

**TITLE:** ERECTION OF 3 BEDROOM SPLIT LEVEL HOUSE WITH INTEGRAL GARAGE IN THE GARDEN AREA OF 4 LOWER CRIBDEN AVENUE, RAWTENSTALL

**APPLICATION NO:** 2005/588

**TO/ON:** DEVELOPMENT CONTROL COMMITTEE 25<sup>TH</sup> JULY 2006

**BY:** TEAM MANAGER DEVELOPMENT CONTROL

**STATUS:** FOR PUBLICATION

**PORTFOLIO HOLDER:** CABINET MEMBER FOR REGENERATION

**APPLICANT:** MR D TOMLINSON

**DETERMINATION EXPIRY DATE:** 7<sup>TH</sup> DECEMBER 2005

### **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.

### **Site and Proposal**

The application seeks approval to construct a 3 bedroom dwelling which will be three storey to the south, and two storey to the north as a result of the differences in ground level. A new access is proposed to Union Road and the existing grass verge will in part be re-constructed with a brick paviour surface. Landscaping will separate the new dwelling from number 4 Lower Cribden Avenue. The property is located within the urban boundary.

### **Relevant Planning History**

1981/296 – Erection of three detached dwellings (Plots 26, 27 and 28) on land off Union Road, Rawtenstall. APPROVED

1988/394 – Erection of two detached two storey dwellings on Union Road, Rawtenstall. APPROVED

2003/531 – Construction of a 4 bedroom house with integral garage on land to the south of Garden area of 4 Lower Cribden Avenue, Rawtenstall. DISMISSED ON APPEAL.

2005/115 Erection of dwelling in curtilage of 4 Lower Cribden Avenue, Rawtenstall. REFUSED

### **Notification Responses**

Site notices were posted and the following summarised comments have been received:

- The three storey building, coupled with the elevated position would result in a disproportionate and dominating feature in the landscaping and will be out of character with the surrounding properties.
- The footprint of the property in relation to the site area is in excess of all other properties and is out of keeping.
- The proposed access onto Union Road, is in a dangerous position, on a steep incline and a blind bend.
- The proposed dwelling will only be 8 metres away from No. 29 Union Road, Rawtenstall and will significantly cut out the daylight from the dining room.
- The proposed development would be detrimental to highway safety.
- Is the site brownfield?

Following a second consultation period, five letters have been received, which contain the following comments:

- The local residents would like to know what 'extant' means and why it is applicable in this case?
- The renewed application adds nothing to previous rejected application by Mr Tomlinson.
- The fact that in 1981 planning permission for three dwellings was granted does not, as a matter of law, automatically mean that because only two were built (to a different design to that originally envisaged by Hurstwoods) that extant planning permission exists in 2006 for a third dwelling.
- The road safety issues are considerable and will become even more of an issue when the final properties are built to conclude the development on Lower Cribden Avenue.
- Any cars parked outside the proposed dwelling will create a very dangerous situation and the removal of the three trees will only marginally assist the sight line. The refusal of the application in 2003 highlights this as a problem.
- The impact upon the residents of No, 29 Union Road will be considerable. They have human rights too.
- The proposed development will adversely affect the residents of No. 6 Lower Cribden Avenue. Previous decisions have clearly concluded that this development is visually incongruous and will dominate the street scene. We cannot see that anything has changed and cannot see that any extant consent can undermine these very singular and real facts.
- The objections to the original proposal are clear from the letter sent in November 2005
- Does the 3 and 5 year rule apply to 1981/296? If so, have correct applications been made to keep the permission valid~? What needs to be done to keep a permission "extant", and has it happened in this case?
- Is it normal practice for applications to be granted apparently eternal planning permission by means of placing a sewer?

- Does this mean the Council may have many other applications it feels it cannot influence from the 1980s, if a developer has left the means for sewerage/drainage to be connected?
- I must add a further objection to applications 1981/296 and 2005/588 in addition to those in the letter of 8<sup>th</sup> November 2005, on the basis that a 'meaningful start' has not been made to application 1981/296, and the previous adverse Council decisions on previous planning applications 2003/531 and 2005/115.

## **Consultation Responses**

### **County Highways**

No objections to the proposal, subject to the inclusion of conditions.

### **RBC Forward Planning**

No response.

## **Development Plan Policies**

### **Rossendale District Local Plan**

Policy DS1  
Policy DC1  
Policy DC4

### **Joint Lancashire Structure Plan**

Policy 1  
Policy 2  
Policy 12

Parking standards require the provision of a maximum of two car parking spaces for dwellings with between two and three bedrooms, and three spaces for dwellings with in excess of four bedrooms.

## **Other Material Planning Considerations**

PPS1 (General Policy and principles)  
PPG3 (Housing)  
PPG13 (Transport)  
Housing Policy Position Statement

## **Planning Issues**

The location for the proposed development is within the urban boundary and therefore the proposal complies with Policy DS1 of the Rossendale District Local Plan.

The next issue to be considered is the suitability of the site for housing development. The site is previously developed as defined in PPG3. In terms of accessibility, the Council's Forward Planning section has previously commented that the site is close

to a good bus route and as such existing amenities are accessible by other means than a car.

The County Council's highways department is satisfied that, subject to the imposition of conditions, the existing road infrastructure can accommodate this proposal and, a new access onto Union Road can be created without detriment to highway safety. Sufficient off-road parking has been accommodated within the site and the proposal accords with the Council's adopted car parking standards. There are no known physical or environmental constraints on the site although three established trees would have to be removed.

One issue associated with this application, is whether there is a need for new housing in the borough based on the annualized figures provided in the adopted Structure Plan. An extant planning permission from 1981 exists and is still capable of implementation. Under Section 56 of the Town and Country Planning Act 1990, a meaningful start is defined as,

*1. Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated-*

*a) if the development consists of the carrying out of operations, at the time when these operations are begun*

*2. For the purposes of the provision of this Part mentioned in subsection 3. development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.*

*3. The provisions referred to in subsection 2. are sections 85 (2), 86 (6), 87 (4), [89,]91, 92 and 94.*

*4. In subsection 2. "material operation" means-*

*a) any work of construction in the course of the erection of a building;*

*b) the digging of a trench which is to contain foundations, or part of the foundations, of a building;*

*c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mention in paragraph b).*

*d) any operation in the course of laying out or constructing a road or part of a road;*

*e) any change in the use of any land which constitutes material development.*

It is considered that the implementation of the drainage system for the scheme approved in 1981 would have constituted a 'meaningful start' to the development as it would constitute 'a work of construction in the course of the erection of a building'. It is acknowledged that Nos. 27 and 29 Union Road were built as a result of a second application made and approved in 1988 (1988/394). Taking into account the land registry records of Nos. 4 Lower Cribden Avenue and 29 Union Road, it is clear that the land boundaries between the two properties are unchanged and have remained so since 1982 and therefore, the remainder of the site is capable of development, without encroaching on to the land for the neighbouring two properties. Therefore the proposed single dwelling will not add to the oversupply within the borough and as a result, is in accordance with Policy 12 of the Joint Lancashire Structure Plan and the Housing Policy Position Statement.

In relation to policy DC.1 the scale of the proposal is judged acceptable when considered against the character and spatial disposition of surrounding properties. There will be approximately 22 metres between the proposed dwelling and the existing dwelling at 4 Lower Cribden Avenue. A distance of 7 metres will be retained between the new dwelling and 29 Union Road. The further revised housetype does not include any windows on the elevation facing number 29 Union Road. In this

respect it is considered that the revised proposal will have no significant adverse impact upon the amenity of the neighbouring residents and the application is in accordance with Policy DC1 of the Rossendale District Local Plan.

The proposed development is located within the urban boundary and is a previously developed site. The proposed development will not have a significantly adverse impact upon the amenity of the neighbouring residents and will not look out of place within the locality, subject to conditional control. The proposed development is in accordance with the Council's adopted car parking standards and will not result in an oversupply of housing within the borough. Therefore, the proposed development is in accordance with Policies DS1 and DC1 of the Rossendale District Local Plan, the Housing Policy Position Statement and Policies 1 and 12 of the Joint Lancashire Structure Plan.

### **Recommendation**

That planning permission is granted subject to the following conditions:

### **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

2. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

REASON: To safeguard the amenities of nearby residential properties in accordance with policy DC1 of the Rossendale District Local Plan.

3. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that Order) the garage shall not be used for any purpose which would preclude its use for the parking of a motor car.

REASON: The retention of the parking space within the site is important in terms of amenity and highway safety.

4. Notwithstanding any indication on the approved plans or application forms, no development shall be commenced until full details of the external materials to be used on the roof and the walls of the development have been submitted to and first approved in writing by the Local Planning Authority. The development shall thereafter not be carried out otherwise than in complete accordance with the approved details.

REASON: To ensure a satisfactory appearance to the development and to accord with Policy DC4 of the Rossendale District Local Plan

5. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification) no development shall be carried out on the site within the terms of classes A, B, C, D and E, part 1 of Schedule 2 of the Order, without the prior consent of the Local Planning Authority.

REASON: To ensure that any development of the site has due regard to the amenities of the surrounding area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not be at any time in connection with the development hereby permitted be erected or planted any building, wall, fence, hedge, tree, shrub or other device exceeding 1.0m in height measured from the adjacent carriageway.

The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2m measured along the centre line of the proposed access to the north westerly site boundary.

REASON: To ensure adequate visibility at the street junction or site access.

### **Development Plan Policies**

DS1

DC1

DC4

### **Structure Plan Policies**

Policy 1

Policy 2

Policy 12

