

**TITLE: APPLICATION NUMBER 2002/608
OUTLINE APPLICATION FOR THE DEMOLITION OF EXISTING
PREMISES AND NEW ACCESS TO FACILITATE RESIDENTIAL
DEVELOPMENT
AT: C CHEADLE AND SONS, HERBERT STREET, STACKSTEADS,
BACUP**

TO/ON: DEVELOPMENT CONTROL COMMITTEE / 11th JULY 2006

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

STATUS: FOR PUBLICATION

APPLICANT: M J & P CHEADLE

Human Rights

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

Article 8

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

Article 1 of Protocol 1

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

Background

This application was received 27th November 2002 and was considered under the Council's scheme of delegation. Officers were minded to approve the application subject to a legal agreement in January 2003. A chronology of key dates is attached at Appendix 1.

The application relates to the existing premises of C Cheadle and Sons, Herbert Street, Bacup and is in outline for residential purposes. All matters are reserved for determination apart from access. The site is 0.369ha and could accommodate 11 dwellings at the minimum density of 30 dwelling per hectare as defined in Planning Policy Guidance (PPG) 3: Housing. An indicative layout plan has been submitted with the application that demonstrates that the site could accommodate 23 dwellings. However, this siting plan is purely illustrative and does not form part of the application.

In this particular case the Section 106 agreement requirement relates to the enhancement of the existing open space to the south of the site known as Stacksteads Recreation Ground. The Head of Legal and Democratic Services

informs me that no legal agreement has been drafted in relation to this case, recent changes to the Development Plan, detailed below, require that the application be reconsidered against prevailing policies in order to determine whether the application is acceptable and in accordance with these new policies. The chronology provides details of the background to this case.

Members should also note that other similar applications, which have been considered previously by this committee and as delegated items, appear on this agenda. Although the various resolutions were passed at different times they were all passed before the adoption of the current Joint Lancashire Structure Plan and the Council's Housing Policy Position Statement. The decision whether or not to grant planning permission must be made in accordance with the development plan policies in force at the time unless material considerations indicate otherwise. Officers resolved to approve this application at the previous committee in January 2003 but a decision notice has not been issued and planning permission has not been granted as the S 106 agreement has not been completed. There have been significant material changes in the policy position since the resolution to grant planning permission was made. In such a circumstance, the decision to grant planning permission should be reconsidered.

The Development Plan within Rossendale comprises the Rossendale District Local Plan (adopted 12th April 1995), the Joint Lancashire Structure Plan 2001-2016 (adopted 31st March 2005) and RPG 13 (which became RSS and part of the development plan on 28th September 2004). It can be observed that the Local Plan is now over 10 years old whereas the other two elements of the development plan are much more recent in origin. A statement of non-conformity with the Adopted Structure Plan with respect to certain Local Plan policies was issued on 6th July 2005. One of the policies which is considered to be not in conformity with the Structure Plan by the County Council is policy H3 which allocates housing sites.

Given that the application relates to a residential scheme the most relevant changes to the development plan, therefore, relate to the provision of housing. I will discuss the prevailing policy framework below and other relevant material planning considerations in respect of housing which have arisen since Members were minded to approve the application in January 2003. The report does not re-reconsider other aspects of the application which are unaffected by changes to the development plan. The previous committee report is included and a chronology is included at Appendix 1.

Additional Information

The applicant's agent has provided additional information to support this planning application. I have summarised the key material considerations below:

- The chronology does not provide a full picture of attempts made by the applicant to secure the provision of the Section 106 agreement. Therefore, with regard to fairness, the weight attached does not reflect the circumstances of this case.
- The proposal fully accords with the master plan for the area (Bacup, Stacksteads and Britannia)
- The redevelopment of the site is necessary to facilitate a relocation of the premises elsewhere within the Borough

Regional Spatial Strategy

Regional Planning Guidance was adopted in March 2003 and following the commencement of the new Planning and Compulsory Purchase Act is now the Regional Spatial Strategy for the North West (RSS). RSS has formed part of the Development Plan for Rossendale since 28th September 2005.

The overriding aim of RSS is to promote sustainable development. The key objectives of RSS include:

- achieve greater economic competition and growth with associated social progression;
- to secure an urban renaissance in the cities and towns of the north west;
- to ensure active management of the Region's environmental and cultural assets;
- to secure a better image for the Region and high environmental and design quality; and
- to create an accessible Region with an efficient and fully integrated transport system

Policy DP1 requires that development plans adopt the following sequential approach to meet development needs, taking into account local circumstances, the characteristics of particular land uses, and the spatial development framework; the effective use of existing buildings and infrastructure within urban areas particularly those which are accessible by public transport, walking or cycling; the use of previously developed land particularly that which is accessible by public transport walking or cycling; and thirdly development of previously undeveloped land that is well related to houses, jobs and so on and can be made accessible by public transport, walking or cycling.

Policy DP2 requires an enhancement in the overall quality of life experience in the Region. It states that the overall aim of sustainable development is the provision of a high quality of life, for this and future generations.

Policy DP4 states that economic growth and competitiveness, with social progress for all is required. Local authorities and others should set out, in their regional strategies and development plan policies, guidance to ensure that development and investment will, to the fullest extent possible, simultaneously and harmoniously:

- help grow the Region's economy in a sustainable way; and
- produce a greater degree of social inclusion

Policy UR4 sets a target for Lancashire of reaching, on average, at least 65% of new housing on previously developed land.

Policy UR6 states that local authorities should develop an understanding of local and sub-regional housing markets in order to adopt a concerted and comprehensive approach to influencing housing supply. It goes on to state that this would be especially important in Rossendale. A comprehensive approach to housing renewal, clearance and urban regeneration, particularly in Regeneration Priority Areas, is required.

Policy UR7 states that Local Planning authorities should monitor and manage the availability of land identified in development plans to achieve the annual average rates of housing provision.

Joint Lancashire Structure Plan 2001-2016

Previous consideration of this application pre dates the adoption of the Joint Lancashire Structure Plan. I consider that policies 1 and 12 are most relevant in this instance.

Policy 1b (General Policy) requires development to contribute to achieving high accessibility for all by walking, cycling and public transport.

Policy 1f (General Policy) states development proposals should contribute to achieving *“urban regeneration, including priority re-use or conversion of existing buildings and then use brownfield sites”*

Policy 12 states *“that provision will be made for the construction of 1920 dwellings within the Borough within the plan period (2001-2016) 220 per year between 2001 and 2006 and 80 per year between 2006 and 2016”*.

Paragraph 6.3.13 states *“Where there is a significant oversupply of housing permission, planning applications for further residential development may not be approved unless they make an essential contribution to the supply of affordable or special needs housing or form a key element within a mixed use regeneration project. Any such project should be compatible with, and help achieve, the regeneration objectives of the Local Authority. Districts may identify, through the Local Plan/Local Development Framework process, other circumstances where it may be appropriate to approve residential development in a situation of housing oversupply, such as the conversion benefits of maintaining an existing building worthy of retention.”*

Rossendale District Local Plan

Key policies from the Local Plan against which the proposal was previously assessed but which have now been declared not to be in conformity with the Structure Plan are DC1 and H3.

Policy DC1 (Development Criteria) of the Rossendale District Local Plan states that all applications for planning permission will be considered on the basis of

- a) location and nature of proposed development,
- b) size and intensity of proposed development;
- c) relationship to existing services and community facilities,
- d) relationship to road and public transport network,
- e) likely scale and type of traffic generation,
- f) pollution,
- g) impact upon trees and other natural features,
- h) arrangements for servicing and access,
- i) car parking provision
- j) sun lighting, and day lighting and privacy provided
- k) density layout and relationship between buildings and
- l) visual appearance and relation to surroundings,
- m) landscaping and open space provision,
- n) watercourses and
- o) impact upon man-made or other features of local importance.

Policy H3 (Land for Residential Development) of the Rossendale District Local Plan allocates the site to meet the housing needs of the Borough.

Policy H2 (Protection of Garage Sites) of the Rossendale District Local Plan identifies part of the site as a protected garage site. The policy states “garage sites essential to the long term survival of areas of traditional terraced housing will be protected from redevelopment to ameliorate the problems of on-street parking congestion and traffic hazards in over-crowded narrow streets. The previous delegated report considers this issue and concludes that the proposal is in accordance with this policy given that replacement garages would be provided. I consider that an additional condition would be necessary to ensure that the replacement garages are delivered at an appropriate phase in any redevelopment.

Other Material Planning Considerations

Fairness

As already noted, this application was previously considered by the Development Control Committee in January 2003 when it was minded to approve the application subject to a section 106 agreement. I have attached for members' information a chronology of key dates at appendix 1 in relation to the process of this application and the preparation of the section 106 agreement. There is no record of any further action on Council files. I would also draw members' attention to the chronology and note that I have no record of any correspondence from the developer seeking to pursue this matter. However, I take the view that, in the light of the change in circumstances which has occurred since January 2003 and which has not been considered by members, it would not be appropriate for officers simply to issue the decision notice without reference back to members.

The legal position is that the Council must have considered all material considerations affecting the application as at the date when the decision notice is issued. In this case, as I have already explained, significant changes both to the development plan and to other material considerations which bear on housing development in the Borough have occurred since the Development Control Committee considered this application in January 2003. It is necessary now for members to reconsider the application in the light of these changes.

It is in the nature of this case that the application was made and originally considered by the Development Control Committee in different circumstances. To the extent that delay in progressing the completion of the section 106 agreement and thus issuing the decision notice has allowed the opportunity for the subsequent changes to occur, it is right to consider fairness to the applicant before arriving at a decision now. It is not, however, a question of whether it is fair to take the changed circumstances into account. The Council must take them into account and would be in breach of statutory duty were it not to do so. Rather, the question is how fairness to the applicant should weigh in the balance against other material considerations.

I consider that, whilst fairness should certainly be taken into account, it is not a matter which should prove decisive in arriving at a conclusion unless the planning merits are otherwise reasonably equal in respect of whether to grant or refuse. I also consider that, in approaching the issue of fairness to the applicant, it should be borne in mind that it has always lain in the power of the applicant to counteract any delay by appeal to the Secretary of State for non-determination and, if thought appropriate, by submitting a unilateral planning obligation as part of such appeal.

Housing Position Statement

The final version of the Housing Position Statement was issued by Rossendale Borough Council on 17th August 2005. However, it should also be noted that neither the draft nor final version constitutes a statutory document and does not therefore form part of the development plan for Rossendale. However, the document provides interpretation of the reasoned justification of policy 12 of the Structure Plan and should be used as guidance in the assessment of applications for residential development in conjunction with policy 12 of the Structure Plan.

The policy document states that '*applications for residential development in Rossendale will be refused, on housing land supply grounds, in all but the following limited circumstances:*

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

Of most relevance in the consideration of this application are parts b to e. The site is within the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area. The Council's issues and options report (revision B) which provides an integral part of the action plan, identifies this site. Whilst the issues and options report identifies potential uses for the site as continued industry, it also identifies the potential of a high density urban village infill. It is worthy of note that the indicative layout plan submitted for illustrated purposes would provide a high density scheme. As such, I consider that the proposal would be supported by parts b and d of the Housing Position Statement. Moreover, given that the proposal is in outline, I am satisfied that the proposal could be designed to enhance the character of the surrounding area and therefore be in accordance with part c.

In terms of Housing Need (part e of the Housing Position Statement), the Housing Need Market Assessment (HNMA) for this ward indicates that there are gaps in the market for social rented accommodation, 3 bed accommodation, bungalows and flats. Given that the 'identified need' in the area is not specific to any one type of dwelling, I am of the opinion that a high quality design which provides for an appropriate mix (based on the above identified need) could be provided at a reserved matter stage. As such, I consider that the application accords with an identified housing need and therefore accords with parts b – e of the Housing Position Statement.

Given that the purpose of the Interim Planning Policy is to provide a local interpretation of policy 12 of the Structure Plan, I consider that this application for residential development accords with the criteria identified in this policy statement and also accords with paragraph 6.3.13 of policy 12 of the Structure Plan as it would aid regeneration and meet an identified housing need in an area identified by emerging planning policy.

In light of the above, I consider that the proposal should be considered as an appropriate exception to policy 12 of the Structure Plan and that there is sufficient justification to warrant the approval of the application, given the regeneration benefits that the development of this site would bring to a significant site within the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area.

Bacup, Stacksteads and Britannia Area Action Plan

The application site is located within the boundary defined by the Bacup, Stacksteads and Britannia Area Action Plan is identified in the Issues and Options Report Appendix B as a potential high density urban village infill.

A consultation exercise has been undertaken on the Issues and Options Report and the AAP will shortly go out to consultation on its Revised Preferred Option Report. The action plan has not been formally adopted by the Council. However, I consider that some weight (albeit limited) should be afforded to this document in consideration of this application.

Moreover, the AAP clearly outlines the regeneration aspiration of Rossendale BC in accordance with the reasoned justification attached to policy 12 of the Structure Plan.

Audit of Housing Figures

Given the changes to the Development Plan an audit of planning permissions granted has been undertaken to clarify the position of oversupply in the Borough. The scope of the audit considered applications for residential development during the period of the Structure Plan and any other extant permission which were capable of adding to the level of supply.

Following a six week consultation period on the audit the Housing Land Position Monitoring Report was prepared and taken to Cabinet for members' information on the 7th June 2006. The Report includes an estimate of anticipated completions likely to the period 2011, obtained in consultation with developers and agents.

It is also necessary to note the recent appeal decisions within the Borough before the audit of housing figures was undertaken. In considering an outline housing scheme for 6-10 houses on land at Manchester Road and Laneside Road the Inspector considered two main issues. Firstly, the lack of evidence to confirm the position of oversupply and secondly, that the actual housing completion rates prior to 2004 fell below the annual average rate set out on Policy 12. The Inspector stated *"This would suggest that insufficient planning permissions are being implemented to achieve the required housing provision, and casts doubt on the validity of the housing supply figures quoted above. LCC itself has suggested that if insufficient dwellings are completed, additional sites for housing may need to be approved."*

I consider that the audit of housing figures now provides the validity and robustness needed to determine applications for residential development in positions of oversupply and is a material consideration in the consideration of this application and any other applications for residential development. The audit of housing figures has been through a public consultation exercise.

The audit of housing figures provides evidence that the number of dwellings constructed within the Borough coupled with the number of extant permissions over the plan period exceeds the 1920 identified in the Structure Plan as the Borough's housing figure.

Furthermore, as the annualised completions rate from 2006 onwards has now fallen to 80 dwellings per year, it is expected that completions will be significantly higher than the JLSP annual build rate, resulting in over supply. Taking the actual number of completions since 2001 into account, the residual provision to the end of the plan period is 548. However, anticipated completions (based on existing extant permissions coming forward) are likely to be 832. This represents an over supply of 284. Anticipated completions were established through discussions with developers and agents and do not take account of any approvals granted subject to S106 Agreement.

There is therefore a need refuse further applications for residential development where they would clearly result in an oversupply of housing in the Borough, in accordance with RSS and the Structure Plan. However, paragraph 6.3.13 of the Structure Plan states *“Where there is a significant oversupply of housing permissions, planning applications for further residential development may not be approved unless they make an essential contribution to the supply of affordable or special needs housing or form a key element within a mixed use regeneration project. Any such project should be compatible with, and help achieve, the regeneration objectives of the Local Authority. Districts may identify, through the Local Plan/Local Development Framework process, other circumstances where it may be appropriate to approve residential development in a situation of housing oversupply, such as the conservation benefits of maintaining and existing building worthy of retention.”*

Whilst I accept that the thrust of policy 12 is to restrict additional residential development within Lancashire and there is the clear presumption to refuse further applications for residential development within the Borough, it is also clear that there may be exceptions to this presumption and where residential development may be appropriate.

I consider that residential development within the Area Action Plan would provide a key element of regeneration within the Area Action Plan for Bacup, Stacksteads and Britannia. Moreover, this site has been identified within that report as a potential housing site given that the surrounding uses are predominantly residential in nature.

Whilst I accept that the thrust of policy 12 is to restrict additional residential development within Lancashire and there is the clear presumption to refuse further applications for residential development within the Borough, it is also clear that there are exceptions to this presumption and where residential development may be appropriate. Those exceptions are discussed further in this report.

National Planning Guidance

Planning Policy Statement 1 (PPS1) - Delivering Sustainable Development was issued in February 2005. The policy document states that sustainable development is the core principle underpinning planning. Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by: making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life; contributing to sustainable economic development; protecting and enhancing the natural and historic environment, the quality of the countryside and existing communities; ensuring high quality development; and supporting existing communities and contributing to the creation of safe, liveable and mixed communities with good access to jobs and key services for all. On sustainable economic development, local authorities should recognise that economic development can deliver environmental and social benefits; that they should also recognise the wider sub regional and regional economic benefits and that these should be considered alongside any adverse local impacts.

Paragraph 28 of PPS1 advises that planning decisions should be taken in accordance with the development plan unless other material considerations indicate otherwise.

Paragraph 29 of PPS1 acknowledges that in some circumstances, a planning authority may decide in reaching a decision to give different weight to social, environmental, resource or economic considerations. Where this is the case the reasons for doing so should be explicit and the consequences considered. Adverse environmental, social and economic impacts should be avoided, mitigated or compensated for.

Emerging Policy

Submitted Draft Regional Spatial Strategy (RSS) for the North West 2006

RSS is currently under review. The Draft RSS ('The North West Plan') was published for its first formal public consultation exercise in January 2006 and will cover the period from 2003 to 2021. Examination will take place later this year.

Draft RSS focuses on the needs of the region as a whole but highlights those areas that need more specific guidance or a different approach. This intended to improve the coordinated and delivery of regional policy and sustainable development

Draft policy L4 Regional Housing Provision identifies a new housing provision of 4000 for Rossendale 2003 – 2021 (net of clearance replacement). The annual average rates of housing provision (net of clearance replacement) is identified as 222. The current annual provision identified in the adopted Structure Plan is 220 between 2001-06 and 80 between 2006-16).

Moreover, paragraph 9.19(b) notes that in the East Lancashire Housing Market Renewal Area it may be appropriate to develop a wider range of housing types (including high quality market housing) while ensuring local and affordable housing needs can be met elsewhere.

Core Strategy (Preferred Options Report March 2006)

L1: Housing Development. Provision is made in the Regional Spatial Strategy (RSS) for 4,000 dwellings between 2003 and 2021. Annual planning permissions will be limited to annual completion rate up to 10% above the annual rate for Rossendale in the RSS, less the number of existing commitments for the RSS period. Five yearly reviews of permissions will be undertaken to monitor housing permissions to ensure they do not exceed the overall RSS figure.

Priority will be given to residential developments on previously developed sites. Residential developments will only be permitted on greenfield sites where there is evidence of local need and it can be demonstrated that there are no alternative appropriate previously developed sites. Priority will be given to residential developments in the Key Service Centres and Local Service Centres. Comprehensive regeneration strategies may be developed in areas with significant housing market issues and specific housing needs.

Proposed Policy Response L2: Housing Types. In order to diversify the range of dwelling types within the Borough, in major residential schemes at least 33% of dwellings should be flats and no more than 40% of dwellings should be terraced properties, unless a housing needs assessment provides evidence of the need for an alternative composition of dwellings in any particular area/ community.

Proposed Policy Response L4: Affordable Housing. Within all residential developments a minimum of 30% of dwellings should be affordable, of which 20% should be of intermediate tenure. A higher minimum percentage for affordable housing or intermediate tenure may be required in areas of significant housing need based on local evidence of affordable housing needs. A lower percentage of affordable dwellings may be acceptable where it can be demonstrated that this would not be viable due to wider regeneration benefits. A lower percentage may be acceptable in the conversion of vacant residential or non-residential buildings. Types of affordable housing provided should be related to local needs.

Whilst I accept that these emerging policies will have a significant bearing on applications for residential development in the future, I do not consider that sufficient weight can be afforded at present to outweigh the adopted development plan.

Conclusion

The audit of housing figures confirms that the Rossendale is in a position of oversupply as the number of extant permissions and number of dwellings built in the Borough exceed the provision set in the adopted Joint Lancashire Structure Plan. However, the Structure Plan provides guidance and criteria for considering applications for residential development in situations of oversupply.

It is clear that the proposal could provide accommodation where there is an identified housing need. However, the site does form part of the wider Bacup, Stacksteads and Britannia Area Action Plan regeneration area, which identifies residential development as an essential component part of integrated mixed-use regeneration.

The Housing Position Statement, coupled with the AAP provides the additional advice where the Local Planning Authority may approve residential development in circumstances of oversupply that builds upon the policy framework set out in the

Structure Plan. One of the core aims of these documents is to allow residential developments to facilitate regeneration in defined areas. The AAP specifically identifies the application site as having potential for residential development.

Therefore, whilst I accept that the scheme is contrary to the thrust of policy 12 of the adopted Joint Structure Plan in that the housing numbers have already been exceeded for the plan period, I consider that the proposal should be considered as an appropriate exception to policy 12 as it would aid regeneration of a wider area identified as in need of regeneration which is considered acceptable within the commentary given in 6.3.13 and the further advice provided in the Housing Position Statement and the aims and objectives of the Bacup, Stacksteads and Britannia Area Action Plan.

I recommend therefore, that members be minded to grant consent subject to the conditions set out previously with the addition of the condition relating to garages below and which also requires the Council to enter into an agreement with the developer (relative to the enhancement of the open space to the south of the site known as Stacksteads Recreation Ground) under section 106 of the Town and Country Planning Act 1990, the completion of which shall be delegated to the Director of Corporate Support (or such other officer as may from time to time exercise the functions currently exercised by that post holder) and that on completion of such section 106 Agreement the Development Control Manager or Principal Planning Officer (or such other officer as may from time to time exercise the functions currently exercised by either of those post holders) be authorised to approved the said application subject to the conditions considered previously.

Condition: **Prior to first occupation of any dwelling 6 replacement garages shall be provided in accordance with a scheme to be submitted to and approved by the Local Planning Authority prior to commencement of development in accordance with policy H2 of the adopted Rossendale Local Plan.**

The previous delegated report is provided for Members' information below.

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Description of Development

The proposal has been submitted in outline for residential development dealing with access with all other matters reserved.

The proposed access will be taken off Herbert Street, opposite 11 Herbert Street. A pedestrian access will also be taken off the southern tip of the site to the former railway line linking up to the Stacksteads Recreation Ground.

Representations:

The proposal has been advertised by site notices and in the press with the consultation period expiring on 1 January 2003.

No representations have been received.

Highway Engineers: Suggests technical amendments to the proposed access.

Local Plans section: Comment that:

- The illustrative layout of 23 dwellings is highly commendable when the site could accommodate 11 dwellings at 30 per hectare.
- The site shows a protected garage colony but this policy is seriously under review
- Car Parking and access is a serious issue in this area.

Contaminated Land Officer: Suggests advice note if application is granted.

Coal Authority: No objections

Assessment:

The proposal is contained within the urban boundary and part of the application site is recognised as a protected garage colony.

In policy terms the principle of the development is considered acceptable. It is on previously developed land and follows the advice in PPG3 on using brownfield land first. The site is also within an urban area and within walking distance of a good public transport route and local shops and community facilities. The site is therefore highly sustainable.

The area is predominantly residential and the proposed land use will not impact negatively upon the amenity of the residential area. Housing is considered to be a 'softer' land use than the existing bakery and therefore relates well to the residential area.

The site includes a protected garage colony, however, the proposed redevelopment involves rebuilding 6 replacement garages. It is considered therefore that the proposal will not damage the garage site. The views of the Local Plans sections should also be considered.

The concerns of the highway engineers have all been alleviated in the amended access.

The site does not include any formal public open space and the applicants have agreed to make a contribution in lieu of on site open space to enhance the playing field to the south of the application site. This can be achieved through a section 106 agreement.

Recommendation

That the application be approved subject to the conditions set out below, and that the Council enter into an agreement with the applicant/developer under Section 106 of the Town and Country Planning Act 1990 relating to a commuted sum for the enhancement of the existing public open space, known as Stacksteads Recreation Ground. That the application be delegated to the Development Services Manager, to grant outline planning permission, upon the completion of a suitable section 106 agreement(s).

1. Approval of the details of the siting, design and external appearance of the building(s), and the landscaping of the site (hereinafter called “the reserved matters”) shall be obtained from the local planning authority, in writing before any development is commenced. Reason RA01
2. Application for approval of the reserved matters shall be made to Local Planning Authority before the expiration of three years from the date of this permission. Reason RA02
3. The development hereby permitted shall be begun before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later. Reason RA04
4. The access shall be constructed in accordance with the scheme shown on the amended plans received by the Local Planning Authority on 3 January 2003. Reason: For the avoidance of doubt and in the interest of highway safety.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within the period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation. Reason: In the interests of visual amenity.
6. No development shall be commenced until a detailed site investigation report to assess the degree and nature of any land contamination has been submitted to and first approved in writing by the Local Planning Authority. The method and extent of the investigation shall be agreed by the Local Planning Authority in consultation with the Environment Agency and the report shall contain details of appropriate measures to prevent pollution of groundwater and surface water, including provision for monitoring. The development shall thereafter be carried out in full accordance with the agreed measures and details. Reason: To prevent pollution of the water environment.

Note:

The reserved matters application should include details of the replacement residential garages in order to accord with Policy H.2 (Protection of Garage Sites) of the Rossendale District Local Plan.

Appendix 1

Chronology of application 2002/608

This application was received 27th November 2002 and was considered under the Council's scheme of delegation. Officers were minded to approve the application subject to a legal agreement in January 2003.

Instructions were received by Legal Services 20th January 2003, agreement was not drafted question was raised on the instruction. No letters received from the agents /applicants in Legal Services.

Informed applicants/agents matter will be reported back to committee 22nd December 2005

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



Location Plan 1:1250

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REVISIONS	

02	SCALE 1:500&1250	DRAWN asl
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DRAWING NO. 02/122/P01	REV
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