

**TITLE: APPLICATION NUMBER 2003/497
OUTLINE APPLICATION FOR A PRIVATE RESIDENTIAL
DEVELOPMENT WITH OFF STREET PARKING (SITE AREA
APPROXIMATELY 1.48 ACRES)
AT: WHINBERRY VIEW, BACUP ROAD, ROSSENDALE**

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

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

STATUS: FOR PUBLICATION

APPLICANT: LANCASHIRE COUNTY PROPERTY GROUP

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 1st August 2003. This application was considered by the Development Control Committee on the 25th November 2003 where it was minded to approve the application subject to the provision of a legal agreement. A chronology of key dates is attached at Appendix 1.

This application relates to Whinberry View a former home for the aged. The proposal is in outline and seeks consent for residential development with all matters reserved for a later date. The site is bounded by Bacup Road to the south, Co-operation Street to the west, open space to the north and the rear gardens of the properties on Lambton Gates to the east.

The Section 106 agreement has been signed which requires that the Council to enter into a legal agreement with the developer (relative to the provision of open space). A S106 agreement is a contract between the parties however even though the agreement is signed the Council would be in breach of its statutory duty if it were to comply with the obligations in the agreement without considering all material considerations i.e. to simply release the planning permission. The Head of Legal and Democratic Services informs me that the agreement has now been signed and

agreed by both parties, 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.

Members should also note that other similar applications, which have been considered previously by this committee, 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. Members resolved to approve this application at the previous committee in November 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. It is not for officers to take the reconsidered decision.

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 November 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.

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.

Other Material Planning Considerations

Fairness

As already noted, this application was previously considered by the Development Control Committee in November 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. I am informed by the Head Legal Democratic Services that the section 106 agreement has been sealed by legal services. However, I take the view that, in the light of the change in circumstances which has occurred since November 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 even as in this instance the agreement has been signed and sealed.

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 November 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.

In this case I consider that, given the housing oversupply, the current policy position in relation thereto and the absence here of any of the limited circumstances where further housing may be permitted notwithstanding such oversupply, the planning merits clearly point to refusal. I do not consider that fairness to the applicant should outweigh such a conclusion.

Housing Position Statement

The final version 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.'*

In considering this application previously, members were mindful that housing development was necessary to meet the annual housing rates for future housing provision within the Borough. However, the audit of housing permissions has demonstrated that the number of dwellings constructed coupled with the number of extant permissions over the plan period exceeds 1,920 for the Borough as identified in the Structure Plan.

Moreover, the site is not located in either the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area or Rawtenstall Town Centre Master Plan area and cannot be considered to be in accordance with parts b - e) of the position statement.

Moreover, the applicant has not demonstrated any other limited circumstances set out in Policy 12 of the Structure Plan that allows for housing permissions in circumstances of oversupply.

Therefore, I do not consider that the proposal accords with any of the limited circumstances identified where housing development would be considered acceptable in positions of housing over supply.

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.”

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 confirms that the number of dwellings constructed coupled with the number of extant permissions over the plan period exceeds 1,920 for the Borough as identified in the Structure Plan.

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)

There is a need, therefore to refuse further applications for residential development where they would clearly result in an oversupply. 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 a 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.”*

Therefore, it is necessary to assess whether there are any exceptions to the presumption against the development of this site for residential purposes. This site is not located in the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area or the Rawtenstall Town Centre Masterplan area. The applicant has not stated or provided any evidence to suggest that the development is necessary to make a positive contribution to the supply of affordable or special needs housing.

Therefore I do not consider that the proposal to be in accordance with the policy 12 of the adopted Structure Plan.

National Planning Guidance

Planning Policy Statement 1 (PPS1) - Delivering Sustainable Development 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

Draft Regional Spatial Strategy (RSS)

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 is intended to improve the coordination 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).

Core Strategy

I consider the following policies to be most relevant.

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 to them at present to outweigh the adopted development plan.

Conclusion

The audit of housing figures confirms that the Rossendale is in a position of oversupply in that the number of extant permissions and number of dwellings built exceed the provision set in the adopted Joint Lancashire Structure Plan.

In positions of over supply, applications for residential development should not be approved unless the proposal accords with any of the exceptional or limited circumstances where residential development would be considered appropriate. Whilst I mindful of the previous recommendation it is necessary to consider applications for development in accordance with the development plan policies in force at the time. It is clear that the application no longer accords with the development plan framework in this instance and that there are no other material considerations which outweigh this view. Moreover, I do not consider that the contribution to Public Open Space would outweigh the prevailing policy in this instance.

I recommend therefore, that the committee refuse the proposal for the following reason:

The proposed development would contribute towards an inappropriate excess in housing supply provision, contrary to Policy 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.

The previous report to Committee is provided for Members' information below.

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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 considered at the last Development Control committee on 9th September, 2003. It was resolved at this meeting that consideration should be given to the provision of public open space either within the site or in close proximity and to existing trees within the site boundary.

Site and Proposal

The application site, 1.48 acres, is currently occupied by buildings associated with Whinberry View, Home for the Aged. The site is bordered by Bacup Road to the south, Co-operation Street to the west, open space to the north and the rear gardens of the properties on Lambton Gates to the east.

The applicant is seeking outline approval for residential development, no details have been provided.

The site falls within the Urban Boundary in the Rossendale District Local Plan.

Consultation Responses

RBC Highways

As access would be onto Bacup Road (Classified) advised to consult the Environment Directorate.

Coal Authority

No objection

United Utilities

No objection

Environment Directorate

No objection subject to conditions

Local Plans

No objection to the proposal

Notification Responses

Site notices posted and press advertisement without response

Development Plan Policies

Policy DS1 (Urban Boundary) of the Rossendale District Local Plan states that *“the Council will seek to locate most new development within a defined boundary – the Urban Boundary – and will resist development beyond it unless it complies with policies DS3 and DS5. The urban boundary is indicated on the proposals map”*

Policy DC.1 (Development Criteria) of the Rossendale District Local Plan
The policy 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.

DC.3 states that *“In areas of new residential development, the Council will expect appropriate public open space to be provided by developers”*.

Lancashire Structure Plan

Policy 43 (General Housing Provision) sets out the number of new residential units needed between mid 1991 and mid 2006 to adequately house the County's population. The number stipulated for Rossendale is 2,500 dwellings.

Policy 44 (Affordable Housing) states that *“Local Planning Authorities will seek to negotiate with developers for the inclusion of an element of affordable housing in new residential development where a need has been identified by the Authority.*

Joint Lancashire Structure Plan 2001-2016 (deposit)

Policy 12 stipulates the annual average rates for future housing provision. For Rossendale 220 houses per year are required between 2001 and 2006 and then 80 house per year between 2006 and 2016.

Other Material Planning Considerations

Government guidance in the form of PPG 3 (Housing) is relevant. In relation to windfall sites this guidance states that *“Windfall sites are those which have not been specifically identified as available in the local plan process. They comprise previously-developed sites that have unexpectedly become available.”*

This guidance seeks to *“avoid developments which make inefficient use of land (those of less than 30 dwellings per hectare net and encourage housing development which makes more efficient use of land (between 30 and 50 dwellings per hectare net)”*.

Paragraph 22 states that “The Government is committed to maximizing the re-use of previously-developed land....in order both to promote regeneration and minimize the amount of greenfield land being taken for development”.

The guidance states that sites for housing should be assessed against a number of criteria namely the availability of previously-developed sites, location and accessibility, capacity of existing and potential infrastructure, ability to build communities and the physical and environmental constraints on development of land.

Issues

As this property falls within the Urban Boundary policy DS.1 is relevant. This policy seeks to focus new development within this boundary and as such this proposal accords with the principle of this policy.

Policies DC.1 are specific to detail and as such are less relevant at this outline stage.

In relation to the criteria specified in PPG3 the site is previously-developed and is suitable for housing use given its location within the Urban Boundary and close proximity to housing to both the east and west. The site is easily accessible to jobs and shops within Rawtenstall Town Centre and to other modes of transport particularly given its location close to the bus station. In relation to existing infrastructure United Utilities have no objection to the proposal in terms of water and electricity. The proposal will support the existing community and there are no physical and environmental constraints associated with the site.

To accord with PPG3 a density of between 18 and 30 houses would be required on this site.

Given the proximity of the roundabout on Bocholt Way and the central reserve on Bacup Road the Environment Directorate requires the access to the site to be via Co-operation Street. Co-operation Street would need to be widened by 3 metres along its easterly edge to accommodate this access and the existing parking facility for the houses on Co-operation Street. Dependent on the layout and number of dwellings the central reserve on Bacup Road may need to be shortened.

The applicant has agreed to enter into a section 106 agreement with the Council. It is considered that there is sufficient open space in the vicinity of the site, albeit in a poor condition. As such the applicant will pay a commuted sum towards improvements to the recreational area to the east of the Health Centre, Bacup Road. The amount of this commuted sum will be reported verbally at committee.

Recommendation

(i) That the committee be minded to grant consent to the application subject to the conditions set out below but desire the Council to enter into an agreement with the developer under section 106 of the Town and Country Planning Act 1990, the completion of which shall be delegated to the Director of Corporate Support and (ii) that on completion of such section 106 agreement the Development Control Manager or Principal Planning Officer be authorized to approve the said application subject to the following conditions:-

Conditions

01 The development hereby permitted shall be begun either 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 of the reserved matters to be approved, whichever is the later.

Reason: Required by section 92 of the Town and Country Planning Act 1990.

02 Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto 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: The application is in outline only and is not accompanied by detailed plans.

03 Plans and particulars of the reserved matters referred to in condition 2 above shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason: The application is in outline only and is not accompanied by detailed plans.

04 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Required by section 92 of the Town and Country Planning Act 1990.

05 The access to this development shall be via Co-operation Street and this street shall be widened by 3 metres along its easterly edge before any of the houses hereby approved are occupied.

Reason: In the interests of highway safety and to accord with Policy DC1 of the Rossendale District Local Plan

06 The density of the development shall be over 30 dwellings per hectare.

Reason: In accordance with PPG 3 (Housing)

07 The plans and particulars submitted in accordance with condition 2 above shall include:

(a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;

(b) details of the species, diameter (measured in accordance with paragraph (a) above, and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;

(c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;

(d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation (within the crown spread of any retained tree or of any tree on land adjacent to the site) (within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree);

(e) details of the specification and position of fencing (and of any other measures to be taken) for the protection of any retained tree from damage before or during the course of development.

In this condition “retained” tree means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

Reason: In the interests of visual amenity and to accord with Policy E4 (Tree Preservation) of the Rossendale District Local Plan

08 The plans and particulars submitted in accordance with condition 02 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.

Reason: In the interests of visual amenity and to accord with Policy E4 (Tree Preservation) of the Rossendale District Local Plan

09 In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of (1 year) from (the date of the occupation of the building for its permitted use).

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall the approved plans and particulars, without the written approval the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standards [3998 (Tree Work)].

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall, be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with Policy E4 (Tree Preservation) of the Rossendale District Local Plan

Background Documents

Rossendale District Local Plan (Adopted April 1995)

Lancashire Structure Plan 1991-2006

Joint Lancashire Structure Plan 2001-2016

PPG3 Housing

Appendix 1

Chronology of application 2003/497

This application was received 1st August 2003.

The application was considered by the Development Control committee on the 25th November 2003 where it was minded to approve the application subject to the provision of a legal agreement.

Instructions received 08/07/04

Draft sent out 19/10/04

05/10/05 reply received from LCC with amendments

17/10/05 agreement sealed by legal services

19/10/05 - Legal services informed LCC that the matter will need to proceed back to committee.

22/12/05 -Urban Vision inform applicants and agents as above

09/03/05 - legal services inform this will be reported back to Committee due to material change in circumstances.

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

2003 497

01 AUG 2003

Allotment Gardens



Winberry View,
Bacup Road,
Rawtenstall
0.60Ha (1.48 Acres)

Scale : 1:1,250	Grid Ref : SD8122
Date : 28/7/2003	Plan Ref :

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