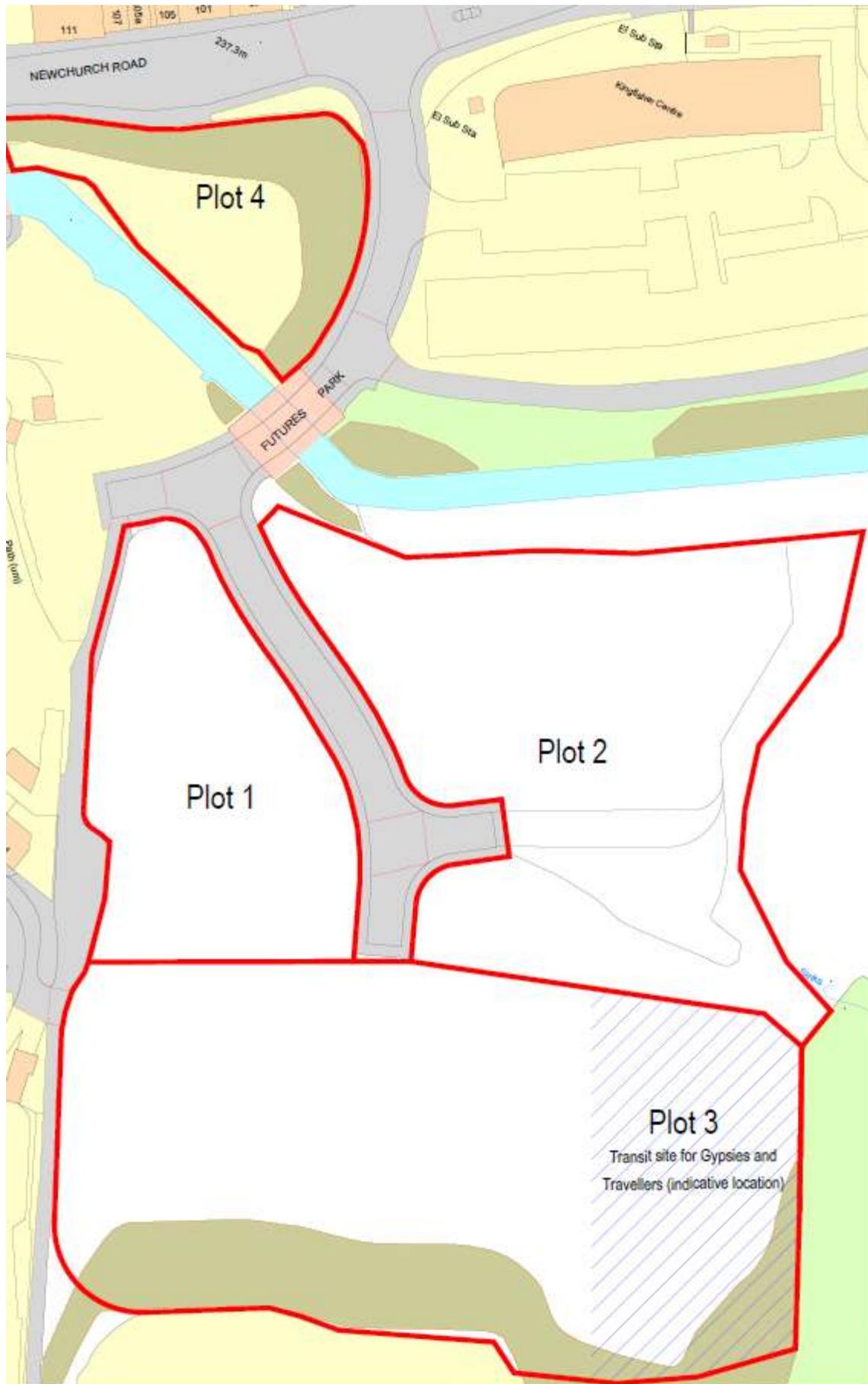
The 'Cemetery Tip' (Phase 1) looks unchanged.





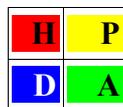


# Rossendale Borough Council Map of Indicative Area of Traveller Site



**Objection to the emerging local plan on behalf of Candice Harwood (and others) with regard to the inclusion of site no SHLAA16172 at Higher Cloughfold, Rawtenstall for inclusion within the Urban Boundary and for its allocation for housing development.**

**Planning Statement**



**September 2018**

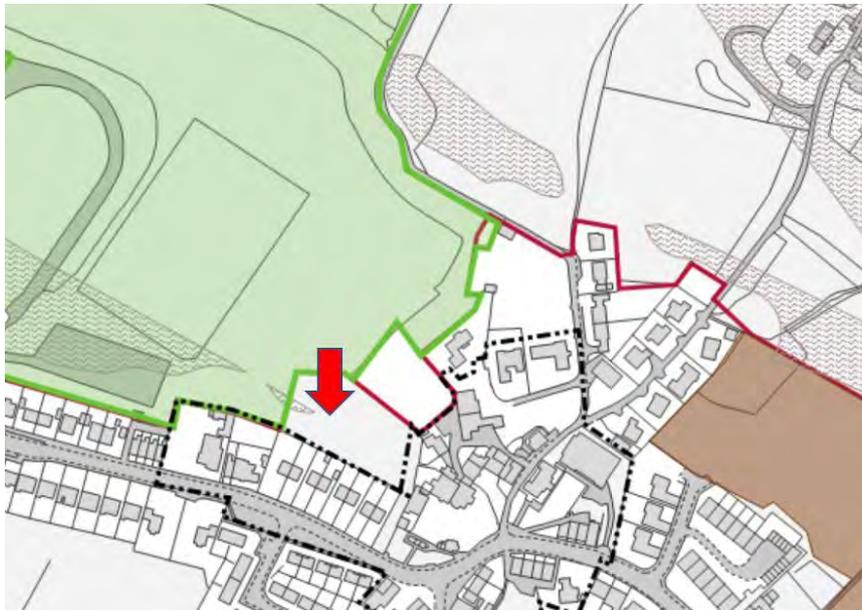
**Prepared by Hartley Planning and Development Associates Ltd**

This objection is submitted on behalf of Mrs Candice Harwood and on behalf of other residents in the vicinity, the names of whom will be forwarded separately.

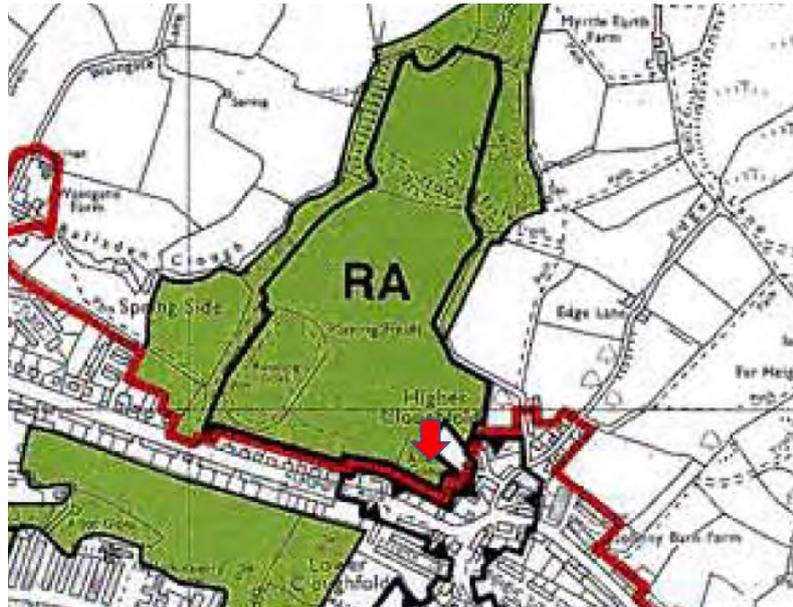
The objection relates to the Housing Topic paper, paragraph 3.3 and in particular to the evidence base paper, the Strategic Housing Land Availability Assessment (2018), site SHLAA 16172 at Higher Cloughfold, Rawtenstall.

The emerging plan proposes that this site is included within the Urban Boundary and that it should be considered suitable for up to 7 houses.

Extract from the Emerging plan: -



This local authority owned site is currently shown as outside the Urban Boundary within which most development has to be concentrated and it forms part of the Recreation Area (RA) of Marl Pits sports area: -



Marl Pits is a thriving sports complex when new facilities are being added. The most recent additions include a golf driving range (where an extension has just been approved). There are good reasons why the land associated with it, including site no SHLA16172 should be retained for the designated use.

In fact there are good **planning policy reasons why it should not be included either within the proposed Urban Boundary or shown for housing development:** -

1. The result of the Marl Pits complex and with which site SHLAA16172 forms part of the planning unit is excluded from the proposed Urban Boundary.
2. The National Planning Policy Framework (The Framework) specifically advises against the release of such a site for development. It states: -

*96. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space,*

*sport and recreational provision is needed, which plans should then seek to accommodate.*

***97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:***

***a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or***

***b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or***

***c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.***

(My highlighting)

Nothing has been done to show that the release of the site meets any of the exceptions to the above policy.

3. The Council's own local policies in the form of the adopted Core Strategy supports national policy as follows: -

### **Policy 7: Social Infrastructure**

**It is proposed that social infrastructure improvements and new provision will be encouraged at suitable locations within the Borough:**

**The loss of social infrastructure / cultural facilities such as pubs, post offices, theatres, community halls, youth centres, parks and open space that require a change of use application will be resisted, particularly in local centres and small settlements. All the following factors will be considered when assessing applications:**

- **The availability of alternatives within 15 minutes travelling time by non car modes**
- **The financial viability of the existing use**
- **The results of marketing the site for existing or other community uses for a minimum period of six months**
- **Whether it is possible for the community facility to be retained in the same locality, but combined with another use**
- **Significance of loss on the local community**

**A positive approach will be taken to the development of new and enhanced social infrastructure, especially where this creates options for a variety of uses and user groups and reduces the need to travel.**

**The Council will support the delivery of broadband and communications technology to all parts of the Borough and will encourage and facilitate its use.**

## Policy 17: Rossendale's Green Infrastructure

The Council will promote the protection, enhancement and where appropriate the expansion of the Green Infrastructure network in the following ways:

1. Identification and illustration of the Green Infrastructure network (see figure 23)
2. Preparation of more detailed policies through the future Site Allocations DPD, assisted by the definition of key national, regional and the most significant local sites on the Proposals Map.
3. As part of the Council's response to climate change, new developments will be required to maximise the environmental risk management benefits of Green Infrastructure where possible through:
  - a. Flood risk management (utilising Sustainable Drainage Systems)
  - b. Providing shade, cooling and carbon storage through the planting of appropriate vegetation and tree species
  - c. Contributing to a reduction in air, water, noise and light pollution.
4. Manage and appropriately enhance existing Green Belt, open spaces, river corridors, urban green corridors and woodlands (as shown on figure 23) and continue to protect Greenlands (policy E.1 as designated in the Rossendale District Local Plan 1995). Where redevelopment takes place to enhance Green Infrastructure, the Council will seek to ensure that where necessary, opportunities are taken to address any issues of land instability or surface hazards resulting from historic mining activity.
5. Resist the fragmentation of the network by new development, and pursue the implementation of Natural England's Access to Natural Greenspace Standards (ANGSt) over the lifetime of the Core Strategy.
6. Expect new developments to contribute to the provision of recreational green space, and to incorporate improvements to the quality of, and access to, existing Green Infrastructure in accordance with local circumstances.
7. Support the improvement of and access to the Public Rights of Way network (in particular the Pennine Bridleway, Rossendale Way, Irwell Sculpture Trail, Shoe Trail and National Cycle Routes) and other linear corridors in line with Policy 9 and maximise the potential of Green Infrastructure to support sustainable and active tourism, in conjunction with the Adrenaline Gateway project.

4. The Borough Council has very recently dealt with a very similar issue involving an application to develop a former bowling green in Newchurch village which is only a few minutes away from site no SHLAA16172.(Application no 2017/0597). On the 31 August 2018 planning permission was refused for a change of use of the former bowling green for 6 houses. Two of the reasons for refusal are as follows: -

1. *The proposal would result in the loss of a sports facility in the form of a bowling green and it has not been adequately demonstrated that the bowling green is clearly surplus to requirements. In the absence of replacement or better provision or alternative sports and recreational provision, the proposal is contrary to Section 8 of the Framework and Policy 7 of the Council's Core Strategy DPD.*

*2. The proposed scheme would not plan positively for the provision of community facilities and would result in the loss of a significant area of open space, contrary to Sections 6 and 8 of the Framework and Policies 7 and 23 of the Council's Core Strategy DPD.*

The Council has shown resolve in defending sporting and recreational provision from alternate development - even when such sports and recreational provision has ceased several years ago. In fact, the Council refused a similar application for housing development on the same site under application no 2013/0513 in August 2014. The accompanying officer report includes the strong objection from Sport England and with which the LPA agreed.

It cannot be sound, therefore, for it now to propose that site no SHLAA16172 which is in its ownership should somehow be treated differently.

**Other reasons for leaving the site outside of the Urban boundary and not included as a housing allocation**

1. While the site itself is outside the Higher Cloughfold conservation Area it abuts it and the access is within the Conservation Area.  
There is no guarantee that housing can be suitably designed so as to make a positive contribution to the Conservation area (and when a recently submitted and withdrawn application for 1 no 8 bedroom dwelling gives support to such a concern)
2. The site provides a valuable area of open space with some ecological value and adds to the character and appearance of the conservation area
3. The access is both narrow and lined with protected trees. The recent application for 1 house saw the need to widen the access track – but with no regard to the impact on the protected trees
4. The access onto Newchurch Road adjoins a severe bend with very poor sight lines especially towards the East. The development of the site for up to 7 houses as the SHLAA assessment suggests is likely to add to the dangers at the junction.

SH

260918

## Rossendale Borough Council

### REFUSAL OF PLANNING PERMISSION

Town and Country Planning Act 1990

**Applicant Name:** Miss Rebecca Rouse  
72 Bridge Street  
Bridge Street Chambers  
Manchester  
M3 2RJ

#### **Part 1 – Particulars of Application:**

Dated Received: **10th July 2018**

Application Number: **2017/0597**

Proposed Works: Erection of 6 no. three-bedroom dwellings with associated works, on site of former bowling green.

Location: Boars Head 69 Church Street Newchurch

Following consideration of the application in respect of the proposal outlined above, it was resolved to **REFUSE PLANNING PERMISSION** for the following reasons:-

#### **REASON(S) FOR REFUSAL**

1. The proposal would result in the loss of a sports facility in the form of a bowling green and it has not been adequately demonstrated that the bowling green is clearly surplus to requirements. In the absence of replacement or better provision or alternative sports and recreational provision, the proposal is contrary to Section 8 of the Framework and Policy 7 of the Council's Core Strategy DPD.
2. The proposed scheme would not plan positively for the provision of community facilities and would result in the loss of a significant area of open space, contrary to Sections 6 and 8 of the Framework and Policies 7 and 23 of the Council's Core Strategy DPD.
3. The proposed scheme would cause significant harm to the setting of nearby listed buildings and to the historic development pattern of Newchurch, and is considered unacceptable in terms of visual amenity and heritage impact, contrary to Sections 11, 12 and 16 of the Framework and Policies 16 and 23 of the Council's Core Strategy DPD.
4. It has not been adequately demonstrated that the proposed scheme will avoid harmful impacts on the daylight, outlook and privacy of neighbouring residents at Brandwood. As such, the scheme is considered to be contrary to the guidance contained within the Framework and Policy 24 of the Council's Core Strategy DPD.

5. The application has not addressed concerns raised by the Local Highway Authority relating to access for vehicles and pedestrians, bin storage and parking provision. As such, the scheme is considered to be contrary to the guidance contained within the Framework and Policies 8, 9 and 24 of the Council's Core Strategy DPD.

**Informative**

The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at [http://www.rossendale.gov.uk/a\\_to\\_z/service/309/core\\_strategy](http://www.rossendale.gov.uk/a_to_z/service/309/core_strategy), and operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant. The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context. In this case it has not been possible to resolve the issues as set out in this refusal notice. The applicant was informed of this during the course of the application.

Date: 31.08.2018

Signed:

Development Control  
First Floor  
The Business Centre  
Futures Park  
Bacup  
OL13 0BB

Mike Atherton  
Planning Manager

## TOWN AND COUNTRY PLANNING ACT 1990

### **NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS**

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- As this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.\*
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.\*
- As this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.\*
- As this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.\*
- As this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.\*
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.\*
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at
- <http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal>
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

\* delete where inappropriate



Delegated Case	Case Officer	Date for Decision
	Richard Elliott	07 August 2014

**Application No. 2013/0513**

**Proposal :** Erection of 6 Dwellings (3 Pairs of Semi Detached)

**At:** Land to Rear of 69 Church Street, Newchurch

**Site**

The application relates to a roughly rectangular parcel of land situated between a row of traditional two/three-storey stone and slate terraced properties to the north (which includes the Boars Head Public House) and a more modern two-storey red-brick residential home (Brandwood) on lower land to the south. The land slopes down from the garden areas of properties on Church Street and drops quite steeply to the flat part of the site; the land retained by stone walls with hedging and overgrown planting above.

There are two Grade II\* listed buildings and four Grade II listed buildings adjacent to this site. To the east is the Grade II\* Church of St Nicholas with St John, to the northwest of the site lies Grade II 2-6 Old Street, immediately to the north is Grade II 62-63 Church Street, and to the west lies Grade II 5 Bolton Street. The Boars Head, whilst not listed, is a 17th century Inn directly to the north of the site. Within the churchyard of St Nicholas is the Grade II\* Harrier Hound Monument to Mesuthala Yates (1864) and a Grade II listed 18th century sundial.

The settlement of Newchurch is exceptionally well-preserved and the historic street layout (probably dating to the 16<sup>th</sup> century) is still discernible along Church Street, Church Lane and Old Street. The site has remained as open space since at least 1845 and forms part of the immediate setting of the Grade II\* Church of St Nicholas with St John.

Although not a conservation area, as evidenced above, the area is of significant historical character, characterised by the tight layout of stone and slate buildings, the narrow Church Lane, natural stone walls, St Nicholas Church and the application site itself, historically connected with the Boars Head Public House.

The historical character of the area appears to terminate to the west of Church Lane at the point where the bowling green/car park meets the red brick residential home, with a relatively modern housing development to the south of it.

Until approximately September of 2011 the application site was used as a bowling green to its western end and a car park associated with the pub and also by the Church to its eastern end.

Behind the retaining wall to the site that fronts Church Lane are presently to be seen 2 large and prominent trees; they have the protection of a Tree Preservation Order.

The site lies within the Urban Boundary, between Rawtenstall and Waterfoot, as designated in Policy 1 of the adopted Core Strategy.

### **Relevant Planning History**

2010/693      Erection of eight houses - comprising a Terraced Row of 4, & 2 Pairs of Semi Detached

This application proposed : a terrace row of four houses to face Church Lane, each with vehicular access directly from it; two pair of semi-detached dwellings located to the rear, facing southwards towards Brandwood and accessed via a new road to be created alongside the party-boundary with the residential care home. The houses were to be constructed in artificial stone and tile, with white upvc windows. The mature trees fronting Church Lane were to be removed; they were not the subject of a TPO when the application was submitted. Boundary treatment to Church Lane was to include timber fencing atop the dry stone wall in places with the gardens of the houses facing Church Lane to be separated by timber fencing to a height of approximately 1.5m.

This application was withdrawn by the applicant having been advised that the submitted scheme was to be refused for the following reasons :

- Loss of trees fronting Church Lane
- Impact on Heritage Assets including Listed Building/ Overall Character of Area
- Poor design
- Access/Parking
- Contrary to PPG17

Since the previous application was submitted the applicant has fenced off the land with temporary fencing. Accordingly, the bowling green and the car park cannot now be used as such.

2011/397 Erection of 8 houses comprising two terraces of three and 1 pair of semi detached

As described in the case officer report the main differences between the previous application were:

“The layout has been altered so that vehicular access is now to be from the north end of the site, and then turn south towards Brandwood. There will be a row of three houses facing towards its east side, thus having their backs facing towards Church Lane; the 2 trees on the frontage are shown as remaining. The other 5 houses would be split into a 3 and a 2, located to the west side of the new road and with their fronts facing towards it, thus presenting a gable to the northern and southern boundaries.”

The application was refused for the following reasons:

- 1) The proposed development would result in the loss of an area of open space (the bowling green) regularly and continually used by the local community. It has not been adequately demonstrated that this open space is surplus to requirements.
- 2) The proposed development by reason of the layout, scale, design/appearance and implications for trees the subject of a Tree Preservation Order is considered to constitute poor design that fails to protect or enhance the locally distinct character and appearance of the area and the adjacent listed buildings or their settings, most particularly the Grade II\* St Nicholas Church.
- 3) The proposed development would result in inadequate visibility splays to the north and south of the proposed access point, would not provide the required parking spaces or provide for the adequate turning for refuse vehicles within the site and would result in the loss of a pub car park with no provision provided elsewhere.
- 4) The proposed development, most particularly by reason of the dwellings to the east of the site would result in the loss of privacy to the garden areas of Bolton Street properties and loss of light/outlook to the garden areas of No's 59 and 61 Church Street.

Following on from this refusal the applicant provided with the LPA with pre application submission drawings for a revised scheme of 6 dwellings, comprising one pair of semi detached and a terrace of three set back into the site and facing Church Lane, with a detached standalone dwelling occupying more of a central position within the site with its gable to Church Lane.

Dedicated private parking to the Church was to be provided directly adjacent Church Lane.

This scheme was, with the agreement of the applicant submitted to Places Matter for a Design Review. As background Places Matter are affiliated with Cabe and provide a Design Review which according to their website “..is a respected method of improving the quality of new development by offering constructive, impartial and expert advice. Design Review panel meetings allow local authorities, clients, developers and design teams to present their schemes at the pre-planning stage to a panel of experts from the built environment sector and benefit from the discussion and constructive advice of the panel.” Such reviews are now advocated within the NPPF.

Notable points from the Review are as follows:

- The proposal is over developed for the number of dwellings and is poorly laid out with no meaningful landscape shown.
- The layout is weak with no street frontage but rather a blind gable end facing the roadway surrounded by bin stores.
- The approach to the housing design is also very weak.
- It is distressing to read the intention to use reconstituted stone, imitation slate and UPVC windows. There is no attempt being made to even mimic the quality of the buildings within the conservation area. It is further disturbing to see no attempt has been made to consider the design context of the buildings in this area as you appear to be including dormer windows and the use of random bond.
- The height of the housing terrace is too high. A storey needs to be removed. The housing shown could be anywhere. No sense of place has been considered. As it stands we cannot support such an approach to this site.
- Unless you take a more sympathetic approach to the development of this site we feel that it is doomed to fail in a number of different ways most of all from a lack of neighbourhood support. This is a unique site. There are many challenges to it as it sits within a conservation area, has a steep change in level, sits on a very tight roadway and is historically the oldest settlement within the borough.
- Within the large number of constraints of this site we feel much more could be achieved taking a more sympathetic and community minded approach. This would entail limiting the number of dwellings to a maximum of four (preferably two) and turning the front of the site into the bowling green.
- By placing this public space at the front of the site you could site your housing terrace facing onto it towards the back with parking and garden behind. This would mean that you have provided good security to the road and the bowling green by passive surveillance. It provides a good division between public and private space on the site and gives the historic church a better setting.
- By carefully analysing where this site actually sits and how it fits into the context of the area you will see that not only can you work within the constraints of the area but by providing good public amenity space

and better dwellings you would be raising the value of the land and creating a more sustainable development.

2013/0019 Erection of Six Dwellings  
Withdrawn

This application proposed: three pairs of semi-detached dwellings, three storeys in height with their frontages facing northwards and the gable of the end pair facing Church Lane; vehicular access to the houses to be served adjacent the access to the public house and adjacent dwellings; The houses were to be constructed in artificial stone for the front elevations, render to the sides and rear, white UPVC windows and artificial slate for the roofs; a bin store was proposed next to the protected tree to the north east of the site adjacent to Church Lane. Boundary treatments comprised 1.8m and 1.5m timber fencing to the rear of the house.

In the submission no reference was made to the Design review or its conclusions,

The application was withdrawn following case officer correspondence stating that it would be refused for all reasons as set out previously (design/layout and effect on listed buildings/character of the area, loss of the open space without adequate justification, highway matters, materials etc.

The applicant was again advised to go over all of the issues, take into account all previous objections and the comments from Cabe, and was also advised that it would be beneficial to them if they provided a proper and accurate heritage statement.

Inaccuracies in the submitted drawings were also pointed out, e.g. a garage to the north of the site was to be dissected in accordance with the plans, but no reference given to this.

**Proposal**

The applicant now seeks permission for the erection of six houses comprising three pairs of semi-detached in an almost identical layout and with almost identical (if not identical), design and massing to the previously submitted application. The development would require the existing retaining walls to the north of the site to be removed, pushed back further to the north and rebuilt. As per the previous application it is proposed that the existing car parking area would be made available for parking for the Church (less the bin store area). The drawings show the parking spaces nearest to Church Lane would be moved right up to the existing boundary wall, requiring some alteration to ground levels and the removal of the existing grass verge. The total number of spaces for the Church would be five.

The applicant has not chosen to amend the heritage statement, nor does the submission make any reference to the Design Review undertaken by Cabe.

The palate of materials has been amended slightly in that the house would have artificial stone fronts and slate roofs. Render is still proposed to the sides and rear as is white UPVC windows.

The submission, following an invalidation letter from the case officer now has included the area to which a garage was to be dissected and also provides access to the rear of two of the properties on Church Street.

The applicant has provided a study undertaken by Peter Brett Associates relating principally to the Open Space and Highway issues raised in all of the previous applications. The summaries and conclusions from the report are noted in brief below:

- The application scheme fully accords with the various relevant parts of the NPPF in that it will deliver new housing, is acceptable in highways terms, achieves a high level of design quality, and will have no significant adverse impact on the natural or historic environment. In light of this the application is consistent with the NPPF when taken as a whole and should be approved in accordance with the presumption in favour of sustainable development.
- The scheme has been designed to a high standard using appropriate materials, and will have no discernible impact on the setting or significance of the nearby listed building, thereby satisfying Policies 16 and 23
- The scheme, taken as a whole, meets all the relevant requirements of Policy 24 in that the proposal will have no environmental impacts; makes efficient use of land; enhances the site vis-à-vis the existing condition; is fully compatible with the surrounding area which is predominantly residential; will have no significant impact on amenity, is accessible by foot and public transport; and includes adequate parking and servicing provision.
- The Council's concerns with respect to the 'loss' of the bowling green at this location are unfounded. Furthermore, there is no policy context on which to base a reason for refusal relating to the use of this land as a bowling green.
- Access to the site is proposed via the existing, previously consented site access. Although the visibility from the site access does not meet the requirements set out in Manual for Streets, the observed speeds along Church Lane have been recorded as being significantly lower than the 30mph speed limit along Church Lane and no PICs have been recorded along the site frontage over the last five years. Therefore the

proposed site access is considered acceptable, particularly as the access is an existing site access that has previously been consented.

- The application scheme accords with the development plan when taken as a whole, and will not give rise to any significant adverse impacts that would demonstrably outweigh the genuine benefits of bringing the land back into active use to provide a contribution towards local housing provision.

## **Consultation Responses**

### **LCC (Highways)**

#### **Object**

Together the reduction in vehicle movements, the evidence provided showing low vehicle speeds on Church Lane and the acceptance that the access is an existing vehicular access that has served the public house car park for many years requires the highway authority to withdraw its former objection relating particularly to the visibility splays.

I would raise an objection to the layout of the new access road which will result in inadequate parking provision and access for goods/refuse vehicles, which I have given the details of below. If these amendments are made to the plan then I would consider withdrawing the objection.

- Plot 4 requires 2 off street parking spaces, the parking spaces shown are not acceptable within the turning head.
- The turning head should be provided to accommodate the turning of refuse and other larger delivery vehicles within the adopted highway and not within a private car park. This will eliminate the need for a bin store within the car park which will allow additional car parking spaces to be provided. I have attached the LCC specification for turning heads which will be required.
- Currently the unloading of the HGVs for the public house is carried out in a large area to the rear which is un-gated. This area also serves as a bin store for the residents of Church Street and the public house. The proposal sees this area greatly reduced in size and gated. I would recommend that the gates are removed from the plan to allow the residents free access and to ensure that the goods vehicles serving the public house can easily manoeuvre into the area.
- The driveways are 4.8 metres long and the reversing space behind is 5.5 metres. The combination of the sub-standard distances results in inadequate parking provision for plots 1 – 6. (The distances should be 6 metres driveway and 6 metres reversing distance).
- The garages must be 3m x 6m to properly accommodate a vehicle.
- There should be no boundary fences/walls/railings between the plots.
- A 1 metre wide service strip will be required alongside the carriageway to accommodate the services and street lighting columns.
- The access road and retaining walls adjacent to the highway will require building to adoptable standards. The appropriate agreements

must be entered into with the Highway Authority Lancashire County Council.

- An assessment of the retaining wall alongside Church Lane will be required due to the proximity of the parking spaces and an adequate vehicular restraint should be provided to protect the users of the highway. Details of which should be submitted to the LPA for approval.
- A footway should be provided from Church Lane on the southerly side of the access point around the radius to the car park.

#### RBC (Environmental Health)

No objection subject to conditions.

#### RBC (Conservation Officer)

Objects:

The proposal is for 6 three-storey dwellings (3 pairs of semidetached) on land between Church Street and Church Lane, Newchurch. They are sited in an east-to-west alignment with gable ends facing Church Lane. The principal façade and parking is to the north with gardens to the south.

The settlement of Newchurch is exceptionally well-preserved and the historic street layout (probably dating to the 16<sup>th</sup> century) is still discernible along Church Street, Church Lane and Old Street. The site has remained as open space since at least 1845 and forms part of the immediate setting of the Grade II\* Church of St Nicholas with St John.

Setting is defined in the National Planning Policy Framework (NPPF) as *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”*

There are two Grade II\* listed buildings and four Grade II listed buildings adjacent to this site. To the east is the Grade II\* Church of St Nicholas with St John, to the northwest of the site lies Grade II 2-6 Old Street, immediately to the north is Grade II 62-63 Church Street, and to the west lies Grade II 5 Bolton Street. The Boars Head, whilst not listed, is a 17<sup>th</sup> century Inn directly to the north of the site that contributes to the historic character of the area and the setting of the listed buildings. Within the churchyard of St Nicholas is the Grade II\* Harrier Hound Monument to Mesuthala Yates (1864) and a Grade II listed 18<sup>th</sup> century sundial.

The current St Nicholas Church dates to 1825 but this is the third church on this site, and some features from the second church of 1561 survive. 2-6 Old Street are two exceptionally well-preserved two-storey cottages dating to the 16<sup>th</sup> century. Surviving features include mullion windows and Tudor hoodmoulds. 5 Bolton Street has watershot sandstone coursing and a symmetrical, 18<sup>th</sup> century appearance. 62-63 Church Street are two-storey gabled buildings forming part of the continuous frontage along Church Street.

They possess early 19<sup>th</sup> century shopfronts. The rich variety in architectural style is unified through the use of local sandstone.

Church Lane rises steeply from the south and slopes down dramatically from the north from Church Street. The curve of Church Lane is emphasised by the continuous building line on Church Street, and views south are framed by 1 Old Street and 71 Church Street being sited directly onto the road and pavement. Further south, the tall stone walls of the church add to the sense of enclosure. The wall and mature trees of the site emphasise this enclosed atmosphere and provide an attractive setting to the Church.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (*General Duty as respects listed buildings in exercise of planning functions*) states that: *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting.”*

Paragraph 132 of the National Planning Policy Framework (NPPF) states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...Substantial harm to or loss of designated heritage assets of the highest significance, notably...grade I and II\* listed buildings... should be wholly exceptional.”*

Paragraph 137 of the NPPF states that *“Local planning authorities should look for opportunities for new development ...within the setting of heritage assets to enhance or better reveal their significance.”*

Taking into account Paragraph 132 of the NPPF, significance can be harmed or lost through development within the setting of heritage assets, and substantial harm to Grade II\* assets should be wholly exceptional. Taking into account paragraph 137 of the NPPF, any development on this site should either enhance or reveal the significance of the various Grade II\* and Grade II heritage assets which are experienced from this site and therefore form part of their setting as defined in the NPPF.

Policy 16 (5 a,b) of Rossendale Borough Council’s Core Strategy Development Plan Document (DPD) *Preserving and Enhancing Rossendale’s Built Environment* states that heritage assets and their settings will be safeguarded by ensuring development is located in a way that respects the distinctive quality of the historic landscape and setting, and retains or enhances the character and context, and is of a high standard of design. The proposed development is considered below in terms of impact on the character of the historic landscape, and impact on the setting of the Grade II\* and Grade II heritage assets.

### **Siting, Form and Layout**

The east-west alignment behind Church Street does not follow any known historic street pattern and there is no precedent for development in this area.

The gap between the road and development creates an alien layout and the main elevation being to the north with gable end facing Church Lane obscures the historic street pattern which in turn impacts negatively on the setting of the church.

There is no historic precedent for semi-detached dwellings in this area and the creation of large driveways will have further detrimental impact on the setting of the church by adding a modern inappropriate material. Viewed from the south, the dwellings will dilute the sense of enclosure created by the wall and trees by overpowering this area visually and causing space leakage.

The ground floor is stepped forward with a lean-to to main façade and porch feature, neither of which are found historically in the area and will further dilute the historic character of the area and impact negatively on the setting of the church.

### **Scale**

The three-storey dwellings are out of scale with the surrounding buildings and will compete visually with the surrounding listed buildings, most notably the Church, and obscure views of Grade II 62-63 Church Street and the Boars Head. The development may be more appropriate if sited in a north-south alignment with main façade to Church Lane, and reduced in scale to reduce impact on the listed church. However views to 62-63 Church Street and The Boars Head will still be obscured. The dwellings would be more appropriate if they were single dwellings or formed a terrace with no projecting porches or lean-tos to the main façade in order to mirror surrounding buildings which have a continuous building line. However, the enclosed character of this area and impact on surviving historic street pattern suggests development in this area would be inappropriate.

### **Materials**

The Heritage Statement states that stone will be used for the main façade with render to the sides and rear. On the application form the proposed walling material is a reconstituted stone. The coursing proposed on drawing E259-300 is not traditionally found in this area, and the proposal would be improved by using natural stone, regularly coursed, to complement the historic watershot coursed sandstone. uPVC windows and doors are not appropriate for this area, where many historic features remain. Timber would be more appropriate for doors and for windows a vertically sliding timber sash would be more appropriate. The gable end being sited onto Church Lane will present to the road a gable of part reconstituted stone and painted white render. White render will also be observed from the south of Church Lane. Painted render is not a feature of this area and the proposal would be improved by omitting render and using coursed local sandstone.

### **Landscaping**

Waney fencing is not a traditional feature of the area and a coursed wall observed in other areas along Church Lane would greatly improve the proposals. The modern pavements proposed would be better replaced by a traditional sandstone flag. The landscape buffer planting between Church

Lane and the development will neither hide nor complement the new development and create a modern car park appearance.

In considering siting, form, layout, scale, materials and landscaping, the proposal in its current form fails to preserve, enhance or better reveal the significance of the heritage assets or their setting. The proposal has a direct negative impact on the setting of the Grade II\* listed church and is therefore contrary to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF paragraphs 132 and 137, and Policy 16 (5 a and b) of Rossendale Borough Council's Core Strategy DPD.

### **Rossendale Civic Society**

Object:

The area is of significant historic interest and any development that might significantly affect this setting must be extremely high quality, well considered and intrinsically linked to its context to be acceptable.

However the applicant sees it as disguising the rear of the Boars Head and adjacent properties, whereas significance is a measure of the historic interest and importance of a place, not how pretty it is in isolation. The rears of these properties give important clues to their former uses and changes over time, which are historically interesting in their own right. To justify proposals on the basis of hiding this is to ignore what makes the place special.

With respect to the applicant's arguments about bowling green provision, while there are other greens within a claimed 15mins walking distance, has the topography been taken into account; and as its stated that bowling attracts an older demographic, that surely makes bowling a highly localised sport and that 15min walk is unacceptably long for a sport attracting predominantly older people? And there is also the very local source of older users, next door, in Regenda Housing Association's Brandwood House. The Bowling Green Is therefore an important asset as a) its understood that Edgeside is no longer in use and b) any walk from Newchurch involves a long steep hill.

The applicant aims to provide 5 car parking spaces for church users, but does not appear to have noted that provision for Car Parking to Drinking Premises in the 2011 approved Core Strategy is 1 space : 5sqm or 7.5sqm if good public transport – does the Rosso Bus Route 482 suit pub closing times? The Boars Head, 69 Church Street, BB4 9EH, is from recent sales details: a public house, stone walls, originally constructed in 1674, accommodation over three floors briefly comprises: a large bar and lounge area, commercial kitchen, male and female toilets, first floor, two bedrooms, lounge, office, wc and an open second floor. To the outside there is a flagged beer garden to the rear with views over the Rossendale Valley. EPC Certificate gives total useful floor area 294sqm. The ground floor extends to the rear, so how much is licensed; 100sqm would suggest at least 14 spaces.

When you look at the actual layout of these houses, points that stand out are:

1. No stated overlooking distance down into the claimed non habitable room windows of a large sheltered housing scheme – RBC policy is 13m for 2 storey + 3m for extra storey height as here = 16m, but as proposed it looks closer to 14m, and there's also a proposal to further obstruct its windows with a garden fence. Are all these windows to corridors, or are some to Kitchens, which if space for a table could count as a habitable room?
2. The application refers to requirements in Core Strategy, so should not be surprised that these include Lifetime Homes, which allows for comments on the internal layout and space standards of these houses, and RCT do not see that these homes are Lifetime Homes.
3. The present housing design looks to be challenged by its site width north to south. by whatever space is needed for a retaining wall to gardens of overlooking houses and the Boars Head, by a 5.5m wide access road, by a 4.8 or 5m depth of car parking, and by an overlooking distance down to the sheltered housing scheme. Note how the swept path, shown for a large refuse vehicle allows access from only the upper section of Church Lane, and for cars, note how much reversing is needed to use the end house's parking spaces.
4. So what's left for the houses – look at the size of the Dining Kitchen – a table with 4 chairs for a 3 bedroom 5 person house – where's its fridge freezer to stand, or its washing machine, drier and dish washer. In the First Floor Bedroom, look at the space around the double bed – is it a small 1400 double or the more usual 1500 width, and what happens when someone brakes a leg and needs to use a walking frame? And same need for this extra space in the Bathroom = Lifetime Homes???
5. Then there's the staircase open all the way from the Living Room to the Second Floor, and with no Hallway to the Front Door. A permanent vent in winter to keep it cool and increase energy bills. And what if there's a fire, don't the Building Regs, expect stairs in 3 storey houses to be in a 30 minutes fire resisting enclosure to an escape, either at ground level or to a safe level to fall from?
6. Do these proposed houses, with so much blank walls over their first floor windows and to their side gables, show the same respect for this windy exposed site, as does the terrace along Church Street? In such locations should we need to see a layout which the winds blow over rather than through it?
7. There's a need to look at the wall adjoining the proposed building site and Bolton Street and there are no details for the design of the retaining wall between fronts of houses and back of Church Street.
8. There is also a need to show height between new build roofs and Church tower? This too will be important when seen across the valley, and even from approaching the village along Staghills Road.

### **Neighbour Notification Responses**

To accord with the statutory requirements a press notice was published on 20/06/2014, 52 local residents have been notified by letter and site notices were posted on 16/06/2014.

116 objections have been received, including an objection from Sport England. The following are the main points raised:

- Impact on protected trees
- Highway safety
- Inaccurate plans and supporting information
- Inappropriate materials, design, layout etc
- Very similar to the previous application
- Contrary to local and national planning policy
- Impact on amenities of surrounding residents including the occupants of Brandwood
- Land subsidence caused by construction and reduction in the retaining walls, no assessment as to how the development would be achieved in light of this and no assessment as to the strength of existing retaining walls
- Loss of the bowling green – there was still an active team in 2011 until the site was closed off and green was dug up
- Part of the land is owned by residents at 61 Church Street
- There has been no community consultation

Sport England (although not a statutory consultee) object for the following reason:

The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation. Sport England has assessed the application in the light of Sport England's Land Use Planning Policy Statement 'Planning for Sport Aims and Objectives'.

The statement details Sport England's three objectives in its involvement in planning matters;

- 1) To prevent the loss of sports facilities and land along with access to natural resources used for sport.
- 2) To ensure that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable.
- 3) To ensure that new sports facilities are planned for and provided in a positive and integrated way and that opportunities for new facilities are identified to meet current and future demands for sporting participation.

The site of the proposed housing contains a bowling green which was in active use by Boars Head Bowling Club. Sport England has been advised that the bowling green has been demolished.

The NPPF is clear in its advice relating to sport facilities and it does not distinguish between private sport facilities and public ones. Paragraph 74 states:

*“74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”*

We note that an assessment has been submitted in an attempt to meet the first bullet point of paragraph 74. Having reviewed the assessment, we do not consider that this assessment shows that the bowling green is surplus to requirements for the reasons set out in Appendix 1 of this letter.

Sport England therefore considers that the proposal conflicts with Objective 1 of Sport England’s Land Use Planning Policy Statement. Without any replacement facility, the proposal is also contrary to paragraph 74 of the NPPF as the assessment has not demonstrated that the bowling green is clearly surplus to requirements.

In light of the above and the lack of evidence of any other exceptional circumstances Sport England **objects** to the proposal.

Given the lack of evidence that the bowling green is surplus, Sport England would suggest that the applicant should replace the bowling green in the locality or provide the Council with a commuted sum to provide the bowling green.

### **Policy Context**

#### **National**

Section 1	Building a Strong Competitive Economy
Section 4	Promoting Sustainable Transport
Section 6	Delivering a Wide Choice of High Quality Homes
Section 7	Requiring Good Design
Section 8	Promoting Healthy Communities
Section 10	Meeting the Challenges of Climate Change, Flooding, etc
Section 11	Conserving and Enhancing the Natural Environment
Section 12	Conserving and Enhancing the Historic Environment

### **Development Plan**

#### **Rossendale Core Strategy DPD (2011)**

AVP 3:	Waterfoot, Lumb, Cowpe and Water
Policy 1	General Development Locations and Principles
Policy 2	Meeting Rossendale’s Housing Requirement
Policy 3	Distribution of Additional Housing

Policy 4	Affordable and Supported Housing
Policy 7	Social Infrastructure
Policy 13	Protecting Key Local Retail and Other Services
Policy 16	Preserving and Enhancing the Built Environment
Policy 18	Biodiversity and Landscape Conservation
Policy 19	Climate Change & Low Carbon & Zero Carbon Sources of Energy
Policy 22	Planning Contributions
Policy 23	Promoting High Quality Designed Spaces
Policy 24	Planning Application Requirement

### **Other Material Planning Considerations**

National Planning Practice Guidance (2014)

Planning (Listed Buildings and Conservation Areas) Act 1990

### **Assessment**

The main issues to be considered in the determination of this application are:

- 1) Principle
- 2) Housing
- 3) Heritage Issues/Visual Amenity
- 4) Neighbour Amenity
- 5) Access/Parking

#### **Principle**

The development is located within the Urban Boundary of Waterfoot and is in a sustainable location close to regular bus routes and the Town Centre. It is something of a moot point as to whether the land would constitute previously-developed land or not. To my mind, and based on information I have received from neighbours and the applicant, the bowling green and car park have historically been connected with The Boars Head Public House. Accordingly, I consider the land to be previously developed. As the Council, in accordance with National Planning Guidance, seek to locate most new housing development in sustainable locations on previously-developed land within the Urban Boundary I do not consider the scheme unacceptable in this regard, however, I am aware that in accordance with the NPPF definition of previously developed land it should not be assumed that the whole of the curtilage should be developed.

The western part of the site has until recently been used as a bowling green and, despite the applicant's claims to the contrary, I do consider that it has been used by members of the community up until the site was relatively recently closed off by the applicant, who had purchased the Public House and the Bowling Green/Car Park.

Bowling Greens were within the definition of open space contained within the now replaced PPG17, in accordance with the definition they could be either publicly or privately owned.

The NPPF now having replaced PPG17 provides guidance on the matter within paragraph 74:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”

The NPPF defines open space as ‘All open space of public value, including not just land, but also areas of water which offer important opportunities for sport and recreation and can act as a visual amenity.’

I am satisfied that part of the site constitutes an existing open space to which paragraph 74 of the NPPF applies. This is now (after 3 previous submissions) finally accepted by the applicant and a report has been produced in order to overcome previous objections in this regard.

It is recognised that the site does not constitute a playing field, and therefore, consultation with Sport England has been undertaken on a non-statutory basis. However, this does not lessen the requirements of paragraph 74 of the NPPF and Sport England is considered the appropriate body to assess such applications.

Sport England has maintained their objection to the scheme, stating that the report does not adequately address the requirement(s) of paragraph 74 of the NPPF. The response from Sport England specifically identifies sections of the report that further their conclusions.

I have no reason to disagree with the conclusion reached by Sport England and I concur with many if not all of their points relating to the applicant’s submitted report. I would further add, as referenced by a number of residents in their objection letters, that there does not appear to be any consideration given to the accessibility of this particular site for local residents, which would clearly be a significant consideration for local residents, particularly the elderly, who may find it difficult to walk to alternative sites given the topography of Rossendale.

Accordingly I concur with the views of Sport England that the proposal would result in the loss of a sports facility in the form of a bowling green and it has not been adequately demonstrated that the bowling green is clearly surplus to requirements. In the absence of replacement or better provision or alternative sports and recreational provision the proposal is contrary to paragraph 74 of the NPPF.

Policy 7 of the Council's Core Strategy continues the approach of paragraph 74 of the NPPF to protecting open space. I disagree with the view of the applicant that Policy 7 is not applicable as the land is not included in any designation or park or open space. I would contend that as the open space fits within the definition of open space, the requirements of Policy 7 are applicable and largely consistent with paragraph 74 of the NPPF.

### Housing

Despite claims within the applicant's submission that the Council does not have a five year housing land supply, the LPA in a report to Cabinet on 16th July has identified a deliverable five year housing land supply for the five year period from 1 April 2014 to 31 March 2019, with a base date of 31 March 2014.

Relevant local planning policies in respect of housing are therefore still applicable in the determination of this application. Furthermore, this is not a site allocated for housing within the Council's Local Plan and nor is it proposed to be.

The site lies between Rawtenstall and Waterfoot, settlements where the Council recognise that there is capacity to provide significant additional housing towards meeting the net housing requirement for the plan period, with priority being given to previously developed land.

I do not consider that the 6 additional houses here would have a detrimental impact on capacity or infrastructure, and would not compromise the Council's housing strategy. There would be no requirement for any affordable units, the scheme being on previously developed land and for less than 15 dwellings.

In line with section 6 of Policy 2 and consistent with the NPPF definition of previously developed land that there is no presumption that the whole of the curtilage of a property should be built on, 'the net housing requirement should be met by safeguarding the character of established residential areas from over-intensive and inappropriate new development'.

All previous applications have been considered inappropriate and over-intensive having regard to site constraints and it is considered that this application does not differ in this regard, as will be demonstrated in the remaining sections of this report.

### Heritage Issues / Visual Amenity

The applicant has been provided with a considerable amount of feedback and information relating to previous applications. The applicant has been given ample opportunity to address previous objections and to alter their schemes accordingly.

It is a source of much frustration to local residents and the LPA that very little has been done to address all such issues and it remains the case that the applicant has failed to acknowledge the advice provided from Cabe.

Irrespective of such advice it appears that the applicants also continue to downplay the significance of the open space on the historic character of the area and the significance it has on the setting of surrounding heritage assets.

Setting is defined in the National Planning Policy Framework (NPPF) as *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”*

The current application is very similar to that previously submitted and subsequently withdrawn to prevent a refusal of planning permission.

A meeting has been held with the applicant and their representatives in relation to this scheme in which it was again made clear that this scheme is considered wholly unacceptable.

Although national planning policy has changed significantly since the refused application ref: 2011/ 0397(NPPF replacing PPS’s and PPG’s) design and heritage continue to be amongst the core planning principles and a fundamental part of sustainable development. The more recently published NPPG further adds to the weight that needs to be given to heritage and good design. Policies within the Council’s Core Strategy are consistent with relevant policies in the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990 remains.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (General Duty as respects listed buildings in exercise of planning functions) states that: “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting.”

Some notable paragraphs of the NPPF relevant to this application are below:

Para 56 “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”

Para 64 “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

Para 66 “Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.”

Para 131 “In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage
- assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Para 132 “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”

Para 133 “Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Para 134 “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

Para 135 “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

I can only concur with the views expressed by the Council's Conservation Officer (and previous Conservation Officers), Rossendale Civic Society and the majority of opposing residents regarding the unsuitability of this scheme. It is considered that the site forms an important part of the historic character of the area. The site continues to and has historically formed a pocket of open space between the listed buildings to the north, east and west of the site. In addition to the two oak trees to the front of the site, existing stone boundary treatments, retaining walls and landscaping within and bordering the site it forms a highly significant setting to the Grade II\* Listed Church and the other listed buildings.

In addition, the open space provides a visual break between the old and new along Church Lane. The open space, therefore, has a positive role to play in the area and for the community.

In short, I retain the opinions I expressed in previous reports and all previous correspondence on the matter that the proposed scheme does very little, if anything, to respect the character of the area or its setting adjacent to the listed buildings.

The houses, as proposed, have no affinity with the Grade II\* Listed Church or the surrounding Listed Buildings on Church Street and Robert Street, in terms of design, form, layout or materials. The layout of the properties is more akin to standard modern housing development compounded by the 3-storey semi detached town-house design. The proposed use of artificial stone, substantial areas of render (sides and rear) and white upvc windows is incompatible with the natural stone/stone slates/slates used on those buildings with which the land is considered to have a historical affinity. A rendered gable facing Church Street and the Grade II\* St Nicholas Church is not considered appropriate.

The proposal includes works to the existing parking area, namely digging up and into the existing verge up to the retaining wall with Church Lane in very close proximity to the two protected Ash trees. There will also be a 25sqm bin store placed beneath one of the trees. The submitted tree report pre-dates this application and does not refer to these aspects of the scheme. Clearly the alteration to the ground levels, the construction of a hard surface and the bin store would/could have serious implications for the protected trees which are features that positively contribute to the character and appearance of the area, and the setting of the listed buildings. Irrespective of the impact on the trees the siting of a relatively large bin store immediately adjacent to Church Lane would not be appropriate.

The proposed street design, inclusive of the turning heads, parking areas and tarmac surfaces do appear a highway engineered solution that in themselves would not be particularly appropriate to such a site and nor would the proposed timber fencing. There is a possible conflict between heritage and highway standards in respect of this matter which could be overcome should

any alternative schemes come forwards for a lesser number of residential units.

In conclusion, the proposed development by reason of the layout, scale, design/appearance and implications for trees subject to a Tree Preservation Order is considered to constitute poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, does not contribute positively to making the area better for people and would cause substantial harm to designated heritage assets and their setting, including the Grade II\* St Nicholas Church to which it has not been demonstrated that this harm is necessary to achieve substantial public benefits that would outweigh the harm identified.

The scheme is considered unacceptable in terms of visual amenity/heritage impact.

#### Neighbour Amenity

I do not consider that there would be a significant loss of light, privacy or outlook to those residents at Brandwood, the first floor windows facing onto the application site being non habitable. Nor do I consider there to be an undue loss of light/outlook to those residents on Church Street owing to the level and separation distances between the properties. There would not now be any significant overlooking to garden areas of neighbouring residential properties to the east. The scheme is considered acceptable in terms of neighbour amenity.

#### Access/Parking

There is an objection from the Highway Authority and as submitted the proposal in my view would be detrimental to highway safety.

Further information would be required in relation to how the existing area to the rear of No.67, 69 and 71 is used by vehicles and how the existing public house and the proposed site would function to ensure deliveries and refuse could be carried out without causing harm to highway safety in the area.

Proposed parking and turning within the site for the proposed houses and refuse vehicles is inadequate as shown, and the scheme lacks a required service strip for services and street lighting columns. This would also lessen the extent of parking and turning within the site.

I understand residents' concerns relating to the loss of parking for the public house, however, the Highway Authority has been made aware of this issue but do not consider it warrants an objection .

However, in the absence of amended plans to address the highway authority reasons for objecting I consider the application unacceptable in terms of highway safety.

The scheme is considered unacceptable in terms of highway safety.

**Reasons for Refusal**

- 1) The proposed development would result in the loss of an area of open space (the bowling green) which up until recently was regularly and continually used by the local community. It has not been clearly shown that this open space is surplus to requirements, or that its loss would be replaced by equivalent or better provision, or that the development is for alternative sports and recreation provision. Accordingly, the scheme is contrary to the advice of Sport England, paragraph 74 of the NPPF and Policy 7 of the Council’s adopted Core Strategy DPD (2011).
  
- 2) The proposed development by reason of the layout, scale, design/appearance and implications for trees covered by a Tree Preservation Order, constitutes poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, does not contribute positively to making the area better for people and would cause substantial harm to designated heritage assets and their setting, including the Grade II\* St Nicholas Church to which it has not been demonstrated that this harm is necessary to achieve substantial public benefits that would outweigh the harm identified. Furthermore, the scheme, which is very similar to that of application reference 2013/0019, has failed to address concerns previously raised by the LPA and failed to acknowledge the comments and conclusions resulting from a Cobe Design Review specifically relating to the site. The application is considered contrary to the NPPF and Policies 1, 2, 8, 9, 16, 18, 23 and 24 of the Council’s Core Strategy DPD (2011).
  
- 3) Proposed parking, turning and access to/within the site for the proposed houses and for good/refuse vehicles is inadequate as shown and the scheme lacks a required service strip for services and street lighting columns which would further lessen the extent of parking and turning within the site. The proposed development would also result in a significant reduction to the area to the rear of no’s 67, 69 and 71 Church Street with insufficient information provided to fully assess the impact this would have on the area, most particularly taking into account the dray wagons necessary for the public house. In the absence of amended plans to address the objections raised by the Highway Authority, the scheme is considered contrary to the NPPF, Policies 1, 8, 9, 23 and 24 of the Council’s Core Strategy DPD (2011).

**CASE OFFICER.....DATE:.....**

**PRINCIPAL PLANNING OFFICER.....DATE:.....**













**Planning Advice, Support and Training**  
**Email:**

**Tel:** or

03/10/18

Formal Representation on behalf of Voith Paper Ltd. In regard to Stubbins Vale Mill, Stubbins Vale Road, Stubbins. BLO ONT

#### Site

The property comprises the site of Stubbins Vale Mill that dates to 1851 when it was built originally as a spinning mill.

The site lies to the direct north of Stubbins, the village, as it does to the north of Ramsbottom and south of Helmshore and Rawtenstall.

It lies off the A676 Bolton Road North leading from Bolton and Bury to the nearby M66 Motorway junction at Edenfield. It lies off the A676 Bolton Road North leading from Bolton and Bury to the nearby M66 Motorway junction at Edenfield. Stubbins Vale Road is essentially a cul de sac that does link to Strongstry Road which in turn leads to West View and North Street - both also cul de sacs.

The property is now vacant Stubbins Vale Mill site owned by Voith Paper Limited.

The overall site extends to some 17.08 acres OTA as measured by ProMap and based on Title information supplied.

Voith Paper Limited occupy the majority of the eastern side of the site with the offices to the frontal section of this side of the site being occupied by The Ramsbottom Learning Centre as a Tenant to Voith. This is a short-term lease of three months notice.

The western side of the site comprising the old north light shed sections that remain, presently lie vacant after TNT vacating the site some 15 months ago.

The eastern part of the site closed at the end of September 2018

There is a further original workshop building that is accessed off Stubbins Street that is used as a store for Voith. The mill buildings come close up to (and at one point over) the road, which has narrow footpaths on either side.

The site has a number of terraced houses located just outside its boundaries, most notably 'Farm Cottages' and Stubbins Street and East View to the south of the site.

The overall site extends to some 17.08 acres OTA as measured by ProMap and based on Title information supplied. (this does not include the Workshop Building fronting to Stubbins Street).

The Split is:

Western Side - 7.613 Acres (2.607 Acres Developable)

Eastern Side - 9.477 Acres (4.452 Acres Developable)

Voith Paper Limited occupy the majority of the eastern side of the site with the offices to the frontal section of this side of the site being occupied by The Ramsbottom Learning Centre as a Tenant to Voith.

The western side of the site comprising the old north light shed sections that remain presently lie vacant after TNT vacating.

There is a further original workshop building that is accessed off Stubbins Street that is used as a store for Voith.

The property is held under Title LA444612 and the Plan shown below is an extract from such and shown to delineate the site area

The Split is:

Western Side - 7.613 Acres Eastern Side - 9.477 Acres

The overall site contains various areas of woodland, railway embankments, the line of the old railway line and the Strongstry Road former railway bridge which carries with it repairing liabilities. Further there is a mounded area at Stubbins Street on which there are some third party garages and sheds of which the legality is questionable.

These areas are essentially undevelopable and the broader site areas are therefore much reduced when considering the actual areas of land that can be "beneficially" used for commercial or alternate uses.



This does not accord with the wider allocation in the draft Roessendale Local Plan.

#### National Planning Policies

##### NPPF 2018

2 Planning law requires that applications for planning permission be determined in accordance with the development plan<sup>2</sup>, unless material considerations indicate otherwise<sup>3</sup>. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

7 The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs<sup>4</sup>.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

9. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

10. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

a) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;

b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas<sup>5</sup>, unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area<sup>6</sup>; or

ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Plan-making

15. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.

16. Plans should:

a) be prepared with the objective of contributing to the achievement of sustainable development<sup>10</sup>;

b) be prepared positively, in a way that is aspirational but deliverable;

- c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;
- d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;
- e) be accessible through the use of digital tools to assist public involvement and policy presentation; and
- f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

#### The plan-making framework

17. The development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area<sup>11</sup>. These strategic policies can be produced in different ways, depending on the issues and opportunities facing each area. They can be contained in:

- a) joint or individual local plans, produced by authorities working together or independently (and which may also contain non-strategic policies); and/or
- b) a spatial development strategy produced by an elected Mayor or combined authority, where plan-making powers have been conferred.

18. Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies, and/or in local or neighbourhood plans that contain just non-strategic policies.

19. The development plan for an area comprises the combination of strategic and non-strategic policies which are in force at a particular time.

#### Strategic policies

20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision<sup>12</sup> for:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and
- d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

21. Plans should make explicit which policies are strategic policies<sup>13</sup>. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues), to provide a clear starting point for any non-strategic policies that are needed. Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies.

22. Strategic policies should look ahead over a minimum 15 year period from adoption<sup>14</sup>, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.

23. Broad locations for development should be indicated on a key diagram, and land- use designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or non- strategic policies) <sup>15</sup>.

#### Preparing and reviewing plans

31. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.

32. Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements<sup>17</sup>. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).

33. Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary<sup>18</sup>. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.

#### Delivering a sufficient supply of homes

59. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

60. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

## Identifying land for homes

67. Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:

- a) specific, deliverable sites for years one to five of the plan period<sup>32</sup>; and
- b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.

68. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

- a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;
- b) use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward;
- c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and
- d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

72 The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities. Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:

- a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;
- b) ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;
- c) set clear expectations for the quality of the development and how this can be maintained (such as by following Garden City principles), and ensure that a variety of homes to meet the needs of different groups in the community will be provided;

d) make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites, and identify opportunities for supporting rapid implementation (such as through joint ventures or locally-led development corporations)<sup>35</sup>; and

e) consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size.

#### Maintaining supply and delivery

73. Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies<sup>36</sup>, or against their local housing need where the strategic policies are more than five years old<sup>37</sup>. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

a) 5% to ensure choice and competition in the market for land; or

10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan<sup>38</sup>, to account for any fluctuations in the market during that year; or

c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply<sup>39</sup>.

74. A five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:

a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and

b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.

75. To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority's housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under- delivery and identify actions to increase delivery in future years.

#### 6. Building a strong, competitive economy

80. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The

approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation<sup>40</sup>, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

81. Planning policies should:

- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;
- b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;
- c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and
- d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.

Rossendale Local Plan

The site is earmarked for continuing employment purposes EE 37 in the draft Local Plan. Previous correspondence with the LPA in 2017 has indicated that the allocation is based on the February 2017 Employment Land Review carried out by Lichfields. That report concluded that some 22-32 ha of employment land needed to be allocated for the period between 2014-2034. It is now 2015 and the Council have allocated 29 ha. The study advised that the split be 40/40/20 ( B1-2/B8/office)

Lichfields then assessed the existing employment land portfolio, and its review is caveated in paragraphs 10=8/9/10 to show its limitations.

The report states:

“Stubbins / Edenfield

10.24 The settlements of Stubbins and Edenfield are located in the south west of the Borough in the A56 and M66 Corridor; 5 sites were assessed within Stubbins and 10 sites within Edenfield (though most were potential sites). This area also benefits from excellent strategic road access as a result of its location, being within close proximity to the M66 and A56 junction. **Notwithstanding this, the sites assessed were relatively isolated and were located away from services and the major centres of population.**

**10.25 The 5 sites assessed within Stubbins had poor to average overall scores, suffering particularly from poor local access and their remoteness from labour and services. Some sites also suffered development and environmental constraints such as the presence of mature trees or being located within a high risk flood area. Sites EMP41, EMP43 and EMP44 had the highest overall scores in this area. This reflects their roles as well established industrial areas with low vacancy rates due to the high profile occupiers, who are also large employers within this locality. However, all three of these sites are fully developed and offer limited future development potential.**

10.26 The Croft End Works (EMP42), located on the eastern edge of Stubbins, has a very poor rating on the basis that the mill building is in a poor state of repair and has a 100% vacancy rate, which is indicative of very weak market demand for units of this type in this part of the Borough. The pro-forma concludes that this site should be released from the employment land portfolio as a consequence (a conclusion that aligns with the previous recommendation in the 2009 ELR for Rossendale Borough).

10.27 One of the sites assessed in Edenfield comprised a well-established existing employment site (EMP06), which was characterised by an old mill building and dated industrial units. Similar to sites in Stubbins, the site benefits from excellent public transport links though it is relatively remote and isolated from services and labour.”

Significantly since that report was published the Volith site has now become similar to the Croft End Works, in that it is now entirely unoccupied with the exception of the short term lease of the Ramsbottom Learning centre. Whilst the buildings on the eastern side of the site are in good order, those on the western site are not and are only going to get worse.

The site’s position has changed since the Lichfields assessment which at the time said the site only had an average score and now it is considered that of re-assessed would be below average.

Housing Land Requirements.

The need to provide strategic housing land to meet the needs of the next 15+ years means that a significant portion of Green belt Land is earmarked to be released in and around nearby Edenfield for residential development.

“Edenfield (Policy HS2 and HS3)

Green Belt land within Edenfield has been identified for housing development. The scale of the site means that this allocation will contribute significantly to housing provision in Rossendale. The land is immediately adjacent to Edenfield which though a discrete settlement in functional terms forms an extension of the large built up area of Ramsbottom in neighbouring Bury MBC. The opportunities for high quality, Masterplan led development are considered to outweigh the effect of the scale of the proposed development on a designated Key Service Centre.

The strategic release of the land identified for allocation will be contained by a strong boundary (the A56) limiting the potential for future sprawl, will be perceived as the main block of settlement within Edenfield growing incrementally north and will fill the gap between the A56 and the linear settlement along Market Street creating a stronger Green Belt boundary and settlement edge.

The development will deliver community facilities with Strategic Green Infrastructure throughout the development, on site affordable housing, interconnected pedestrian/ cycle routes along with the potential for additional primary school accommodation if required”

Strategic Policy SS: Spatial Strategy

The Council will focus growth and investment in Key Service Centres, on major sites and on well-located brownfield sites whilst protecting the landscape and current built character and rural areas.

Greenfield development will be required within and on the fringes of the urban boundary to meet housing and employment needs. The Council will require that the design of such development relate well in design and layout to existing buildings, green infrastructure and services

To promote vibrant local communities and support services, an appropriate scale of growth and investment will be encouraged in identified Local Service Centres, providing it is in keeping with their local character and setting.

The Council will work with partners and developers to protect and enhance the Ecological Corridor Network and the Borough's built heritage.

Growth and investment will be concentrated in:

a) The Key Service Centres of:

- i. Rawtenstall
- ii. Bacup
- iii. Haslingden
- iv. Whitworth

b) Major Sites allocated at:

- i. Edenfield
- ii. Futures Park
- iii. New Hall Hey
- iv. Carrs Industrial Estate

c) A level of growth and investment appropriate to the settlement size will be encouraged at the following Urban Local Service Centres to help meet housing, employment and service needs:

- i. Waterfoot
- ii. Broadley/Tonacliffe
- iii. Stacksteads
- iv. Crawshawbooth
- v. Helmshore

- vi. Facit
  - vii. Stubbins
  - viii. Britannia
- d) Limited growth and investment will be encouraged at the following Rural Local Service Centres to help meet local housing and employment needs and to support the provision of services to the wider area:
- i. Loveclough/Goodshaw
  - ii. Water
  - iii. Weir
  - iv. Whitewell Bottom
- e) In other places – such as smaller villages and substantially built up frontages- development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes.
- i. Acre
  - ii. Chatterton
  - iii. Cowpe
  - iv. Ewood Bridge
  - v. Irwell Vale
  - vi. Turn
  - vii. Sharneyford

The SHMA particularly highlights a need for larger, aspirational property types in Rossendale to rebalance the stock away from small terraced properties and reduce the high levels of out-migration to adjoining areas to satisfy the demand for suitable house types. It also evidences the need for more good quality, specialist accommodation designed specifically for the growing elderly population and also identifies a need for single level accommodation. The SHMA also identifies a need for 1 and 2 bedroom dwellings.

Previously developed (brownfield land) has been identified wherever possible but the supply of sites without significant constraints within the urban boundary is limited. Overall 152 brownfield sites were considered comprising a total of 182.4ha. 39 of these sites are proposed for development on an area of approximately 45ha. Other brownfield sites were rejected for a variety of reasons including flood risk; contamination and access difficulties.

The overall brownfield delivery rate is expected to be higher than the 30% figure as most sites below the 5 dwelling threshold for inclusion in the Plan are on brownfield land as are “windfall” sites. Further information on the land supply for housing for Rossendale over the next fifteen years (2018-2033) is included in the Council’s Strategic Housing Land Availability Assessment (SHLAA) (2018).

H70	Irwell Vale Mill HS2	1.43	45	31	Years 1-5	Mixed Housing
H71	Land East of Market Street, Edenfield Housing HS2	0.31	9	29	Years 1-5	Brownfield
H72	Land west of Market Street, Edenfield	15.25	400	26	Years 6-15	Mixed but largely greenfield
H73	Edenwood Mill, Edenfield	0.94	47	50	Years 6-10	Mixed Housing
H74	Grane Village, Helmshore	4	174	44	Years 1-10	Mixed but largely greenfield

## Conclusions

The 2018 NPPF is a material planning consideration in the preparation of the new Local Plan. The NPPF, as with all large 'policy documents' has policies that on occasion can be in conflict. It is clear that Rossendale Council are seeking to balance employment land provision with housing land provision. The background papers which support the consultation document, both acknowledge that there is, and has been, an under supply of both in the past, and that more land is required for both.

The problem appears to be that in providing for future employment land needs the Council has predominantly relied on a lot of existing employment land, much of which is at best average with limitations, and often below average or worse. This fundamentally undermines the plan, simply because the required 'take up' levels are unlikely to be achieved. In addition some of that provision, of which the Volith site is likely to be one, is undoubtedly going to deteriorate if not used. There is a simple correlation between the buildings to the east of the highway (good condition) and those to the west (poor and deteriorating condition) and that is that the occupation of the former has been, until now, consistent, whilst the west side of the site has been unoccupied for 15 months.

Logically and in accordance with the NPPF, the re-use of previously developed land in existing settlements, for residential development should be encouraged over the use of green field sites on the edge of settlements.

Providing new, modern and well serviced and accessed sites to replace the old, poorly sited and often not fit for modern day purposes old industrial buildings is also logical.

The Volith site contains some 7 ha of developable land. Given the change in circumstances since the 2017 employment land review the re-use of the brownfield site represents a significantly better option than the allocations of HS 2 73 and 74 and arguably some of HS3 which would mean that some of the land could be re-designated as Safeguarded land for the foreseeable future.

It is contended that the site has limited future employment development potential. The site has limited developable capacity unless broken up into smaller industrial units.

As it stands currently the owners have three options, market the site for employment purposes and if a suitable buyer exists as the price the site has valued at, then sell to the market, Market the site now as an employment site and if no purchaser comes forward, apply for planning permission for residential use. This

would undermine the proposed local plan. Seek to have the site allocated as residential land and therefore achieve some of the aims as identified above.



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**From:** Christine Holden < >  
**Sent:** 05 October 2018 12:16  
**To:** Forward Planning  
**Cc:**  
**Subject:** Local Plan. Additional photographic evidence FAO Nat Davies  
**Attachments:** IMG-20181005-WA0000.jpg; IMG-20181005-WA0002.jpg; IMG-20181005-WA0003.jpg; IMG-20181005-WA0001.jpg; IMG\_20181004\_094516104.jpg; IMG\_20181004\_094512510.jpg

Further to my earlier phone call, please find 6 additional photos to support our objections.

Please note that these photos further support our stance that Hud Hey Road (B6236) has ongoing issues with road safety. They prove the suggested employment access point across our carpark, would increase incidents such as this dangerous manoeuvre by a HGV driver, and therefore is totally unsuitable in terms of road safety and ease of access. A HGV would only have to miss the turning for the proposed access point, to then be faced with having to do this dangerous manoeuvre or be left with having to continue for several miles to be able to legally turn round at the roundabout next to the Britannia Inn Oswaldtwistle. This HGV had parked outside our home and then proceeded to reverse into a junction on a blind bend. It is a regular occurrence.

I would ask that these comments are also added to my submitted form.

I would also ask for written confirmation that this additional evidence has been incorporated for the Inspector.

Thanks for your help.

Regards

Christine Holden

[Tel:](#)



Blue street sign with a white arrow pointing left.

NO PARKING PRIVATE LAND

NO PARKING PRIVATE LAND

TARMAC

PL 67 SP 8



THOMPSONS

CAUTION CAB OPERATED TAILGATE

PY63  
MTZ



Vitafaam

DX08 AYA

DAF

curtis

YOUR  
SPEED  
41 MPH









Blue street sign with white text and arrow pointing right.

MARITIME

CMA CGM

ex: rbr  
lanolog

PL67 DFD

FIAT

panda

WNC2 VKE



MARITIME

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CMA CGM

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PL67 DFD



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MARITIME

MARITIME

CAUTION  
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CONTAINER

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YOUR  
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Vitafoam

DX08 AYA

DAF

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• HIGHWAY  
MAINTENANCE

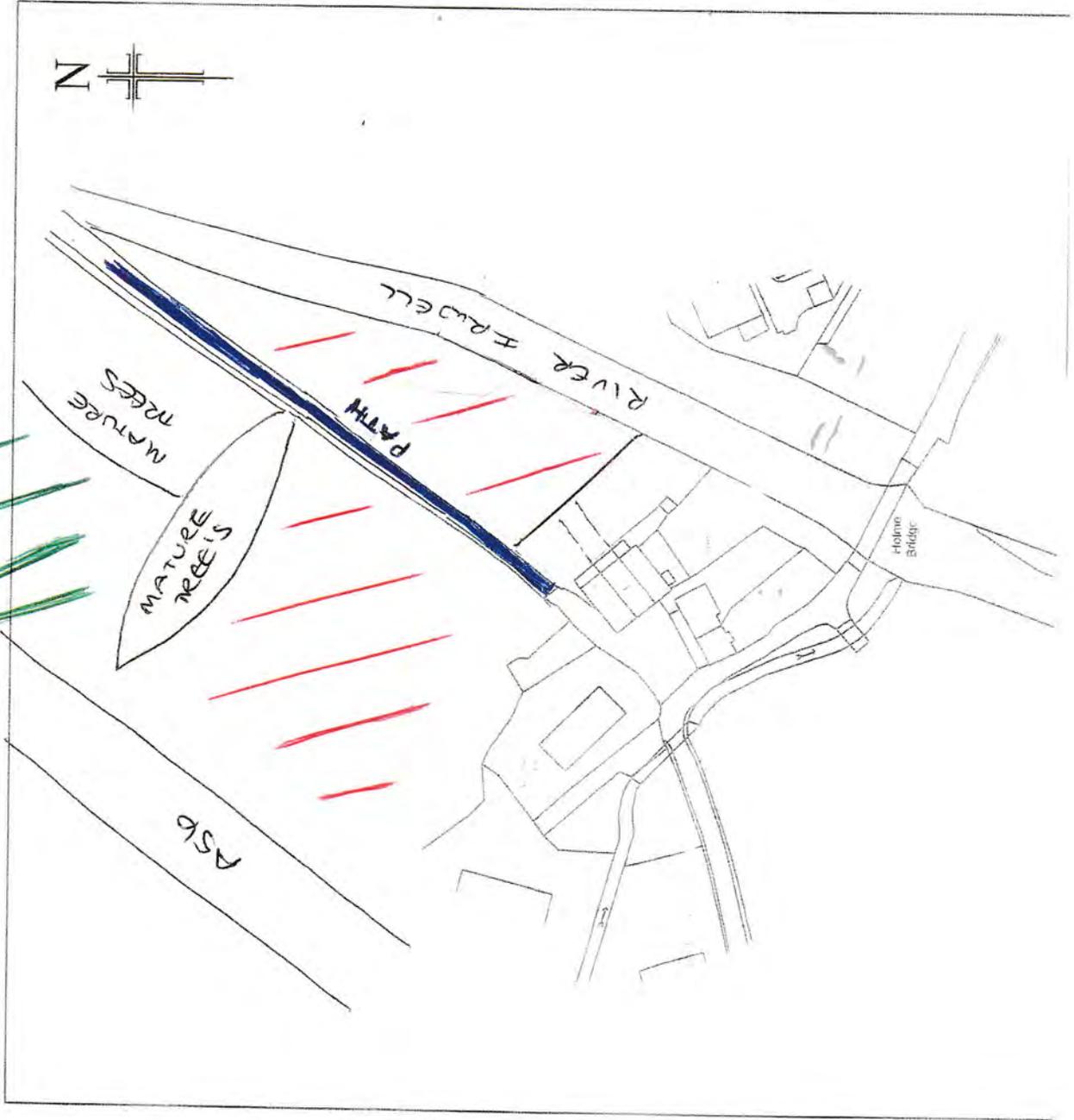
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WHALE

WHALE



NEW HALL MEY



**Statement of Community Involvement - Proposing that the preparation of the plan is not sound and has not met the legal requirements of a public consultation.**

On Page 9 section 2.3 the council sets out its commitment to consult with stakeholders in the development of planning processes which includes, residents, business, developers, agents and landowners. This is in line with the Consultation Principles published by the Cabinet Office in 2018 which states: *“Consultations should be targeted. Consider the full range of people, business and voluntary sector affected by the policy and whether representative groups exist. **Ensure they are aware of the consultation and can access it.** Consider how to tailor the consultation to the needs and preferences of particular groups, such as older people, younger people, or people with disabilities who may not respond to traditional consultation methods.”*

In my opinion it can be evidenced that Rossendale Councils Consultation process has failed to adequately consult with residents affected by proposed developments set out in the local plan therefore I would ask the independent inspector to consider if the council has met its statutory legal requirement in its duty to consult and if the council should be forced to begin this process again. It is my opinion that the council have breached the following principles.

1. **Consultations should be clear and concise:** All the documents associated with the draft local plan contain information presented numerically, tables and maps. The majority of supporting documents (evidence base) are over 50 pages long and all contain industry jargon and acronyms which I believe may exclude people from providing their opinion on the consultation. I have seen no evidence that the council has made any attempts to provide this information in easy to read formats or provided a consideration for those like me who are not experts in Local Planning policies and procedures. I have also found no evidence of how the council has considered, for example, those who's first language is not English or those who have learning difficulties. It is clear that the council has not provided information in a form that is comprehensible to the general audience of consultees, the residents of Rossendale. I would like to bring your attention to Case Law R South West Care Homes V Devon CC and Royal Brompton and Harefield NHS Foundation Trust V Joint Committee of Primary Care Trusts and Anor which detailed that 'Prescription to Fairness' is an aspect of fairness in that a consultation document presents the issues in a way that facilitates an effective response, another aspect of fairness lies in the representation of the information of which the views of consultees should be sought.
2. **Consultations should have a purpose:** I fail to see how the council have consulted with residents during the 'formative stages' in developing the local plan (Regulation 18). My rationale for this is that the council received 3046 comment's on the local plan with 88% objecting to the plan and only 5% in support of the plan however there have been no significant changes made to the plan suggesting that the council already had a final view in relation to the vast majority of proposals. To provide an example the land north of Hud Hey received 11 objections, 2 neutral and 1 in support however the council have not make any alterations or removed this land from the draft local plan. The Formal Local Plan consultation report and updated statement of community involvement dated 11<sup>th</sup> July 2018

show that despite over 2000 pages of comments regarding the plan only 4 sites have been removed and any additional changes appear to be very minor in nature. On Page 4 of the document it states that two employment sites remain allocated despite being contrary to the findings of LUC citing that the proximity to the A56 is sufficient as exceptional circumstances however the Highways Agency report states that the roundabout cannot accommodate the proposals within the local plan. Therefore having consulted with the public, with the highways agency and with an independent provider's all having different agenda's, not one is in support of using land in Hud Hey the council have still included these in the current version of the report. How can this be called a consultation? The report of the planning department on the 11<sup>th</sup> July 2018 page 6 states the following: **"The publication version (regulation 19) of the local plan is a key stage in the development of this document. It effectively represents the councils preferred plan and is the document which will go forward."** This effectively proves in writing that the public of Rossendale were consulting on a done deal. I would urge the independent inspector to please review case Law Bersted Parish Council and Arun District Council November 2003 in which the Honourable Mr Justice Richards quashed the councils plans under similar circumstances due to failure (in my own summary) to adequately consult and validate the soundness of the plan.

3. **Consultations should be informative:** It is clear that information is not sufficiently detailed as to enable consultees to understand the proposal and make meaningful representations from it. To comment on the consultation document firstly I have had to read Rossendale Draft Local plan which contains information that is complex, specialist and not explained. To contextualise the draft plan and prepare my response for the consultation I have also had to read guidance of a similar nature which included:
  - Rossendale Green Belt Review 2016
  - The planning inspectorate report to Rossendale Council in 2010
  - The Sustainability Appraisal of the Rossendale Local Plan May 2017
  - Authority Monitoring Report June 2017
  - Statement of Community Involvement 2014.
  
4. **Consultations should be targeted:** The council confirmed at a meeting held in Haslingden Library on the 19<sup>th</sup> September 2017 that the council had promoted the consultation by putting one article in the Rossendale Free Press (This is a local paper which must be purchased), a post on Facebook (which excludes a vast majority of the residents of Rossendale) and posted the information on the Councils Websites (which with the greatest of respect unless you need information on your bin collection one would have no reason to access it). It is clear that this falls significantly short of a targeted consultation process and it could be argued that the council has done the opposite and tried to engage with as few residents as possible. As a resident significantly affected by the proposal the council has made no effort to consult with me or to gain my views and has it not been for a concerned resident I would not have been able to express my views or exercise my right to respond to this consultation.

The council lists the methods its uses to consult as:

- Other electronic media e.g. Twitter.
- Leaflets Brochures
- Notices of Consultation on lamp-posts
- Formal Written Consultation / Community surveys
- One to one meetings with individual stakeholders,
- Public Meetings,
- Area Forums
- Planning Aids

However fails to use any of these means, I would ask the Inspector to consider case law: Omagh District Council V The Minister with responsibility for health and social services and public safety in which a councils objection in regards to being adequately consulted with was upheld in 2004.

At the meeting at Haslingden Library last year we asked Nicola Hopkins the planning manager why effected resident of the local plan had not been written to directly and her response was that people generally throw information in the bin as they did with the consultation to the local plan (Core Strategy in 2011). I asked Nicola how the council has come to this conclusion for example; had an evaluation of the previous consultation evidenced that people threw the information in the bin? If so how many people? I wanted to understand how the council had evidenced that this was an ineffective means of consulting with people. Quite honestly is saddens me that employees of the council have such little respect for the residents of Rossendale of which they serve. I asked Nicola if I submitted a Freedom of Information request asking for this information would it be available. Nicola confirmed that this decision has been taken following chat within her team which was not a minuted meeting. Separately to commenting on the consultation process this worries me as to how the council generally conducts its business.

I would also like for consideration to the timings of the first consultation meetings in October 2017 to be given which were held between the hours of 4-7pm in the evening. This significantly reduced the opportunity for those in employment to be able to attend the meeting(s).

For the second part of the consultation process – the council only held two meetings which were in the same week (13<sup>th</sup> and 18<sup>th</sup> September) at the same venue. I would be most grateful if the inspector could decide if this provides an appropriate level of opportunity for residents to attend. I myself was on holiday that week so was essentially excluded from having the opportunity to attend the meetings. I also wonder if people who rely on public transport would be able to attend as the meeting was held 3-7pm on the far side of the valley.

I would also like to bring to the inspectors attention that Lancashire County Council wrote to each resident in Helmshore to ask for their views on the East Lancashire Strategic Cycleway Network Consultation (Letter Ref ELSCN16) which was sent on the 16<sup>th</sup> May 2016. This suggests that Nicola Hopkins is wrong in her assumption that the people of Rossendale ‘throw away’ their opportunity to have their voice heard as my daughter is still in receipt of

this correspondence. It also suggests that writing to those affected by the plans is practice which is completed in neighbouring authorities.

**5. Consultations should take into account the groups being consulted: (As per point 4)**

6. **Conducting a fair consultation:** As a resident who would be affected by the current draft plan I had no knowledge of the proposal until a concerned neighbour canvassed the area and highlighted the council's consultation process to us in a letter that he had produced. For context the proposal in the local plan would mean that my house would be encapsulated by employment space (Warehouses and Factories) on what is currently Green Belt Land. Surely the council have a duty to notify me and others?

At the meeting the Senior Planning Officer and Nicola Hopkins Planning Manager advised that the landowners of EMP2.15 has been written to and consulted with and it was very promising that the land would be sold to support the local plan. The landowner was contacted during the meeting who confirmed that they had not been contacted or written to and they had no knowledge of the consultation process. I highlighted to Nicola that it was my understanding that it was illegal to provide false and inaccurate information during a consultation process and the process can now be classed as flawed. Nicola acknowledged that this was a significant failing from her team. This was evidenced in the Land North of Hud Hey consultation response whereby the land owner confirms that they had only been written to regarding the use of their land following the initial consultation stages therefore information provided at the consultation event has been proven to be inaccurate.

**Additional Information:**

We discussed our concerns with Councillor Marilyn Proctor who was unable to comment or advise on consultation practice and process and when questioned about what an exceptional circumstance is to build on greenbelt land replied if there a 'Horse' on the land you should be fine – My only comment is respect of this is that it must be a concern to the council that members represent them in this manner. I would also like to add that there are horses in the field and the land is still included in the plan therefore would Councillor Proctor like to comment further?

It is clear that the consultation process thus far has fallen short of commitment made by the council in the Statement of Community involvement 2014 and may not meet the legal requirements of a fair consultation at the very least it is fundamentally and significantly flawed. It would suggest that the council has breached its own policies and procedure has had not provided a fair, equitable and reasonable opportunity for resident of Rossendale to Contribute to the Draft Local Plan 2017.

I would like to thank the inspector for taking the time to read my response and apologise for the lengthiness of the document however I felt that most of the points were too important not to include. I would welcome the opportunity to provide further information to the inspector at the

examination in public stages of the local plan and would be most grateful if the inspector would kindly consider this.



**Objection to the development of Land on Area: EMP 2.15 (Land North of Hud Hey) Comments relating to the soundness of the development of the plan.**

Within the local plan the council has proposed an expansion of Hud Hey Industrial Estate utilising existing Green Belt Land. If this is approved employment land consisting of general, industrial, storage and distribution buildings will encapsulate my home (39 Hud Hey Road). I provided a large proportion of this information in my first consultation response however I believe that it is relevant to my concerns regarding the soundness of the development of this plan.

I would like to outline a case for why the Land on Area EMP 2.15 should be removed from the Local Plan developed in July 2017 and will provide the rationale using evidence from the councils own Local Plan and independent evaluations/reviews.

The Local Plan suggests (Page 52) that proposals will be expected to take into account of the character and appearance of the local area including but not exhaustively:

- Being sympathetic to surrounding land uses and occupiers and avoiding demonstrable harm to the amenities of the local area.
- Ensuring that the amenities of the occupiers of the new development will not be adversely effected by neighbouring uses and vice versa.
- There is no adverse impact to the natural environment, biodiversity and green infrastructure unless suitable mitigation measures are proposed.

As the land is **Green Belt land** which was not identified for release in the Councils Green Belt Review 2016 which was undertaken independently by LUC and the land is currently being used for grazing of Horses as part of a Riding School I previously requested that the that the council consider removing Land EMP 2.15 for the use of Employment Land from their draft Local Plan. The Green Belt Review 2016 states: "The relatively poor performance of the land against the Green Belt purposes is not, of itself, an exceptional circumstance that would justify release of the land from the Green Belt, we recommend that outline policy guidance or masterplans are prepared as part of the local business process. These would indicate development areas and new defensible Green Belt boundaries (existing or new features). Such approach together with specific policies for the development of the land, would help to engender public confidence and support, as well as mitigate the harm to the remaining Green Belt land." The local plan fails to address this requirement and justify why EMP 2.15 has been included in the local plan, this is in contradiction to the advice and guidance outlined in the Green Belt review 2016. The report of the planning manager titled Formal Local Plan consultation and updated Statement of Community Involvement and dates 11<sup>th</sup> July 2018 suggests that even though the inclusion of this land is contrary to the findings of LUC Study the acute shortage, unsuitable employment land close to the A56 where there is greatest demand constitutes exceptional circumstances. I am concerned that this report does not provide transparency in relation to the bigger picture which is, that there is 80% unused industrial space already available on Hud Hey Road the vacancies suggesting that there is not in fact high demand for 'employment land' in this area. The report also references that there will be a separate topic paper produced that will set out the 'Exceptional Circumstances' of this report, to the best of my knowledge, this report has not been written or published in time for this stage of the consultation. It should also be noted that the report published by the **Highways Capacity Study 2018** states: "Junction 6 provides an interface between the SRN and the local highway network. Upgrades to the junction were recently provided by Highways England, to the benefit of the A56 and A680. The analysis presented in Chapter 4 demonstrated that a further upgrade scheme might be necessary to accommodate full Local Plan growth by 2034. The scheme has been derived to ensure it would not prejudice the delivery of a

larger scheme Highways England may wish to deliver in the future as a part of a future expressway initiative.” This suggests that the council’s current plan and that the future plans of the Highways Agency do not align and may cause significant issues in the future. I would also like to highlight that within the report it also suggests that £1,000,000 of upgrade to the road would be required to accommodate the full elements of the council’s plan, I presume would be funded by the residents of Rossendale who are tax payers. As this is not my area of expertise I am unable to determine if the business case for one million pounds of tax payers money to create some unneeded employment space in this area stacks up but have the opinion that it does not.

In 2010 the Report to Rossendale Council on the former Draft Local Plan the **Planning Inspectorate disagreed with the councils plans to remove land from the Green Belt. The inspector stated: “The detailed boundaries of the Green Belt in the area were established in 1982 and, except for minor changes made in 1995, have remained fixed since that time. I have seen no evidence to persuade me that a substantial change to Green Belt boundaries would be necessary to meet the development objectives of the CS. ... I do not consider that the council’s approach to identifying locations for development by weighting its choices to avoid substantial incursions into the Green belt could be argued to be inherently flawed.” It would appear that the council have also failed to respect the opinion of the former inspector in relation to the use of this land.**

The **Habitats Regulation Assessment** of the Rossendale Local Plan states that: “If no suitable alternative exist, plan makers must demonstrate under the conditions of Regulations 103 of the Habitats Regulations, that there are imperative reasons of overriding public interest (IROPI) to continue with the proposal.

The **Authority Monitoring Report (AMR)** produced by the Forward Planning team in June 2017 states in relation to AVP6 Haslingden and Rising Bridge that New Housing and employment development will be encouraged within the urban boundary and should be primarily on previously developed land. This is in complete contradiction to the identification to Land EMP2.15 in the draft local plan produced only a month later. The Hud Hey industrial estate current has several vacant units, therefore it would suggest that demand in this area is not favourable to businesses. It is my view that the council should remove land EMP 2.15 and instead develop a proposal to increase utilisation of already developed space a move which I am sure would generate greater support from the residents of Rossendale. I am not opposed to generating new employment and business opportunities to the area, in fact, I welcome it, I would like to be clear that what I oppose is the council’s plans for the destruction of land which is not needed or required.

The **Sustainability Proposal** of the Rossendale Local Plan produced by Lepus in May 2017 confirms that the land north of Hud Hey is located within the Green Belt and that none of these sites were highlighted for release in the Green Belt Review 2016.

It states that development in the Hud Hey area has the potential to reduce population of European Protected Species associated with woodland such as bats. It states that where habitat corridors exist including Hud Hey that development would reduce these corridors, restricting movement of wildlife in these habitats. I do not have much knowledge of animal rights issues however I wonder if the Rossendale Council has consulted with groups that seek to protect species such as these to fully understand the impact of their proposals on wildlife. I presume not as this may have generated greater resistance.

The report highlights that development on land in Hud Hey will impact on woodland and that loss of this woodland and the Green Belt may have a negative impact on biodiversity in this area. The Land EMP 2.14 is also located within the Rossendale Safeguarding Mineral Area. Development of sites which include GI such as woodland, grassland and allotments would result of loss of and damage to these features. Developments that fragment existing ecological networks performs negatively against Climate Change Adaption (SA objective 7).

The report also outlines the increased flood risk and increase of waste production will impact negatively within the area the council have not included any information in the consultation process or within the local plan of how this will be mitigated should the plan go ahead and what the cost of safeguarding this area from flooding would be (and who would fund it).

The **Sustainability appraisal** does not support the use of land EMP 2.15 in Hud Hey therefore it would suggest that it will be more difficult for the council to justify how using this land should be overridden in the interest of the public. It is not documented within the local plan why the council has chosen to ignore the independent reports both in relation to the local plan and the green belt review. I am disappointed that the council did not remove the land from their plan.

Admittedly I am not a planning officer nor have any experience in construction however I fail to see how the land north of hud hey which is a large field could be used for the purpose of employment land – if I were able to add a photograph of this land you would see that the vast majority of the field is a large incline towards the caravan park area therefore I am not sure it would even be possible to ‘flatten’ this area to build units and if access were required from hud hey there would not be much available land for the employment space. It access were to be gained from the rising bridge round about – the council would have to produce a road through the caravan park. In summary despite looking at the inclusion of this land from every angle I still fail to see how it can be allocated for employment sites leading me to greater question the soundness of the report.

I would also like to highlight to the inspector that Hud Hey already has an industrial estate which is currently on 20% utilised with 80% of the units vacant. I therefore don't see how it is in the public interest to add further industrial units I don't however have any objection for this existing land to be developed.

I hope that the information that I have provided explains why I do not believe that the plan is sound and I have tried to be as succinct as possible however as this is not my area of expertise I would welcome the opportunity to explain the content of this response or to provide any additional information to the inspector in the public element of this process. Thank you for your time and consideration.

**Additional Comments on Rossendale's Draft Plan 2017 – Disputing the soundness of the preparation of this plan.**

The document does not have an introduction that explains to the reader what this document is and what it is purpose. It fails to demonstrate that Rossendale Council has a vision of what it hopes to achieve from its local plan other than a hap hazard and unjustified approach to allocating land for development across the borough. The council fails to outline a case for change as to why these changes are required or an options appraisal to enable people to have a voice in what they feel is

required in terms of housing and employment needs which is disrespectful to the residents of Rossendale.

Page 4 States: “Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.” It is not clear what is meant by this statement – does this mean that decisions regarding building on approved land within the local plan will go ahead without consultation? It is concerning those statements that have no context have been included in this draft plan.

Page 5 Policy SD2: Urban Boundary and Green Belt – this section does not stipulate what the councils intentions are in relation to the protection to Green Belt land and what constitutes exceptional circumstances to build on Green Belt Land.

The document states: “All new development in the Borough, will take place within the Urban Boundaries, defined on the polices map, except where development specifically needs to be located within a countryside setting which enhances the rural character of the area. The council does not stipulate what exceptional circumstances are or how a warehouse in a country setting will enhance the rural character of the area.

Chapter 2: Employment Growth and Employment Page 30.

Employment Levels have declined in Rossendale since 1997. This document fails to provide a context or evidence of declining employment levels in Rossendale. Information should be supplied to demonstrate the exceptional circumstances that have led to the need to develop 27 hectares of employment land.

There are a fundamental number of unanswered questions in relation to this for example:

- What is the current level of employment in Rossendale?
- Reason/rationale for current levels of unemployment in Rossendale? i.e. age, disability lack of jobs, which types of jobs?
- Wage levels for Residents of Rossendale are generally lower than average, is building more industrial, stratagem and distribution centres going to improve this and how?
- Outcommuniting to neighbouring authorities to work is a major issue for the council. Has the council considered that many careers opportunities cannot be achieved within the borough i.e. working in a hospital, working in aviation, working within a court, working in theatre or entertainment, working for large retail stores that are only provided in large cities i.e. John Lewis, area sales manager positions etc.
- How many current vacancies are there to work in factories, offices, industrial storage in Rossendale? Are businesses in Rossendale able to recruit to all of their vacancies do we need more?
- How does this plan fit into strategic employment initiatives such as, Apprentice, Fit for Work, Work and Disables people, Lancashire Skills and Employment Strategy?

I believe the council has not sought the views of the people of Rossendale in asking what they would like to achieve from employment opportunities and have made assumptions to justify those outlined

in the local plan. I would argue that Rossendale Council does not have the needs of the population of Rossendale at heart through the development of these plans.

Some statistics that may contradict the council's assumption that building warehouses is the answer to employment and encouraging individuals to work in warehouses in Rossendale are:

- Lancashire County Councils (LCC) Working age population summary report identifies that only 61.8% of the population is of a working age.
- East Lancashire has seen the proportion of the population which is economically active fall in recent years and almost twice as quickly as in Lancashire as a whole.
- Employment rates amongst women in East Lancashire are significantly lower than the county and nationally in part as a result of ethnic mix within the population.
- Just less than 30% of the working population is economically inactive which reduces the pool of labour which local businesses can draw upon. Meaning that recruitment is already difficult without adding further businesses.
- The shift towards residents having higher skills is increasing at a significant rate. Are industrial buildings going to meet the demands for our residents?
- The Lancashire Joint Strategic Needs Assessment demonstrates that we have an aging population; our Children are thriving in school and this is continuing to improve and we will see an increase in 0-15 year olds over the coming years. This contradicts the council's assumption that we need to develop more employment opportunity based on demand.

The council has come to the conclusion through one independent review that 27ha of land is needed for employment. I would like to pose the question to Rossendale Council – how are you assured based on 1 independent review that the scale of the proposed change and the impact that that this will have on residents of Rossendale that this is justified? Rossendale Council have failed to answer this within the consultation process.

The Local Plan fails to accurately and clearly outline what vacant space is currently available for the use of general, industrial or storage and distribution (classes B1, B2 and B8) across the borough. Thus the council cannot demonstrate the exceptional circumstances required to build on additional land including that on Greenbelt. The information within the Local Plan has clearly not been well thought out.

On Page 31 the local plan references the Green Belt review which suggests that the recommendation is that building should take place on Green Belt land. This is significantly misleading as much of the land allocated within the local plan was not identified for release within the Green Belt review 2016.

On Page 31 Policy EMP5: Employment Development in non-allocated employment areas it states that "New Small scale employment development will be permitted in areas where employment is not the principle land use provided that there would be no detriment to the amenity of the area in terms of scale character, noise, nuisance, disturbance, environment and car parking. I would ask the council to stipulate the processes for coming to decisions. It could also be argued that this will mean

that no land development will take place which I am sure will make everyone (who is not the local planning team) happy.

I would conclude that the Chapter 2 Employment Growth and Employment has not been carefully thought out or considered by Rossendale Council. The lack of vision and case for change to justify the expansion for employment land is lacking and contradictory to all demographic information about the population of Lancashire and Rossendale. I would request that the council investigate how the Local Planning Team have been able to launch a draft consultation on a document that that been clearly not been thought out, lacks basic information and explanation and provides inaccurate, false and misleading information which opens the council up to significant (and perhaps legal) challenge.

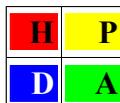




**Objection to the emerging local plan on behalf of Mrs A Hardiman with regard to the proposed exclusion of a site to the East of Goodshaw Lane within the Urban Boundary and for its excluded allocation for housing development.**

**SHLAA16196**

**Planning Statement**



**October 2018**

**Prepared by Hartley Planning and Development Associates Ltd**

This objection is submitted on behalf of Mrs A Hardiman

The objection relates to the Housing Topic paper, paragraph 3.3 and in particular to the evidence base paper, the Strategic Housing land Availability Assessment (2018), site no SHLAA16196

The current consultation document does not propose its inclusion within the Urban Boundary or for housing purposes even though is considered suitable for housing purposes in the Strategic Housing land Area Assessment albeit within “6 to 10 years, or after 10 years”.

The emerging local plan is looking to the period 2019-2034 and it seems sensible therefore that site no SHLAA 16196 is included within the Urban Boundary at this stage.

SH.031018

□

□

## GENERAL INFORMATION

Site Ref **SHLAA16196** Most Recent Source **Officer suggestion** Site Gross Area (ha) **1.86**

Site Name **Land east of Goodshaw Lane, Crawshawbooth**

Greenfield versus Brownfield **Greenfield**

Designations **None**

Site Location - Urban Area, Countryside or Green Belt **Countryside adjoining the urban area**

Current Land Use **Grassland, grazing fields, houses and access roads to properties further up the hill**

Characteristics of the site reducing the development area **Intentions of the landowners unknown regarding 70% of the site (south part).  
Exclusion of dwellings and private gardens.**



Area available for development **0.61** Net Development Area (ha) **0.54** Density **30 dwellings per hectare**

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Yield calculated **16** Yield proposed by applicant  Current planning permission

## AVAILABILITY

Land ownership **multiple ownership**

Comments **Partly public (30%) and partly unknown ownership**

Intentions of landowner **developer/landowner willing to deliver residential units in the short term (next 5 years)**

Comments **Northern part in public ownership can be released for development. The intentions of the landowner are unknown regarding the privately owned parcels.**

Legal constraints / ownership issues **no legal or ownership constraints known**

Comments

## SUITABILITY

Topography **flat site or very gentle slope**

Comments

Vehicular access **access requires improvements**

Comments **Moderate access off Goodshaw Lane which is a narrow lane**

Distance to strategic road network **greater than 5.5km (approximately 3.5 miles)**

Comments **6.1km / 3.7 miles to A56/A682 junction**

Access by public transport **high frequency bus service (half hourly or more frequent) within 400m (0.24 miles)**

Comments **390m to bus stop on Burnley Road with an half-hourly service (X43)**

Access to primary school **access within 500m (0.31 miles)**

Comments	400m to Crawshawbooth Primary
Access to secondary school	access within 5km (approximately 3 miles)
Comments	2360m to Alder Grange School
Access to GP surgery	access within 3km (1.8 miles)
Comments	2220m to nearest GP
Access to a local centre or convenience shop	access within 1.5km (approximately 1 mile)
Comments	1.2km to Premier village store on Burnley Road
Access to a park or play area	access within 1.5km (approximately 1 mile)
Comments	400m to play area at Crawshawbooth Primary School
Flood risk	flood zone 1 or low surface water flood risk
Comments	Goodshaw Lane is at high and medium risk of surface water flood risk
Ecological value	adjacent to a SSSI, LNR, Biological Heritage Site, Local Geodiversity Site or Core Area or Stepping Stone areas
Comments	Site adjoins Goodshaw Baptist Chapel Grounds which is a Biological Heritage Site and also a grassland Core Area.
Recreational value	presence of Public Rights Of Way or informal use
Recreational value comme	Various public rights of way going through the site
Heritage assets	site contains or adjoins a Listed Building
Comments	The site adjoins two Listed Buildings: Old Baptist Church (grade II*) and St Mary's and All Saints
Landscape value	medium landscape impact
Comments	Enclosed uplands and Settled Valleys
Land contamination	no known issues
Comments	
Mineral sterilisation	if entirely within or partly within a Mineral Safeguarding Area or surface coal area
Comments	May require further site investigation
Land instability	if severe instability issues or entirely or partly within a high risk development area
Comments	May require further site investigation or a coal mining risk assessment
Proximity to dangerous structures	not within any HSE consultation zones

Comments

Bad neighbour site in residential or retail area

Comments

Constraints due to utilities no known utilities infrastructure on site

Comments Waste water structures underneath the roads, therefore not a constraint for development

## ACHIEVABILITY

Extra costs of development if some extra costs required

Comments Coal risk assessment. Heritage impact assessment. Landscape assessment.

Market are high value market area (£190 to £210/sqm)

Comments

## CONCLUSION

Availability summary Available now

Justification The northern part of the site is in public ownership and is available for development.

Suitability summary Suitable in medium to long term

Justification The vehicular access off Goodshaw Lane is poor as it is a narrow lane. It will require approval from LCC Highways. The site is situated 3.7 miles away from a strategic road but has good access to an half-hourly bus service. The nearest primary school and play area are within walking distances while the other local services are situated further away. The site adjoins a Biological Heritage Site, and the development should not have any negative effect on this protected site. Various public right of way are going through the site and should be maintained as far as possible. The site adjoins two Listed Buildings, one of them being of grade II\*, so a Heritage Impact Assessment is required to ensure the development does not negatively affect the setting of the listed buildings and the character of the local area. Part of the site is within Enclosed Uplands, therefore a landscape assessment is recommended. The northern part of the site is within a high risk development area, so a coal mining risk assessment will be thought after. Several constraints have been identified, however depending on the scheme proposed and the findings of the assessments, there is a potential for the constraints to be overcome in the future.

Viability and achievability summary Achievable now

Justification There are extra costs identified with the development, however the site is within a high value development area, therefore the development is considered viable. A developer has expressed an interest in developing part of the site, so development can be achieved in the short term.

Conclusion Developable in the medium to long term (within 6 to 10 years, or after 10 years)

Justification 30% of the site is available for development. Several constraints have been identified (e.g. high risk development area for coal, landscape value, heritage assets and biological heritage site adjoining the land) but the constraints can be overcome in the future and the site can become suitable in the long term. The development is considered viable now and achievable in the short term, as a developer has expressed an interest. Overall, the site is developable in the medium

to long term.

Delivery (next 5 years)	0	Delivery (6 to 10 years)	16	Delivery (11 to 15 years)	0
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Forward Planning  
Rossendale Borough Council  
One Stop Shop  
Bacup  
OL13 0BB

Ref: 2884ma

Date: 4th Oct 2018

To Whom This Concerns

**The Town and Country Planning (Local Planning) (England) Regulations 2012 Regulation 17, 19, 20, 35 Statement of Representations Procedure, Rossendale Local Plan**

We write in connection with the consultation on the Rossendale Borough Council Draft Local Plan, specifically the representations made on behalf of our client Phil Ramsden of Lindon Park Developments Ltd of 517 Tonge Moor Road, Bolton, BL2 3BG, in relation to a housing development.

The representations concern a number of policies outlined in the Draft Local Plan mainly regarding housing, all of which are linked to the Representor's main objective which is to seek the reallocation of its site at Ewood Bridge from Green Belt to a housing allocation. This is driven by the fact it benefits from an extant permission for housing.

Connected with the above, I attach a legal opinion referred to in the representations and the Site Plan. I also attach the representations submitted via the Councils online system. The policies of which I have referred to are listed below;

- Policy SD2 Urban Boundary and Green Belt
- Policy HS1 Meeting Rossendale's Housing Requirement
- Policy HS2 Housing Site Allocations
- Policy HS4 Affordable Housing
- Policy HS5 Housing Density
- Policy HS6 Housing Standards

All the documents listed above will be shown below in Appendix 1.

The Representor is of the view that the proposed and allocated sites in the Draft Local Plan need to be fully reviewed to ensure unnecessary pressure is not put upon existing urban areas and the associated infrastructure. In addition, a degree of flexibility should be incorporated into policies HS4, HS5 and HS6, with a particular emphasis in ensuring the sustainability and viability of development.

The Representor proposes a change of designation of their site off Lindon Park Road from Green Belt to Housing, which could reduce the pressure on urban areas and their infrastructure and reduce the overall amount of greenfield land which must be allocated for development. Such a change in allocation would be suitable given the extant planning

permission for housing which exists on the site and would be particularly useful in meeting housing targets, given the borough's history of poor delivery rates due to lack of suitable, viable and available development sites.

In the first instance, I would be grateful if you could confirm receipt of this letter and the representations it sets out on behalf of the Representor.

As set out in the attached representations, we would be happy to meet to discuss the site and its planning history in more detail and feel that this makes sense given its planning history and the role it could play in delivery of the emerging plan's housing strategy.

Yours sincerely

Patrick Mottershead  
Assistant Planner  
DPP  
D:

# Appendix 1

**LAND OFF MANCHESTER ROAD AND CLOD LANE, HASLINGDEN,  
ROSSENDALE**

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**ADVICE**

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1. On 7<sup>th</sup> January 1972 planning permission (outline) was granted for 235 dwellings on the above lane (ref 13/2/2600LA). Subsequently a full application for 216 semi-detached and 15 detached houses was lodged on 25<sup>th</sup> February 1972 on part of the said land. It was approved on 25<sup>th</sup> October 1972 (ref 13/2/2758); the application form and submitted plans (which reveal a full layout and details of house types) were incorporated into the face of the consent and therefore form part of the permission.
  
2. Eight planning conditions were imposed as follows:
  - “1. Children’s Play Areas and public open spaces shall be provided as detailed on the approved plan and an agreement entered into with the local authority under Open Spaces Act 1906 for dedication of the said land subject to such conditions as the local authority shall stipulate;
  
  2. Tree planting and landscaping to be as the approved plan, but full details as to location, types of trees and

form of schemes must be submitted and approved by the local planning authority and the work carried out within a period of two years from the date of approval;

3. Notwithstanding the provisions of Class I of the Town and Country Planning General Development Order 1963 and 1969, permission for the siting, design and external appearance of any proposed garages shall be submitted to and approved by the local planning authority before any work is commenced;
4. There shall be no individual vehicular accesses from the site to Ewood Lane or Clod Lane;
5. Full details must be submitted of the location and type of screen fencing or walling to be approved by the local planning authority;
6. Samples of all proposed facing bricks, all external materials and roof tiles shall be submitted to and approved by the local authority before work is commenced;
7. A footway must be provided fronting onto Manchester Road from the access to Manchester Road in a northerly direction to the boundary of the site. An agreement under section 40 of the Highways Act 1959 must be entered into to cover the construction of this footway.
8. The planning consent excludes all areas blacked out on the approved plan except for roads and sewers. Details of the layout and type of dwelling for those areas must be submitted to and approved by the local planning authority which dwellings shall not be less than 750 sq ft in total floor area, and otherwise in accordance with the outline approval."

3. I pause to note as follows:

- Condition 1, in its second half, is of questionable legality, ie it requires an agreement to be entered into and it is imprecise. Various consultees noted this at the time.

- I do not know if Condition 2 was satisfied, although it is not a true Grampian condition.
  - Condition 3 removes GDO rights.
  - Condition 4 is self-explanatory.
  - Condition 5 is not a Grampian condition.
  - Condition 6 is a Grampian condition but the papers that I have been supplied with suggest it was discharged (see, for example, the Borough Engineer's letter of 25<sup>th</sup> July 1972).
  - Condition 7 is not a Grampian condition.
  - Condition 8 is not a Grampian condition. I am puzzled as to the meaning of the words "... and otherwise in accordance with the outline approval" as ref 2358 is a full consent and in any event the previous outline on the larger site does not appear to contain anything of relevance to the blacked out areas.
4. On 4<sup>th</sup> July 1973 14 split-level units were approved on one of the blacked out areas close to Linden Road, but that consent was not implemented.
  5. On 2<sup>nd</sup> January 1974 full permission was granted for car ports at Plots 196-213, 30-37 and 54 and 55 off Manchester Road.
  6. In or about 1974 44 dwellings were constructed pursuant to permission reference 13/2/2759.

7. Discussions have been held with the Local Planning Authority who are concerned because the site lies within the Green Belt. The issue that has been debated is whether planning permission (ref 13/2/2758) is still alive and therefore capable of being built out. The Local Planning Authority have raised the issue of abandonment.
  
8. I can see no basis on which abandonment can arise. Section 74(1) of the Town and Country Planning Act 1990 is clear, namely that a planning permission enures for the benefit of the land and all persons who have an interest in it. Planning permission for operation development authorises the carrying out of the whole development permitted and therefore it is not spent until the development is complete. Provided it is capable of being implemented in its own terms, then the issue of abandonment does not arise (for an interesting example of this see Field v. SOSE [2004] EWHC Admin 147 where planning permission was granted in 1967 for two bungalows, the permission was implemented by way of demolition works and it was held that the bungalows could lawfully be erected in 2004).
  
9. The classic analysis of the concept of abandonment is to be found in the speech of Lord Scarman in Pioneer Aggregates (UK) Ltd v. SOSE [1985] HL AC 152. It is a House of Lords decision and its approach was taken to be the guiding light for “abandonment” cases as recently as 2010 (see Stockton-on-

‘Without prejudice to the provisions of this Part of this Act as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) ensure for the benefit of the land and of all persons for the time being interested therein.’

The clear implication is that only the statute or the terms of the planning permission itself can stop the permission enuring for the benefit of the land and of all persons for the time being interested therein. I would comment, in passing, that the provision in section 331) was in the law as section 21 of the Town and Country Planning Act 1962, when the *Slough* case [1969] 2 Ch 305 was decided: but the Court of Appeal made no reference to it.

For those reasons I would answer the first question in the appeal in the negative. There is no principle in the planning law that a valid permission capable of being implemented according to its terms can be abandoned.”

10. The reality is that the so-called “abandonment” cases only relate to the use of land rather than operational development and normally involve loss of established use rights, ie uses which are not in fact bedded in by way of an actual planning permission. The fact that the land has become Green Belt since the relevant consent was granted is an irrelevance: a change in the policy designation of land cannot override a legal right based in a planning permission that is still operative and capable of full implementation.
11. I should deal with Condition 3 which at first blush reads as a Grampian condition. In fact, it is not. The consent and its plans contains garages and it cannot be said that the condition bites upon those. Read in a commonsense

way, the condition removed GDP rights and therefore it bites not upon garages approved as part of the consent but upon garages that might otherwise be built without consent and pursuant to the order.

12. It follows that consent 13/2/2758 is capable of implementation, ie of being fully built out. It therefore provides a fallback position to my clients.

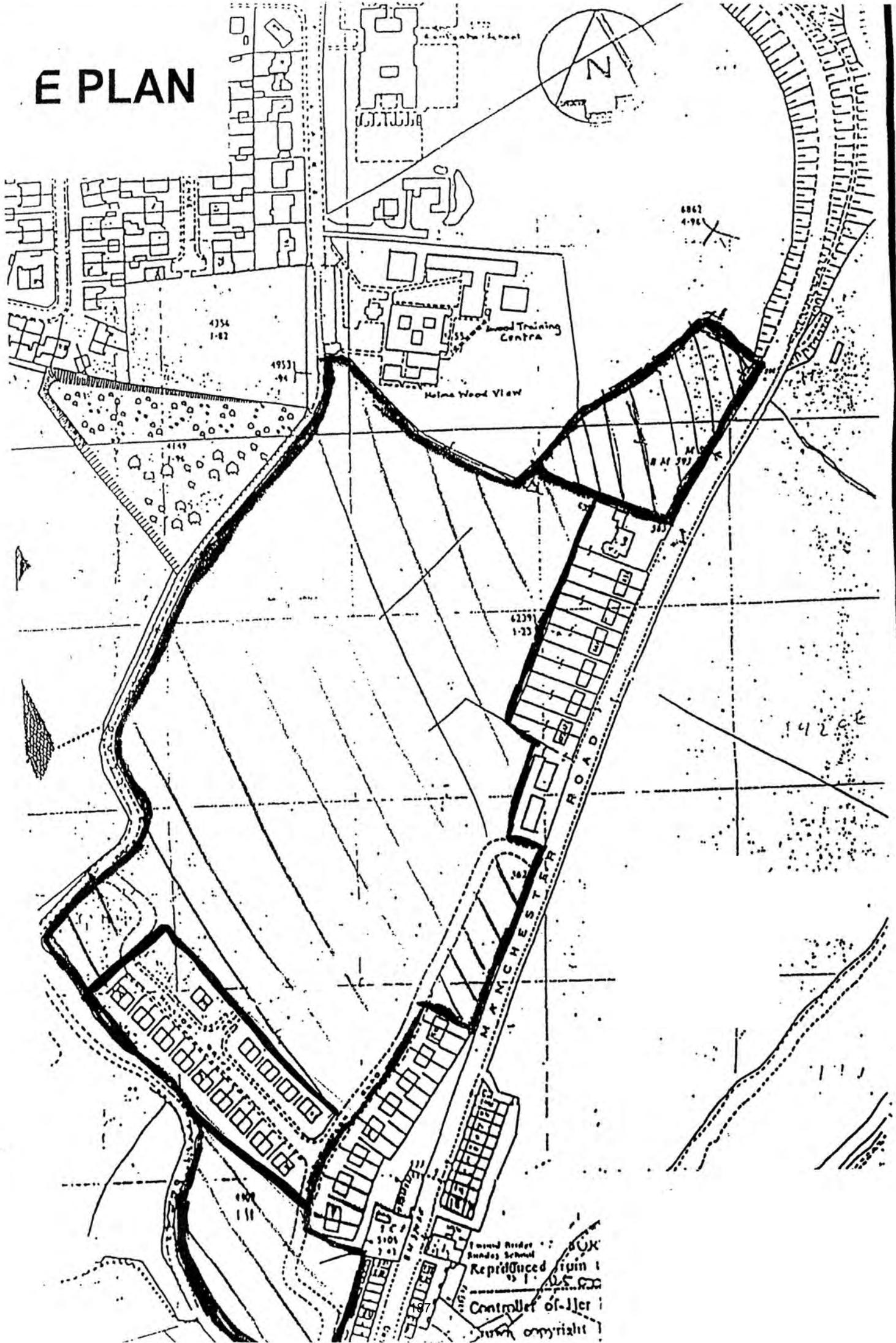
I so advise.

**KINGS CHAMBERS**

**DAVID MANLEY QC**

21<sup>st</sup> March 2013

# E PLAN



4862  
4-96

4354  
1-82

4953  
-94

Wood Training  
Centre

Helmia Wood View

62391  
1-23

14206

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Sunday School  
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# Local Plan Consultation Regulation 19

## Page 2: Part A - Personal Details

Q1. Personal Details\* \*If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.

<b>Title</b>	Mr
<b>First Name</b>	P
<b>Last Name</b>	Ramsden
<b>Job Title (where relevant)</b>	-
<b>Organisation (where relevant)</b>	Linden Park Developments Ltd
<b>Address Line 1</b>	
<b>Address Line 2</b>	
<b>Address Line 3</b>	
<b>Address Line 4</b>	
<b>Post Code</b>	
<b>Telephone Number</b>	-
<b>Email Address (where relevant)</b>	-

Q2. Agent's Details (if applicable)

<b>Title</b>	Mr
<b>First Name</b>	Patrick
<b>Last Name</b>	Mottershead
<b>Job Title (where relevant)</b>	Assistant Planner
<b>Organisation (where relevant)</b>	DPP Planning Ltd
<b>Address Line 1</b>	
<b>Address Line 2</b>	
<b>Address Line 3</b>	
<b>Address Line 4</b>	
<b>Post Code</b>	
<b>Telephone Number</b>	
<b>Email Address (where relevant)</b>	

Q3. Do you wish to be notified that the Rossendale Local Plan has been submitted?

Yes

Q4. Do you wish to be notified that the recommended action of the person appointed has been published?

Yes

Q5. Do you wish to be notified that the Rossendale Local Plan has been adopted

Yes

### Page 3: Part B

Q6. To which part of the Local Plan does this representation relate?

Paragraph	Policy	Policies Map
-	Policy SD2	-

Q7. Do you consider the Local Plan is:

	Yes	No
(1) Legally Compliant	X	
(2) Sound		X
(3) Complies with the Duty to co-operate	X	

Q8. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

It is acknowledged and supported that all new development in the borough should take place within the Urban Boundaries, which are defined on the Policies Map, except where development specifically needs to be located within a countryside location and the development enhances the rural character of the area.

However, it is imperative that the Council fully undertakes a detailed assessment of sites outside of the defined urban boundary to ensure that all sites with potential or which have a historic planning permission are included within the boundary. Sites that fall within the latter category can have the effect of reducing the overall amount of greenfield land that will need to be allocated for development.

This is the case with regard to a site off Lindon Park Road, Ewood Bridge, Haslingden which benefits from a historic but implemented and still extant planning permission. The emerging Local Plan proposes the site to be included within a wider zone of Green Belt when it should be allocated for housing development, by reference to its planning history.

Q9. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

The Representor proposes a change of designation of their site off Lindon Park Road from Green Belt to Housing, which could reduce the pressure on urban areas and their infrastructure and reduce the overall amount of greenfield land which must be allocated for development. Such a change in allocation would be suitable given the extant planning permission for housing which exists on the site and would be particularly useful in meeting housing targets, given the borough's history of poor delivery rates due to lack of suitable, viable and available development sites.

Q10. Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination. Click to upload files (Optional, Max 5 files, Max 10MB each)

- File: Ewood Bridge Site Plan.pdf
- File: David Manley QC Advice.pdf

Q11. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

Yes

Q12. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary: Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

In order to purvey the above representation in a professional manner, resulting in the best possible outcome for our client.

Q13. Signature

First Name	Last Name	Date
Patrick	Mottershead	04/10/2018

Q14. Do you wish to comment on another matter?

Yes

## Page 4: Part B

Q15. To which part of the Local Plan does this representation relate?

Paragraph	Policy	Policies Map
-	Policy HS1	-

Q16. Do you consider the Local Plan is:

	Yes	No
(1) Legally Compliant	X	
(2) Sound		X
(3) Complies with the Duty to co-operate	X	

Q17. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

The net housing requirement for the period 2019-2034 will be achieved through the development of a number of sites proposed in the draft plan as allocations for housing development.

This policy confirms that the new plan provides for at least 4,000 additional dwellings over the plan period, equating to 265 dwellings a year, which addresses prior under-provision of 425 dwellings (as of 31st March 2017) within the first five years of the plan period; delivering an overall amount of 20% of all new dwellings on previously developed land (PDL) across the Borough; and keeping under review housing delivery performance on a yearly basis.

The Representor questions whether, based on previous poor delivery rates, 4,000 additional dwellings is an adequate requirement/target. In addition, while the Representor agrees with the presumption that the plan should aim to try to play catch-up on the issue of under delivery in previous years, it questions whether 425 dwellings within the first five years of the plan period is an achievable target given previous poor performance on delivery, which in part is due to the lack of suitable, available and viable development sites.

A further point of concern is the fact that the target for brownfield development, which is 20%, seems very low when the nature and profile of the borough is considered. We would have expected the target to be greater. Indeed, the figures for neighbouring authorities in previous years have been considerably higher. If the target is correct, based on a full review of available opportunities, it suggests that what greenfield sites are proposed to be allocated should be suitable, available and viable for development and, ideally, deliverable in the short term, given the point made earlier about the need to play catch-up.

Q18. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

The Representor proposes a change of designation of their site off Lindon Park Road from Green Belt to Housing, which could reduce the pressure on urban areas and their infrastructure and reduce the overall amount of greenfield land which must be allocated for development. Such a change in allocation would be suitable given the extant planning permission for housing which exists on the site and would be particularly useful in meeting housing targets, given the borough's history of poor delivery rates due to lack of suitable, viable and available development sites.

Q19. Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination. Click to upload files (Optional, Max 5 files, Max 10MB each)

- File: David Manley QC Advice.pdf
- File: Ewood Bridge Site Plan.pdf

Q20. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

Yes

Q21. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary: Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

In order to purvey the above representation in a professional manner, resulting in the best possible outcome for our client.

#### Q22. Signature

First Name	Last Name	Date
Patrick	Mottershead	04/10/18

Q23. Do you wish to comment on another matter?

Yes

### Page 5: Part B

Q24. To which part of the Local Plan does this representation relate?

Paragraph	Policy	Policies Map
-	Policy HS2	-

Q25. Do you consider the Local Plan is:

	Yes	No
(1) Legally Compliant	X	
(2) Sound		X
(3) Complies with the Duty to co-operate	X	

Q26. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

This policy identifies a number of sites on the Policies Map that have been allocated for housing development. The Representor does not object to the intent and purpose of the policy but it does question why a site off Lindon Park Road, Ewood Bridge, Haslingden is not included. This site was granted outline planning permission for 235 dwellings in 1972 (under planning permission ref no. 13/2/2600LA). Subsequently, a further detailed planning permission was granted for 231 dwellings at the site (under planning permission ref no. 13/2/2758) albeit the extent of the application site was slightly smaller than the area covered under planning permission ref no. 13/2/2600LA. In or around 1974, 44 of the consent dwellings under planning permission 13/2/2758 were constructed and later sold and occupied. As a consequence of the fact that the relevant detailed planning permission has been implemented, as evidenced by the fact that 44 of the permitted dwellings were built and stand and remain occupied today, confirms that the other non-implemented elements of the permission can be built out in future. The owners of the site, the Representors in this instance, have sought learned counsel's opinion on this matter, which was provided to a prospective housebuilder in 2013, which concludes the same. As such, this site, for which we would be happy to provide further details and background information and documentation on, should be included in the schedule introduced by this policy as a residential allocation for up to 187 dwellings (number not yet built out under planning permission ref no. 13/2/2758) or another number to be defined through a fresh planning permission.

The fact that this site benefits from a planning permission for residential development raises the question about whether all of the sites forming part of Policy HS2 need to be retained. In the Representor's view, a number of sites currently included in the policy are not obvious development sites by reference to site and other related constraints. For example (in no particular order): HS2.82, HS2.84, HS2.24, HS2.33, HS2.53, HS2.80, HS2.32, HS2.24, all of which raise different issues regarding whether they are suitable and viable for development of housing and within the plan period, a key issue being that many would seriously impact on existing urban areas and cause urban cramming by virtue of the fact that no new infrastructure is planned to cope with the additional development. Indeed, the Representor is of the view that the Council should give serious consideration to adopting a new and more sustainable development strategy which involves releasing Green Belt in the southern section of the district so that new development has better access to the primary route network, public transport and main centres both in and out of the borough.

Regardless of this preferred strategy, the Representor is of the view that all of the sites currently proposed to be allocated need to be fully and properly reviewed to ascertain their suitability for development, and linked to this the Council should consider formulating an infrastructure masterplan to ensure that with all of the planned development in place, the urban areas of the borough can still operate effectively and sustainably. It also needs to carry out a full and proper audit to ensure that sites like the Representor's are not missed or ignored, given the significant role they might be able to play in housing delivery.

Q27. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

The Representor proposes a change of designation of their site off Lindon Park Road from Green Belt to Housing, which could reduce the pressure on urban areas and their infrastructure and reduce the overall amount of greenfield land which must be allocated for development. Such a change in allocation would be suitable given the extant planning permission for housing which exists on the site and would be particularly useful in meeting housing targets, given the borough's history of poor delivery rates due to lack of suitable, viable and available development sites.

Q28. Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination. Click to upload files (Optional, Max 5 files, Max 10MB each)

- File: David Manley QC Advice.pdf
- File: Ewood Bridge Site Plan.pdf

Q29. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

Yes

Q30. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary: Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

In order to purvey the above representation in a professional manner, resulting in the best possible outcome for our client.

Q31. Signature

First Name	Last Name	Date
Patrick	Mottershead	04/10/18

Q32. Do you wish to comment on another matter?

Yes

## Page 6: Part B

Q33. To which part of the Local Plan does this representation relate?

Paragraph	Policy	Policies Map
-	Policy HS4	-

Q34. Do you consider the Local Plan is:

	Yes	No
(1) Legally Compliant	X	
(2) Sound		X
(3) Complies with the Duty to co-operate	X	

Q35. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

This policy requires that new housing developments of 10 or more dwellings (0.35 hectares or part thereof) will be required to provide on-site affordable housing as follows: a) requirement of 30% on-site affordable housing from market housing schemes, subject to site and development considerations (such as financial viability); b) on any rural exception sites including those in the Green Belt there will be a requirement of 100% on-site affordable housing; c) affordable housing shall be provided in line with identified needs of tenure, size and type as set out in the latest available information on housing needs; d) within larger housing developments, the affordable housing will be evenly distributed throughout the development. Where a site has been divided and brought forward in phases, the Council will consider the site as a whole for the purposes of calculating the appropriate level of affordable housing provision. The policy goes on to confirm that where robustly justified, off-site provision or financial contributions of a broadly equivalent value instead of on-site provision, will be acceptable where the site or location is unsustainable for affordable housing.

The Representor does not oppose this policy, indeed its origins lie in national planning policy guidance and as such the Council is correct to include a policy of this nature, however the Representor is of the view that the policy should be more specific about viability related issues which provision of affordable housing inevitably raise. By this we mean that the policy should make it clearer that while the provision of affordable is a key policy aspiration, the Council recognises that delivery of the full policy target can render many developments unviable, a key issue in Rossendale given the nature of the local topography which raises a considerable number of site related issues which can be costly to address when sites are being promoted for development. The policy should categorically confirm at the outset that this is recognised and is a key consideration.

In addition, the Representor is also of the view that in some instances better and more effective affordable provision can be provided if monies are collected, pooled and provision provided off site. Indeed, such an approach lends itself to smaller sites and sites that might be better promoted as mixed-use developments, where, for example, there might be scope for residential above retail units.

Q36. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Based on the above in question 35, the policy could be redrafted to say as follows:

Policy HS4: Affordable Housing

New housing developments through the listed allocations forming part of Policy HS2 will be expected to provide an element of affordable housing unless it can be unequivocally demonstrated that the target provision would render the overall development unviable. In this scenario, the Council will either accept that no affordable units need be provided or will seek a lesser provision in line with the viability of the scheme or alternatively will collect contributions towards provision off site.

Relevant sites that will be required to provide affordable units are new housing developments of 10 or more dwellings (0.35 hectares or part thereof). They will be required to provide on-site affordable housing as follows:

a) (As per current wording of the policy)

Q37. Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination. Click to upload files (Optional, Max 5 files, Max 10MB each)

- File: David Manley QC Advice.pdf
- File: Ewood Bridge Site Plan.pdf

Q38. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

Yes

Q39. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary: Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

In order to purvey the above representation in a professional manner, resulting in the best possible outcome for our client.

Q40. Signature

First Name	Last Name	Date
Patrick	Mottershead	04/10/18

Q41. Do you wish to comment on another matter?

Yes

## Page 7: Part B

Q42. To which part of the Local Plan does this representation relate?

Paragraph	Policy	Policies Map
-	Policy HS5	-

Q43. Do you consider the Local Plan is:

	Yes	No
(1) Legally Compliant	X	
(2) Sound		X
(3) Complies with the Duty to co-operate	X	

Q44. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

This deals with the proposed density of new housing development and requires it to be in keeping with local areas and to ensure that it does not have a detrimental impact on the amenity, character, appearance, distinctiveness and environmental quality of an area. Although the Representor does not object to the policy as such, indeed it recognises what the policy is trying to achieve, it does raise the issue as to whether the policy is too prescriptive given it applies throughout the Borough as opposed to just areas where landscape quality might be high and/or there are heritage related designations. In addition, there might be possible issues regarding whether the policy clashes with Policy HS2 which allocates sites for development as this includes a target number of units (based on density calculations) and Policy HS4 on provision of affordable housing. This is influenced by viability considerations, which in turn are heavily influenced by the layout, design and density of proposed schemes.

Q45. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Accordingly, the Representor is of the view that it would be more appropriate for the policy to be pitched more generally and to deal mainly with design, for example:

Policy HS5: Design of Housing Developments

The Council will require the design of new development, which also covers layout and related matters including density considerations, to be of a high quality and appropriate to the site and its location so as to ensure that the proposed development is appropriate to its surroundings and does not have a detrimental impact on existing amenity.

Q46. Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination. Click to upload files (Optional, Max 5 files, Max 10MB each)

- File: David Manley QC Advice.pdf
- File: Ewood Bridge Site Plan.pdf

Q47. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

Yes

Q48. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary: Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

In order to purvey the above representation in a professional manner, resulting in the best possible outcome for our client.

## Q49. Signature

First Name	Last Name	Date
Patrick	Mottershead	04/10/18

## Q50. Do you wish to comment on another matter?

Yes

**Page 8: Part B**

## Q51. To which part of the Local Plan does this representation relate?

Paragraph	Policy	Policies Map
-	Policy HS6	-

## Q52. Do you consider the Local Plan is:

	Yes	No
(1) Legally Compliant	X	
(2) Sound		X
(3) Complies with the Duty to co-operate	X	

Q53. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

For the same reasons as given in relation to Policy HS4 covered in an earlier representation, the Representor does not oppose the principles this policy introduces, rather it suggests that such matters need to be considered in the round, including in the context of impacts on viability, and that such matters will be taken into account should a development not be able to deliver the full requirements of the policy, as per the current draft of it.

Q54. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the Matter you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

That such matters within the policy need to be considered in the round, including in the context of impacts on viability, and that such matters will be taken into account should a development not be able to deliver the full requirements of the policy, as per the current draft of it.

Q55. Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination. Click to upload files (Optional, Max 5 files, Max 10MB each)

- File: David Manley QC Advice.pdf
- File: Ewood Bridge Site Plan.pdf

Q56. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

Yes

Q57. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary: Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

In order to purvey the above representation in a professional manner, resulting in the best possible outcome for our client.

Q58. Signature

First Name	Last Name	Date
Patrick	Mottershead	04/10/18

Q59. Do you wish to comment on another matter?

No

**LAND OFF MANCHESTER ROAD AND CLOD LANE, HASLINGDEN,  
ROSSENDALE**

---

**ADVICE**

---

1. On 7<sup>th</sup> January 1972 planning permission (outline) was granted for 235 dwellings on the above lane (ref 13/2/2600LA). Subsequently a full application for 216 semi-detached and 15 detached houses was lodged on 25<sup>th</sup> February 1972 on part of the said land. It was approved on 25<sup>th</sup> October 1972 (ref 13/2/2758); the application form and submitted plans (which reveal a full layout and details of house types) were incorporated into the face of the consent and therefore form part of the permission.
  
2. Eight planning conditions were imposed as follows:
  - “1. Children’s Play Areas and public open spaces shall be provided as detailed on the approved plan and an agreement entered into with the local authority under Open Spaces Act 1906 for dedication of the said land subject to such conditions as the local authority shall stipulate;
  
  2. Tree planting and landscaping to be as the approved plan, but full details as to location, types of trees and

form of schemes must be submitted and approved by the local planning authority and the work carried out within a period of two years from the date of approval;

3. Notwithstanding the provisions of Class I of the Town and Country Planning General Development Order 1963 and 1969, permission for the siting, design and external appearance of any proposed garages shall be submitted to and approved by the local planning authority before any work is commenced;
4. There shall be no individual vehicular accesses from the site to Ewood Lane or Clod Lane;
5. Full details must be submitted of the location and type of screen fencing or walling to be approved by the local planning authority;
6. Samples of all proposed facing bricks, all external materials and roof tiles shall be submitted to and approved by the local authority before work is commenced;
7. A footway must be provided fronting onto Manchester Road from the access to Manchester Road in a northerly direction to the boundary of the site. An agreement under section 40 of the Highways Act 1959 must be entered into to cover the construction of this footway.
8. The planning consent excludes all areas blacked out on the approved plan except for roads and sewers. Details of the layout and type of dwelling for those areas must be submitted to and approved by the local planning authority which dwellings shall not be less than 750 sq ft in total floor area, and otherwise in accordance with the outline approval."

3. I pause to note as follows:

- Condition 1, in its second half, is of questionable legality, ie it requires an agreement to be entered into and it is imprecise. Various consultees noted this at the time.

- I do not know if Condition 2 was satisfied, although it is not a true Grampian condition.
  - Condition 3 removes GDO rights.
  - Condition 4 is self-explanatory.
  - Condition 5 is not a Grampian condition.
  - Condition 6 is a Grampian condition but the papers that I have been supplied with suggest it was discharged (see, for example, the Borough Engineer's letter of 25<sup>th</sup> July 1972).
  - Condition 7 is not a Grampian condition.
  - Condition 8 is not a Grampian condition. I am puzzled as to the meaning of the words "... and otherwise in accordance with the outline approval" as ref 2358 is a full consent and in any event the previous outline on the larger site does not appear to contain anything of relevance to the blacked out areas.
4. On 4<sup>th</sup> July 1973 14 split-level units were approved on one of the blacked out areas close to Linden Road, but that consent was not implemented.
  5. On 2<sup>nd</sup> January 1974 full permission was granted for car ports at Plots 196-213, 30-37 and 54 and 55 off Manchester Road.
  6. In or about 1974 44 dwellings were constructed pursuant to permission reference 13/2/2759.

7. Discussions have been held with the Local Planning Authority who are concerned because the site lies within the Green Belt. The issue that has been debated is whether planning permission (ref 13/2/2758) is still alive and therefore capable of being built out. The Local Planning Authority have raised the issue of abandonment.
  
8. I can see no basis on which abandonment can arise. Section 74(1) of the Town and Country Planning Act 1990 is clear, namely that a planning permission enures for the benefit of the land and all persons who have an interest in it. Planning permission for operation development authorises the carrying out of the whole development permitted and therefore it is not spent until the development is complete. Provided it is capable of being implemented in its own terms, then the issue of abandonment does not arise (for an interesting example of this see Field v. SOSE [2004] EWHC Admin 147 where planning permission was granted in 1967 for two bungalows, the permission was implemented by way of demolition works and it was held that the bungalows could lawfully be erected in 2004).
  
9. The classic analysis of the concept of abandonment is to be found in the speech of Lord Scarman in Pioneer Aggregates (UK) Ltd v. SOSE [1985] HL AC 152. It is a House of Lords decision and its approach was taken to be the guiding light for “abandonment” cases as recently as 2010 (see Stockton-on-

‘Without prejudice to the provisions of this Part of this Act as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) ensure for the benefit of the land and of all persons for the time being interested therein.’

The clear implication is that only the statute or the terms of the planning permission itself can stop the permission enuring for the benefit of the land and of all persons for the time being interested therein. I would comment, in passing, that the provision in section 331) was in the law as section 21 of the Town and Country Planning Act 1962, when the *Slough* case [1969] 2 Ch 305 was decided: but the Court of Appeal made no reference to it.

For those reasons I would answer the first question in the appeal in the negative. There is no principle in the planning law that a valid permission capable of being implemented according to its terms can be abandoned.”

10. The reality is that the so-called “abandonment” cases only relate to the use of land rather than operational development and normally involve loss of established use rights, ie uses which are not in fact bedded in by way of an actual planning permission. The fact that the land has become Green Belt since the relevant consent was granted is an irrelevance: a change in the policy designation of land cannot override a legal right based in a planning permission that is still operative and capable of full implementation.
11. I should deal with Condition 3 which at first blush reads as a Grampian condition. In fact, it is not. The consent and its plans contains garages and it cannot be said that the condition bites upon those. Read in a commonsense

way, the condition removed GDP rights and therefore it bites not upon garages approved as part of the consent but upon garages that might otherwise be built without consent and pursuant to the order.

12. It follows that consent 13/2/2758 is capable of implementation, ie of being fully built out. It therefore provides a fallback position to my clients.

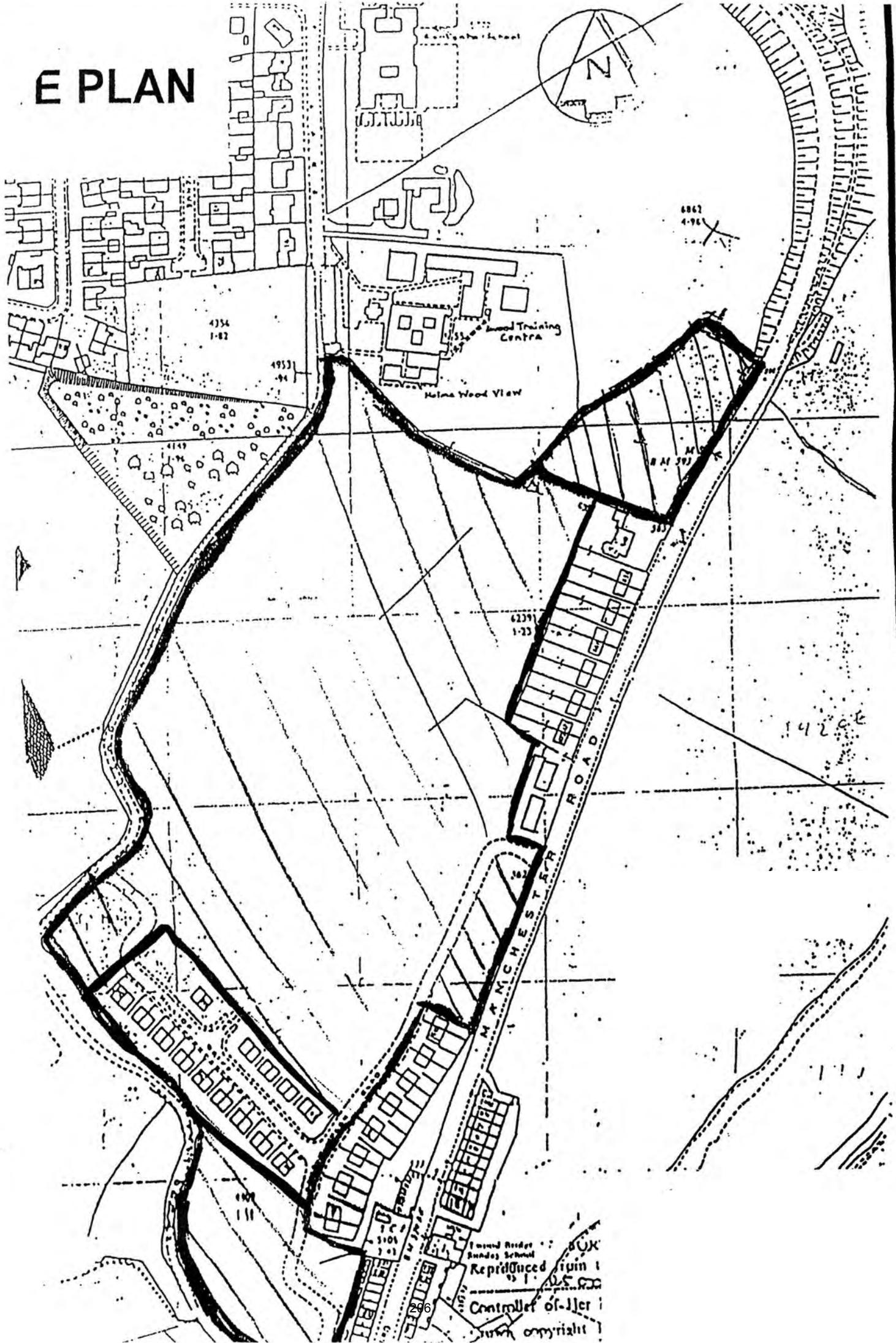
I so advise.

**KINGS CHAMBERS**

**DAVID MANLEY QC**

21<sup>st</sup> March 2013

# E PLAN



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**From:** Falmai and Richard Youngman < >  
**Sent:** 05 October 2018 16:46  
**To:** Forward Planning  
**Subject:** FW: BRIF - Representation modification request - Dr. Binns  
**Attachments:** Holcombe-474-211116-Scout Moor-Alan.doc; RBC - Local Plan submission - 041018.htm

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Just in case this does not process through duly, Please note the request below following my representation which needs modification below.

Please acknowledge if practical this change has reached the system.

Kind regards – Dr. Falmai Youngman – BRIF

.....  
Dr. Falmai Youngman

e-mail :  
phone:  
.....

---

**From:** Falmai and Richard Youngman  
**Sent:** 04 October 2018 16:30  
**To:** r  
**Subject:** BRIF - Representation modification request - Dr. Binns

Dear  
We met at the Public View of the Rossendale Local Plan – introduced us.

I have submitted a representation – see appended – but could not include the last page of a scanned document of 3 pages length which I did not have electronically to hand as a single file.

Fortunately I have now retrieved the e-file. Please see appended – as is my web representation .

I would be most grateful if you would therefore remove the two files in the representation viz

- File: Alan Heyworth-1-2016.pdf
- File: Alan Heyworth-2-2016.pdf

And simply insert the entire document appended ref. Holcombe-474-211116-Scout Moor-Alan

Would you acknowledge receipt of this e-mail as this is our first dialogue – and also that you have managed to effect this change.

Kind regards – Dr. Falmai Binns – ‘Fal’

.....

Dr. Falmai Youngman

e-mail :

phone:

.....

## EVIDENCE GIVEN TO THE SCOUT MOOR INQUIRY, OCTOBER 2016

I am Dr. Alan Heyworth.

I have spent many years in research into peat formation, vegetational history, and climate change, using pollen analysis, radiocarbon dating, dendrochronology, etc.

I have been involved with various research projects on Scout Moor.

My family owned a commercial peat field, and I am very familiar with the problems of the exploitation and restoration of such sites.

I have been concerned by wind turbines for over 25 years, since a friend suffered a serious breakdown (possibly the first) caused by the erection of turbines very near to her home at Llangwryfon near Aberystwyth.

### **Scout Moor / Rooley Moor**

#### **My interest**

Diary entry; aged 10, living on the edge of the moor: "...we set out over the moor, across fields of cotton grass that made it look as though it had snowed" - then past old farmhouses, finding a grouse's nest, and on to Waugh's Well.

Since then, I have always thought of this moor as a very special place, and it never occurred to me that we would have to put up with the utter vandalism and greed we now see.

At that time, the moor was in much better condition than now. Most of the quarrying had ended, several quarries having closed at the start of the war, and never re-opened.

It was before the big problems with acid rain.

The moors were where people went on Sundays and holidays, and we children played there whenever we got the chance.

People went for the fresh air, the breeze, and the spectacular views, and to get away from the smoke and the cramped houses and streets in the shadow of the mills in the valleys below.

They had done this since early Victorian times, and everyone knew the poems, songs and stories of the local writers, praising the moors.

All talked of the openness, the sense of remoteness and the views. These moors are almost unique in that once the steep sides have been climbed the walker emerges on to a plateau, from which the valley can not be seen (and from many places not a sign of habitation).

One of, if not the most famous of these authors was Edwin Waugh, and the Well was built by his admirers 150 years ago. People still read and are moved by his poems, such as (especially in this context) "The Moorland Breeze"

#### Verse 4

In yonder valley, richly green,  
I see bright rivers run;  
They wind in beauty through the scene  
And shimmer in the sun;  
And they may sing and they may shine  
Down to the heaving sea;  
The bonny moorland hills are mine,  
Where the wild breeze whistles free!

I used to sit by Waugh's Well, and imagine Waugh himself sitting there writing these lines. Not now.

Other writers, such as J. Marshall Mather (Rambles round Rossendale: 1888) expressed similar admiration for the situation of the Well.

"Wherever the eye falls there is meadow and moorland, mountain solitude and lonesome gorge".

It is a great pity that the Brontës did not write a few lines about this moor. It is much more interesting than the moors around Haworth.

More recently, Ian Goldthorpe has written two guides to rambles round Rossendale, and it is interesting to recall that when he was chief planning officer for the Borough, skyline development of any kind was not permitted – not even a small shed. A great effort was put into ensuring that the National Grid pylons kept, as far as possible, to the valleys.

How did we get from the situation where the landscape and heritage were sacrosanct to the present mass-crucifixion skyline?

### **Condition of the peat**

In the 1950s there were large grass fires on the moor which, because of the very dry weather spread into the underlying peat. Subsequent heavy rain caused considerable erosion, and this damage is still visible.

Acid rain increased in the 1960s and 70s, and caused further damage.

In the 1980s and later, acid rain decreased, and the vegetation started to recover, and this would probably have continued had the moor been left to itself.

### **Restoration**

I have been involved in several research projects on the origin and history of the peat on the local moors.

Radiocarbon dates which I have obtained show that the peat started to form about 6000 years ago. At the base of the peat are the remains of a birch forest, which was killed, apparently by increased wetness, and was succeeded by sedge, grass and moss, which built up the peat until it is up to 6ft. thick. Pollen analysis shows a complete record in the peat of the changes in vegetation and climate over the 6000 years.

In many places on the moor, erosion has left vertical faces in the exposed peat, and it is clearly not possible to recreate all the layers of peat which have been washed away.

Probably the best solution is to leave the whole area untouched, in the hope that the bare areas will be re-vegetated and stabilised. This would be a long process.

The applicants do not seem to have any practical suggestion for restoring the peat, whether or not the damage was caused by them.

The plan now seems to have been reduced to the erection of some temporary fencing (years, decades?).

They did suggest that any peat removed during construction would be stockpiled, and replaced at the end of the project. The object of any restoration is unclear: is it as a carbon sink, to improve the appearance, to stop erosion, or what?

The greatest damage done so far is the construction of the existing roads and turbine bases.

Using the latest satellite and Lidar imaging, I have carefully measured the area affected by this. Including the roads, ditches and banks it totals 44.5 acres, much more than the area claimed. No peat will ever be able to grow on this area, nor will any characteristic blanket-bog vegetation.

Presumably this same discrepancy will occur in any new construction.

*Juncus* is becoming dominant on churned-up areas (in addition to the 44.5 acres).

The applicants claim that the wind farm occupies only 2% of the moor. Of course, it occupies all of it.

### **Numbers and density of turbine locations**

I walked to the top of Thieveley Pike, a place always known for its extensive views over most of Lancashire and much of Yorkshire. I was very concerned to find that the whole panorama was ruined, and all sense of remoteness lost, by the fact that, from that one spot, 91 wind turbines were visible. Not all the Scout Moor turbines can be seen from there, so the total within a radius of about 3 miles is over 100. If this were replicated over the whole of Great Britain the total number of turbines would be almost 150,000. The actual number is about 7000.

It seems clear that Rossendale is being targeted as an “easy touch”.

Peel have previously said that, of course, they would not site turbines on Holcombe Hill, Musbury Tor, or other “beauty spots”.

Bacup and its surroundings is presumably an ugly spot.

In their original application (not called Phase 1 as, of course, there was no suggestion of Phase 2) Peel said (under “Cumulative Visibility”) that from most viewpoints the Scout Moor turbines would be in a panorama which already included turbines, so they would not affect the landscape. So, one turbine makes it easier to put up a second, which makes it easier to get a third, and so on.

In the 1870s, when we imagine greedy mill-owners exploiting the people and resources of Rossendale, none of them would have dared to put forward such a scheme.

Mr Cameron promised that he would stop the rash of turbines threatening to overwhelm some areas, and I was reasonably confident that he could be held to this. Did he say this because it had then become Government policy? What is it now?



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## **Rossendale BC – LOCAL PLAN**

### **CONSULTANCY FEEDBACK – BURY RURAL INEQUALITIES FORUM - BRIF**

**Ref.** RBC Local Plan-04-Oct 2018-BRIF-1

**Date of submission** – 5<sup>TH</sup> October 2018

**Delivery** – via web link <https://www.smartsurvey.co.uk/s/RBCLocalPlanRegulation19/>

**Transmission method** – using e-mail attachments for this and refs. quoted therein

### **Representation**

This representation is submitted by Dr. Falmai Binns, Chair of Bury Rural Inequalities Forum (BRIF) on their behalf. BRIF is a group of rural villages in Bury Metropolitan Borough Council constituting Ainsworth, Affetside, Greenmount, Hawkshaw, Holcombe and Nangreaves.

We support the new Federation 'Friends of the Moorland of Rossendale, Rochdale and Bury', of which the Holcombe Society is a member and are grateful to Tom Whitehead of Holcombe for crystallizing the major points of their representation on all our behalf.

But we wish to emphasise two points from the LPA which particularly trouble our members. viz.

- 1. PEAT DAMAGE AND REGENERATION – plus visual impact**
- 2. DECOMMISSIONING FUNDING**

See detailed comments overleaf.

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### **Bury Rural Inequalities Forum**

Affetside – Ainsworth – Greenmount – Hawkshaw – Holcombe – Nangreaves

**Contact - Dr. Falmai Binns-**



Ref. RBC Local Plan-04-Oct 2018-BRIF-2  
ff. RBC Local Plan-04-Oct 2018-BRIF-1  
Date- 5<sup>th</sup> October 2018



## **PEAT DAMAGE AND REGENERATION – plus visual impact**

### **To quote LPWS (Reg. 19) – Policy ENV7 – p89**

“No development is proposed on areas of peat of over 40cm depth;”

Most of the High Moorland Plateau of Rossendale is designated as appropriate for large turbines with the above caveat which is ascribed to Natural England guidelines. We are generally opposed to such development on the skyline as this will have maximum landscape invasive effect on views from our villages and in particular from Bury’s iconic heritage Peel Tower.

We have now consulted with the expert witness on peat, Dr. Alan Heyworth, who provided evidence at the last Scout Moor Development Proposal involving RBC—see attached ref no. 1.

This current specification of limiting requisite depth of peat such that erection of turbines is reasonable to protect the ecologically important ancient peat layers is at variance with his opinion of ‘safe practice – and his recent comments appended in preliminary detail (Ref.no. 2)

We concur with his broad vision of the need to protect this valuable commodity and hence reserve the special landscape features conferred.

We are alarmed there is no detail provided for the regeneration of peat fields destroyed by these massive constructions once decommissioning has been completed and the turbines removed. Regeneration is not a facile process and feasibility needs a critical evaluation before the landscape surface can be so seriously damaged.

Our fears are more relevant given the total lack of address after construction of the original Scout Moor Wind Farm, where damage during erection is all too obvious.

### **.DECOMMISSIONING FUNDING**

#### **To quote LPWS (Reg. 19)- Policy ENV7 – p89**

“The submission contains a Construction Management Plan, including impacts on the Highway network, and incorporates proposals for managing the de-commissioning and removal of the turbines and the restoration of the site;

A de-commissioning scheme is included.”

We are most concerned that though decommissioning will be mandatory, this will be hugely costly and there is no indication in the LPA of an enforced ‘bond’ to be reserved to finance this final stage of the programme.

With the history of the Scout Moor Development there is risk of change of ownership, both within the UK and even outside with risk of financial collapse. Apparently there are thousands of wind turbines in the USA, which are mothballed due to falling outside their regulatory service date, but have not been removed due to claims of zero finance. Legal enforcement at this juncture could be beyond the scope of RBC, which we understand to be financially strained.

Should this penultimate section of the process be insufficiently specified and costs in hand an unsightly non productive graveyard of litter – literally a ‘blot on the landscape’ is a significant risk for generations to come. We strongly urge that provision is made to complete this exercise responsibly by RBC in any appraisal of the development of such industrial plants on our treasured moorland.

## **REFERENCES**

**Ref. no. 1** - Alan Heyworth – bundle of scans attached viz.

Alan Heyworth-1-2016

Alan Heyworth-2-2016

Alan Heyworth-3-2016

**Ref. no. 2** - Alan Heyworth – recent comments with regard to current Local Plan Working Document October 2018

RBC Local Plan-01-031018-Alan-1

Dr. Falmai Binns – Chair BRIF



# THESE PRELIMINARY COMMENTS ARE PROVIDED BY DR ALAN HEYWORTH PERSONALLY TO DR. FALMAI BINNS

Date - October 2018

Ref. RBC Local Plan-01-031018-Alan-1

Local Plan – wind turbines

The various requirements and safeguards seem reasonable, **but:** there is a general presumption in favour of turbines.

A few points

Larger turbines considered on “High Moorland Plateau”, but not elsewhere. That is, exactly where they will be most intrusive, and exactly the place which would be (and was) covered by ombrogenous blanket bog on peat. The characteristic terraced geology of Rossendale means that horizontal or gently-sloping areas predominate.

In the last 200 years, quarrying, drainage, burning, over-grazing and pollution have caused much damage, and the peat is now patchy and dissected, making a nonsense of the condition that peat over 40cm thick should be avoided. This implies a jigsaw of “deep” and shallow peat, with turbines squeezed in.

Is it acceptable to destroy 35cm-thick peat? A 2 m–thick blanket-bog peat will have the same vegetation as a 10 cm-thick one.

All areas of peat-forming vegetation should be avoided. This is a recognized internationally-important category, and every effort should be made to repair damage and re-establish the blanket bog.

This is a far more difficult job than restoring pastureland, heath or woodland, and will not succeed if further damage is being perpetrated. Sensitive areas should be avoided not only by turbines, but by all other associated work (roads, ditches, spoil, etc.).

An important way in which peat-cover can be re-established is by spreading along the margins of existing peat. This cannot occur if the area is interrupted by roads, etc. Damage done in a day might never be healed. It would take something very important to justify this scale of destruction. **Not turbines,**

Restoration of peat cover is a slow process: it may take decades or even centuries, but slowness is what makes peat important.

If it is not strictly protected it could quickly be destroyed.

No work has been done to repair damage caused by the construction of the existing turbines. This requirement and the de-commissioning procedure must be very vigorously enforced.

How did we ever get into this position? Not many years ago **no** skyline development was allowed.