# Rossendale BOROUGH COUNCIL

Application Number:	2016/0187	Application Type:	Full
Proposal:	Demolition of existing commercial premises and replacement with a live work unit	Location:	Unit 3 Shawclough Road Whitewell Bottom
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	24 May 2017
Applicant:	Mr S Warburton	Determination Expiry Date:	25 August 2016
Agent:	Mr S Hartley	·	

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REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	x
Member Call-In	
Name of Member:	
Reason for Call-In:	
3 or more objections received	
Other (please state):	

## 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.

## 1. **RECOMMENDATION**

That Permission be granted, subject to the Conditions set out in Section 11.

#### 2. BACKGROUND

This application was reported to the meeting of Committee held on 28 February 2017, with an Officer Recommendation for Refusal for the following three reasons:

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1. The proposed building, by reason of its bulk / height, materials and design, will cause unacceptable harm to the character and distinctiveness of the Countryside.

The amendments to provide a vehicle turning area will result in the removal of the adjacent bank and the trees which will significantly increase the extent to which the height/bulk of the proposed building will impact on the character and appearance of Countryside, most particularly as the site is approached from the east along Shawclough Road, its curvature and the frontage planting no longer serving to screen the site and building upon it from public view until the site is reached.

The proposed development is considered to be contrary to Section 7 of the National Planning Policy Framework and Policies 1 / 21 / 23 of the Council's adopted Core Strategy that seek to ensure that all new development is of the highest standard of design that respects and responds to local context, distinctiveness and character.

- 2. The amended Site Layout Plan (LWU/Pr 01 rev D received 17/2/17) will :
  - Extend beyond the application site
  - Result in land level changes, tree removal and the construction of a retaining wall

Insufficient information has been submitted to enable full consideration of the amended proposals in the following regards:

- the height/appearance of the retaining wall now required and
- the impact of this change in the scheme for trees and ecology.
- 3. Occupiers of the live-work unit, and their visitors, wishing to access the site on foot from bus stops/ services on Burnley Road East, will have to walk in the carriageway of Shawclough Road which does not represent sustainable development of safe or inclusive design. Accordingly, the proposed development is considered contrary to the principles of 'sustainable development' and Sections 4, 7 & 11 of the National Planning Policy Framework and Policies 1 / 18 / 21 / 23 of the Council's Adopted Core Strategy.

After discussion of the item, Committee decided to defer a decision to enable amended plans to be submitted in respect of a reduction in the land levels to reduce the overall height of the proposed building.

The amended drawings which have now been received propose that the new 2-storey building be constructed in broadly the position of the existing 1-storey building after first reducing the ground level. The amended plans show that the finished floor level of the ground floor of the proposed building will be 0.65m lower than that previously proposed.

The new drawings also show:

- The building is to be pushed slightly further back from Shawclough Road, thereby enabling construction of a 1.1m wide footway adjacent to/at the level of the carriageway, where no footway presently exists.
- The building is to have a slated pitched-roof with a ridge height reduced from 7.2m to 6.7m and with external walls which are at ground level of coursed stone and at first-floor level are clad with mock timber-boarding (rather than the rendered-finish initially proposed).

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- The new stone-faced retaining wall to be constructed to the rear of the vehicle parking/ turning area to serve the proposed live-work unit will rise from a height adjacent to Shawclough Road of 1m to a maximum height of 1.7m where setback from it.

## 3. THE SITE

The application relates to an irregularly-shaped site, of approximately 0.1ha, to the north side of Shawclough Road. At this point the road has restricted forward-visibility due to an S-bend, lack of a footway on its north side, a retaining wall bounding the highway to the west side of the access-point and planting to the east side of the access-point.

The site is presently occupied by a 1-storey workshop building that sits towards the west end of the site frontage. It is elevated above the level of the highway by approximately 1.5m. Its walls and roof are clad with a combination of grey and green profiled metal sheeting. With a footprint measuring 9m x 11.5m, there are 2 elements to the building : that half nearer to the road of less height due to its mono-pitch roof, and that half furthest from the road of greater height due to its pitched-roof. It is backed by a stone retaining wall of approximately 1.5m in height which supports rising wooded land to the rear of the site.

Accordingly, the existing building is of modest visual impact. When approached along Shawclough Road from the west it is of less height/bulk than the industrial buildings first passed and of less strident appearance than them by reason of the subdued colour of the cladding materials. When approached along Shawclough Road from the east the curvature of the road and frontage planting limits the view the public has of it. Once it comes into view, it appears of modest size/subdued appearance, viewed against the backdrop of woodland on the rising land to the rear and goes some way towards hiding the red-brick of the adjacent commercial building.

The building has its principal entrances, consisting of two bay doors in the east elevation, facing onto a parking/servicing area with access-point that joins the highway at an angle.

Not only is the open land to the north/south/east of the site in Countryside, so too is the application site and the commercial building immediately to the west. Larger/more modern industrial buildings further to the west are within the Urban Boundary.

# 4. RELEVANT PLANNING HISTORY

#### 2008/222 <u>Replacement of Joiners Workshop with a Live-Work Unit</u> Refused 30/5/08 & dismissed on Appeal 17/10/08

This application related to a site somewhat larger than the site of the current application as it included a larger part of the wooded land rising to the rear of the current site. Permission was sought to replace the existing building with one of significantly greater footprint, bulk and height, and which was also to be split-level, providing usable floorspace on 3 levels at it stepped up the slope.

In dismissing the Appeal the Inspector stated :

- I find no support in either of those [statements of Government policy] for a proposal which would result in a significantly enlarged footprint over and

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above that of the existing building and the addition of a dwelling where one did not exist before outside the defined Urban Boundary.

- The Council has been operating a policy of housing restraint because of an oversupply situation.... I conclude also that there is no justification for making an exception to the policy position set out in the revised IHPS in order to maintain a five year housing supply in the Borough.
- The replacement building would be more prominent in its setting than the existing and even with additional landscaping I consider the visual impact would be harmful to the semi-rural appearance of the area.
- The Council acknowledges that the existing building is not attractive although as a result of its modest size and subdued appearance it helps to mask and mitigate the impact of the more strident industrial buildings to the west of the site. I agree that the use of stone in the new building would be a more sympathetic material. Nevertheless, it seems to me that the overall design of the proposal, particularly in terms of its split level form and the lateral spread of its different elements, would fail to improve the character of the area.
- It has not been demonstrated that the access and parking/servicing arrangements for the work unit would be adequate.

## 5. THE PROPOSAL

The application seeks permission to replace the existing building with a two storey building containing at ground-level a B1(c) Light Industrial unit of 137sq m, and associated living accommodation above, consisting of a 2-bedroomed dwelling of similar floor area.

As amended, the proposed building will be sited towards the western boundary of the site and will measure 10.9m x 12.6m x 5.5m to eaves and 6.7m to ridge. It is to have a slate roof, of shallow pitch, and external walls at ground-floor level of coursed-stone and at firstfloor level clad with mock timber-boarding. Its front elevation will face east, towards the intended parking/service area, and will contain a bay-door in the centre and two pedestriandoors. The existing access-point is to be utilized to enter/exit the parking/service area.

The Applicant has advised that besides the parking spaces that can be provided on the hardstanding to the front of the proposed building, its occupiers/visitors will be able to make use of the parking area on the opposite side of Shawclough Road to the industrial units west of the application site (which are owned by the Applicant).

The drawings also show a flight of steps rising from the rear of the proposed parking/service area, which will enable users of the live-work unit to then walk along a path that runs to the front of Bowness Bungalow and then down its driveway and thereby to a footway of Shawclough Road that extends to Burnley Road East.

The Planning Statement accompanying the application states:

- There has been a fundamental change is planning policy and housing supply since 2008.
- The Council cannot show that it has a 5 year supply of deliverable housing land.
- The Government has just completed a consultation exercise on proposed changes to national planning policy in respect of housing which it states: We also intend to make clear

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those proposals for development on small sites immediately adjacent to settlement boundaries should be carefully considered and supported if they are sustainable.

• Releasing this brownfield site, in an accessible location, for a live/work unit at this time would mean that there was less pressure to release greenfield sites elsewhere.

# 6. POLICY CONTEXT

# <u>National</u>

National Planning Policy Framework

- Section 1 Building a Strong Competitive Economy
- Section 3 Supporting a Prosperous Rural Economy
- Section 4 Promoting Sustainable Transport
- Section 6 Delivering a Wide Choice of High Quality Homes
- Section 7 Requiring Good Design
- Section 10 Meeting the Challenges of Climate Change, etc.
- Section 11 Conserving and Enhancing the Natural Environment

# **Development Plan Policies**

Rossendale Core Strategy DPD (2011)

- AVP3 Area Vision for Waterfoot, Lumb, Cowpe & Water
- Policy 1 General Development Locations and Principles
- Policy 2 Meeting Rossendale's Housing Requirement
- Policy 3 Distribution of Additional Housing
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 10 Provision for Employment
- Policy 18 Biodiversity and Landscape Conservation
- Policy 19 Climate Change, etc
- Policy 21 Supporting the Rural Economy & Its Communities
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

# 7. CONSULTATION RESPONSES

## LCC Highways

No objection to the proposal based upon the amended plans, subject to conditions.

<u>RBC Contaminated Land Consultant</u> No objection subject to condition.

RBC Ecology Consultants No objection

<u>United Utilities</u> No objection subject to conditions.

## 8. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted and neighbours were notified by letter of the application as first submitted and again following receipt of the amended drawings.

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No comments have been received.

## 9. ASSESSMENT

The main considerations of the application are :

- 1) Principle
- 2) Visual Amenity
- 3) Neighbour Amenity and
- 4) Access/Parking

## **Principle**

Since refusal of Application 2008/222, for the erection of a live-work unit on this/adjoining land, and dismissal of the subsequent Appeal, national and local planning policy has changed. Most particularly, both the Council's decision and that of the Inspector refer to Rossendale then being in a position of over-supply in respect of housing land.

The Framework states that "*Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development....*" (Paragraph 28). Policy 21 of the Council's adopted Core Strategy states:

"The rural environment and economy will be protected and enhanced through the following principles:

Development will be restricted to existing rural settlement boundaries and within identified major developed sites.

Outside of these areas, proposals should demonstrate the social and/or economic needs/benefits for the local rural community and strict consideration will be given to the impact of rural development on the countryside (including the natural environment) and/or Green Belt.

Support will be given to the social and economic needs of rural communities by encouraging:

- The retention or expansion of appropriately sized businesses
- The re-use or replacement of suitable rural buildings for employment generating uses
- Proposals seeking to widen local facilities and services for everyday needs
- Live-work units
- Diversification of the agricultural economy for business purposes
- Sustainable tourism developments, including recreation and leisure uses appropriate to a countryside location such as horse-related activities
- Arts and crafts based industries
- Technological developments needed to facilitate employment development in rural areas and help address social exclusion
- The improvement of public transport links to identified urban centres, employment areas and visitor attractions
- Increased accessibility to and from rural communities by sustainable modes of travel

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In all cases, the Council will seek to protect the most productive and versatile agricultural land in the Borough, including agricultural practices unique to the area."

In this instance the site is presently occupied by a commercial building. Accordingly, there is no objection in principle to its replacement with another building for employment purposes which will not have a materially greater adverse impact upon the character and appearance of the area, neighbour amenity, highway safety, etc. These matters will be considered below in relation to the intended workspace.

It remains the case that the erection of the proposed dwelling in Countryside is to be considered inappropriate. The Framework states that "*To promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities…*" (Para 55). Similarly, Policy 1 of the Council's adopted Core Strategy states (amongst other things) that:

"Development within Rossendale should take place within the defined urban boundary (Local Plan Saved Policy DS1), unless it has to be located in the countryside, and should be of a size and nature appropriate to the size and role of the settlement....Proposals outside the urban boundary will be determined in accordance with the relevant national and local planning guidance..."

In this instance the site fringes the Urban Boundary around Whitewell Bottom and the erection of a dwelling here will not serve to enhance or maintain a rural settlement or the vitality of a rural community. Furthermore, it has not been demonstrated that the dwelling has to be located in the Countryside (for example an agricultural worker's dwelling).

However, the Government places considerable emphasis on housing delivery and the existence or otherwise of a 5-year land supply is a key component in delivering this aspiration. Paragraph 49 of the Framework indicates that housing applications should be considered positively, with Local Plan policies not considered to be up-to-date if a 5-year supply cannot be demonstrated. The Council is of the opinion that it cannot presently demonstrate that it has a 5-year housing land supply and, consequently, Local Plan policies in this regard are not to be considered up-to-date.

Paragraph 14 of the Framework states that where the development plan is absent, silent of out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted.

The proposal will make a positive, though small, contribution towards meeting the Borough's need for housing. Whether the proposal will have a positive, neutral or negative impact in relation to the character and appearance of the area, neighbour amenity, highway safety, etc. is considered below.

#### Visual Amenity

The Officer Report to February Committee said of the submitted scheme:

Whilst the existing building is not a thing of beauty, it is of modest size and subdued appearance, backed by rising land occupied by mature vegetation. The proposed building is of substantially greater bulk/height towards the frontage to Shawclough Road (by reason of the unit of living accommodation intended above the workspace), is to be constructed using

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more permanent materials and a design incorporating significantly more openings. Accordingly, the proposed building will cause significantly greater harm to the character and distinctiveness of the countryside, contrary to the guidance of Section 7 (Requiring Good Design) of the Framework and policies of the Council's adopted Core Strategy that seek to ensure that all new development is "...of the highest standard of design that respects and responds to local context, distinctiveness and character".

The application was recommended for refusal for the following reason:

"The proposed building, by reason of its bulk / height, materials and design, will cause unacceptable harm to the character and distinctiveness of the Countryside.

The amendments to provide a vehicle turning area will result in the removal of the adjacent bank and the trees which will significantly increase the extent to which the height/bulk of the proposed building will impact on the character and appearance of Countryside, most particularly as the site is approached from the east along Shawclough Road, its curvature and the frontage planting no longer serving to screen the site and building upon it from public view until the site is reached.

The proposed development is considered to be contrary to Section 7 of the National Planning Policy Framework and Policies 1 / 21 / 23 of the Council's adopted Core Strategy that seek to ensure that all new development is of the highest standard of design that respects and responds to local context, distinctiveness and character."

After discussion of the item, Committee decided to defer a decision to enable amended plans to be submitted to reduce the overall height of the proposed building.

The amended drawings which have now been received propose a reduction in ground levels and building-height such that the 2-storey building to be constructed will have a ridge-height only 0.9m higher than the existing 1-storey building. The new building will have an eaves height 2.3m higher than that of the existing building but the amended drawings show it is to be pushed back slightly further from Shawclough Road and it is to have its first-floor clad with mock timber-boarding (rather than render), further reducing its impact in the street-scene. Overall officers are now satisfied that the proposed building is acceptable with regards to bulk, height, materials and design.

The amended plans now received more accurately define the extent to which the area of hardstanding fronting the existing building is to be extended and, consequently, the extent of ground level changes and height of the retaining wall now required. Officers are now satisfied that the proposal will not result in an unacceptable loss of trees or ecological interest. Conditions are recommended to ensure the retaining wall is constructed with local natural coursed stone and the area behind it is suitably landscaped.

#### Neighbour Amenity

The proposal will not detract to an unacceptable extent from the amenities neighbours currently enjoy or could expect to enjoy.

#### Access / Parking

The proposed building will not have a footprint that is significantly greater than that of the existing building and, consequently, does not reduce the existing parking/servicing area

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appreciably. However, by reason of the proposed first-floor the usable floor area on the site is more than doubled and a unit of living accommodation provided. Having regard to this intensification in the use of the site and the lack of a footway to reach services on Burnley Road East, Officers recommended refusal of the scheme as first submitted, stating that:

"Occupiers of the live-work unit, and their visitors, wishing to access the site on foot from bus stops/ services on Burnley Road East, will have to walk in the carriageway of Shawclough Road which does not represent sustainable development of safe or inclusive design. Accordingly, the proposed development is considered contrary to the principles of 'sustainable development' and Sections 4, 7 & 11 of the National Planning Policy Framework and Policies 1 / 18 / 21 / 23 of the Council's Adopted Core Strategy."

On the basis of the amended drawings Lancashire Council Highways has advised that it has no objection to the proposal, subject to conditions. It notes that the amended site plan provides a wider footway along the frontage of the site, which provides an improved pedestrian provision and an increased driver sightline along Shawclough Road; the new footway will lie within land owned by the applicant and it will rest with them to maintain it unless they wish to dedicate the land as highway, which will require a Section 38 agreement under the Highways Act 1980 with Lancashire County Council. Notwithstanding the Highway Engineers comments, Officers are mindful that the proposed footway to the front of the site does not provide access to Burnley Road East as it terminates at the adjoining building. However, the applicant has also provided a drawing to show the construction of an alternative route for pedestrians in the form of a footpath on land to the north of the site (within the applicant's ownership) leading around the rear of the application site and the adjacent industrial units. This route is steep in parts and nor direct however Officers are now satisfied that the proposed development does not provide occupiers of the proposed dwelling with a choice of routes to reach the shops and services on Burnley Road East.

The Highway Engineer recommends that the extended area of hardstanding is constructed prior to the commencement of construction of the live/work unit to provide adequate space within the site for the construction traffic, site operative parking and wheel washing operations to take place. Shaw Clough Road is unsuitable to accommodate any on-street parking.

On balance, Officers are now satisfied that the third reason for refusal is addressed, subject to conditions including that both pedestrian routes are constructed prior to first occupation of the building.

## 10. SUMMARY REASON FOR APPROVAL

Notwithstanding that the site lies within Countryside, it is previously-developed land in a reasonably sustainable location at the urban-rural interface. Furthermore, the proposed development would make a small but useful contribution towards the Borough's supply of housing and, subject to conditions, will not detract to an unacceptable extent from visual and neighbour amenity or highway safety. Consideration has been given most particularly to Paragraph 49 of the National Planning Policy Framework and Policies AVP3 / 1 / 2 / 3 / 8 / 9 /10 / 18 / 19 / 21 / 23 of the Council's adopted Core Strategy.

## 11. **RECOMMENDATION**

That Permission be granted, subject to the Conditions set out below.

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## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason : Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

 The development hereby permitted is for a live-work unit Use Class B1(c) (light industrial), in which the living accommodation is used in association with the unit, and shall be carried out in accordance with the following drawings unless otherwise required by the conditions below:

Drawing Title	Drawing Number	Received
Location Plan	-	28/02/17
Proposed Site Layout	LWU/Pr 04 rev C	05/05/17
Proposed Floor Plans	LWU/Pr 01 rev F	05/05/17
Proposed Elevations	LWU/Pr 02 rev C	05/05/17
Proposed Elevations	LWU/Pr 03 rev C	05/05/17
Proposed Retaining Wall	LWU/Pr 03 rev C	05/05/17
Proposed Path Plan	SWPA2S/Pr 008 rev A	02/04/17
Existing Site Plan	-	21/03/17

<u>Reason:</u> To accord with the permission sought and granted.

- 3. Prior to construction of the building or retaining walls hereby permitted:
  - a) samples of the natural stone and natural slate to be used, and the facing material for any associated retaining walls, shall be submitted to and approved in writing by the Local Planning Authority; and
  - b) details of the design and appearance of the composite timber panel wall cladding and external doors and window-frames shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved materials.

<u>Reason</u>: To ensure the development is of satisfactory appearance, having regard to its location within the Countryside.

- 4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
  - i) The parking of vehicles of site operatives and visitors
  - ii) The loading and unloading of plant and materials
  - iii) The storage of plant and materials used in constructing the development
  - iv) The erection and maintenance of security hoarding
  - v) Wheel washing facilities
  - vi) Measures to control the emission of dust and dirt during construction
- vii) A scheme for recycling/disposing of waste resulting from demolition and

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construction works viii) Details of working hours ix) Routing of delivery vehicles to/from site

Reason: In the interests of highway safety.

5. The building hereby approved shall not be occupied until such time that the access footpath (to the north of the application site running in a westerly direction) is constructed in accordance with approved drawing SWPA/PR008 Rev A, and the pavement adjacent to the southern elevation of the building is constructed in accordance with drawing LWU/PR04 Rev C. Thereafter both footpaths shall be retained in accordance with the approved drawings.

Reason: In the interests of highway and pedestrian safety.

6. The area of hard standing shall be undertaken in accordance with the approved drawing LWU/Pr 04 Rev C and shall be surfaced in a porous bound material and drained prior to the commencement of the construction of the live/work unit. Thereafter this area shall be kept freely available for the parking and turning of vehicles.

Reason: In the interests of highway safety.

7. Prior to the commencement of the development full details shall be submitted to and approved in writing by the Local Planning Authority in respect of the following: proposed ground levels; retaining structures; hard and soft landscaping of external areas and boundary treatment (the boundary treatments along Shaw Clough Road and the boundary along the north eastern side of the development site shall be constructed below 900mm height).

The development shall be undertaken in accordance with the approved details. Any planting forming part of the approved scheme which is removed, dies or becomes seriously damaged or diseased within 5 years of planting shall be replaced by plants of the same siting, size and species in the next available planting season.

Reason: In the interests of visual amenity and highway safety.

8. The site must be drained on a separate system, with only foul drainage connected into the foul sewer and the surface water drainage system shall be based on sustainable drainage principles.

<u>Reason</u>: To mitigate flood risk and avoid pollution.

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