

<b>Application No:</b> 2006/485	<b>Application Type:</b> FULL
<b>Proposal:</b> Erection of 31 Houses	<b>Location:</b> Land off Oaklands Drive and Lower Cribden Avenue
<b>Report of:</b> Development Control Manager	<b>Status:</b> For Publication
<b>Report to:</b> Development Control Committee	<b>Date:</b> 7 <sup>th</sup> November 2006
<b>Applicant:</b> Hurstwoods	<b>Determination Expiry Date:</b> 29 <sup>th</sup> Nov 2006
<b>Agent:</b> Hurstwoods	

REASON FOR REPORTING	Tick Box
<b>Outside Officer Scheme of Delegation</b>	YES
<b>Member Call-In</b>	No
Name of Member:	
Reason for Call-In:	
<b>More than 3 objections received</b>	YES
Other (please state) .....	MAJOR

**HUMAN RIGHTS**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights: -

**Article 8**

The right to respect for private and family life, home and correspondence.

**Article 1 of Protocol 1**

The right of peaceful enjoyment of possessions and protection of property.

**APPLICATION DETAILS**

**1.1 The Site and the Proposal**

Background

This application is a resubmission of application 1997/155 which was refused by Development Control Committee on 10<sup>th</sup> July 2006. For ease of reference the previous Committee report is appended which includes a chronology of 1997/155 this can be found in Appendix 1 of the report. The reason for refusal was as follows

1. The proposed development would contribute towards an inappropriate excess in housing supply provision, contrary to Policy 12 of the adopted Joint Lancashire Structure Plan and the Rossendale Borough Council Housing Position Statement (August 2005). In this instance the case has not been advanced to warrant an exception to policy being made.

Essentially application 1997/155 was an application which was recommended for approval by the Development Control Committee in 1997 subject to a s106 Agreement. The s106 agreement was not signed and in July 2006 the application was brought back before this Committee in light of the significant change in policy position since the resolution to grant was determined. When the application returned to Committee in July 2006, the planning policy context had changed so significantly that the application was refused on the grounds of housing-oversupply.

Following the 10<sup>th</sup> July 2006 Committee decision to refuse the 1997/155 scheme; pre-application discussions were held between the Interim Spatial Development Manager and the applicant in late July 2006 prior to the submission of the current application. The applicant was asked to provide a reasoned justification for discounting a mixture of uses on the site, also to provide a reasoned justification in relation to housing oversupply. It was highlighted to the applicant that to meet the Structure Plan requirements in Policy 12 a significant level of affordable housing over and above the recommended level of 30% might present a justification in terms of housing over-supply.

#### The Site

The site lies to the north and east of Oaklands Drive and to the east and south-east of Lower Cribden Avenue, Rawtenstall. The site is steeply sloping and is enclosed to the south and west by dense residential development. To the east stands Mickledore, a large detached dwelling house with substantial grounds and to the north stands Mickeldore Barn and the start of the Green Belt. Parts of the site have been used as a builders yard for several years.

For a more detailed description of the background and site please refer to the previous Committee reports.

#### The Proposal

The proposal is an amended scheme for residential development which differs from application 1997/155 in terms of layout and house types. 1997/155 was refused by the Development Control Committee on housing over-supply grounds.

The applicant has redrawn the red edge around the site which now excludes land which previously formed part of the garden to Mickledore as a house and tennis court have been constructed there. The applicant has also revised the house types proposed which are in many cases taller than the houses proposed under the previous scheme. The change in house types has also affected the layout of the site meaning that a number of houses are now closer

to each other and both closer and taller to houses along Oaklands Drive. Some of the plots have changed the orientation of the houses whilst a number have introduced balconies or raised patios.

There has been no increase in the number of houses proposed which remains at 31 units. The applicant is offering a commuted sum payment in the region of £15,000 towards the provision/ maintenance of recreational open space and associated equipment. The applicant is not offering any affordable housing.

The applicant has provided a detailed design and access statement, however, it is considered that the applicant has not made a detailed justification for alternative uses on the site being discounted.

### The Fall Back Position

The case officer requested further information to which the applicant gave an email response dated 24<sup>th</sup> October 2006. The email confirmed that applicant's view that foundations had been laid in connection with application 14/92/149 and that a letter from Building Control confirms this; that the site was originally accessed from Mickledore but later accessed from Lower Cribden Avenue although dates are given; the site has been used for the storage of building materials since 1995 and this use has been more intensive at the top end of the site although the applicant claims that all of the site has been used at one time or another; the application differs from 1997/155 as it seeks to meet the local housing need by providing 3, 4 and 5 bedroom properties. Two houses have not been built within the red edge site despite claims to the contrary which were granted under a separate permission and stand within the grounds of Mickledore; there are no plans to include accommodation in the attic space of type D properties. The applicant lists the following as justifications for the 16 additional properties in terms of Housing Over-supply:

- That the development falls within the Government's target for windfall developments equating to 5 properties over a 3-year build period
- That there has been an increase in density on the site from 15 to 20 dwellings per hectare
- The site is allocated in the Council's Local Development Plan
- Demand exceeds supply for the type of houses proposed
- This is a sustainable urban site which would represent an efficient use of land
- That the Council should not wait for the revised version of RSS to be adopted but rather jump the gun and allow more residential development on previously allocated sites
- This site constitutes brownfield land and would assist the Council in meeting its targets for dwellings constructed on previously developed sites
- The developer will contribute £15,000 towards Public Open Space, affordable housing or regeneration.

The applicant has sent a further email dated 27<sup>th</sup> October 2006 raising the following points:

1. That the applicant will send a “protected species report” in to the Authority before the Committee meeting
2. That the County Council’s request for a contribution towards public transport costs of £74, 760 is unreasonable since the site is accessible and it was not requested on the previous application.
3. The applicant would be happy to accept a condition covering drainage on the site.
4. Also a condition regarding land contamination.
5. The applicant highlights their willingness to offer £15, 000 either towards public open space on the site or regeneration or affordable housing and reiterates the fall back position of an extant permission for 15 houses on the site which this scheme would improve on in relation to density.

The applicant has been requested to explain the material changes that they believe have taken place since the July Committee decision which outweighs the grounds for refusing the previous application on Housing over-supply. The applicant’s response will be reported via the Late Items Agenda.

In an email dated 28<sup>th</sup> October 2006 the applicant explains that the material changes from the previous scheme are as follows:

- A better designed scheme with a better mix of houses
- The mix of houses offers a variety of houses which reflects local housing need and demand
- Offering a financial contribution towards Public Open Space which the previous scheme did not
- An offer not made at the time of the application but is made in the email of £15, 000 towards off-site public open space or regeneration schemes or affordable housing and £5,000 towards public transport improvements
- Precedent set by Committee approving other schemes in less sustainable locations at the July Committees.

## 1.2 Relevant Planning History

1986-171	Outline – Erection of 5 Houses – Approved
1986-315	Outline – Erection of 27 Dwellings – Approved
1987-514	Reserved Matters (one plot) – Approved
1987-226	Reserved Matters (one plot) - Approved
1988-468	Erection of a detached house – Plot 15 Lower Cribden Avenue – Approved
1991/685	Outline - Erection of 16 no dwellings – Withdrawn
1992/149	Erection of 15 no dwellings – Approved

## 1.3 Policy Context

### Rossendale District Local Plan (Adopted 1995)

- DS1 - Urban Boundary
- E7 - Contaminated Land
- DC1 - Development Control
- DC2 - Landscaping
- DC3 - Public Open Space

DC4 - Materials  
T6 - Pedestrians

### **Joint Lancashire Structure Plan (Adopted 2005)**

Policy 1 - General Policy  
Policy 2 - Main Development Locations  
Policy 7 - Parking  
Policy 12 - Housing Provision

#### **1.4 Other Material Planning Considerations**

PPS 1 - Sustainable Development  
PPG 3 - Housing  
PPG 13 - Transport  
PPS 23 - Pollution Control

RSS for the North West  
LCC Parking Standards  
Rossendale BC Housing Position Statement

## **2. CONSULTATIONS**

### **2.1 INTERNAL CONSULTATIONS**

Forward Planning – The housing provision for Rossendale is contained in Policy 12 of the Joint Lancashire Structure Plan (JLSP), adopted in 2005, which provides for 1920 new dwellings for new households for the period 2001 to 2016. This figure is based on an annual average dwelling provision of 220 dwellings per year for the period 2001 to 2006. From 2006 to 2016 the annual average dwelling provision reduces to 80 dwellings per year.

The Housing Land Position Monitoring Report, taken to Cabinet in June 2006, notes that as of 31<sup>st</sup> December 2006 the number of dwellings in Rossendale with an extant planning permission was 1233. Completions over the plan period to date from 1<sup>st</sup> April 2001 to 31<sup>st</sup> December 2005 (i.e. 4.75 years) totalled 932. This leaves a remaining provision of 988 dwellings. Hence, the number of extant residential planning permissions exceeds the remaining Structure Plan provision.

Looking towards the future five year supply, as from 1<sup>st</sup> January 2006, a requirement of 435 dwellings is needed. This is significantly lower than the number of dwellings anticipated to come forward, recorded as 832 in the Housing Land Position Monitoring Report 2006. In fact over the next five years it is expected that year on year completions will be significantly higher than the 80 dwellings provided for in the JLSP, even without any additional planning approvals coming forward.

Approval of this application would result in exacerbating the position of residential over-supply that the Borough is currently facing in respect of the adopted Joint Lancashire Structure Plan (2005).

Highways – Drainage – highlight that there is a culvert which runs through the site and recommends that a condition requiring a survey and a scheme of diversion to be submitted to and approved by the Local Planning Authority.

Environmental Health – Contaminated Land – recommend a condition be attached requiring an investigation and risk assessment to be carried out and remedial measures to be carried out if contamination is found.

## 2.2 EXTERNAL CONSULTATIONS

### Lancashire County Council

#### Planning

The proposal is considered not to be required to meet the Borough's housing need and would therefore contribute to housing oversupply.

Landscape - additional information is required regarding planting details including species and methods as well as building materials and surface treatment.

Ecology - the specialist highlights the need for the applicant to demonstrate that there would be no impact on nesting birds or bats as a result of the felling of trees on the site.

Transport – a contribution of £74,670 should be sought by from the developer towards transport improvements to address particular limitations of the scheme, if the Committee is minded to approve the application.

#### Highways

Raise no objection to the scheme but request all garages to be 6 metres long, whilst for adequate pedestrian access footpaths should be a minimum of 1.8 metres wide. It is recommended that conditions be imposed covering the provision and maintenance of sight lines and visibility splays.

## 3. REPRESENTATIONS

3.1 Letters from 12 addresses on Oaklands Drive and 1 email with no address objecting to the proposal on the following grounds:

- Loss of privacy
- Increased traffic problems
- Poor access to the site for so many houses
- Reduction in highway safety
- Accessibility
- Impact on local services e.g. schools
- Housing over-supply
- Separation distances between existing and proposed properties
- Proposed houses out of keeping with the surrounding area
- Drainage

- Loss of light
- Loss of trees

A 65-signature petition has been received from residents of Oaklands Drive, Ambleside Avenue and Langdale Avenue objecting to the proposal on the following grounds:

- Design, layout and access
- Increased traffic problems
- Intrusion of privacy
- Drainage

#### 4. **REPORT**

4.1 The main considerations of the application are the principle and detail of the scheme. The matters relating to the principle of the development break into the following areas:

- 1) Whether the applicant has proved a justification for the additional dwellings in a climate of Housing Over-supply
- 2) The weight that should be given to the housing allocation over more recent planning policy
- 3) The density of the scheme
- 4) The material changes to the scheme since it was last determined
- 5) Contaminated Land assessment

In relation to the detail of the scheme, the considerations fall into two main headings of form and layout. The form of the development looks at its height, design, roof style, windows and materials whilst the layout looks at the density of the development, the spacing between buildings, roads, footpaths, parking and landscaping.

#### 4.2 Principle

The application site is allocated in the adopted Local Development Plan. The Local Development Plan is now time expired and has been held to be in non-conformity with the Joint Lancashire Structure Plan. The 10<sup>th</sup> July 2006 Committee report explains, at length, the changes in planning policies not only since application 1997/155 was first heard by the planning committee but also in terms of changes that have occurred since the Local Development Plan was adopted. It is considered that since the planning policy position has shifted so significantly since the Local Development Plan was adopted, that less weight can be afforded to the Housing allocation in the Development Plan and more weight should be given to the currently adopted RSS in particular Policies DP1 , DP2 and Policy UR 7, the Joint Lancashire Structure Plan and the Council's Housing Position Statement which are more recent documents which all underline the housing over supply position in which the Borough finds itself. The applicant has not substantiated an exception to the Housing over-supply situation and the applicant is offering no affordable housing as part of this scheme.

Policy 12 of the Joint Lancashire Structure Plan whilst limiting Housing land supply, does make an exception for residential developments which would make an “essential contribution to the supply of affordable or special needs housing or form a key element within a mixed-use regeneration project. Any such project should be compatible with and help achieve the regeneration objectives of the Local Authority...[another circumstance] where it may be appropriate to approve residential development in a situation of Housing oversupply [could be where there are] conservation benefits of maintaining an existing building worthy of retention”.

The Council’s Housing Position Statement accepts the position of Housing over-supply but again makes certain exceptions which are limited to residential developments:

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

The proposed development whilst providing an improved mix of housing would not make an essential contribution to the supply of affordable housing or special needs. Although the applicant contends that the smaller houses would be technically affordable on the open market, no evidence has been submitted to substantiate this claim and this would only relate to the smaller 3 bedroom properties rather than a broader range of the houses over the site. The applicant was requested to consider a mixed-use scheme on the site but has chosen not to pursue this and the site lies outside of the boundaries of the Rawtenstall Area Action Plan, thus the scheme does not represent a key element of mixed use regeneration scheme and would not contribute towards the regeneration objectives of the Authority. Recently, the applicant has offered a financial contribution of £15, 000 towards off-site regeneration works or affordable housing. This figure is considered to be extremely low in view of the levels of affordable housing indicated by Policy 12 or the importance of housing to a regeneration scheme certainly this is not considered to be a significant figure as outlined in the Structure Plan . There would be no conservation benefits of the scheme. It is therefore considered that the proposed development fails to meet the exception criteria of Policy 12 of the structure plan.

In relation to the Council’s Housing Position Statement, the proposal does not represent a like for like replacement of residential properties and lies outside of the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative Area and the Rawtenstall Town Centre Area Action Plan. As such the scheme is

automatically discounted from further consideration as an exception to the Position Statement.

### Fall Back Position

The Council's previous comments in relation to the fall back position apply (see previous report attached) Planning approval 14/92/149 relates to 15 detached dwellings. The points within the previous report on this point are considered correct. Given that the current application would increase the total number of dwellings on the site by 16, it is considered that the fall back position would not represent a like for like replacement or even similar number of dwellings from that previously approved. If approved this scheme would increase the level of over-supply and does not fall within an exception where such increase is allowed. As such the proposal is not in accordance with the housing position statement.

It is not considered that the increase in density this does not outweigh the consideration of oversupply.

On the application forms the applicant states that the scheme is for 31 houses on 1.571 hectares of land. In the supporting statement the applicant asserts that the proposal would result in an increase of density. The applicant states that site is 1.571 hectares which means that even 31 houses would still fall short of the PPG 3 housing density target of 30 – 50 dwellings to the hectare. The applicant has confirmed by email that the density of the proposed development would in fact be 20 dwellings to the hectare.

The applicant has changed the scheme in relation to design, a better mix of houses which offers a wider range of houses to better reflect local housing need and demand, is now offering a financial contribution towards Public Open Space as well as £15,000 towards off-site regeneration schemes/ affordable housing and £5,000 towards public transport improvements and highlights the precedent set by Committee approving other schemes in less sustainable locations at the July Committees. The design and layout are discussed below, nevertheless, the changes wrought by the applicant whilst materially different from the previous scheme are considered not to have substantiated an exception to the Housing over-supply argument.

The applicant has submitted a contaminated land desk top study. The Council's Environmental Health department considers there to be sufficient information on which to make an assessment and their findings are that the contamination on the site would not prevent scheme from going ahead in principle subject to conditions.

The proposed development would contribute to the position of housing over-supply in the Borough of Rossendale and the applicant has not justified an exception to this policy despite changes to the scheme from the previous application. The contamination on the site would not prevent the development of the site but is insufficient to outweigh the aforementioned considerations. As such the principle of the development is considered unacceptable.

## 4.3 Detail

### Form

The current application has revised the house types proposed by the previous application 1997/155. The applicant has not supplied finished floor levels nor any sections through the site which enable the impact of the scheme on the adjoining properties, nor the living conditions of the future occupiers of the proposed development. Thus the relationship between the existing and proposed properties cannot be fully assessed with regard to the appropriateness of the height of the buildings, their roof styles, their impact on residential amenity in terms of loss of light, privacy or outlook, or their position and proximity. Moreover, the separation distances between some of the proposed properties and existing dwellings fall below the guide of 21 metres between main habitable room windows and the majority of the proposed dwellings have balconies. In the absence of finished floor levels and lines of sight the impact of this development cannot properly be assessed.

It should also be noted that the design of the houses throughout the proposed development are considered not to be in keeping with the existing dwellings on Oaklands Drive. No street-scene has been provided by the developer showing what the houses would look like adjacent to each other and it is therefore uncertain that the houses would even relate well within the development. The applicant has not stated which materials are proposed to construct the properties in either the application forms, supporting statement, Design statement or on the submitted plans. Again it is not clear how this application relates to the surrounding area. As such the proposed development would appear to be detrimental to the visual amenities of the surrounding area and to the residential amenities of the occupiers of existing properties and the future occupiers of the proposed development.

### Layout

The Highways Officer does not object to the road and pavement layout, however, the parking and turning areas on plots 19, 20 and 22 would be inadequate. Otherwise there appears to be adequate access for vehicles and pedestrians.

The current scheme has reduced the garden depths of a number of properties and in general the houses appear to be sited very densely as well as being quite tall buildings themselves. The applicant has not submitted a detailed landscaping scheme.

The proposed development would appear to be unacceptable in terms of its form and layout and would be detrimental to visual and residential amenity. Notwithstanding the provided details, the applicant has submitted insufficient and contradictory information which prevents the impact of the application from being properly assessed.

### Letters of Objection

Of the issues raised by local residents not already covered by the preceding discussion, the issue of increased traffic on inadequate roads was not raised by the previous application on the site nor has the Highway officer objected. Drainage is not normally a planning consideration and no substantive evidence has been submitted by third parties to substantiate that the local drains and sewers would be unable to meet demand. The scale of the development would not normally warrant refusal on the grounds of increased pressure on local school places and the County Council has not indicated that this would be the case.

### **Recent Newspaper Article**

Members of the Committee must approach the determination of the application with an open mind and that it must be considered only on its planning merits. Members may have read a recent front page article written by the applicants/ developers. I advise you to put out of your minds any threat by the applicant/ developer to sue the Council. The financial consequences to the Council of determination of the application in a particular way should not be taken into account.

Just as the Committee would not, for example, consider beneficial financial consequences to the Council as a landowner which would follow from a grant of planning permission so they should not consider adverse financial consequences to the Council which might ensue if there were to be a refusal of permission. This application should be determined on its planning merits .

## **5. CONCLUSION**

- 5.1 The application is unacceptable in principle whilst the details of the scheme are inadequate to assess the scheme properly. Where there is sufficient detail the scheme appears to detrimentally affect visual and residential amenity and the layout of the scheme requires further work.
- 5.2 The applicant has latterly offered an extremely low financial contribution towards off-site regeneration/ affordable housing and transport improvements. Even if this offer were to be improved to the point where the principle of the development did become acceptable, which would mean an improvement in the offer being 50 times higher, the detail of the application would still render it unacceptable.

## **6. RECOMMENDATION(S)**

- 6.1 That the application be refused on the grounds that the development would contribute towards Housing over-supply, there is inadequate and insufficient information to assess the application properly and that where detail is present it would appear to detrimentally affect visual and residential amenity.

## **7. REASONS FOR REFUSAL**

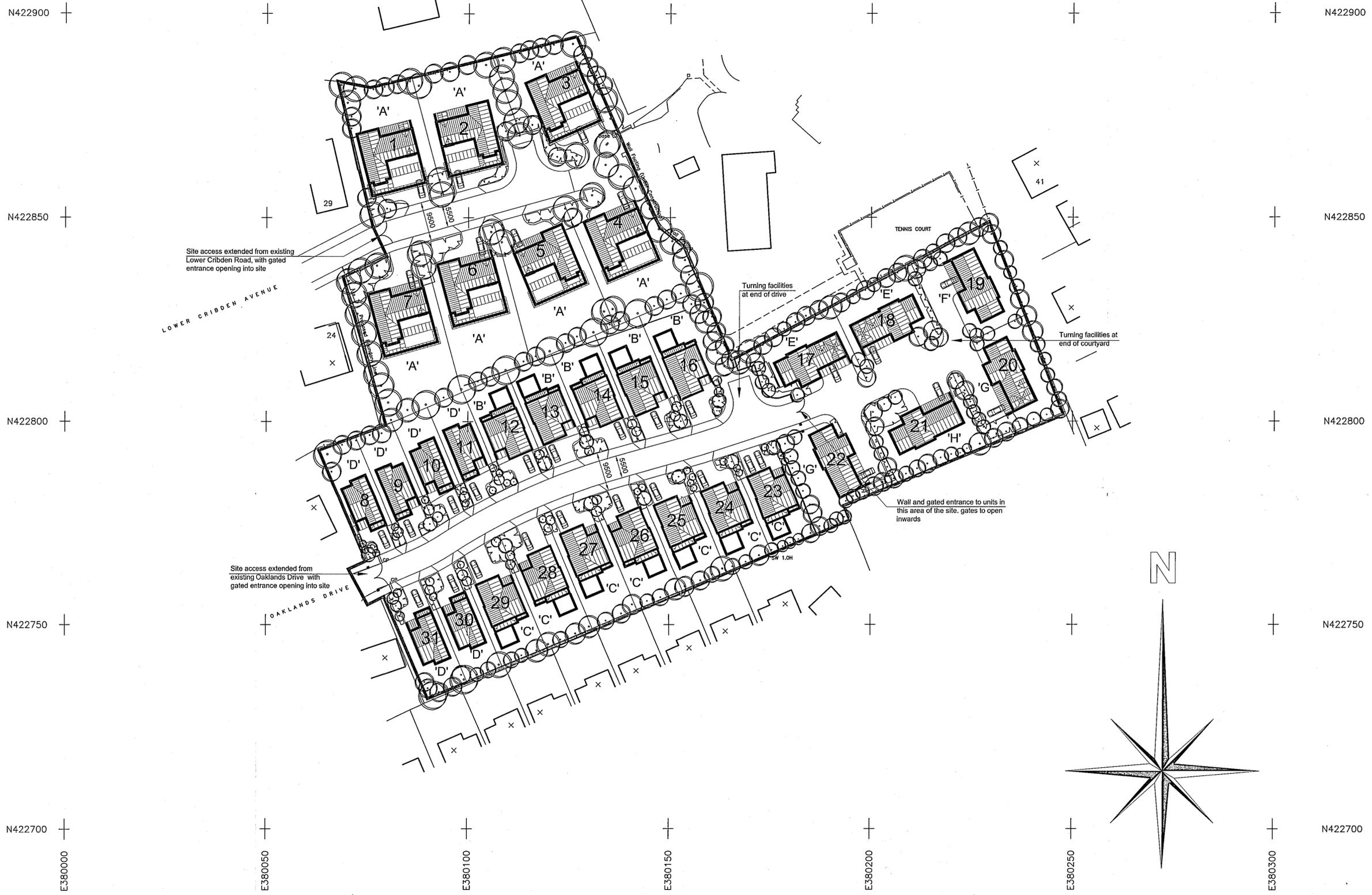
1. The proposed development would contribute towards an inappropriate excess in housing supply provision, contrary to Policy 12 of the adopted Joint Lancashire Structure Plan and the Rossendale Borough Council Housing Position Statement (August 2005). In this instance the case has not been advanced to warrant an exception to policy being made.

2. The application, supporting statement and submitted plans contain insufficient information to enable the scheme's impact on visual and residential amenity to be properly assessed.

<b>Contact Officer</b>	
Name	Adrian Harding
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Service / Team	West Area Team – Development Control
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INSERT LOCATION PLAN HERE





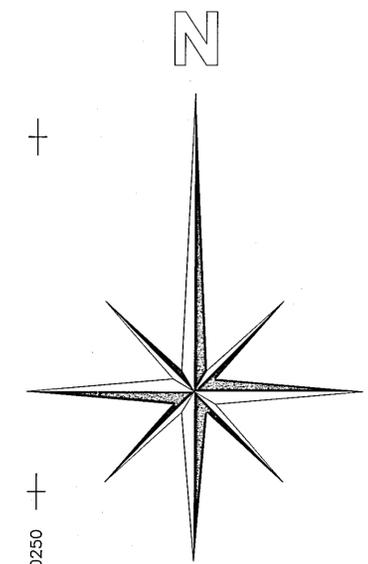
Site access extended from existing Lower Cribden Road, with gated entrance opening into site

Site access extended from existing Oaklands Drive with gated entrance opening into site

Turning facilities at end of drive

Turning facilities at end of courtyard

Wall and gated entrance to units in this area of the site. gates to open inwards



30 AUG 2006

2006 / 485

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-  preliminary
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-  as built

A ... MINOR AMENDMENTS AS REQD BY CLIENT kz 08/06



CLIENT	Hurstwood Developments Ltd	SCALE	1:500
PROJECT	Housing Development at Oaklands, Rawtenstall	DATE	08/06
TITLE	Site Plan	DRAWN BY	kz
		DRAWING NUMBER	2984/10

11 Riversway Business Village Navigation Way Preston PR2 2YP  
 t.01772 723626 f.01772 725487 mail@fletchersmith.net

S:\Jobs\2984 Oaklands\Architect FS drawings\2984 10 A SITE PLAN.dwg, 23/08/2006 16:36:55